

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
Lewiston, Maine
1988

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
and
SECOND REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

have been made the under the Uniform Gifts to Minors Act of this State; or

2. Reference to Uniform Gifts to Minors Act of any other state. The instrument by which the transfer purports to have been made uses in substance the designation "as custodian under the Uniform Gifts to Minors Act" or "as custodian under the Uniform Transfers to Minors Act" of any other state and the application of this Act is necessary to validate the transfer.

§1673. Effect on existing custodianships

1. Transfers validated. Any transfer of custodial property as defined in this Act made before the effective date of this Act is validated notwithstanding that there was no specific authority in chapter 19 for the coverage of custodial property of that kind or for a transfer from that source at the time the transfer was made.

2. Application. This Act applies to all transfers made before the effective date of this Act in a manner and form prescribed in chapter 19, except insofar as the application impairs constitutionally vested rights or extends the duration of custodianships in existence on the effective date of this Act.

3. Terminated custodianship. Sections 1652 and 1671 with respect to the age of a minor for whom custodial property is held under this Act do not apply to custodial property held in a custodianship that terminated because of the minor's attainment of 18 years of age after September 1, 1984, and before the effective date of this Act.

§1674. Uniformity of application and construction

This Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Act among states enacting it.

Effective August 4, 1988.

CHAPTER 735

H.P. 1905 — L.D. 2602

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

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 the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of departments and agencies will become due and payable on or immediately after July 1, 1988; and

Whereas, certain independent agencies will terminate unless continued by the Legislature, prior to June 30, 1988; 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. 3 MRSA §507, sub-§8-A, ¶B, as amended by PL 1987, c. 395, Pt. A, §4, is further amended to read:

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

- (1) Board of Trustees of the University of Maine System;
- (2) Board of Trustees of the Maine Maritime Academy;
- (3) State Government Internship Advisory Committee;
- (6) Electricians' Examining Board;
- (7) Arborist Examining Board;
- (8) Maine Occupational Information Coordinating Committee;
- (9) ~~Bryant Pond~~ Maine Conservation School;
- (10) Advisory Committee on Maine Public Broadcasting;
- (11) Board of Examiners of Psychologists;
- (12) Board of Commissioners of the Profession of Pharmacy;
- (13) Alcohol and Drug Abuse Planning Committee; and
- (14) State Board of Social Worker Licensure.

Sec. 2. 3 MRSA §507, sub-§10, ¶A, as repealed and replaced by PL 1987, c. 395, Pt. A, §7, is amended to read:

A. Unless continued or modified by law, the following Group E-1, independent agencies shall terminate, not including the grace period, no later than June 30, 1989;:

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

- (2) Maine Labor Relations Board;
- (3) State Civil Service Appeals Board;
- (4) Educational Leave Advisory Board;
- (5) Workers' Compensation Commission; ~~and~~
- (6) Board of Accountancy;
- (7) State Board of Social Worker Licensure; and
- (8) Electricians' Examining Board.

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

11. Agencies scheduled for termination on June 30, 1988; continued. Pursuant to section 507, subsection 8-A, paragraph B, the following agencies scheduled for termination on June 30, 1988, are continued:

- A. Board of Trustees of the University of Maine System;
- B. Board of Trustees of the Maine Maritime Academy;
- C. State Government Internship Advisory Committee;
- D. Arborist Examining Board;
- E. Maine Occupational Information Coordinating Committee;
- F. Maine Conservation School;
- G. Board of Examiners of Psychologists;
- H. Board of Commissioners of the Profession of Pharmacy; and
- I. Alcohol and Drug Abuse Planning Committee.

Sec. 4. 5 MRSA §18 sub-§1 ¶B, as amended by PL 1985, c. 779, §7, is further amended to read:

B. "Executive employee" means the constitutional officers, the State Auditor and compensated members of the classified or unclassified service employed by the Executive Branch, but it shall not include:

- (1) The Governor;
- (2) Employees of and members serving with the National Guard;
- (3) Employees of the University of Maine System, the Maine Maritime Academy and State vocational-technical institutes; ~~and~~
- (4) Employees who are employees solely by their appointment to an advisory body; and

- (5) The executive director of the school designated by the Legislature as the Maine Conservation School.

Sec. 5. 5 MRSA §285, sub-§1, ¶F-1, as enacted by PL 1985, c. 695, §5, is amended to read:

F-1. Any employee of the Maine Vocational-Technical Institute System; ~~and~~

Sec. 6. 5 MRSA §285, sub-§1, ¶F-2 is enacted to read:

F-2. Any employee of the Maine Maritime Academy; and

Sec. 7. 5 MRSA §294, first ¶, as amended by PL 1985, c. 779, §11, is further amended to read:

The State Government Internship Program shall be administered by the Bureau of Public Administration, University of Maine System, ~~whose~~ with the advice of the State Government Internship Program Advisory Committee. The bureau's duties shall include the following.

Sec. 8. 5 MRSA §294, sub-§§1, 4 and 5, as enacted by PL 1967, c. 493, are amended to read:

1. General supervision. The bureau shall exercise general supervision over the operation of the program and ~~with the advice of the internship committee~~ shall develop and put into effect administrative guidelines for interns and state government personnel; formulate policies and establish and administer operational procedures.

4. Selection. Applications of interested students received by the bureau shall be processed in accordance with procedures to be established by the bureau ~~with the advice of the internship committee.~~

5. Placement. ~~With the advice of the internship committee the~~ The bureau shall place students with participating agencies of State Government.

Sec. 9. 5 MRSA §1664, 4th ¶, as amended by PL 1983, c. 526, §1, is further amended to read:

Part 3 shall embrace complete drafts or summaries of the budget bills, the legislative measures required to give legal sanction to the financial plan when adopted by the Legislature. These bills shall include General Fund appropriation bills and allocation bills for the following: Highway Fund, Inland Fisheries and Wildlife Fund, Federal Revenue Sharing Fund, Coastal Protection Fund, Maine Nuclear Emergency Planning Fund, Maine Endangered and Nongame Wildlife Fund, Alcoholism Prevention, Education, Treatment and Research Fund and for the administrative expenses of the Bureau of Alcoholic Beverages and the State Liquor Commission, authorizing expenditures for each fiscal year of the ensuing biennium and such other bills as may be required to provide the income necessary to finance the budget.

Sec. 10. 5 MRSA §1666, as amended by PL 1981, c. 316, Pt. G, is further amended to read:

§1666. Review and revision of estimates

The Governor-elect or the Governor, with the assistance of the State Budget Officer, shall review the budget estimates, altering, revising, increasing or decreasing the items of said the estimates as may be deemed necessary in view of the needs of the various departments and agencies and the total anticipated income of the State Government during the ensuing biennium. Such review shall cover all budgets regardless of source of funds, including, but not limited to, budgets related to the Highway Fund, the Alcoholism Prevention, Education, Treatment and Research Fund, the Federal Revenue Sharing Fund, and other special revenue funds. The State Budget Officer, at the direction of the Governor-elect or the Governor shall then prepare a state budget document in the form required by law. The Governor-elect or the Governor shall be fully responsible for all budgetary recommendations made to the Legislature. The Governor shall transmit the budget document to the Legislature not later than the Friday following the first Monday in January of the first regular legislative session. A Governor-elect to his first term of office shall transmit the budget document to the Legislature not later than the Friday following the first Monday in February of the first regular legislative session.

Sec. 11. 20-A MRSA c. 9, sub-c. I, as amended, is repealed.

Sec. 12. 20-A MRSA c. 325 is enacted to read:

CHAPTER 325

CONSERVATION AND ENVIRONMENTAL
EDUCATION

§9511. Maine Conservation School

1. Definition. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Maine Conservation School" means the school which is designated by the Legislature to be the Maine Conservation School.

2. Executive director. Notwithstanding subsection 3, the board of directors of the Maine Conservation School shall appoint, assign responsibilities to, evaluate performance of and remove for cause an executive director who shall serve at the pleasure of the board and who shall not be an employee of the State.

3. Transition clause. The present position of Education Specialist II; in the Department of Educational and Cultural Services, which serves as Executive Director of the Maine Conservation School shall be transferred

to the Maine Conservation School and the incumbent shall, notwithstanding section 1, continue to be an employee of the State, but shall serve at the pleasure of the board and not be subject to the Civil Service Law.

When the individual presently holding this position terminates employment, this state position shall be abolished.

4. Funding. The Board of Directors of the Maine Conservation School shall request funding for each year of the biennium from the department in an amount sufficient to pay the salary, fringe benefits and support services presently being provided by that department. The department shall include in its future Part I budget request, as a separate line item, enough funds to implement the intent of this chapter. Any funds appropriated by the Legislature for the purpose of this chapter shall be paid to the Maine Conservation School in the form of a grant.

Sec. 13. 20-A MRSA §10906, sub-§1, ¶C, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

C. Have no authority to contract debts and obligations or borrow money except:

(1) Loans in anticipation of assured revenues when approved by vote of the trustees; and

(2) Other loans when directed by vote of the trustees and duly and properly authorized by the Governor.

All such loans shall be effected in accordance with the provisions of chapter 412.

Sec. 14. 20-A MRSA c. 412 is enacted to read:

CHAPTER 412

TAX EXEMPT BORROWING AUTHORITY FOR THE
UNIVERSITY OF MAINE SYSTEM

§10950. Legislative findings of fact

The purpose of this chapter is to promote the welfare and prosperity of the people of the State and the continuation and improvement of their educational opportunities through enabling the University of Maine System to borrow money and enter into financing transactions in its own name, on behalf of the State, to provide money for the financing of acquisition, construction, reconstruction, improvement and equipping of facilities, structures and related systems in furtherance of the purposes of the University of Maine System, all to the public benefit and good, and the exercise of the powers, to the extent and manner provided in this chapter, is declared to be for a public purpose and to be the exercise of an essential governmental function.

§10951. Definitions

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

1. Assured revenues. "Assured revenues," as used in this chapter and in chapter 411, means revenues to be received from grants, subsidies, contracts, leases or other; agreements made by or with the Federal Government, the State or any political subdivision, agency or instrumentality of the Federal Government or the State, or others; or revenues to be received from existing projects, from projects under construction or from projects for which the university has entered into a binding commitment for the acquisition, construction or accomplishment of the project, anticipated by the trustees to produce annual revenues in an amount not less than the anticipated annual cost of operation, maintenance and repair of such project, including aggregate annual debt service payments on any financing for the project, during the term of any financing effected under this chapter for the project, as determined by the trustees.

2. Cost. "Cost" as applied to a project or any portion of the project, includes, but is not limited to: The purchase price or acquisition cost of any such project; the cost of construction, building, alteration, enlargement, reconstruction, renovation, improvement, equipping and remodeling; the cost of all labor, materials, building systems, machinery and equipment; the cost of all lands, structures, real or personal property, rights, easements and franchises acquired; the cost of all utility extensions, access roads, site development, financing charges, premium for insurance, interest prior to and during construction and for 6 months thereafter; the cost of working capital related to the project; the cost of plans and specifications, surveys and estimates of cost and of revenues; the cost of engineering, feasibility studies, legal and other professional services; the cost of reserves for payment of future debt service related to the financing transaction and for improvements; the cost of all other expenses necessary or incident to determining the feasibility or practicability of such construction; and administrative and operating expenses and such other expenses as may be necessary or incident to the financing authorized.

3. Evidences of indebtedness. "Evidences of indebtedness" means any notes, long-term or short-term, or other evidences of indebtedness issued pursuant to this chapter.

4. Financing documents. "Financing documents" means any evidences of indebtedness, loan agreements, credit agreements, financing leases, lease-purchase agreements, trust agreements, indentures, resolutions, mortgages, security agreements, pledge agreements or other contracts, agreements or documents executed and delivered by the university in connection with a financing transaction under this chapter.

5. Financing transaction. "Financing transaction" means the borrowing of money by the university on behalf of the State pursuant to this chapter.

6. Project. "Project" means any structure designed for use as a dormitory or other housing facility, dining facility, student union, academic building, administrative facility, library, classroom building, research facility, faculty facility, office facility, athletic facility, health care facility, laboratory, maintenance, storage or utility facility or other building or structure essential, necessary or useful for instruction in a program of education provided by the university; or any multipurpose structure designed to combine 2 or more of the functions performed by the types of structures enumerated in this paragraph, including, without limitation, improvements, reconstruction, additions and equipment acquired in connection with the project or in connection with operation of any such currently existing facilities. "Project" includes all real and personal property, lands, improvements, driveways, roads, approaches, pedestrian access roads, parking lots, parking facilities, rights-of-way, utilities, easements and other interests in land, machinery and equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with any of the structures mentioned in this subsection. "Project" also includes landscaping, site preparation, furniture, machinery, equipment and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended, but does not include such items as books, fuel, supplies or other items which are customarily considered as a current operating charge.

7. State. "State" means the State of Maine.

8. University. "University" means the body politic and corporate, established by Private and Special Law 1865, chapter 532, under the name of the "Trustees of the State College of Agriculture and Mechanic Arts," its name having been changed to the "University of Maine" by Private and Special Law 1897, chapter 551, and which is an instrumentality and agency of the State for the purpose for which it was established and for which it has been managed and maintained under Private and Special Law 1865, chapter 532, and supplementary legislation relating thereto, including section 10903; Private and Special Law 1967, chapter 229; Private and Special Law 1969, chapter 238; and Public Law 1985, chapter 779.

§10952. Powers

In order to carry out the purposes of this chapter, the university shall have the following powers, which shall be in addition to any other powers that the university may have pursuant to laws of the State:

1. Body politic and corporate. To have perpetual succession as a body politic and corporate and an instrumentality and agency of the State;

2. Sue and be sued. To sue and be sued in its own name;

3. Official seal. To adopt and have an official seal and alter it at pleasure;

4. Project ownership. To acquire, construct, reconstruct, improve, equip, own, operate and maintain any project or projects, or any combination of project;

5. Acquisition of property. To acquire by purchase, contract, lease, long-term lease or gift, and hold or dispose of, real or personal property or rights or interests in any such property;

6. Grants; subsidies; loans. To accept grants, subsidies or loans of money from the Federal Government or a federal agency or instrumentality, or others, upon such terms and conditions as may be imposed, and to pledge the proceeds of grants, subsidies or loans of money received or to be received from the Federal Government or any federal agency or instrumentality, or others, pursuant to agreements entered into between the university and the Federal Government or any federal agency or instrumentality, or others;

7. Borrow money. To borrow money pursuant to this chapter and issue evidences of indebtedness to finance the acquisition, construction, reconstruction, improvement or equipping of any one project, or more than one, or any combination of projects, or to refund evidences of indebtedness hereafter issued to finance any project or projects, or to refund any such refunding evidences of indebtedness or for any one, or more than one, or all of those purposes, or any combination of those purposes, and to provide for the security and payment of those evidences of indebtedness and for the rights of the holders of them;

8. Execute contracts. To make, enter into, execute, deliver and amend any and all contracts, agreements, leases, instruments and documents and perform all acts and do all things necessary or convenient to acquire, construct, reconstruct, improve, equip, finance, maintain and operate projects and to carry out the powers granted to this chapter, or reasonably implied from those powers; and

9. Maintain treasury. To retain in its treasury:

A. All money received from the sale of all evidences of indebtedness issued under this chapter;

B. All fees, tuitions, rentals and other charges from students, faculty, staff members and others using or being served by, or having the right to use or the right to be served by, or to operate, any project;

C. All fees for student activities, student services and all other fees, tuitions and charges collected from students matriculated, registered or otherwise enrolled at and attending the university, pledged under the terms of any resolution authorizing financing transactions pursuant to this chapter; and

D. All rentals from any facility or building leased to the Federal Government or any other 3rd party;

Any and all powers granted to the university under this chapter may be exercised by majority vote of the trustees and may be delegated to any officer, official or trustee of the university by majority vote of the trustees.

§10953. Assured revenues financing transactions

In furtherance of the provisions of section 10906, subsection 1, paragraph C, subparagraph (1), the university may, when directed by vote of the trustees, borrow money and enter into financing transactions in anticipation of assured revenues in the name of the university, on behalf of the State, and issue evidences of indebtedness in connection with such financing transactions:

1. Cost of project. To finance the cost of any one project, or more than one, or any combination of projects;

2. Finance temporary deficit. To finance any temporary cash flow deficit or temporary operating deficit that the trustees anticipate will be fully paid with the proceeds of assured revenues dedicated to that purpose.

3. Refund evidences of indebtedness. To refund evidences of indebtedness issued pursuant to this chapter; or

4. Refund refunding borrowings. To refund any such refunding borrowings.

All evidences of indebtedness issued in connection with assured revenues financing transactions entered into pursuant to this section shall be authorized by majority vote of the trustees.

§10954. Other financing transactions

In furtherance of the provisions of section 10906, subsection 1, paragraph C, subparagraph (1), the university may, when directed by vote of the trustees and duly and properly authorized by the Governor, borrow money and enter into financing transactions in the name of the university, on behalf of the State, and issue evidences of indebtedness in connection with such financing transactions:

1. Finance. To finance the cost of any one project, or more than one, or any combination of projects;

2. Refund evidences of indebtedness. To refund evidences of indebtedness issued and to finance the cost of any project or projects as provided in this chapter; or

3. Refund refunding borrowings. To refund any such refunding borrowings.

All evidences of indebtedness issued in connection with financing transactions entered into pursuant to this section shall be authorized by majority vote of the trustees and approved by the Governor upon submission by the trustees of the vote so passed.

§10955. Terms of financing transactions

1. Form; terms; manner of sale. All evidences of indebtedness issued in connection with the financing transactions pursuant to this chapter may be in serial form; may bear such date or dates; may mature at such time or times, and in such amount or amounts; may bear interest at such rate or rates, including variable or adjustable; may be payable in such form and at such time or times and at such place or places; and may include such redemption and conversion privileges as those votes may provide. All evidences of indebtedness shall be issued and sold under such terms and conditions as the trustees determine. The votes shall provide that the treasurer shall manually sign evidences of indebtedness and other related financing documents and the votes may provide for counter-signature of those evidences of indebtedness and related documents by another officer, either manually or in facsimile form. All such evidences of indebtedness shall be deemed to be negotiable instruments under the Uniform Commercial Code, Title 11, Article 8.

2. Presumption of lawful authorization. After issuance, all evidences of indebtedness of the university shall be conclusively presumed to be fully and duly authorized and issued under the laws of the State, and any person or governmental unit shall be stopped from questioning their authorization, sale, issuance, execution or delivery by the university.

3. Voting power. The power to fix the date of sale or issuance of any evidences of indebtedness, receive bids or proposals, award and sell any evidences of indebtedness to set the terms and provisions of any evidences of indebtedness and take all other action necessary to borrow money under this chapter and sell and deliver any evidences of indebtedness in connection with this chapter may be delegated to any officer, official or trustee of the university by a majority vote of the trustees.

4. No state debt. Money borrowed pursuant to this chapter and evidences of indebtedness issued in connection with this chapter shall not constitute any debt or liability of the State or of any municipality or any political subdivision of the State, but shall be payable solely from the revenues of the university or any project for which they are issued, and all such evidences of indebtedness shall contain on their face a statement to that effect. The borrowing of money pursuant to this chapter and the issuance of evidence of indebtedness under this chapter shall not directly or indirectly or contingently obligate the State or any municipality or political subdivision to levy or to pledge any form of taxation or to make any appropriation for their payment and such evidences of indebtedness shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

§10956. Security for indebtedness; trust agreement

To secure the payment of any indebtedness established or issued pursuant to this chapter, the university may

mortgage any project or any part of the project and create a lien upon any or all of the revenues of any project or projects or upon any or all of the real or personal property constituting a part of any project or projects or upon any interests the university may hold in connection with a project or projects. Any trust agreement, financing document or resolution may contain such other provisions as the university determines reasonable and proper for the security of the holders of evidences of indebtedness.

A trust agreement or financing document containing a mortgage in respect of a project or projects or any part of a project, may authorize the trustee or mortgagee, as the case may be, in the event of a default as defined in respect to the evidences of indebtedness issued to provide for the costs of such project or projects or any part of a project, to take possession of all or any part of the mortgaged property constituting the project or projects or any part of a project, to hold, operate and manage the property and, with or without such taking of possession, to sell or from time to time to lease the property. Remedies provided under this chapter are not exclusive and these remedies shall be in addition to every other remedy existing at law, in equity. Upon satisfaction at any time of the obligations secured by the mortgage in respect of a project, projects or any part of a project, which shall be deemed to include all applicable fees and expenses, any surplus proceeds from such operation, sale or lease of such project or projects or any part of a project shall be paid to the mortgagor of a project, projects or any part of a project or to those claiming under the mortgagor, and subject to any sale or lease under this paragraph, the mortgaged property in respect of the project shall revert or be returned to the mortgagor or to those claiming under the mortgagor.

In the discretion of the university, any evidences of indebtedness issued under this chapter may be secured by a trust agreement by and between the university and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such a trust agreement or the resolution providing for the issuance of such evidences of indebtedness may pledge or assign all or any portion of the revenues of any project or projects or any other assets of a project or projects and may contain such provisions for protecting and enforcing the rights and remedies of the holders of evidences of indebtedness as may be reasonable and proper and not in violation of law. The provisions may include covenants setting forth the duties of the university in relation to the acquisition of property and the construction, reconstruction, renewal, replacement and insurance of any project in connection with which such evidences of indebtedness shall have been authorized, the fees, tuition, charges, or rents to be charged or other payments to be made for the use of the property or payment for the property, and the custody, safeguarding and application of all money. Any such trust agreement may set forth the rights and remedies of the holders of evidences of indebtedness and of the trustee, and may restrict the individual right of action by holders of evidences of indebtedness.

All expenses incurred in carrying out the trust agreement, financing document or resolution may be treated as a part of the cost of the operation of a project. All pledges of revenues under this chapter shall be valid and binding from the time when the pledge is made. All such revenues so pledged and received by the university shall immediately be subject to the lien of the pledges without any physical delivery of them or further action under the Uniform Commercial Code, Title 11, or otherwise. The lien of those pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the university irrespective of whether the parties have notice of the liens, and the liens shall automatically, without further action, be perfected and have the same status as a security interest perfected under the Uniform Commercial Code, Title 11, Article 9.

§10957. Trust funds

All money received pursuant to the authority of this chapter shall be deemed to be trust funds, to be held and applied solely as provided in this chapter and in the resolution of the trustees authorizing the financing transaction. Any officer to whom, or any bank, trust company or other fiscal agent or trustee to which that money shall be paid shall act as trustee of that money and shall hold and apply the money for that purpose, subject to such regulations as this chapter and the resolution or trust agreement may provide.

§10958. Remedies

Any holder of evidences of indebtedness issued under this chapter or of any of the coupons appertaining to this chapter, and the trustee under any resolution or trust agreement, except to the extent the rights given may be restricted by the resolution authorizing the issuance of evidences of indebtedness or a trust agreement or applicable financing document, may, by action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State or granted under this chapter or under the resolution, financing documents or trust agreement, including the appointment of a receiver of pledged amounts or a project, and may enforce and compel the performance of all duties required by this chapter or by the resolution, financing document or trust agreement to be performed by the university, including the collecting of rates, rents, fees and charges for the use of any or all of its facilities or projects. Any such suit, action or proceeding shall be brought for the benefit of all the holders of evidences of indebtedness and coupons.

§10959. Refunding indebtedness

Pursuant to sections 10953 to 10955, the university may enter into financing transactions and issue evidences of indebtedness for the purpose of refinancing obligations or evidences of indebtedness issued under this chapter, including the payment of any redemption premium on the evidences of indebtedness and any interest accrued

or to accrue to the date of redemption of those obligations, and if deemed advisable by the university for the additional purpose of construction or enabling the construction of improvements, extensions, enlargements or additions of the project or projects in connection with which the obligations to be refunded shall have been issued. The university's refunding authority shall include authority to borrow and issue evidences of indebtedness for the combined purpose of refunding any evidences of indebtedness issued under this chapter then outstanding, including the payment of any redemption premium on the evidences of indebtedness and any interest accrued or to accrue to the date of redemption of those obligations, and paying all or any part of the cost of acquiring or constructing or enabling the acquisition or construction of any additional project or projects or part of a project, or any improvements, extensions, enlargements or additions of any project or projects. The incurring of indebtedness for refunding purposes and the issuance of evidences of indebtedness in connection with the indebtedness, the maturities and other details, the rights and remedies of the holders and the rights, powers, privileges, duties and obligations of the university with respect to the indebtedness shall be governed by this chapter insofar as the chapter may be applicable.

§10960. Tax exemption

Indebtedness incurred under this chapter and evidences of indebtedness issued in connection with the indebtedness shall be deemed to constitute a proper public purpose and the evidences of indebtedness issued, their transfer and the income from them, including any profits made on the sale of the evidences of indebtedness, shall at all times be exempt from taxation within the State.

§10961. Governmental functions

The carrying out by the university of the powers and duties conferred upon it by this chapter shall be deemed to be the performance of an essential governmental function. Nothing contained in this chapter may in any way limit or restrict the powers and duties of the university that are granted to it, and nothing contained in this chapter may be construed to imply that the university did not possess any of the powers and duties granted under this chapter prior to the enactment of this chapter. This chapter shall in no way limit or restrict the power and authority of the State to borrow money for the benefit of the university.

§10962. Liberal construction

This chapter being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect the purposes of this chapter. To the extent of any conflict between this chapter and any other law, this chapter shall prevail, but the power and authority granted by this chapter is deemed to be in addition to and not in derogation of power and authority granted by any other law.

§10963. Evidences of indebtedness

The evidences of indebtedness of the university shall be legal investments in which all public officers and public bodies of the State, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking associations, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may be authorized to invest in securities of the State, may properly and legally invest funds, including capital, in their control, or belonging to them. Those evidences of indebtedness are also made securities which may properly and legally be deposited with and received by all public officers and bodies of the State or any agency or political subdivision and all municipalities and public corporations for any purpose for which the deposit of securities of the State is now or may be authorized by law.

§10964. Actions against university

Neither any trustee of the university nor any officer, employee or agent of the university, while acting within the scope of the authority of this chapter, may be subject to any personal liability resulting from the exercise or carrying out of any of the university's purposes or powers.

§10965. Validity of evidences of indebtedness

Evidences of indebtedness bearing duly authorized signatures of officers or officials holding office on the date of signing shall be valid and binding obligations, notwithstanding that before the delivery of and payment for the obligation any or all persons whose signatures appear on the evidences of indebtedness shall have ceased to be such officers or officials. The validity of evidences of indebtedness shall not be dependent on nor affected by the validity or regularity of any proceedings to acquire any project financed with the proceeds of evidences of indebtedness, or to refund outstanding evidences of indebtedness, or otherwise taken in connection with the financing transaction.

Sec. 15. 22 MRSA §7102, sub-§3, as repealed and replaced by PL 1983, c. 464, §1, is repealed.

Sec. 16. 22 MRSA §7103, sub-§2, as enacted by PL 1973, c. 566, §1, is repealed.

Sec. 17. 22 MRSA §7103, sub-§4, as amended by PL 1977, c. 78, §153, is repealed.

Sec. 18. 22 MRSA §7103, sub-§§5 and 6, as amended by PL 1975, c. 293, §4, are repealed.

Sec. 19. 22 MRSA §7103, sub-§8, as amended by PL 1979, c. 541, Pt. A, §157, is repealed.

Sec. 20. 22 MRSA §7103, sub-§§13 to 15, as enacted by PL 1973, c. 566, §1, are repealed.

Sec. 21. 22 MRSA §7103, sub-§17, as enacted by PL 1973, c. 566, §1, is amended to read:

17. Office. "Office" means the Office of Alcoholism and Drug Abuse Prevention in the department established under section 7104 7221.

Sec. 22. 22 MRSA c. 1601, sub-c II, as amended, is repealed.

Sec. 23. 22 MRSA §7108, 4th ¶, as amended by PL 1983, c. 464, §13, is further amended to read:

Members shall be appointed for a term of 3 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and except that members who are Members of the current Legislature and who are appointed by the President of the Senate or the Speaker of the House shall serve at their pleasure. Any vacancy in the council shall not affect its powers, but shall be filled in the same manner by which the original appointment was made. Terms of appointment shall begin and expire on June 1st.

Sec. 24. 22 MRSA §7112, 4th ¶, as amended by PL 1981, c. 493, §2, is further amended to read:

The office Department of Human Services shall cooperate with the Department of Mental Health and Mental Retardation and all institutions under its control in establishing and conducting programs to provide treatment for alcoholics and intoxicated persons and for people who abuse or are dependent on drugs in or on parole from penal or special treatment institutions.

Sec. 25. 22 MRSA §7112, 5th and 6th ¶¶, as enacted by PL 1973, c. 566, §1, are amended to read:

The office Department of Human Services shall cooperate with the Department of Public Safety and the Department of Transportation in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while under the influence of drugs or intoxicating liquor.

The office Department of Human Services shall coordinate all drug abuse education, information and training programs conducted within the State through cooperation with the Department of Educational and Cultural Services, school administrative districts, municipal schools, police departments, courts and other public and private agencies, organizations and individuals. Such coordination may assist with: Establishing educational programs for the prevention of alcoholism and drug abuse; treatment and rehabilitation of alcoholics, intoxicated persons and persons dependent upon or abusing drugs; training in the prevention, treatment and rehabili-

tation of such persons; and with preparation of curriculum materials thereon for use in all levels of educational programs.

Sec. 26. 22 MRSA §7114, as enacted by PL 1973, c. 566, §1, is repealed.

Sec. 27. 22 MRSA §7115, as amended by PL 1977, c. 694, §373, is repealed.

Sec. 28. 22 MRSA §7116, as amended by PL 1983, c. 363, §1, is repealed.

Sec. 29. 22 MRSA §§7117 to 7123, as enacted by PL 1973, c. 566, §1, are repealed.

Sec. 30. 22 MRSA §7124, as amended by PL 1975, c. 204, §§ 2 and 3, is repealed.

Sec. 31. 22 MRSA §7125, as enacted by PL 1981, c. 703, Pt. A, §41, is repealed.

Sec. 32. 22 MRSA §7131, sub-§2, ¶¶C and D, as enacted by PL 1983, c. 464, §19, are amended to read:

C. The Commissioner of Human Services; and

D. The Commissioner of Mental Health and Mental Retardation; and

Sec. 33. 22 MRSA §7131, sub-§2, ¶E is enacted to read:

E. The Commissioner of Public Safety.

Sec. 34. 22 MRSA §7131, sub-§3, as enacted by PL 1983, c. 464, §19, is repealed and the following enacted in its place:

3. Chairman. The Commissioner of Public Safety shall serve as chairman of the planning committee.

Sec. 35. 22 MRSA §7132, sub-§2, ¶A, as enacted by PL 1983, c. 464, § 19, is amended to read:

A. By January 15, 1984, and each year thereafter, a report containing an evaluation of the past year's progress toward obtaining established goals and objectives and the planning committee's recommendations regarding ~~allocations from the Alcoholism Prevention, Education, Treatment and Research Fund~~ funding for the coming fiscal year;

Sec. 36. 22 MRSA §7133, first ¶, as enacted by PL 1983, c. 464, §19, is amended to read:

The planning committee shall be staffed by a director who shall be appointed by the planning committee, with the advice of the Maine Council on Alcohol and Drug Abuse Prevention and Treatment, and with the approval of the Governor and who shall be unclassified. The planning director shall be a person qualified by training and

experience in drug abuse and alcoholism, and who has experience, knowledge and skill in planning, monitoring, evaluating and coordinating drug abuse prevention services.

Sec. 37. 22 MRSA c. 1602, first 2 lines are repealed and the following enacted in their place:

CHAPTER 1602

OFFICE OF ALCOHOLISM AND DRUG ABUSE PREVENTION

SUBCHAPTER I

DRIVER EDUCATION EVALUATION PROGRAMS

Sec. 38. 22 MRSA c. 1602, sub-c. II is enacted to read:

SUBCHAPTER II

OFFICE OF ALCOHOLISM AND DRUG ABUSE PREVENTION

§7221. Office of Alcoholism and Drug Abuse Prevention

There is created within the Department of Human Services, the Office of Alcoholism and Drug Abuse Prevention.

§7222. Definitions

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

1. Administrative activities. "Administrative activities" means an activity related to guidelines, criteria, regulations, requirements or procedures for operations related to drug abuse prevention.

2. Agreement. "Agreement" means a legally binding document between 2 parties, including such documents as are commonly referred to as accepted proposal, contract, grant, joint or cooperative agreement or purchase of services.

3. Alcoholic. "Alcoholic" has the same meaning as set out in section 7103.

4. Approved treatment facility. "Approved treatment facility" means a public or private alcohol treatment facility meeting the standards promulgated by the office pursuant to section 7227, subsection 1, and approved under section 7227, subsection 3, and licensed pursuant to section 7801 or pursuant to other applicable provisions of state law. An approved public treatment facility is an alcohol treatment facility operating under the direction and control of the office or providing treatment under this subchapter through a contract with the office under section 7226, subsection 6, or any facility funded in whole or in part by municipal, state or federal funds.

5. Commissioner. "Commissioner" means the Commissioner of Human Services.

6. Department. "Department" means the Department of Human Services.

7. Dependency related drug. "Dependency related drug" means alcohol or any substance controlled under chapter 551, subchapter II, and chapters 557 and 558.

8. Director. "Director" means the Director of the Office of Alcoholism and Drug Abuse Prevention.

9. Drug abuser. "Drug abuser" has the same meaning as set out in section 7103.

10. Drug abuse prevention. "Drug abuse prevention" has the same meaning as set out in section 7103.

11. Drug addict. "Drug addict" has the same meaning as set out in section 7103.

12. Drug dependent person. "Drug dependent person" has the same meaning as set out in section 7103.

13. Emergency service patrol. "Emergency service patrol" means a patrol established under section 7235.

14. Incapacitated by alcohol. "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, is unconscious or has impaired judgment and is incapable of realizing and making a rational decision with respect to the need for treatment.

15. Incompetent person. "Incompetent person" means a person who has been adjudged incompetent by a court.

16. Intoxicated person. "Intoxicated person" has the same meaning as set out in section 7103.

17. Office. "Office" means the Office of Alcoholism and Drug Abuse Prevention established under section 7221 within the Department of Human Services.

18. Planning committee. "Planning committee" means the Alcohol and Drug Abuse Planning Committee established under section 7131.

19. Prevention of drug traffic. "Prevention of drug traffic" has the same meaning as set out in section 7103.

20. Standards. "Standards" has the same meaning as set out in section 7103.

21. Treatment. "Treatment" has the same meaning as set out in section 7103.

22. Treatment program. "Treatment program" has the same meaning as set out in section 7103.

§7223. Office established.

This chapter establishes the Office of Alcoholism and Drug Abuse Prevention within the Department of Human Services to administer and oversee the operation of the department's alcohol and drug abuse activities, including those related to the abuse of alcohol and excepting those relating to the prevention of drug traffic and to provide support and guidance to individuals, public and private organizations and especially local governments, in their drug abuse prevention activities.

§7224. Director

The office shall be administered by a director, who shall be appointed, subject to the Civil Service Law, under the classified service by the commissioner. The director shall be a person qualified by training and experience with drug abuse, or alcoholism and intoxication, or who has had satisfactory experience of a comparable nature in the direction, organization and administration of prevention or treatment programs for persons affected by drug abuse or drug dependency.

The director shall possess full authority and responsibility for administering all the powers and duties of the office provided in section 7225, except as otherwise provided by law. The director shall assume and discharge all responsibilities vested in the office.

The director may employ, subject to the Civil Service Law and within the limits of funds available, competent professional personnel and other staff necessary to carry out the purposes of this chapter. The director shall prescribe the duties of staff and assign a sufficient number of staff full time to the office to achieve its powers and duties. The director may arrange to house staff or assign staff who are responsible to the director and who are to provide direct service to individuals or small groups of individuals needing drug abuse treatment, to operating units of the department, which are responsible for similar functions.

§7225. Powers and duties

The office shall establish in accord with the purposes and intent of this subchapter, in cooperation with the planning committee, the overall planning, policy, objectives and priorities for all Department of Human Services' drug abuse prevention functions, except prevention of drug traffic, which are conducted or supported in the State. In order to carry out these purposes, the office shall have the power and duty to:

1. Administration of resources and services. Encourage and assist development of more effective, more coordinated, more efficient administration of resources and services available for drug abuse prevention;

2. Information system. Develop and maintain an up-to-date information system related to drugs, drug abuse and drug abuse prevention. The information shall be available for use by the people of the State, the political subdivisions, public and private nonprofit agencies and

the State. Educational materials shall be prepared, published and disseminated. Objective devices and research methodologies shall be continuously developed. Uniform methods of keeping statistical information shall be specified for use by public and private agencies, organizations and individuals. Existing sources of information shall be used to the fullest extent possible, while maintaining confidentiality safeguards of state and federal law. Information may be requested and shall be received from any state government or public or private agency. To the extent feasible, information shall maintain compatibility with federal information sharing standards.

Functions of the drug information system may include, but not be limited to:

A. Conducting research on the causes and nature of drugs, drug abuse or people who are dependent on drugs, especially alcoholics and intoxicated persons;

B. Collecting, maintaining and disseminating such knowledge, data and statistics related to drugs, drug abuse and drug abuse prevention as will enable the office to fulfill its responsibilities;

C. Determining through a detailed survey the extent of the drug abuse problem, and the needs and priorities for the prevention of drug abuse and drug dependence in the State and political subdivisions. Included may be a survey of health facilities needed to provide services for drug abuse and drug dependence, especially alcoholics and intoxicated persons;

D. Maintaining an inventory of the types and quantity of drug abuse prevention facilities, programs and services available or provided under public or private auspices to drug addicts, drug abusers and drug dependent persons, especially alcoholics and intoxicated persons. This function shall include the unduplicated count, location and characteristics of people receiving treatment, as well as their frequency of admission and readmission, and frequency and duration of treatment. The inventory shall include the amount, type and source of resources for drug abuse prevention; and

E. Conducting a continuous evaluation of the impact, quality and value of drug abuse prevention facilities, programs and services, including their administrative adequacy and capacity. Activities operated by or with the assistance of State Government and the Federal Government shall be evaluated. Included shall be alcohol and drug abuse prevention and treatment services as authorized by this subchapter and the following federal laws and amendments to them as relate to drug abuse prevention:

(1) The United States Drug Abuse Office and Treatment Act of 1972, Public Law 92-255;

(2) The United States Community Mental Health Centers Act, 42 United States Code, Section 2688;

(3) The United States Public Health Service Act, 42 United States Code;

(4) The United States Vocational Rehabilitation Act;

(5) The United States Social Security Act; and

(6) The United States Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Public Law 91-616, and similar Acts; and

F. Making a separate written report to the Chief Justice, the Governor and the Legislature not later than May 1st of each year, commencing with 1982, on the enforcement of laws relating to drinking and driving during the preceding calendar year. The report shall contain at least the following information:

(1) The number, by county, of arrests for attempting to or operating under the influence;

(2) The number, by county, of revocations of implied consent for each category of offense;

(3) The number and percentage, by court, of convictions; guilty pleas to lesser charges; dismissals; and not guilty for these offenses, for each category of offense;

(4) The number and percentages of successful completion of the Driver Education Evaluation Program;

(5) The number and percentages, by court, of persons whose licenses were suspended; who were fined; and who spent time in jail, for each category of offense;

(6) The average, minimum and maximum, fine, jail sentence and period of license suspension, by court, for each category of operating under the influence offense;

(7) The number and percentages, by court, of convictions for operating after suspension and for being a habitual offender; guilty pleas to a lesser charge; dismissals; and not guilty findings;

(8) The average, minimum and maximum, fine, jail sentence and period of license suspension for operating after suspension and for being a habitual offender, by court; and

(9) Other items that are considered important to the review of the enforcement of the laws relating to drinking and driving.

The office may call upon the assistance of the Department of Public Safety, the State Court Administrator, the office of the Secretary of State and the district attorneys in preparing these reports.

The Office of Alcoholism and Drug Abuse Prevention may revise the contents of the report by including new information or excluding previously reported information in response to changes in the law or other circumstances. The office may request assistance of the Department of Public Safety, the State Court Administrator, the office of the Secretary of State, and the district attorneys in preparing these reports;

3. Prevention or treatment programs. Plan, establish and maintain necessary or desirable prevention or treatment programs for individuals or groups of individuals, except that the office and its staff, whether assigned to the office or to operating units, may provide direct service only to a drug dependent individual or groups of such individuals, whose drug dependency is related to alcohol. The office may use the full range of its powers and duties to serve any drug dependent person through indirect services provided for by agreements;

4. Organizational unit. Function as the organizational unit of the Department of Human Services with responsibility for conducting and coordinating, with the advice and cooperation of the planning committee as provided for in section 7131, programs and activities authorized by this subchapter, and by the United States Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, and by the United States Drug Abuse Office and Treatment Act of 1972, as amended; and other programs or Acts of the State or United States related to drug abuse prevention which are not the specific responsibility of another state agency under federal or state law;

5. Mobilize resources. Help communities mobilize their resources to deal with drug abuse. The office shall provide, or coordinate the provision of information, technical assistance and consultation to state, regional and local governments; and to public and private nonprofit agencies, institutions, organizations and individuals. The help shall be for the purpose of encouraging, developing and assisting with the initiation, establishment and administration of any plans, programs or services to prevent drug abuse.

Included in this duty is authority to coordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in drug abuse prevention, especially alcoholism and treatment of alcoholics and intoxicated persons. The support and assistance of interested persons in the community, particularly recovered alcoholics and abusers of drugs, shall be utilized to encourage alcoholics and drug abusers voluntarily to undergo treatment;

6. Funds. Seek and receive funds from Federal Government and private sources to further its activities. Included in this function is authority to solicit, accept, administer, disburse and coordinate for the State in accordance with the intent, objectives and purposes of this chapter; and within any limitation which may apply from the sources of such funds, the efforts to obtain and the

use of any funds from any source to treat alcoholism or prevent drug abuse. Any gift of money or property made by will or otherwise, and any grant or other funds appropriated, services or property available from the Federal Government, the State or any political subdivision of the State and from all other sources, public or private, may be accepted and administered. The office may do all things necessary to cooperate with the Federal Government or any of its agencies in making application for any funds;

7. Agreements. Enter into agreements necessary or incidental to the performance of its duties. Included is the power to make agreements with qualified community, regional and state level, private nonprofit and public agencies, organizations and individuals in this and other states to develop or provide drug abuse prevention and treatment facilities, programs and services. These agreements may include provisions to pay for prevention or treatment rendered or furnished to an alcoholic, intoxicated person, drug abuser, drug addict, drug dependent person or person in need of assistance due to use of a dependency-related drug. The contracts shall be executed only with agencies that meet the standards for treatment promulgated by the office under section 7227, subsection 1, and approved under section 7227, subsection 3, and licensed pursuant to section 7801 or other applicable provisions of law. The office may engage expert advisors and assistants who may serve without compensation, or to the extent funds may be available by appropriation, grant, gift or allocation from a state department, the office may pay for such expert advisors or assistants;

8. Rules. Prepare, adopt, amend, rescind and administer policies, priorities, procedures and rules to govern its affairs and the development and operation of facilities, programs and services. The office may adopt rules to carry out the powers and duties conducted under the authority in accordance with the purpose and objectives of this subchapter. The office shall especially adopt such rules as may be necessary to define contractual terms, conditions of agreements and all other rules as are necessary for the proper administration of this subchapter. The adoption, amendment and rescission shall be made as provided under the Maine Administrative Procedure Act, Title 5, chapter 375;

9. Operating and treatment standards. Establish operating and treatment standards, inspect and issue a certificate of approval for any drug abuse treatment facility or program, including residential treatment centers, which meet the standards promulgated under section 7227, subsection 1, and licensed pursuant to section 7801 and other applicable provisions of law. The office shall periodically enter, inspect and examine the treatment facility or program, and examine their books and accounts. The office shall fix and collect the fees for the inspection and certificate. Insofar as licensing and certification of drug abuse prevention facilities and programs may also be the responsibility of another administrative unit of the department, the office may assign performance of this responsibility to such a unit or make

other mutually agreeable arrangements with such a unit for assisting with performance of this responsibility;

10. Educational program. Develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of alcoholics and intoxicated persons and persons who abuse or are dependent on drugs; assist in the development of, and the cooperation with, alcoholic education and treatment programs for employees of state and local governments and businesses and industries in the State; convene and conduct conferences of public and private nonprofit organizations concerned with the development and operation of drug abuse prevention programs. Included shall be the power to encourage general hospitals and other appropriate health facilities to admit without discrimination alcoholics and intoxicated persons who abuse or are dependent on drugs and to provide them with adequate and appropriate treatment. Also included is the power to encourage all health and disability insurance programs to include alcoholism as a covered illness;

11. Training programs. Foster, develop, organize, conduct or provide for the conduct of training programs for all persons in the field of treating alcoholics and intoxicated persons and drug abusers;

12. Activities and programs. Coordinate activities and cooperate with drug abuse prevention programs in this and other states for the common advancement of drug abuse prevention and alcoholism programs;

13. Principal office. Establish and maintain a principal office at the department's general headquarters, and such other offices within the State as it may deem necessary; and

14. Purposes and authority. Do other acts and exercise such other powers necessary or convenient to execute and carry out the purposes and authority expressly granted in this subchapter.

§7226. Comprehensive program on alcoholism and drug abuse

1. Drug abuse prevention and treatment. A comprehensive and coordinated program of drug abuse prevention and treatment, especially of alcoholics and intoxicated persons, is established. Nothing in subsequent sections may be interpreted as preventing the establishment of additional drug abuse prevention and treatment programs, including programs which the office considers necessary or desirable for intoxicated persons and alcoholics.

2. Program. The program shall include:

A. Emergency treatment provided by a facility affiliated with or part of the medical service of a general hospital;

B. Inpatient treatment;

C. Intermediate treatment; and

D. Outpatient and follow-up treatment.

3. Alcoholics and intoxicated persons. The office shall provide for adequate and appropriate treatment for alcoholics and intoxicated persons admitted under sections 7229 to 7232. Treatment may not be provided at a correctional institution, except for inmates.

4. Facilities. The office shall maintain, supervise and control all facilities operated by it subject to policies of the department. The administrator of each facility shall make an annual report of its activities to the director in the form and manner the director specifies.

5. Public and private resources. All appropriate public and private resources shall be coordinated with and utilized in the program, if possible.

6. Approved public treatment facility. The office may contract for the use of any facility as an approved public treatment facility, if the director, subject to the policies of the department, considers this to be an effective and economical course to follow.

§7227. Standards for public and private alcohol or drug abuse treatment facilities; enforcement procedures; penalties

1. Standards. The department shall establish standards for approved treatment facilities that must be met for a treatment facility to be approved as a public or private treatment facility, and fix the fees to be charged by the department for the required inspections. The standards may concern only the health standards to be met and standards of treatment to be afforded patients. The standards of treatment may include provision for special education services for any exceptional children, as defined by Title 20-A, section 7001, subsection 1, residing in a facility, pursuant to Title 20-A, chapter 303.

2. Inspection. The department periodically shall inspect approved public and private treatment facilities at reasonable times and in a reasonable manner.

3. List. The department shall maintain a list of approved public and private treatment facilities.

4. File. Each approved public and private treatment facility shall file with the department on request data, statistics, schedules and information the department reasonably requires. An approved public or private treatment facility that without good cause fails to furnish any data, statistics, schedules or information as requested, or files fraudulent returns of that material, shall be removed from the list of approved treatment facilities.

5. Procedures. Procedures for the amendment, modification, refusal to issue or renew, revocation or suspension of approval shall be as set forth by the Maine Administrative Procedure Act, Title 5, chapter 375. In

addition, the department may seek relief in the District Court for violations of the provisions of this section.

6. Books and accounts. The department may at reasonable times enter to inspect and examine the books and accounts of any approved public or private treatment facility refusing to consent to inspection or examination by the department or which the department has reasonable cause to believe is operating in violation of this subchapter.

§7228. Acceptance for treatment of alcoholics and intoxicated persons; rules

The director shall adopt and may amend and repeal rules for acceptance of persons into the treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics and intoxicated persons.

In establishing the rules, the director shall be guided by the following standards.

1. Voluntary basis. If possible, a patient shall be treated on a voluntary rather than an involuntary basis.

2. Initial assignment. A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless the patient is found to require inpatient treatment.

3. Denial of treatment. A person shall not be denied treatment solely because that person has withdrawn from treatment against medical advice on a prior occasion or has relapsed after earlier treatment.

4. Individualized treatment plan. An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

5. Coordinated treatment. Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment.

6. Denial of treatment services. No person, firm or corporation licensed by the Department of Human Services as an alcohol or drug treatment facility, under section 8001, to provide shelter or detoxification service, and which receives any funds administered by the department, may deny treatment to any person because of that person's inability or failure to pay any assessed fees.

§7229. Voluntary treatment of alcoholics

1. Voluntary treatment. An alcoholic may apply for voluntary treatment directly to an approved public treatment facility. If the proposed patient is a minor or an incompetent person, that person, a parent, a legal guardian or other legal representative may make the application.

2. Determination. Subject to rules adopted by the director, the administrator in charge of an approved public treatment facility may determine who shall be admitted for treatment. If a person is refused admission to an approved public treatment facility, the administrator, subject to rules adopted by the director, shall refer the person to another approved public treatment facility for treatment if possible and appropriate.

3. Outpatient or intermediate treatment. If a patient receiving inpatient care leaves an approved public treatment facility, that patient shall be encouraged to consent to appropriate outpatient or intermediate treatment. If it appears to the administrator in charge of the treatment facility that the patient is an alcoholic who requires help, the office shall arrange for assistance in obtaining supportive services and residential facilities.

4. Discharge. If a patient leaves an approved public treatment facility, with or against the advice of the administrator in charge of the facility, the office shall make reasonable provisions for that patient's transportation to another facility or to the patient's home. If that person has no home, the patient shall be assisted in obtaining shelter. If the patient is a minor or an incompetent person, the request for discharge from an inpatient facility shall be made by a parent, legal guardian or other legal representative or by the minor or incompetent, if the minor or incompetent was the original applicant.

§7230. Treatment and services for intoxicated persons and persons incapacitated by alcohol

1. Intoxicated person. An intoxicated person may come voluntarily to an approved public treatment facility for emergency treatment. A person who appears to be intoxicated and to be in need of help, if that person consents to the proffered help, may be assisted home, an approved public treatment facility, an approved private treatment facility or other health facility by the police or the emergency service patrol.

2. Incapacitated person. A person who appears to be incapacitated by alcohol shall be taken into protective custody by the police or the emergency service patrol and immediately brought to an approved public treatment facility for emergency treatment. If no approved public treatment facility is readily available, that person shall be taken to an emergency medical service customarily used for incapacitated persons. The police or the emergency service patrol, in detaining the person and in taking that person to an approved public treatment facility, is taking that person into protective custody and shall make every reasonable effort to protect that person's health and safety. In taking the person into protective custody, the detaining officer may take reasonable steps for self-protection. A taking into protective custody under this section is not an arrest. No entry or other record may be made to indicate that the person has been arrested or charged with a crime.

3. Voluntary commitment. A person who comes

voluntarily or is brought to an approved public treatment facility shall be examined by a licensed physician immediately. That person may then be admitted as a patient or referred to another health facility. The referring approved public treatment facility shall arrange for that person's transportation.

4. Length of stay. A person, who by medical examination is found to be incapacitated by alcohol at the time of admission or to have become incapacitated at any time after admission, may not be detained at the facility once that person is no longer incapacitated by alcohol, or if that person remains incapacitated by alcohol for more than 48 hours after admission as a patient, unless committed under section 7231. A person may consent to remain in the facility as long as the physician in charge believes appropriate.

5. Shelter. A person who is not admitted to an approved public treatment facility, is not referred to another health facility and has no funds may be taken home. If that person has no home, the approved public treatment facility shall provide assistance in obtaining shelter.

6. Notification. If a patient is admitted to an approved public treatment facility, the family or next of kin shall be notified as promptly as possible. If an adult patient who is not incapacitated requests that there be no notification, the request shall be respected.

7. Official duty. The police or members of the emergency service patrol who act in compliance with this section are acting in the course of their official duty and are not criminally or civilly liable.

8. Further diagnosis and voluntary treatment. If the administrator in charge of the approved public treatment facility determines it is for the patient's benefit, the patient shall be encouraged to agree to further diagnosis and appropriate voluntary treatment.

§7231. Emergency commitment of an incapacitated or intoxicated person

1. Commitment. An intoxicated person who has threatened, attempted or inflicted physical harm on another and is likely to inflict physical harm on another unless committed, or is incapacitated by alcohol, may be committed to an approved public treatment facility for emergency treatment. A refusal to undergo treatment does not in itself constitute evidence of lack of judgment as to the need for treatment.

2. Application for commitment. The spouse, guardian or relative of the person to be committed, or any other responsible person, may make a written application for commitment under this section, directed to the administrator of the approved public treatment facility. The application shall state facts to support the need for emergency treatment and be accompanied by a physician's certificate stating that the physician has examined

the person to be committed within 2 days before the date of the application for admission and facts supporting the need for emergency treatment. A physician employed by the admitting facility or the division is not eligible to be the certifying physician. The certifying physician shall be someone other than the person making the written application for commitment.

3. Approval of application. Upon approval of the application by the administrator in charge of the approved public treatment facility, the person shall be brought to the facility by a peace officer, health officer, emergency service patrol, the applicant for commitment, the patient's spouse, the patient's guardian or any other interested person. The person shall be retained at the facility or transferred to another appropriate public or private treatment facility, until discharged under subsection 5.

4. Refusal of application. The administrator in charge of an approved public treatment facility shall refuse an application if, in the opinion of a physician or physicians employed by a facility, the application and certificate fail to sustain the grounds for commitment.

5. Discharge. When on the advice of the medical staff the administrator determines that the grounds for commitment no longer exist, the administrator shall discharge a person committed under this section. No person committed under this section may be detained in any treatment facility for more than 5 days. If a petition for involuntary commitment under section 7232 has been filed within the 5 days and the administrator in charge of an approved public treatment facility finds that grounds for emergency commitment still exist, the administrator may detain the person until the petition has been heard and determined, but no longer than 10 days after filing the petition.

6. Opportunity to consult counsel. A copy of the written application for commitment and of the physician's certificate, and a written explanation of the person's right to counsel, shall be given to the person within 24 hours after commitment by the administrator, who shall provide a reasonable opportunity for the person to consult counsel.

§7232. Involuntary commitment of alcoholics or incapacitated persons

1. Commitment. A person may be committed to the custody of the office by the District Court upon the petition of a spouse or guardian, relative or the administrator in charge of any approved public treatment facility. The petition shall allege that the person is an alcoholic who habitually lacks self-control as to the use of alcoholic beverages and has threatened, attempted or inflicted physical harm on another and unless committed is likely to inflict physical harm on another or is incapacitated by alcohol. A refusal to undergo treatment does not in itself constitute evidence of lack of judgment as to the need for treatment. The petition shall be accompanied

by a certificate of a licensed physician who has examined the person within 2 days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the physician's findings in support of the allegations of the petition. A physician employed by the admitting facility or the division is not eligible to be the certifying physician. The certifying physician shall be someone other than the person bringing the petition.

2. Petition. Upon filing the petition, the court shall fix a date for a hearing no later than 10 days after the date the petition was filed. A copy of the petition and of the notice of the hearing, including the date fixed by the court, shall be served on the petitioner, the person whose commitment is sought, next of kin other than the petitioner, a parent or a legal guardian, the administrator in charge of the approved public treatment facility to which the person has been committed for emergency care and any other person the court believes advisable. A copy of the petition and certificate shall be delivered to each person notified.

3. Hearing. At the hearing, the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. The person shall be present, unless the court believes that the person's presence is likely to be injurious to that person. In this event, the court shall appoint a guardian ad litem to represent the person throughout the proceeding. The court shall examine the person in open court, or if advisable, shall examine the person out of court. If the person has refused to be examined by a licensed physician, the person shall be given an opportunity to be examined by a court-appointed licensed physician. If that person refuses and there is sufficient evidence to believe that the allegations of the petition are true, or if the court believes that more medical evidence is necessary, the court may make a temporary order committing that person to the division for a period of not more than 5 days for purposes of a diagnostic examination.

4. Findings. If, after hearing all relevant evidence, including the results of any diagnostic examination by the office, the court finds that grounds for involuntary commitment have been established by clear and convincing proof, it shall make an order of commitment to the office. It may not order commitment of a person, unless it determines that the office is able to provide adequate and appropriate treatment and the treatment is likely to be beneficial.

5. Custody. A person committed under this section shall remain in the custody of the office for treatment for a period of 30 days unless sooner discharged. At the end of the 30-day period, the person shall be discharged automatically, unless the office before expiration of the period obtains a court order for recommitment upon the grounds set forth in subsection 1 for a further period of

90 days, unless sooner discharged. If a person has been committed as an alcoholic likely to inflict physical harm on another, the office shall apply for recommitment, if after examination it is determined that the likelihood still exists.

6. Recommitment. A person recommitted under subsection 5 who has not been discharged by the office before the end of the 90-day period shall be discharged at the expiration of that period, unless the office before expiration of the period obtains a court order on the grounds set forth in subsection 1 for the recommitment for a further period not to exceed 90 days. If a person has been committed as an alcoholic likely to inflict physical harm on another, the office shall apply for recommitment if after examination it is determined that the likelihood still exists. Only 2 recommitment orders under this subsection and subsection 5 are permitted.

7. Petition for recommitment. Upon the filing of a petition for recommitment under subsection 5 or 6, the court shall fix a date for hearing no later than 10 days after the date the petition was filed. A copy of the petition and of the notice of hearing, including the date fixed by the court, shall be served on the petitioner, the person whose commitment is sought, next of kin other than the petitioner, the original petitioner under subsection 1, if different from the petitioner for recommitment, one parent or a legal guardian and any other person the court believes advisable. At the hearing the court shall proceed as provided in subsection 3.

8. Treatment. The office shall provide for adequate and appropriate treatment of a person committed to its custody. The office may transfer a person committed to its custody from one approved public treatment facility to another, if transfer is medically advisable.

9. Discharge. A person committed to the custody of the office for treatment shall be discharged at any time before the end of the period for which that person has been committed if either of the following conditions is met:

A. In case of an alcoholic committed on the grounds of likelihood of infliction of physical harm upon another, that person is no longer an alcoholic or the likelihood no longer exists; or

B. In case of an alcoholic committed on the grounds of the need of treatment and incapacity, the incapacity no longer exists, further treatment will not be likely to bring about significant improvement in the person's condition or treatment is no longer adequate or appropriate.

10. Right to contest. The court shall inform the person whose commitment or recommitment is sought of the right to contest the application, be represented by counsel at every stage of any proceedings relating to commitment and recommitment and have counsel appointed by the court or provided by the court, if that person

wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel regardless of that person's wishes. The person whose commitment or recommitment is sought shall be informed of the right to be examined by a licensed physician of that person's choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

11. Private treatment facility. If a private or public treatment facility agrees with the request of a competent patient or a parent, sibling, adult child or guardian to accept the patient for treatment, the administrator of the public treatment facility shall transfer the patient to the private treatment facility.

12. Habeas corpus. A person committed under this subchapter may at any time seek to be discharged from commitment by writ of habeas corpus.

13. Venue for proceedings. The venue for proceedings under this section is the place in which the person to be committed resides or is present.

§7233. Records

1. Registration and records. The registration and other records of treatment facilities shall remain confidential and are privileged to the patient.

2. Information for research. Notwithstanding subsection 1, the director may make available information from patients' records for purposes of research into the causes and treatment of alcoholism and drug abuse. Information under this subsection shall not be published in a way that discloses patients' names or other identifying information.

§7234. Visitation and communication of patients

1. Hours of visitation. Subject to reasonable rules regarding hours of visitation which the director may adopt, patients in any approved treatment facility shall be granted opportunities for adequate consultation with counsel and for continuing contact with family and friends consistent with an effective treatment program.

2. Communication. Neither mail nor other communication to or from a patient in any approved treatment facility may be intercepted, read or censored. The director may adopt reasonable rules regarding the use of telephone by patients in approved treatment facilities.

3. Restrictions. Except to the extent the director determines that it is necessary for the medical welfare of the patient to impose restrictions, and unless a patient has been restored to legal capacity and except where specifically restricted by other statute or regulation, but not solely because of the fact of admission to a mental hospital, to exercise all civil rights, including, but not limited

to, civil service status, the right to vote, rights relating to the granting, renewal, forfeiture or denial of a license, permit, privilege or benefit pursuant to any law, and the right to enter contractual relationships and to manage the patient's property.

§7235. Emergency service patrol; establishment; rules

1. Emergency service patrols. The office, counties and municipalities may establish emergency service patrols. A patrol consists of persons trained to give assistance in the streets and in other public places to persons who are intoxicated due to the use of alcohol or dependency related to drugs. Members of an emergency service patrol shall be capable of providing first aid in emergency situations and shall transport intoxicated persons to their homes and to and from public treatment facilities.

2. Rules. The director shall adopt rules for the establishment, training and conduct of emergency service patrols.

§7236. Payment for treatment; financial ability of patients

1. Payment. If treatment is provided by an approved public treatment facility and the patient has not paid the charge, the treatment facility is entitled to any payment received by the patient or to which the patient may be entitled because of the services rendered, and from any public or private source available to the treatment facility because of the treatment provided to the patient.

2. Liability. A patient in an approved treatment facility, or the estate of the patient, or a person obligated to provide for the cost of treatment and having sufficient financial ability, is liable to the treatment facility for cost of maintenance and treatment of the patient in accordance with rates established.

3. Finances. The director shall adopt rules governing financial ability that take into consideration the income, savings, other personal and real property and any support being furnished to any other person that that person is required by law to support.

§7237. Criminal law limitations

1. Laws. No county, municipality or other political subdivision may adopt or enforce a local law, ordinance, resolution or rule having the force of law that includes drinking, being a common drunkard or being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty or sanction.

2. Interpretation. No county, municipality or other political subdivision may interpret or apply any law of general application to circumvent subsection 1.

3. Affect. Nothing in this subchapter affects any

law, ordinance, resolution or rule against drunken driving, driving under the influence of alcohol, or other similar offense involving the operation of a vehicle, snowmobile, aircraft, boat, machinery or other equipment, or regarding the sale, purchase, dispensing, possessing or use of alcoholic beverages at stated times and places or by a particular class of persons.

Sec. 39. 23 MRSA, §61, sub-§4, as enacted by PL 1985, c. 13, is repealed and the following enacted in its place:

4. Proceeds from sale, lease or vacating. The State's share of all gross proceeds from a sale, lease or vacating of property shall be deposited into the Highway Fund and shall only be expended upon allocation by the Legislature. The Federal Government's share shall be deposited in the account from which it originated.

Sec. 40. 23 MRSA §153, next to last ¶, as amended by PL 1987, c. 267, §4, is further amended to read:

Where property is to be purchased or taken over and held for the State, the department shall first cause the property or interest therein necessary to be acquired to be surveyed and described and a plan thereof made and to be appraised by one or more appraisers ~~who in making each appraisal shall contact the owner or one of the owners or his designated representative if reasonably possible. The owner or the owner's designated representative shall be given an opportunity to accompany the appraisers during the appraiser's inspection of the property.~~ All persons employed by the department are authorized, to the extent necessary for surveys and preliminary engineering, to enter and cross all lands within, adjoining and adjacent to the area to be surveyed in carrying out the objectives of this section.

Sec. 41. 24 MRSA §2329, sub-§2, ¶C, as enacted by PL 1983, c. 527, §1, is amended to read:

C. "Treatment plan" means a written plan initiated at the time of admission, approved by a Doctor of Medicine, Doctor of Osteopathy or a Registered Licensed Substance Abuse Counselor employed by a certified or licensed substance abuse program, including, but not limited to, the patient's medical, drug and alcoholism history; record of physical examination; diagnosis; assessment of physical capabilities; mental capacity; orders for medication, diet and special needs for the patient's health or safety and treatment, including medical, psychiatric, psychological, social services, individual, family and group counseling; and educational, support and referral services.

Sec. 42. 32 MRSA §1101, sub-§2, as repealed and replaced by PL 1973, c. 363, is amended to read:

2. Electrical installations. "Electrical installations" shall mean the installation, repair, alteration and maintenance of electrical conductors, fittings, devices and fixtures for heating, lighting, power purposes or heat

activated fire alarms, intrusion alarms, energy management, telephone, telegraph, cable and closed circuit television, sound systems, conduit and raceway systems and electrically supervised manual fire alarms and sprinkler systems. They shall not include the installation or repair of portable appliances and other portable electrical equipment, installation of which involves only the insertion of an attachment plug into a fixed receptacle outlet. It is the meaning and intent of this subsection that the word "portable" shall not include or apply to any type of fixed electrically operated or driven equipment.

Sec. 43. 32 MRSA §1101, sub-§3-A, as enacted by PL 1987, c. 395, Pt. B, §3, is amended to read:

3-A. Journeyman-in-training electrician. "Journeyman-in-training electrician" means a person doing work of installing electrical wires, conduits, apparatus, fixtures and other electrical equipment under the supervision of a journeyman or a master electrician. ~~The biennial renewal fee for a journeyman in training electrician license is \$20.~~

Sec. 44. 32 MRSA §1101, sub-§4, as repealed and replaced by PL 1983, c. 413, §31, is further amended to read:

4. Journeyman electrician. "Journeyman electrician" means a person doing work of installing electrical wires, conduits, apparatus, fixtures and other electrical equipment in the employment of a master electrician. ~~The biennial renewal fee for a journeyman electrician license is \$40.~~

Sec. 45. 32 MRSA §1101, sub-§5, as amended by PL 1981, c. 577, §8, is further amended to read:

5. Limited license. A limited electrician's license to install and service the electrical work related to a specific type of electrically operated equipment or to specific electrical installations shall be granted to any person who has passed a satisfactory examination before the board. It shall specify the name of such person who shall be limited to engage in the occupation of installing and servicing the electrical work related to the type of equipment or to specific electrical installations only authorized by this license. ~~The biennial renewal fee for a limited electrician's license shall be \$60.~~

Sec. 46. 32 MRSA §1101, sub-§6, as amended by PL 1981, c. 577, §9, is further amended to read:

6. Master electrician. "Master electrician" shall mean a person, firm or corporation, qualified under this chapter, engaging in, or about to engage in, the business of installing electrical wires, conduits, apparatus, fixtures and other electrical equipment. The certificate shall specify the name of the person, who, in case of a firm, shall be one of its members or employees and in case of a corporation, one of its officers or employees passing said examination, by which he or it shall be authorized to enter upon or engage in business as set forth in this chapter.

In the case of a firm or corporation, the license shall become void upon the death of, or the severance from the company of, said person. ~~The biennial renewal fee for a master electrician's license shall be \$100.~~

Sec. 47. 32 MRSA §1102, sub-§6, as amended by PL 1979, c. 127, §177, is further amended to read:

6. Elevator mechanics. Any person licensed under Title 26, sections 484 to 487 subject to the restrictions of the license as issued; or

Sec. 48. 32 MRSA §1102, sub-§7 is enacted to read:

7. Low-energy installers. Individuals or employees installing telephone, telegraph, cable and closed-circuit television, data communication and sound equipment.

Sec. 49. 32 MRSA §1102-B, sub-§4, as enacted by PL 1981 c. 432, §2 is repealed and the following enacted in its place:

4. Procedures and fees. Pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, the board may adopt procedures and fees for permit applications and the conduct of inspections. The combined fee for permit and inspection shall be paid with every application for a permit. The board shall adopt a schedule and appropriate fees, but in no event may the fee be less than \$13.50.

Sec. 50. 32 MRSA §1151, first ¶, as amended by PL 1983, c. 812, §202, is further amended to read:

The Electricians' Examining Board, as established by Title 5, section 12004, subsection 1, and in this chapter called the "board," shall consist of 6 members appointed by the Governor, called the "appointive members," and the Commissioner of ~~Business, Occupational and Professional and Financial~~ Regulation or a representative appointed by the commissioner.

Sec. 51. 32 MRSA §1151, 3rd ¶, as repealed and replaced by PL 1983, c. 413, §34, is amended to read:

Appointments shall be made for a ~~5-year~~ 3-year term, except that at least one appointive member's term shall expire each calendar year and appointments for terms of less than ~~5~~ 3 years may be made in order to comply with this limitation. No person may be eligible to serve more than ~~2~~ 3 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the ~~5-year~~ 3-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be ~~5~~ 3 years from the date of that expiration, regardless of the date of his appointment.

Sec. 52. 32 MRSA §1153, as repealed and replaced by PL 1983, c. 413, §35, is amended to read:

§1153. Meetings; rules

The board shall hold regular meetings at least twice a year. Additional meetings shall be held as necessary to conduct the business of the board, and may be convened at the call of the chairman or 4 of the board members. At the first meeting in each calendar year, the 6 appointive members shall choose one appointive member to act as chairman. A quorum of the board shall consist of not less than 4 members. The board shall keep correct records of all its proceedings and may adopt, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, such rules as it shall deem necessary for the holding of examinations and for carrying out this chapter; provide for the licensing requirements of Title 8, section 653; and provide for reciprocity of licensing with similar boards of other states which maintain electrical standards at least equal to those of this State. Reciprocal licenses shall not be denied on the basis of current residency.

Sec. 53. 32 MRSA §1201, as repealed and replaced by PL 1973, c. 363, is repealed and the following enacted in its place:

§1201. License required

No electrical installations may be made unless by an electrician or other person licensed by the board except as provided in this chapter.

Sec. 54. 32 MRSA §1202, sub-§1, ¶B, as repealed and replaced by PL 1987, c. 395, Pt. B, §7, is amended to read:

B. For a master electrician's license, a person must:

(1) Complete at least 4,000 hours of service as a journeyman electrician or at least 12,000 hours of experience in electrical installations, as defined in section 1101, and complete a program of study comprising 576 hours as approved by the Electricians' Examining Board or from an accredited institution. The 576 hours shall consist of 450 hours of required study, including a course of not less than 45 hours in an approved course in the current National Electrical Code and 126 hours of degree-related courses;

Any person who holds a journeyman electrician's or limited license under this section or under former section 1202, subsection 1, prior to July 1987, shall be eligible to take the examination for a master electrician's license, provided that the applicant has completed the number of hours of service or experience required by this subsection and has completed 45 hours of current National Electrical Code.

Sec. 55. 32 MRSA §1202, sub-§2, as amended by PL 1981, 577, §10, is further amended to read:

2. Apprentice or helper. The board may issue a license upon payment of a annual fee of ~~\$10~~ as adopted by the board, not to exceed \$20, to any person who applies therefor, without examination, provided such applicant submits evidence satisfactory to the board that

he has entered the employ of a licensed electrician as an apprentice electrician or to assist him as an electrician's helper or is a full-time student in an electrical course at a regional vocational-technical center, a Maine vocational region, or a vocational-technical institute. Any such person employed by an electrician as an apprentice for the purpose of qualifying for any license mentioned in section 1203, or as electrician's helper, shall apply for a license as such immediately after commencing such employment or immediately after starting school in an electrical course.

Sec. 56. 32 MRSA §1203, first ¶, as amended by PL 1987, c. 395, Pt. B, §8, is repealed and the following enacted in its place:

Applicants for licensure shall present to the board a written application for examination and license, containing such information as the board may require. The board shall adopt application, examination, licensure and biennial renewal fees in amounts which are reasonable and necessary for their respective purposes, but in amounts not to exceed the following:

- 1. Applications \$25
- 2. Examinations \$50
- 3. Licensure:
 - A. Journeyman/Journeyman-in-training \$80
 - B. Master \$150
 - C. Limited \$100

Sec. 57. 32 MRSA §1204, 2nd ¶, as amended by PL 1985, c. 551, is further amended to read:

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination or other requirements if the renewal application is made within 2 years from the date of the expiration. The board may levy penalties for nonrenewal. Notwithstanding any other provision of this chapter, the board shall waive examination if a renewal application is made within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, by a person who has failed to renew his license because he was on active duty in the Armed Forces; provided that the waiver of examination shall not be granted if the person served more than 4 years in the Armed Forces, except if he is required by some mandatory provision to serve a longer period and he shall submit satisfactory evidence of this mandatory provision to the board.

Sec. 58. 32 MRSA §1951, as amended by PL 1979, c. 166, §1, is further amended to read:

§1951. Definitions

As used in this subchapter, unless the context otherwise specifies, the following words ~~shall~~ terms have the following meanings:

1. Arborist. "Arborist" means a person who, for compensation, takes down or fells, diagnoses or evaluates the condition of shade or ornamental trees; or solicits, recommends or supervises the treatment of such trees; or in any manner or for any purpose treats or cares for such trees or parts thereof; or takes down or fells such trees by topping or by sections, except pursuant to a permit issued under section 2051-A; or for control of any diseases, injuries or insects, sprays or treats by any other method such trees or forest trees.

2. Board. "Board" means the Arborist Examining Board.

3. Bureau. "Bureau" means the Bureau of Forestry within the Department of Conservation.

4. Director of the board. "Director of the board" means the Commissioner of Business Regulation or the person designated by him.

5. Ornamental trees. "Ornamental trees" means trees of shade, beauty or landscape value, or those trees intended to become such.

6. Person. "Person" means an individual, partnership or any group of persons, whether incorporated or not.

7. Shade trees. "Shade trees" means trees grown, established or used to screen persons, grounds, structures, walks, pools, etc. or other similar objects, from direct wind, sunlight or, observation or both, or those trees intended to become such sound.

8. Takes down or fells. "Takes down or fells" means taking down trees by topping or by sections. Taking down of those trees which can safely be felled whole, and similar to a woodsman felling a forest tree, does not require licensing the cutting for removal of any part of the entire tree by topping, by sections or felled whole.

9. Treats or cares for. "Treats or cares for" means the pruning, trimming, shaping, installing lightning protections, cabling, bracing, feeding or fertilizing and excavating, draining or filling decayed and cavity areas of trees.

Sec. 59. 32 MRSA §1952, sub-§§2 and 3, as amended by PL 1965, c. 226, §70, are further amended to read:

2. Personnel. Any individual performing labor or services on or in connection with trees at the direction

~~and under the personal supervision of a licensed arborist while in the performance of such functions, provided that employed personnel with supervisory responsibility, foremen and salesmen are required to qualify for and hold a license on a site where a licensed arborist is present;~~

3. Certain employees. State, county, municipal, quasi-municipal or public utility employees while engaged in their regular line of duty or those individuals contracted during emergencies resulting in public hardships;

Sec. 60. 32 MRSA §2001, first ¶, as amended by PL 1985, c. 779, §77, is further amended to read:

The Arborist Examining Board, as established by Title 5, section 12004, subsection 1, within the Department of ~~Business, Occupational and Professional and Financial Regulation~~ and called "the board," shall administer this chapter and shall consist of 6 members. The Governor shall appoint 4 6 members as follows: Two members shall be licensed commercial arborists, each of whom shall have been continuously engaged in practice as licensed commercial arborists for a period of 10 years prior to his appointment; one member shall be a plant pathologist who is either on the state or University of Maine System staff and part of whose work is concerned with trees; ~~and one member shall be a representative of the public; one member, whose work is concerned partially with urban forestry, shall be appointed from the Bureau of Forestry; and one member, whose work is partially concerned with state registration of pesticides, shall be appointed from the Department of Agriculture, Food and Rural Resources. The remaining 2 members shall be selected by the Director of the Bureau of Forestry from the Bureau of Forestry and shall be ex officio members.~~

Sec. 61. 32 MRSA §2003, as amended by PL 1983, c. 413, §105, is repealed and the following enacted in its place:

§2003. Lists of licenses; suspension or revocation of licenses

The Department of Professional and Financial Regulation, Division of Licensing and Enforcement, shall compile and maintain a complete and up-to-date list of all licenses issued by the board. Such a list shall be made available to any person upon request and payment of required fee.

No later than August 1st of each year, the board shall submit to the Commissioner of Professional and Financial Regulation, for the preceding fiscal year ending June 30th, an annual report of its operations together with such comments and recommendations as the board deems necessary.

Sec. 62. 32 MRSA §2004, as amended by PL 1977, c. 360, §26, is further amended to read:

§2004. Disposal of fees

Fees collected shall be credited to the board and may be expended by the board for any expense incurred for examining, licensing and carrying out the purposes of this subchapter. ~~The Bureau of Forestry shall be reimbursed by the board for actual expense of services rendered to the board in administering the law.~~

Sec. 63. 32 MRSA §2055, first ¶, as amended by PL 1983, c. 413, §110, is further amended to read:

~~Each license applicant shall be required to take a written examination prepared by the board. An oral examination may be required of the applicant to enable the board to judge his qualifications for certification.~~

Sec. 64. 32 MRSA §2055, 3rd ¶, as amended by PL 1981, c. 567, §4, is further amended to read:

Examinations shall be given at least once a year at such times and places as the board shall determine. The grading and passing of applicants shall be exclusively the responsibility of the board with the assistance of the board clerk.

Sec. 65. 32 MRSA §2057, first ¶, as amended by PL 1983, c. 204, §4, is further amended to read:

~~Licenses for arborists shall expire on December 31st, or at such other times as the Commissioner of Business Professional and Financial Regulation may designate, and shall become invalid on that date unless renewed.~~

Sec. 66. 32 MRSA §6025, as amended by PL 1983, c. 413, §204, is further amended to read:

§6025. Temporary license

An applicant, who fulfills all the requirements for licensure except professional employment or examination, may apply to the board for a temporary license. Upon receiving an application, accompanied by the fee established in section 6028, the board shall issue a temporary license, which entitles the applicant to practice speech pathology or audiology under supervision while completing the requirements for licensure. No temporary license may be issued by the board under this section unless the applicant shows to the satisfaction of the board that he is or will be supervised and trained by a person who holds a license or the Certificate of Clinical Competency of the American Speech and Hearing Association in the appropriate specialty. The temporary license shall be effective for one year and may be renewed once by the board.

Sec. 67. 32 MRSA §7030, sub-§1, as enacted by PL 1983, c. 413, §225, is repealed and the following enacted in its place:

1. Licenses. The board shall evaluate the qualifications and supervise the examination of applicants for licensure under this chapter. The board shall accommodate the special needs or handicapping conditions of licensing applicants which prohibit examination in the usual manner.

Sec. 68. 32 MRSA §7030, sub-§1-A is enacted to read:

1-A. Enforcement. The board shall investigate or cause to be investigated all complaints made to it and all cases of noncompliance with this chapter.

Sec. 69. 32 MRSA §7053, sub-§1, as repealed and replaced by PL 1987, c. 395, Pt. B, §14, is amended to read:

1. Licensed clinical social worker. To be qualified as a licensed clinical social worker, an applicant shall have demonstrated to the satisfaction of the board adherence to the ethics of the social work profession; shall have successfully completed the examination prescribed by the board; and shall have received either;

A. A masters or doctoral degree in social work or social welfare from an accredited educational institution, in a clinical concentration:

(1) Shall have subsequently completed 2 years of social work experience with 96 hours of consultation in a clinical setting; or

(2) Shall have demonstrated 2 years of full-time clinical social work experience or its equivalent and have completed the graduate degree prior to January 1, 1987, and have completed 2 years of subsequent social work experience with 96 hours of consultation in a private setting; or

B. A masters or doctoral degree in social work in a nonclinical concentration from an accredited educational institution:

(1) Shall have subsequently completed 4 years of social work experience with 192 hours of consultation in a clinical setting; or

(2) Shall have demonstrated 2 years of full-time clinical social work experience or its equivalent and have completed the graduate degree prior to January 1, 1987, and have completed 4 years of subsequent social work experience with 192 hours of consultation in a private setting.

The board may waive up to one year of the post-master of social work, clinical experience requirement pursuant to this subsection for those candidates who demonstrate to the satisfaction of the board equivalent clinical experience prior to receiving the masters degree in social work.

The board shall issue rules, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, defining the clinical experience required for this level of licensure.

Sec. 70. 38 MRSA §562, sub-§10, as amended by PL 1985, c. 491, §5, is further amended to read:

10. Responsible party. "Responsible party" means any one or more of the following persons:

A. The owner or operator of the underground oil storage facility where a prohibited discharge has occurred;

B. The person to whom the underground oil storage facility where a prohibited discharge has occurred is registered;

C. Any person other than those identified in paragraph A or B who caused the prohibited discharge of oil or who had custody or control of the oil at the time of the prohibited discharge; or

D. Any person who owned or operated the underground oil storage facility from the time any oil, petroleum products or their by-products arrived there.

As set out in this subsection, "responsible party" does not include a person who can demonstrate by a preponderance of the evidence that that person neither knew nor had reason to know of the existence of an underground oil storage facility.

Sec. 71. 38 MRSA §568, sub-§4, as repealed and replaced by PL 1987, c. 491, §15, is repealed and the following enacted in its place:

4. Enforcement; penalties; punitive damages. Enforcement, penalties and punitive damages are as follows.

A. Any person who causes, or is responsible for, a discharge to ground water in violation of section 543 shall not be subject to any fines or penalties for the discharge if that person promptly reports and removes that discharge in accordance with the rules and orders of the department and the board.

B. Any responsible party who fails without sufficient cause to undertake removal or remedial action promptly in accordance with a clean-up order issued pursuant to subsection 3 may be liable to the State for punitive damages in an amount at least equal to and not more than 3 times the amount of any sums expended from the fund as a result of such failure to take prompt action.

Sec. 72. 38 MRSA §570, as amended by PL 1987, c. 491, §22, is repealed and the following enacted in its place:

§570. Liability

Because it is the intent of this subchapter to provide the means for rapid and effective cleanup and to minimize direct damages as well as indirect damages and the proliferation of 3rd-party claims, each responsible party is jointly and severally liable for all disbursements made by the State pursuant to section 569, subsection 5, paragraphs B, D, E and G, or other damage incurred by the State, including interest computed at 15% a year from

the date of expenditure. The commissioner shall demand reimbursement of costs and payment of damages to be recovered under this section and payment shall be made promptly by the responsible party or parties upon whom the demand is made. If payment is not received by the State within 30 days of the demand, the Attorney General may file suit in the Superior Court and, in addition to relief provided by other law, may seek punitive damages as provided in section 568. Notwithstanding the time limits stated in this paragraph, neither a demand nor other recovery efforts against one responsible party may relieve any other responsible party of liability.

In any suit filed under this section, the State need not prove negligence in any form or matter by a defendant. The State need only prove the fact of the prohibited discharge and that a defendant is a responsible party, as defined in section 562.

A person who would otherwise be a responsible party shall not be subject to liability under this section, if that person can establish by a preponderance of the evidence that the liability pursuant to this section for which that person would otherwise be responsible, was caused solely by:

1. Act of God. An act of God;
2. Act of war. An act of war;
3. Act or omission. An act or omission of a 3rd party who is not that person's employee, agent or lessee. A 3rd party may include a subsequent owner or operator of the facility. A person seeking relief from liability for the acts or omissions of a 3rd party shall also demonstrate by a preponderance of the evidence that that person exercised due care with respect to the oil and underground oil storage facility concerned, taking into consideration the characteristics of that oil and facility, in light of all relevant facts and circumstances and that that person took precautions against foreseeable acts or omissions of any such 3rd party and the consequences that could foreseeably result from such acts or omissions; or
4. Combination. Any combination of subsections 1 to 3.

Sec. 73. P&SL 1865, c. 532, §4, sub-§3, as enacted by P&SL 1983, c. 33, §1, is repealed and the following enacted in its place:

3. Student member. One of the members shall be a full-time student at one of the campuses of the University of Maine System at the time of appointment and shall be a permanent resident of the State. To be eligible as a student member, a student must be enrolled for a minimum of 12 credit hours per semester. The student member shall be a full voting member of the board of trustees and shall serve for a 2-year term and until a successor is qualified. Sixty days prior to the expiration of the student member's term, the Governor shall solicit a list

of 6 eligible students from the student senates from 6 of the campuses within the University of Maine System; the 7th campus being excluded in accordance with this subsection. The Governor shall then nominate a student member within 30 days of receiving the list of names and the nomination shall be subject to review by the Joint Standing Committee on Education and confirmation by the Legislature. The student representative shall not come from the same campus in any 2 consecutive terms. In the event that the student representative transfers from one campus to another during the student's term of appointment, the original campus of enrollment shall prevail in reference to the provisions of the subsection.

Sec. 74. P&SL 1865, c. 532, §§5, 6, 8, 15, 16 and 17 are repealed.

Sec. 75. P&SL 1935, c. 10 is repealed.

Sec. 76. P&SL 1967, c. 229, §4-C, next to last ¶ is amended to read:

Any property previously or hereafter received by the university which has been designated or limited for particular purposes or uses shall be used by the university only for those purposes.

Sec. 77. P&SL 1987, c. 21, Pt. A, §§16 and 17 are amended to read:

Sec. 16. Unified state budget. The Governor, when submitting the budget to the Legislature, shall submit the budget document and the General Fund, Highway Fund, Alcoholism Prevention, Education, Treatment and Research Fund and funds of the Department of Inland Fisheries and Wildlife bills in a manner that will identify the gross amount of resources for each program. The gross unified budget bills and budget document shall encompass resources from all funds, including, but not limited to, the General Fund, Highway Fund, Federal Fund, Federal Block Grant Fund and other special revenue funds. Separate gross unified budget bills shall be submitted for the General Fund, the Highway Fund, the Alcoholism Prevention, Education, Treatment and Research Fund and the Department of Inland Fisheries and Wildlife funds.

Sec. 17. Line category amounts of General Fund, Highway Fund, Alcoholism Prevention, Education, Treatment and Research Fund and the Department of Inland Fisheries and Wildlife funds. The amounts included in the unified state budget by line category are the amounts included immediately under the "appropriations and allocations" section of the individual pages in the budget document for the General Fund, the Highway Fund, the Alcoholism Prevention, Education, Treatment and Research Fund and the Department of Inland Fisheries and Wildlife funds. These amounts, as adjusted by the Legislature, will be used when preparing work programs by fund for each fiscal year of the biennium.

Sec. 78. Transition for members of the Electricians' Examining Board. Members of the Electricians' Examining Board who have been appointed to terms extending beyond the effective date of this Act shall continue their service on the board until they complete their current terms of appointment.

Those members of the board who have served a single 5-year term of appointment which expires after the effective date of this chapter shall be eligible for one 3-year reappointment.

Those members of the board who have been appointed to 2 terms of service prior to the effective date of this chapter shall not be eligible for reappointment.

Sec. 79. Transition for members of the Maine Council on Alcohol and Drug Abuse Prevention and Treatment. Members of the Maine Council on Alcohol and Drug Abuse Prevention and Treatment who have been appointed to terms extending beyond the effective date of this Act shall continue their service on the council until their current terms expire. Current council members shall continue to serve until new appointments are commissioned in June of that year.

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

Effective April 19, 1988.

CHAPTER 736

H.P. 1791 — L.D. 2452

AN ACT to Abolish the Office of Complaint Justice and Replace it with the Office of Justice of the Peace.

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

Whereas, the judicial functions currently performed by complaint justices are essential to the administration of justice in the State; and

Whereas, a substantial constitutional question exists concerning the existing manner of appointments of complaint justices; and

Whereas, such a question would not arise if the judicial functions in question were performed by an officer denominated "justice of the peace"; 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. 4 MRSA §9, first ¶ is amended to read:

The Supreme Judicial Court shall have the power and authority to prescribe, repeal, add to, amend or modify rules of pleading, practice and procedure with respect to any and all proceedings through final judgment, review and post-conviction remedy in criminal cases before ~~complaint~~ justices of the peace, District Courts, Superior Courts and the Supreme Judicial Court.

Sec. 2. 4 MRSA §9-A, first ¶, as enacted by PL 1973, c. 675, is amended to read:

The Supreme Judicial Court shall have the power and authority to prescribe, repeal, add to, amend or modify rules of evidence with respect to any and all civil actions or other proceedings, and any and all proceedings in criminal cases before ~~complaint~~ justices of the peace, District Courts, probate courts, Superior Courts and the Supreme Judicial Court.

Sec. 3. 4 MRSA §161, as amended by PL 1985, c. 737, Pt. A, §12, is further amended to read:

§161. Justice of the peace; appointment; duties; salary

The Chief Judge of the District Court may authorize any attorney-at-law, who is duly licensed to practice law in the State of Maine and who is also a notary public, to receive complaints and to issue process for the arrest of persons charged with offenses, to issue search warrants and to endorse certificates of commitment of the mentally ill, all in accordance with law, and to perform all other such acts and duties that are or may be authorized by law. That attorney shall be known as a complaint justice of the peace.

~~Any complaint so received or process so issued shall be in his capacity as a notary public.~~

The complaint justice of the peace shall serve at the pleasure of the Chief Judge of the District Court, but no term for which a justice of the peace is appointed may exceed 5 years.

The complaint justice of the peace shall receive such salary as shall be determined by the Chief Judge and paid as an expense of the District Court.

The Chief Judge of the District Court may also authorize any clerk or deputy clerk of the District Court to issue process for the arrest of persons charged with offenses if the Chief Judge is satisfied that the clerk or deputy clerk has the necessary training and learning to perform that function. When acting in that capacity, the clerk or deputy clerk shall be considered a justice of the peace and shall serve at the pleasure of the Chief Judge.

Sec. 4. 5 MRSA §5, as repealed and replaced by PL 1975, c. 771, §27, is amended to read: