

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

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

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

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
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

Sec. B-2. Rulemaking. The Department of Human Services shall, by rulemaking pursuant to the Maine Administrative Procedure Act, adopt a plan for reviews of child support awards as required to be effective October 12, 1990 by the federal Social Security Act, Section 466(a)(10).

See title page for effective date.

CHAPTER 878

S.P. 927 - L.D. 2345

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, Acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the Laws of Maine; 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. A-1. 1 MRSA §402, sub-§2, ¶B, as amended by PL 1989, c. 358, §1 and c. 443, §1, is repealed and the following enacted in its place:

B. Any board or commission of any state agency or authority, the Board of Trustees of the University of Maine System and any of its committees and subcommittees, the Board of Trustees of the Maine Maritime Academy and any of its committees and subcommittees, the Board of Trustees of the Maine Technical College System and any of its committees and subcommittees;

Sec. A-2. 1 MRSA §402, sub-§3, ¶E, as amended by PL 1989, c. 358, §4 and c. 443, §2, is repealed and the following enacted in its place:

E. Records, working papers, interoffice and intraoffice memoranda used by or prepared for fac-

ulty and administrative committees of the Maine Maritime Academy, the Maine Technical College System and the University of Maine System. The provisions of this paragraph do not apply to the boards of trustees and the committees and subcommittees of those boards, which are referred to in subsection 2, paragraph B;

Sec. A-3. 2 MRSA §6, sub-§2, as amended by PL 1989, c. 501, Pt. BB, §1 and c. 585, Pt. A, §1, is repealed and the following enacted in its place:

2. Range 90. The salaries of the following state officials and employees shall be within salary range 90:

Superintendent of Banking;

Bureau of Consumer Credit Protection Superintendent;

State Tax Assessor;

Superintendent of Insurance;

Associate Commissioner for Programs, Department of Mental Health and Mental Retardation;

Associate Commissioner of Administration, Department of Mental Health and Mental Retardation;

Associate Commissioner for Institutional Management; and

Executive Director, Maine Waste Management Agency.

Sec. A-4. 2 MRSA §6, sub-§3, as amended by PL 1989, c. 483, Pt. A, §1 and c. 501, Pt. BB, §2, is repealed and the following enacted in its place:

3. Range 89. The salaries of the following state officials and employees shall be within salary range 89:

Director of Public Improvements;

State Budget Officer;

State Controller;

Director of the Bureau of Forestry;

Chief of the State Police;

Director, State Planning Office;

Director, Energy Resources Office;

Public Advocate;

Commissioner of Defense and Veterans' Services;

Director of Human Resources;

Director, Bureau of Mental Retardation;

Director, Bureau of Children with Special Needs;
and

Director, Bureau of Mental Health.

Sec. A-5. 3 MRSA §901, as repealed by PL 1989, c. 410, §8 and as amended by PL 1989, c. 503, Pt. B, §6, is repealed.

Sec. A-6. 4 MRSA §152, sub-§6, as amended by PL 1989, c. 6; c. 9, §2; c. 104, Pt. C, §§1, 8 and 10; c. 287, §1 and as repealed and replaced by PL 1989, c. 311, §1, is repealed.

Sec. A-7. 4 MRSA §152, sub-§6-A is enacted to read:

6-A. Environmental laws. Original jurisdiction, concurrent with that of the Superior Court to grant equitable relief and impose penalties in proceedings involving alleged violations of a local environmental ordinance or regulation or a state environmental law or rule, including, but not limited to, the following:

A. The laws pertaining to the Maine Land Use Regulation Commission, Title 12, chapter 206-A;

B. The minimum lot size law, Title 12, sections 4807 to 4807-G;

C. Shoreland zoning ordinances enacted under Title 30-A, section 3001, and in accordance with Title 12, sections 4811 to 4817;

D. The plumbing and subsurface waste water disposal rules adopted by the Department of Human Services under Title 22, section 42;

E. Laws pertaining to public water supplies, Title 22, sections 2642, 2647 and 2648;

F. Local ordinances enacted under Title 22, section 2642, and in accordance with Title 30-A, section 3001;

G. Local land use ordinances enacted under Title 30-A, section 3001;

H. Local building codes adopted pursuant to Title 30-A, section 3001, and in accordance with Title 30-A, chapter 185, subchapter I;

I. Automobile junkyards, Title 30-A, chapter 183, subchapter I;

J. Regulation and inspection of plumbing, Title 30-A, chapter 185, subchapter III;

K. Malfunctioning domestic waste water disposal units, Title 30-A, section 3428;

L. The subdivision law, Title 30-A, chapter 187, subchapter IV; local subdivision ordinances enacted under Title 30-A, section 3001; and subdivision regulations adopted under Title 30-A, section 4403;

M. Local zoning ordinances enacted under Title 30-A, section 3001, and in accordance with Title 30-A, section 4352;

N. All laws administered by the Department of Environmental Protection, Title 38, chapters 2 to 16;

O. Local ordinances regarding air pollution control enacted pursuant to Title 38, section 597; and

P. The laws pertaining to harbors in Title 38, chapter 1, subchapter I; local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2.

Sec. A-8. 5 MRSA §21, sub-§6, as enacted by PL 1989, c. 483, Pt. A, §6, is amended to read:

6. Legislative inquiry. "Legislative inquiry" means any request made by a legislative committee or individual Legislator; to a state employee for public information or their the state employee's personal opinion.

Sec. A-9. 5 MRSA §723, as amended by PL 1989, c. 483, Pt. A, §10 and c. 503, Pt. B, §15, is repealed and the following enacted in its place:

§723. Educational Leave Advisory Board

The Educational Leave Advisory Board, established by section 12004-I, subsection 11, shall advise and consult with the Bureau of Human Resources to review and authorize all educational leave requests from classified and unclassified state employees for durations of more than one week. The board consists of 5 members as follows: The Director of the Bureau of Human Resources who shall serve as chair of the board; the Commissioner of Educational and Cultural Services or a designee; the manager of human resource development within the Bureau of Human Resources; and 2 members who are state employees, at least one of whom is a state employee as defined in Title 26, section 979-A, subsection 6. Each state employee member is to be appointed by the Governor to serve for a term of 3 years. Members of the board are entitled to compensation as provided in chapter 379.

Sec. A-10. 5 MRSA §955, 3rd ¶, as amended by PL 1989, c. 483, Pt. A, §12 and c. 501, Pt. P, §8, is repealed and the following enacted in its place:

The director shall work with the Bureau of Employee Relations, the State Employee Health Commission, established in section 285-A, and other labor management groups to maximize the involvement of state

employees and their representatives in the planning and execution of all programs under the charge of the bureau, including, but not limited to, the health and wellness issues, the employee assistance program and the planning and use of the State Employee Health Dedicated Revenue Account.

Sec. A-11. 5 MRSA §1507, sub-§4-A, as amended by PL 1989, c. 443, §8, is further amended to read:

4-A. Maine technical colleges. The Governor may allocate funds from such account in amounts not to exceed in total the sum of \$100,000 in any fiscal year to provide funds for any unusual and unforeseen needs as may arise in the operation of the Maine technical colleges. Allocations may be made from this fund by the Governor only upon the written request of the Board of Trustees of the Maine ~~technical colleges~~ Technical College System and after consultation with the State Budget Officer.

Sec. A-12. 5 MRSA §1514, sub-§4, ¶B, as repealed and replaced by PL 1987, c. 892, §1 and PL 1989, c. 502, Pt. A, §13, is repealed and the following enacted in its place:

B. A transfer from this fund to the General Fund is required 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, plus accrued interest, 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. A-13. 5 MRSA §1514, sub-§4, ¶C, as enacted by PL 1987, c. 892, §1 and PL 1989, c. 502, Pt. A, §14, is repealed and the following enacted in its place:

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. A-14. 5 MRSA §1892, sub-§1, ¶L, as amended by PL 1989, c. 483, Pt. A, §23 and c. 502, Pt. A, §19, is repealed and the following enacted in its place:

L. The Chief Executive Officer of the Finance Authority of Maine or the chief executive officer's designee; and

Sec. A-15. 5 MRSA §12004-A, sub-§45, as enacted by PL 1989, c. 450, §3 and c. 503, Pt. A, §6, is repealed and the following enacted in its place:

<u>45. Board of Licensure of Railroad Personnel</u>	<u>\$35/Day</u>	<u>32 MRSA §4145</u>
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Sec. A-16. 5 MRSA §12004-G, sub-§13-A, as enacted by PL 1989, c. 464, §1 and c. 503, Pt. A, §13, is repealed and the following enacted in its place:

<u>13-A. Environment/ Natural Resources</u>	<u>State Emergency Response Commission</u>	<u>Not Authorized</u>	<u>37-B MRSA §792</u>
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Sec. A-17. 5 MRSA §12004-I, sub-§56, as repealed by PL 1989, c. 304, §3 and as amended by PL 1989, c. 503, Pt. A, §33, is repealed.

Sec. A-18. 5 MRSA §12004-L, sub-§5, as enacted by PL 1989, c. 216, §1 and c. 601, Pt. B, §2, is repealed and the following enacted in its place:

<u>5. Commission on Municipal Deorganization</u>	<u>Legislative Per Diem County Com- missioner Only</u>	<u>30-A MRSA §7206</u>
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Sec. A-19. 5 MRSA §12004-L, sub-§6 is enacted to read:

<u>6. Interagency Task Force on Homelessness and Housing Opportunities</u>	<u>Expenses Only for Members Appointed by the Presiding Officers of the Legislature</u>	<u>30-A MRSA §5041</u>
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Sec. A-20. 5 MRSA c. 383, sub-c. II, art. 2, first line is repealed and the following enacted in its place:

Article 2

BUSINESS ASSISTANCE REFERRAL AND
FACILITATION PROGRAM;
PROGRAM RESPONSIBILITIES AND DELIVERY

Sec. A-21. 7 MRSA §231, sub-§1, as amended by PL 1989, c. 486, §2 and c. 503, Pt. B, §36, is repealed and the following enacted in its place:

1. Members; terms. The Commission on Biotechnology and Genetic Engineering, as established in Title 5, section 12004-I, subsection 20-A, shall be composed of 11 members, including 3 ex officio members and 8 members appointed by the Governor, subject to approval by the joint standing committee of the Legislature having jurisdiction over agriculture and confirmation by the Legislature. To provide the knowledge and experience necessary for carrying out the duties of the commission, one person shall be appointed who has practical experience and knowledge in agricultural procedures, one who has practical experience and knowledge in environmental and conservation issues, a health care professional, a repre-

sentative from the forest products industry, a representative from the marine fisheries industry, a person appointed to represent the general public, one practicing scientist who shall be a representative of industry and one practicing scientist who shall be a representative of the academic community. The terms shall be for 4 years, except that, of the initial appointees, 2 shall serve 4-year terms, 2 shall serve 3-year terms, 2 shall serve 2-year terms and 2 shall serve a one-year term. Any vacancy shall be filled by an appointment for the remainder of the unexpired term. The 3 ex officio members are: the Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee; the Director of the Maine Agricultural Experiment Station; and the Executive Director of the Maine Science and Technology Commission.

Sec. A-22. 8 MRSA §279-B, first ¶, as amended by PL 1989, c. 203, §3, is further amended to read:

In order to enforce the rules referred to in section 279-A, the commission is authorized to establish a schedule for fines not to exceed \$100 for each violation of the rules ~~and regulations~~. The commission is authorized to levy a fine, after notice and hearing, for each violation of the rules.

Sec. A-23. 10 MRSA §963-A, sub-§49-D, as enacted by PL 1989, c. 543, §2 and c. 552, §4, is repealed and the following enacted in its place:

49-D. Underground oil storage tank; tank. “Underground oil storage tank” or “tank” means any tank, together with associated piping, 10% or more of which is located beneath the surface of the ground and not on or above a floor in such a manner that it may be readily inspected, located at a single location and used, formerly used or intended to be used for consumption by the owner or user of the tank on the premises.

Sec. A-24. 10 MRSA §963-A, sub-§49-F is enacted to read:

49-F. Swap counterparty. “Swap counterparty” means a person who is a party to an interest rate swap agreement.

Sec. A-25. 10 MRSA §1023-F, as enacted by PL 1989, c. 552, §12 and c. 585, Pt. C, §9, is repealed and the following enacted in its place:

§1023-F. Innovation Finance Fund

1. Creation. The Innovation Finance Fund is created and established under the jurisdiction and control of the authority.

2. Sources of money. There shall be paid into the fund the following:

A. All money appropriated for inclusion in the fund;

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money of the fund;

C. Subject to any pledge, contract or other obligation, any money which the authority receives in repayment of advances from the fund; and

D. Any other money available to the authority and directed by the authority to be paid into the fund.

3. Application of fund. Money in the fund may be applied to carry out any power of the authority under or in connection with section 1026-H, including, without limitation, to pledge or transfer and deposit money in the fund as security for and to apply money in the fund in payment of principal, interest, dividends and other amounts due on secured loans or equity interests. Money in the fund may be used for direct loans for all or part of a project eligible under section 1026-H. The authority, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, shall adopt rules for determining eligibility, feasibility, terms, conditions and security for direct loans or secured loans or investments. Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested in a manner permitted by law.

4. Accounts within fund. The authority may divide the fund into separate accounts it determines necessary or convenient for carrying out this section, including, but not limited to, accounts reserved for direct loan funds.

5. Revolving fund. The fund shall be a nonlapsing, revolving fund. All money in the fund shall be continuously applied by the authority to carry out this section and section 1026-H.

Sec. A-26. 10 MRSA §1023-G is enacted to read:

§1023-G. Waste Reduction and Recycling Loan Fund

1. Creation. The Waste Reduction and Recycling Loan Fund, referred to in this section as the “fund,” is created under the jurisdiction and control of the authority.

2. Sources of money. The fund shall consist of the following:

A. All money appropriated or allocated for inclusion in the fund;

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money from the fund;

C. Subject to any pledge, contract or other obligations, any money that the authority receives in repayment of advances from the fund; and

D. Any other money available to the authority and directed by the authority to be paid into the fund.

3. Application of fund. Money in the fund may be used for direct loans to finance all or part of any project when the authority determines that:

A. The project is:

(1) Designed to substantially reduce or eliminate the production in a trade or business of solid waste or hazardous waste as defined in Title 38, section 1303-C;

(2) A project devoted to resource recovery, as defined in Title 38, section 1303-C, except that the combustion of solid or hazardous waste shall not be considered resource recovery for the purposes of this section; or

(3) A project devoted to the reuse of post-consumer materials;

B. There is a reasonable likelihood that the applicant will be able to repay the loan;

C. The amount and terms of the loan are reasonable to provide an incentive to the applicant to undertake the project, which may include a below-market interest rate, and the project will not result in a net increase in solid or hazardous waste to be disposed of within the State; and

D. The project will contribute to achieving the goals identified in the state waste management and recycling plan adopted under Title 38, chapter 24 and is determined by the Maine Waste Management Agency to be consistent with that plan. Prior to adopting the state waste management and recycling plan, the fund may be used for projects that help achieve the goals identified in the state recycling plan approved under former Title 38, section 1310-M.

The authority, pursuant to Title 5, chapter 375, subchapter II, shall adopt rules for determining eligibility, feasibility, terms, conditions and security for the loans. Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested in such a manner as permitted by law.

4. Accounts within fund. The authority may divide the fund into separate accounts as it determines necessary or convenient for carrying out this section, including, but not limited to, accounts reserved for direct loan funds.

5. Revolving fund. The fund shall be a nonlapsing revolving fund. All money in the fund shall be continuously applied by the authority to carry out this section.

Sec. A-27. 10 MRSA §1041, sub-§16, as amended by PL 1989, c. 501, Pt. DD, §19 and c. 585, Pt. C, §10, is repealed and the following enacted in its place:

16. Energy conservation. Provide financial assistance for energy conservation. The Department of Economic and Community Development shall provide assistance to the authority in determining technical eligibility and merit of applications for energy conservation loans. Each recipient of a loan under this section shall provide the authority, within one year, with detailed information on energy consumption before and after the completion of the energy conservation project;

Sec. A-28. 10 MRSA §1063, sub-§2, ¶E, as amended by PL 1989, c. 546, §1 and c. 585, Pt. C, §13, is repealed and the following enacted in its place:

E. The Department of Environmental Protection has certified to the authority that all licenses required by that department with respect to the project have been issued or that none are required provided, however, that such certification need not be obtained from the Department of Environmental Protection prior to issuance of a certificate of approval for a project of a public waste disposal corporation as described in Title 38, section 1304-B, subsection 5, which as of June 9, 1989, has filed an application with the authority seeking a certificate of approval for revenue obligation security to be issued in accordance with this subchapter provided further that nothing herein shall be deemed to allow issuance of revenue obligation securities for any such project prior to obtaining all necessary permits from the Department of Environmental Protection. Any subsequent enlargement or addition to the project for which approval is sought from the authority shall also require certification by the department;

Sec. A-29. 12 MRSA §407, as enacted by PL 1989, c. 453, §1, is amended to read:

§407. Comprehensive river resource management plans

The State Planning Office, with assistance from the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Environmental Protection and other state agencies as needed, shall develop, subject to the Maine Administrative Procedures Procedure Act, Title 5, section chapter 375, a comprehensive river resource management plan for each watershed with a hydropower project licensed under the Federal Power Act or to be licensed under the Federal Power Act. These plans shall provide a basis for state agency comments, recommendations and permitting decisions and shall at a minimum include, as applicable, minimum flows, impoundment level regimes, upstream and downstream fish passage, maintenance of aquatic habitat and habitat productivity, public access and recreational opportunities. These plans shall update, complement and, after public notice, comment, and hearings in the watershed, be adopted as components of the State's comprehensive rivers management plan.

Sec. A-30. 12 MRSA §558-A, sub-§2, as amended by PL 1989, c. 310 and c. 338, §2, is repealed and the following enacted in its place:

2. Leases. The director may lease, for a term of years not exceeding 30 and with conditions the director deems reasonable, the right to dredge, fill or erect permanent causeways, bridges, marinas, wharves, docks, pilings, moorings or other permanent structures on submerged and intertidal land owned by the State. The director may refuse to lease submerged lands if the director determines that the lease will unreasonably interfere with customary or traditional public access ways to, or public trust rights in, on or over the intertidal or submerged lands and the waters above those lands.

A. For fill, permanent causeways, bridges, marinas, wharves, docks, pilings, moorings or other permanent structures and for nonpermanent structures that occupy a total of 500 square feet or more of submerged land or occupy a total of 2,000 square feet or more of submerged land if used exclusively for commercial fishing activities:

(1) The director shall charge the lessee a base rent that practically approximates the fair market rental value of the land. Fair market rental value shall be the municipally assessed value per square foot for the adjacent upland multiplied by a reduction factor based on the use of the leased submerged land. The reduction factors for use categories shall be as follows:

(a) A reduction factor of 0%, or no rental fee, for nonprofit organizations or publicly owned facilities that offer free public use or public use with nominal user fees. Public uses include, but are not limited to, municipal utilities and facilities that provide public access to the water, town wharves, walkways, fishing piers, boat launches, parks, nature reserves, swimming or skating areas and other projects designed to allow or enhance public recreation, fishing, fowling and navigation and for which user fees are used exclusively for the maintenance of the facility;

(b) A reduction factor of 1% for commercial fishing uses of renewable aquatic resources. Commercial uses of renewable aquatic resources include, but are not limited to, facilities which are directly involved in commercial fishing activities. Such facilities shall include, but not be limited to, fish piers, lobster impoundments, fish processing facilities, berthing for fishing boats and floats or piers for the

storage of gear. To qualify as a commercial use of renewable aquatic resources, a marina must have at least 50% of its slips in use by commercial fishing boats year round;

(c) A reduction factor of 2% for water dependent commerce, industry and private uses. Water dependent commerce, industry and private uses other than commercial uses of renewable aquatic resources include, but are not limited to, all facilities that are functionally dependent upon a waterfront location, cannot reasonably be located or operated on an upland site or are essential to the operation of the marine industry. Such facilities shall include, but not be limited to, privately owned piers and docks, cargo ports, private boat ramps, shipping and ferry terminals, tug and barge facilities, businesses that are engaged in watercraft construction, maintenance or repair, aquariums and marinas that have less than 50% of their slips in use by commercial fishing boats year round; and

(d) A reduction factor of 10% for upland uses and fill. Upland uses include, but are not limited to, all uses that can operate in a location other than on the waterfront or which are not essential to the operation of the marine industry. Such facilities shall include, but not be limited to, residences, offices, restaurants and parking lots. Fill shall include the placement of solid material other than pilings or other open support structures upon submerged lands.

When the director determines that the municipally assessed value of the adjacent upland is not an accurate indicator of the value of submerged land, the director may require the applicant to provide an appraisal of the submerged land. The appraisal must be approved by the director;

(2) After October 1, 1990, the director may revalue all existing rents to full fair market rental value. Rents may be adjusted annually until the full fair market rental value is reached. Thereafter, the director may revalue rents every 5 years;

(3) The director may also lease a buffer zone of not more than 30 feet in width around a permanent structure located on submerged or intertidal land, provided the lease is nec-

essary to preserve the integrity and safety of the structure and the Commissioner of Marine Resources consents to that lease;

(4) Any existing or proposed lease may be subleased for the period of the original lease for the purpose of providing berthing space for any boat or vessel;

(5) No portion of an existing or proposed lease may be transferred from a person subleasing that portion to provide berthing space for any boat or vessel except for a transfer to heirs upon death of the sublessee holder or a transfer to the original leaseholder subject to terms agreed to by the lessor and sublessee at the time of the sublease. This subparagraph shall not apply to any subleasing arrangements entered into prior to June 15, 1989; and

(6) The director may grant the proposed lease if the director finds that, in addition to any other findings that the director may require, the proposed lease:

(a) Will not unreasonably interfere with navigation;

(b) Will not unreasonably interfere with fishing or other existing marine uses of the area;

(c) Will not unreasonably diminish the availability of services and facilities necessary for commercial marine activities; and

(d) Will not unreasonably interfere with ingress and egress of riparian owners.

The bureau shall promulgate rules pertaining to this subparagraph by March 15, 1990.

B. For dredging, impounded areas and underwater cables and pipelines, the director shall develop such terms and conditions as the director deems reasonable.

C. The director shall charge an administrative fee of \$100 for each lease in addition to any rent.

D. The director may establish a reasonable minimum rent to which any lease is subject, but it shall not exceed \$75 per year.

Sec. A-31. 12 MRSA §685-B, sub-§1, ¶C, as amended by PL 1989, c. 430, §1 and c. 585, Pt. E, §1, is repealed and the following enacted in its place:

C. No person may commence any construction or operation of any development without a permit issued by the commission.

The commission may waive the requirement of a hearing for any person having received approval by the Board of Environmental Protection pursuant to the Site Location of Development Law, Title 38, sections 481 to 488.

Approval by the commission that the proposed development meets the requirements of subsection 4, and of the land use standards and rules adopted by the commission shall be a sufficient basis to support, but shall not require, a finding by the administering agency that the development meets the requirements of the Site Location of Development Law, Title 38, sections 481 to 488; the Minimum Lot Size Law, sections 4807 to 4807-G; or the natural resource protection laws, Title 38, chapter 3, subchapter I, article 5-A; and the rules adopted with respect to any of such statutes, as any of such statutes, rules or regulations may apply. Disapproval by the commission shall be a sufficient basis to support, but shall not require, a finding by the administering agency that the proposed development does not meet the requirements of the Site Location of Development Law, Title 38, sections 481 to 488; the Minimum Lot Size Law, sections 4807 to 4807-G; or the natural resource protection laws, Title 38, chapter 3, subchapter I, article 5-A; and the rules adopted with respect to any of such statutes, as any of such statutes, rules or regulations may apply.

The commission may establish standards within which authority may be delegated to its staff, to approve with reasonable conditions or deny applications submitted hereunder. Any person aggrieved by a decision of the staff shall have the right to a review of that decision by the commission members.

The commission shall establish coordination and assistance procedures for all land use permits issued by agencies of the State for proposed developments within the unorganized townships and plantations. Those procedures shall, to the extent practicable, ensure: the availability to the public of necessary information concerning those land use permits; the provision of assistance to applicants in obtaining those permits from state agencies; the coordination of application procedures, time schedules, application forms and similar requirements so as to reduce delay and duplication of effort by applicants and the issuing agencies. State permit issuing agencies shall cooperate with the commission in the development and effectuation of coordination and assistance procedures.

Approval by the Board of Environmental Protection of a proposed development under Title 38, chapter 13, article 3, shall be a sufficient basis to support, but shall not require, a finding by the commission that the proposed development meets the requirements of subsection 4, and of the land use standards and rules adopted by the commis-

sion. Disapproval by the Board of Environmental Protection of a proposed development under Title 38, chapter 13, article 3, shall be a sufficient basis to support, but shall not require, a finding by the commission that the proposed development does not meet the requirements of subsection 4, and of the land use standards and rules adopted by the commission.

Sec. A-32. 12 MRSA §6443, as enacted by PL 1989, c. 413, §2 and c. 424, is repealed and the following enacted in its place:

§6443. Underwater storage

Beginning January 1, 1990, any trap or other container used for storing lobsters beneath the surface of the coastal waters must be clearly marked with the wholesale seafood license number or the fishing license number of the person storing the lobsters. Any trap or other container and the contents in it found in violation of this section may be seized and the contents returned to their natural habitat.

Sec. A-33. 12 MRSA §6444 is enacted to read:

§6444. Dipping lobster traps or similar gear

No person may dip, soak or treat lobster or crab traps, warps or cars prior to use in waters of the State other than in a solution of salt and sea water except as provided in this section.

The commissioner may authorize a specified amount of dipping, soaking or treating of lobster or crab traps, warps or cars in solutions other than salt and sea water for research purposes. This authorization shall be in writing.

Sec. A-34. 12 MRSA §7110, as enacted by PL 1989, c. 458, §§1 and 3 and c. 493, §14, is repealed and the following enacted in its place:

§7110. Bear hunting permit

1. Permit required. A permit is required to hunt for bear from the first Monday preceding September 1st to the day preceding the open firearm season on deer. This section does not apply to trapping for bear.

2. Eligibility. Any person who possesses a valid license to hunt big game may obtain a permit to hunt for bear from the commissioner or an authorized agent.

3. Issuance; fee. The commissioner, through the commissioner's authorized agent, shall issue a bear hunting permit to eligible persons. The fee for each permit issued shall be \$2 for residents and \$10 for non-residents and aliens.

4. Restrictions. The following restrictions apply to hunting for bear when a permit is required.

A. A bear hunting permit must be kept on the person at all times while hunting or transporting any bear.

B. A bear hunting permit must be exhibited upon request to any warden, employee of the department, guide or landowner.

5. Repeal. This section is repealed on December 30, 1991.

Sec. A-35. 12 MRSA §7111 is enacted to read:

§7111. Unconventional weapon deer hunting license

1. Issuance; eligibility. The commissioner shall issue to eligible persons a license to hunt deer with an unconventional weapon during any open season on deer. Licenses issued pursuant to this section shall be valid for only one type of unconventional weapon and shall specify that type of weapon on the license.

2. Eligibility. Any person is eligible for a license to hunt deer with an unconventional weapon if that person:

A. Is suffering from the loss of both arms above the elbow; and

B. Can demonstrate, to the satisfaction of the commissioner, proficiency with that weapon, including knowledge of safety skills and responsible hunting practices relevant to that weapon.

3. Schedule of fees. The schedule of fees for this license shall be the same schedule of fees for other licenses provided in section 7101 which allow the licensee to take deer, subject to any special privileges in section 7076.

4. Applicability of laws. Except as provided in this section, the provisions of chapters 701 to 721 relating to deer shall be applicable to the taking of deer with a license issued pursuant to this section.

Sec. A-36. 12 MRSA §7793-C, sub-§1, as enacted by PL 1989, c. 588, Pt. C, §1, is amended to read:

1. Dealers' certificate. The applicant has submitted a dealers' certificate in a form prescribed by the State Tax Assessor, showing either that the sales tax due in respect to the watercraft in question has been collected by the dealer or that the sale of the ~~vehicle~~ watercraft is exempt from or otherwise not subject to tax under Title 36, chapters 211 to 225;

Sec. A-37. 12 MRSA §7802, as enacted by PL 1989, c. 469, §5 and c. 599, §3, is repealed and the following enacted in its place:

§7802. Operating within the water safety zone

1. Headway speed only. No person may operate a watercraft at a speed greater than headway speed while within the water safety zone or within a marina or an approved anchorage in coastal or inland waters except while actively fishing. For the purposes of this section, "headway speed" means the minimum speed necessary to maintain steerage and control of the watercraft while the watercraft is moving.

2. Water-skiing. The prohibition in subsection 1 does not apply to watercraft picking up or dropping off one or more persons on waterskis in the water safety zone if a reasonably direct course is taken through the water safety zone between the point that the skiers are picked up or dropped off and the outer boundary of the water safety zone.

Sec. A-38. 12 MRSA §7805 is enacted to read:

§7805. Implied consent to chemical tests

Any person who operates or attempts to operate a watercraft within this State shall have the duty to submit to a test to determine that person's blood-alcohol level by analysis of blood or breath, if there is probable cause to believe that person has operated or attempted to operate a watercraft while under the influence of intoxicating liquor. The duty to submit to a blood-alcohol test includes the duty to complete either a blood or breath test. Tests and procedures applicable in determining whether a person is under the influence are governed by section 7912.

Sec. A-39. 12 MRSA §7901, sub-§3, as amended by PL 1989, c. 252, §4 and c. 420, is repealed and the following enacted in its place:

3. Fish. A violation of any of the acts prohibited in chapter 711, subchapter III, fishing violations, is a Class E crime, except that in addition to any penalty which the court might impose, a convicted person shall be fined \$20 for each fish illegally possessed, this fine not to be suspended. Notwithstanding Title 17-A, section 1301, an individual convicted of illegal fishing of Atlantic salmon, in violation of section 7603, shall be fined \$500 per fish, not to be suspended, and up to \$1,000 per violation.

Sec. A-40. 12 MRSA §7901, sub-§13, as enacted by PL 1989, c. 252, §6; c. 469, §8; and c. 599, §4, is repealed and the following enacted in its place:

13. Penalties for operating or attempting to operate a watercraft while under the influence or with an excessive blood-alcohol level. The offense defined in section 7801, subsection 9, is a Class D crime. In determining an appropriate sentence, refusal to submit to a chemical test shall in every case be an aggravating factor. In the following cases the following minimum penalties shall apply.

A. Except as provided in paragraph B, in the case of a person having no previous convictions of a violation of section 7801, subsection 9, and having no previous adjudications of failure to comply with the duty to submit to and complete a blood-alcohol test under section 7802, within a 6-year period, the fine shall not be less than \$300. Beginning July 1, 1990, the penalties provided in this paragraph may not be suspended.

B. In the case of a person having no previous convictions of a violation of section 7801, subsection 9, and having no previous adjudications of failure to comply with the duty to submit to and complete a blood-alcohol test under section 7802, within a 6-year period, the fine shall not be less than \$300 and the sentence shall include a period of incarceration of not less than 48 hours, which penalties may not be suspended, when the person:

(1) Was tested as having a blood-alcohol level of 0.15% or more;

(2) Failed or refused to stop upon request or signal of an officer in uniform, as defined in section 6953 or 7060, during the operation which resulted in prosecution for operating under the influence or with a blood-alcohol level of 0.08% or more;

(3) Failed to submit to a chemical test to determine that person's blood-alcohol level, at the request of a law enforcement officer on the occasion which resulted in the conviction.

C. In the case of a person having one previous conviction of a violation of section 7801, subsection 9, or one previous adjudication of failure to comply with the duty to submit to and complete a blood-alcohol test under section 7802, within a 6-year period, the fine shall not be less than \$500 and the sentence shall include a period of incarceration of not less than 7 days, which penalties may not be suspended.

D. In the case of a person having 2 or more previous convictions of violations of section 7801, subsection 9, or adjudications of failure to comply with the duty to submit to and complete a blood-alcohol test under section 7802, within a 6-year period, the fine shall not be less than \$750 and the sentence shall include a period of incarceration of not less than 30 days, which penalties may not be suspended.

E. In addition to the penalties provided under paragraphs C and D, the court may order the defendant to participate in the alcohol and other drug education, evaluation and treatment programs for multiple offenders administered by the Department of Human Services, as defined in Title 22, chapter 1602.

F. The penalties provided under paragraphs B, C, D and, beginning July 1, 1990, paragraph A, shall not be suspended by the court.

G. If the State pleads and proves that, while operating a watercraft in violation of this section, the actor in fact caused serious bodily injury as defined in Title 17-A, section 2, subsection 23, to another person or in fact caused the death of another person, the sentencing class for the offense in section 7801, subsection 9, is a Class C crime. The minimum penalties specified in this subsection shall apply, but the minimum period of suspension shall be 18 months unless a longer minimum period otherwise applies.

The alternatives defined in section 7801, subsection 9, paragraphs A and B may be pleaded in the alternative. The State may, but shall not be required to, elect prior to submission to the fact finder.

For purposes of this section, a prior conviction has occurred within the 6-year period if the date of docket entry by the clerk of a judgment of conviction or adjudication is 6 years or less from the date of the new conduct which is penalized or for which the penalty is or may be enhanced.

In determining the appropriate sentence, the court shall consider the defendant's record of convictions for operating under the influence and for failure to comply with the duty to submit. The court may rely upon oral representations based on records maintained by the courts, by the State Bureau of Identification, by the Secretary of State, including telecommunications of records maintained by the Secretary of State, or by the Department of Inland Fisheries and Wildlife. If the defendant disputes the accuracy of any representation concerning a conviction or adjudication, the court shall grant a continuance for the purposes of determining the accuracy of the record.

References in this Title to this section shall be determined also to refer to the juvenile crime stated in Title 15, section 3103, subsection 1, paragraph E and to the disposition, including a suspension, for that juvenile crime as provided in Title 15, section 3314, subsection 3, except as otherwise provided or except when the context clearly requires otherwise.

Sec. A-41. 12 MRSA §7901, sub-§§15 and 16 are enacted to read:

15. Selling or buying wild birds or wild animals. Selling or buying wild birds or wild animals is a Class D crime. A convicted person shall be imprisoned for not less than 10 days for a first offense and not less than 20 days for each succeeding offense, this imprisonment not to be suspended, and shall be fined not less than \$1,000, this fine not to be suspended.

A person is guilty of selling or buying wild birds or wild animals if that person:

A. Buys or sells bear in violation of section 7452, subsection 9;

B. Sells wild birds in violation of section 7456, subsection 5;

C. Buys or sells deer in violation of section 7458, subsection 3;

D. Buys or sells moose in violation of section 7464, subsection 8; or

E. Buys or sells wild turkey in violation of section 7469, subsection 9.

16. Unlawfully permitting operation of watercraft. A violation of section 7801, subsection 31, is a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

Sec. A-42. 14 MRSA §8102, sub-§1, as amended by PL 1989, c. 6; c. 9, §2; c. 104, Pt. C, §§8 and 10; c. 233 and as repealed and replaced by PL 1989, c. 349, §1, is repealed and the following enacted in its place:

1. Employee. "Employee" means a person acting on behalf of the governmental entity in any official capacity, whether temporarily or permanently, and whether with or without compensation from local, state or federal funds, including elected or appointed officials; volunteer firefighters as defined in Title 30-A, section 3151; emergency medical service personnel; members and staff of the Consumer Advisory Board pursuant to Title 34-B, section 1216; Maine National Guardsmen while receiving state active duty pay under Title 37-B, section 143, in accordance with Title 37-B, sections 181 to 183 and 742, and while engaged in the Domestic Action Program; and sheriffs' deputies as defined in Title 30-A, section 381 when they are serving orders pursuant to section 3135, but the term "employee" does not mean a person or other legal entity acting in the capacity of an independent contractor under contract to the governmental entity.

Sec. A-43. 20-A MRSA §2, sub-§3, as amended by PL 1989, c. 501, Pt. P, §22; c. 502, Pt. D, §16; and c. 534, Pt. E, §1, is repealed and the following enacted in its place:

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. 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 subsection is repealed on June 30, 1994, unless reviewed and extended by specific Act of the Legislature.

Sec. A-44. 20-A MRSA §7702, sub-§14, as enacted by PL 1989, c. 499, §2, is repealed and the following enacted in its place:

14. Services. "Services" means those services which are designed to meet the developmental needs of infants and children, ages 0 through 5, who are handicapped or at-risk for developmental delay, as defined in this chapter. These services may include, but are not limited to:

- A. Family training, counseling or home-based services;
- B. Special instruction;
- C. Speech pathology and audiology;
- D. Occupational therapy;
- E. Psychological services;
- F. Case management services;
- G. Medical services for diagnostic or evaluation purposes only;
- H. Early identification, screening and assessment services;
- I. Health services necessary to enable the child to benefit from the other early intervention services;
- J. Respite care services; and
- K. Transportation.

Sec. A-45. 20-A MRSA §8404, sub-§3, ¶B, as amended by PL 1989, c. 414, §20 and c. 540, §2, is repealed and the following enacted in its place:

B. May develop a cooperative agreement which shall delineate the duties and powers of the advisory committee and devise a formula for sharing costs. The agreement is subject to ratification by all of the school boards of the participating administrative units. This agreement shall be reviewed annually, with a copy being submitted to the commissioner; and

Sec. A-46. 20-A MRSA c. 505-A, as enacted by PL 1987, c. 324 and c. 450, §§2 and 3 and as amended by PL 1987, c. 816, Pt. KK, §17 and PL 1989, c. 501, Pt. P, §23, is repealed and the following enacted in its place:

CHAPTER 505-A

RETIRED TEACHERS' HEALTH INSURANCE

§13451. Group accident and sickness or health insurance for retired teachers

Group accident and sickness or health insurance shall be available to retired teachers as defined in Title 5, section 17001, subsection 42, subject to the following.

1. Access to a group plan. The group accident and sickness and health insurance plan that is in effect for active teachers in a public school system must be made available to all teachers eligible under subsection 2, who retired under the Maine State Retirement System when they left that system and who choose to participate in the new plan. The rate for the insurance coverage shall be the same as the rate provided for active teachers in that school system.

2. Eligibility; retired teacher members. Any retired teacher who receives a retirement benefit from the Maine State Retirement System shall be eligible for group accident and sickness or health insurance, provided that the retired teacher also meets the eligibility requirements for participation imposed by the group plan that governed the teacher last as an active teacher and participated in the plan for one year immediately prior to retirement or October 1, 1987, whichever comes last. Retired teachers may not be required to maintain a dues-paying membership in any organization as a requirement for participation in a group health insurance plan under this subsection.

3. School units which change plans. If a school unit changes its group health insurance plan or provider, the school unit at the time that it transfers active teachers to the new plan or provider shall inform all retired teachers who

4. Master policy certificates. The insurance company or companies or nonprofit organizations, or both, shall furnish the usual master policy and certificates. The original master policy and certificate shall be held by the organization offering the insurance plan and the Commissioner of Administration shall hold a certified copy. Each insured retired teacher-member shall receive a certificate setting forth the benefits to which entitled, to whom payable, to whom claims shall be submitted and summarizing the provisions of the policy principally affecting the retired teacher-member.

5. Payment by State. The State through the Maine State Retirement System shall pay 20% of only the retired teacher members' share of this insurance.

Sec. A-47. 21-A MRSA §1016, sub-§3, ¶B, as enacted by PL 1985, c. 161, §6, is amended to read:

B. The name and address of every person making a contribution in excess of \$10, the date and amount of that contribution and, if a person's contributions in any report filing period aggregate more than \$50, the account must include the contributor's occupation and his principal place of business, if any. If the contributor is the candidate or a member of the candidate's immediate family, the account must also state the relationship. For purposes of this

paragraph, "filing period" is as provided in section 1017, subsection 3, ~~paragraph A 3-A;~~

Sec. A-48. Effective date. The Maine Revised Statutes, Title 21-A, section 1016, subsection 3, paragraph B, as amended by this Act, takes effect retroactively to November 1, 1989.

Sec. A-49. 21-A MRSA §1017, sub-§5-A, ¶B, as enacted by PL 1987, c. 726, §2, is amended to read:

B. If the contribution is sold after the termination of the appropriate reporting period specified in subsections 1 to 4, the value of the contribution is deemed to be the difference between the value of the contribution as originally reported by the candidate and the amount of the purchase price paid at auction. Unless further reports are filed in relation to a later election in the same calendar year, the disposition of any net surplus or deficit in excess of \$50 resulting from the difference between the auction price and the original contribution value shall be reported in the same manner as provided in subsection 2, paragraph F or subsection 3 ~~3-A,~~ paragraph ~~Ð~~ E, as appropriate.

Sec. A-50. Effective date. The Maine Revised Statutes, Title 21-A, section 1017, subsection 5-A, paragraph B, as amended by this Act, takes effect retroactively to November 1, 1989.

Sec. A-51. 22 MRSA §1, 3rd ¶, as amended by PL 1989, c. 329, §1 and c. 400, §§3 and 14, is repealed and the following enacted in its place:

The commissioner may employ any bureau and division heads, deputies, assistants and employees who may be necessary to carry out the work of the department. All personnel of the department shall be under the immediate supervision, direction and control of the commissioner. These personnel shall be employed subject to the Civil Service Law, except the Deputy Commissioner; Director, Bureau of Child and Family Services; Director, Bureau of Elder and Adult Services; Director, Bureau of Health; Director, Bureau of Rehabilitation; Director, Bureau of Income Maintenance; Director, State Health Planning and Development Agency; Director, Bureau of Medical Services; and Assistant Deputy Commissioners.

Sec. A-52. 22 MRSA §1, 4th ¶, as amended by PL 1989, c. 329, §2 and c. 576, §§3 and 5, is repealed and the following enacted in its place:

The Director, Bureau of Resource Development, and the Director, Bureau of Elder and Adult Services, shall be appointed by the commissioner, after consultation with the Maine Committee on Aging and the Maine Human Development Commission. Each of these directors shall be appointed and serve in the unclassified service at the pleasure of the commissioner. Any vacancy in each of these positions shall be filled by appointment as in this paragraph for a like term.

Sec. A-53. 22 MRSA §42, sub-§3, as amended by PL 1989, c. 104, Pt. C, §§4 and 10 and c. 483, Pt. A, §32, is repealed and the following enacted in its place:

3. Plumbing and subsurface waste water disposal.

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

Any person who violates the rules adopted under this subsection, or who violates a municipal ordinance adopted pursuant to Title 30-A, sections 4201 and 4211 or uses a subsurface waste water disposal system not in compliance with rules applicable at the time of installation or modification shall be penalized in accordance with Title 30-A, section 4452. Enforcement of the rules shall be the responsibility of the municipalities rather than the department. The department or a municipality may seek to enjoin violations of the rules or municipal ordinances. In the prosecution of a violation by a municipality, the court shall award reasonable attorney's fees to a municipality if that municipality is the prevailing party, unless the court finds that special circumstances make the award of these fees unjust.

Sec. A-54. 22 MRSA §254, 2nd ¶, as amended by PL 1989, c. 563, §1 and c. 564, §2 and c. 596, Pt. N, §9, is repealed and the following enacted in its place:

In any year in which this program is conducted, it must include anti-arthritis drugs and the amount that a recipient pays toward the cost of any such covered purchase is \$2.

Sec. A-55. Effective date. The Maine Revised Statutes, Title 22, section 254, 2nd paragraph, as repealed and replaced by this Act, takes effect July 1, 1990.

Sec. A-56. 22 MRSA §396-D, sub-§9-B, as enacted by PL 1989, c. 386, §1 and c. 494, is repealed and the following enacted in its place:

9-B. Special relief. In determining financial requirements for payment years beginning or deemed to begin on or after October 1, 1988, and before October 1, 1990, the commission may elect to make a special adjust-

ment to provide relief to hospitals with unusually low noncapital financial requirements per case-mix adjusted admission, in accordance with the following provisions.

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

(1) "Final 3rd-year financial requirements" means a hospital's financial requirements at year end as determined by the commission for purposes of compliance and settlement determinations under section 396-I for the payment year commencing during the 3rd payment year cycle.

(2) "Financial requirements per case" means the inpatient portion of a hospital's final 3rd-year financial requirements, exclusive of capital allowances, hospital-based physician remuneration, base-year subsidies, and medical education costs, divided by the hospital's case-mix adjusted admissions for that year.

(3) "Third payment year cycle" means the period from October 1, 1986, through September 19, 1987.

(4) "Base-year subsidies" means that part of financial requirements resulting from the addition to base-year financial requirements, by commission rule, of elements designed to compensate hospitals for losses associated with operations, the costs of which are not otherwise included in financial requirements.

B. A hospital may receive an adjustment only if its financial requirements per case are less than 83% of the median financial requirements per case for hospitals of comparable size.

C. Any adjustment shall be limited to the lesser of:

(1) An amount calculated by first subtracting the hospital's financial requirements per case from 83% of the median financial requirements per case for hospitals of comparable size; multiplying that difference by the sum of the hospital's case-mix adjusted admissions and outpatient equivalent admissions for the payment year commencing in the 3rd-payment year cycle; and adjusting that product for inflation between the payment year commencing in the 3rd-payment year cycle and the payment year for which the adjustment is requested; or

(2) An increase in the hospital's financial requirements that will, in conjunction with any other adjustments to financial requirements that the hospital is entitled to receive

for the same payment year, cause its noncapital financial requirements to equal its reasonably budgeted, noncapital operating expenses for the payment year.

D. The commission shall make an adjustment for all or part of the maximum amount permitted under paragraphs B and C, to the extent that the commission finds that relief is necessary to avoid significant harm to the hospital's ability to provide services to the community, and that the adjustment would be in the public interest and whether it is necessary to avoid significant harm. In determining whether the adjustment is in the public interest and, if so, in what amount the adjustment shall be made, the commission shall consider the following factors, as well as any other matters pertinent to the findings and purposes set forth in section 381:

(1) The reasonableness of the rate at which the hospital's expenses have increased since the 4th payment year;

(2) The hospital's reasons for exceeding its currently approved level of financial requirements;

(3) The hospital's financial requirements, volume and case-mix as compared to those of other comparable hospitals;

(4) The hardship to the hospital in the absence of relief under this subsection;

(5) The impact on quality and accessibility of health care; and

(6) The effect on payors and purchasers of providing relief under this subsection.

E. No hospital may receive more than one adjustment under this subsection, nor shall any hospital be eligible for such an adjustment if the commission, after hearing, has made a final decision denying the adjustment. An adjustment under this subsection shall become part of payment year financial requirements for purposes of computing subsequent payment year financial requirements pursuant to section 396-C.

F. This subsection is repealed October 1, 1991.

Sec. A-57. 22 MRSA §396-D, sub-§9-C is enacted to read:

9-C. Special relief for border hospitals. In determining financial requirements for a border hospital's 5th payment year, the commission shall make a special adjustment in accordance with the following provisions.

A. As used in this subsection, the following terms have the following meanings.

(1) "Border hospital" means a Maine hospital located within 10 miles of the New Hampshire border.

(2) "Economic hardship" means an excess of reasonably budgeted, noncapital, acute care operating expenses over noncapital financial requirements.

(3) "5th payment year" means a hospital's payment year beginning or deemed to begin on or after October 1, 1988, and before October 1, 1989.

B. In considering an adjustment under this subsection, the commission shall determine the extent to which the hospital has demonstrated that its economic hardship is attributable to unique circumstances affecting border hospitals. In no event may an adjustment under this subsection exceed the portion of a hospital's economic hardship attributed to the unique circumstances of border hospitals.

C. This adjustment may be made during the course of the 5th payment year. An adjustment under this subsection shall become part of payment year financial requirements for purposes of computing subsequent payment year financial requirements pursuant to section 396-C.

D. This subsection is repealed October 1, 1991.

Sec. A-58. 22 MRSA §1811, as amended by PL 1989, c. 136, §1 and c. 572, §1, is repealed and the following enacted in its place:

§1811. License required; definitions

No person, partnership, association or corporation, nor any state, county or local governmental units, may establish, conduct or maintain in the State any hospital, sanatorium, convalescent home, rest home, nursing home, ambulatory surgical facility or other institution for the hospitalization or nursing care of human beings without first obtaining a license therefor. Hospital, sanatorium, convalescent home, rest home, nursing home, ambulatory surgical facility and other related institution, within the meaning of this chapter, means any institution, place, building or agency in which any accommodation is maintained, furnished or offered for the hospitalization of the sick or injured or care of any aged or infirm persons requiring or receiving chronic or convalescent care. Nothing in this chapter may apply to hotels or other similar places that furnish only board and room, or either, to their guests or to such homes for the aged or blind as may be subject to licensing under any other law.

Sec. A-59. 22 MRSA §1813, as amended by PL 1989, c. 136, §2 and c. 572, §3, is repealed and the following enacted in its place:

§1813. Existing hospitals must obtain licenses

No person, partnership, association or corporation, nor any state, county or local governmental units, may continue to operate an existing hospital, sanatorium, convalescent home, rest home, nursing home or ambulatory surgical facility, nor open a hospital, sanatorium, convalescent home, rest home, nursing home or ambulatory surgical facility unless the operation is approved and regularly licensed by the State.

Sec. A-60. 22 MRSA §1815, as amended by PL 1989, c. 136, §4 and c. 572, §4, is repealed and the following enacted in its place:

§1815. Fees

Each application for a license to operate a hospital, convalescent home or nursing home shall be accompanied by a nonrefundable fee of \$10 for each bed contained within the facility. Each application for a license to operate an ambulatory surgical facility shall be accompanied by the fee established by the department. The department shall establish the fee for an ambulatory surgical facility, not to exceed \$250, on the basis of a sliding scale representing size, number of employees and scope of operations. All licenses issued shall be renewed annually upon payment of a like fee. The State's share of all fees received by the department under this chapter shall be deposited in the General Fund. No license granted may be assignable or transferable. State hospitals are not required to pay licensing fees.

Sec. A-61. 22 MRSA §3775, sub-§1, as amended by PL 1989, c. 443, §56, is further amended to read:

1. Services. Encourage the development and ensure coordination of training, education and pre-apprenticeship programs, supportive services and remedial and preparatory programs at the University of Maine System, the technical colleges, the State Apprenticeship and Training Council and other institutions and programs;

Sec. A-62. 22 MRSA §4008, sub-§2, ¶H, as repealed and replaced by PL 1989, c. 270, §4 and c. 502, Pt. A, §76, 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;

Sec. A-63. 22 MRSA §4008, sub-§2, ¶I, as enacted by PL 1989, c. 270, §5 and c. 502, Pt. A, §77, is repealed and the following enacted in its place:

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

Sec. A-64. 22 MRSA §6203, sub-§2, as amended by PL 1989, c. 329, §22 and c. 347, §9, is repealed and the following enacted in its place:

2. Agreements. In order to provide adult day care and other services, the department may enter into agreements with long-term health care facilities and community-based programs, separate and distinct from any other agreements between the department and the same facility or programs.

Any facility or program providing adult day care pursuant to this chapter shall enter into an agreement with the department. Each agreement shall specify, among other things, the services to be provided, the fees for services, the method of payment, records to be maintained and the provisions for evaluating the services provided.

Sec. A-65. 24 MRSA §2325-B, sub-§1, as amended by PL 1989, c. 503, Pt. B, §104 and c. 556, Pt. A, §2, is repealed and the following enacted in its place:

1. Appointment; membership. The Mandated Benefits Advisory Commission, as established by Title 5, section 12004-I, subsection 50, shall be composed of 19 members.

A. The following members shall be appointed by the President of the Senate and the Speaker of the House of Representatives:

(1) Two health insurance consumers who are not otherwise affiliated with the provision or financing of health care;

(2) One representative of a labor organization;

(3) Three Legislators, 2 of whom shall be members of the joint standing committee of the Legislature having jurisdiction over insurance matters and one of whom shall be a member of the joint standing committee of the Legislature having jurisdiction over human resource matters;

(4) One chiropractor; and

(5) One representative of a statewide association of public health professionals.

Initial appointments shall be made no later than 30 days after the effective date of this section.

B. The following members shall be appointed by the Governor:

(1) Two health insurance consumers who are not otherwise affiliated with the provision or financing of health care;

(2) One representative of a labor organization;

(3) One representative of a commercial health insurance company;

(4) One representative of a nonprofit hospital or medical service organization;

(5) One representative of a licensed alcohol and substance abuse treatment program;

(6) One representative of a licensed mental health treatment program;

(7) One representative of small business;

(8) One representative of a major industry and business trade association;

(9) One physician, provided that the Governor shall alternately appoint an allopathic and an osteopathic physician; and

(10) One representative of the hospital industry.

The Governor shall notify the President of the Senate, the Speaker of the House of Representatives and the Executive Director of the Legislative Council of the appointments as soon as they are made. Initial appointments shall be made within 30 days of the effective date of this section.

Sec. A-66. 24-A MRSA §1532-A, sub-§8, as amended by PL 1989, c. 31, §3 and c. 168, §19, is repealed and the following enacted in its place:

8. Each agent license issued under this Title which terminates on its expiration date, subject to the continuing education requirements under subchapter VI, shall be automatically renewed for a further 2-year period, unless, following a hearing, the superintendent determines that any reason or condition exists which is specified in section 1539 for the suspension or revocation of a license.

Sec. A-67. 24-A MRSA §2320-A, sub-§1, as enacted by PL 1989, c. 356, §1, is amended to read:

1. General review. The Superintendent of Insurance shall review annually each authorized insurer in each major line of insurance in the State for which a rating organization is authorized to file rates. Major lines of insurance shall include workers' compensation, private passenger automobile liability, private passenger automobile physical damage, commercial automobile liability, commercial automobile physical damage, commercial multiple peril, ~~homeowners'~~ homeowners, liability, medical malpractice and fire insurance. In addition to the annual review of major lines, the superintendent may review individual insurers involved in those specific lines for which the superintendent has reasonable cause to believe that competition may not be an effective regulator of rates for the purpose of determining the level of

competition among insurers providing those lines and the availability of insurance within those lines.

Sec. A-68. 26 MRSA §171, as amended by PL 1989, c. 410, §25 and c. 503, Pt. B, §108, is repealed and the following enacted in its place:

§171. Board of Boiler Rules

The board of appeals, heretofore created, shall be known as the "Board of Boiler Rules," as established by Title 5, section 12004-A, subsection 7, and shall consist of 7 members, 6 of whom shall be appointed by the director, with the approval of the Governor. At the expiration of their respective terms of office their successors shall be appointed for terms of 4 years each. In the event of a vacancy by reason of the death or resignation of any of the appointed members, or otherwise, the director shall fill such vacancy for the remainder of the term with a representative of the same class. Of these 6 appointed members, 2 shall be representatives of labor within this State who are boilermakers or have boiler licenses, one shall be a representative of the owners and users of steam boilers within this State, one a representative of the boiler manufacturers within this State, one a representative of the operating steam engineers in this State and one a representative of a boiler inspection and insurance company licensed to do business within the State. The 7th member shall be the director, who shall be chair of the board. The board shall meet at least twice yearly at the seat of government or other place designated by the board.

Sec. A-69. 26 MRSA §176, 3rd ¶, as repealed and replaced by PL 1989, c. 502, Pt. A, §104 and as amended by PL 1989, c. 590, §1, 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. A-70. 26 MRSA §1002, first ¶, as amended by PL 1989, c. 483, Pt. A, §44 and c. 503, Pt. B, §110, is repealed and the following enacted in its place:

The State Apprenticeship and Training Council, as established by Title 5, section 12004-G, subsection 25, shall be composed of 12 members to be appointed by the Governor and made up as follows: 4 members shall be representatives of employees and shall be bona fide members of a recognized major labor organization; 4 members shall be representatives of employers and shall be bona fide employers or authorized representatives of bona fide employers; 2 members shall be representatives of the public, selected from neither industrial employers nor employees, nor shall they be directly concerned with any particular industrial employer or employee; and 2 members who shall represent the interests of women, minorities and aid to families with dependent children

recipients in apprenticeship. The appointments shall be made so that the term of one member of each group shall expire each year. Each member shall hold office until a successor is appointed and qualified, and any vacancy shall be filled by appointment for the unexpired portion of the term. The chair and secretary of the council shall be named by the members of the council and the chair shall be a member of the council. The Associate Commissioner of the Bureau of Adult and Secondary Vocational Education, the Director of the Bureau of Labor Standards, the Commissioner of Labor and the director of apprenticeship training of the Maine Technical College System shall be ex officio members of the council without vote. The members of the council shall be compensated according to the provisions of Title 5, chapter 379.

Sec. A-71. 26 MRSA §1026, sub-§1, as amended by PL 1989, c. 443, §69 and c. 596, Pt. N, §5, is repealed and the following enacted in its place:

1. Negotiations. It shall be the obligation of the university, academy, technical college or state schools for practical nursing and the bargaining agent to bargain collectively. "Collective bargaining" means, for the purpose of this chapter, their mutual obligation:

A. To meet at reasonable times;

B. To meet within 10 days after receipt of written notice from the other party requesting a meeting for collective bargaining purposes, provided the parties have not otherwise agreed in a prior written contract;

C. To confer and negotiate in good faith with respect to wages, hours, working conditions and contract grievance arbitration, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession;

D. To execute in writing any agreements arrived at, the term of any such agreement to be subject to negotiation, but not to exceed 3 years; and

E. To participate in good faith in the mediation, fact finding and arbitration procedures required by this section.

Cost items in any collective bargaining agreement of technical college employees shall be submitted for inclusion in the Governor's next operating budget within 10 days after the date on which the agreement is ratified by the parties. If the Legislature rejects any of the cost items submitted to it, all cost items submitted shall be returned to the parties for further bargaining. Cost items shall include salaries, pensions and insurance. Cost items related to a collective bargaining agreement reached under this chapter and submitted to the Legislature for its approval under this subsection shall not be submitted in the same legislation that contains cost items for employees exempted from the definition of "technical college employee" under section 1022, subsection 11, except that cost items for those employees exempted under

section 1022, subsection 11, paragraph D, need not be excluded.

Sec. A-72. 26 MRSA §1082, sub-§5, as amended by PL 1989, c. 483, Pt. A, §49 and c. 503, Pt. B, §111, is repealed and the following enacted in its place:

5. Advisory council. The Commissioner of Labor shall appoint a state advisory council, as established by Title 5, section 12004-I, subsection 53, consisting of not more than 9 members composed of an equal number of employer representatives and employee representatives who may fairly be regarded as representative because of their vocation, employment or affiliations and an equal number of members representing the general public. The council shall meet no less than 3 times a year and shall aid the commissioner in formulating policies and discussing problems related to the administration of this chapter and in ensuring impartiality and freedom from political influence in the solution of those problems. The advisory council may also make recommendations to the Legislature for those changes in this chapter as in their opinion will aid in accomplishing the objectives of this chapter. Each member of the advisory council shall be compensated according to the provisions of Title 5, chapter 379.

Sec. A-73. 26 MRSA §2005, sub-§3, ¶B, as repealed and replaced by PL 1989, c. 200, §§1 and 5 and as amended by PL 1989, c. 443, §79, is repealed and the following enacted in its place:

B. The Governor shall appoint 7 members representing any of the following:

(1) Representatives of state bodies, such as the Department of Educational and Cultural Services, the Department of Economic and Community Development, the Department of Labor, the Department of Human Services, the Maine Occupational Information Coordinating Committee, the University of Maine System, the Maine Technical College System and other agencies that the Governor determines have a direct interest in employment and training and human resource utilization within the State; and

(2) Representatives of municipalities or counties who are nominated by the municipal officers or the county commissioners and representatives of local education agencies who are nominated by those agencies.

Sec. A-74. 26 MRSA §2015-A, sub-§8, ¶A, as amended by PL 1989, c. 408, §1 and c. 541, §10, is repealed and the following enacted in its place:

A. Up to \$3,000 for the following activities:

(1) Tuition for education and training;

(2) Training materials or books necessary for participation in the training;

(3) Payment for dependent care costs, provided those costs do not exceed the prevailing regional rate for such care;

(4) Travel payments according to the policies established by the United States Job Training Partnership Act service providers; and

(5) Payment of a living allowance in the same amount as the participant's prior unemployment compensation weekly benefit amount for a reasonable time period to allow the employee to complete the employability development plan, provided that the individual has exhausted all entitlement to unemployment compensation and is ineligible for extended benefits as a dislocated worker under section 1196;

Sec. A-75. 26 MRSA §2015-A, sub-§8, ¶C, as amended by PL 1989, c. 408, §2 and c. 541, §11, is repealed and the following enacted in its place:

C. While a participant is collecting unemployment benefits or for the duration of the training program that does not exceed one year, an exception to the limitations set forth in paragraph A shall be granted for supportive services when additional funds for transportation, living allowance and dependent care are necessary for the participant to complete the training specified in the employability development plan and the participant is unable to purchase transportation, basic necessities or dependent care. The commissioner shall adopt rules under the Maine Administrative Procedure Act, Title 5, chapter 375, to determine the requirements for these exceptions.

Sec. A-76. 29 MRSA §1, sub-§1-J, as enacted by PL 1989, c. 481, Pt. A, §1; c. 514, §§2 and 25; and c. 515, §§1 and 16, is repealed and the following enacted in its place:

1-J. Commercial driver's license. "Commercial driver's license" means a license issued by this State or other jurisdiction to an individual which authorizes the individual to operate a class of commercial motor vehicle.

Sec. A-77. 29 MRSA §1, sub-§§1-L and 1-M are enacted to read:

1-L. Antique motorcycle. "Antique motorcycle" means any motorcycle manufactured on or after model year 1916, which is over 25 years old, which is equipped with an engine manufactured either at the same time as the vehicle or to the specifications of the original engine of the vehicle, which is maintained primarily for use in exhibitions, club activities, parades and other functions of public interest, and which is not used as its owner's primary mode of transportation of passenger or goods.

1-M. Altered vehicle. “Altered vehicle” means a motor vehicle with a gross vehicle weight rating of 10,000 pounds or less which is modified so that the distance from the ground to the lowermost point on any part of the frame or body is different from the manufacturer’s specifications, unless that difference is caused by the use of tires which are no more than 2 sizes larger than the manufacturer’s recommended size, the installation of a heavy duty suspension including shock absorbers and overload springs or normal wear of the suspension system which does not affect control of the vehicle.

Sec. A-78. Effective date. The Maine Revised Statutes, Title 29, section 1, subsection 1-M, as enacted by this Act, takes effect retroactively March 1, 1990.

Sec. A-79. 29 MRSA §153, as amended by PL 1989, c. 71, §§8 and 9, is further amended to read:

§153. Proration after November 1st

On any application for registration applied for by an owner or the owner’s surviving spouse of a vehicle, except an automobile, motor truck, truck tractor, motorcycle, moped or motor-driven cycle, not including a log hauler or traction engine, during the period between the first day of November and the last day of February, 1/2 the registration fee shall be charged. On an application for a registration for an automobile, motor truck, truck tractor, motorcycle, moped or motor-driven cycle made during the last 4 months of a registration year, 1/2 the registration fee shall be charged.

Sec. A-80. 29 MRSA §252-A, as amended by PL 1989, c. 394, §1 and c. 509, §2 and as repealed and replaced by PL 1989, c. 502, Pt. C, §11, is repealed and the following enacted in its place:

§252-A. Disabled veterans; special free 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 or any branch of the United States Armed Forces 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. A handicap placard shall be issued in addition to the disabled veteran registration plate and upon payment of a \$1 fee.

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

Sec. A-81. 29 MRSA §2013, sub-§1, ¶E, as amended by PL 1989, c. 414, §27 and c. 514, §§19 and 25, is repealed and the following enacted in its place:

E. Pass an examination as the Secretary of State prescribes to determine that person’s ability to operate the specific vehicle which will be driven as a school bus or any comparable type vehicle. A fee of \$10 shall accompany the initial application for the examination. The fee for subsequent examinations shall be \$5;

Sec. A-82. 30-A MRSA §421, sub-§14, as amended by PL 1989, c. 6; c. 9, §2; c. 104, Pt. C, §§8 and 10; c. 303; and c. 502, Pt. A, §112, is repealed and the following enacted in its place:

14. Search for persons to serve. For diligently searching for persons on 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, \$10, plus necessary travel; and

Sec. A-83. 30-A MRSA §4301, sub-§1, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10 and as amended by PL 1989, c. 562, §1 and as repealed and replaced by PL 1989, c. 581, §6, is repealed and the following enacted in its place:

1. Affordable housing. “Affordable housing” has the same meaning as set out in section 5002, subsection 2.

Sec. A-84. 30-A MRSA §4326, sub-§3, ¶G, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10 and as amended by PL 1989, c. 271, §4 and c. 562, §6, is repealed and the following enacted in its place:

G. Ensure that its land use policies and ordinances encourage the siting and construction of affordable housing within the community and comply with the requirements of section 4358 pertaining to individual mobile home and mobile home park siting and design requirements. The municipality shall seek to achieve a level of 10% of new residential development, based on a 5-year historical average of residential development in the municipality, meeting the definition of affordable housing. Municipalities are encouraged to seek creative approaches to assist in the development of affordable housing, including, but not limited to, cluster zoning, reducing minimum lot and frontage sizes, increasing densities and use of municipally owned land;

Sec. A-85. 30-A MRSA §4404, sub-§13, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10 and as amended by PL 1989, c. 429, §1 and c. 497, §8, is repealed and the following enacted in its place:

13. Flood areas. Based on the Federal Emergency Management Agency’s Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan

must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

Sec. A-86. 30-A MRSA §4404, sub-§§15 and 16 are enacted to read:

15. River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9; and

16. Storm water. The proposed subdivision will provide for adequate storm water management.

Sec. A-87. 30-A MRSA §4451, sub-§3, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

3. Training and certification of code enforcement officers. In cooperation with the ~~Vocational-Technical Institute~~ Technical College System and the Department of Human Services, the office shall establish a continuing education program for individuals engaged in code enforcement. This program shall provide basic and advanced training in the technical and legal aspects of code enforcement necessary for certification, including, but not limited to:

- A. Plumbing inspection;
- B. Soils and site evaluation;
- C. Electrical inspection;
- D. State and federal environmental requirements;
- E. Zoning ordinances;
- F. Court techniques; and
- G. Other enforcement information.

Sec. A-88. 30-A MRSA §4506, sub-§3, as repealed by PL 1989, c. 104, Pt. A, §46 and Pt. C, §10 and as amended by PL 1989, c. 282, §1, is repealed.

Sec. A-89. 30-A MRSA §4927, sub-§2, as enacted by PL 1989, c. 48, §§7 and 31, is amended to read:

2. Provisions governing use of money. The fund shall be administered subject to this section. Priority shall be given to homeowners who are or are likely to be in noncompliance with the state ~~waste water~~ waste water classification program, Title 38, chapter 3, subchapter I, article 4-A and who do not have access to adequate capital or credit to remove, rehabilitate or replace the waste water treatment system. For purposes of this subchapter, homeowner

includes the owner of a mobile home or manufactured housing unit and the owner of rental housing.

A. The authority, by rules adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, shall establish priorities of assistance to homeowners. These priorities shall be based on:

- (1) The assets of the homeowner;
- (2) The availability of credit or assistance or income from other sources, including financial institutions, investments, trust funds and other similar sources;
- (3) The degree of environmental or public health hazard;
- (4) The immediacy of the need for assistance; and
- (5) Any other variables considered important by the authority.

B. Grants, not to exceed \$5,000 per homeowner household, may be provided to a homeowner if:

- (1) The grant is essential to providing housing to the homeowner; and
- (2) The income of the homeowner is insufficient to repay any loan or portion of a loan.

C. Loans from the fund shall not exceed \$10,000 per homeowner household at rates of interest not to exceed 8% per year.

D. Loans from the fund may be made for periods of up to 30 years. If a homeowner cannot repay a loan in full within the 30-year period, the authority may extend the repayment period if the authority determines that the loan can be repaid during the extension period. The authority may waive the payment of interest on any loan or portion of a loan for which the interest payment will be an undue hardship on a household.

E. Money in the fund may be used to reduce interest rates on loans provided by financial institutions located in this State to homeowners who meet the eligibility requirements of this program.

F. The program shall be directed primarily at households without access to adequate capital or credit and which meet the eligibility requirements of this program.

G. The program shall be directed secondarily at eliminating overboard discharges into shellfish growing areas designated by the Department of Marine Resources.

Sec. A-90. 30-A MRSA §6101, as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. A, §51 and Pt. C, §§8 and 10, is further amended to read:

§6101. Membership

The Board of Emergency Municipal Finance, ~~as authorized by established in accordance with Title 5, chapter 379, section 12004-I, subsection 8 25-A,~~ and referred to in this chapter as the "board," shall be composed of the 3 persons who hold the offices of the Commissioner of Finance, Treasurer of State and State Tax Assessor. The successor of any person to any of these offices immediately becomes a member of the board and the person who formerly held that office ceases to be such a member. The person holding the office of State Tax Assessor is the ~~chairman~~ chair of the board. The members of the board shall be compensated according to the provisions of Title 5, chapter 379.

Sec. A-91. 32 MRSA §1202, sub-§1, ¶A, as amended by PL 1989, c. 125, §1 and c. 443, §83, is repealed and the following enacted in its place:

A. For a journeyman electrician's license, a person must:

(1) Complete at least 8,000 hours of service as an apprentice or helper electrician or at least 8,000 hours of experience in electrical installations, as defined in section 1101, and satisfactorily complete a program of study comprising 576 hours as approved by the Electricians' Examining Board or from an accredited institution. The 576 hours shall consist of 225 hours of required study, including an approved course of not less than 45 hours in the current National Electrical Code; and 351 hours of elective study, comprised of all trade-related electives or 225 hours of trade-related courses and 135 hours of degree-related courses;

(2) Be a graduate of an accredited regional vocational high school 2-year electrical program, have worked for 8,000 hours in the field of electrical installations under the supervision of a master electrician or the equivalent and have completed a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board;

(3) Be a graduate of an accredited Maine technical college electrical program or a vocational-electrical program of the Department of Corrections, have worked for 4,000 hours in the field of electrical installations under the supervision of a master electrician or the equivalent and have completed a course of not less than 45 hours in the current National Electrical Code, the course to be

approved by the board. Persons qualifying under this paragraph may write the journeyman's examination upon graduation if application is made within one year of graduation; or

(4) Be an electrical apprentice registered with the State Apprenticeship and Training Council and have completed 576 hours of related instruction, as defined in this paragraph, prescribed in their apprenticeship program, the 8,000-hour approved program and a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board. Persons qualifying under this paragraph may write the journeyman's examination after completion of the 576 hours of instruction, if application is made within one year of the completion of the instruction.

Sec. A-92. 32 MRSA §1202, sub-§1, ¶D, as amended by PL 1989, c. 125, §2 and c. 443, §84, is repealed and the following enacted to read:

D. For a journeyman-in-training electricians' license, a person must be a graduate of an accredited Maine technical college electrical program or a vocational-electrical program of the Department of Corrections, receive a passing grade on the journeyman examination and complete 2,000 hours of experience. This provision shall be reviewed by the joint standing committee of the Legislature having jurisdiction over business legislation by March 1, 1991, and, unless continued by law, shall terminate at this time.

Sec. A-93. 32 MRSA §1671, as repealed by PL 1989, c. 346, §2 and as amended by PL 1989, c. 503, Pt. B, §131, is repealed.

Sec. A-94. 32 MRSA §2561, as amended by PL 1989, c. 462, §4 and c. 503, Pt. B, §137, is repealed and the following enacted in its place:

§2561. Membership; qualifications; tenure; vacancies

The Board of Osteopathic Examination and Registration, as established by Title 5, section 12004-A, subsection 29, and in this chapter called the "board," shall consist of 7 persons appointed by the Governor. These persons shall be residents of this State. Five of these persons shall be graduates of a legally chartered college of osteopathic medicine or university having the power to confer degrees in osteopathic medicine and shall have been at the time of their appointment actively engaged in the practice of their profession in Maine for a period of at least 5 years, and 2 of these persons shall be representatives of the public. Each appointment shall be for a period of 5 years as the terms of the present members expire. Any vacancy in the board caused by death, resignation or for any other cause, except completion of a full

term of service, shall be filled by the appointment of a person, qualified as was the member whose place is filled, to hold office during the unexpired term of that member. Any member of the board may be removed from office for cause by the Governor.

Sec. A-95. 32 MRSA §3263, first ¶, as amended by PL 1989, c. 462, §9 and c. 503, Pt. B, §139, is repealed and the following enacted in its place:

The Board of Registration in Medicine, as established by Title 5, section 12004-A, subsection 24, and in this chapter called the "board," shall consist of 10 persons who are residents of this State, appointed by the Governor. Three persons shall be representatives of the public. Seven persons shall be graduates of a legally chartered medical college or university having authority to confer degrees in medicine and shall have been actively engaged in the practice of their profession in this State for a continuous period of 5 years preceding their appointments to the board. Three persons, qualified as aforesaid, shall be appointed members of the board on or before July 1st of every uneven-numbered year, each to hold office for 6 years from the July 1st following appointment, except that at every 3rd uneven-numbered year beginning in 1991, a 4th person shall be appointed. Any vacancy in the board shall be filled by the appointment of a person, qualified as was the member whose place is filled, to hold office during the unexpired term of that member. Any member of the board may be removed from office for cause by the Governor.

Sec. A-96. 32 MRSA §4854, as amended by PL 1989, c. 450, §29 and c. 503, Pt. B, §144, is repealed and the following enacted in its place:

§4854. State Board of Veterinary Medicine

The State Board of Veterinary Medicine, as established by Title 5, section 12004-A, subsection 42, within the Department of Professional and Financial Regulation, shall consist of 6 members, appointed by the Governor, 5 of whom shall be licensed Maine veterinarians who are residents of this State, graduates of a veterinary school and who have been licensed to practice veterinary medicine in Maine for the 5 years preceding their appointment and one member who shall be a representative of the public. At least 30 days before the appointment of any licensed Maine veterinarian to the board, the State Veterinary Medical Association shall forward to the Governor for consideration the names of 3 or more qualified veterinarians. The term of office of each present member of the board shall expire as now provided. One new member to be appointed to the board shall serve a 3-year term. One new member to be appointed to the board shall serve a 4-year term. The public member to be appointed to the board shall serve a 5-year term. Thereafter, all members shall be appointed for 5-year terms. No person may serve 2 consecutive 5-year terms, but a person appointed for a term of less than 5 years may serve a successive term. No person may serve on the board who is, or has been during the 2 years preceding appointment, a trustee or a member of the faculty or advisory board of a veterinary school.

Sec. A-97. 32 MRSA §11312, as enacted by PL 1985, c. 643 and PL 1989, c. 542, §85, is repealed and the following enacted in its place:

§11312. Burden of proof

The burden of proof for an exemption from this chapter shall be upon the person claiming that exemption.

Sec. A-98. 32 MRSA §11313 is enacted to read:

§11313. Orders issued by Superintendent of Banking

All orders issued by the Superintendent of Banking at a time when authority for administering this chapter was vested in the Superintendent of Banking shall remain in effect for as long as they would have remained in effect if that authority had not been transferred to the Securities Administrator.

Sec. A-99. 32 MRSA §12213, as amended by PL 1989, c. 483, Pt. A, §52 and c. 503, Pt. B, §154, is repealed and the following enacted in its place:

§12213. Appointment

The Board of Accountancy, as established by Title 5, section 12004-A, subsection 1, shall be within the Department of Professional and Financial Regulation. The board shall consist of 5 members appointed by the Governor. Each member of the board shall be a citizen of the United States and a resident of this State. Three members shall be holders of certificates issued under section 12227 and of currently valid permits issued under section 12251 and shall have had, as their principal occupation, active practice as certified public accountants for at least the 5 preceding years. One member shall hold a certificate issued under section 12239, currently valid permit issued under section 12251 and shall have had, as a principal occupation, active practice as a noncertified public accountant for at least the 5 preceding years. One member of the board shall be a representative of the public. Appointments shall be for 3-year terms and the term of one member, other than the member registered under section 12239 and the public member, shall expire each calendar year and appointments of less than 3 years may be made in order to comply with this limitation. Any vacancy occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of a member's term of office, that member shall continue to serve until a successor has been appointed and has qualified and the successor's term shall be 3 years from the date of the expiration, regardless of the date of appointment. No person may be eligible to serve more than 3 full consecutive terms provided that, for this purpose only, a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. The Governor shall remove any member of the board for cause.

Sec. A-100. 32 MRSA §13062, sub-§1, as amended by PL 1989, c. 471, §2 and c. 503, Pt. B, §156, is repealed and the following enacted in its place:

1. Real Estate Commission composition. The Real Estate Commission, established by Title 5, section 12004-A, subsection 37, shall be referred to in this chapter as the "commission." The commission shall consist of 4 industry members and 2 public members.

Sec. A-101. 32 MRSA c. 119, as enacted by PL 1989, c. 549, §§1 and 3, is repealed.

Sec. A-102. 32 MRSA c. 122 is enacted to read:

CHAPTER 122

REGISTRATION FOR SHOPPING CARTS AND CONTAINERS FOR BAKERY, DAIRY AND OTHER PRODUCTS

§13951. Definitions

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

1. Bakery basket. "Bakery basket" means a wire or plastic container which holds bread or other baked goods and is used by a distributor or retailer as a means to transport, store or carry bakery products.

2. Container. "Container" means a bakery basket, dairy case, egg basket or shopping cart.

3. Dairy case. "Dairy case" means a wire or plastic container which holds 16 quarts or more of beverage and is used by distributors or retailers as a means to transport, store or carry dairy products.

4. Egg basket. "Egg basket" means any permanent type of container which contains 4 dozen or more shell eggs and is used by distributors or retailers as a means to transport, store or carry eggs.

5. Name or mark. "Name or mark" means any permanently affixed or permanently stamped name or mark which has been registered with the Secretary of State and is used for the purpose of identifying the owner of shopping carts, laundry carts, dairy cases, egg baskets, poultry boxes, baking trays or bakery baskets.

6. Parking area. "Parking area" means a lot or other property provided by a retail establishment for the use of customers to park vehicles while doing business in that establishment.

7. Shopping cart. "Shopping cart" means a basket which is mounted on wheels, or a similar device generally used in a retail establishment by a customer for the purpose of transporting goods of any kind.

§13952. Name or mark; registration

An owner of containers may adopt a name or mark to be permanently affixed to those containers. The Secretary of State shall, pursuant to Title 5, chapter 375,

adopt rules regulating the adoption, use and registration of a name or mark on containers and may charge registration fees to cover the cost of this program.

§13953. Prohibitions

1. Removal, use or possession. No person, organization or association may, without consent of the owner and with the intent to deprive the owner of possession of a container, remove a container from the premises or parking lot of the owner or a customer of the owner for any commercial use not approved by the owner or possess or use a container that has been so removed, if:

A. The container has the name or mark of the owner prominently displayed and permanently affixed to it that identifies the owner of the container;

B. The name or mark contains a notification that unauthorized removal or possession of the container is a violation of law; and

C. The name or mark lists a telephone number or address for returning the container to the owner.

2. Defacement. No person, organization or association may alter, deface, cover or remove a name or mark on a container or possess such a container without the consent of the owner.

3. Penalty. Any person who violates this section commits a civil violation for which a forfeiture not to exceed \$100 for each violation and \$10 for each container may be adjudged.

Sec. A-103. 34-B MRSA §3901, sub-§1, as amended by PL 1989, c. 335, §4 and c. 503, Pt. B, §163, is repealed and the following enacted in its place:

1. Establishment. In order to monitor and evaluate the efficacy and timely implementation of community and institutional reform programs designed to improve opportunities for persons with mental illness in the State, to promote and monitor advocacy programs for persons with mental illness, to participate in the development of standards of care and to review, assess and monitor the implementation of standards of care and treatment for persons with mental illness, there is established, pursuant to Title 5, section 12004-J, subsection 7, an independent commission to be known as the Maine Commission on Mental Health, hereinafter referred to in this chapter as the "commission."

Sec. A-104. 36 MRSA §653, sub-§1, ¶C, as amended by PL 1989, c. 501, Pt. Z and c. 502, Pt. A, §127, is repealed and the following enacted in its place:

C. The estates up to the just value of \$5,000, 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 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 nonservice-connected, as a veteran. The exemption provided in this paragraph shall apply to the property of that veteran including property held in joint tenancy with that veteran's spouse.

Sec. A-105. 36 MRSA §1760, sub-§6, ¶B, as repealed and replaced by PL 1979, c. 513, §2, is amended to read:

B. To patients ~~and inmates~~ of hospitals licensed by the State for the care of human beings and other institutions licensed by the State for the hospitalization or nursing care of human beings, or institutions, agencies, hospitals, boarding homes and boarding houses licensed by the Department of Human Services under Title 22, Subtitle 6, and Title ~~34~~ 22, section ~~2244~~ 1781; and

Sec. A-106. 36 MRSA §1764, as amended by PL 1989, c. 508, §12 and c. 588, Pt. C, §3, is repealed and the following enacted in its place:

§1764. Tax against certain casual sales

The tax imposed by chapters 211 to 225 shall be levied upon all casual sales involving the sale of camper trailers, motor vehicles, special mobile equipment, live-stock trailers, watercraft or aircraft except those sold for resale or to a corporation when the seller is the owner of a majority of the common stock of the corporation.

Sec. A-107. 36 MRSA §1955-A, as amended by PL 1989, c. 502, Pt. A, §131 and c. 508, §13, is repealed and the following enacted in its place:

§1955-A. Failure to pay tax on vehicles

If, after notice of assessment and demand for payment, any amount required to be paid for any vehicle is not paid as demanded within the 10-day period prescribed in section 171, the State Tax Assessor, in addition to enforcing collection by any method authorized by Part 1 or this Part, may 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 suspend any registration certificate and plates issued for the vehicle for which the tax remains unpaid at the expiration of the 5-day period.

Sec. A-108. 36 MRSA §3039, as repealed by PL 1983, c. 94, Pt. D, §5 and as amended by PL 1983, c. 480, Pt. A, §43, is repealed.

Sec. A-109. 36 MRSA §4693, sub-§1, as amended by PL 1989, c. 482, §3 and c. 503, Pt. B, §171, is repealed and the following enacted in its place:

1. Council established. The Maine Sardine Council, as established by Title 5, section 12004-H,

subsection 8, shall consist of not more than 9 nor less than 3 members to be appointed by the Commissioner of Marine Resources. Fifty-one percent of the members of the council constitutes a quorum and the affirmative vote of at least 51% of the members is necessary for the transaction of all business and the carrying out of the duties of the council. The members shall be sardine packers, operating within the State, who have been actively engaged in packing sardines for not less than 2 years and each shall be so actively engaged during continuance in office. A person shall be considered actively engaged in packing sardines if that person has derived, during the period, a substantial portion of income from packing sardines, or has been the director or manager of an entity that derives a substantial portion of its income from packing sardines.

Sec. A-110. 38 MRSA §480-Q, sub-§1, ¶C, as enacted by PL 1987, c. 809, §2, is amended to read:

C. Bureau of Public Lands has approved the placement of the cable across the bottom of the great pond to the extent that ~~is~~ it has jurisdiction;

Sec. A-111. 38 MRSA §480-Q, sub-§9, as amended by PL 1989, c. 306, §2 and c. 430, §8, is further amended to read:

9. Public works. A permit is not required for emergency repair or normal maintenance and repair of existing public works which affect any protected natural resource. An activity which is exempt under this subsection shall employ erosion control measures to prevent sedimentation of any surface water, shall not block fish passage in any water course and shall not result in any additional intrusion of the public works into the protected natural resource. This exemption does not apply to any activity on an outstanding river segment as listed in section 480-P; ~~and~~

Sec. A-112. 38 MRSA §480-Q, sub-§10, as enacted by PL 1989, c. 306, §3 and c. 430, §9, is repealed and the following enacted in its place:

10. Aquaculture. Aquaculture activities regulated by the Department of Marine Resources under Title 12, section 6072. Ancillary activities, including, but not limited to, building or altering docks or filling of wetlands, are not exempt from the provisions of this article; and

Sec. A-113. 38 MRSA §480-Q, sub-§11 is enacted to read:

11. Soil evaluation. Borings taken to evaluate soil conditions in or adjacent to a great pond, river, stream or brook, coastal wetland, freshwater wetland or sand dune are exempt from the provisions of this article provided that no area of wetland vegetation is destroyed or permanently removed.

Sec. A-114. 38 MRSA §485, as amended by PL 1977, c. 300, §§31 and 32, is repealed.

Sec. A-115. 38 MRSA §587, 8th ¶, as amended by PL 1977, c. 300, §42, is further amended to read:

Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of section ~~347~~ 347-A, subsection ~~2~~ 3, to any person or ~~his~~ that person's property.

Sec. A-116. 38 MRSA §1604, as enacted by PL 1989, c. 583 and c. 585, Pt. E, §35, is repealed and the following enacted in its place:

§1604. Lead-acid batteries

For the purposes of this section, "lead-acid battery" means a device designed and used to store electrical energy through chemical reactions involving lead and acid.

1. Disposal. No person may dispose of a lead-acid battery by burial, incineration, deposit or dumping so that the battery or any of its constituents may enter the environment or be emitted into the air or discharged into any waters.

2. Lead-acid battery retailers. A person selling or offering for retail sale lead-acid batteries shall:

A. Accept, at the point of transfer, used lead-acid batteries in reasonably clean and unbroken condition from customers in a quantity at least equal to the number of new batteries purchased;

B. If a used lead-acid battery is not exchanged at the time of sale, collect a \$10 deposit on the new battery.

(1) The deposit shall be returned to the customer when the customer delivers a used lead-acid battery within 30 days of the date of sale.

(2) All funds received by a dealer as a deposit on a lead-acid battery shall be held in trust and separately accounted for by the retailer. Any interest on those funds shall inure to the benefit of the retailer. Annually on July 1st, all deposits not returned to customers in exchange for lead-acid batteries during the previous year ending June 30th shall inure to the benefit of the retailer; and

C. Post an 8 1/2" x 11" written notice that includes the display of the universal recycling symbol and the following language.

(1) "State law requires us to accept motor vehicle batteries or other lead-acid batteries for recycling in exchange for new batteries purchased."

(2) "A deposit of \$10 will be charged for each new lead-acid battery that is not exchanged with an old lead-acid battery."

(3) "It is illegal to dump, bury or incinerate a motor vehicle lead-acid battery or other lead-acid battery."

(4) "Recycle your used batteries."

3. Lead-acid battery wholesalers. Any person selling new lead-acid batteries at wholesale shall accept, at the point of transfer, in a quantity at least equal to the number of new lead-acid batteries purchased, used lead-acid batteries in reasonably clean and unbroken condition from customers. A person accepting lead-acid batteries in transfer from an automotive battery retailer shall be allowed a period, not to exceed 90 days, to remove batteries from the retail point of collection.

4. Inspection and enforcement. The Department of Environmental Protection shall produce, print and distribute notices required under subsection 2. The department shall enforce the provisions of this section and may inspect places, buildings or premises governed by this section.

5. Violations. Any person who does not abide by this section commits a civil violation subject to section 349.

Sec. A-117. 39 MRSA §23-A, sub-§4, ¶A, as amended by PL 1989, c. 435, §§15 and 17, is further amended by amending sub-¶ (2), division (a) to read:

(a) Each individual self-insurer shall be annually assessed an amount equal to 1% of the annual standard premium which would have been paid by that individual self-insurer during the prior calendar year; payment to the association shall be made no later than September 15th following the close of that calendar year. Where any such assessment is paid based in whole or in part upon estimates of annual standard premium for the prior calendar year, there shall be made in the next year's assessment an adjustment of the assessment of such prior year based on actual audited annual standard premium. Regardless of the size of the fund referred to in subparagraph (3), during its first 30 months of membership, no individual self-insurer may discount or reduce this ~~1%~~ 1% assessment;

Sec. A-118. PL 1987, c. 594, §1, first line is repealed and the following enacted in its place:

Sec. 1. 26 MRSA c. 5, sub-c. III-A is enacted to read:

SUBCHAPTER III-ASANITATION ON RAILROAD PROPERTY

Sec. A-119. PL 1989, c. 63, the first 3 lines after the enacting clause are repealed and the following enacted in their place:

36 MRSA §892-A, 2nd ¶, as amended by PL 1987, c. 737, Pt. C, §§79 and 106, and PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

Sec. A-120. PL 1989, c. 104, Pt. A, §25, first 3 lines are repealed and the following enacted in their place:

Sec. 25. 30-A MRSA §2702, sub-§1, ¶B, 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, is further amended to read:

Sec. A-121. PL 1989, c. 245, §4 is repealed and the following enacted in its place:

Sec. 4. 5 MRSA §4582, as amended by PL 1987, c. 730, §1, is further amended to read:

§4582. Unlawful housing discrimination

It shall be unlawful housing discrimination, in violation of this Act:

For any owner, lessee, sublessee, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation, or any agent of these to make or cause to be made any written or oral inquiry concerning the race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of any prospective purchaser, occupant or tenant of ~~such the~~ housing accommodation; or to refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold from any individual ~~such~~ housing accommodation because of the race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of ~~such the~~ individual; or to issue any advertisement relating to the sale, rental or lease of ~~such the~~ housing accommodation which indicates any preference, limitation, specification or discrimination based upon race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status; or to discriminate against any individual because of race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status in the price, terms, conditions or privileges of the sale, rental or lease of any ~~such~~ housing accommodations or in the furnishing of facilities or services in connection therewith, or to evict or attempt to evict any tenant of any housing accommodation because of the race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of ~~such the~~ tenant;

For any real estate broker or real estate sales person, or agent of one of them, to fail or refuse to show any applicant for a housing accommodation any ~~such~~ accommodation listed for sale, lease or rental, because of the race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of ~~such the~~ applicant or of any intended occupant of ~~such the~~ accommodation, or to misrepresent, for the purpose of discriminating on account of the race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of ~~such the~~ applicant or intended occupant, the availability or asking price of a housing accommodation listed for sale, lease or rental; or for such a reason to fail to communicate to the person having the right to sell or lease ~~such the~~ housing accommodation any offer for the same made by any applicant thereof; or in any other manner to discriminate against any applicant for housing because of race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of ~~such the~~ applicant or of any intended occupant of the housing accommodation, or to make or cause to be made any written or oral inquiry or record concerning the race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of any ~~such~~ applicant or intended occupant, or to accept for listing any housing accommodation when the person having the right to sell or lease the same has directly or indirectly indicated an intention of discriminating among prospective tenants or purchasers on the ground of their race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status, or when ~~he the broker~~ knows or has reason to know that the person having the right to sell or lease ~~such the~~ housing accommodation has made a practice of ~~such~~ discrimination since July 1, 1972;

For any person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured, or agent of ~~such the~~ person, to make or cause to be made any oral or written inquiry concerning the race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of any individual seeking ~~such~~ financial assistance, or of existing or prospective occupants or tenants of ~~such~~ housing accommodations; or to discriminate in the granting of ~~such~~ financial assistance, or in the terms, conditions or privileges relating to the obtaining or use of any ~~such~~ financial assistance, against any applicant because of the race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of ~~such the~~ applicant or of the existing or prospective occupants or tenants;

For any person furnishing rental premises or public accommodations to refuse to rent or impose different terms of tenancy to any individual who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies primarily because of ~~such the~~ individual's status as ~~such~~ recipient; or

For any form of public housing or any housing that is financed in whole or in part with public funds offering housing accommodations, containing 20 or more units, constructed on or after January 1, 1984, or begun to be remodeled or enlarged at an estimated total cost of more than \$100,000 after January 1, 1984, to not have at least one unit for each multiple of 20 of those units designed so as to be accessible to and useable by handicapped persons. Plans to reconstruct, remodel or enlarge an existing building when the estimated total cost exceeds \$100,000 shall be subject to this section, when the proposed reconstruction, remodeling or enlargement will substantially affect that portion of the building normally accessible to the public. For purposes of this section, a newly constructed housing unit is deemed accessible to and useable by handicapped persons if it meets the requirements of the 1981 standards of construction, Section 4.34, Dwelling Units, adopted pursuant to Title 25, chapter 331. A remodeled, renovated or enlarged housing unit is deemed accessible to and useable by handicapped persons if it meets the requirements of the following 4 parts of the 1981 standards of construction adopted pursuant to Title 25, chapter 331:

1. **Accessible route.** 4.3 accessible route;
2. **Doors.** 4.13 doors;
3. **Adaptable bathrooms.** 4.34.5 adaptable bathrooms; and
4. **Tactile warnings.** 4.29.3 tactile warnings on doors to hazardous areas.

With respect to any form of public housing or any housing that is financed in whole or in part with public funds offering housing accommodations containing 20 or more units for which construction is begun after October 1, 1988, no less than 10% of the ground level units and a minimum of 10% of the upper story units connected by an elevator shall be accessible to and useable by physically handicapped persons. For purposes of this section, a newly constructed housing unit is deemed accessible to and useable by handicapped persons if it meets the requirements of the 1986 standards set forth by the American National Standards Institute in the publication, "Specifications for Making Buildings Accessible to and Useable by Physically Handicapped People," ANSI A 117.1-1986. A remodeled, renovated or enlarged housing unit where the remodeling, renovating or enlarging is begun after October 1, 1988, is deemed accessible to and useable by handicapped persons if it meets the requirements of the following 4 parts of the 1986 American National Standards Institute standards: 4.3 accessible routes; 4.23 doors; 4.34.5 adaptable bathrooms; and 4.29.3 tactile warnings on doors to hazardous areas.

Sec. A-122. PL 1989, c. 265, §1, first 4 lines are repealed and the following enacted in their place:

Sec. 1. 4 MRSA §807, first ¶, as repealed and replaced by PL 1987, c. 737, Pt. C, §§4 and 106, and as

amended by PL 1989, c. 6; c. 9, §2; and as repealed and replaced by PL 1989, c. 104, Pt. C, §§2 and 10 and as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed and the following enacted in its place:

Sec. A-123. PL 1989, c. 270, §14 is repealed and the following enacted in its place:

Sec. 14. 22 MRSA §4038, sub-§7, as enacted by PL 1985, c. 739, §14, is repealed and the following enacted in its place:

7. Review of child in custody of the department.
When a child has been placed in the custody of the department, the following shall be accomplished.

A. The court shall review the final protection order and make a determination within 18 months of its initial order either to:

- (1) Return the child to the parent;**
- (2) Continue reunification efforts for a specific limited time not to exceed 6 months and to judicially review the matter within the time specified; or**
- (3) Enter an order under section 4036, subsection 1, paragraph G-1.**

B. Before the court may enter an order returning the custody of the child to a parent, the parent shall show that the parent has carried out the responsibilities set forth in section 4041, subsection 1, paragraph B, that, to the court's satisfaction, the parent has rectified and resolved the problems which caused the removal of the child and any subsequent problems which would interfere with the parent's ability to care for and protect the child from jeopardy and that the parent can protect the child from jeopardy.

Sec. A-124. PL 1989, c. 306, §1, first 2 lines are repealed and the following enacted in their place:

Sec. 1. 38 MRSA §480-Q, sub-§8, as amended by PL 1987, c. 890, §1, is further amended to read:

Sec. A-125. PL 1989, c. 306, §2, first 2 lines are repealed and the following enacted in their place:

Sec. 2. 38 MRSA §480-Q, sub-§9, as enacted by PL 1987, c. 890, §2, is amended to read:

Sec. A-126. PL 1989, c. 321, §1, first 4 lines are repealed and the following enacted in their place:

Sec. 1. 30-A MRSA §1658, 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 further amended by inserting at the end a new paragraph to read:

Sec. A-127. PL 1989, c. 344, §3, first 2 lines are repealed and the following enacted in their place:

Sec. 3. 22 MRSA §2383, sub-§1, as repealed and replaced by PL 1987, c. 747, §3, is amended to read:

Sec. A-128. PL 1989, c. 349, §1, first 4 lines are repealed and the following enacted in their place:

Sec. 1. 14 MRSA §8102, sub-§1, as repealed and replaced by PL 1987, c. 737, Pt. C, §§27 and 106 and c. 769, Pt. A, §52 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:

Sec. A-129. PL 1989, c. 381, first 3 lines after the enacting clause are repealed and the following enacted in their place:

30-A MRSA §5703, 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:

Sec. A-130. PL 1989, c. 394, sub-§2, first 4 lines are repealed and the following enacted in their place:

Sec. 2. 30-A MRSA §3009, sub-§1, ¶D, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106; as amended by PL 1989, c. 6; c. 9, §2; as repealed and replaced by PL 1989, c. 104, Pt. A, §28 and Pt. C, §10; and as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

Sec. A-131. PL 1989, c. 399, §5 is repealed and the following enacted in its place:

Sec. 5. Application. The higher rate of retirement benefits due employees under the provisions of this Act shall commence October 1, 1989.

Sec. A-132. PL 1989, c. 435, §17 is repealed and the following enacted in its place:

Sec. 17. Application. Section 14 of the Act is effective with respect to self-insurers who became members of the Maine Self-Insurance Guarantee Association after October 1, 1981. Any self-insurer member who was not subject to a full assessment for the first 30 months of its membership shall be assessed an amount equal to the difference between the assessments actually paid during its first 30 months and the amount that would have been paid if the self-insurer had been subject to a full assessment for those 30 months. The assessment shall be paid in the time and in the manner determined by the association. For purposes of the limitation on the size of the fund, set forth in the Maine Revised Statutes, Title 39, section 23-A, subsection 4, paragraph A, subparagraph (3), this assessment shall be considered an initial assessment of a new member self-insurer.

Sec. A-133. PL 1989, c. 443, §48, first 2 lines are repealed and the following enacted in their place:

Sec. 48. 20-A MRSA §12712, as amended by PL 1987, c. 737, Pt. C, §§56 and 106 and as amended by PL 1989, c. 6; c. 9, §2 and c. 104, §§8 and 10, is further amended to read:

Sec. A-134. PL 1989, c. 481, Pt. B, §1, first 3 lines are repealed and the following enacted in their place:

Sec. 1. 29 MRSA §242, sub-§1, ¶A, as repealed and replaced by PL 1987, c. 549, §1 and c. 789, §6, is repealed and the following enacted in its place:

Sec. A-135. PL 1989, c. 492, first 2 lines after the enacting clause are repealed and the following enacted in their place:

28-A MRSA §456, sub-§§1 and 3, as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

Sec. A-136. PL 1989, c. 493, §42, first 2 lines are repealed and the following enacted in their place:

Sec. 42. 12 MRSA §7553, sub-§1, ¶B, as amended by PL 1987, c. 696, §15, is further amended to read:

Sec. A-137. PL 1989, c. 493, §43, first 2 lines are repealed and the following enacted in their place:

Sec. 43. 12 MRSA §7553, sub-§1, ¶C, as enacted by PL 1979, c. 420, §1, is amended to read:

Sec. A-138. PL 1989, c. 493, §48, first 2 lines are repealed and the following enacted in their place:

Sec. 48. 12 MRSA §7630, sub-§2, ¶A, as amended by PL 1985, c. 369, §23, is repealed.

Sec. A-139. PL 1989, c. 495, §3, first 3 lines are repealed and the following enacted in their place:

Sec. 3. 36 MRSA §5126, as amended by PL 1987, c. 772, §37 and as repealed and replaced by PL 1987, c. 819, §8 and c. 892, §2, is repealed and the following enacted in its place:

Sec. A-140. PL 1989, c. 502, Pt. B, §22, first 3 lines are repealed and the following enacted in their place:

Sec. 22. 22 MRSA §2660-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:

Sec. A-141. PL 1989, c. 503, Pt. A, §24 is repealed and the following enacted in its place:

Sec. 24. 5 MRSA §12004-I, sub-§20, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. A-142. PL 1989, c. 503, Pt. A, §33, is repealed and the following enacted in its place:

Sec. 33. 5 MRSA §12004-I, sub-§57, as enacted by PL 1987, c. 786, §5, is amended to read:

57. Local and County Government	Regional Council of Govern- ments	Paid by Member Govern- ments	30-MRSA §1981 30-A <u>MRSA</u> <u>§2311</u>
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Sec. A-143. PL 1989, c. 508, §5, first 3 lines are repealed and the following enacted in their place:

Sec. 5. 30-A MRSA §5253, sub-§1, ¶E, 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 as repealed and replaced by PL 1989, c. 104, Pt. A, §47 and Pt. C, §10 and as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

Sec. A-144. PL 1989, c. 534, Pt. A, §6, first 2 lines are repealed and the following enacted in their place:

Sec. 6. 36 MRSA §6207, sub-§1, as amended by PL 1987, c. 876, §§5 and 10, is repealed and the following enacted in its place:

Sec. A-145. PL 1989, c. 542, §13, first 2 lines are repealed and the following enacted in their place:

Sec. 13. 32 MRSA §10305, sub-§§1 and 2, as enacted by PL 1985, c. 400, §2, are amended to read:

Sec. A-146. PL 1989, c. 601, Pt. B, §3, in that part pertaining to PL 1989, c. 581, is repealed and the following enacted in its place:

Sec. 3. PL 1989, c. 581, §§1, 2, 3 and 19 are repealed.

Sec. 147. P&SL 1989, c. 35, first line after the enacting clause is repealed and the following enacted in its place:

P&SL 1985, c. 135, §4, last sentence, as amended by PL 1987, c. 152, §1, is further amended to read:

Sec. A-148. P&SL 1987, c. 152, sub-§1, first 2 lines are repealed and the following enacted in their place:

Sec. 1. P&SL 1985, c. 135, §4, last sentence, as repealed and replaced by PL 1987, c. 84, §1, is amended to read:

PART B

Sec. B-1. 3 MRSA §927, sub-§6, ¶B, as enacted by PL 1989, c. 483, Pt. A, §§4 and 62, is amended to read:

B. Independent agencies:

(1) Advisory Board for Licensure of Water Treatment Plant Operators;

~~(2) Keep Maine Scenic Committee;~~

~~(3) (2) Office of Energy Resources;~~

~~(4) (3) Saco River Corridor Commission;~~

~~(5) (4) State Soil and Water Conservation Commission;~~

~~(6) (5) Acupuncture Licensing Board;~~

~~(7) (6) Board of Licensing of Auctioneers;~~

~~(8) (7) Board of Licensing of Dietetic Practice; and~~

~~(9) (8) Board of Commercial Driver Education.~~

Sec. B-2. 5 MRSA §552, sub-§3, as amended by PL 1985, c. 785, Pt. A, §38 and as repealed by PL 1985, c. 785, Pt. B, §19, is repealed.

Sec. B-3. 5 MRSA §940, sub-§1, ¶B, as enacted by PL 1983, c. 729, §4, is amended to read:

B. Director, Bureau of ~~Maine's Elderly~~ Elder and Adult Services;

Sec. B-4. 5 MRSA §12004-A, sub-§11, as enacted by PL 1987, c. 786, §5, is amended to read:

11. Board of Registration <u>Licensing</u> of Dietetic Practice	\$35/Day	32 MRSA §9903
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Sec. B-5. 5 MRSA §13111, sub-§5, as enacted by PL 1987, c. 816, Pt. P, §14, is amended to read:

5. Regional planning grants program. The director shall administer a regional planning grants program for regional planning commissions and councils of government established under Title ~~30 30-A~~, chapter ~~204-A~~ 119, subchapter I.

Sec. B-6. 5 MRSA §18511, sub-§2, ¶B, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. The member was an active member of a municipal fire department or of a volunteer ~~firefighters'~~ fire association, as defined in Title ~~30 30-A~~, section ~~3771~~ 3151, for at least 2 years before the injury or the onset of the disease; and

Sec. B-7. 7 MRSA §2, 3rd ¶, as amended by PL 1989, c. 701, §1, is further amended to read:

The commissioner does not have authority to exercise or interfere with the exercise of any discretionary statutory authority granted to the following, which authority is exclusively within the specific board, bureau, agency, commission, committee or other governmental unit: The Maine Dairy and Nutrition Council Committee, the Maine Dairy Promotion Board, the Maine Milk Commission, the Seed Potato Board, the Harness Racing Commission, the Maine Potato ~~Commission Board~~, the Soil and Water Conservation Commission, the Board of Veterinary Medicine and the Board of Pesticide Control.

Sec. B-8. 7 MRSA §3153, sub-§2, ¶E, as enacted by PL 1989, c. 436, §6, is repealed.

Sec. B-9. 7 MRSA §3153, sub-§2, ¶F is enacted to read:

F. For any month in which the Maine Milk Commission has included in Class I or Class II prices any amounts to reflect the increased costs of production pursuant to section 2954, subsection 2, paragraph A, those amounts shall be paid into the Maine Milk Pool for redistribution to eligible Maine and Boston market producers on an equal basis.

Sec. B-10. 12 MRSA §514-A, sub-§2, ¶A, as amended by PL 1979, c. 460 and as repealed by PL 1979, c. 545, §11, is repealed.

Sec. B-11. 12 MRSA §5011, sub-§5, as enacted by PL 1973, c. 460, §16, is repealed.

Sec. B-12. 17 MRSA §2263, sub-§1-A, as enacted by PL 1975, c. 739, §4, is repealed.

Sec. B-13. 17 MRSA §2274, 3rd ¶, as enacted by PL 1975, c. 739, §15, is further amended to read:

If the fine resulted from a complaint of a law officer of a state agency supported primarily by a General Fund appropriation, the fine, less court costs, shall be reimbursed to the ~~committee~~ department to be used in an anti-litter educational program and shall be in addition to other General Fund ~~moneys~~ money appropriated for that purpose.

Sec. B-14. 17 MRSA §2275, first ¶, as enacted by PL 1975, c. 739, §15, is amended to read:

~~With the assistance of the committee, the~~ The Division of Motor Vehicles shall include a summary of this chapter with each reregistration and new vehicle operator license issued.

Sec. B-15. 17-A MRSA §108, sub-§2, ¶A, as amended by PL 1979, c. 701, §19, is further amended to read:

A. When ~~he~~ the person reasonably believes it necessary and ~~he~~ reasonably believes such other person is:

(1) About to use unlawful, deadly force against ~~himself~~ the person or a 3rd person; or

(2) Committing or about to ~~omit~~ commit a kidnapping, robbery or a violation of ~~section 252, subsection 1, paragraph B, or section 253, subsection 1, paragraph A~~, against ~~himself~~ the person or a 3rd person; or

Sec. B-16. 17-A MRSA §454, sub-§1, as amended by PL 1989, c. 300, is further amended to read:

1. A person is guilty of tampering with a witness, informant, ~~or victim or juror~~ if, believing that an official proceeding, as defined in section 451, subsection 5, paragraph A, or an official criminal investigation is pending or will be instituted, that person:

A. Induces or otherwise causes, or attempts to induce or cause, a witness, informant or victim:

(1) To testify or inform falsely; or

(2) To withhold any testimony, information or evidence;

B. Uses force, violence or intimidation, or promises, offers or gives any pecuniary benefit with the intent to induce a witness, informant or victim:

(1) To withhold any testimony, information or evidence;

(2) To refrain from attending any criminal proceeding or criminal investigation; or

(3) To refrain from attending any other proceeding or investigation to which the witness, informant or victim has been summoned by legal process; or

C. Solicits, accepts or agrees to accept any pecuniary benefit for doing any of the things specified in paragraph A, subparagraph (1), or in paragraph B, subparagraph (1), (2) or (3).

Sec. B-17. 20-A MRSA §1001, sub-§5-A, as enacted by PL 1985, c. 713, §3, is amended to read:

5-A. Public self-funded pools. They may participate in a public self-funded pool created under Title ~~30~~ 30-A, chapter ~~293-B~~ 117.

Sec. B-18. 20-A MRSA §13019-C, as enacted by PL 1985, c. 287, §5, is repealed and the following enacted in its place:

§13019-C. Director of vocational education certificate

1. Initial certificate. A director of vocational education certificate shall be required of each director of a vocational region or center established pursuant to this

Title and of a vocational program in an approved school. State board rules shall require that qualifications for such a certificate include the following:

A. Three years of satisfactory experience in teaching or vocational training or equivalent experience;

B. Academic and professional knowledge as demonstrated through completion of graduate or undergraduate courses or programs, performance in examinations or completion of specialized programs approved for this purpose;

C. A basic level of knowledge in the following areas:

- (1) Community relations;
- (2) School finance and budget;
- (3) Supervision and evaluation of personnel;
- (4) Federal and state civil rights and education laws;
- (5) Organizational theory and planning;
- (6) Educational leadership;
- (7) Educational philosophy and theory;
- (8) Effective instruction;
- (9) Curriculum development;
- (10) Staff development; and
- (11) Other competency areas as determined by state board rule; and

D. Satisfactory completion of an approved internship or practicum relating to the duties of a director of vocational education.

2. Certificate renewal. A certificate issued under this section is limited to 5 years in duration and may be renewed based on further graduate study or demonstrated professional growth and improvement through an approved administrator action plan in accordance with state board rules.

Sec. B-19. 22 MRSA §6202, sub-§5, as amended by PL 1989, c. 347, §5, is further amended to read:

5. Department. "Department" means the Department of Human Services through its Bureau of ~~Maine's~~ Elderly Elder and Adult Services.

Sec. B-20. 22 MRSA §6204, as amended by PL 1989, c. 329, §23 and as repealed by PL 1989, c. 347, §10, is repealed.

Sec. B-21. 24 MRSA §2342, sub-§1, as enacted by PL 1989, c. 556, Pt. C, §1, is amended to read:

1. Licensure. Any person, partnership or corporation, other than an insurer, nonprofit service organization, health maintenance organization, preferred provider organization or an employee of those exempt organizations that performs medical utilization review services on behalf of commercial insurers, nonprofit service organizations, 3rd-party administrators or employers, shall apply for licensure by the Bureau of Insurance and pay an application fee of not more than \$400 and an annual license fee of not more than \$100. No person, partnership or corporation other than an insurer, nonprofit service organization, health maintenance organization, preferred provider organization or the employees of exempt organizations may perform utilization review services or medical utilization review services unless the person, partnership or corporation has received a license to perform those activities.

Sec. B-22. 24-A MRSA §2771, sub-§1, as enacted by PL 1989, c. 556, Pt. C, §2, is amended to read:

1. Licensure. Any person, partnership or corporation, other than an insurer, nonprofit service organization, health maintenance organization, preferred provider organization or employee of those exempt organizations that performs medical utilization review services on behalf of commercial insurers, nonprofit service organizations, 3rd-party administrators or employers, shall apply for licensure by the Bureau of Insurance and pay an application fee of not more than \$400 and an annual license fee of not more than \$100. No person, partnership or corporation other than an insurer, nonprofit service organization, health maintenance organization, preferred provider organization or the employees of exempt organizations may perform utilization review services or medical utilization review services unless the person, partnership or corporation has received a license to perform those activities.

Sec. B-23. 25 MRSA §2805, as amended by PL 1989, c. 477, §1 and as repealed by PL 1989, c. 521, §§6 and 17, is repealed.

Sec. B-24. Repeal date. The Maine Revised Statutes, Title 25, section 2805, as repealed by this Act, is repealed on July 1, 1990.

Sec. B-25. 29 MRSA §1312-B, sub-§1-A, as enacted by PL 1981, c. 679, §29, is amended to read:

1-A. Pleading and proof. The alternatives defined in subsection 1, paragraphs A and B may be pleaded in the alternative. The State may, but shall not be required to, elect prior to submission of to the fact finder.

Sec. B-26. 32 MRSA §1381, sub-§7, as enacted by PL 1989, c. 247, §§2 and 4, is repealed and the following enacted in its place:

7. Sunset. This section is repealed on January 1, 2000.

Sec. B-27. 32 MRSA §1451, first ¶, as amended by PL 1989, c. 450, §15 and c. 503, Pt. B, §127, is repealed and the following enacted in its place:

The State Board of Funeral Service, as established by Title 5, section 12004-A, subsection 18, and in this chapter called the "board," shall consist of 8 members, 6 of whom shall be persons licensed for the practice of funeral service for 10 consecutive years or who have had 10 consecutive years' experience as a practitioner of funeral service in this State immediately preceding their appointment and 2 of whom shall be representatives of the public. Members shall be appointed by the Governor for a term of 4 years, except that no more than 2 members' terms may expire in any one calendar year and appointments for terms of less than 4 years may be made in order to comply with this limitation. Upon expiration of a member's term, that member shall serve until a successor is qualified and appointed. The successor's term shall be 4 years from the date of the expiration, regardless of the date of the successor's appointment. Any vacancy in the board shall be filled by appointment of a person, qualified as was the board member being replaced, to hold office during the unexpired term. No person may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served that exceeds 1/2 of the 4-year term shall be deemed a full term. A board member may be removed by the Governor for cause.

Sec. B-28. 32 MRSA §3403-A, sub-§5, as enacted by PL 1985, c. 389, §19, is repealed and the following enacted in its place:

5. Orders. The board and any person designated by the board may issue an order to cease and desist the installation or substantial alteration of plumbing systems by any person required to be licensed by the board and who is not licensed by the board. The order is immediately effective and shall be accompanied by written notice of opportunity and procedure for appeal. The person ordered to cease and desist may appeal the order and may request a hearing. The appeal and request for hearing shall be filed with the board within 48 hours of the order. A hearing shall be granted by the board within 5 days of receipt of the request. The board shall issue its written decision of its review within 15 days of receipt of the request for appeal or hearing.

Any person ordered by the board to cease and desist may appeal to the Superior Court in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII, by filing a petition for review within 48 hours of receipt of the order. The court shall issue a written decision within 20 days after receipt of the petition for review. The decision of the Superior Court on an appeal, as provided, is final. The decision of the board or order of the board shall also be final and subject to no further appeal upon failure to file a timely written appeal as provided.

Sec. B-29. 32 MRSA §3403-A, last ¶, as enacted by PL 1985, c. 389, §19, is repealed.

Sec. B-30. 32 MRSA §13062, sub-§1, as amended by PL 1989, c. 471, §2 and c. 503, Pt. B, §156, is repealed and the following enacted in its place:

1. Real Estate Commission composition. The Real Estate Commission, established by Title 5, section 12004-A, subsection 37, shall be referred to in this chapter as the "commission." The commission shall consist of 4 industry members and 2 public members.

Sec. B-31. 36 MRSA §3038, as repealed by PL 1983, c. 94, Pt. D, §5 and as amended by PL 1983, c. 334, §4 and c. 480, Pt. A, §42, is repealed.

Sec. B-32. 36 MRSA §3040, as enacted by PL 1983, c. 310, §5, is repealed.

Sec. B-33. 36 MRSA §3216, as enacted by PL 1983, c. 94, Pt. D, §6, is repealed and the following enacted in its place:

§3216. Failure to file statement; false statement

Any person who refuses or neglects to make any statement, report, payment or return required by this chapter, or who knowingly makes, or who aids or assists any other person in making a false statement in a return or report to the State Tax Assessor, or in connection with an application for refund of any tax, or who knowingly collects or attempts to collect, or causes to be paid to that person or to any other person, either directly or indirectly, any refund of that tax without being entitled to that refund or is in violation of the affidavit as prescribed for registered sellers in section 3205, is guilty of a Class E crime. Any fines collected pursuant to this section must be credited to the Highway Fund.

The State Tax Assessor shall notify the Secretary of State and the Bureau of State Police of any carrier who has failed to comply with this chapter.

The Secretary of State shall suspend vehicle registrations in the name of that carrier, if any, and the right to operate as provided in Title 29, section 2241, and the Secretary of State shall refuse to issue or reissue authority required by Title 29, chapter 25.

Sec. B-34. 36 MRSA §4831, sub-§4, as enacted by PL 1989, c. 585, Pt. B, is amended to read:

4. Tire. "Tire" means the device made of rubber or any similar substance which is intended to be attached to a motorized vehicle or trailer and is designed to support the load of the ~~motor~~ motorized vehicle or trailer.

Sec. B-35. Effective date. The Maine Revised Statutes, Title 36, section 4831, subsection 4, as amended by this Act, shall take effect on July 1, 1990.

Sec. B-36. 36 MRSA §6207, sub-§1, ¶A, as repealed by PL 1987, c. 839, §3 and as enacted by PL 1989, c. 534, Pt. A, §6, is repealed.

Sec. B-37. 36 MRSA §6207, sub-§1, ¶A-1 is enacted to read:

A-1. Fifty percent of that portion of the benefit base that exceeds 4.5% but does not exceed 8.5% of household income, plus 100% of that portion of the benefit base that exceeds 8.5% of income to a maximum payment of \$3,000.

Sec. B-38. 36 MRSA §6220, as enacted by PL 1989, c. 534, Pt. A, §10, is amended to read:

§6220. Coordination required

The Bureau of Taxation shall seek the advice and cooperation of the Bureau of ~~Maine's Elderly~~ Elder and Adult Services; the Bureau of Income Maintenance; the Division of Community Services; advocates for elderly and low-income individuals; the Maine Literacy Coalition; and other interested agencies and organizations in developing the application form and instruction booklet for the Maine Residents Property Tax Program and the outreach plan required by section 6219.

Sec. B-39. 38 MRSA §451, 2nd ¶, as amended by PL 1983, c. 566, §24, is further amended to read:

The board may establish a mixing zone with respect to any discharge at the time application for license for the discharge is made, and when so established shall be a condition of and form a part of the license issued. The board may, after opportunity for a hearing in accordance with section ~~345~~ 345-A, establish by order a mixing zone with respect to any discharge for which a license has been issued pursuant to section 414, or for which an exemption has been granted by virtue of section 413, subsection 2. Prior to the commencement of any enforcement action to abate a classification violation, the board shall establish, in the manner provided in this paragraph, a mixing zone with respect to the discharge sought to be thereby affected.

Sec. B-40. 38 MRSA §464, sub-§6, ¶A, as enacted by PL 1985, c. 698, §15, is amended to read:

A. At any time during the term of a valid waste water discharge license which was issued prior to the effective date of this article, the board may modify that license in accordance with section 347, ~~subsection 3~~ 347-B if the discharger is not in compliance with the water quality criteria pertaining to the protection of the resident biological community. When a discharge license is modified under this subsection, the board shall establish a reasonable schedule to bring the discharge into compliance with the water quality criteria pertaining to the protection of the resident biological community.

Sec. B-41. 38 MRSA §1310-V, 2nd ¶, as enacted by PL 1987, c. 557, §4, is amended to read:

For the purposes of this section, the term, "commercial landfill facility" is defined pursuant to section ~~1303, subsection 1-C~~ 1303-C, except that the term does not include a waste facility that is controlled by the owners of an energy recovery facility or facilities and that is used exclusively for the disposal of ash or other wastes processed and thereby generated by such energy recovery facility or facilities.

Sec. B-42. 38 MRSA §1362, sub-§1, ¶G, as enacted by PL 1985, c. 746, §32, is amended to read:

G. Waste oil as defined in section ~~1303~~ 1303-C.

Sec. B-43. 38 MRSA §1652, sub-§3, as enacted by PL 1987, c. 804, is amended to read:

3. **Meals on wheels.** A food service funded in whole or in part, directly or indirectly, by the Bureau of ~~Maine's Elderly~~ Elder and Adult Services to provide meals at dispersed locations from central kitchen facilities is exempt.

Sec. B-44. 39 MRSA §87, sub-§5, as amended by PL 1987, c. 861, §32, is further amended to read:

5. **Employer refusal; sanctions.** Refusal of the employer to comply with a requirement, determination or order of the commission, this chapter or a rule promulgated thereto, or with the terms of an approved plan or agreement under this subchapter, shall be deemed a failure to pay compensation subject to section 104-A, subsection ~~2-B~~ 2-A. The commissioner or the employee may seek enforcement under section 103-E.

Sec. B-45. PL 1989, c. 475, §1, first line is repealed and the following enacted in its place:

Sec. 1. 30-A MRSA c. 3, sub-c. 1, art. 3-A is enacted to read:

PART C

Sec. C-1. 30 MRSA §2, sub-§1, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as repealed and replaced by PL 1987, c. 780, §1 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-2. 30 MRSA §202-A, as enacted by PL 1987, c. 780, §2, is repealed.

Sec. C-3. 30 MRSA §202-B, as enacted by PL 1987, c. 780, §3, is repealed.

Sec. C-4. 30 MRSA §1123-A, as enacted by PL 1987, c. 840, §4, is repealed.

Sec. C-5. 30 MRSA §§1130-A, 1130-B and 1130-C, as enacted by PL 1987, c. 828, §1, are repealed.

Sec. C-6. 30 MRSA §2151, sub-§2, ¶K, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as repealed and replaced by PL 1987, c. 828, §2 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-7. 30 MRSA §2251, sub-§§5 and 6, as enacted by PL 1987, c. 784, §5, are repealed.

Sec. C-8. 30 MRSA §3223-B, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as repealed and replaced by PL 1987, c. 860, §1 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-9. 30 MRSA §4064, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as repealed and replaced by PL 1987, c. 770, §4 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-10. 30 MRSA §4066-B, sub-§1, ¶¶F and G, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended PL 1987, c. 770, §5 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, are repealed.

Sec. C-11. 30 MRSA §4066-B, sub-§10, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as enacted PL 1987, c. 770, §7 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-12. 30 MRSA §4522, sub-§9, as enacted by PL 1987, c. 820, §2, is repealed.

Sec. C-13. 30 MRSA §4552, sub-§19, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended by PL 1987, c. 846, §12 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-14. 30 MRSA §4601-A, sub-§1, ¶L, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended by PL 1987, c. 761, §1 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-15. 30 MRSA c. 239, sub-c. II, art. 3-A, as enacted by PL 1987, c. 820, §3, is repealed.

Sec. C-16. 30 MRSA §4723, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended by PL 1987, c. 761, §2 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-17. 30 MRSA §4732, sub-§2, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as repealed and replaced by PL 1987, c. 761, §3 and c. 820, §4 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-18. §30 MRSA §4762, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended by PL 1987, c. 761, §4 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-19. 30 MRSA §§4770-C, 4770-D and 4770-E, as enacted by PL 1987, c. 846, §13, are repealed.

Sec. C-20. 30 MRSA §4787, sub-§1, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended by PL 1987, c. 820, §5 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-21. 30 MRSA §4791, sub-§1, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended by PL 1987, c. 820, §6 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-22. 30 MRSA §4792, as enacted by PL 1987, c. 820, §7, is repealed.

Sec. C-23. 30 MRSA §4863, sub-§1, ¶C, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended by PL 1987, c. 772, §1 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-24. 30 MRSA §4864, sub-§1, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended by PL 1987, c. 772, §2 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-25. 30 MRSA §4956, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended by PL 1987, c. 810, §§3 to 5 and 11 and c. 885, §§6 to 8 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-26. 30 MRSA §4960, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended by PL 1987, c. 766, §4 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-27. 30 MRSA §§4960-A and 4960-B, as enacted by PL 1987, c. 766, §4, are repealed.

Sec. C-28. 30 MRSA §4960-C, as enacted by PL 1987, c. 766, §4 and as amended by PL 1989, c. 35, §1, is repealed.

Sec. C-29. 30 MRSA §§4960-D, 4960-E and 4960-F, as enacted by PL 1987, c. 766, §4, are repealed.

Sec. C-30. 30 MRSA §4961, sub-§3, as enacted by PL 1987, c. 820, §8, is repealed.

Sec. C-31. 30 MRSA §4961-A, as enacted by PL 1987, c. 766, §6 and c. 820, §9 and as amended by PL 1987, c. 860, §§2 and 3, is repealed.

Sec. C-32. 30 MRSA §4965, sub-§2, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended by PL 1987, c. 770, §8 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-33. 30 MRSA §4965, sub-§3, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as enacted by PL 1987, c. 647, §1 and c. 770, §9 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-34. 30 MRSA §4967, as enacted by PL 1987, c. 766, §10 and as amended by PL 1989, c. 443, §81, is repealed.

Sec. C-35. 30 MRSA §5154, as enacted by PL 1987, c. 751, §1, is repealed.

Sec. C-36. 30 MRSA §5163, sub-§§4-A, 4-B, 7-A and 7-B, as enacted by PL 1987, c. 751, §2, are repealed.

Sec. C-37. 30 MRSA §5163, sub-§10, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended by PL 1987, c. 751, §3 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-38. 30 MRSA §5163, sub-§§10-A and 12-A, as enacted by PL 1987, c. 751, §4, are repealed.

Sec. C-39. 30 MRSA §5165-A, as enacted by PL 1987, c. 751, §5, is repealed.

Sec. C-40. 30 MRSA §5168, first and 2nd ¶¶, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended by PL 1987, c. 751, §6 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, are repealed.

Sec. C-41. 30 MRSA §5168, 3rd ¶, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended by PL 1987, c. 751, §7 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-42. 30 MRSA §5171, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended by PL 1987, c. 751, §8 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-43. 30 MRSA §5171-A, as enacted by PL 1987, c. 751, §9, is repealed.

Sec. C-44. 30 MRSA §5172, first ¶, as repealed by PL 1987, c. 737, Pt. A, §1 and Pt. C, §106 and as amended by PL 1987, c. 751, §10 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. C-45. 30 MRSA §5183-A, as enacted by PL 1987, c. 751, §11, is repealed.

Sec. C-46. 30-A MRSA §2342, sub-§9 is enacted to read:

9. Comprehensive plans to comply with standards. Any comprehensive plans developed pursuant to this subchapter shall comply with the provisions of subpart 6-A.

Sec. C-47. 30-A MRSA §5705, as enacted by PL 1989, c. 12, is amended to read:

§5705. Refinancing of the United States Farmers Home Administration loans

For the period beginning January 1, 1989 1988, and ending December 31, 1989, the municipal officers of any municipality or plantation may refinance any debt owed to the United States Farmers Home Administration without the approval of the municipality's or plantation's legislative body as long as the refinancing will result in a net savings to the municipality or plantation.

Sec. C-48. PL 1987, c. 766, §10, the first 2 lines are repealed and the following enacted in its place:

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

PART D

Sec. D-1. 5 MRSA §1731, 2nd ¶, as enacted by PL 1989, c. 483, Pt. A, §13 and c. 501, Pt. P, §14, is repealed and the following enacted in its place:

As approved by the commissioner, up to 15% of the amount of the fund as of July 1st of each fiscal year may be used to ensure the prompt payment of workers' compensation claims for state agencies as required by law. Any funds so transferred shall be repaid to the fund by use of a written agreement which specifies reimbursement within the same biennium in which the transfer was made.

Sec. D-2. 5 MRSA §1731, as amended by PL 1989, c. 483, Pt. A, §13 and c. 501, Pt. P, §14, is further amended by adding at the end a new 3rd paragraph to read:

With the approval of the commissioner, up to 15% of the unreserved amount of the fund as of July 1, 1989, may be used for the initial capitalization of the Workers' Compensation Management Fund established by section 1833.

Sec. D-3. 5 MRSA §12004-A, sub-§9-A, as enacted by PL 1989, c. 465, §§1 and 5, is amended to read:

9-A. Board	\$35/Day	32 MRSA §13852
of Counseling		
Professional		
Licensure		
<u>Licensure.</u>		

This subsection is repealed on October 1, 1999.

Sec. D-4. 5 MRSA §17001, sub-§42, as amended by PL 1989, c. 491, §1 and as repealed and replaced by PL 1989, c. 550, §2 and as amended by PL 1989, c. 700, Pt. A, §A-24, is repealed and the following enacted in its place:

42. Teacher. "Teacher" means:

A. Any employee of a public school who fills any position that the Department of Education requires be filled by a person who holds the appropriate certification or license required for that position and;

(1) Holds appropriate certification from the Department of Education; or

(2) Holds an appropriate license issued to a professional employee by a licensing agency of the State;

B. Any employee of a public school who fills any position not included in paragraph A, the principal function of which is to introduce new learning to students;

C. Any employee of a public school on June 30, 1989, in a position not included in paragraph A or B which was included in the definition of teacher in effect on June 30, 1989, as long as:

(1) The employee does not terminate employment; or

(2) The employee terminates employment and returns to employment in a position in the same classification within 2 years of the date of termination.

Regardless of any subsequent employment history, any employee of a public school in a position which was included in the definition of teacher in effect on June 30, 1989, is entitled to creditable service as a teacher for all service in that position on or before that date;

D. Any employee of a public school in a position not included in paragraph A, B or C who was a member of the retirement system as a teacher on August 1, 1988, as long as:

(1) The employee does not terminate employment; or

(2) The employee terminates employment and returns to employment in a position in the same classification within 2 years of the date of termination;

E. Any former employee of a public school in a position not included in paragraph A, B or C who was a member of the retirement system as a teacher

before August 1, 1988, provided that the former employee returns to employment in a position in the same classification before July 1, 1991; or

F. For service before July 1, 1989, any employee of a public school in a position which was included in the definition of teacher before July 1, 1989.

"Teacher" includes a person who is on a one-year leave of absence from a position as a teacher and is participating in the education of prospective teachers by teaching and supervising students enrolled in college-level teacher preparation programs in this State.

Sec. D-5. 7 MRSA §954-A, 2nd ¶, as enacted by PL 1989, c. 605, is amended to read:

Notwithstanding section 957, any violation of this section shall constitute a separate civil violation with a minimum penalty of \$1,000 for each occurrence. Each lot of potatoes exposed or offered for sale, transported, shipped or dumped without the requisite federal and state inspection certificate required under this section showing that the potatoes meet the minimum grade requirements specified on the container shall constitute a separate violation. ~~There shall be no violation when the potatoes involved have been removed from the containers and are to be used for processing or charitable purposes. These potatoes must be handled under the supervision of the Department of Agriculture, Food and Rural Resources. There is no violation if the potatoes are removed from the containers under the supervision of the Department of Agriculture, Food and Rural Resources and are to be used for processing or charitable purposes.~~

Sec. D-6. 10 MRSA §8001, as repealed and replaced by PL 1989, c. 450, §4; c. 465, §§2 and 5; and c. 502, Pt. A, §31, 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:

1. Bureau of Banking. Banking, Bureau of;

2. Bureau of Consumer Credit Protection. Consumer Credit Protection, Bureau of;

3. Bureau of Insurance. Insurance, Bureau of;

4. Maine Athletic Commission. Athletic Commission, Maine;

5. Maine State Pilotage Commission. Pilotage Commission, Maine State;

6. Real Estate Commission. Real Estate Commission;

7. Arborist Examining Board. Arborist Examining Board;

8. Board of Licensing of Auctioneers. Auctioneers, Board of Licensing of;

9. State Board of Barbers. Barbers, State Board of;

10. Board of Commercial Driver Education. Commercial Driver Education, Board of;

11. Board of Licensing of Dietetic Practice. Dietetic Practice, Board of Licensing of;

12. Electricians' Examining Board. Electricians' Examining Board;

13. State Board of Licensure for Professional Foresters. Foresters, State Board of Licensure for Professional;

14. State Board of Funeral Service. Funeral Service, State Board of;

15. State Board of Certification for Geologists and Soil Scientists. Geologists and Soil Scientists, State Board of Certification for;

16. Board of Hearing Aid Dealers and Fitters. Hearing Aid Dealers and Fitters, Board of;

17. Manufactured Housing Board. Manufactured Housing Board;

18. Nursing Home Administrators Licensing Board. Nursing Home Administrators Licensing Board;

19. Board of Occupational Therapy Practice. Occupational Therapy Practice, Board of;

20. Oil and Solid Fuel Board. Oil and Solid Fuel Board;

21. Board of Examiners in Physical Therapy. Physical Therapy, Board of Examiners in;

22. Plumbers' Examining Board. Plumbers' Examining Board;

23. State Board of Examiners of Psychologists. Psychologists, State Board of Examiners of;

24. Radiologic Technology Board of Examiners. Radiologic Technology Board of Examiners;

25. Board of Respiratory Care Practitioners. Respiratory Care Practitioners, Board of;

26. State Board of Social Worker Licensure. Social Worker Licensure, State Board of;

27. Board of Examiners on Speech Pathology and Audiology. Speech Pathology and Audiology, Board of Examiners on;

28. State Board of Registration of Substance Abuse Counselors. Substance Abuse Counselors, State Board of Registration of;

29. State Board of Veterinary Medicine. Veterinary Medicine, State Board of;

30. Acupuncture Licensing Board. Acupuncture Licensing Board;

31. Board of Commissioners of the Profession of Pharmacy. Profession of Pharmacy, Board of Commissioners of the;

32. Board of Licensure for Professional Land Surveyors. Licensure for Professional Land Surveyors, Board of;

33. Board of Chiropractic Examination and Registration. Chiropractic Examination and Registration, Board of;

34. Board of Licensure of Railroad Personnel. Licensure of Railroad Personnel, Board of; and

35. Board of Counseling Professionals Licensure. Counseling Professionals Licensure, Board of. This subsection is repealed October 1, 1999.

Sec. D-7. 20-A MRSA §15612, sub-§11, as enacted by PL 1989, c. 502, Pt. B, §§20 and 21, and c. 554, §3, is repealed and the following enacted in its place:

11. Special education tuition and costs for out-of-district placement adjustment. A school administrative unit which places a student in an out-of-district placement shall receive an adjustment equal to the amount, if any, by which the tuition, treatment and room and board costs for an approved out-of-district special education placement in the year of allocation exceeds 3 times the secondary foundation per pupil operating rate for that year, or a prorated amount if the placement is less than a full year. State payments to school administrative units pursuant to this subsection shall be made during the year of allocation. The funds for the adjustment shall be limited to the amount appropriated by the Legislature for that purpose, and the department is authorized to prorate payments to units if the amount appropriated is insufficient to make full payments to all units.

Sec. D-8. 28-A MRSA §1007, sub-§2, ¶B, as amended by PL 1989, c. 158, §7 and c. 526, §§20 and 28, is repealed and the following enacted in its place:

B. Part-time (6 months).....\$ 75; and

Sec. D-9. Effective date. The Maine Revised Statutes, Title 28-A, section 1007, subsection 2, paragraph B, as repealed and replaced by this Act, takes effect July 1, 1990.

Sec. D-10. 30-A MRSA §272 sub-§6, as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. A, §7 and Pt. C, §§8 and 10, and as repealed by PL 1989, c. 501, Pt. O, §21, is repealed.

Sec. D-11. 32 MRSA §13863 is enacted to read:

§13863. Repeal

This chapter is repealed October 1, 1999.

Sec. D-12. 36 MRSA §5126, as repealed and replaced by PL 1987, c. 892, §2 and PL 1989, c. 495, §3, is repealed and the following enacted in its place:

§5126. Personal exemptions

A resident individual shall be allowed \$2,000 for each exemption to which the individual is entitled for the taxable year for federal income tax purposes, unless the taxpayer is claimed as a dependent on another return. No additional exemption may be allowed for taxpayers over 65 years of age or blind. The nominal dollar amount of this section shall be subject to annual adjustment under section 5403.

Sec. D-13. PL 1989, c. 465, §5 is repealed.

Sec. D-14. PL 1989, c. 501, Pt. O, §22 as amended by PL 1989, c. 600, Pt. B, §§9 and 10, is further amended to read:

Sec. 22. Effective date. Sections 1 to 6 ~~shall take effect on this Part takes effect on June 30, 1989~~ December 5, 1990. Sections 7, 9, 10, 11, 12, 13, 14, 15, 16 and 17 shall take effect on December 3, 1990.

Sec. D-15. Retroactivity. Public Law 1989, chapter 501, Part O, section 22, as amended by this Act, takes effect retroactively to June 30, 1989.

Sec. D-16. PL 1989, c. 547, §5 is enacted to read:

Sec. 5. Retroactivity. This Act applies retroactively to July 1, 1989.

Sec. D-17. PL 1989, c. 547, emergency clause is amended to read:

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect ~~on July 1, 1989~~ when approved.

Sec. D-18. Oxford County officers' salaries. Notwithstanding the provisions of the Maine Revised Statutes, Title 30-A, section 2, subsection 1, paragraph H,

the following county officers are entitled to receive the following salaries for calendar year 1989. The salary of the Oxford County Register of Probate is \$16,700. The salary of the Oxford County Register of Deeds, Eastern District, is \$16,700. The salary of the Oxford County Register of Deeds, Western District, is \$14,179. This section applies retroactively to January 1, 1989.

PART E

Sec. E-1. 7 MRSA §602, as amended by PL 1979, c. 731, §19, is further amended to read:

§602. Enforcing official

This subchapter shall be administered by the ~~Commissioner of Agriculture, Food and Rural Resources Board of Pesticides Control~~, hereinafter referred to as the "~~commissioner board~~."

Sec. E-2. 7 MRSA §604, sub-§14, as enacted by PL 1975, c. 382, §3, is amended to read:

14. Highly toxic pesticide. "Highly toxic pesticide" means any pesticide determined to be a highly toxic pesticide under the authority of Section 25(c)(2) of FIFRA or by the ~~commissioner board~~ under section 610, subsection 1, paragraph B.

Sec. E-3. 7 MRSA §606, sub-§2, ¶¶B and C, as enacted by PL 1975, c. 382, §3, are amended to read:

B. For any person to use or cause to be used any pesticide in a manner inconsistent with its labeling or to regulations of the ~~commissioner board~~, if those regulations further restrict the uses provided on the labeling;

C. For any person to use for ~~his~~ that person's own advantage or to reveal, other than to the ~~commissioner board~~ or proper officials or employees of the state or federal executive agencies, or to the courts of this State or of the United States in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of section 607 or any information judged by the ~~commissioner board~~ as containing or relating to trade secrets or commercial or financial information obtained by authority of this subchapter and marked as privileged or confidential by the registrant;

Sec. E-4. 7 MRSA §606, sub-§2, ¶F, as amended by PL 1983, c. 558, §1, is further amended to read:

F. For any person to refuse or otherwise fail to comply with the provisions of this subchapter, the regulations adopted hereunder, or of any lawful order of the ~~commissioner board~~; or

Sec. E-5. 7 MRSA §607, as amended by PL 1987, c. 723, §1, is further amended to read:

§607. Registration

1. **Conditions requiring registration.** Every pesticide which is distributed in this State shall be registered with the ~~commissioner~~ board subject to the provisions of this subchapter. Such registration shall be renewed annually prior to January 1, provided that registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at such plant or warehouse as a constituent part to make a pesticide which is registered under the provisions of this subchapter, or if the pesticide is distributed under the provisions of an experimental use permit issued under section 608 or an experimental use permit issued by EPA.

2. **Contents of statement made by applicant.** The applicant for registration shall file a statement with the ~~commissioner~~ board which shall include:

A. The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than applicant's;

B. The name of the pesticide;

C. Other necessary information required for completion of the department's application for registration forms; and

D. A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use and the use classification as provided for in FIFRA.

3. **Submission of formula.** The ~~commissioner~~ board, when ~~he~~ it deems it necessary in the administration of this subchapter, may require the submission of the complete formula of any pesticide, including the active and inert ingredients.

4. **Test results.** The ~~commissioner~~ board may require a full description of the tests made and the results thereof on any pesticide not registered pursuant to the Federal Insecticide, Fungicide and Rodenticide Act, Section 3, or on any pesticide on which restrictions are being considered. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide was registered or last reregistered. Notwithstanding Title 1, section 402, data submitted under this subsection and subsections 3 and 5 are confidential and shall not be available for public inspection.

5. **Power to require other information.** The ~~commissioner~~ board may prescribe other necessary information by regulation adopted in a manner consistent with the Maine Administrative Procedure Act.

6. **Registration fee; validity.** The applicant desiring to register a pesticide shall pay an annual registration fee of \$85 in calendar year 1988 and thereafter for each pesticide registered for that applicant. Annual registration periods shall expire on December 31st of any one year or in a manner consistent with the Maine Administrative Procedure Act, Title 5, section 10002, as to license expiration, whichever is later.

7. **Renewal of registration.** Forms for reregistration shall be mailed to registrants at least 30 days prior to the due date.

8. Approval of application for registration.

A. Provided the State is authorized by the Administrator of the United States Environmental Protection Agency to register pesticides pursuant to Sections 24(a) and 24(c) of FIFRA, the board shall consider the required information set forth under subsections 2, 3, 4 and 5 and shall, subject to the terms and conditions of the United States Environmental Protection Agency certification, register such pesticide if it determines that:

(1) Its composition is such as to warrant the proposed claims for it;

(2) Its labeling and other material required to be submitted comply with the requirements of this subchapter;

(3) It will perform its intended function without unreasonable adverse effects on the environment;

(4) When used in accordance with widespread and commonly recognized practice, it will not generally cause unreasonable adverse effects on the environment; and

(5) A need for the pesticide exists.

This paragraph does not apply if the registrant fails to provide any information required to be submitted under this chapter or does not provide other information requested by the Board of Pesticides Control in order to determine whether the pesticide should be registered.

The preceding paragraph does not affect the rights of the Board of Pesticides Control to make further inquiry regarding the registration of a pesticide or to refuse reregistration, suspend or revoke registration or otherwise restrict or condition the use of pesticides in order to protect public health and the environment.

B. Prior to registering a pesticide for a special local need, the ~~commissioner~~ board shall classify the uses of the pesticide for general or restricted use in conformity with Section 3(d) of FIFRA; provided, that the ~~commissioner~~ board shall not make any

lack of essentiality a criterion for denying registration of any pesticide. Where 2 pesticides meet the requirements of this paragraph, one should not be registered in preference to the other.

C. The ~~commissioner~~ board may develop and promulgate such other requirements by regulation, adopted in a manner consistent with the Maine Administrative Procedure Act, as are necessary for the state plan to receive certification from EPA.

9. **Adverse environmental effects.** If at any time after the registration of a pesticide, the registrant has additional factual information regarding unreasonable adverse effects on the environment of the pesticide, ~~he~~ the registrant shall submit such information to the ~~commissioner~~ board.

Sec. E-6. 7 MRSA §607-A, as enacted by PL 1983, c. 558, §3, is amended to read:

§607-A. Review or reregistration

1. **Review required.** The ~~commissioner~~ board shall review all chemical pesticides used in this State, in accordance with the requirements of this section. This review shall be completed for presently registered pesticides on a schedule to be determined by the ~~commissioner~~ board, with restricted use pesticides and the most widely used pesticides receiving priority, and within 3 years for pesticides registered after the effective date of this section.

2. **Review process.** In cooperation with technical personnel of the Department of Environmental Protection; the Department of Inland Fisheries and Wildlife; the Department of Human Services; and the Department of Conservation, specifically the Maine Forest Service, the ~~commissioner~~ board shall conduct a review to include the following:

A. An environmental risk assessment to determine the effects of pesticides on the ecosystem. This assessment is to be based on available literature. The ~~commissioner~~ board shall request data that ~~he~~ it determines necessary to carry out the purpose of this chapter, but, when the literature is not available, is inadequate or incomplete, this assessment shall be based on an environmental monitoring protocol;

B. A health risk assessment, based on a literature search of laboratory, clinical and epidemiological data available within and without the State. The ~~commissioner~~ board shall request data ~~he~~ it determines necessary to carry out the purpose of this chapter; and

C. A water residue survey to determine a representative sample of a number of wells or bodies of water, either at random, in areas of possible contamination or at other bases to be described by the ~~commissioner~~ board, for the purpose of testing

these waters and preparing a profile of the kinds and amounts of pesticides present.

3. **Effect of review on reregistration.** If the reviews in this section demonstrate that the impact of the pesticide on the ecosystem warrants additional health or environmental safeguards, the ~~commissioner~~ board shall require implementation of those safeguards prior to reregistration.

Sec. E-7. 7 MRSA §608, as amended by PL 1977, c. 694, §§56 to 58, is further amended to read:

§608. Experimental use permits

1. **Board's powers.** Provided the State is authorized by the Administrator of EPA to issue experimental use permits, the ~~commissioner~~ board may:

A. Issue an experimental use permit to any person applying for an experimental use permit, if ~~he~~ it determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 607. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed;

B. Prescribe terms, conditions and period of time for the experimental use permit, which shall be under the supervision of the ~~commissioner~~ board; and

C. Modify any experimental use permit in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory proceedings, if ~~he~~ the board finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment. These permits may be revoked by the Administrative Court if the terms or conditions are being violated or are inadequate to avoid unreasonable adverse effects on the environment.

2. **Development and promulgation of other requirements.** The ~~commissioner~~ board may develop and promulgate such other requirements by regulation, adopted in a manner consistent with the Maine Administrative Procedure Act, as are necessary for the state plan to receive such authorization from EPA.

3. **Limitation or prohibition of experimental use pesticides.** The ~~commissioner~~ board may, by regulation adopted in a manner consistent with the Maine Administrative Procedure Act, limit or prohibit the use of any pesticide for which an experimental use permit has been issued by EPA pursuant to Section 5(a) of FIFRA, and which the ~~commissioner~~ board finds may cause unreasonable adverse effects on the environment.

Sec. E-8. 7 MRSA §609, as amended by PL 1977, c. 694, §§59 to 61, is further amended to read:

§609. Refusal to register, cancellation, suspension, legal recourse

1. **Procedure.** Provided the State is certified by the Administrator of EPA to register pesticides formulated to meet special local needs, the commissioner board shall consider the following for refusal to register; for cancellation; for suspension; or for legal recourse for such pesticides. This registration, cancellation and suspension shall be considered rule-making as that term is defined in the Maine Administrative Procedure Act and notice shall be provided in a manner consistent with the Maine Administrative Procedure Act.

A. If it does not appear to the commissioner board that the pesticide is such as to warrant the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of this subchapter or regulations adopted thereunder, ~~he~~ the board shall notify the applicant of the manner in which the pesticide, labeling or other material required to be submitted fails to comply with the provisions of this subchapter so as to afford the applicant an opportunity to make the necessary corrections and shall notify, in a manner consistent with the Maine Administrative Procedure Act, the applicant of the opportunity for hearing prior to refusal to register.

B. When the commissioner board determines that a pesticide or its labeling does not comply with the provisions of this subchapter or the regulations adopted thereunder, ~~he~~ the board may cancel the registration of a pesticide or change its classification, after notice and opportunity for hearing has been provided in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act.

C. When the commissioner board determines that there is an imminent hazard, ~~he~~ it may, on ~~his~~ its own motion, suspend the registration of a pesticide in a manner consistent with the Maine Administrative Procedure Act, Title 5, section 8054, as to emergency rule-making pending decisions reached after notice and opportunity for a hearing. Hearings shall be held with the utmost possible expedition; .

D. When the commissioner board becomes cognizant of any possible hazard or violation involving either a registered or unregistered product, ~~he~~ it shall cause notice of such fact, stating the date, hour and place of hearing, with a copy of the findings or charge to be preferred, to be delivered by registered mail, return receipt requested, to the person concerned, who shall be given an opportunity to be heard under such rules and regulations as may be prescribed by the commissioner; board.

E. Any person who will be adversely affected by such order in this section may obtain judicial review thereof by filing in the District Court, within 60 days

after the entry of such order, a petition praying that the order be set aside in whole or in part. A copy of the petition shall be forthwith transmitted by the clerk of the court to the commissioner board and thereupon the commissioner board shall file in the court the record of the proceedings on which ~~he~~ it based ~~his~~ its order. The court shall have jurisdiction to affirm or set aside the order complained of in whole or in part. The findings of the commissioner board with respect to questions of fact shall be sustained, if supported by substantial evidence when considered on the record as a whole. Upon application, the court may remand the matter to the commissioner board to take further testimony, if there are reasonable grounds for the failure to adduce such evidence in the prior hearing. The commissioner board may modify ~~his~~ its findings and ~~his~~ its order by reason of the additional evidence so taken and shall file the additional record and any modification of the findings or order with the clerk of the court.

2. **Federally registered pesticides.** If the commissioner board determines that any federally registered pesticide, with respect to the use of such pesticide within this State, does not warrant the claims for it, or might cause unreasonable adverse effects on the environment, ~~he~~ the board may refuse to register the pesticide as required in section 607, or if the pesticide is registered under section 607, the registration may be cancelled or suspended as provided in subsection 1. If the commissioner board believes the pesticide does not comply with the provisions of FIFRA or the regulations adopted thereunder, ~~he~~ it shall advise EPA of the manner in which the pesticide, labeling or other material required to be submitted fails to comply with the provisions of FIFRA, and suggest necessary corrections.

Sec. E-9. 7 MRSA §610, as amended by PL 1977, c. 694, §§62 and 63, is further amended to read:

§610. Determinations; rules and regulations; restricted use pesticides; uniformity

1. **Determinations.** The commissioner board is authorized, after due notice and an opportunity for a hearing in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act:

A. To declare as a pest any form of plant or animal life, except virus, bacteria or other microorganisms on or in living man or other living animals, which is injurious to health or the environment;

B. To determine whether pesticides registered under the authority of Section 24(c) of FIFRA are highly toxic to man. The definition of highly toxic, as defined in Title 40, Code of Federal Regulations 162.8 as issued or hereafter amended, shall govern the commissioner's board's determination;

C. To determine pesticides and quantities of substances contained in pesticides, which are inju-

rious to the environment, the commissioner board shall be guided by EPA regulations in this determination; and

D. To prescribe regulations requiring any pesticide to be colored or discolored, if ~~he~~ it determines that such requirement is feasible and is necessary for the protection of health and the environment.

2. Rule-making powers. The commissioner board is authorized, after due notice and a public hearing, in a manner consistent with the Maine Administrative Procedure Act, to make appropriate regulations for carrying out the provisions of this subchapter, including but not limited to regulations providing for:

A. The collection, examination and reporting of samples of pesticides or devices;

B. The safe handling, transportation, storage, display, distribution and disposal of pesticides and their containers;

C. Labeling requirements of all pesticides required to be registered under provisions of this subchapter, provided that such regulations shall not impose any requirements for federally registered labels in addition to or different from those required pursuant to FIFRA; and

D. Specifying classes of devices which shall be subject to the provisions of section 605, subsection 1.

3. Uniformity of requirements; restricted uses. For the purpose of uniformity of requirements between the states and the Federal Government, the commissioner board may, after a public hearing, adopt regulations in conformity with the primary pesticide standards, particularly as to labeling, registration requirements and criteria for classifying pesticides for restricted use as established by EPA or other federal or state agencies.

Sec. E-10. 7 MRSA §611, as amended by PL 1983, c. 558, §4, is further amended to read:

§611. Enforcement

1. Board powers. Notwithstanding any other provisions of law, the sampling and examination of pesticides or devices shall be made under the direction of the commissioner board for the purpose of determining whether they comply with the requirements of this subchapter. The commissioner board is authorized, upon presentation of proper identification, to enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to labeled pesticides or devices packaged for distribution, and to open any case, package or other container, and may upon tendering the market price take samples for analysis. If it appears from such examination that a pesticide or device fails to comply with the provisions of this subchapter or

regulations adopted thereunder, and the commissioner board contemplates instituting criminal proceedings against any person, the commissioner board shall cause appropriate notice to be given to such person in a manner consistent with the Maine Administrative Procedure Act. Any person so notified shall be given an opportunity for a hearing in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory proceedings. If thereafter in the opinion of the commissioner board it appears that the provisions of this subchapter or regulations adopted thereunder have been violated by such person, the commissioner board shall refer a copy of the results of the analysis or the examination of such pesticide or device to the attorney for the district in which the violation occurred.

2. Minor violations. Nothing in this subchapter shall be construed as requiring the commissioner board to report minor violations of this subchapter for prosecution or for the institution of condemnation proceedings when ~~he~~ the board believes that the public interest will be served best by a suitable notice of warning in writing.

3. Repeated violations. The commissioner board shall record all violations of this chapter and Title 22, chapter 258-A, including the name of the owner of the land on which the pesticides were intended to be applied, the name of the licensed pesticides applicator and the name of the person who contracted the pesticide application services. The commissioner board shall identify persons who repeatedly violate provisions relating to pesticide use and recommend to the Attorney General methods to prevent these repeated violations.

Sec. E-11. 7 MRSA §612, as amended by PL 1977, c. 694, §65, is further amended to read:

§612. "Stop sale, use or removal" order

When the commissioner board has reasonable cause to believe a pesticide or device is being distributed, stored, transported or used in violation of any of the provisions of this subchapter or of any of the prescribed regulations under this subchapter, ~~he~~ it may issue and serve a written "stop sale, use or removal" order upon the owner or custodian of any such pesticide or device. If the owner or custodian is not available for service of the order ~~upon him~~, the commissioner board may attach the order to the pesticide or device and notify the owner or custodian and the registrant. The pesticide or device shall not be sold, used or removed until the provisions of this subchapter have been complied with and the pesticide or device has been released in writing under conditions specified by the commissioner board or the violation has been otherwise disposed of as provided in this subchapter by a court of competent jurisdiction. The issuance of such an order shall not be considered licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act.

Sec. E-12. 7 MRSA §613, sub-§1, as enacted by PL 1975, c. 382, §3, is amended to read:

1. **Adjudication; court powers.** After service of a "stop sale, use or removal" order is made upon any person, either that person, the registrant or the commissioner board may file an action in a court of competent jurisdiction in the district in which a violation of this subchapter or regulations adopted thereunder is alleged to have occurred for an adjudication of the alleged violation. The court in such action may issue temporary or permanent injunctions, mandatory or restraining, and such intermediate orders as it deems necessary or advisable. The court may order condemnation of any pesticide or device which does not meet the requirements of this subchapter or regulations adopted thereunder.

Sec. E-13. 7 MRSA §614, as amended by PL 1977, c. 694, §66, is further amended to read:

§614. Denial, suspension, revocation of license

Upon notice and opportunity for a hearing as provided in sections 608 and 609, the commissioner board is authorized to deny, or refuse to renew, any license, registration or permit provided for in this subchapter, subject to a hearing in any case in which ~~he~~ the board finds there has been a failure or refusal to comply with the provisions of this subchapter or regulations adopted thereunder. When ~~he~~ it finds any failure or refusal to comply, the commissioner board is further authorized to cancel or suspend registration of a pesticide, as provided in section 609, or to file a complaint for suspension or revocation of any other permit or license with the Administrative Court.

Sec. E-14. 7 MRSA §615, as enacted by PL 1975, c. 382, §3, is amended to read:

§615. Subpoenas

The commissioner board may issue subpoenas to compel the attendance of witnesses and the production of books, documents and records in the State in any hearing affecting the authority or privilege granted by a license, registration or permit issued under the provisions of this subchapter.

Sec. E-15. 7 MRSA §616, sub-§2, as enacted by PL 1975, c. 382, §3, is amended to read:

2. **Injunction.** The commissioner board may bring an action to enjoin the violation or threatened violation of any provision of this subchapter or any regulation made pursuant to this subchapter in a court of competent jurisdiction of the district in which such violation occurs or is about to occur.

Sec. E-16. 7 MRSA §617, sub-§1, ¶A, as enacted by PL 1975, c. 382, §3, is amended to read:

A. Any carrier while lawfully engaged in transporting a pesticide within this State, if such carrier shall, upon request, permit the commissioner board to copy all records showing the transactions in and movement of the pesticides or devices;

Sec. E-17. 7 MRSA §618, as enacted by PL 1975, c. 382, §3, is amended to read:

§618. Publication of information

The commissioner board may publish at least annually and in such form as ~~he~~ it may deem proper, results of analyses based on official samples as compared with the analyses guaranteed and information concerning the distribution of pesticides, provided that individual distribution information shall not be a public record.

Sec. E-18. 7 MRSA §619, as enacted by PL 1975, c. 382, §3, is amended to read:

§619. Delegation of duties

All authority vested in the commissioner board by virtue of the provisions of this subchapter may, with like force and effort, be executed by such employees of the commissioner board as the commissioner board may from time to time designate for said purpose.

Sec. E-19. 7 MRSA §620, first ¶, as enacted by PL 1975, c. 382, §3, is amended to read:

The commissioner board may cooperate, receive grants-in-aid and enter into cooperative agreements with any agency of the Federal Government, of this State or its subdivisions, or with any agency of another state, in order, but not limited, to:

Sec. E-20. 7 MRSA §621, as amended by PL 1979, c. 644, §2 and 8, is further amended to read:

§621. Disposition of funds

All moneys received by the commissioner board under the provisions of this subchapter shall be deposited in the State Treasury to the credit of a special fund to be used for carrying out the provisions of this subchapter and Title 22, chapter 258-A, Board of Pesticides Control.

Sec. E-21. 7 MRSA §624, as amended by PL 1975, c. 623, §5-A, is further amended to read:

§624. Repealers

Jurisdiction in all matters pertaining to the registration, distribution and disposal of pesticides and devices is by this subchapter vested exclusively in the commissioner board.

PART F

Sec. F-1. 10 MRSA §1016, sub-§1, as repealed and replaced by PL 1989, c. 698, §10 and as amended by PL 1989, c. 700, Pt. A, §A-37, is repealed and the following enacted in its place:

1. Membership of board. The Maine Education Assistance Board, as established in Title 5, section 12004-I, subsection 18-A, consists of 7 voting members.

One member is the Commissioner of Education or the commissioner's designee who must be a person in a major policy influencing position. The Governor shall appoint 6 members, subject to review by the joint standing committee of the Legislature having jurisdiction over educational matters and subject to confirmation by the Legislature. The gubernatorial appointees consist of the following.

A. One member must be a trustee, director, officer or employee of an institution of higher education in the State.

B. One member must be a member of a statewide organization representing the chief executive officers of public and private postsecondary institutions in the State.

C. One member must be a student financial aid administrator at a postsecondary institution in the State.

D. One member must be a guidance counselor at a high school in the State.

E. One member must be a representative of a state financial institution that is active in student lending.

F. One member must represent the interests of students, parents and other members of the public who use the programs.

With respect to the appointees specified in paragraphs A and B, one shall be from an institution not owned or operated by the State or any of its political subdivisions and one shall be from a public institution of postsecondary education.

Sec. F-2. 10 MRSA §1475, sub-§2, as amended by PL 1989, c. 684, §§2 to 4, is repealed.

Sec. F-3. 10 MRSA §1475, sub-§2-A is enacted to read:

2-A. Required contents of disclosure statement.

The statement required by subsection 1 must contain a complete description of the motor vehicle to be sold, including, but not limited to:

A. The make, model, model year and any identification or serial numbers of the motor vehicle;

B. The dealer's duty to disclose promptly the name and address of the previous owner of the motor vehicle, or dealer, upon the request of any person, the principal use to which the motor vehicle was put by that owner such as personal transportation, police car, daily rental car, taxi or other descriptive term, and the type of sale or other means by which the person acquired the motor vehicle, such as trade-in, sheriff's sale, repossession, auction or other descriptive term, to the extent that such information is reasonably available to the person;

C. A statement identifying any and all mechanical defects known to the dealer at the time of sale;

D. A statement identifying the type of damage, if any, that the vehicle has sustained, such as fire, water or substantial collision damage, if that information is known to the dealer;

E. A statement, if applicable, that implied warranties with respect to the vehicle are excluded or modified. Nothing in this paragraph may be construed to affect the requirements of Title 11, section 2-316;

F. A statement, if applicable, disclosing that the vehicle was returned to the manufacturer, its agent or authorized dealer, for its nonconformity with express warranties. The statement must identify the nature of the nonconformities; and

G. If the vehicle is repossessed, a statement identifying this fact.

The Division of Motor Vehicles may adopt rules related to this section including, but not limited to, rules establishing uniform disclosure forms and stickers. The Division of Motor Vehicles may include in any rule establishing uniform disclosure forms and stickers any information that the Federal Trade Commission requires to be disclosed on a sticker pursuant to the Motor Vehicle Trade Regulation Rule, 16 Code of Federal Regulations, Part 455, except that the Division of Motor Vehicles may not include in any uniform disclosure form or sticker information from the Federal Trade Commission rule that conflicts in any manner with the information required by this section.

Any dealer who offers for sale to the consuming public a repossessed vehicle that has been obtained by the dealer through a wholesale transaction and who meets the warranty and disclosure requirements of section 1474 and subsection 1 and this subsection has no other liability under this chapter, except for any additional warranties negotiated between the dealer and the consumer.

Sec. F-4. 35-A MRSA §6109, as enacted by PL 1989, c. 685 and c. 733, §1, is repealed and the following enacted in its place:

§6109. Sale of land by consumer-owned water utility

The following provisions govern the sale or transfer by a consumer-owned water utility of land or property owned by that water utility for the purposes of providing a source of supply, storing water or protecting sources of supply or water storage, including reservoirs, lakes, ponds, rivers and streams, land surrounding or adjoining reservoirs, lakes, ponds, rivers or streams, wetlands and watershed areas.

1. Notice of proposed sale. A consumer-owned water utility shall, at least 8 months prior to the sale of land under this section, give notice of that proposed sale

to the commission. The utility shall provide additional notice as prescribed by rule by the commission as follows.

A. Notice must be given to the municipality or municipalities where the land is located.

B. One notice must be given to each of the customers of the consumer-owned water utility in a manner prescribed by the commission.

C. Notice must be published in a newspaper of general circulation in the area encompassed by the consumer-owned water utility.

2. Time of sale. Land subject to the provisions of this section may not be sold within the first 8 months after notice of the proposed sale has been given to the commission unless all or part of that time period is waived by the commission for good cause shown.

3. Sale at a price below market value. The trustees of a consumer-owned water utility may sell land to the State, an agency of the State, a municipality or other governmental body, or a private nonprofit organization at a price below market value. Land purchased under this subsection must be used for:

A. The purposes of retaining or protecting the natural scenic or open-space values of the property;

B. Assuring the availability of the property for recreational or open-space use;

C. Protecting natural resources; or

D. Maintaining or enhancing air or water quality.

The sale of consumer-owned water utility land pursuant to this subsection may not be considered unreasonable or imprudent solely by reason of its sale at a price below market value.

4. Rules. The commission may promulgate rules to implement this section, including, but not limited to, rules governing the authority of the ratepayers of the consumer-owned water utility to endorse or prohibit the sale of land by a consumer-owned water utility under this section and to prohibit or endorse any condition of that sale.

5. Right of first refusal. The municipality in which the land is located shall have the right of first refusal to purchase any land that lies within that municipality's boundaries and is offered for sale under this section. That right is assignable by the municipality.

Sec. F-5. 35-A MRSA §6110 is enacted to read:

§6110. Injunctive relief for violations of municipal shoreland zoning ordinances

Pursuant to Title 38, section 444-A, any water utility may commence a civil action for a violation of municipal shoreland zoning ordinances.

Sec. F-6. 37-B MRSA §4, as amended by PL 1989, c. 502, Pt. A, §138, is further 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~~ the Maine Emergency Management Agency 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-1, subparagraph (3), and a person qualified by experience, training and a demonstrated interest in veterans' services.

Sec. F-7. PL 1989, c. 753, §8 is amended to read:

Sec. 8. Repeal. Public Law 1989, chapter 534, Part B, section 3, is repealed.

Sec. F-8. Resolves 1989, c. 67 is amended to read:

Memorial for firefighters; space reserved. Resolved: That space be reserved in the State House Complex to erect a memorial to commemorate past and future firefighters who give their lives in the line of duty. The location selected must be mutually agreed upon among the Special Committee on the New Capitol Area Master Plan, the State House and Capitol Park Commission, the Maine Fire Chiefs' Association, the Maine State Federation of Firefighters, Inc. and Professional Fire Fighters of Maine and the Maine Federation of Firefighters, Inc. In the event that the Special Committee on the New Capitol Area Master Plan is not able to agree to a location by January 1, 1991, the location may be mutually agreed upon between the State House and Capitol Park Commission, the Maine Fire Chiefs' Association, the Maine State Federation of Firefighters, Inc. and Professional Fire Fighters of Maine and the Maine Federation of Firefighters, Inc. For the purposes of this resolve, "State House Complex" means the State House and the immediate grounds as described in the Maine Revised Statutes, Title 3, section 902-A.

PART G

Sec. G-1. 22 MRSA §1580-B, as enacted by PL 1989, c. 210 and c. 241 and as amended by PL 1989, c. 715, is repealed and the following enacted in its place:

§1580-B. Smoking in hospitals

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

A. "Hospital" means any hospital required to be licensed under chapter 405.

B. "Smoking" means carrying or having in one's possession a lighted cigarette, cigar, pipe or other object giving off or containing any substance giving off tobacco smoke.

2. Prohibition. Beginning November 16, 1989, no person may smoke tobacco or any other substance in any enclosed area of any hospital, except as otherwise provided in this section.

3. Exception. A patient or resident of a hospital may smoke in designated areas within the hospital if a licensed physician has written an order permitting the patient or resident to smoke.

4. Smoking in state mental health institutes. Residents of a state mental health institute may smoke in a designated smoking area. The designated smoking area must be enclosed and adequately ventilated. State mental health institutes shall design and implement smoking cessation programs for residents. Smoking by employees at state mental health institutes is governed by section 1580-A.

Sec. G-2. 22 MRSA §1580-D is enacted to read:

§1580-D. Smoking in enclosed areas on ferries prohibited

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

A. "Ferry" includes a ferry operated under the jurisdiction of the Department of Transportation pursuant to Title 23, chapter 412, subchapter I or the Public Utilities Commission pursuant to Title 35-A, chapter 51 or any ferry used for the purpose of transporting vehicles, freight or passengers not otherwise covered within those chapters.

B. "Smoking" includes carrying or having in one's possession a lighted cigarette, cigar, pipe or other object giving off smoke or containing any substance giving off smoke.

2. Smoking prohibited. No person may smoke tobacco or any other substance in any enclosed area in which the public is allowed on any ferry.

3. Exception. Notwithstanding subsection 2, the provisions of section 1579-A shall govern any area of a ferry that is used as a restaurant.

4. Notice. The operator of a ferry subject to this section shall post a notice in a conspicuous location in any area in which smoking is prohibited.

5. Violation. The following penalties apply.

A. Any person who fails to post a notice as required by this section commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

B. Any person smoking in an area where smoking is prohibited by this section commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

Sec. G-3. 23 MRSA §7105, sub-§3, ¶B, as enacted by PL 1989, c. 398, §7 and as amended by PL 1989, c. 600, Pt. A, §§11 and 12, is further amended to read:

B. The abandonment of service shall not mean or ~~infer~~ imply that the rights-of-way on a railroad line have been abandoned. In the event that the railroad, any person, firm or corporation, or any agency shows interest in the eventual restoration of service, the rights-of-way shall not be deemed abandoned.

Since it is in the best interest of the State to retain the rights-of-way intact, this paragraph shall apply to all existing and future rights-of-way created prior to or following September 30, 1989, ~~as amended.~~

Sec. G-4. 29 MRSA §583, as amended by PL 1989, c. 179, §4 and as repealed and replaced by PL 1989, c. 513, §6, is repealed and the following enacted in its place:

§583. Driver education required for minors

No operator's license, except to operate a moped only, may be issued to any person under 17 years of age unless that person presents a certificate of successful completion of a driver education course and examination given by a public secondary school, a private secondary school approved for attendance purposes by the Commissioner of Education, a vocational center or a vocational region; or a certificate of successful completion of a driver education course and examination given by a person or persons licensed by the Department of Professional and Financial Regulation, Board of Commercial Driver Education.

A successful course completion certificate may be issued to any person permitted by law to have an operator's license or a special restricted license provided the course meets the standards adopted by the Commissioner of Education, or, if applicable, the commercial driver education school licensing requirements under Title 32, chapter 95. A successful course completion certificate shall not be issued to any person who was not at least 15 years of age at the commencement of the driver education course.

Sec. G-5. 30-A MRSA §4404, sub-§14, as enacted by PL 1989, c. 404, §2; c. 429, §2; and c. 497, §9 and as amended by PL 1989, c. 772, §3, is repealed and the following enacted in its place:

14. Freshwater wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;

Sec. G-6. 36 MRSA §3217, as amended by PL 1987, c. 772, §30, is further amended to read:

§3217. Additional violations

Any user, or any agent or employee of any user, who shall consume any fuel in a registered motor vehicle within the State, when that user is not the holder of an uncanceled license as required by this chapter, or when that user has failed to file any report or pay tax, penalty or interest as required by this chapter and chapter 7, commits a Class E crime. Each day or part thereof during which any person shall consume any fuel in a registered motor vehicle within the State, when that user is not the holder of an uncanceled license as required by this chapter, or when that user has failed to file any report or pay tax, interest or penalty as required by this chapter and chapter 7, shall constitute a separate violation within the meaning of this section. Any fines collected pursuant to this section must be credited to the Highway Fund.

Sec. G-7. 38 MRSA §439-A, sub-§5, as amended by PL 1989, c. 403, §8, is further amended to read:

5. Timber harvesting. Municipal ordinances ~~shall~~ must regulate timber harvesting within the shoreland area. Notwithstanding any provision ~~in a provision~~ in a local ordinance to the contrary, timber harvesting activities ~~shall be no~~ may not be less restrictive than the following:

A. Selective cutting of no more than 40% of the trees 4 inches or more in diameter, measured at 4 1/2 feet above ground level, in any 10-year period, provided that a well-distributed stand of trees and other natural vegetation remains; and

B. Within a shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting within the strip of land extending 75 feet inland from the normal high-water line except to remove safety hazards.

The board may adopt more restrictive guidelines consistent with the purposes of this subchapter, which shall then be incorporated into local ordinances.

Sec. G-8. 38 MRSA §633, sub-§2, as amended by PL 1987, c. 402, Pt. A, §203, is further amended to read:

2. Exceptions. This subarticle shall not apply to activities for which, prior to the effective date of this Act, a permit or permits have been issued pursuant to any of the following laws: Land use regulation laws, Title 12, sections 681 to 689; stream alteration laws, former sections 425 to 430; great ponds laws, former sections 391 to 394; alteration of coastal wetlands laws, former sections 471 to 478; site location of development laws, sections 481 to 490; and small hydroelectric generating facilities laws, this subarticle.

Sec. G-9. 38 MRSA §1607 is enacted to read:

§1607. Connectors

After July 1, 1991, no person may sell or offer to sell products in containers connected to each other by plastic rings or other plastic holding devices.

Sec. G-10. PL 1989, c. 7, Pt. N, §3, in that part relating to 34-B MRSA §1207, sub-§1, ¶B, the first 2 lines are repealed and the following enacted in their place:

Sec. 4. 34-B MRSA §1207, sub-§1, ¶B, as amended by PL 1983, c. 626, is further amended to read:

Sec. G-11. PL 1989, c. 410, §29, sub-§6 is amended to read:

6. Personnel. All employees employed by the Legislative Council to work with the State Capitol Commission shall continue to be treated a state employees for purposes of rights and benefits under the Maine State Retirement System. These employees shall work with the State House and Capitol Park Commission unless the Legislative Council terminates or changes the policy.

The accrued fringe benefits of these ~~expenditures~~ employees, including vacation and sick leave, health and life insurance and retirement, shall remain with these employees.

Sec. G-12. PL 1989, c. 727, §2 is repealed.

PART H

Sec. H-1. 10 MRSA §1402, sub-§1, as repealed and replaced by PL 1989, c. 805, §2, is amended to read:

1. Dealer. "Dealer" includes a person who customarily sells a mobile home to consumers and is subject to the jurisdiction of this State under Title 14, section 704-A.

Sec. H-2. Effective date. That part of this Act that amends the Maine Revised Statutes, Title 10, section 1402, subsection 1, takes effect 90 days after adjournment.

Sec. H-3. 15 MRSA §101-C, sub-§3, as enacted by PL 1987, c. 402, Pt. A, §109, is amended to read:

3. Confidentiality of records. Records provided under this section shall be confidential and shall not be disseminated by any person other than upon order of the court pursuant to a petition for release under section 104-A or pursuant to an involuntary commitment proceeding under Title 34-B, section 3864.

Sec. H-4. 17 MRSA §2269, last ¶, as repealed and replaced by PL 1975, c. 739, §14, is amended to read:

Any person or business organization, operating a business of the types described in this section, who fails to place such litter receptacles on the premises in the numbers required, or who fails to comply within 10 days of being notified by registered letter ~~by the committee~~ by the Department of Conservation that ~~he~~ that person is in violation, shall be subject to a fine of \$10 for each violation. Each day a violation continues shall be a separate offense.

Sec. H-5. 24-A MRSA §1875, sub-§1, ¶¶D and E, as enacted by PL 1989, c. 31, §4, are amended to read:

- D. Surety insurance; ~~and~~
- E. Casualty insurance; and

Sec. H-6. 24-A MRSA §1875, sub-§1, ¶F is enacted to read:

- F. Health insurance.

Sec. H-7. 38 MRSA §1303-C, first ¶, as enacted by PL 1989, c. 585, Pt. E, §4, is amended to read:

As used in this chapter or in chapter 24, unless the context otherwise indicates, the following terms have the following meanings.

Sec. H-8. 38 MRSA §1310-X, as enacted by PL 1989, c. 585, Pt. E, §34, is repealed and the following enacted in its place:

§1310-X. Future commercial landfills

1. New facilities. Notwithstanding Title 1, section 302, the board may not approve an application for a new commercial solid waste disposal facility after September 30, 1989, including any applications pending before the board on or after September 30, 1989.

2. Relicense or transfer of license. The board may relicense or approve a transfer of license for commercial solid waste disposal facilities after September 30, 1989, if those facilities had been previously licensed by the board prior to September 30, 1989, and all other provisions of law have been satisfied.

3. Expansion of facilities. The board may license expansions of commercial solid waste disposal facilities after September 30, 1989, if:

A. The board has previously licensed the facility prior to September 30, 1989;

B. The board determines that the proposed expansion is contiguous with the existing facility and is located on property owned by the licensee on September 30, 1989; and

C. Prior to the adoption of the state plan and siting criteria under chapter 24, the board determines that the proposed expansion is consistent with the provisions of section 1310-R, subsection 3, paragraph A-1 or, after the adoption of the state plan and siting criteria under chapter 24, the agency determines that the provisions of section 2157 are met.

Sec. H-9. 38 MRSA §1319-H, sub-§1, ¶A, as amended by PL 1987, c. 787, §17, is further amended to read:

A. Any person who applies for a license for a hazardous waste facility shall pay the appropriate fee. An application for a license will not be considered complete and will not be processed until this fee is received. Application fees are as follows.

- (1) Disposal facility \$10,000
- (2) Commercial treatment facility... 7,000
- (3) On-site treatment facility 4,000
- (4) Other waste facility for hazardous waste, including storage facilities..... 2,500
- (5) Waste oil storage facility 2,500
- (6) Treatment facility under license by rule provisions where the hazardous waste treated is 1,000 kilograms or less per calendar month 75
- (7) All other facilities for hazardous waste under license by rule provisions 400
- (8) Facility post-closure license 2,000

Sec. H-10. 38 MRSA §1319-H, sub-§2, ¶G is enacted to read:

- G. Facility post-closure license.....500

Sec. H-11. PL 1989, c. 794, §1 is repealed.

Sec. H-12. PL 1989, c. 753, §8 is amended to read:

Sec. 8. Repeal. Public Law 1989, chapter 534, Part B, section 3 is repealed.

Sec. H-13. P&SL 1989, c. 89, §4, sub-§6, ¶E is amended to read:

E. The terms of office of all executive board members ~~shall, including the terms of the chair, vice-chair, secretary and treasurer,~~ begin immediately upon their election, and they shall hold office until their successors have been elected and installed. Not counting any terms served prior to adoption of this charter, executive board members ~~shall~~ may not serve more than 2 consecutive full 3-year terms.

PART I

Sec. I-1. 20-A MRSA §12701, sub-§4, as enacted by PL 1985, c. 695, §11, is amended to read:

4. President of the system. ~~“Executive director”~~ “President of the system” means the ~~executive director of the system~~ President of the Maine Technical College System.

Sec. I-2. 20-A MRSA §12701, sub-§7, as amended by PL 1989, c. 443, §33, is further amended to read:

7. Maine Technical College System Office. “Maine Technical College System Office” means the office of the ~~executive director~~ president of the system, together with the offices of supporting staff, as established in section 12710.

Sec. I-3. 20-A MRSA §12705, sub-§8, as enacted by PL 1985, c. 695, §11, is amended to read:

8. Secretary. The ~~executive director~~ president of the system shall serve as the secretary of the board of trustees.

Sec. I-4. 20-A MRSA §12706, sub-§1, as amended by PL 1989, c. 443, §37, is further amended to read:

1. Policies. To develop and adopt policies for the operation of the system, the Maine Technical College System Office and the colleges; establish the administrative council; and approve programs and policies recommended by the ~~executive director~~ president of the system and the administrative council;

Sec. I-5. 20-A MRSA §12706, sub-§10, as amended by PL 1989, c. 443, §37, is further amended to read:

10. Legal affairs. To sue and be sued in its own name. Services of process in any action ~~shall~~ must be made by service upon the ~~executive director~~ president of the system, either in hand or by leaving a copy of the process at the Maine Technical College System Office;

Sec. I-6. 20-A MRSA §12706, sub-§11, as amended by PL 1989, c. 443, §38, is further amended to read:

11. Personnel policies. To develop and adopt personnel policies and procedures for the system. The board of trustees, subject to applicable collective bargain-

ing agreements, shall determine the qualifications, duties and compensation of its employees and shall allocate and transfer personnel within the system as necessary to fulfill the purposes of this chapter. The board of trustees shall appoint the ~~executive director~~ president of the system and the presidents, vice-presidents, deans and directors of finance of the colleges. The provisions of the ~~Personnel Civil Service Law,~~ as defined by Title 5, section 551 and ~~Title 5, chapter 74 7039,~~ do not apply to the system;

Sec. I-7. 20-A MRSA §12708, as enacted by PL 1985, c. 695, §11, is amended to read:

§12708. President of the technical college system

The board of trustees shall appoint the ~~executive director~~ president of the system who must be qualified by education and experience and shall serve at the pleasure of the board of trustees.

Sec. I-8. 20-A MRSA §12709, as amended by PL 1989, c. 700, Pt. A, §68, is further amended to read:

§12709. Powers and duties of the president of the technical college system

The ~~executive director~~ president of the system shall implement the policies of the board of trustees and be responsible for the operation of the system. The powers and duties of the ~~executive director~~ president of the system include:

1. Leadership. To develop policies, procedures, goals and objectives with respect to the operation of the colleges, to be approved by the board of trustees. The ~~executive director~~ president of the system shall meet regularly with the administrative council to develop these policies and goals;

2. Maine Technical College System Office staff appointment. Under procedures and standards developed by the board of trustees, to appoint the staff of the Maine Technical College System Office, including professional and nonprofessional personnel and including, but not limited to, private legal counsel and financial experts;

3. Nomination of presidents. To nominate the presidents for appointment by the board of trustees;

4. Staff oversight. To oversee the staff of the Maine Technical College System Office and the presidents of the colleges;

5. Personnel evaluation. Under policies and standards developed by the board of trustees, to evaluate the performance of the Maine Technical College System Office staff and of the presidents of the colleges and to make personnel recommendations to the board of trustees;

6. Perkins allocations. As the representative of the board of trustees, to meet and confer with representatives of the State Board of Education regarding the

distribution or allocation of federal money for vocational education in the State under the United States Carl D. Perkins Vocational Education Act, Public Law 98-524, or its successor, and report the results to the board of trustees;

7. Budget preparation. To assist the board of trustees in the preparation of the biennial operating budget for the system, as provided in section 12706, subsection 4;

8. Accounting system and procedures. To provide for an accounting system and procedures ~~which will that~~ reflect and identify all appropriations, allocations, income and revenues and all expenditures of each college and the Maine Technical College System Office;

9. Long-range planning and research. In cooperation with the administrative council, to undertake long-range planning and research, including planning for construction, renovation and reconstruction projects and report findings and recommendations to the board of trustees;

10. Intercampus cooperation and coordination. To promote cooperation among the technical colleges and prepare plans for approval by the board of trustees with respect to the coordination of programs, activities and personnel;

11. Interagency cooperation and communication. To promote cooperation and communication with the Department of Educational and Cultural Services and the Bureau of Employment and Training Programs, or their successors, with the University of Maine System and with other public and private educational and training institutions;

12. Coordination with the public sector. To work closely with other state and local agencies that have an impact upon vocational education, to promote consistent and coordinated policies, procedures and programs;

13. Coordination with the private sector. To work closely with the private sector in order to ensure that the colleges respond expeditiously to the needs of the private sector and the State's economy, particularly with respect to changing technology, industries and job training needs;

14. Delegated duties. To undertake other duties as delegated by the board of trustees;

15. Delegate responsibility. To delegate duties and responsibilities as necessary to administer this chapter; and

16. Fulfillment of mission and goals. To implement the mission and goals set forth in section 12703.

Sec. I-9. 20-A MRSA §12711, as amended by PL 1989, c. 443, §47, is further amended to read:

§12711. Presidents of the colleges

The ~~executive director~~ president of the system shall nominate the presidents for appointment by the board of trustees. The presidents must be qualified by education and experience and shall serve at the pleasure of the board of trustees.

Sec. I-10. 20-A MRSA §12712, sub-§§5, 6 and 9, as amended by PL 1989, c. 443, §48, are further amended to read:

5. Personnel evaluation. Under policies and standards developed by the board of trustees, the presidents shall evaluate the performance of the administrators, faculty and staff of the colleges and make personnel recommendations to the ~~executive director~~ president of the system and the board of trustees.

6. Assist in preparation of the budget. The presidents shall assist the board of trustees and the ~~executive director~~ president of the system in the preparation of the budget for the system. Each president shall prepare a proposed line-item budget for the college that each president represents. A copy of the proposed budget of each college ~~shall~~ must be provided to the board of trustees and the ~~executive director~~ president of the system for their examination. Nothing in this subsection may be construed to mean that the presidents have approval authority for the budgets of the colleges.

9. Delegated duties. Each president shall undertake other duties as delegated by the board of trustees and the ~~executive director~~ president of the system.

Sec. I-11. 20-A MRSA §12713, as amended by PL 1989, c. 443, §49, is further amended to read:

§12713. Administrative council

The administrative council shall be a nonvoting, advisory council, composed of the presidents of the colleges to advise the board of trustees and the ~~executive director~~ president of the system. The administrative council shall advise the ~~executive director~~ president of the system in the performance of the duties assigned under this chapter and shall make recommendations to the ~~executive director~~ president of the system and the board of trustees with respect to the administration of the colleges, courses of study, educational programs, curricula, coordination of programs between the colleges, coordination with other institutions of higher learning and other educational and training institutions and other matters as requested by the ~~executive director~~ president of the system or the board of trustees.

Sec. I-12. Revision clause. Wherever in the Maine Revised Statutes the phrase "Executive Director of the Maine Technical College System" appears or reference is made to that position, that phrase is amended to read and mean the "President of the Maine Technical College System."

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

Effective April 20, 1990, unless otherwise indicated.

CHAPTER 879

H.P. 1711 - L.D. 2362

An Act to Authorize the Maine State Lottery to Enter into an Agreement with Other States to Join the Multi-State Lottery Association, Known as Lotto*America, for the Purpose of Operating a Joint Lottery

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

Sec. 1. 8 MRSA §372, sub-§2, ¶II, as enacted by PL 1987, c. 505, §2, is amended to read:

I. Carry on a continuous study and investigation of the lotteries throughout the State and the operation and administration of similar laws which that may be in effect in other states or countries. The director, subject to the prior approval of the commission, may enter into a written agreement with the Multi-State Lottery Association, known as Lotto*America, for the operation, marketing and promotion of a joint lottery or joint lottery games with other states.

Before the director may enter into a final agreement with Lotto*America under this paragraph, a hearing open to the public must be held. The hearing is not subject to the requirements of the Maine Administrative Procedure Act, Title 5, chapter 375. The director shall provide at least 30 days' public notice before the hearing may be held. Notice must be given by publication at least twice in a newspaper of general circulation in the State. If a final agreement with Lotto*America is entered into, the director shall submit monthly financial reports to the joint standing committee of the Legislature having jurisdiction over appropriations. These reports must include statements of net profits to the General Fund and the costs to the State for operating, marketing and promoting Lotto*America.

Any final agreement entered into with Lotto*America must provide that the director has the authority to terminate the agreement upon the provision of reasonable notice, not to exceed 6 months. The final agreement must further provide that the director may terminate the agreement at any time, without prior notice, in the event that the director's authority is withdrawn or limited by law.

Sec. 2. 8 MRSA §372, sub-§2, ¶II, as enacted by PL 1987, c. 505, §2, is amended to read:

I. Carry on a continuous study and investigation of the lotteries throughout the State and the operation and administration of similar laws which that may be in effect in other states or countries.

Sec. 3. Hearing; legislative intent. Notwithstanding the Maine Revised Statutes, Title 5, chapter 375, it is the intent of the Legislature that a hearing open to the public held before a final agreement with Lotto*America is entered into and before the effective date of this Act meets the requirements of Title 8, section 372, subsection 2, paragraph I, as amended in this Act.

Sec. 4. Effective date; repeal. Section 1 of this Act is repealed and section 2 of this Act takes effect 3 years after the effective date of this Act.

See title page for effective date, unless otherwise indicated.

CHAPTER 880

H.P. 1731 - L.D. 2390

An Act to Provide Tax Amnesty and Necessary Administrative Support to the Bureau of Taxation

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

Whereas, a comprehensive study of the taxation system and tax policies of the State will enable the State to address budgetary matters in a coherent and consistent manner; and

Whereas, it is necessary that this legislation be enacted as an emergency measure so that the Select Committee on Comprehensive Tax Reform, established in this Act, may immediately undertake its important tasks and make a timely, complete and accurate report to the First Regular Session of the 115th Legislature; 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. A-1. 36 MRSA c. 913 is enacted to read:

CHAPTER 913

TAX AMNESTY