

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
OCTOBER 9, 1991

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

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J.S. McCarthy Company  
Augusta, Maine  
1991

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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**Sec. 6. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1991-92

**LEGISLATURE**

**Primary Care Residency Commission**

Personal Services	\$2,970
All Other	12,030

Provides funds to the Primary Care Residency Commission for the per diem and expenses of legislative members and for printing and contractual services.

**LEGISLATURE**

**TOTAL** \$15,000

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

Effective July 10, 1991.

**CHAPTER 546**

**H.P. 1197 - L.D. 1750**

**An Act Concerning Technical Changes to the Tax Laws**

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

**Whereas,** delay in making technical corrections to the tax laws would interfere with administration of those laws; and

**Whereas,** legislative action is immediately necessary to ensure continued and efficient administration of the tax laws; and

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

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

**Sec. 1. 36 MRSA §177, sub-§1,** as amended by PL 1987, c. 497, §4, is further amended to read:

**1. Generally.** All sales and use taxes collected by any person pursuant to Part 3, all taxes collected by any

person under color of Part 3 which have not been properly returned or credited to the persons from whom they were collected, all taxes collected by any person pursuant to chapter 451 or 459, all fees collected pursuant to chapter 719 and all taxes collected by any person pursuant to chapter 827 shall constitute a special fund in trust for the State Tax Assessor. The liability for the taxes shall be or fees and any interest or penalty on taxes or fees is enforceable by assessment and collection, in the manner prescribed in this Part, against the person and against any officer, director, member, agent or employee of that person who, in that capacity, is responsible for the control or management of the funds or finances of that person or is responsible for the payment of that person's taxes.

**Sec. 2. 36 MRSA §187, sub-§1,** as enacted by PL 1977, c. 679, §1, is repealed and the following enacted in its place:

**1. Failure to file return.** Any person who fails to make and file any return required under this Title at or before the time the return becomes due is liable for one of the following penalties.

A. If the return is filed before or within 15 days after the taxpayer receives from the State Tax Assessor a formal demand that the return be filed, the penalty is \$10 or 10% of the tax due, whichever is greater.

B. If the return is filed later than 15 days after the taxpayer receives from the State Tax Assessor a formal demand that the return be filed, the penalty is 100% of the tax due.

**Sec. 3. 36 MRSA §187, sub-§2,** as enacted by PL 1977, c. 679, §1, is amended to read:

**2. False return.** Any person who files a return under this Title ~~which that~~ is materially incorrect ~~shall be is~~ liable for a penalty. If the return is materially incorrect because of negligence or intentional disregard of this Title or of any ruling, ~~or rule or regulation~~ of the State Tax Assessor issued pursuant to this Title, without intent to defraud, the penalty ~~shall be is~~ in the amount of \$10 or 10% of the deficiency, whichever is greater. If the return is materially incorrect because of fraud with intent to evade the tax, the penalty ~~shall be is~~ in the amount of \$50 or 50% of the deficiency, whichever is greater. For purposes of this subsection, "negligence" means any failure to make a reasonable attempt to comply with the provisions of this Title.

**Sec. 4. 36 MRSA §187, sub-§3, ¶A,** as enacted by PL 1985, c. 691, §7, is amended to read:

A. Any person who fails to pay, on or before its due date, any tax due under this Title ~~shall be is~~ liable for a penalty of \$5 or ~~5% 1%~~ of the unpaid tax, whichever is greater, for each month or fraction thereof during which the failure continues, provided that the

penalty ~~shall~~ may not exceed, in the aggregate, \$25 or 25% of the unpaid tax, whichever is greater. For purposes of this subsection, an amount assessed upon a person by the State Tax Assessor is ~~to be~~ considered due as of the time prescribed for filing the return on which it should have been reported.

**Sec. 5. 36 MRSA §187, sub-§5**, as amended by PL 1981, c. 364, §16, is further amended to read:

**5. Generally.** Each penalty provided by this section ~~shall be~~ is in addition to any interest and other penalties provided by this section and other law, but interest ~~shall~~ does not accrue on the penalty. This section ~~shall~~ does not apply to any filing or payment responsibility pursuant to Part 2. The penalties imposed by subsections 1 and 3 ~~shall~~ accrue automatically, without being assessed by the State Tax Assessor, and each penalty imposed by this section ~~shall be~~ is recoverable by the State Tax Assessor in the same manner as if it were a tax assessed under this Title. For ~~cause~~ any of the grounds enumerated in subsection 6, paragraphs A to E, the State Tax Assessor ~~may~~ shall waive or abate all or any part of any penalty imposed by subsections 1 and 3 of this section. A request to waive or abate any penalty may be made pursuant to section 151. For purposes of this section, the term "person" includes an individual, corporation, or partnership or any officer or employee of a corporation, including a dissolved corporation, or a member or employee of a partnership who, as the officer, employee or member, is under a duty to perform the act in respect of which the violation occurs.

**Sec. 6. 36 MRSA §187, sub-§6** is enacted to read:

**6. Waiver and abatement.** The State Tax Assessor, upon timely request for reconsideration pursuant to section 151, shall waive or abate any penalty imposed by subsections 1 and 3 whenever:

A. The failure to file or pay resulted directly from erroneous information provided by the Bureau of Taxation;

B. The failure to file or pay resulted directly from the death or serious illness of the taxpayer or a member of the taxpayer's immediate family;

C. The failure to file or pay resulted directly from a natural disaster;

D. A return that was due monthly was filed less than one month late and all of the taxpayer's returns and payments during the preceding 12 months were timely;

E. A return that was due other than monthly was filed less than one month late and all of the taxpayer's returns and payments during the preceding 3 years were timely;

F. The taxpayer has supplied substantial authority justifying the failure to file or pay; or

G. The amount subject to a penalty imposed by subsections 1 and 3 is de minimus when considered in relation to the amount otherwise properly paid, the reason for the failure to file or pay and the taxpayer's compliance history.

The burden of establishing grounds for waiver or abatement is on the taxpayer. The following factors alone are not grounds for the waiver or abatement of penalties: misinformation or misunderstanding of the law; personal or business misfortune, including personnel difficulties, reorganization and lack of available funds; belief that a waiver of federal penalties by the Internal Revenue Service also waives state penalties; and mistake and unintentional error.

**Sec. 7. 36 MRSA §191, sub-§2, ¶D**, as enacted by PL 1977, c. 668, §2, is amended to read:

D. The disclosure of information to duly authorized officers of the United States and of other states, districts and territories of the United States and of the provinces of Canada for use in administration and enforcement of the tax laws of those jurisdictions. The information may be given only ~~on the written request of~~ to the duly authorized officer when the officer's government permits a substantially similar exchange of information with the taxing officials of this State and when the government provides for the secrecy of information in a manner substantially similar to the manner set out in this section;

**Sec. 8. 36 MRSA §581, first ¶**, as amended by PL 1979, c. 445, §1, is further amended to read:

If the assessor determines that land subject to this subchapter no longer meets the requirements of this subchapter, the assessor ~~may~~ must withdraw the parcel from taxation under this subchapter. The owner of land subject to this subchapter may at any time request withdrawal of any parcel, or portion thereof, from taxation under this subchapter by certifying to the assessor that the land is no longer to be classified under this subchapter.

**Sec. 9. 36 MRSA §655, sub-§1, ¶L**, as amended by PL 1973, c. 613, §21, is amended to read:

L. Registered snowmobiles as defined in Title 12, section ~~4974~~ 7821, subsection 5.

**Sec. 10. 36 MRSA §656, sub-§1, ¶C**, as amended by PL 1983, c. 777, §4, is further amended to read:

C. The landing area of a privately owned airport, the use of which is approved by the ~~Bureau of Aeronautics~~ Air Transportation Division, ~~shall be~~ is exempt from taxation when the owner grants free use of that landing area to the public.

**Sec. 11. 36 MRSA §842**, as amended by PL 1987, c. 772, §17, is further amended to read:

**§842. Notice of decision**

The assessors, municipal officers, chief assessor or the State Tax Assessor, in the case of the unorganized territory, shall give to any person applying to them for an abatement of taxes notice in writing of their decision upon the application within 10 days after they take final action thereon. The notice of decision must state that the applicant has 60 days from the date the notice is received to appeal the decision. It must also identify the board or agency designated by law to hear the appeal. If the assessors, municipal officers, chief assessor or State Tax Assessor, before whom an application in writing for the abatement of a tax is pending, fails to give written notice of their decision within 60 days from the date of filing of the application, the application ~~shall be~~ is deemed to have been denied, and the applicant may appeal as provided in sections 843 and 844, unless the applicant ~~shall~~ has in writing ~~have~~ consented to further delay. Denial in this manner is final action for the purposes of notification under this section but failure to send notice of decision does not affect the applicant's right of appeal. This section ~~shall~~ does not apply to applications for abatement made under section 841, subsection 2.

**Sec. 12. 36 MRSA §843, sub-§3** is enacted to read:

**3. Notice of decision.** Any agency to which an appeal is made under this section is subject to the provisions for notice of decision in section 842.

**Sec. 13. 36 MRSA §844, sub-§3** is enacted to read:

**3. Notice of decision.** An appeal to the county commissioners is subject to the provisions for notice of decision in section 842.

**Sec. 14. 36 MRSA §1102, sub-§8**, as enacted by PL 1975, c. 726, §2, is amended to read:

**8. Pastureland.** "Pastureland" means the combined acreage within a farm unit of land devoted to the production of forage plants used for ~~annual~~ animal production.

**Sec. 15. 36 MRSA §1481, sub-§3**, as amended by PL 1969, c. 414, §6, is further amended to read:

**3. Motor vehicle.** "Motor vehicle" means any self-propelled vehicle not operated exclusively on tracks, including motorcycles, but not including aircraft. "Motor vehicle" ~~shall~~ does not include any vehicle prohibited by law from operating on the public highways. "Motor vehicle" ~~shall~~ does not include any snowmobile as defined in Title 12, section ~~1974~~ 7821.

**Sec. 16. 36 MRSA §1752, sub-§7** is amended to read:

**7. Motor vehicle.** "Motor vehicle" means any self-propelled vehicle designed for the conveyance of passengers or property on the public highways. "Motor vehicle" includes an all-terrain vehicle as defined in Title 12, section 7851 and a snowmobile as defined in Title 12, section 7821.

**Sec. 17. 36 MRSA §1760, sub-§3, ¶E**, as repealed and replaced by PL 1985, c. 819, Pt. A, §§40 and 41, is amended to read:

E. Sales of heated food or drinks; sandwiches; ice cream, frozen yogurt or ice milk in a cone or cup, including sundaes, sodas, frappes and the like, ice cream, frozen yogurt or ice milk novelties ~~and~~ pop-sicles.

**Sec. 18. 36 MRSA §1760, sub-§8-C**, as enacted by PL 1983, c. 852, §3, is repealed.

**Sec. 19. 36 MRSA §1760, sub-§13** is repealed.

**Sec. 20. 36 MRSA §1760, sub-§20**, as repealed and replaced by PL 1989, c. 588, Pt. E, is amended to read:

**20. Continuous residence; refunds and credits.** Rental charged to any person who resides continuously for 28 days at any one hotel, rooming house, tourist or trailer camp if:

- A. The person does not maintain a primary residence at some other location; or
- B. The person is residing away from that person's primary residence in connection with employment or education.

Tax paid by such person to the retailer under section 1812 during the initial 28-day period ~~shall~~ must be refunded by the retailer. Such tax reported and paid to the State by the retailer may be taken as a credit by the retailer on the report filed by the retailer covering the month in which refund was made to such tenant.

This subsection applies to all rentals of any hotel, rooming house or tourist or trailer camp for occupancy on or after July 1, 1991 regardless of the date on which payment for the rental is made.

**Sec. 21. 36 MRSA §1760, sub-§25**, as repealed and replaced by PL 1987, c. 772, §21, is amended to read:

**25. Watercraft sold to nonresidents.** Sales in this State to nonresidents of ~~yachts and other pleasure boats and commercial vessels and boats actually regis-~~

~~tered for numbering, enrolled or documented under federal or foreign law in the appropriate customhouses or registry offices for location thereof or home ports outside the State watercraft, when such craft are either delivered outside the State or delivered in the State to be sailed or transported outside the State immediately upon delivery by the seller; and any sales to nonresidents, under contracts for the construction of any such craft to be so delivered, of materials to be incorporated; and any sales to nonresidents for the repair, alteration, refitting, reconstruction, overhaul or restoration of any such craft to be so delivered, of materials to be incorporated. Unless the craft is present in the State for more than 30 days during the 12-month period following its date of purchase or is registered in Maine without also being registered in another state or documented with a home port location in Maine this State, within 12 months of the date of purchase, the purchaser shall be~~ is exempt from the use tax.

**Sec. 22. 36 MRSA §1760, sub-§45, ¶A-1**, as repealed and replaced by PL 1987, c. 772, §22, is amended to read:

A-1. If the property is a watercraft, ~~as defined in chapter 112~~, which is registered outside the State by an owner who at the time of purchase was a resident of another state and the watercraft is present in the State not more than 30 days during the 12 months following its purchase; or

**Sec. 23. 36 MRSA §1764**, as repealed and replaced by PL 1989, c. 878, Pt. A, §106, is amended to read:

**§1764. Tax against certain casual sales**

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

**Sec. 24. 36 MRSA §1813**, as amended by PL 1977, c. 696, §276, is further amended to read:

**§1813. Illegal collection of sales tax prohibited**

Any retailer who knowingly charges or collects as the sales tax due on the sale price of any property or ~~rental service~~ an amount in excess of that provided by section 1812 ~~shall be guilty of~~ commits a Class E crime.

**Sec. 25. 36 MRSA §2903, sub-§1-A**, as enacted by PL 1987, c. 793, Pt. B, §1, is amended to read:

**1-A. Excise tax levied.** Except as provided in subsection 2, an excise tax is levied and imposed at the rate of 17¢ per gallon upon internal combustion engine

fuel sold or used within this State on or after April 1, 1989, including these sales when made to the State or any political subdivision thereof, for any purpose whatsoever, except the internal combustion engine fuel sold or used in such form and under such circumstances as ~~shall preclude~~ precludes the collection of this tax by reason of the laws of the United States, or sold wholly for exportation from the State, or brought into the State in the ordinary standardized equipment fuel tank attached to and forming a part of a motor vehicle and used in the operation of that vehicle within the State, except that the rate is 3.4¢ per gallon upon internal combustion engine fuel, as defined in section 2902, bought or used by any person, association of persons, firm or corporation for the purpose of propelling jet or turbojet engine aircraft, and except that no tax may be levied upon internal combustion engine fuel, as defined in section 2902, bought or used by any person, association of persons, firm or corporation for the purpose of propelling jet or turbojet engine aircraft in international flight, or sold wholly for exportation from the State, or brought into the State in the fuel tanks of an aircraft, or on or after July 1, 1983, sold in bulk to any political subdivision of the State. On the same fuel only one tax shall must be paid to the State, for which tax the distributor first receiving the fuel in the State ~~shall be~~ is primarily liable to the State, except when that fuel has been sold and delivered to a licensed exporter wholly for exportation from the State, or to another distributor in the State, in which case the purchasing distributor ~~shall be~~ is primarily liable to the State for the tax.

This subsection ~~shall take~~ takes effect on April 1, 1989, and subsection 1 is ~~to be~~ repealed on April 1, 1989, if the Commissioner of Transportation certifies to the Governor that the Federal Government has not appropriated to the State all federal highway funds anticipated in fiscal year 1989 based on the United States Highway Authorization Act and in addition has restored the \$10,000,000 which was withheld in federal fiscal year 1988. This subsection is repealed April 1, 1989, if it does not take effect.

**Sec. 26. 36 MRSA §2906, first ¶**, as amended by PL 1983, c. 862, §87, is further amended to read:

Every distributor, importer, or exporter, holding a valid certificate as such, shall on or before the ~~last 21st~~ day of each month render a report to the State Tax Assessor stating the number of gallons of internal combustion engine fuel received, sold and used in the State by ~~him~~ that distributor, importer or exporter during the preceding calendar month, on forms ~~to be~~ furnished by the State Tax Assessor. Such reports ~~shall~~ must contain such further information pertinent thereto as the State Tax Assessor ~~shall prescribe~~ prescribes and the State Tax Assessor may make such other reasonable rules ~~and regulations~~ regarding the administration and enforcement of the Gasoline Tax Act as ~~he may deem~~ considered necessary or expedient, copies of which ~~shall~~ must be sent to such certificate holders. ~~He or his~~ The State Tax Assessor or a duly authorized agent shall must have ac-

cess during reasonable business hours to the books, invoices and vouchers of such certificate holders which may show the fuel handled by the certificate holder. At the time of the filing of the report, each distributor and importer shall pay to the State Tax Assessor a tax at the rate set forth in section 2903 upon each gallon so reported as sold, distributed or used. An allowance of not more than 1% from the amount of fuel received by the distributor, plus 1% on all transfers in vessels, tank cars or full tank truck loads by a distributor in the regular course of ~~his~~ the distributor's business from one of ~~his~~ the distributor's places of business to another within the State, may be allowed by the State Tax Assessor to cover the loss through shrinkage, evaporation or handling sustained by the distributor. The total allowance for such losses ~~shall~~ may not exceed 2% of the receipts by such distributor and no further deduction ~~shall~~ may be allowed unless the State Tax Assessor is satisfied on definite proof submitted to ~~him~~ the State Tax Assessor that a further deduction should be allowed by ~~him~~ the State Tax Assessor for a loss sustained through fire, accident or some unavoidable calamity.

**Sec. 27. 36 MRSA §4063, sub-§1**, as amended by PL 1985, c. 535, §8, is further amended to read:

**1. Amount.** A tax is imposed upon the transfer of the estate of every person who, at the time of death, was a resident of this State. The amount of this tax is ~~a sum~~ equal to the amount by which the maximum credit for state death taxes ~~allowable to a decedent's estate~~ determined under the Code, Section ~~2011-B~~, in this chapter sometimes referred to as the "credit," exceeds the lesser of:

A. The aggregate amount of all constitutionally valid estate, inheritance, legacy and succession taxes actually paid to the several states of the United States, other than this State, in respect of any property owned by that decedent or subject to those taxes as a part of or in connection with ~~his~~ the decedent's estate; or

B. An amount equal to such proportion of such allowable credit as the value of properties taxable by other states bears to the value of the entire federal gross estate wherever situated.

**Sec. 28. 36 MRSA §4070**, as enacted by PL 1981, c. 451, §7, is amended to read:

**§4070. Extension of time for filing return**

For good cause shown, the State Tax Assessor may grant a reasonable extension of time for filing any return required by this chapter, ~~provided that the taxpayer, on or before that date prescribed for payment of the tax, files a tentative return, in such form as the State Tax Assessor may require, and pays with that return the amount of tax reasonably estimated to be due as long as~~ an extension request as required by the State Tax Assessor

is filed and payment reasonably estimating the tax due is paid.

**Sec. 29. 36 MRSA §4433, sub-§1**, as enacted by PL 1987, c. 772, §35, is amended to read:

**1. Dealer.** "Dealer" means a person who, in violation of state or federal law, trafficks in or furnishes scheduled drugs ~~weighing more than 7 grams or amounting to 10 or more dosage units, or a person who trafficks in or furnishes more than 42 1/2 grams of~~ or marijuana.

**Sec. 30. 36 MRSA §4434, first ¶**, as enacted by PL 1987, c. 772, §35, is amended to read:

An excise tax is imposed by this chapter on any ~~convicted dealer~~ convicted under state or federal law based on the amount of marijuana or scheduled drug identified in the conviction. A tax ~~shall~~ must be imposed at the following rates by the State Tax Assessor:

**Sec. 31. 36 MRSA §4832, sub-§2**, as amended by PL 1989, c. 927, §5, is further amended to read:

**2. Exemption.** Transactions that, under the laws of this State, are not subject to taxation in accordance with Part 3 are exempt from the fee imposed by subsection 1. Sales of ~~tires and lead acid batteries~~ any items that occur as part of a sale of a trailer, a mobile home or any motorized vehicle are exempt from the fee imposed by subsection 1.

**Sec. 32. 36 MRSA §5102, sub-§8**, as amended by PL 1987, c. 841, §2, is further amended to read:

**8. Maine net income.** "Maine net income" means, for any taxable year for any corporate taxpayer, the taxable income of that taxpayer for that taxable year under the laws of the United States as modified by section 5200-A and apportionable to this State under chapter 821. To the extent that it derives from a unitary business carried on by 2 or more members of an affiliated group, the Maine net income of a corporation ~~shall be~~ is determined by apportioning that part of the federal taxable income of the entire group which derives from the unitary business, except income of an 80-20 corporation. If a taxable corporation is an S corporation, "Maine net income" means the amount taxable at the federal level pursuant to the Code, Section 1374.

**Sec. 33. 36 MRSA §5102, sub-§10**, as amended by PL 1983, c. 571, §16, is further amended to read:

**10. Taxable corporation.** "Taxable corporation" means, for any taxable year, a corporation which, at any time during that taxable year, realized Maine net income. "Taxable corporation" includes any S corporation that is required by section 5241 to file a return and that is subject to federal tax under the Code, Section 1374.

**Sec. 34. 36 MRSA §5219-G** is enacted to read:



**§5219-G. Tax credits for partners and S corporation shareholders**

Each partner or shareholder of an S corporation is allowed a credit against the tax imposed by chapter 803 in an amount equal to the partner or shareholder's pro rata share of the tax credits described in this chapter. A partner's pro rata share must equal the partner's percentage interest in the taxable income or loss of the partnership for federal income tax purposes for the taxable year. The pro rata share of a shareholder of an S corporation must equal the shareholder's percentage share of stock of the S corporation as of the end of the taxable year.

**Sec. 35. 36 MRSA §5243**, as amended by PL 1989, c. 508, §21, is repealed and the following enacted in its place:

**§5243. Requirement to file amended Maine returns**

**1. Amended returns required.** A taxpayer shall file an amended Maine return as required in this Part whenever the taxpayer files an amended federal return affecting the taxpayer's liability under this Part, whenever the Internal Revenue Service changes or corrects any item affecting the taxpayer's liability under this Part or whenever for any reason there is a change or correction affecting the taxpayer's liability under this Part.

**2. Amended return filed.** The amended return must be filed within 90 days of the final determination of the change or correction or the filing of the federal amended return.

**3. Contents of amended return.** The amended return must indicate the change or correction and the reason for that change or correction. The amended return constitutes an admission as to the correctness of the change unless the taxpayer includes with the return a written explanation of the reason the change or correction is erroneous. If the taxpayer files an amended federal return, a copy of the amended federal return must be attached to the amended Maine return.

**4. Additional requirements.** The assessor may require additional information to be filed with the amended return. The assessor may prescribe exceptions to the requirements of this section.

**Sec. 36. 36 MRSA §5276, sub-§1**, as amended by PL 1981, c. 504, §3, is further amended to read:

**1. General rule.** The State Tax Assessor, within the applicable period of limitations, may credit an overpayment of income tax, including overpayment reported on a joint return, and interest on such overpayment against any liability in respect of any tax imposed under this Title on the taxpayer, or the taxpayer's spouse in the case of a joint return, who made the overpayment, and

the balance, after any setoff pursuant to section 5276-A, shall must be refunded by the Treasurer of State.

**Sec. 37. 36 MRSA §5279, sub-§4**, as amended by PL 1981, c. 504, §5, is further amended to read:

**4. Exceptions.** If any overpayment of tax imposed by this Part is refunded within 3 months after the last date prescribed, or permitted by extension of time, for filing the return of that tax or within 3 months after the return listing the overpayment was filed, whichever is later, no interest ~~shall be~~ is allowed under this section. In addition, no interest ~~may be~~ is allowed with respect to the period during which a refund is delayed pending resolution of a proposed setoff under section 5276-A.

**Sec. 38. PL 1989, c. 871, §23** is amended to read:

**Sec. 23. Effective date.** ~~The That section of this Act that repeals the Maine Revised Statutes, Title 36, chapter 105, subchapter V-A, as repealed by this Act,~~ takes effect with regard to property tax years based on the status of property as of April 1, 1990, or thereafter.

**Sec. 39. PL 1991, c. 15, first line after the enacting clause** is repealed and the following enacted in its place:

**Sec. 1. 36 MRSA c. 105, sub-c. IV-A**, as amended, is repealed.

**Sec. 40. PL 1991, c. 15, §2** is enacted to read:

**Sec. 2. Retroactivity.** This Act takes effect retroactively to April 1, 1991.

**Sec. 41. Proposed fees.** The State Tax Assessor shall develop a list of proposed fees and charges for services and materials provided by the Bureau of Taxation. This list must be provided to the Joint Standing Committee on Taxation by February 1, 1992. Additional fees or charges beyond those in existence as of the effective date of this Act may not be imposed until authorized by the Legislature.

**Sec. 42. Retroactivity.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 2903, subsection 1-A takes effect retroactively to April 1, 1989.

**Sec. 43. Application date.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 2906 applies to the returns due after September 1, 1991.

**Sec. 44. Retroactivity.** That section of this Act that amends Public Law 1989, chapter 871, section 23 takes effect retroactively to April 1, 1990.

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

Effective July 10, 1991, unless otherwise indicated.

**CHAPTER 547**

**H.P. 650 - L.D. 924**

**An Act to Make Allocations from the Transportation Safety Fund for the Fiscal Years Ending June 30, 1992 and June 30, 1993**

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

**Whereas,** the 90-day period may not terminate until after the beginning of the next fiscal year; and

**Whereas,** certain obligations and expenses incident to the operation of the department will become due and payable on or immediately after July 1, 1991; and

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

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

**Sec. 1. 29 MRSA §2713, sub-§3, ¶A,** as amended by PL 1989, c. 515, §§10 and 16, is further amended to read:

A. There ~~shall~~ must be allocated to the Department of Public Safety for the State Police up to \$2,400,000 in fiscal year ~~1989-90~~ 1991-92 and ~~\$2,200,000~~ \$2,400,000 in fiscal year ~~1990-91~~ 1992-93 from the fund to carry out the duties of the bureau imposed by this chapter and Title 35-A and for related activities.

**Sec. 2. 29 MRSA §2713, sub-§3, ¶B-1,** as enacted by PL 1989, c. 515, §§11 and 16, are amended to read:

B-1. There ~~shall~~ must be allocated to the Department of the Secretary of State for the Division of Motor Vehicles up to ~~\$240,000~~ \$650,000 annually from the fund to carry out the duties of the commercial driver license laws.

**Sec. 3. Allocation.** The following funds are allocated from the Transportation Safety Fund to carry out the purposes of this Act.

	1991-92	1992-93
<b>PUBLIC SAFETY, DEPARTMENT OF</b>		
<b>Motor Carrier Safety</b>		
Positions - Legislative Count	(35.0)	(35.0)
Personal Services	\$1,545,574	\$1,646,566
All Other	217,576	235,676
Capital Expenditures	145,996	45,279
<b>Total</b>	<b>\$1,909,146</b>	<b>\$1,927,521</b>
<b>Traffic Safety</b>		
Positions - Legislative Count	(6.0)	(6.0)
Personal Services	340,669	358,426
All Other	54,179	58,131
Capital Expenditures	28,748	
<b>Total</b>	<b>\$423,596</b>	<b>\$416,557</b>

<b>DEPARTMENT OF PUBLIC SAFETY</b>		
<b>TOTAL</b>	<b>\$2,332,742</b>	<b>\$2,344,078</b>

**SECRETARY OF STATE,  
DEPARTMENT OF**

**Administration - Motor Vehicles**

Positions - Legislative Count	(17.0)	(17.0)
Personal Services	\$486,679	\$524,408
All Other	115,486	104,239
<b>Total</b>	<b>\$602,165</b>	<b>\$628,647</b>

**Sec. 4. Adjustments to allocations.** Allocations may be increased or adjusted by the State Budget Officer, with the approval of the Governor, to specifically cover those adjustments determined to be necessary under any salary plan approved by the Legislature and those reclassifications or range changes that have been approved by the Department of Administration and submitted for legislative review prior to the effective date of this Act.

**Sec. 5. Encumbered balance at year end.** At the end of each fiscal year, all encumbered balances may not be carried more than once.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect on July 1, 1991.

Effective July 1, 1991.

**CHAPTER 548**

**S.P. 760 - L.D. 1954**

**An Act Correcting 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