

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

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

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

this Act are transferred to the State Planning Office or the Department of Economic and Community Development as required by the assignment of responsibilities in this Act.

2. Personnel and employment benefits transferred.

All employees of the Office of Energy Resources or any subunit of that office are transferred to the State Planning Office or the Department of Economic and Community Development, as required by the assignment of responsibilities in this Act.

All accrued fringe benefits, including vacation and sick leave, health and life insurance and retirement of these personnel shall remain with them. No employee's pay or promotional rights and opportunities may be adversely affected due to this transfer.

3. Equipment and property transferred. All equipment, records and property of the State used by employees and officials of the Office of Energy Resources are transferred to the State Planning Office or the Department of Economic and Community Development, as required by the assignment of responsibilities in this Act.

4. Financial order required. The Director of the State Planning Office and the Commissioner of Economic and Community Development shall jointly request, by financial order through the State Budget Office, the Governor's approval of the funds, positions, equipment and property to be transferred.

5. Rules and procedures. All rules and procedures currently in effect and in operation pertaining to the Office of Energy Resources shall remain in effect until rescinded or amended as provided by state law.

6. Contracts and agreements. All contracts and agreements currently in effect with respect to the Office of Energy Resources shall remain in effect until rescinded, terminated or modified as provided by state law.

7. Organization and operation. Notwithstanding any other provisions of law, any planning or preparatory work may occur prior to the effective date of this Act, but shall not become binding until the effective date of this Act.

Sec. 48. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
EXECUTIVE DEPARTMENT		
Office of Energy Resources		
Positions	(-12)	(-12)
Personal Services	(\$218,245)	(\$436,489)
All Other	(25,338)	(69,928)

Eliminates the positions of: the Director of Energy Resources; the Director of Administrative Services; the Director of Public Information; an Administrative Secretary; an Engineering Con-

servation Specialist; an Energy Audit Engineer; a Senior Planner; a Business Manager II; an Account Clerk II; a supervisor; a Clerk II; and a Clerk III, which, under the provisions of this Act, will no longer be required, effective January 1, 1990.

EXECUTIVE DEPARTMENT		
TOTAL	(\$243,583)	(\$506,417)

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect on July 1, 1989.

Effective July 1, 1989.

CHAPTER 502

S.P. 594 - L.D. 1671

An Act to Correct Errors and Inconsistencies in the Laws of Maine

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

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

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

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

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

PART A

Sec. 1. 1 MRSA §814, 2nd ¶, as repealed and replaced by PL 1975, c. 470, §1, is amended to read:

All proceedings under this section shall be in accordance with Title ~~35~~ 35-A, chapter ~~263~~ 65.

Sec. 2. 2 MRSA §6, sub-§4, as amended by PL 1987, c. 715, §2, and c. 787, §1, is repealed and the following enacted in its place:

4. Range 88. The salaries of the following state officials and employees shall be within salary range 88:

State Purchasing Agent;

Director, Arts and Humanities Bureau;

Director, State Museum Bureau;

Director of the Bureau of Parks and Recreation;

State Director of Alcoholic Beverages;

Director of Public Lands;

State Librarian;

Director of Employee Relations;

Director, Bureau of Air Quality Control;

Director, Bureau of Land Quality Control;

Director, Bureau of Water Quality Control;

Director, Bureau of Oil and Hazardous Materials Control;

Director, Bureau of Solid Waste Management; and

Director, Bureau of Administration.

Sec. 3. 2 MRSA §6, sub-§5, as amended by PL 1987, c. 666, §1; c. 715, §3; and c. 816, Pt. DD, §1, is repealed and the following enacted in its place:

5. Range 86. The salaries of the following state officials and employees shall be within salary range 86:

Director of Labor Standards;

Deputy Chief of the State Police;

Director of State Lotteries;

State Archivist;

Director of Maine Geological Survey;

Executive Director, Maine Land Use Regulation Commission;

Director of the Risk Management Division;

Chairman, Maine Unemployment Insurance Commission;

Director of the Bureau of State Employee Health;

Child Welfare Services Ombudsman;

Director of the Bureau of Intergovernmental Drug Enforcement;

Deputy Director, Retirement System; and

Executive Director, Maine Science and Technology Commission.

Sec. 4. 2 MRSA §6-A, sub-§5, as enacted by PL 1983, c. 863, Pt. B, §§3, 45, is amended to read:

5. Retirement contribution. The State shall pay the mandatory retirement contribution required by Title 5, section ~~4095, subsection 4~~ 17701, for commissioners who elect to become members of the Maine State Retirement System. Payment shall be made as provided in Title 5, section ~~4062, subsection 2, paragraph G~~ 17702. A commissioner may elect at the time of appointment to receive a 5% salary increase instead of state payment of the retirement contribution.

Membership in the Maine State Retirement System is optional.

Sec. 5. 2 MRSA §7, sub-§2, as amended by PL 1985, c. 693, §§4 and 14, is further amended to read:

2. Regulatory boards. Notwithstanding section 6 or any other provision of law, the salaries of the Workers' Compensation Commission commissioners shall be:

A. For the ~~chairman chair~~, a salary within salary range 91, step G, for fiscal year 1987; and a salary within salary range 91, step H, for fiscal year 1988; and annually thereafter;

B. For the members, a salary within salary range 90, step G, for fiscal year 1987; and a salary within salary range 90, step H, for fiscal year 1988; and annually thereafter.

The State shall pay the mandatory retirement contribution required by Title 5, section ~~4095, subsection 4~~ 17701, for commissioners who elect to become members of the Maine State Retirement System. Payment shall be made as authorized by Title 5, section ~~4062, subsection 2, paragraph G~~ 17702. A commissioner may elect to receive a 5% salary increase instead of state payment of the retirement contribution. A commissioner electing to receive the salary increase shall so notify ~~his~~ the commissioner's appointing authority in writing on or before January 1, 1985. The salary increase shall be effective at the start of the pay week closest to January 1, 1985. New commissioners shall exercise the option at the time of appointment.

Membership in the Maine State Retirement System is optional.

Sec. 6. 3 MRSA §507-B, sub-§11, as enacted by PL 1987, c. 735, §3, and c. 769, Pt. A, §6, is repealed and the following enacted in its place:

11. Agencies scheduled for termination on June 30, 1987; continued. Pursuant to section 507, subsection 8, paragraph B, the following agencies scheduled for termination on June 30, 1987, are continued.

A. Real Estate Commission;

B. Maine Athletic Commission;

C. State Claims Board;

D. Board of Examiners on Speech Pathology and Audiology;

E. Maine State Board for Licensure of Architects and Landscape Architects;

F. State Board of Barbers;

G. State Board of Cosmetology;

H. Manufactured Housing Board;

I. State Board of Substance Abuse Counselors;

J. State Board of Licensure for Professional Foresters;

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

L. Board of Examiners in Physical Therapy;

M. State Historian;

N. Historic Preservation Commission; and

O. Oil and Solid Fuel Board.

Sec. 7. 3 MRSA §507-B, sub-§12 is enacted to read:

12. 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. 8. 4 MRSA §120, 3rd¶, as repealed and replaced by PL 1987, c. 769, Pt. B, §2, is amended to read:

The order of the Chief Justice of the Supreme Judicial Court directing a Justice of the Superior Court to sit in the District Court shall be filed with the Executive Clerk of the Supreme Judicial Court, but need not be docketed or ~~otherwise~~ otherwise recorded in any case heard by the assigned justice.

Sec. 9. 4 MRSA §1151, sub-§2, as repealed and replaced by PL 1987, c. 595, §1, and c. 769, Pt. A, §7, is repealed and the following enacted in its place:

2. Licensing jurisdiction. Except as provided in Title 5, section 10004; Title 10, section 8003, subsection 5; Title 29; Title 32, chapter 113; and Title 35-A, section 3132, the Administrative Court shall have exclusive jurisdiction upon complaint of an agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General, to revoke or suspend licenses issued by the agency, and shall have original jurisdiction upon complaint of a licensing agency to determine whether renewal or reissuance of a license of that agency may be refused. The Administrative Court shall have original concurrent jurisdiction to grant equitable relief in proceedings initiated by an agency or the Department of the Attorney General alleging any violation of a license or licensing laws or rules.

Notwithstanding any other provisions of law, no licensing agency may reinstate or otherwise affect a license suspended, revoked or modified by the Administrative Court pursuant to a complaint filed by the Attorney General, without the approval of the Attorney General.

Sec. 10. 4 MRSA §1201, sub-§17, as amended by PL 1983, c. 863, Pt. B, §§10 and 45, is further amended to read:

17. Regular interest. "Regular interest" means interest at the rate which the Board of Trustees of the Maine State Retirement System sets from time to time, in accordance with Title 5, section ~~4061, subsection 2~~ 17156.

Sec. 11. 5 MRSA §199, as amended by PL 1973, c. 711, §6, is further amended to read:

§199. Consultation with, and advice to, district attorneys

The Attorney General shall consult with and advise the district attorneys in matters relating to their duties. If in ~~his~~ the Attorney General's judgment the public interest so requires, ~~he~~ the Attorney General shall assist them by attending the grand jury in the examination of a case in which the accused is charged with treason or murder, and if in ~~his~~ the Attorney General's judgment the public interest so requires, ~~he~~ the Attorney General shall appear for the State in the trial of indictments for treason or murder. ~~He~~ The Attorney General may institute and conduct prosecutions for all offenses against Title ~~21~~ 21-A, and for that purpose

attend and present evidence to grand juries and assist them in the examination of witnesses and drawing indictments. He The Attorney General may, in ~~his~~ the Attorney General's discretion, act in place of or with the district attorneys, or any of them, in instituting and conducting prosecutions for crime, and is invested, for that purpose, with all the rights, powers and privileges of each and all of them. Any or all of the powers and duties enumerated in this chapter may, at the discretion of the Attorney General, be delegated to and performed by, any deputy attorney general, assistant attorney general or staff attorney. The authority given under this section shall not be construed to deny or limit the duty and authority of the Attorney General as heretofore authorized, either by statute or under the common law.

Sec. 12. 5 MRSA §285, sub-§1, ¶G, as repealed and replaced by PL 1987, c. 769, Pt. A, §11, is amended to read:

G. Subject to subsection 1-A, employees in any of the categories denominated in paragraphs A to F-1 who:

(1) On April 26, 1968, have retired and who were covered under plans of insurance which by virtue of Public Law 1967, chapter 543, were terminated;

(2) After April 26, 1968, retire and who on the date of their retirement are currently enrolled in this group accident and sickness or health insurance plan as an employee;

(3) After December 2, 1986, and after reaching normal retirement age, cease to be members of the Legislature and are recipients of retirement allowances from the Maine State Retirement System based upon creditable service as teachers, as defined by section ~~4004~~ 17001, subsection ~~25~~ 42. This paragraph shall also apply to former members who were members on December 2, 1986; or

(4) After December 2, 1986, and not yet normal retirement age, cease to be members of the Legislature and are recipients of retirement allowances from the Maine State Retirement System based upon creditable service as teachers, as defined by section ~~4004~~ 17001, subsection ~~25~~ 42. This paragraph also applies to former members who were members on December 2, 1986.

Sec. 13. 5 MRSA §1514, sub-§4, ¶B, as enacted by PL 1987, c. 816, Pt. S, and repealed and replaced by PL 1987, c. 819, §1, is repealed and the following enacted in its place:

B. A transfer from this fund to the General Fund to offset the loss of revenue resulting from individual income tax reform for the 1988 tax year. The amount of this transfer will be equal to the amount certified to the fund because of increased individual income tax collections through the period ending June 30,

1988, less the amount transferred in paragraph A to offset individual income tax reductions and less the amount expended to offset 1987 tax year rebates and their administrative costs. This transfer shall be made no later than October 1, 1988.

Sec. 14. 5 MRSA §1514, sub-§4, ¶C is enacted to read:

C. The State Controller shall transfer to the General Fund any balance in this fund on June 30, 1988, which was certified to it in accordance with subsection 2 as revenue directly attributable to corporate income tax. This transfer will provide additional resources for property tax relief through an appropriation to the General Purpose Aid to Local Schools Account.

Sec. 15. 5 MRSA §1742, sub-§23, ¶C, as amended by PL 1987, c. 733, §2 and c. 741, §2, is further amended to read:

C. Nothing in this subsection shall be construed to pertain to public reserved lands which are exempt from this subsection; and.

Sec. 16. 5 MRSA §1742, sub-§23, ¶D, as enacted by PL 1987, c. 820, §1, is amended to read:

D. The department shall work closely with the Maine State Housing Authority to develop a procedure by which surplus state-owned land and structures are held in trust for the purpose set forth in this section and Title ~~30~~ 30-A, chapter ~~299~~ 201, ~~subchapter H,~~ articles 3-A and 8, ~~subchapters III-A and XI;~~

Sec. 17. 5 MRSA §1742, sub-§24, as enacted by PL 1987, c. 733, §3 and c. 741, §3, is repealed and the following enacted in its place:

24. Application of minimum air ventilation standards. Beginning September 1, 1988, to apply the ANSA-ASHARE Indoor Air Quality and Ventilation Standards contained in the proposed revision, 1981 R, July 15, 1986, as prepared by the American Society of Heating, Refrigeration and Air Conditioning Engineers, Inc. or more stringent standards to buildings occupied by state employees during normal working hours. These standards shall be applied to buildings which are constructed or substantially renovated by the State after September 1, 1988, and to buildings for which the State enters into new leases or renews leases following the date in this subsection. For the purpose of this subsection, "substantial renovation" means any renovation for which the cost exceeds 50% of the buildings' value.

A. The bureau, in cooperation with a labor-management committee established to look at this issue, shall develop a plan by which priorities are established for improving indoor air quality and ventilation standards in buildings occupied by state employees. This plan shall include data gathering and analysis of air quality in a sample number of buildings by which reasonable projections and estimates con-

cerning air quality can be established. The bureau shall report its findings to the joint standing committee of the Legislature having jurisdiction over state and local government no later than January 16, 1989. This report, at a minimum, shall contain the following:

- (1) A description of the extent of the problem, if any, with respect to air quality and ventilation in buildings occupied by state employees;
- (2) Priorities of locations for which the improvement of air quality is necessary. These locations shall be areas occupied by state employees during normal working hours;
- (3) A timetable by which these priorities could be addressed;
- (4) A description of what may be necessary to address these priorities, including feasible alternatives;
- (5) The costs of addressing these priorities; and
- (6) If possible, locations leased by the State which may not meet the air quality standards defined in this subsection.

Nothing in this paragraph may be construed to require the bureau to conduct an in depth analysis for each building or to present technical data for each building occupied by state employees.

B. The indoor air quality and ventilation standards applied by the bureau shall remain in effect until the Board of Occupational Safety and Health adopts air quality and ventilation standards; and

Sec. 18. 5 MRSA §1742, sub-§25 is enacted to read:

25. Sites for child care programs. To review, in cooperation with the Office of Child Care Coordination in the Department of Human Services, feasible sites for child care programs offered primarily as a service to state employees pursuant to Title 22, section 8307, subsection 2.

Sec. 19. 5 MRSA §1892, sub-§1, ¶L, as enacted by PL 1987, c. 701, §3, is amended to read:

L. The ~~Executive Director~~ Chief Executive Officer of the Finance Authority of Maine or the ~~director's~~ chief executive officer's designee.

Sec. 20. 5 MRSA §1955, sub-§1, ¶D, as enacted by PL 1987, c. 743, is amended to read:

D. Publicly advertising and implementing special recruitment; efforts for all job openings to attract applicants from underrepresented religious groups;

Sec. 21. 5 MRSA §3305, sub-§1, ¶D, as amended by PL 1987, c. 737, Pt. C, §§8 and 106, and c. 816, Pt. P, §3; and as amended by PL 1989, c. 6 and c. 9, §2, and c. 104, Pt. C, §§8 and 10, is repealed and the following enacted in its place:

D. Upon request provide technical assistance to local and regional planning groups in the fields of planning, public housing and urban renewal;

Sec. 22. 5 MRSA §19205, sub-§§1 and 2, as repealed and replaced by PL 1987, c. 539, are amended to read:

1. Policy; services. It shall be the policy of the State to provide to persons who test positive for HIV or have been diagnosed as having AIDS or ~~Aids-Related~~ AIDS-Related Complex services of departments and agencies, including, but not limited to, the Department of Educational and Cultural Services, the Department of Mental Health and Retardation, the Department of Human Services and the Department of Corrections.

2. Coordination of services. A person designated by the Commissioner of Human Services shall insure coordination of new and existing services so as to meet the needs of persons with AIDS, ~~Aids-Related~~ AIDS-Related Complex and viral positivity and identify gaps in programs.

The committee established in section ~~42004~~ 12004-I, subsection ~~40~~ 42, shall work with the person designated in this chapter to insure the coordination of services to meet the needs of persons with AIDS, ~~ARC~~ AIDS-Related Complex and viral positivity.

Sec. 23. 5 MRSA c. 383, sub-c. II, first 2 lines are repealed and the following are enacted in their place:

SUBCHAPTER II

BUSINESS DEVELOPMENT

ARTICLE 1

GENERAL PROVISIONS

Sec. 24. 5 MRSA c. 383, sub-c. II, article II, first line is repealed and the following enacted in its place:

ARTICLE 2

BUSINESS ASSISTANCE REFUND AND FACILITATION PROGRAM

Sec. 25. 7 MRSA c. 51, first 2 lines are repealed and the following enacted in their place:

CHAPTER 10-A

THE MAINE AGRICULTURAL VIABILITY ACT OF 1985

Sec. 26. 10 MRSA §174, as repealed by PL 1983, c. 381, §4 and reallocated by PL 1983, c. 500, §1, is repealed.

Sec. 27. 10 MRSA §363, sub-§8, as repealed and replaced by PL 1987, c. 769, Pt. A, §42 and c. 807, §2, is repealed and the following enacted in its place:

8. Allocations for educational bonds. That portion of the state ceiling allocated to the categories of bonds providing funds for the purposes of a corporation created pursuant to Title 20, section 2237, and Title 20-A, section 11407, or of the Maine Educational Loan Authority shall be allocated to that corporation or to the Maine Educational Loan Authority, or both, and each may further allocate the portion of the state ceiling allocated to it to bonds requiring an allocation to qualify as tax-exempt bonds.

Sec. 28. 10 MRSA §1100-T, sub-§2, as enacted by PL 1987, c. 854, §§2 and 5, is amended to read:

2. Eligibility for tax credit certificate. The authority shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to implement the program. Without limitation, the requirements for eligibility for a tax credit certificate ~~includes~~ include the following.

A. A tax credit certificate may be issued in an amount not more than 30% of the amount of cash actually invested in a Maine business in any calendar year.

B. The Maine business must provide a product or service which is sold or rendered, or is projected to be sold or rendered, predominantly outside of the State, as determined by the authority. Businesses which bring products into the State and then sell the same products outside the State are not eligible. Construction, transportation, financial services, insurance and real estate businesses are not eligible. Other service businesses are eligible provided that the customers are predominantly out of the State and the employment functions are carried out predominantly in the State.

C. Aggregate investment eligible for tax credits shall not be less than \$25,000 nor more than \$250,000 for any one business as of the date of issuance of a tax credit certificate.

D. The investment with respect to which any individual is applying for a tax credit certificate shall be not less than \$10,000 nor more than an aggregate of \$50,000 in any one business, provided that this paragraph shall not be interpreted to limit other investment by any applicant for which that applicant is not applying for a tax credit certificate.

E. The business receiving the investment must have annual revenues of \$200,000 or less and the operation of the business must be the full-time professional activity of the principal owner, as determined by the authority. The principal owner and the principal owner's spouse, parents, brothers, sisters and children may not be eligible for a credit for investment in that business. Businesses in which the principal owners are not one or more individuals shall not be eligible.

F. The investment must be expended on plant, equipment, research and development, or working capital for the business or such other business activity as may be approved by the authority.

G. The authority shall establish limits on repayment of the investment, requiring at a minimum that the investment remain in the business for at least 5 years with no current income to the investor during the 5-year period. The investment must be at risk in the business.

H. The investors qualifying for the credit must collectively own less than 1/2 of the business.

Sec. 29. 10 MRSA §1328, sub-§2, ¶C, as enacted by PL 1979, c. 636, §2, is amended to read:

C. The expenses of the administrator necessarily incurred in the examination of persons subject to this chapter shall be chargeable to that person in the same manner and for the same expenses set forth in Title 9-A, section ~~6-203, subsection 4~~ 6-106, subsection 6, except that users as defined in section 1312, subsection 11, shall not be charged examination expenses unless the administrator finds a violation of this Act.

Sec. 30. 10 MRSA §1486, sub-§1, as enacted by PL 1987, c. 574, is amended to read:

1. Change orders. "Change orders" means a written amendment to the home construction contract which becomes part of and is in conformance with the existing contract.

Sec. 31. 10 MRSA §8001, as repealed and replaced by PL 1987, c. 395, Pt. A, §34 and c. 488, §2, is repealed and the following enacted in its place:

§8001. Department; organization

There is created and established the Department of Professional and Financial Regulation, in this chapter referred to as the "department," to regulate financial institutions, insurance companies, commercial sports, grantors of consumer credit and to license and regulate professions and occupations. The department shall be composed of the following bureaus, boards and commissions:

Acupuncture Licensing Board;

Arborist Examining Board;

Athletic Commission, Maine;

Auctioneers, Board of Licensing of;

Banking, Bureau of;

Barbers, State Board of;

Commercial Driver Education, Board of;

Consumer Credit Protection, Bureau of;

Dietetic Practice, Board of Registration of;

Electricians' Examining Board;

Foresters, State Board of Licensure for Professional;

Funeral Service, State Board of;

Geologists and Soil Scientists, State Board of Certification for;

Hearing Aid Dealers and Fitters, Board of;

Insurance, Bureau of;

Manufactured Housing Board;

Nursing Home Administrators Licensing Board;

Occupational Therapy Practice, Board of;

Oil and Solid Fuel Board;

Physical Therapy, Board of Examiners in;

Pilotage Commission, Maine State;

Plumbers' Examining Board;

Psychologists, State Board of Examiners of;

Radiologic Technology Board of Examiners;

Real Estate Commission;

Respiratory Care Practitioners, Board of;

Social Worker Licensure, State Board of;

Speech Pathology and Audiology, Board of Examiners on;

Substance Abuse Counselors, Board of Registration of; and

Veterinary Medicine, State Board of.

Sec. 32. 10 MRSA §9098, sub-§3, ¶A, as enacted by PL 1987, c. 737, Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c. 6; c. 9, §2; c. 104, Pt. C, §§8 and 10, is further amended to read:

A. If the mobile home park operator fails to return the security deposit and provide the itemized statement within 21 days as specified in subsection 3 2, paragraph B, the tenant must notify the mobile home park operator of the intention to bring a legal action at least 7 days before commencing the action. If the mobile home park operator fails to return the entire security deposit within the 7-day period, it is pre-

sumed that the landlord is willfully and wrongfully retaining the security deposit.

Sec. 33. 12 MRSA §602, sub-§10, as repealed by PL 1987, c. 308, §3, and as amended by PL 1987, c. 340, §1, is repealed.

Sec. 34. 12 MRSA §602, sub-§10-B is enacted to read:

10-B. Lifeguard training. To designate an employee to serve as coordinator of lifeguard training;

Sec. 35. 12 MRSA §6022, sub-§13, as enacted by PL 1981, c. 505, §3, is repealed.

Sec. 36. 12 MRSA §7034, sub-§9, as enacted by PL 1981, c. 698, §72, is repealed.

Sec. 37. 12 MRSA §9621, first ¶, as amended by PL 1983, c. 812, §94, is further amended to read:

The Governor shall appoint a 9-member council, as authorized by Title 5, section ~~42004~~ 12004-I, subsection ~~40~~ 68, to advise the Department of Conservation on all matters pertaining to the forest fire control program. The council shall consist of one representative each from the Forest Fire Control Division of the Department of Conservation and the Maine State Fire Chief's Association. At least one member shall be a municipal official. Four members shall represent the commercial forest industry, of which 2 shall represent landowners in the organized portions of the State and 2 shall represent landowners in the unorganized portion of the State. One member shall represent a forest related tourist industry and one shall represent a noncommercial private owner of acreage which is subject to the tax assessed under Title 36, chapter ~~366~~ 367.

Sec. 38. 13-B MRSA §201, sub-§2, ¶B, as amended by PL 1987, c. 141, Pt. B, §13, is further amended to read:

B. Cooperatives, as that term is used in Title 13, section 1771, et seq; credit unions, as defined in Title 9-B, section 131; rural electrification cooperatives, as that term is used in Title 35-A, ~~section~~ chapter 37, subchapters I, II and III; consumers' cooperatives, as that term is used in Title 13, section 1501 et seq; and fish marketing associations, as that term is used in Title 13, section 2001 et seq.

Sec. 39. 14 MRSA §5524, as amended by PL 1987, c. 736, §15 and as repealed by PL 1987, c. 758, §5, is repealed.

Sec. 40. 14 MRSA §8111, sub-§1, as repealed and replaced by PL 1987, c. 740, §8, is amended to read:

1. Immunity. Notwithstanding any liability that may have existed at common law, employees of governmental entities shall be absolutely immune from personal civil liability for the following:

A. Undertaking or failing to undertake any legislative or quasi-legislative act, including, but not limited

to, the adoption or failure to adopt any statute, charter, ordinance, order, rule, policy, resolution or resolve;

B. Undertaking or failing to undertake any judicial or quasi-judicial act, including, but not limited to, the granting, granting with conditions, refusal to grant or revocation of any license, permit, order or other administrative approval or denial;

C. Performing or failing to perform any discretionary function or duty, whether or not the discretion is abused; and whether or not any statute, charter, ordinance, order, resolution, rule or resolve under which the discretionary function or duty is performed is valid;

D. Performing or failing to perform any prosecutorial function involving civil, criminal or administrative enforcement; or

E. Any intentional act or omission within the course and scope of employment; provided that such immunity shall not exist in any case in which an employee's actions are found to have been in bad faith.

The absolute immunity provided by ~~this subsection~~ paragraph C shall be applicable whenever a discretionary act is reasonably encompassed by the duties of the governmental employee in question, regardless of whether the exercise of discretion is specifically authorized by statute, charter, ordinance, order, resolution, rule or resolve and shall be available to all governmental employees, including police officers and governmental employees involved in child welfare cases, who are required to exercise judgment or discretion in performing their official duties.

Sec. 41. 15 MRSA §3301, sub-§5, ¶A, as amended by PL 1985, c. 439, §11, is further amended to read:

A. Decide that no further action is required either in the interests of the public or of the juvenile. If the juvenile caseworker determines that the facts in the report prepared for ~~him~~ the caseworker by the referring officer pursuant to section ~~3203~~ 3203-A, subsection 3, are sufficient to file a petition, but in ~~his~~ the caseworker's judgment the interest of the juvenile and the public will be served best by providing the juvenile with services voluntarily accepted by the juvenile and ~~his~~ the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated, the juvenile caseworker may refer the juvenile for that care and treatment and not request that a petition be filed;

Sec. 42. 15 MRSA §3309-B, as enacted by PL 1987, c. 369, is amended to read:

§3309-B. Limitations on diagnostic evaluations in a secure detention facility

The court shall not order a juvenile to undergo a diagnostic evaluation at a secure detention facility unless the

juvenile meets the requirements of section ~~3202-A~~ 3203-A, subsection 4, paragraphs C and D.

Sec. 43. 15 MRSA §3314, sub-§1, ¶H, as amended by PL 1989, c. 231, §2, is further amended to read:

H. The court may commit the juvenile to the Maine Youth Center and order that the sentence be suspended or may commit the juvenile for a period of detention which shall not exceed 30 days, with or without an underlying suspended sentence to the Maine Youth Center, which detention may be served intermittently as the court may order and which shall be ordered served in a county jail designated by the Department of Corrections as a place for the secure detention of juveniles, or in a nonsecure group care home or halfway house. When the detention is ordered served in a county jail, the juvenile may be detained only in that part of the jail which meets the requirements of section 3203-A, subsection 7, paragraph A, unless the court orders that the person be housed with adults for that portion of the detention served after the detainee has attained the age of 18 years. The court may order such a sentence to be served as a part of and with a period of probation, which shall be subject to such provisions of Title 17-A, section 1204 as the court may order and which shall be administered pursuant to Title ~~34~~ 34-A, chapter ~~42~~ 5, subchapter ~~V-A~~ IV. Revocation of probation shall be governed by the procedure contained in subsection 2.

Sec. 44. Effective date. That section of this Act which amends the Maine Revised Statutes, Title 15, section 3314, subsection 1, paragraph H, shall take effect 90 days after adjournment.

Sec. 45. 15 MRSA §3402, sub-§1, ¶D, as repealed and replaced by PL 1979, c. 512, §9, is amended to read:

D. A detention order or any refusal to alter an order for changed circumstances entered pursuant to section ~~3203~~ 3203-A, subsection 5, for abuse of discretion, provided that the appeal shall be handled expeditiously.

Sec. 46. 17 MRSA §2306, as amended by PL 1975, c. 424, §6, is further amended to read:

§2306. Exemptions; lotteries

Any person, firm, corporation, association or organization licensed by the Chief of the State Police as provided in chapter 14 or authorized to conduct a raffle without a license as provided in section 331, subsection ~~2~~ 6, shall be exempt from the application of this chapter insofar as the possession of raffle tickets, gambling apparatus and implements of gambling which are permitted within the scope of said license or licenses issued, and all persons shall be exempt from this chapter insofar as gambling or possession of raffle tickets is concerned, if the gambling and possession is in connection with a game of chance licensed as provided in

chapter 14 or a raffle conducted without a license as authorized by section 331, subsection ~~2~~ 6.

Sec. 47. 17-A MRSA §602, sub-§1, ¶C, as enacted by PL 1981, c. 349, §2, is amended to read:

C. ~~He~~ That person promises, offers or gives any pecuniary benefit to another with the intention of obtaining the other's signature on an absentee ballot under Title ~~24~~ 21-A, chapter ~~29~~ 9, subchapter IV, or referendum petition under Title ~~24~~ 21-A, chapter ~~33~~ 11, or ~~he~~ that person solicits, accepts or agrees to accept any pecuniary benefit from another knowing or believing the other's purpose is to obtain ~~his~~ that person's signature on an absentee ballot or referendum petition, or fails to report to a law enforcement officer that ~~he~~ the person has been offered or promised a pecuniary benefit in violation of this paragraph.

Sec. 48. 17-A MRSA §951, as amended by PL 1975, c. 740, §93, is further amended to read:

§951. Inapplicability of chapter

Any person licensed by the Chief of the State Police as provided in Title 17, chapter 13-A or chapter 14, or authorized to operate or conduct a raffle pursuant to Title 17, section 331, subsection ~~2~~ 6, shall be exempt from the application of the provisions of this chapter insofar as ~~his~~ that person's conduct is within the scope of ~~such~~ the license.

Sec. 49. 20-A MRSA §253, sub-§1, as amended by PL 1983, c. 859, Pt. A, §§1 and 25, is further amended to read:

1. **General duties.** The commissioner shall exercise the powers and perform the duties granted to the department and enforce the requirements ~~to the department in~~ of this Title and shall devote full time to the duties of the office.

Sec. 50. 20-A MRSA §1304, sub-§5, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

5. **Voting lists.** Registration of voters for the annual budget meeting shall be held in each member municipality in accordance with ~~the time schedule specified in~~ Title ~~24~~ 21-A, section ~~634~~ 122.

A. Prior to the annual budget meeting, the municipal clerks of the member municipalities shall supply to the board of directors a certified corrected copy of the registered voters of their municipality.

B. The lists shall be used in determining the voters who are eligible to vote at the annual budget meeting.

Sec. 51. 20-A MRSA §1305, sub-§1, ¶C, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

C. The warrants, notices and voting procedures to be followed within a municipality, including absentee voting procedures, shall be the same as those pro-

vided in Title ~~24~~ 21-A, except that the duties of the Secretary of State shall be performed by the board of directors.

Sec. 52. 20-A MRSA §1353, sub-§2, ¶B, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

B. The voting at referendum in cities shall be held and conducted in accordance with Title ~~24~~ 21-A, including the absentee voting procedure, except that the duties of the Secretary of State shall be performed by the board of directors.

Sec. 53. 20-A MRSA §1701, sub-§5, ¶A, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

A. Registration of voters for the annual budget meeting shall be held in each member municipality in accordance with ~~the schedule specified in~~ Title ~~24~~ 21-A, section ~~634~~ 122.

Sec. 54. 20-A MRSA §4604, sub-§5, as enacted by PL 1987, c. 216, §1, is repealed.

Sec. 55. 20-A MRSA §8703-A is enacted to read:

§8703-A. Use of seatbelts

The instructor and students are required to use seat belts during the behind-the-wheel instruction portion of the course.

Sec. 56. 20-A MRSA §7207-B, sub-§3, as enacted by PL 1985, c. 318, §3, is amended to read:

3. **Subpoenas.** The commissioner may issue subpoenas in the name of the department to require the attendance and testimony of the witnesses and the production of any evidence relating to any issue or fact in the due process hearing as requested by any party to the hearing. Any fees for attendance and travel required by the witnesses shall be the responsibility of the party seeking the subpoena. The issuance of subpoenas shall conform in all other ways to the requirements of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter I IV.

Sec. 57. 20-A MRSA §10955, sub-§1, as enacted by PL 1987, c. 735, §14, is amended to read:

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 in-

debtedness 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~~ Commercial Code, Title 11, Article 8.

Sec. 58. 20-A MRSA §10956, 4th ¶, as enacted by PL 1987, c. 735, §14, is amended to read:

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~~ Commercial Code, Title 11, Article 9.

Sec. 59. 20-A MRSA §11413, sub-§§6 and 9, as enacted by PL 1987, c. 807, §3, are amended to read:

6. Cost of attendance. "Cost of attendance" means the tuition and fees applicable to a student, together with an estimate of other expenses reasonably related to cost of attendance at an institution, including, without limitation, the cost of room and board, ~~transportation~~ transportation, books and supplies.

9. Education loan. "Education loan" means a loan which is made by the authority or by, or on behalf of, an institution to a student or to parents of a student, or both, in amounts not in excess of the maximum amounts specified by the authority to finance a part or all of the student's cost of attendance at an ~~institution~~ institution. An education loan shall constitute an authority loan.

Sec. 60. 20-A MRSA §11417, sub-§3, as enacted by PL 1987, c. 807, §3, is amended to read:

3. Policies. The members of the authority shall have the power and duty to establish and revise, from time to time, rules pertaining to participation in programs of the authority, issuing bonds and borrowing money by the authority, a process for allocation and ~~carry-forward~~ carry-forward of that portion of the state ceiling on issuance of tax-exempt bonds allocated to the authority pursuant to Title 10, chapter 9, servicing and collection of loans made pursuant to programs of the authority and other policies governing the operation of the authority. In addition, the members of the authority may, by resolution of the members, determine that the authority may borrow money in accordance with any such resolution. All other powers and duties of the authority shall be vested in the executive director who shall carry out such powers and duties in accordance with this chapter and the rules of the authority.

Sec. 61. 20-A MRSA §12551, as enacted by PL 1985, c. 472, is amended to read:

§12551. Purpose

In recognition of the ~~indispensible~~ indispensable public service role which firefighters and law enforcement officers play in the well-being of the people of this State, it is the purpose of this chapter to provide for assistance to the children of firefighters and law enforcement officers who are killed in the line of duty so that these children may have the opportunity to pursue a degree at one of the state post-secondary educational institutions.

Sec. 62. 20-A MRSA §12705, sub-§1, ¶E, as amended by PL 1987, c. 693, and as repealed and replaced by PL 1987, c. 769, Pt. A, §63, is repealed and the following enacted in its place:

E. The Commissioner of Economic and Community Development, or the commissioner's successor, who shall serve ex officio; and

Sec. 63. 21-A MRSA §630, sub-§2, ¶B, as amended by PL 1985, c. 383, §10, is further amended to read:

B. In municipalities in which one or more voting places are inaccessible to handicapped voters and in which the office of the clerk is in a building which is accessible as defined in subsection 1, paragraph A, the municipal officers shall designate the office of the clerk as an alternative voting place for physically handicapped voters who reside in voting districts which do not have accessible voting places. In municipalities in which one or more voting places and the office of the clerk are inaccessible to physically handicapped voters and in which one or more voting place is accessible to these voters, the municipal officers shall designate one of these accessible voting places, as centrally located as possible, as the alternative voting place for physically handicapped voters who reside in voting districts which do not have accessible voting places. A physically handicapped voter who wishes to vote at an alternative voting place must notify the clerk of the municipality at least 48 hours before the date of any election. This notice may be waived if an emergency exists. The clerk shall keep a list of the persons who give this notice.

Not later than 10 days before the date of any election, the clerk shall issue a public notice designating the location of the alternative accessible voting place. This notice is not required in any municipality in which all or no voting places are accessible to these persons.

When a physically handicapped voter votes at the office of the clerk or at an alternative voting place, ~~he~~ that voter shall vote by absentee ballot and the method of voting shall be the same as in section ~~754~~ 754-A. If an alternative voting place has been designated, the clerk shall furnish a reasonable number of absentee ballots and return envelopes to the

warden. When the clerk or the warden receives such a ballot, ~~he~~ the clerk or warden shall follow, as far as applicable, the same procedure prescribed in subchapter IV for the clerk to follow in handling absentee ballots.

Sec. 64. 22 MRSA §42-B, as enacted by PL 1985, c. 385, is amended to read:

§42-B. Adoption of a grievance procedure concerning discrimination on the basis of handicap

The commissioner shall adopt rules pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, to create a grievance procedure applicable to all bodies of State Government in accordance with 45 Code of Federal Regulations, Section 84.7. To the extent that a grievance procedure adopted under this section conflicts with a grievance procedure otherwise adopted by a state agency to comply with 45 Code of Federal Regulations, Section 84.7, the procedure adopted under this section shall control, except in cases of conflict with other federal regulations.

Sec. 65. 22 MRSA §309, sub-§6, as amended by PL 1987, c. 436, §6, is further amended to read:

6. Hospital projects. Notwithstanding subsections 1, 4 and 5, the department may not issue a certificate of need for a project which is subject to the provisions of section 396-D, subsection 5, and section 396-K, if the associated costs exceed the amount which the commission has determined will have been credited to the Certificate of Need Development Account pursuant to section 396-K, after accounting for previously approved projects. A project shall not be denied solely on the basis of exceeding the amount remaining in the Certificate of Need Development Account or Hospital Development Account in a particular payment year and shall be held for further consideration by the department in the first appropriate review cycle beginning after the Certificate of Need Development Account or Hospital Development Account is credited with additional amounts. Projects which are carried forward shall compete equally with newly proposed projects. For the purposes of this subsection, a project may be held for a final decision beyond the time frames set forth in section 307, ~~subsections 3 and 4~~ subsection 3.

Sec. 66. 22 MRSA §396-E, sub-§1, ¶B, as enacted by PL 1983, c. 579, §10, is amended to read:

B. Except as provided in ~~paragraphs E and F~~ paragraph F, accumulated income from operations and income from investment thereof shall not be considered available resources.

Sec. 67. 22 MRSA §1471-M, sub-§4, as enacted by PL 1987, c. 702, §5, is amended to read:

4. Designation of critical areas. The board may designate critical areas which shall include, but not be limited to, areas where pesticide use would jeopardize endangered species or critical wildlife habitat, present an unreasonable

threat to quality of the water supply, be contrary to a master plan for the area where such area is held or managed by an agency of the State or Federal Government, or would otherwise result in unreasonable adverse effects on the public health, welfare or the environment of the area. The designation of a critical area may prohibit pesticide use or may include such limitations on such use as the board deems appropriate. The proceedings to designate a critical area under this section shall conform to Title 5, chapter 375, subchapter II;

The board, by rule, shall establish criteria for designation of critical areas by March 1, 1989.

In addition to the provisions of the Maine Administrative Procedure Act, Title 5, section 8001, any municipality and, for the purpose of representing unorganized territory, any county may petition the board for establishment of a critical area within their boundaries. If the board designates a critical area, the board shall develop a pesticide management plan for that area after receiving comments from the municipality or, for unorganized territory, the county; the volunteer medical advisory panel as established through the board; local applicators; owners of land within the critical area; and other interested parties and agencies.

Sec. 68. 22 MRSA §1492, as amended by PL 1987, c. 816, Pt. KK, §18, is further amended to read:

§1492. Occupational disease reporting system

The Department of Human Services shall establish, maintain and operate a statewide occupational disease reporting system. The data collected shall be analyzed and interpreted in order to better identify risk factors associated with occupational diseases and strategies to prevent or reduce these risks. The results of this analysis shall be made available to the public. The department shall share and discuss this ~~information~~ information with the Department of Labor.

Sec. 69. 22 MRSA §1861, as enacted by PL 1983, c. 473, is amended to read:

§1861. Limitation on payments to health care institutions

The Legislature is concerned that certain health care institutions have engaged persons with the intent to interfere with, inhibit or disrupt the free exercise of the right of all employees to organize and choose representatives for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection as provided in Title 26, section ~~944~~ 931. The Legislature declares that it is consistent with public policy to prohibit the use of funds received from the State for the purpose of engaging those persons. The Legislature acknowledges the right of employers to communicate with employees concerning the issue of unionization and further recognizes that employers may obtain counsel for advice and assistance.

Sec. 70. 22 MRSA §3174-D, as enacted by PL 1987, c. 395, Pt. B, §2, and c. 834, §2, is repealed and the following enacted in its place:

§3174-D. Medicaid coverage for services provided by the Governor Baxter School for the Deaf

The Department of Human Services may administer a program of Medicaid coverage for speech and hearing services, psychological services, occupational therapy and any other services provided by the Governor Baxter School for the Deaf which qualify for reimbursement under the United States Social Security Act, Title XIX. The Department of Educational and Cultural Services shall have fiscal responsibility for providing the State's match for federal revenues acquired under this section. An amount equal to the Medicaid reimbursement shall be deposited into the General Fund undedicated revenue from the Governor Baxter School for the Deaf General Fund appropriation.

Sec. 71. 22 MRS §3174-E, as enacted by PL 1987, c. 831, §1; c. 836, §§1 and 4; and c. 847, §4, is repealed and the following enacted in its place:

§3174-E. Interim assistance agreement

The department, with the approval of the Governor and on behalf of the State, may enter into an agreement with the United States Social Security Administration for the purpose of receiving reimbursement for interim assistance payments as provided by the United States Social Security Act.

Sec. 72. 22 MRS §§3174-F, 3174-G and 3174-H are enacted to read:

§3174-F. Coverage for adult dental services

1. Coverage provided. The Department of Human Services shall provide dental services, reimbursed under the United States Social Security Act, Title XIX, or successors to it, to individuals 21 years of age and over, limited to:

A. Acute surgical care directly related to an accident where traumatic injury has occurred. This coverage will only be provided for the first 3 months after the accident;

B. Oral surgical and related medical procedures not involving the dentition and gingiva;

C. Extraction of teeth which are severely decayed and which pose a serious threat of infection during a major surgical procedure of the cardiovascular system, the skeletal system or during radiation therapy for a malignant tumor;

D. Treatment necessary to relieve pain, eliminate infection, prevent imminent tooth loss; and

E. The provision of total dentures when necessary to correct masticatory deficiencies likely to impair general health, including necessary adjustments, relines, repairs and replacements.

2. Report and study. The Bureau of Medical Services shall, prior to January 30, 1990:

A. Report to the joint standing committee of the Legislature having jurisdiction over human resources on the experience of this program, including:

(1) The number of individuals assisted by the program;

(2) The services provided to those individuals;

(3) The cost of services provided;

(4) Any significant limitations that have become apparent in the scope of service provided; and

(5) Recommendations and rationale for any expansion of service that appears necessary; and

B. Study the feasibility of contracting with a prepaid dental plan, health maintenance organization, or other entity for the provision of Medicaid dental services to individuals 21 years of age and over and submit the results of that study, together with any recommendations, to the joint standing committee of the Legislature having jurisdiction over human resources.

§3174-G. Medicaid coverage of certain elderly and disabled individuals, children and pregnant women

1. Delivery of services. The department shall provide for the delivery of federally approved Medicaid services to qualified pregnant women up to 60 days following delivery and infants up to one year of age when the woman's or child's family income is below 185% of the nonfarm income official poverty line and children under 5 years of age and qualified elderly and disabled persons, when the child's or person's family income is below 100% of the nonfarm income official poverty line. The official poverty line shall be that applicable to a family of the size involved, as defined by the Federal Office of Management and Budget and revised annually in accordance with the United States Omnibus Budget Reconciliation Act of 1981, Section 673, Subsection 2. These services shall be effective October 1, 1988.

2. Resource test. The department may not apply a resource test to those children and pregnant women who are made eligible under this section, unless these persons also receive Aid to Families with Dependent Children or United States Supplemental Security Income benefits.

3. Benefits authorized. The scope of medical assistance to be provided within this section shall be that authorized by the Federal Sixth Omnibus Budget Reconciliation Act, Public Law 99-509.

§3174-H. Availability of income between married couples in determination of eligibility

Notwithstanding this chapter, for the purpose of determining medical indigency and eligibility for assistance for

an individual residing or about to reside in an institution eligible for Medicaid participation under this section, there shall be a presumption, rebuttable by either spouse, that each spouse has a marital property interest in 1/2 of the total monthly income of both spouses at the time of application for medical assistance. Only the 1/2 interest of the applicant spouse shall be considered available to the spouse in determining eligibility for medical indigency and eligibility for assistance.

The marital property interest of the applicant spouse in the income of both spouses may be rebutted upon a showing of one of the following:

1. Court order. A court order allocating marital income pursuant to alimony, spousal support, equitable division of marital property or disposition of marital property;

2. Individual ownership. The establishing of sole individual ownership of income from current active employment; or

3. Supplementary allocation of spousal income. By applying to the Department of Human Services for a supplementary allocation of spousal income pursuant to this section.

The Department of Human Services shall establish standards for the reasonable and adequate support of the community spouse and the community residence of the couple. The standards shall consider the cost of housing payments, property taxes, property insurance, utilities, food, medical expenses, transportation, other personal necessities and the presence of other dependent persons in the home.

The community spouse may apply to the Department of Human Services for a determination pursuant to the standards that the community spouse requires a larger portion of the marital income. Therefore, a smaller portion of the marital income will be available to the applicant spouse in determining medical indigency and eligibility for assistance.

As soon as authorized by federal law, the department shall implement this section.

Sec. 73. 22 MRSA §3296 is enacted to read:

§3296. Penalty for violations

Any person who violates this chapter shall be subject to the applicable penalty as provided in chapters 958-A and 1071 and section 7702.

Sec. 74. 22 MRSA §3306, as enacted by PL 1987, c. 714, §2, is repealed.

Sec. 75. 22 MRSA §3760-B, as enacted by PL 1987, c. 856, §§3 and 10, is amended to read:

§3760-B. Notification to the Legislature

The department shall notify the joint standing committee of the Legislature having jurisdiction over human resources of any request for waivers from the United States Department of Health and Human Services or any other federal agency concerning the implementation of chapters 1053, 1053-A, 1054, and 1054-A.

Sec. 76. 22 MRSA §4008, sub-§2, ¶H, as enacted by PL 1987, c. 714, §7, and c. 744, §6, is repealed and the following enacted in its place:

H. Persons and organizations pursuant to Title 5, section 9057, subsection 6, and pursuant to chapter 857; and

Sec. 77. 22 MRSA §4008, sub-§2, ¶I is enacted to read:

I. The representative designated to provide child welfare services by the tribe of an Indian child as defined by the Indian Child Welfare Act, United States Code, Title 25, Section 1903.

Sec. 78. 22 MRSA §5112, sub-§2, as amended by PL 1985, c. 89, is further amended to read:

2. Advocate. Serve as an advocate on behalf of older people promoting and assisting activities designed to meet at the national, state and community levels the problems of older people. The committee shall serve as an ombudsman on behalf of individual citizens and older people as a class in matters under the jurisdiction of State Government. It shall be a spokesman on behalf of older people to the director, commissioner, Governor, Legislature, public-at-large and Federal Government.

In order to serve as advocate and ombudsman for older people, the committee shall have the power to enter onto the premises of any ~~adult foster care facility approved by the State according to section 7908, any~~ boarding care facility licensed according to section 7801 and any nursing home facility licensed according to section 1817 in order to investigate complaints concerning those facilities. To carry out this function, the committee may enter onto the premises of any adult foster care facility, any boarding care facility or any nursing home during the course of an investigation, speak privately with any individual therein who consents to the conversation and inspect and copy all records pertaining to a resident held by a facility or home, provided that the resident, or the legal representative of the resident, consents in writing to that inspection. The consent, where required and not obtainable in writing, may be conveyed orally or otherwise to the staff of the facility or home. Where a resident is not competent to grant consent and has no legal representative, the committee may inspect the resident's records and may make such copies that do not contain personally identifiable material without the written consent of a duly appointed legal representative. The committee may authorize up to 25 persons, including committee members, staff of the committee and other citizens, to carry out this function of the committee pursuant to this subsection. Appropriate identi-

fication shall be issued to all such persons. The committee shall renew the authorization and reissue identification annually. The findings of the committee shall be available to the public upon request.

No information or records maintained by the committee relating to complaints may be disclosed unless the ombudsman authorizes the disclosure; and the ombudsman shall not disclose the identity of any complainant or resident unless:

- A. The complainant or resident, or a legal representative of either, consents in writing to the disclosure with respect to that complainant or resident respectively; or
- B. A court orders the disclosure.

A complainant or resident, or legal representative thereof, in providing the consent, may specify to whom such identity may be disclosed and for what purposes, in which event no other disclosure is authorized.

Any person, official or institution who in good faith participates in the registering of a complaint pursuant to this subsection, or in good faith investigates that complaint or provides access to those persons carrying out the investigation, about an act or practice in ~~any approved adult foster care facility~~, any licensed boarding care facility or any licensed nursing home licensed according to section 5154, ~~7908~~, 7801 or 1817, respectively, or who participates in a judicial proceeding resulting from that complaint, shall be immune from any civil or criminal liability that otherwise might result by reason of these actions. For the purpose of any civil or criminal proceedings, there shall be a rebuttable presumption that any person acting pursuant to this subsection did so in good faith.

Sec. 79. 22 MRSA §7230, sub-§1, as enacted by PL 1987, c. 735, §38, is amended to read:

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, to an approved public treatment facility, an approved private treatment facility or other health facility by the police or the emergency service patrol.

Sec. 80. 22 MRSA §7701, sub-§2, as enacted by PL 1975, c. 719, §6, is amended to read:

2. Facility. As used in this subtitle, the word "facility" ~~shall mean~~ means any of the places defined in section ~~7901~~ 7901-A, subsection ~~4~~ 3, sections 8001, 8101, 8201 or 8301.

Sec. 81. 22 MRSA §7703, sub-§2, ¶F, as enacted by PL 1983, c. 691, §2, is amended to read:

- F. Any information about the private life of any person who has applied for a license or approval or is or has been licensed or approved as an adult ~~or~~

~~child-family~~ foster home, as defined in section ~~7901~~, ~~subsection 3~~ 7901-A, subsection 3, and family foster home as defined in section 8101, subsection 3, in which there is no legitimate public interest and which would be offensive to a reasonable person, if disclosed.

Sec. 82. 22 MRSA §7907, first ¶, as repealed and replaced by PL 1985, c. 791, §1, is amended to read:

Except as otherwise provided in section ~~7906~~ 7906-A, the department shall:

Sec. 83. 22 MRSA §7907, sub-§2, as enacted by PL 1985, c. 791, §1, is amended to read:

2. Boarding care facilities. Reimburse all boarding care facilities of 6 or fewer beds, except as provided in section ~~7906~~ 7906-A, on a flat rate basis, which rate shall be increased effective as of July 1, 1986, and on January 1st of each year after 1986 by the estimated percentage increase in the cost of goods and services purchased by health care facilities during the prior year, as published by Data Resources, Inc.

Sec. 84. 22 MRSA §8004, as enacted by PL 1975, c. 719, §6, is amended to read:

§8004. Fire safety

All procedures and other provisions included in section ~~7904~~ 7904-A, subsections 1 and 2, for boarding care facilities shall also apply to drug treatment centers.

Sec. 85. 22 MRSA §8103, sub-§1, as enacted by PL 1985, c. 706, §9, is amended to read:

1. Procedures. All procedures and other provisions included in section ~~7904~~ 7904-A, subsections 1 and 2, for boarding care facilities shall also apply to children's homes, except that the written statement referred to in section ~~7904~~ 7904-A, subsection 1, need not be furnished annually by the State Fire Marshal to the department when a children's home serves only one or 2 children.

Sec. 86. 22 MRSA §8304, as enacted by PL 1975, c. 719, §6, is amended to read:

§8304. Fire safety

All procedures and other provisions included in section ~~7904~~ 7904-A, subsections 1 and 2, for boarding care facilities shall also apply to day care facilities.

Sec. 87. 22 MRSA §8601, sub-§2, as enacted by PL 1987, c. 389, §5, is amended to read:

2. Any day activity program. Any day activity program licensed by the Department of Mental Health and Mental Retardation.

Sec. 88. 23 MRSA §159, as amended by PL 1987, c. 395, Pt. A, §101, is further amended to read:

§159. Interpleader

If ~~difficultly~~ difficult questions of law should arise before the State Claims Commission as to entitlement to or apportionment of just compensation, then it is authorized to make a blanket award to all parties interested. If no appeal is taken and no agreement is reached by the parties named in the award within 60 days from the date of such award, the State Claims Commission shall certify the facts and legal questions to the department. The department shall then interplead the parties named in the award by a complaint filed in the Superior Court in the county wherein the land is situated and shall pay in the amount of the award to the clerk of courts of the county to be paid in accordance with the court's order. For purposes of this section, the department shall be acting to prevent double or multiple liability.

Sec. 89. 23 MRSA §1851, first ¶, as amended by PL 1987, c. 769, Pt. A, §85 and c. 793, Pt. A, §4, is repealed and the following enacted in its place:

The department may administer funds for the construction of municipal or county salt and sand storage facilities in order to reduce salt pollution of ground and surface waters. Any bonds issued under this section shall be paid for out of the Highway Fund. In administering these funds, the department shall provide reimbursement to municipal and county governmental entities for approved projects according to the order of priority established biennially by the Department of Environmental Protection. Allocation of funds shall be based upon 1.25 times the ratio of miles of state and state-aid roads maintained for winter maintenance, as described in sections 1001 and 1003, to all miles maintained for winter maintenance by the municipality, quasi-municipal agency or county. The department shall establish guidelines to reimburse eligible local government entities in a consistent and timely manner.

Sec. 90. 23 MRSA §2753, as amended by PL 1981, c. 470, Pt. A, §138, is further amended to read:

§2753. Bridges crossing town line

Whenever a highway located after the first day of January, 1906 crosses any river which divides towns, the expense of constructing, maintaining and repairing any bridge across such river shall be borne by such towns in proportion to their last state valuation prior to such location. This section shall not apply to bridges built or rebuilt under sections 353; ~~and 355, 451 to 455 and 457 to 459.~~

Sec. 91. 23 MRSA §4211-A, sub-§10, as enacted by PL 1987, c. 792, §1, is amended to read:

10. Consolidation of hearings. The ~~Department de-~~ partment may consolidate any hearing under this section with another hearing concerning railroad service by the same entity in the same area.

Sec. 92. 24-A MRSA §602, as enacted by PL 1969, c. 132, §1, is amended to read:

§602. Tax on premiums and annuity considerations

As to returns and taxes on premiums and annuity considerations refer to Title 36, ~~section 2511 et seq~~ chapter 357.

Sec. 93. 24-A MRSA §605, sub-§1, as amended by PL 1969, c. 177, §14, is further amended to read:

1. Payment by the insurer of the taxes as required by Title 25, section 2399 and Title 36, ~~section 2511 et seq~~ chapter 357 shall be in lieu of all taxes imposed by the State upon premiums or upon income, and of any franchise, privilege or other taxes measured by income of the insurer.

Sec. 94. 24-A MRSA §2701, sub-§1, as enacted by PL 1969, c. 132, §1, is amended to read:

1. Any policy of liability or ~~workmen's~~ workers' compensation insurance with or without supplementary expense coverage therein;

Sec. 95. 24-A MRSA §2722, sub-§2, as amended by PL 1973, c. 585, §12, is further amended to read:

2. If the foregoing policy provision is included in a policy which also contains the policy provision set out in section 2723 there shall be added to the caption of the foregoing provision the phrase "-- expense incurred benefits." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the superintendent, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the superintendent. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organization or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute, including any ~~workmen's~~ workers' compensation or employer's liability statute, whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

Sec. 96. 24-A MRSA §2723, sub-§2, as amended by PL 1973, c. 585, §12, is further amended to read:

2. If the foregoing policy provision is included in a policy which also contains the policy provision set out in section 2722, there shall be added to the caption of the foregoing provision the phrase "other benefits." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the superintendent, which definition shall be limited in subject matter

to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the superintendent. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute, including any workmen's workers' compensation or employer's liability statute, whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

Sec. 97. 24-A MRSA §2724, 2nd ¶, as amended by PL 1973, c. 585, §12, is further amended to read:

If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his the average monthly earnings for the period of 2 years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such 2 years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of \$200 or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time. The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (A.) until at least age 50 or, (B.) in the case of a policy issued after age 44, for at least 5 years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage", approved as to form by the superintendent, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the superintendent or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute, including any workmen's workers' compensation or employer's liability statute, or benefits provided by union welfare plans or by employer or employee benefit organizations.

Sec. 98. 24-A MRSA §2904, sub-§5, as amended by PL 1969, c. 132, §1, is amended to read:

5. Liability under workers' compensation. In the case of any liability under any workmen's workers' compensation agreement, plan or law; or

Sec. 99. 24-A MRSA §3048, first ¶ as enacted by PL 1973, c. 239, is amended to read:

This subchapter shall apply to policies of insurance, other than automobile insurance and workmen's workers' compensation insurance, on risks located or resident in this State which are issued and take effect or which are renewed after the effective date of this subchapter and insuring against any of the following:

Sec. 100. 24-A MRSA §6205, sub-§1, ¶E, as enacted by PL 1987, c. 482, §1, is amended to read:

E. The provider has failed to implement a mechanism affording the enrollees subscribers an opportunity to participate in matters of policy and operation;

Sec. 101. 25 MRSA §2357, as amended by PL 1987, c. 192, §4, is further amended to read:

§2357. No occupancy without certificate; appeal

No new building may be occupied until the inspector of buildings has given a certificate that the same has been built in accordance with section 2353, and so as to be safe from fire. If the owner permits it to be so occupied without such certificate, ~~he~~ the owner shall be penalized in accordance with Title 30 30-A, section 4966 4452. In case the inspector of buildings for any cause declines to give ~~his~~ that certificate and the builder has in ~~his~~ the builder's own judgment complied with section 2353, an appeal may be taken to the municipal officers and, if on such appeal it shall be decided by them that said section has been complied with, the owner of said building shall not be liable to a fine for want of the certificate of the inspector.

Sec. 102. 25 MRSA §2358, as amended by PL 1987, c. 192, §4, is further amended to read:

§2358. Failure to comply with order of inspector

If the owner of any building neglects or refuses for more than 30 days to comply with any direction of the inspector of buildings concerning the repairs on any building as provided in section 2354, ~~or to make such changes in the construction or situation of chimneys, flues, funnels, stoves, furnaces, boilers, boiler connections and heating apparatus, as may be required by such inspector of buildings under section 2355, or as may be confirmed by the municipal officers on appeal, he~~ the owner shall be penalized in accordance with Title 30 30-A, section 4966 4452.

Sec. 103. 25 MRSA c. 352, as enacted by PL 1987, c. 840, §3, is amended by inserting before §2921 the following:

CHAPTER 352**EMERGENCY SERVICES COMMUNICATION**

Sec. 104. 26 MRSA §176, last ¶, as amended by PL 1977, c. 694, §§448 and 448-A, is repealed and the following enacted in its place:

The director may file a complaint with the Administrative Court to revoke a certificate of authority pursuant to Title 4, section 1151, for incompetence or untrustworthiness of the holder thereof or for willful falsification of any matter or statement contained in the application or in a report of any inspection.

Sec. 105. 26 MRSA §564, first ¶, as amended by PL 1983, c. 812, §158, is further amended to read:

The Board of Occupational Safety and Health as established by Title 5, section ~~42004~~ 12004-G, subsection § 24, shall consist of 10 members of which 9 shall be appointed by the Governor. Of the 9 appointed members of the board, 3 shall represent employers; 3 shall represent employees; one shall represent an insurance company licensed to insure ~~workmen's~~ workers' compensation within the State and 2 shall represent the public. The 10th member of the board shall be the ~~Director of the Bureau of Labor~~ director. Of the 3 employer members, one shall represent state agencies, one shall represent counties within the State and one shall represent municipalities within the State. Of the 3 employee members, one shall represent state employees, one shall represent county employees and one shall represent municipal employees.

Sec. 106. 26 MRSA §625-B, sub-§1, ¶B, as enacted by PL 1979, c. 663, §157, is amended to read:

B. "Director" means the Director of the Bureau of Labor Standards.

Sec. 107. 26 MRSA §632, sub-§2, as enacted by PL 1979, c. 202, §1, is amended to read:

2. Administration. The fund shall be administered by the Director of the Bureau of Labor Standards. Applications for payment from the fund and disbursements from the fund shall be in accordance with regulations promulgated by the director. The State shall be subrogated to any claims against an employer for unpaid wages by an employee who has received payment from the fund. Subrogation to these claims shall be to the extent of payment from the fund to the employee.

Sec. 108. 26 MRSA §965, sub-§6, as enacted by PL 1975, c. 564, §19, is amended to read:

6. Arbitration administration. The cost for services rendered and expenses incurred by the Maine Board of Arbitration and Conciliation, as defined in section ~~944~~ 931, shall be paid by the State from an appropriation for said Board of Arbitration and Conciliation which shall be included in the budget of the Maine Labor Relations Board. Authorization for services rendered and expenditures in-

curring by members of the State Board of Arbitration and Conciliation shall be the responsibility of the executive director.

Sec. 109. 26 MRSA §1192, sub-§6-C, as enacted by PL 1987, c. 570, §3, and c. 861, §21, is repealed and the following enacted in its place:

6-C. Prohibition against disqualification of individuals in approved training under section 1196. Notwithstanding any other provision of this chapter, no otherwise eligible individual may be denied benefits for any week because that individual is in training as approved by the commission, under rules adopted by the commission with the advice and consent of the commissioner, nor may that individual be denied benefits by reason of leaving work to enter that training, provided that the work left is not suitable employment.

For purposes of this subsection, the term "suitable employment" means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment.

Sec. 110. 26 MRSA §1192, sub-§6-D is enacted to read:

6-D. Prohibition against disqualification of individuals in approved training under the Strategic Training for Accelerated Reemployment Program. Notwithstanding any provisions of this chapter, the acceptance of training for opportunities available under section 2015-A is deemed to be acceptance of training with state approval under federal or state law relating to unemployment benefits.

Sec. 111. 26 MRSA §1285, sub-§8, as enacted by PL 1983, c. 702, is amended to read:

8. Arbitration administration. The cost of services rendered and expenses incurred by the State Board of Arbitration and Conciliation, as defined in section ~~944~~ 931, shall be paid by the State from an appropriation for the State Board of Arbitration and Conciliation, which shall be included in the budget of the Maine Labor Relations Board. Authorization for services rendered and expenditures incurred by members of the State Board of Arbitration and Conciliation shall be the responsibility of the executive director.

Sec. 112. 30-A MRSA §421, sub-§§13 and 14, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106; and as amended by PL 1989, c. 6 and c. 9, §2; and c. 104, Pt. C, §§8 and 10, are further amended to read:

13. Service of an income tax warrant. For the service of an income tax warrant and arrest as provided by Title 36, Part 8, the same as for service of civil process, and for civil arrests. For collecting income tax, penalties and interest, under such warrants, for every dollar of the first \$100, 4¢; for every dollar above \$100 and not exceeding \$200, 3¢; and for every dollar above \$200, 2¢. Additional services, including travel, shall be charged as provided in this section; ~~and~~

14. Search for persons to serve. For diligently searching for persons upon whom they are commanded to serve civil process when that party cannot be located at an address given to the sheriff or the deputy sheriff by the plaintiff or the plaintiff's attorney when commanding the service to be made, \$2, plus necessary travel: ; and

Sec. 113. 30-A MRSA §2313, sub-§4, as enacted by PL 1987, c. 737, Pt. A, §2, and Pt. C, §106; and as amended by PL 1989, c. 6 and c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

4. Transfer. Where a regional planning commission has been established under article 3, the member municipalities, by appropriate action, may provide for the transfer of all assets, liabilities, rights and obligations of the commission to the council and provide for the dissolution of the commission.

Sec. 114. 32 MRSA §9407, sub-§2, ¶B, as enacted by PL 1981, c. 113, §2, is amended to read:

B. If the applicant is a corporation, by at least one principal corporate officer and, if different, by the agent of the corporation meeting the qualifications of section 9405, subsection 4 1-A; or

Sec. 115. 32 MRSA §9910, sub-§2, as amended by PL 1987, c. 313, §6, is further amended to read:

2. Disciplinary actions; grounds. The board may suspend or revoke a license pursuant to Title 5, section 4004 10004. In addition, the board may refuse to renew or the Administrative Court may revoke, suspend or refuse to renew any license issued under this chapter on any of the following grounds:

A. The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued;

B. A licensee shall be deemed to have engaged in unprofessional conduct if he the licensee violates any standard of professional behavior which has been established in the practice of dietetics;

C. Subject to the limitations of Title 5, chapter 341, conviction of a crime which involves dishonesty or false statement or which relates directly to the practice for which the individual is licensed or convicted of any crime for which imprisonment for one year or more may be imposed; or

D. Any violation of this chapter or rules adopted by the board.

Sec. 116. 32 MRSA §11051, as enacted by PL 1985, c. 702, §2, is amended to read:

§11051. Investigation, suspension and revocation of licenses

The Bureau of Consumer Credit Protection may investigate the records and practices of a licensee in accord-

ance with Title 9-A, section 6-106, and may charge for expenses incurred pursuant to Title 9-A, section 6-203 6-106, subsection 4 6. The superintendent may file a complaint with the Administrative Court to suspend or revoke a license issued pursuant to this chapter, if, after investigation or hearing, or both, the superintendent has reason to believe that the licensee has violated any provisions of this chapter or any administrative rules issued pursuant to this chapter, or has failed to maintain its financial condition sufficient to qualify for a license on an original application.

Sec. 117. 33 MRSA §1652, sub-§1, as enacted by PL 1987, c. 734, §2, is amended to read:

1. Adult. "Adult" means an individual who has attained 24 18 years of age.

Sec. 118. 33 MRSA §1662, sub-§2, as enacted by PL 1987, c. 734, §2, is amended to read:

2. Transfer irrevocable. A transfer made pursuant to section 1660 is irrevocable and the custodial property is indefeasibly vested in the minor, but the custodian has all the rights, powers, duties and authority provided in this Act, and neither the the minor nor the minor's legal representative has any right, power, duty or authority with respect to the custodial property, except as provided in this Act.

Sec. 119. 33 MRSA §1672, sub-§1, as enacted by PL 1987, c. 734, §2, is amended to read:

1. Reference to prior Act. The transfer purports to have been made the under the Uniform Gifts to Minors Act of this State; or

Sec. 120. 33 MRSA c. 37, as enacted by PL 1987, c. 645, §4, is repealed.

Sec. 121. 33 MRSA c. 39 is enacted to read:

CHAPTER 39

UNIFORM FEDERAL LIEN REGISTRATION ACT

§1901. Short title

This chapter shall be known and may be cited as the Uniform Federal Lien Registration Act.

§1902. Scope

This chapter applies only to federal tax liens and to other federal lien notices which, under any Act of Congress or any federal regulation, are required or permitted to be filed in the same manner as notices of federal tax liens.

§1903. Place of filing

1. Applicability. Notices of liens, certificates and other notices affecting federal tax liens or other federal liens must be filed in accordance with this chapter.

2. Real property liens. Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be filed in the registry of deeds in that county or counties within which the affected property is situated.

3. Personal property liens. Notices of federal liens upon personal property, whether tangible or intangible, except property of a type in which a security interest is perfected under Title 11, section 9-401, subsection (1), paragraph (a), for obligations payable to the United States and certificates and notices affecting the liens, shall be filed with the Secretary of State.

4. Timber, mineral and other liens. Notices of federal liens upon personal property of a type in which a security interest is perfected under Title 11, section 9-401, subsection (1), paragraph (a), for obligations payable to the United States and certificates and notices affecting the liens, shall be filed in the registry of deeds in the county or counties where a mortgage on the real estate concerned would be filed or recorded.

§1904. Execution of notices and certificates

Certification of notices of liens, certificates or other notices affecting federal liens by the Secretary of the Treasury of the United States or the secretary's delegate or by any official or entity of the United States responsible for filing or certifying of notice of any other lien is sufficient for filing purposes and no other attestation, certification or acknowledgment is necessary.

§1905. Duties of filing officer

1. Notices. If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection 2 is presented to a filing officer who is:

A. The Secretary of State, the filing officer shall cause the notice to be marked, held and indexed in accordance with Title 11, section 9-403, subsection (4), as if the notice were a financing statement within the meaning of the Uniform Commercial Code, Title 11, except that if the property is of a type in which a security interest is perfected under Title 5, section 90-A, the Secretary of State shall cause the notice to be marked, held and indexed in accordance with the procedures established under Title 5, section 90-A, as if the notice were a financing statement within the meaning of that section; or

B. A register of deeds, the filing officer shall receive, record and index the notice in the same manner as similar instruments are recorded and indexed.

2. Certificates. If a certificate of release, nonattachment, discharge or subordination of any lien is presented to the Secretary of State for filing, the filing officer shall:

A. Cause a certificate of release or nonattachment to be marked, held and indexed as if the certificate

were a termination statement within the meaning of the Uniform Commercial Code, Title 11, but the notice of lien to which the certificate relates may not be removed from the files; and

B. Cause a certificate of discharge or subordination to be marked, held and indexed as if the certificate were a release of collateral within the meaning of the Uniform Commercial Code, Title 11.

3. Refiled notices; register of deeds. If a refiled notice of federal lien as referred to in subsection 1 or any of the certificates of notices referred to in subsection 2 are presented for filing to a register of deeds, the register of deeds shall receive, record and index that instrument in the same manner as similar instruments are recorded and indexed.

4. Filing; fees. Upon request of any person, the Secretary of State shall issue a certificate showing whether there is on file, on the date and hour stated in the request, any notice of lien or certificate or notice affecting any lien filed under this chapter naming a particular person and, if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate is \$5. Upon request, the Secretary of State shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of \$1 a page.

§1906. Fees

Applicable fees shall be governed by section 751, subsection 8 and Title 5, section 86.

§1907. Uniformity of application and construction

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

Sec. 122. 34-B MRSA §5437, first ¶, as amended by PL 1987, c. 769, Pt. A, §127, is further amended to read:

The bureau shall establish a contingency fund for use by community based intermediate care facilities for the mentally retarded and bureau clients residing in licensed boarding and foster homes or intermediate care facilities or participating in appropriate day treatment programs. This fund shall be ~~uses~~ used in accordance with the following provisions.

Sec. 123. 35-A MRSA Pt. 1, first 2 lines are repealed and the following enacted in their place:

PART 1

PUBLIC UTILITIES COMMISSION

Sec. 124. 35-A MRSA §1304, sub-§2, ¶C, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

C. Nothing in this section relieves the utility from the provisions of section ~~3082~~ 308.

Sec. 125. 35-A MRSA §2306-A, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

Sec. 126. 36 MRSA §328, last ¶, as amended by PL 1979, c. 666, §10, is further amended to read:

Upon a municipality's failure to achieve the minimum assessing standards of this subchapter, the bureau may choose at least one or more of the above administrative practices as necessary corrective steps to be undertaken by said municipality, in accordance with sections ~~291 through 293~~ 271, 272 and 329.

Sec. 127. 36 MRSA §653, sub-§1, ¶C, as amended by PL 1975, c. 550, §1, is further amended to read:

C. The estates up to the just value of \$4,000, having a taxable situs in the place of residence, of veterans who served in the Armed Forces of the United States during any federally recognized war period, including the Korean Campaign and the ~~Viet Nam~~ Vietnam War, when they shall have reached the age of 62 years or when they are receiving any form of pension or compensation from the United States Government for total disability, service-connected or non-service-connected, as a veteran. The exemption provided in this paragraph shall apply to the property of ~~such that~~ that veteran including property held in joint tenancy with ~~his or her~~ the veteran's spouse.

Sec. 128. 36 MRSA §653, sub-§1, ¶E, as amended by PL 1975, c. 432, §3, is further amended to read:

E. The word "veteran" as used in this subsection shall mean any person, male or female, who was in active service in the Armed Forces of the United States during any federally recognized war period or the Korean Campaign or the ~~Viet Nam~~ Vietnam War; and who, if discharged, retired or separated from the Armed Forces, was discharged, retired or separated under other than dishonorable conditions. A veteran of the ~~Viet Nam~~ Vietnam War shall have served on active duty for a period of more than 180 days, any part of which occurred after August 4, 1964, and before May 7, 1975, except that if ~~he~~ the veteran died in service or was discharged for a service-connected disability after such date. The "~~Viet Nam~~ Vietnam War" shall mean that period between August 5, 1964, and May 7, 1975;

Sec. 129. 36 MRSA §1760, sub-§62, as enacted by PL 1987, cc. 822 and 824, is repealed and the following enacted in its place:

62. Charitable suppliers of medical equipment. Sales to local branches of incorporated international non-profit charitable organizations which provide, on a loan basis and free of charge, medical supplies and equipment to persons.

Sec. 130. 36 MRSA §1760, sub-§63 is enacted to read:

63. Organizations fulfilling the wishes of children with life-threatening diseases. Sales to incorporated non-profit organizations whose sole purpose is to fulfill the wishes of children with life-threatening diseases when their family or guardian is unable to otherwise financially fulfill those wishes.

Sec. 131. 36 MRSA §1955-A, as amended by PL 1987, c. 497, §42, is further amended to read:

§1955-A. Failure to pay tax on vehicles

If, after notice of assessment and demand for payment, any amount required to be paid with respect to any vehicle is not paid as demanded within the ~~42-day~~ period prescribed in section ~~4959~~ 173, or such extension thereof as the State Tax Assessor may allow, the State Tax Assessor may, in addition to proceeding to enforce collection pursuant to chapters 211 to 225, immediately notify the Secretary of State who shall proceed in accordance with Title 29, section 55-B, to mail the required 5-day notice and to suspend any registration certificate and plates issued for the vehicle in respect to which the tax remains unpaid upon the expiration of the 5-day period provided therein.

Sec. 132. 36 MRSA §2860, sub-§2, as enacted by PL 1981, c. 711, §10, is amended to read:

2. **Lien.** The tax, if unpaid when due, may become a lien on the mining property or any other property of the mining company, as provided under section ~~5313~~ 175-A.

Sec. 133. 36 MRSA §2903, sub-§1, as amended by PL 1987, c. 793, Pt. A, §9 and c. 798, §2, is repealed and the following enacted in its place:

1. **Excise tax levied.** Except as provided in subsection 2, an excise tax is levied and imposed at the rate of 16¢ per gallon upon internal combustion engine fuel sold or used within this State, including these sales when made to the State or any political subdivision thereof, for any purpose whatsoever, except the internal combustion engine fuel sold or used in such form and under such circumstances as shall preclude the collection of this tax by reason of the laws of the United States, or sold wholly for exportation from the State, or brought into the State in the ordinary standardized equipment fuel tank attached to and forming a part of a motor vehicle and used in the operation of that vehicle within the State, except that the rate shall be 3.4¢ per gallon upon internal combustion engine fuel, as defined in section 2902, bought or used by any person, association of persons, firm or corporation for the purpose of propelling jet or turbojet engine aircraft, not for international flights, and except that no tax may be levied upon internal combustion engine fuel, as defined in section 2902, bought or used by any person, association of persons, firm or corporation for the purpose of propelling jet or turbojet engine aircraft, for international flights, or sold wholly for exportation from the State, or brought into the State in the fuel tanks of an aircraft, or on or after July 1, 1983, sold in bulk to any political subdivision

of the State. On the same fuel only one tax shall be paid to the State, for which tax the distributor first receiving the fuel in the State shall be primarily liable to the State, except when that fuel has been sold and delivered to a licensed exporter wholly for exportation from the State, or to another distributor in the State, in which case the purchasing distributor shall be primarily liable to the State for the tax.

Sec. 134. 36 MRSA §3223, as enacted by PL 1987, c. 772, §31 and c. 793, Pt. A, §13, is repealed and the following enacted in its place:

§3223. Enforcement

There shall be assigned to the Bureau of Taxation an officer of the State to assist in the enforcement of this chapter.

Sec. 135. 36 MRSA §3224 is enacted to read:

§3224. Inventory tax; special fuel

Special fuel subject to tax under this chapter, which is held by retailers, as defined in section 1752, at 12 midnight, June 30, 1988, shall be subject to a 19¢ per gallon excise tax. Retailers shall be liable for the difference between the 19¢ per gallon tax rate existing on July 1, 1988, and the 14¢ per gallon tax rate in effect prior to July 1, 1988. Payment shall be made to the State Tax Assessor before August 15, 1988, accompanied by the appropriate completed form prescribed by the State Tax Assessor.

Sec. 136. 36 MRSA §5122, sub-§2, ¶C, as amended by PL 1987, c. 739, §§45 and 48 and c. 772, §36, is repealed and the following enacted in its place:

C. Social security benefits and railroad retirement benefits paid by the United States, to the extent included in federal adjusted gross income;

Sec. 137. 36 MRSA §5283, first ¶, as repealed and replaced by PL 1985, c. 427, is amended to read:

Every individual resident, who is entitled to a refund under this Part, may designate that any part of that refund be paid over to any specified political party, as defined in Title ~~21~~ 21-A, section 1. Every individual resident, who is entitled to no refund under this Part, may contribute to any specified political party, as defined in Title ~~21~~ 21-A, section 1, by including with ~~his~~ that resident's return sufficient funds to make the contribution.

Sec. 138. 37-B MRSA §4, as repealed and replaced by PL 1987, c. 634, §3, is amended to read:

§4. Directors of bureaus

Each bureau of the department shall have a director. The Director of Military Bureau, the Director of Veterans' Services and the Director of Civil Emergency Preparedness shall each be appointed by the Adjutant General and shall serve at the pleasure of the Adjutant General. None of these directors may hold any other state office for compensation.

The Director of Veterans' Services shall be a person who served on active duty in the United States Armed Forces during any federally recognized period of conflict as defined in section 504, subsection 4, paragraph ~~A~~ A-1, subparagraph (3), and a person qualified by experience, training and a demonstrated interest in veterans' services.

Sec. 139. 37-B MRSA §503, sub-§1, as amended by PL 1985, c. 785, Pt. B, §174, is further amended to read:

1. Employment of personnel. The director may employ, subject to the Civil Service Law, the personnel necessary to administer this chapter. All full-time permanent employees, except clerical employees, shall be persons who served on active duty in the United States Armed Forces during any federally recognized period of conflict, as defined in section 504, subsection 4, paragraph ~~A~~ A-1, subparagraph (3).

Sec. 140. 37-B MRSA §505, sub-§1, ¶A, as enacted by PL 1983, c. 460, §3, is amended to read:

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

(1) "Child" means a person who is under the age of 18 years; over the age of 18 years but under the age of 20 years, regularly attending school; or over the age of 18 years and not attending school if, prior to reaching the age of 18 years, the child becomes or has become permanently incapable of self-support by reason of mental or physical defect, and who is:

(a) A natural, legitimate child of a veteran;

(b) A foster child of a veteran;

(c) A legally adopted child of a veteran;

(d) A stepchild, if a member of a veteran's household either at the time of application or, in the event of the veteran's death, at the time of death, and who thereafter continues as a member of the household; or

(e) An illegitimate child, ~~where~~ when a veteran has been judicially ordered or decreed to contribute to ~~his~~ that child's support, or judicially decreed to be the putative father, or has acknowledged under oath and in writing that he is the father of the child.

(2) "Federally recognized period of conflict" means World War I, April 6, 1917 to November 11, 1918, or to March 31, 1920, if service was in Russia; World War II, December 7,

1941 to December 31, 1946; Korean Conflict, June 27, 1950 to January 31, 1955 and the ~~Viet Nam~~ Vietnam War, August 5, 1964 to May 7, 1975.

(3) "Parent" means the father or mother of a veteran with whom the veteran lived during ~~his~~ that veteran's minority and for whom ~~he~~ that veteran would be legally responsible under the laws of this State; or the foster father or mother of the veteran.

(4) "Spouse" means the person currently legally married to a living veteran or the widow or widower of a deceased veteran who has not become the dependent of another person.

(5) "Veteran" means any person who served in the United States Armed Forces during any federally recognized period of conflict and was not dishonorably discharged; is disabled and a resident of the State; or is deceased and at time of death was a resident of the State. A veteran of the ~~Viet Nam~~ Vietnam War must have served on active duty for a period of more than 90 days unless ~~he~~ that veteran died in service, or was discharged for a service-connected disability and any part of that active duty service occurred after August 4, 1964 and before May 7, 1975.

Sec. 141. 37-B MRSA §601, as repealed and replaced by PL 1985, c. 773, §1, is amended to read:

§601. Home established; purpose

There shall be public homes for veterans in Maine known as "Maine Veterans' Homes." In addition to the presently existing home located in Augusta, a 120-bed home located in southern Maine and a home, not to exceed 60 beds, located in Aroostook County, may be constructed if federal Veterans' Administration funds are available to meet part of the costs of each facility for construction or operation. The board of trustees shall plan and develop these additional homes and may use any funds available for those purposes, except for the Augusta facility's funded depreciation account. The primary purpose of the homes shall be to provide support and care for honorably discharged veterans who served in the United States Armed Forces during wartime, including the Korean Conflict and the ~~Viet Nam~~ Vietnam War.

Sec. 142. 38 MRSA §390-A, as repealed by PL 1987, c. 809, §1 and as amended by PL 1987, c. 842, §§1 and 2, is repealed.

Sec. 143. 38 MRSA §438, sub-§2, ¶A, as amended by PL 1987, c. 737, Pt. C, §§84 and 106 and as repealed by PL 1987, c. 815, §§4 and 11 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 144. 38 MRSA §439, as amended by PL 1987, c. 737, Pt. C, §§85 and 106 and as repealed by PL 1987,

c. 815, §§6 and 11 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 145. 38 MRSA §480-N, sub-§1, as enacted by PL 1987, c. 809, §2, is amended to read:

1. Fund purposes and administration. There is established a nonlapsing Lake Restoration and Protection Fund, from which the department may pay up to 50% of the eligible costs incurred in a lake restoration or protection project, except that projects addressing technical assistance, public education or research issues may be paid up to 100%. Eligible costs include all costs except those related to land acquisition, legal fees and debt service. All money credited to that fund shall be used by the department for projects to improve or maintain the quality of lake waters in the State and for no other purpose. The Commissioner of Environmental Protection may authorize the State Controller to draw a warrant for such funds as may be necessary to pay the lawful expenses of the lake restoration or protection project, up to the limits of the money duly authorized. Any balance remaining in the fund shall continue without lapse from year to year and remain available for the purpose for which the fund is established and for no other purpose.

Sec. 146. 38 MRSA §480-N, sub-§§3 to 5 are enacted to read:

3. Intensive staffing program. The department shall establish an intensive staffing program which shall provide adequate staffing at both the state and regional levels. The department shall provide technical information and guidance and the regional agencies shall assist with the adoption of revised comprehensive plans, standards and local ordinances by local governments.

4. Public education program. The department shall develop a coordinated public education program which shall target school children and involve extensive use of the media.

5. Research. The department shall encourage inter-national research focused on the following statewide topics:

A. Lake vulnerability, particularly as it relates to noncultural features of the watershed;

B. The effectiveness and design of the best management practices to control phosphorous pollution; and

C. New lake and watershed diagnostic tools.

Sec. 147. 38 MRSA §551, sub-§2-A, as enacted by PL 1977, c. 375, §11, is amended to read:

2-A. Exceptions; 3rd party damage claims. Subsection 2, 3rd party damages, shall not apply to waters of the State classified under sections ~~368, 369~~ 467 and 371 468, except those waters below head of tide until July 1, 1978.

Sec. 148. 39 MRSA c. 1, first 4 lines are repealed and the following enacted in their place:

TITLE 39

WORKERS' COMPENSATION

CHAPTER 1

WORKERS' COMPENSATION

Sec. 149. 39 MRSA §28, first ¶, as amended by PL 1973, c. 746, §9, is further amended to read:

An employee of an employer, who shall have secured the payment of compensation as provided in sections ~~24~~ 21-A to 27 shall be held to have waived ~~his~~ the employees' right of action at common law to recover damages for the injuries sustained by ~~him~~ the employee, and under the statutes specified in section 4.

Sec. 150. 39 MRSA §71-A, sub-§2, ¶D is enacted to read:

D. Any other information, including the age of the employee and of the employee's dependents, which would bear upon whether the settlement is in the best interest of the claimant.

Sec. 151. 39 MRSA §71-A, sub-§2, ¶E, as enacted by PL 1987, c. 559, Pt. B, §37, is repealed.

Sec. 152. PL 1987, c. 132, first 2 lines after the enacting clause are repealed and the following enacted in their place:

12 MRSA §683, as amended by PL 1987, c. 18, §1, is further amended to read:

Sec. 153. PL 1987, c. 159, §1, first 2 lines are repealed and the following enacted in their place:

Sec. 1. 10 MRSA c. 110, sub-c. I-C is enacted to read:

SUBCHAPTER I-C

Sec. 154. PL 1987, c. 396, §13 is amended to read:

Sec. 13. Transition provision. All licenses issued by the administrator pursuant to the Maine Revised Statutes, Title 9-A, section 2-302, and all rules adopted by the administrator pursuant to Title 9-A, section 3-310, subsection 5, that are in effect on the date ~~this article~~ Title 9-A, article IX, becomes effective shall remain in full force and effect as if issued or adopted, as the case may be, under this article, for their originally stated duration.

Sec. 155. Effective; retroactivity date. That section of this Act which amends Public Law 1987, chapter 396, section 13 shall take effect retroactive to September 29, 1987.

Sec. 156. PL 1987, c. 450, §2, first line is repealed and the following enacted in its place:

Sec. 2. 20-A MRSA c. 505-A is enacted to read:

Sec. 157. PL 1987, c. 506, §1, first 3 lines are repealed and the following enacted in their place:

Sec. 1. 5 MRSA Pt. 15-A is enacted to read:

PART 15-A

LAND FOR MAINE'S FUTURE

CHAPTER 353

LAND FOR MAINE'S FUTURE FUND

Sec. 158. PL 1987, c. 508, first 3 lines after the enacting clause are repealed and the following enacted in their place:

12 MRSA §685, as amended by PL 1987, c. 308, §5, is further amended by adding at the end a new paragraph to read:

Sec. 159. PL 1987, c. 534, Pt. A, §17, first 3 lines are repealed and the following enacted in their place:

Sec. 17. 5 MRSA Pt. 18-A is enacted to read:

PART 18-A

ECONOMIC AND COMMUNITY DEVELOPMENT

CHAPTER 383

ECONOMIC AND COMMUNITY DEVELOPMENT

Sec. 160. PL 1987, c. 534, Pt. B, §17, first 2 lines are repealed and the following enacted in their place:

Sec. 17. 26 MRSA §1453, sub-§2, as amended by PL 1983, c. 469, §3, is further amended to read:

Sec. 161. PL 1987, c. 633, §3, first 2 lines are repealed and the following enacted in their place:

Sec. 3. 34-A MRSA §3003, sub-§1, ¶D is enacted to read:

Sec. 162. PL 1987, c. 759, §7, last sentence is amended to read:

Provides funds to establish a new Administrative Coordinator position and general operation expenses to assist in the administration of the standardbred horses program and the Sire Stakes Fund.

Sec. 163. PL 1987, c. 766, §10, first 2 lines are repealed and the following enacted in their place:

Sec. 10. 30 MRSA §4967 is enacted to read:

Sec. 164. PL 1987, c. 772, §7 is repealed and the following enacted in its place:

Sec. 7. 36 MRSA §186, as amended by PL 1985, c. 333, §§1 and 3, is further amended to read:

§186. Interest

Any person who fails to pay any tax imposed under this Title, except taxes imposed pursuant to chapter 105, on or before the last date prescribed for payment shall be liable for interest on the tax, calculated from that date. The State Tax Assessor shall establish annually, by regulation rule, establish the rate of interest which shall not exceed the highest conventional rate of interest charged for commercial unsecured loans by Maine banking institutions on the first business day of October preceding the calendar year ~~as determined by the Treasurer of State under section 505, subsection 4.~~ For purposes of this section, the last date prescribed for payment of tax shall be determined without regard to any extension of time permitted for filing a return. A tax which is upheld on administrative or judicial review shall bear interest from the date on which payment would have been due in the absence of review. Any tax, interest or penalty imposed by this Title which has been erroneously refunded and which is recoverable by the State Tax Assessor shall bear interest at the above rate from the date of payment of the refund. Interest shall accrue automatically, without being assessed by the State Tax Assessor, and shall be recoverable by the State Tax Assessor in the same manner as if it were a tax assessed under this Title. If the failure to pay a tax when required is explained to the satisfaction of the State Tax Assessor, ~~he~~ the State Tax Assessor may abate or waive the payment of all or any part of that interest.

Except as otherwise provided in this Title, and except for taxes imposed pursuant to chapter 105, interest, at the rate determined by the State Tax Assessor for underpayments pursuant to this section, shall be paid ~~from the date of overpayment upon any overpayment of tax, interest or penalty on overpayments of tax from the date the return listing the overpayment was filed, or the payment was made, whichever is later.~~

Sec. 165. Effective; retroactivity date. That section of this Act which repeals and replaces Public Law 1987, chapter 772, section 7 shall take effect retroactive to August 4, 1988.

Sec. 166. PL 1987, c. 772, §35, first 2 lines are repealed and the following enacted in their place:

Sec. 35. 36 MRSA §§4433 to 4436 are enacted to read:

Sec. 167. PL 1987, c. 787, §10, is amended in subsection 5 by striking out that part relating to 587, and inserting in its place the following:

<u>587, Ambient air quality or emissions</u>	<u>5,050</u>	<u>50</u>
<u>standards variances</u>		

Sec. 168. PL 1987, c. 860, §1, first 2 lines are repealed and the following enacted in their place:

Sec. 1. 30 MRSA §3223-B, as enacted by PL 1987, c. 381 and as amended by PL 1987, c. 553, is repealed and the following enacted in its place:

PART B

Sec. 1. 5 MRSA §282, sub-§6, as repealed and replaced by PL 1987, c. 769, Pt. A, §10, is amended to read:

6. Supervise. To supervise and direct the administration of the State Claims Commission; ~~and~~ .

Sec. 2. 5 MRSA §6204, sub-§4, as repealed and replaced by PL 1987, c. 858, §2, is amended to read:

4. Terms; compensation. The appointed private citizen members shall be appointed to staggered 4-year terms. The initial appointments shall be as follows: Two members for 2-year terms; 2 members for 3-year terms; and 2 members for 4-year terms. Appointed private citizen members may serve no more than 2 consecutive 4-year terms. The appointed members shall receive the legislative per diem pursuant to chapter ~~375~~ 379.

Sec. 3. 7 MRSA §973, as amended by PL 1987, c. 727, §§1 and 4 and c. 754, §§1 and 2, is repealed and the following enacted in its place:

§973. Potato Marketing Improvement Fund

There is created a fund to be known as the Potato Marketing Improvement Fund, to which shall be credited all funds received by the commissioner from any source for the development and implementation of an improved storage, packing and marketing program. Any money credited to the Potato Marketing Improvement Fund from the issuance of bonds on behalf of the State for agricultural development shall be used only for the purposes of state loans as prescribed by section 974-A, to provide assistance to farmers for the design, construction, improvement, support and operation of storage, packing and marketing facilities and to pay the administrative costs of processing loan applications, to the extent that the costs exceed the fee for administrative costs established by section 974-A, subsection 2. Repayment of these loans and interest thereon shall be credited to the Potato Marketing Improvement Fund to be available for making additional state loans for the same purposes, except that any interest earned on the cash balance of the fund may be used for the grants authorized by section 975.

A purchaser of a modern storage facility which was previously financed with a state loan from the Potato Marketing Improvement Fund may receive a loan under the

conditions of this section. Mortgages obtained from the fund may be assumed by subsequent purchasers of the property. The department shall promulgate rules concerning the purchase of existing buildings. These rules shall include provisions that ensure that such purchases are in keeping with the purposes and intent of this article and of Private and Special Law 1981, chapters 65 and 75. They shall also include a definition of a modern storage facility.

Sec. 4. 7 MRSA §975, as enacted by PL 1987, c. 727, §§2 and 4 and c. 754, §3, is repealed and the following enacted in its place:

§975. Grants

All or any portion of the interest earned or accruing on the cash balance of the Potato Marketing Improvement Fund may be used for grants to individuals, firms, corporations or other organizations for any of the following purposes:

1. Partial cost of project. To pay an amount not to exceed 50% of the total cost of any project. The purpose of any project shall be to provide equipment and facilities for washing and otherwise preparing potatoes for packing, such equipment and facilities including, but not limited to, wells, pressure pumps, plumbing and necessary auxiliary equipment. The total amount granted under this subsection for any single year shall not exceed 25% of the aggregate interest earned and attributable to funds from the issuance of state bonds;

2. Research projects. To partially or fully fund specific research projects, the purpose of which is to study and assess technical problems experienced with new and retrofitted storage facilities, and to develop means of dealing with such problems, or to examine, monitor and develop new technologies for the storage and handling of potatoes; and

3. Use and disposal of cull potatoes. To conduct a research program to explore and establish productive uses of cull potatoes, to conduct feasibility studies appropriate to such uses and to conduct research pertaining to the safe and effective disposal of culls not used for productive purposes.

The commissioner, by rule, promulgated in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, shall establish criteria for the allocation of grants.

Sec. 5. Repeal. The Maine Revised Statutes, Title 7, section 975, as repealed and replaced in this Act, is repealed on April 15, 1991.

Sec. 6. 7 MRSA §976 is enacted to read:

§976. Aroostook County office

The department shall maintain or arrange for the maintenance of an office in Aroostook County located in a town most convenient to the largest number of potential users of the Potato Marketing Improvement Fund and sufficiently close to any local office of the Maine Potato

Board as to foster a close working relationship and provide a convenience to farmers who wish to visit both agencies. This office shall be staffed by a business development specialist whose responsibilities shall be as defined by the department. The business development specialist shall be available in the Aroostook County office on a regular basis.

Should the performance of the functions of the business development specialist be contracted for, this contract shall be made by the agency managing the fund and shall be awarded through competitive bidding.

Sec. 7. 7 MRSA §1331, sub-§4, as enacted by PL 1987, c. 685, §1, is amended to read:

4. Penalties. Any person engaged in the business of propagating, possessing, buying or selling domesticated deer without a license as provided for in ~~section~~ subsection 2 is guilty of a Class E crime.

Sec. 8. 12 MRSA §557, sub-§3, as amended by PL 1987, c. 737, Pt. C, §§21 and 106 and PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

3. Compensation to municipalities. Notwithstanding the other provisions of this section, 25% of the net revenues from any public lands, excluding submerged lands, public reserved lands and ~~lands held under section 560 Baxter State Park~~, and excluding proceeds from the sale of land, located in municipalities and managed by the Bureau of Public Lands, shall be returned by the Treasurer of State to the municipality wherein the land generating the income is located, to be used for municipal purposes. With respect to those public reserved lands which were located in townships or tracts organized into plantations as of March 1, 1974, when any such plantation, subsequent to that date, becomes incorporated into a town, 75% of any income from residential leasehold camps, excluding any income or proceeds from the sale, exchange or relocation of any of these camps under ~~Title 12, section 590~~, and 25% of any other income from such public reserved land shall be returned by the Treasurer of State to the municipality wherein such public reserved land is located, to be used for municipal purposes. With respect to stumpage income from timber located on public reserved lands and leased pursuant to ~~Title 12, section 585~~, subsection 4, paragraph K, 50% of the income shall be returned by the Treasurer of State to the lessee for its own purposes. The director may approve the handling of income from sales or permits for up to \$500 by the lessees. The lessees shall submit a semiannual accounting of this income and payment for the State's share of the income.

Sec. 9. 12 MRSA §4818, sub-§1, 1B, as enacted by PL 1985, c. 236, is amended to read:

B. "Maritime activity" includes the construction, repair, storage, loading and unloading of boats, ~~chancery~~ chandlery and other commercial activities designed and intended to facilitate maritime trade.

Sec. 10. 12 MRSA §7701-B, sub-§2, as enacted by PL 1983, c. 374, §3, is amended to read:

2. Initiation of fishway proceedings. Within 30 days of receipt of the construction notice, the commissioner shall review the plans in order to determine whether fishway construction or alteration of proposed fishway construction plans may be required pursuant to the criteria set forth in section ~~7704~~ 7701-A, subsection 3. If the commissioner determines that the construction or alteration may be necessary, ~~he~~ the commissioner shall initiate fishway proceedings and follow the procedures prescribed in section ~~7704~~ 7701-A.

Sec. 11. 12 MRSA §7857, sub-§15, ¶A, as enacted by PL 1983, c. 297, §§1 and 3, is amended to read:

A. Each ATV shall meet noise ~~omission~~ emission standards of the United States Environmental Protection Agency and in no case exceed 82 decibels of sound pressure level at 50 feet on the 'A' scale as measured by the SAE standards J-192.

Sec. 12. 12 MRSA §7901, sub-§6, as enacted by PL 1983, c. 796, §7, is repealed.

Sec. 13. 12 MRSA §7901, sub-§7, as enacted by PL 1983, c. 862, §41, is repealed.

Sec. 14. 12 MRSA §8861, first ¶, as enacted by PL 1987, c. 286, is amended to read:

As used in this ~~section~~ article, unless the context indicates otherwise, the following terms have the following meanings.

Sec. 15. 14 MRSA §1602-A, sub-§§1 and 2, as enacted by PL 1987, c. 646, §4, are amended to read:

1. Actions; District Court jurisdictional limit. For actions in which the damages claimed or awarded do not exceed the jurisdictional limit of the District Court set forth in Title 4, section 152, of 15% per year; and

2. Other action. For other actions, equal to the coupon issue yield equivalent, as determined by the United States Secretary of the Treasury, of the average accepted auction price for the last auction of 52-week United States Treasury bills settled immediately prior to the date from which the interest is calculated, plus 3%.

Sec. 16. 15 MRSA §3101, sub-§4, ¶B, as amended by PL 1979, c. 681, §3, is further amended to read:

B. Every bind-over hearing shall precede and shall be conducted separately from any adjudicatory hearing.

The Maine Rules of Evidence shall apply only to the probable cause portion of the bind-over hearing.

For the purpose of making the findings required by paragraph E, ~~subparagraphs (2) and (3)~~ subpara-

graph (2), written reports and other material may be received by the court along with other evidence, but the court, if so requested by the juvenile, ~~his~~ the juvenile's parent or guardian or other party, shall require that the person or persons; who wrote the report or prepared the material; appear as witness and be subject to examination, and the court may require that the persons whose statements appear in the report appear as witnesses and be subject to examination.

Sec. 17. 20-A MRSA §1, sub-§34-A, ¶B, as enacted by PL 1985, c. 789, §§2 and 9, is amended to read:

B. Placed, with the recommendation of a Bureau of Mental Retardation case manager or an employee of the ~~Office of Children's Services~~ Bureau of Children with Special Needs, Department of Mental Health and Mental Retardation, with a person who is not the child's parent, legal guardian or relative;

Sec. 18. 20-A MRSA c. 325, first 3 lines, as enacted by PL 1987, c. 827, §1, are repealed and the following enacted in their place:

CHAPTER 327

STUDENTS IN LONG-TERM DRUG TREATMENT CENTERS

Sec. 19. 20-A MRSA §15612, sub-§10, as enacted by PL 1987, c. 827, §2 and as amended by PL 1987, c. 861, §§16 and 17, is repealed and the following enacted in its place:

10. Adjustment for cost of educating eligible students in long-term drug treatment centers. A school administrative unit which operates an educational program, approved pursuant to sections 9701 to 9706 to serve eligible students in licensed drug treatment centers, shall be reimbursed in the year in which costs are incurred as follows.

A. Reimbursements shall be limited to a maximum of 12 state average tuition rates a year for each approved plan.

B. The rate of reimbursement per student shall not exceed the state average tuition rates in effect during the year of placement as computed under sections 5804 and 5805.

C. The funds for the adjustment shall be limited to the amount appropriated by the Legislature for that purpose.

Sec. 20. 20-A MRSA §15612, sub-§11 is enacted to read:

11. Special education tuition and cost for out-of-district placement adjustment. The following provisions shall apply to payment of tuition and room and board costs for out-of-district placements. Based on the costs under section 15603, subsection 22, paragraph B, the State shall

annually pay each local unit a per pupil adjustment determined by dividing the amount of funds made available to the department for carrying out the purposes of this Act by the number of children in out-of-district placements. The local school administrative unit shall pay the balance. This program shall be phased in based on the annual appropriation for this purpose.

Sec. 21. Effective date. That section of this Act which enacts the Maine Revised Statutes, Title 20-A, section 15612, subsection 11 shall take effect July 1, 1989.

Sec. 22. 22 MRSA §2260-A, sub-§2, ¶D, as repealed and replaced by PL 1987, c. 745, §1 and c. 816, Pt. KK, §20, is repealed and the following enacted in its place:

D. Water transported from a water source that, before July 1, 1987, was used to supply water for bottling and sale, and which is used exclusively for bottling and is sold in its pure form or as a carbonated or flavored beverage product.

Sec. 23. 24-A MRSA §2363, sub-§6, as enacted by PL 1987, c. 559, Pt. A, §4, is amended to read:

6. Additional information. The superintendent may require, at any time, any additional information ~~he~~ the superintendent deems necessary and may reasonably extend the time periods established in subsection 9 11 to allow time to provide that information.

A. Within 30 days of receipt of a filing, the superintendent shall determine if the filing is complete.

(1) If the filing is incomplete, the superintendent shall notify the applicant and all parties in writing of those deficiencies.

(2) An applicant shall complete or amend the filing within 30 days of that written notice. Upon motion by the applicant made within the 30-day period and upon a showing of good cause, the superintendent may extend the 30-day period as ~~he~~ the superintendent deems appropriate.

(3) An action or inaction by the superintendent under this paragraph does not constitute a substantive finding that the information in the filing is sufficient to establish that any action or relief should be granted or that any facts have been proven or limit the superintendent's authority to request further information or data.

B. If the applicant fails to furnish the information within the time prescribed, the superintendent may issue an order dismissing the filing.

C. For all purposes, the date of completing the filing shall be deemed the date on which the last document that made the filing complete was received by the superintendent, except that the superintendent may

treat the day that the incomplete filing was filed as the filing date if the incompleteness is found to be immaterial or not to have delayed, impeded or interfered with the ability of the superintendent, bureau or any party to respond to, investigate or process the filing.

Sec. 24. 26 MRSA §42, as amended by PL 1987, c. 559, Pt. B, §5 and c. 733, §5, is repealed and the following enacted in its place:

§42. Powers and duties

The bureau shall collect, assort and arrange statistical details relating to all departments of labor and industrial pursuits in the State; to trade unions and other labor organizations and their effect upon labor and capital; to the number and character of industrial accidents and their effect upon the injured, their dependent relatives and upon the general public; to other matters relating to the commercial, industrial, social, educational, moral and sanitary conditions prevailing within the State, including the names of firms, companies or corporations, where located, the kind of goods produced or manufactured, the time operated each year, the number of employees classified according to age and sex and the daily and average wages paid each employee; and the exploitation of such other subjects as will tend to promote the permanent prosperity of the industries of the State. The director is authorized and empowered, subject to the approval of the Governor, to accept from any other agency of government, individual, group or corporation such funds as may be available in carrying out this section, and meet such requirements with respect to the administration of such funds, not inconsistent with this section, as are required as conditions precedent to receiving such funds. An accounting of such funds and a report of the use to which they were put shall be included in the biennial report to the Governor. Each agency of government shall cooperate fully with the bureau's efforts to compile labor and industrial statistics. The director shall cause to be enforced all laws regulating the employment of minors and women; all laws established for the protection of health, lives and limbs of operators in workshops and factories, on railroads and in other places; all laws regulating the payment of wages; and all laws enacted for the protection of the working classes. The director shall, on or before the first day of July, biennially, report to the Governor, and may make such suggestions and recommendations as the director may deem necessary for the information of the Legislature. The director may from time to time cause to be printed and distributed bulletins upon any subject that shall be of public interest and benefit to the State and may conduct a program of research, education and promotion to reduce industrial accidents. The director may review various data, such as workers' compensation records, as well as other information relating to any public or private employer's safety experience. When any individual public or private employer's safety experience causes the director to question seriously the safe working environment of that employer, the director may offer any safety education and consultation programs to that employer that may be beneficial in providing a safer work environment. If the employer refuses this assistance or is in serious noncompliance which may lead to injuries, or if serious threats to worker safety

continue, then the director shall communicate concerns to appropriate agencies, such as the United States Occupational Safety and Health Administration. As used in this section, the term "noncompliance" means a lack of compliance with any applicable health and safety regulations of the United States Occupational Safety and Health Administration or other federal agencies. The bureau shall be responsible for the enforcement of indoor air quality and ventilation standards with respect to state-owned buildings and buildings leased by the State. The bureau shall enforce air quality standards in a manner to ensure that corrections to problems found in buildings be made over a reasonable period of time, using consent agreements and other approaches as necessary and reasonable.

Sec. 25. 26 MRSA §2106-A, as enacted by PL 1987, c. 769, Pt. A, §111, is repealed.

Sec. 26. 28-A MRSA §453, sub-§4, ¶D is enacted to read:

D. The commission shall conduct an investigation to determine the most feasible location and type of facility for the agency liquor store.

Sec. 27. 28-A MRSA §453, sub-§4, ¶E, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed and the following enacted in its place:

E. The commission shall notify any applicant denied a license the reasons for the denial by certified mail to the mailing address given by the applicant in the application for an agency liquor store license.

Sec. 28. 28-A MRSA §453, sub-§4, ¶F, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.

Sec. 29. 29 MRSA §780, sub-§7-A, as enacted by PL 1987, c. 562 and c. 789, §17, is repealed and the following enacted in its place:

7-A. Governmental vehicle exemption. The provisions of this section shall not apply to governmental vehicles in section 256.

Sec. 30. 29 MRSA §780, sub-§7-B is enacted to read:

7-B. Other exemptions. The provisions of this section shall not apply to vehicles owned or controlled by a dealer as defined by chapter 5, subchapter III-A, nor to any vehicle registered by the Secretary of State as a vehicle for hire.

Sec. 31. 29 MRSA §831, as amended by PL 1987, c. 141, Pt. B, §26, is further amended to read:

§831. Insurance for vehicles for hire

The Secretary of State shall not register any motor vehicle rented or leased on plans commonly known as U-Drive, Drive Yourself or Driverless Car plans nor any motor vehicle used for livery or hire, except as provided in ~~the~~

~~35-A~~, section 2708, and no person, firm or corporation may operate or cause to be operated upon any public highway in this State any such motor vehicle, until the owner or owners thereof shall have procured insurance or a bond, having a surety company authorized to transact business in this State or 2 individuals as sureties thereon, in the amount of \$20,000 because of bodily injury or death to any one person, and subject to the limit respecting one person, in the amount of \$40,000 because of bodily injury to or death to 2 or more persons in any one accident, and in the amount of \$10,000 because of injury to and destruction of property in any one accident, which insurance or bond shall be approved by the Secretary of State and shall indemnify the insured against any legal liability for personal injury, the death of any person or property damage, which injury, death or damage may result from or have been caused by the operation of the motor vehicle described in the contract of insurance or such bond. The Secretary of State shall not approve the policy or bond unless it provides primary coverage for the operator as well as the owner.

Sec. 32. 29 MRSA §1311-A, sub-§2, ¶C, as repealed and replaced by PL 1983, c. 850, §1, is amended to read:

C. Except as provided in paragraph D, the determination of these facts by the Secretary of State is independent of the determination of the same or similar facts in the adjudication of any ~~civil or~~ criminal charges arising out of the same occurrence. The disposition of those ~~civil or~~ criminal charges shall not affect any suspension under this section. Statements made by the licensee at the hearing before the Secretary of State shall not be introduced by the State in its case in chief in any prosecution for violation of section 1312-B; ~~1312-C~~ or Title 15, section 3103, subsection 1, paragraph F, arising out of the same occurrence.

Sec. 33. 29 MRSA §1311-A, sub-§2, ¶D, as repealed and replaced by PL 1983, c. 850, §1, is repealed.

Sec. 34. 29 MRSA §1311-A, sub-§5, ¶¶B and C, as repealed and replaced by PL 1983, c. 850, §1, are amended to read:

B. The period of license suspension for a person ~~who~~ whom the Secretary of State has determined to have operated or attempted to operate a motor vehicle with an excessive ~~blood-alcohol~~ blood-alcohol level for a first or subsequent offense shall be the same suspension period as if the person ~~was~~ were convicted or adjudicated of a violation of section 1312-B; ~~1312-C~~ or Title 15, section 3103, subsection 1, paragraph F.

C. When a person's license is suspended under this section and is also suspended after having been adjudicated or convicted on charges arising out of the same occurrence for a violation of section 1312-B; ~~1312-C~~; or Title 15, section 3103, subsection 1, paragraph F, the period of time ~~his~~ the license has been suspended under this section prior to the adjudication or conviction shall be deducted from the

period of time any court-imposed suspension ordered pursuant to section 1312-B, ~~1312-C~~, or Title 15, section 3103, subsection 1, paragraph F. The periods of suspension are intended to be minimum periods of suspension and the Secretary of State may suspend the license for the additional periods as provided in section 1312-D, subsection 1-A.

Sec. 35. 29 MRSA §2453, sub-§2, as repealed and replaced by PL 1987, c. 485, §20, is amended to read:

2. Renewal application. The Secretary of State, after a thorough investigation, shall act upon an application for renewal of a ~~motor vehicle dealer's~~ recycler's or scrap processor's license within 90 days after receipt of the application, by renewing that license or refusing to grant the license. If the Secretary of State refuses to renew a recycler's or scrap processor's license, notice shall be given to that applicant that an opportunity for hearing before the Secretary of State or ~~his~~ the Secretary of State's deputy shall be provided upon request to show cause why that renewal should be issued.

Sec. 36. 30 MRSA §5058, as amended by PL 1989, c. 13, is repealed.

Sec. 37. 32 MRSA §1602, sub-§2, as amended by PL 1989, c. 162, §4, is further amended to read:

2. Rules. The board may adopt rules commensurate with the authority vested in it by this chapter, subject to the Maine Administrative Procedure Act, Title 5, chapter 375, and subject to the approval of the Commissioner of Human Services.

The rules shall include, but not be limited to, rules concerning the proper use of appliances, apparatus and electrical machines used in any establishment for or in connection with the practice of cosmetology, and prescribing the sanitary requirements to be observed by proprietors of beauty shops and by persons engaged in this practice and shall make regulations not contrary to law relative to the applications for licenses and certificates of registration. The rules shall also include reasonable requirements, including sanitary standards, to govern the practice of ~~barbering~~ cosmetology by persons outside of licensed shops, as authorized by section 1552, subsection 2. The board shall cause these rules to be printed in suitable form and a copy thereof to be sent to the proprietors of those shops, which copy shall be kept posted in a conspicuous place in those shops so as to be easily read by customers.

A copy of all rules which are adopted by vote of the board and which are approved by the Commissioner of Human Services shall be sent to all persons licensed under this chapter.

Sec. 38. 32 MRSA §2001, 2nd ¶, as repealed and replaced by PL 1983, c. 413, §103, is amended to read:

Appointments shall be for 5-year terms, except that no more than one appointed member's term may expire in any one calendar year and appointments for terms of less than 5 years may be made in order to comply with this

limitation. No appointed member may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 5-year term shall be deemed a full term. Upon expiration of a member's term, ~~he~~ the member shall serve until ~~his~~ a successor is qualified and appointed. The successor's term shall be 5 years from the date of ~~his~~ his appointment. Any vacancy ~~concurring~~ occurring prior to the expiration of the specified term shall be filled by appointment for the unexpired term. A board member may be removed by the Governor for cause.

Sec. 39. 32 MRSA §13225, sub-§1, ¶D, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

D. Files the bond required or otherwise complies with section ~~4125~~ 13226;

Sec. 40. 33 MRSA §601, 2nd ¶, as amended by PL 1981, c. 698, §166, is further amended to read:

Vacancies shall be filled for the unexpired term by election as provided for in section 602 at the next ~~November~~ general election, as defined in Title 21-A, section 1, subsection 19, after their occurrence. In the meantime, the Governor may fill vacancies by appointment, and the person so appointed shall hold ~~his~~ his office until the first day of January, next after the election ~~last mentioned~~. Until a vacancy is filled by appointment by the Governor, the deputy register shall serve as acting register as provided in section 605.

Sec. 41. 33 MRSA §609 is amended to read:

§609. Successors may complete records and grant certificates

~~Such clerk as referred to in section 607, or his substitute, or the~~ The newly appointed or elected register or any successor within 5 years after the original vacancy occurred shall complete, compare and certify any unfinished record or certificate required by law and make all requisite certificates upon deeds and other papers recorded, which ~~his~~ the removed predecessor should have done if such records and certificates had been completed by ~~him~~ the predecessor, which certificates shall be as effectual in law as if made by ~~his~~ the predecessor; for doing this, the minutes made by ~~his~~ the predecessor upon such deeds or other papers and the entries made by ~~him~~ the predecessor in the books required to be kept for such purposes shall be sufficient authority. If payment for such services has been made to ~~his~~ the predecessor, ~~he~~ the newly appointed or elected register or any successor shall be paid for them out of the county treasury, and the former register and ~~his~~ the former register's sureties shall refund such payments to the county treasury, to be recovered by a civil action upon ~~his~~ the former register's official bond.

Sec. 42. 33 MRSA §1660, sub-§2, as enacted by PL 1987, c. 734, §2, is amended to read:

2. Transfer instrument. An instrument in the following form satisfies the requirements of subsection 1,

paragraph A, subparagraph (1); and subsection 1, paragraph G, ~~subparagraph (1)~~:

TRANSFER UNDER THE MAINE UNIFORM TRANSFERS TO MINORS ACT

I,.....(name of transferor or name and representative capacity if a fiduciary) hereby transfer to.....(name of custodian), as custodian for.....(name of minor) under the Maine Uniform Transfers to Minors Act, the following: (insert a description of the custodial property sufficient to identify it).

Dated: (Signature)

.....(name of custodian) acknowledges receipt of the property described above as custodian for the minor name above under the Maine Uniform Transfers to Minors Act.

Dated: (Signature of Custodian)

Sec. 43. 33 MRSA §1869, sub-§§1 to 3, as enacted by PL 1987, c. 691, §4, are amended to read:

1. Agreements within 24 months. All agreements to pay compensation to recover or assist in the recovery of property reported under section 1851 made 24 months or less after the date payment or delivery is made under section 1853, are unenforceable.

2. Agreements within 24 to 36 months. Agreements to pay compensation to recover or assist in the recovery of property reported under section 1851, made more than 24 months, but less than 36 months after the date payment or delivery is made under section 1853, may not exceed 15%.

3. Agreements after 36 months. Agreements to pay compensation to recover or assist in the recovery of property reported under section 1851 made 36 months or more after the date payment or delivery is made under section 1853 may exceed 15% if the agreement:

- A. Is in writing and signed by the owner;
B. Discloses the nature and value of the property; and
C. Discloses the name and address of the holder and the administrator.

Sec. 44. 34-B MRSA §1214, as enacted by PL 1987, c. 181, §§1 and 2 and c. 831, §2, is repealed and the following enacted in its place:

§1214. Committee for the Interdepartmental Coordination of Services to Children and Families

1. Establishment. The Committee for the Interdepartmental Coordination of Services to Children and Families is established.

2. Purpose. It is the intent of the Legislature to encourage the coordination of policies and programs for Maine children and families.

3. Membership. The committee shall be composed of 4 members: The Commissioner of Corrections; Commissioner of Educational and Cultural Services; Commissioner of Human Services; and Commissioner of Mental Health and Mental Retardation.

4. Goals of the committee. The goals of the committee shall be:

A. To encourage a statewide system of coordinated services, which are responsive to the current needs of children and families and which are delivered by a partnership of public, private and nonprofit state level and community based agencies, and to promote access to services by all children and their families who are in need of these services;

B. To evaluate on a continuing basis the allocation of resources to ensure the availability of quality services delivered in a coordinated and efficient manner that is consistent with the needs of children and families; and

C. To continue the development of a comprehensive and coordinated approach to initiation and revision of policy affecting services to children and families.

5. Meetings. The committee shall meet on a regular basis.

6. Chair. The committee shall select a chair from among the 4 commissioners and the chair shall serve for a term established by the committee.

7. Subcommittees. The committee may appoint subcommittees to carry out its work. Subcommittee membership may include representatives of public and private agencies which serve youth and families and other persons with special knowledge of, responsibility for or interest in an area related to the goals of the committee.

8. Report. The committee shall report annually to the Legislature on its progress in meeting the goals cited in subsection 4 and its proposals for implementing these same goals in the forthcoming year.

9. Administration. The costs associated with the committee shall be shared among the members of the committee. Nothing in this section may be construed to prohibit a member department from assigning its employees to serve as staff to the committee. The Department of

Mental Health and Mental Retardation shall serve as fiscal agent for the committee.

10. Authorization to accept funds. The Department of Mental Health and Mental Retardation may accept, on behalf of the committee, funds from the Federal Government, from any political subdivision of the State or from any individual, foundation or corporation and may expend these funds for purposes which are consistent with this section.

Sec. 45. 34-B MRSA §1215 is enacted to read:

§1215. Interim assistance payments

The department shall establish and maintain a nonlapsing revolving fund to provide interim assistance payments to Supplemental Security Income recipients:

1. Benefits for hospitalization. Whose benefits have been terminated while they were hospitalized and who are reapplying for benefits because of their release from the hospital; or

2. Benefits when no longer able to work. Whose benefits have been terminated because they returned to work and who are reapplying for benefits because they have suffered a relapse and are no longer able to work.

These benefits shall be provided until their Supplemental Security Income application has been acted on. The fund shall be reimbursed, pursuant to Title 22, section 3174-E, for interim assistance payments made under this section.

Sec. 46. 36 MRSA §1760, sub-§65, as enacted by PL 1989, c. 28 and c. 130, is repealed and the following enacted in its place:

65. Sales to monasteries and convents. Sales of items for use in the operation and maintenance of an incorporated nonprofit monastery or convent. For the purpose of this subsection, "monastery" and "convent" means the dwelling place of a community of religious persons.

Sec. 47. 36 MRSA §1760, sub-§66 is enacted to read:

66. Incorporated nonprofit providers of certain support systems for single-parent families. Sales to incorporated nonprofit organizations engaged primarily in providing support systems for single-parent families for the development of psychological and economic self-sufficiency.

Sec. 48. 36 MRSA §2524, sub-§1, as enacted by PL 1987, c. 343, §8, is amended to read:

1. Credit allowed. A taxpayer under this chapter constituting an employing unit is allowed a credit against the tax imposed by this ~~section~~ chapter for each taxable year equal to the lowest of:

A. Five thousand dollars;

B. Twenty percent of the costs incurred by the taxpayer in providing day care service for children of employees of the taxpayer; or

C. One hundred dollars for each child of an employee of the taxpayer enrolled on a full-time basis, or each full-time equivalent, throughout the taxable year in day care service provided by the taxpayer or in the first year that the taxpayer provides day care services, for each child enrolled on a full-time basis, or each full-time equivalent, on the last day of the year.

Sec. 49. 38 MRSA §423, as amended by PL 1979, c. 444, §10, is further amended to read:

§423. Discharge of waste from watercraft

No person, firm, corporation or other legal entity ~~shall~~ may discharge, spill or permit to be discharged sewage, garbage or other pollutants from watercraft, as defined in Title 12, section ~~2064~~ 7791, subsection ~~47~~ 14, and including houseboats, into inland waters of this State, or on the ice thereof, or on the banks thereof in such a manner that the same may fall or be washed into such waters, or in such manner that the drainage therefrom may flow into such waters.

Any watercraft, as defined in Title 12, section ~~2064~~ 7791, subsection ~~47~~ 14, including houseboats, operated upon the inland waters of this State and having a permanently installed sanitary waste disposal system shall have securely affixed to the interior discharge opening of such sanitary waste disposal system a holding tank or suitable container for holding sanitary waste material so as to prevent its discharge or drainage into the inland waters of the State.

Sec. 50. 38 MRSA §484, sub-§2, as repealed and replaced by PL 1987, c. 760, §1, and c. 812, §§10 and 18, is repealed and the following enacted in its place:

2. Traffic movement. The developer has made adequate provision for traffic movement of all types into, out of or within the development area. The board shall consider traffic movement both on-site and off-site. Before issuing a permit, the board shall determine that any traffic increase attributable to the proposed development will not result in unreasonable congestion or unsafe conditions on a road in the vicinity of the proposed development;

Sec. 51. 38 MRSA §1319-T, sub-§1, as amended by PL 1987, c. 545, is further amended to read:

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

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

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

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

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

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

Sec. 52. ~~38 MRSA §1451, sub-§17, ¶B~~, as enacted by PL 1983, c. 381, §9, is amended to read:

B. Activities, whether in the laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in ~~site~~ situ testing needed to evaluate the suitability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

Sec. 53. PL 1981, c. 456, Pt. A, §127, sub-§2 is amended to read:

2. Justice of the peace. Whoever is a justice of the peace on July 1, 1981, shall continue after July 1st until the expiration of his term, and may have his commission renewed for one additional 7-year term, except that he shall be a notary public as provided in this Act. ~~All subsequent renewals of justice of the peace commissions shall be made under Title 5, section 82.~~

Sec. 54. PL 1981, c. 456, Pt. A, §128 is repealed.

Sec. 55. P&SL 1985, c. 40, §1, first 3 lines are repealed and the following enacted in their place:

Sec. 1. P&SL 1887, c. 107, §1, as amended by PL 1913, c. 185, §1, is amended by adding at the end the following:

Sec. 56. P&SL 1985, c. 40, §2, first 3 lines are repealed and the following enacted in their place:

Sec. 2. P&SL 1887, c. 107, §2, as amended by PL 1913, c. 185, §2, is repealed and the following enacted in its place:

Sec. 57. PL 1987, c. 256, §24 is repealed.

Sec. 58. PL 1987, c. 342, §86 is repealed and the following enacted in its place:

Sec. 86. 28-A MRSA §1062, sub-§3, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

3. Income from sale of food requirement. Except as provided in paragraph B, at least 10% of the ~~total~~ gross annual income must be from the sale of food for both year-round and part-time restaurants.

A. The commission may not renew any license for the sale of wine or malt liquor unless the licensee furnishes proof to the commission that the previous year's business conformed to the income requirement of this subsection.

B. Income from the bowling business in bowling alleys must not be included in the income requirement of this section.

Sec. 59. PL 1987, c. 402, Pt. B, §29, first 2 lines are repealed and the following enacted in their place:

Sec. 29. PL 1987, c. 180, §7, 7th and 8th lines are amended to read:

Sec. 60. PL 1987, c. 491, §19 is repealed and the following is enacted in its place:

Sec. 19. 38 MRSA §569, sub-§3-A is enacted to read:

3-A. Determination of disputed 3rd-party damage claims. The commissioner shall establish a claims processing capability within the department to hear and determine claims filed under this subchapter which are not agreed upon by the claimant and the board.

A. An independent hearing examiner appointed by the commissioner shall hear and determine any disputed 3rd-party damage claims.

B. To the extent practical, all claims arising from or related to a common discharge shall be heard and determined by the same hearing examiner.

C. Hearings before the hearing examiner shall be informal and the rules of evidence prevailing on judicial proceedings shall not be binding. The hearing examiner may administer oaths and require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence

relative or pertinent to the issues presented to the hearing examiner for determination.

D. Determinations made by the hearing examiner shall be final and those determinations may be subject to review by a Justice of the Superior Court, but only as to matters relating to abuse of discretion by the hearing examiner. A claimant seeking review of a hearing examiner determination shall file an appeal in the Superior Court within 30 days of the determination.

E. The commissioner shall certify the amount of the damage award, if any, after determination by the hearing examiner, and shall certify the name of the claimant to the Treasurer of State, unless the commissioner has determined that the claimant is a responsible party, in which case certification shall be withheld until all claims that the department has against the responsible party with respect to the discharge have been satisfied.

Sec. 61. PL 1987, c. 504, §32 is amended by striking out that part designated §5219 and inserting in its place the following:

§5219. Income tax credit for installation of renewable energy systems

A taxpayer who purchases and installs an active solar system, a passive solar system, a photovoltaic system or a wind energy system or components for any of these systems in this State shall be allowed a credit against the tax otherwise due under this Part equal to 20% of the purchase price of the system, including sales tax, or \$100, whichever is less. The credit is allowable against taxes due only for the year in which installation is completed and only for the initial purchase of new equipment. No more than one taxpayer may claim the credit for any installation. In no case may this credit be claimed more than once by any taxpayer and in no case may this credit reduce the state income tax to less than zero. This section shall remain in effect until January 1, 1989.

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

A. An "active solar system" means an assembly of a collector, thermal device and transfer medium which converts solar energy into thermal energy and in which mechanical energy is used to accomplish the transfer of thermal energy. Active solar systems include, but are not limited to, solar hot water systems and solar space heating panels that use a fan or pump to circulate the transfer medium. Qualifying systems or components do not include sunspaces or heat pumps.

B. A "passive solar system" means an assembly of a collector, thermal device and transfer medium which converts solar energy into thermal energy in a controlled manner and in which no fans or pumps are used to accomplish the transfer of the thermal en-

ergy. Passive solar systems include, but are not limited to, Trombe walls and thermosiphoning air panels. Qualifying components include, but are not limited to, phase change materials and water storage tubes. The following solar-related items do not qualify as a passive solar system or component: Glazing; windows and movable insulation; skylights; solar ponds; swimming pool covers; and masonry walls and floors.

C. "Photovoltaic system" means an array of solar cells which convert sunshine directly into electric current. The system may include batteries that store the electricity.

D. A "wind energy system" includes any machine which converts available wind energy into electrical output form. A wind energy system has 4 subsystems:

- (1) A rotor;
- (2) Power processing components;
- (3) Tower; and
- (4) Control components.

Sec. 62. PL 1987, c. 530, §5 is amended to read:

Sec. 5. Transitional provisions. In order to provide money for the timely commencement of the work of the authority and additional regulatory responsibilities of the Department of Environmental Protection, there shall be imposed an immediate assessment of up to \$300,000 levied proportionally on all generators as provided in the Maine Revised Statutes, Title 5 38, section 1454, on the amount of their waste generated in calendar year 1986. The fees assessed under this section shall be paid within 30 days of the effective date of this Act and notwithstanding the cap established in Title 38, section 1454, deposited in the Radioactive Waste Evaluation Fund established pursuant to that section. The amount of \$200,000 shall be transferred without repayment from the Radioactive Waste Evaluation Fund to the Low-level Radioactive Waste Facility Fund established pursuant to Title 38, section 1534 to pay for operational costs incurred by the authority in fiscal year 1987-88.

The portion of the \$6,312.49 in milestone incentive payments from the United States Department of Energy in account number 3536.1 which remains in that account on the effective date of this Act is transferred to the Low-level Radioactive Waste Facility Fund for use in accordance with the restrictions on the use of those funds in the United States Low-level Radioactive Waste Policy Amendments Act of 1985, Public Law 99-240.

Sec. 63. PL 1987, c. 547, §3 is enacted to read:

Sec. 3. Sunset. This Act is repealed on September 30, 1992.

Sec. 64. PL 1987, c. 559, Pt. B, §23 is repealed and the following enacted in its place:

Sec. 23. 39 MRSA §53-A, as amended by PL 1987, c. 156, §1, is repealed.

Sec. 65. PL 1987, c. 580, §2, first line is repealed and the following enacted in its place:

Sec. 2. PL 1987, c. 542, Pt. A, §2 is amended to read:

Sec. 66. PL 1987, c. 652, §4 is amended to read:

4. Application. This ~~new draft Act~~ shall apply to all members retiring after September 30, 1985, and to the determination of spousal benefits in a case where a member retired prior to September 30, 1985, but dies after September 30, 1985.

Sec. 67. PL 1987, c. 674, §1, first 3 lines are repealed and the following enacted in their place:

Sec. 1. 38 MRSA §321, as amended by PL 1973, c. 460, §19, is further amended by adding at the end 2 new paragraphs to read:

Sec. 68. PL 1987, c. 679, §3 is enacted to read:

Sec. 3. Sunset. Section 1 of this Act is repealed on September 30, 1992.

Sec. 69. PL 1987, c. 769, Pt. A, §74, 2nd and 3rd lines are repealed and the following enacted in their place:

§1686-A. Eating establishments that permit consumption of alcoholic beverages

Sec. 70. PL 1987, c. 770, §10, first 2 lines are repealed and the following enacted in their place:

Sec. 10. 32 MRSA c. 114, sub-c. VI is enacted to read:

Sec. 71. PL 1987, c. 772, §35, first 2 lines are repealed and the following enacted in their place:

Sec. 35. 36 MRSA §§4433 to 4436 are enacted to read:

Sec. 72. PL 1987, c. 816, Pt. J is repealed and the following is enacted in its place:

Sec. 1. PL 1987, c. 349, Pt. C, §1, under the caption "FINANCE, DEPARTMENT OF" under the heading "Rainy Day Fund Program," is amended to read:

	<u>1987-88</u>	<u>1988-89</u>
Rainy Day Fund Program		
Unallocated	(\$ 9,471,785)	\$31,000,000 <u>\$23,000,000</u>

Provides funds in support of implementation of recommendations of the School Funding Task Force.

Sec. 2. PL 1987, c. 349, Pt. C, §1, under the caption "FINANCE, DEPARTMENT OF," last line, is amended to read:

TOTAL	(\$ 9,471,785)	\$31,000,000 <u>\$23,000,000</u>
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Sec. 2-A. PL 1987, c. 349, Pt. C, §1, last line is amended to read:

PART C, SECTION 1	-0-	\$31,000,000 <u>\$23,000,000</u>
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Sec. 3. PL 1987, c. 349, Pt. J, under the caption "FINANCE, DEPARTMENT OF," is repealed.

Sec. 4. PL 1987, c. 349, Pt. J, last line is amended to read:

	<u>\$10,315,350</u>	\$2,000,000
	\$ 8,315,350	<u>-0-</u>

Sec. 73. PL 1987, c. 816, Pt. P, §7 is repealed and the following enacted in its place:

Sec. 7. 5 MRSA §13055, sub-§1, ¶¶C and D, as enacted by PL 1987, c. 534, Pt. A, §§17 and 19, are amended to read:

- C. The Office of Tourism; and
- D. The Division of Development Policy ; and

Sec. 7-A. 5 MRSA §13055, sub-§1, ¶E is enacted to read:

E. The Office of Comprehensive Land Use Planning.

Sec. 74. PL 1987, c. 861, §18 is repealed.

Sec. 75. PL 1987, c. 861, §27-A is enacted to read:

Sec. 27-A. 32 MRSA §13758, sub-§4, as enacted by PL 1987, c. 710, §5, is amended to read:

4. Form. Registration forms shall state: Applicant's name; address; day phone; 24-hour phone; ownership status; manufacturer or wholesaler designation; Drug Enforcement Agency and Federal Drug Administration members numbers; and date executed. Registration forms shall be executed by an owner or officer of the entity, providing printed name and title.

PART C

Sec. 1. 5 MRSA c. 383, sub-c. III, art. II, first line, is repealed and the following enacted in its place:

ARTICLE 2COMMUNITY INDUSTRIAL
BUILDING AUTHORITY

Sec. 2. 8 MRSA §502, 2nd ¶, as amended by PL 1987, c. 737, Pt. C, §§13 and 106, and PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

No traveling circus, traveling amusement show or amusement device may operate or exhibit any parade, show or entertainment in this State without first paying a license fee for each calendar year. Application for the license shall be made to the Commissioner of Public Safety and shall contain the name of the person or corporation using or operating the traveling circus, traveling amusement show or amusement device, and a statement of proposed territory within the limits of the State, and names of the cities and towns in which the traveling circus, traveling amusement show or amusement device is to operate or exhibit. No traveling circus or traveling amusement show or amusement device may exhibit any parade, show or entertainment in this State without first furnishing the Commissioner of Public Safety, in an amount to be determined by ~~him~~ the commissioner, a certificate of public liability insurance issued by an authorized insurer or approved surplus lines insurer pursuant to Title 24-A or any risk retention group ~~licensed registered~~ licensed registered in any state pursuant to the United States Code, Title 15, Chapter 65, or through a purchasing group ~~licensed registered~~ licensed registered in any state pursuant to the United States Code, Title 15, Chapter 65. Upon receipt of the application, accompanied by a certificate of public liability insurance and upon payment of the required fee, a license shall be issued. For amusement shows, carnivals, thrill shows, ice shows, rodeos or similar types of performances which are held indoors or outdoors the fee shall be \$250. For circuses which are held outdoors or under tents or similar temporary cover or enclosure the fee shall be \$500. For circuses held indoors in an auditorium, arena, civic center or similar type building the fee shall be \$250. For circuses produced in their entirety by a nonprofit, charitable organization a license is required but no fee may be charged. The amusement device license fee shall be \$25 per amusement device. A traveling amusement show, having amusement devices and having secured a traveling amusement show license, shall pay an additional amusement device license fee for each amusement device over 8 rides. "Amusement device" means a device by which a person is conveyed, where control by the rider over the speed or direction of travel is incomplete. It does not include a vehicle or device, the operation of which is regulated as to safety by any other provision of law, except a municipal ordinance under Title 30-A, section 3001, or any coin-operated kiddie amusement device on a nonmoving base which is designed to accommodate one child.

Sec. 3. 10 MRSA §969-A, sub-§10, as enacted by PL 1985, c. 344, §17, is amended to read:

10. Employees. Employ persons, including private legal counsel and financial experts, on either a temporary or permanent basis, in order to carry out any of its powers and duties. The authority shall obtain fidelity insurance coverage on behalf of its full-time employees. Employees of the au-

thority shall not be subject to Title 5, chapters ~~57 and 71 and 372~~. The members of the authority may by rulemaking pursuant to Title 5, chapter 375, subchapter II, delegate powers and duties of the authority to employees of the authority and each employee is fully authorized to act in the name and on behalf of the authority pursuant to any delegation;

Sec. 4. 12 MRSA §602, sub-§17, as enacted by PL 1981, c. 505, §2, is repealed.

Sec. 5. 17-A MRSA §107, sub-§2, ¶B, as enacted by PL 1975, c. 740, §29, is repealed and the following enacted in its place:

B. To effect an arrest or prevent the escape from arrest of a person when the law enforcement officer reasonably believes that the person has committed a crime involving the use or threatened use of deadly force, is using a dangerous weapon in attempting to escape or otherwise indicates that the person is likely to endanger seriously human life or to inflict serious bodily injury unless apprehended without delay; and

(1) The law enforcement officer has made reasonable efforts to advise the person that the officer is a law enforcement officer attempting to effect an arrest or prevent the escape from arrest and the officer has reasonable grounds to believe that the person is aware of this advice; or

(2) The law enforcement officer reasonably believes that the person to be arrested otherwise knows that the officer is a law enforcement officer attempting to effect an arrest or prevent the escape from arrest.

For purposes of this paragraph, "a reasonable belief that another has committed a crime involving use or threatened use of deadly force" means such reasonable belief in facts, circumstances and the law which, if true, would constitute such an offense by that person. If the facts and circumstances reasonably believed would not constitute such an offense, an erroneous but reasonable belief that the law is otherwise justifies the use of deadly force to make an arrest or prevent an escape.

Sec. 6. 17-A MRSA §107, sub-§4, ¶B, as repealed and replaced by PL 1975, c. 740, §30, is amended to read:

B. Deadly force only when ~~he~~ the person reasonably believes such force is necessary:

(1) To defend ~~himself~~ the person or a 3rd person from what ~~he~~ the private citizen reasonably believes to be the imminent use of deadly force; or

(2) To effect a lawful arrest or prevent the escape from such arrest of a person who in fact :

(a) ~~has~~ Has committed a crime involving the use or threatened use of deadly force, or is using a ~~deadly dangerous~~ deadly dangerous weapon in attempting to escape; and

(b) ~~the~~ The private citizen has made reasonable efforts to advise the person that ~~he~~ the citizen is a private citizen attempting to effect an arrest or prevent the escape from arrest and has reasonable grounds to believe the person is aware of this advice or ~~he~~ the citizen reasonably believes that the person to be arrested otherwise knows that ~~he~~ the citizen is a private citizen attempting to effect an arrest or prevent the escape from arrest.

Sec. 7. 20-A MRSA §15607, sub-§12, as enacted by PL 1987, c. 850, §§3 and 5, is amended to read:

12. Appropriation for special education tuition and costs for out-of-district placements. Appropriate the necessary funds for special education tuition under section 15612, subsection ~~4~~ 11.

Sec. 8. Effective date. Part C, section 7 of this Act shall take effect July 1, 1989.

Sec. 9. 26 MRSA §563, sub-§3, as amended by PL 1975, c. 717, §2, is further amended to read:

3. Bureau. "Bureau" means the Bureau of Labor Standards.

Sec. 10. 26 MRSA §563, sub-§4, as amended by PL 1975, c. 717, §3, is further amended to read:

4. Director. "Director" means the Director of the Bureau of Labor Standards.

Sec. 11. 29 MRSA §252-A, as repealed and replaced by PL 1987, c. 769, Pt. A, §115, is repealed and the following enacted in its place:

§252-A. Disabled veterans; special license plates

The Secretary of State on application and upon evidence of payment of the excise tax required by Title 36, section 1482, shall issue a registration certificate and set of special designating plates to be used in lieu of regular registration plates to any 100% disabled veteran when that application is accompanied by certification from the United States Veterans Administration as to the veteran's disability and receipt of 100% service-connected benefits and that the veteran is permanently confined to a wheelchair or restricted to the use of crutches or braces or otherwise handicapped in such a way that mobility is seriously restricted.

These special designating plates shall bear the letters VET which indicate that the vehicle is owned by a disabled veteran.

Sec. 12. 30-A MRSA §7503, as enacted by PL 1987, c. 737, Pt. A, §2, and Pt. C, §106, and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed and the following enacted in its place:

§7503. Budget

1. Procedure. Before November 7th of each year, the county commissioners of each county shall provide to the members of the county legislative delegation a preliminary budget for the services to be provided under this chapter to the unorganized territory in the next year. These preliminary budgets shall be provided in a form that shows how the funds are to be spent for each category of service identified in section 7501 and any projected surplus for the year of unorganized territory funds held by the county. The county commissioners shall provide an opportunity for public comment on the preliminary budget at the same time as a public hearing is held on the county budget, as provided under Part 1, chapter 3, subchapter I.

The budget for the unorganized territory shall be finalized at the same time as the regular county budget. A copy of the finalized budget and an accurate identification of any surplus which can be used to reduce the amount needed to be collected in taxes shall be submitted to the State Tax Assessor and to the fiscal administrator of the unorganized territory by January 1st of each year.

2. Budget year. Each budget year shall cover the period of July 1st to June 30th following the date the budget is provided.

Sec. 13. 32 MRSA §12404, sub-§2, as enacted by PL 1987, c. 488, §3, is amended to read:

2. Penalty. Any person who practices acupuncture in violation of subsection ~~4~~ 1-A is guilty of a Class E crime.

Sec. 14. 37-B MRSA §1008, as amended by PL 1987, c. 736, §58, is further amended to read:

§1008. Witnesses' privileges

No person may be excused from attending and testifying, or producing any books, papers or other documents before any court, judicial officer, notary public, referee or grand jury upon any investigation, proceeding or trial, relating to a violation of this chapter ~~or~~ or attempt to commit the violation, upon the grounds that the testimony or evidence required of ~~him~~ that person by the State may tend to convict ~~him~~ that person of a crime or to subject ~~him~~ that person to a penalty or forfeiture. No person may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which ~~he~~ that person may so testify or produce evidence and no testimony so given or produced, may be received against ~~him~~ that person, during any criminal investigation, proceeding or trial, except upon a prosecution for perjury or contempt of court based upon the giving or producing of that testimony.

PART D

Sec. 1. 5 MRSA §1513, sub-§4, as repealed by PL 1987, c. 788, §1, and as amended by PL 1987, c. 793, Pt. A, §1, is repealed and the following enacted in its place:

4. Exception. Notwithstanding any other provision of law, during the period starting July 1, 1987 and ending June 30, 1988, the sum of \$13,200,000 may be appropriated from the fund by the 2/3 vote of the Legislature only for the purpose of paying to the Department of Transportation \$12,000,000 for highway and bridge construction and \$1,200,000 to fund state assistance to municipalities for salt and sand storage facilities. In the event that federal highway funds are restored in sufficient amount that no additional fuel tax increase is made effective in fiscal year 1988-89, after receipt of the funds, the excess over \$7,600,000 in restored funds, but not more than \$12,000,000, shall be transferred to the Rainy Day Fund or, if that fund is at its ceiling, to the General Fund and no additional payment from the Highway Fund shall be required. This subsection shall be repealed June 30, 1989.

Sec. 2. Effective date. Part D, section 1 of this Act which repeals and replaces the Maine Revised Statutes, Title 5, section 1513, subsection 4, shall take effect on July 2, 1988, and is retroactive to that date.

Sec. 3. 5 MRSA §13075, sub-§5, ¶C, as enacted by PL 1987, c. 855, §1, is amended to read:

C. The priority of projects for the area; and

Sec. 4. 9-A MRSA §8-104, sub-§1, as enacted by PL 1981, c. 243, §25, is amended to read:

1. The administrator shall prescribe regulations to carry out the purposes of this Article. These regulations may contain such classifications, differentiations or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the administrator are necessary or proper to effectuate the purposes of this Article, to prevent circumvention or evasion thereof or to facilitate compliance therewith. Any regulations prescribed under authority of this Article are subject to the procedures provided by ~~sections 6-404 and 6-405~~ the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. 5. 9-A MRSA §8-104, sub-§2, ¶B, as enacted by PL 1981, c. 243, §25, is amended to read:

B. Model disclosure forms and clauses shall be adopted by the administrator after notice and an opportunity for public comment in accordance with ~~sections 6-404 and 6-405~~ the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. 6. 9-B MRSA §467, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. **Acting as broker-dealer prohibited.** No director, officer, agent or employee of a financial institution subject to the laws of this State ~~shall~~ may engage in for any compen-

sation, direct or indirect, the business of selling or negotiating securities as the agent or salesman of any ~~securities dealer broker-dealer~~, as defined in Title 32, section ~~751 10501~~, other than the institution.

Sec. 7. 12 MRSA §7076, sub-§8, ¶D, as repealed and replaced by PL 1981, c. 302, is repealed and the following enacted in its place:

D. Residents of adult foster homes, as defined in Title 22, section 7901-A.

Sec. 8. 14 MRSA §6071, sub-§2, as enacted by PL 1989, c. 357, is amended to read:

2. **Failure to make restitution.** If a judgment is made against a maker, issuer or drawer pursuant to subsection 1, paragraphs A and B and that person fails to make restitution on the date of judgment, the maker, ~~issuer~~ issuer or drawer shall pay to the holder interest at the rate of 12% per annum from the date of dishonor and collection costs not to exceed \$40 or the face amount of the check, whichever is less. In the event of court action, the court ~~after notice and the expiration of the 10 days, shall~~ may award reasonable attorney's fees to the prevailing party.

Sec. 9. 17-A MRSA §6, sub-§1, as amended by PL 1981, c. 324, §9, is further amended to read:

1. The provisions of ~~chapters 1, 2, 3, 5, 7, 47, 49, 51, 53 and 54~~ Parts 1 and 3 and chapter 7 are applicable to crimes defined outside this code, unless the context of the statute defining the crime clearly requires otherwise.

Sec. 10. 17-A MRSA §1152, sub-§2, ¶C, as repealed and replaced by PL 1985, c. 821, §3, is amended to read:

C. A ~~suspended~~ suspended fine, suspended in whole or in part, with probation as authorized by chapter 49;

Sec. 11. 17-A MRSA §1152, sub-§2, ¶¶F and G, as enacted by PL 1985, c. 821, §3, are amended to read:

F. A term of imprisonment as authorized by chapter 51; ~~or~~

G. A fine as authorized by chapter 53. Subject to the limitations of section 1302, such a fine may be imposed in addition to the sentencing alternatives in paragraphs B, D, E and F ~~; or~~ ;

Sec. 12. 17-A MRSA §1152, sub-§2, ¶H is enacted to read:

H. A county jail reimbursement fee as authorized by chapter 54-B.

Sec. 13. 17-A MRSA §1152, sub-§3, ¶B, as repealed and replaced by PL 1987, c. 157, §1, is amended to read:

B. A ~~suspended fine, suspended in whole or in part,~~ with probation as authorized by chapter 49;

Sec. 14. 17-A MRSA §1257-A, sub-§1, as enacted by PL 1985, c. 266, §1, is amended to read:

1. **Request filed.** The victim must file a request for notification of the sentenced person's release with the ~~district attorney's~~ office of the prosecutor at any time after the close of judicial proceedings concerning the case. The ~~district attorney~~ prosecutor shall forward this request form to the Department of Corrections which shall forward the form to the correctional facility in which that person is confined.

Sec. 15. 17-A MRSA §1329, sub-§2, as enacted by PL 1981, c. 360, is amended to read:

2. **Reports.** A probation officer having knowledge of a default in restitution by an offender shall report the default to the office of the ~~district attorney~~ prosecutor. A ~~district attorney~~ prosecutor having knowledge of a default in restitution by an offender shall report the default to the court.

Sec. 16. 20-A MRSA §2, sub-§3, as enacted by PL 1987, c. 821, is amended to read:

3. **Mandated programs.** Any legislation containing a state mandate enacted by the Legislature after January 1, 1989, which requires additional funding, shall contain provisions for full funding by the State for 2 years, after which the legislation shall contain full funding through the School Finance Act of 1985, as amended. The funding requirements to implement the mandate must be identified. Any such legislation for which full state funding is not provided may not be enacted.

State mandates are defined as any state-initiated or statutory action that requires a local school administrative unit to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues, excluding any order issued by a state court or any legislation necessary to comply with a federal mandate.

This ~~chapter~~ subsection is repealed on June 30, 1992, unless reviewed and extended by specific Act of the Legislature.

Sec. 17. 21-A MRSA §356, sub-§2, ¶A, as amended by PL 1989, c. 166, §4, is further amended to read:

A. Only a registered voter residing in the electoral division of the candidate concerned may file a challenge. The challenge must be in writing and must set forth the reasons for the challenge. The challenge must be filed in the office of the Secretary of State by 5 p.m. on the 5th business day after the final date for filing petitions under section 354, subsection 8 8-A.

Sec. 18. 22 MRSA §4008, sub-§4, as enacted by PL 1983, c. 783, §4, is amended to read:

4. **Unlawful dissemination; penalty.** A person is guilty of unlawful dissemination if he knowingly disseminates records which are determined confidential by this section, in

violation of the mandatory or optional disclosure provisions of this section. Unlawful dissemination is a Class E crime, which, notwithstanding Title 17-A, section ~~4-A~~ 1252, subsection ~~4~~ 2, paragraph E, is punishable by a fine of not more than \$500 or by imprisonment for not more than 30 days.

Sec. 19. 25 MRSA §2011, sub-§4 is enacted to read:

4. Law enforcement agency. Nothing in this section limits the power of any law enforcement agency to regulate the type and use of firearms issued or authorized by that agency for use by its employees. For the purposes of this section "law enforcement agency" has the same meaning as set forth in section 3701.

Sec. 20. 28-A MRSA §1007-B is enacted to read:
§1007-B. Surcharge on part-time Class VI licenses

In addition to the license fee for part-time Class VI licenses provided in section 1007, subsection 2, paragraph B, there is imposed a \$5 surcharge on all part-time Class VI licenses issued after September 28, 1987. This section is repealed October 15, 1989.

Sec. 21. 37-B MRSA §504, sub-§4, ¶A-1, as amended by PL 1989, c. 96, is amended to read:

A-1. As used in this subsection, unless the context indicates otherwise, the following terms have the following meanings.

(1) "Eligible dependent" means the wife, husband, surviving spouse, unmarried minor child or unmarried adult child who became incapable of self-support before reaching 18 years of age on account of mental or physical defects.

(2) "Eligible veteran" means any person who:

(a) Served on active duty in the United States Armed Forces during any federally recognized period of conflict, served on active duty in the United States Armed Forces at any time during the period December 22, 1961 to August 5, 1964 or was eligible for an Armed Forces Expeditionary Medal or campaign medal, and who:

(i) If discharged, received an honorable discharge or a general discharge under honorable conditions, provided that the discharge was not upgraded through a program of general amnesty; and

(ii) Was a resident of the State at the time of entering military

service, his death or the death of an eligible dependent;

(b) Served in the Maine National Guard and died as a result of injury, disease or illness sustained while serving on state active duty as provided in chapter 3, subchapter III; or

(c) Served in the Armed Forces in the United States at any time and was killed or died as a result of hostile action and was a resident of the State at the time of entering military service, at the time of his death or at the time of the death of an eligible dependent.

(3) "Federally recognized period of conflict" means World War I, April 6, 1917 to November 11, 1918, March 31, 1920, if service was in Russia; World War II, December 7, 1941 to December 31, 1946; Korean Conflict, June 27, 1950 to January 31, 1955; and the ~~Viet Nam~~ Vietnam War, August 5, 1964 to May 7, 1975.

Sec. 22. 39 MRSA §51-B, sub-§7, as amended by PL 1989, c. 256, §3, is further amended to read:

7. Notice of controversy. If the employer, prior to making payments under subsection 3, controverts the claim to compensation, the employer shall file with the commission, within 14 days after an event which gives rise to an obligation to make payments under subsection 3, a notice of controversy in a form prescribed by the commission. If the employer, prior to making payments under subsection 4, controverts the claim to compensation, the employer shall file with the commission, within 75 or 90 days, as applicable, after an event which gives rise to an obligation to make payments under subsection 4, a notice of controversy in a form prescribed by the commission. The notice shall indicate the name of the claimant, name of the employer, date of the alleged injury or death and the grounds upon which the claim to compensation is controverted. The employer shall promptly furnish the employee with a copy of the notice.

If, at the end of the 14-day period in subsection 3 or the 90-day or 75-day periods in subsection 4, the employer has not filed the notice required by this subsection, the employer shall begin payments as required under those subsections. In the case of compensation for incapacity under subsection 3, the employer may cease payments and file with the commission a notice of controversy, only as provided in this subsection, no later than 44 days after an event which gives rise to an obligation to make payments under subsection 3. Failure to file the required notice of controversy prior to the expiration of the 44-day period, in the case of compensation under subsection 3, constitutes acceptance by the employer of the compensability of the injury or death. Failure to file the required notice of controversy does not constitute such an acceptance by the employer when it is shown that the failure was due to employee fraud or excusable neglect by

the employer, except when payment has been made and a notice of controversy is not filed within 44 days of that payment. Failure to file the required notice of controversy prior to the expiration of the 90-day period under subsection 4 constitutes acceptance by the employer of the extent of impairment claimed. Failure to file the required notice of controversy prior to the expiration of the 75-day period under subsection 4 for compensation for medical expenses, aids or other services pursuant to section 52 constitutes acceptance by the employer of the reasonableness and propriety of the specific medical services for which compensation is claimed and requires payment for those services, but does not constitute acceptance of the compensability of the injury or death.

If, at the end of the 44-day period the employer has not filed a notice of controversy, or if, pursuant to a proceeding before the commission, the employer is required to make payments, the payments may not be decreased or suspended, except as provided in section 100.

Sec. 23. P&SL 1989, c. 2, §1, 2nd sentence is amended to read:

Each voter who signs a nomination paper shall add the ~~candidate's~~ voter's place of residence with the street and number, if any.

Sec. 24. PL 1989, c. 7, Part A, in that part designated "SECRETARY OF STATE, DEPARTMENT OF THE," the 10th to 17th lines are amended to read:

Provides funds for the Bureau of Public Administration. Personal Services includes funding for 3 confidential appointed and unclassified positions as follows: a Finance Administrator, Research Associate II and an Administrative Assistant; paid overtime; and 9 project positions to assist in corporations backlog, Uniform Commercial Code and general office filing.

Sec. 25. Resolve 1989, c. 10, 2nd resolve ¶, is amended to read:

Deadline. Resolved: That the guide shall be produced and distributed within ~~4~~ 5 months of the effective date of this resolve; and be it further

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

Effective June 30, 1989, unless otherwise indicated.