

# 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

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J.S. McCarthy Company  
Augusta, Maine  
1991

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**PUBLIC LAWS**  
**OF THE**  
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(4) The full cost of the salary, ~~exclusive~~ inclusive of overtime, paid to officers previously or newly employed by the municipality to provide police protection that would otherwise have been lost during the absence of the officer in training.

See title page for effective date.

## CHAPTER 582

H.P. 200 - L.D. 291

### An Act to Amend the Student Incentive Scholarship Program

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

**Sec. 1. 20-A MRSA §11611, sub-§5**, as enacted by PL 1989, c. 559, §10, is amended to read:

**5. Institution of higher education.** "Institution of higher education" means an institution of higher education located within this State, ~~or~~ within another state with which this State has a reciprocal agreement or within another state that permits portability. The institutions shall meet the requirements of and conform to the definitions contained in the federal Higher Education Act of 1965, Section 1201, as amended, United States Code, Title 20, Section 1141; and the federal Higher Education Act of 1965, Section 491, as amended, United States Code, Title 20, Section 1088; and the regulations, guidelines and procedures promulgated by the Secretary of Education and published in the Federal Register pursuant to these sections of law.

**Sec. 2. 20-A MRSA §11611, sub-§6** is enacted to read:

**6. Portability.** "Portability" means permission to use funding provided to a student for education by a state, as a grant, loan, scholarship or any combination, in an academic program and institution regardless of geographic location.

**Sec. 3. Effective date.** This Act takes effect on January 1, 1992.

**Sec. 4. Application.** This Act applies to the Maine student incentive scholarship program awards for the 1992-93 academic year and all academic years thereafter.

Effective January 1, 1992.

## CHAPTER 583

S.P. 687 - L.D. 1828

### An Act Concerning Room Requirements for Hotels under the Liquor Licensing Laws

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

**28-A MRSA §1061, sub-§4, ¶A**, as amended by PL 1989, c. 139, is repealed and the following enacted in its place:

A. The number of rooms required is based on the population of the municipality in which the hotel is located, as reported in the 1960 federal decennial census. If the population reported in the most recent federal decennial census is at least 20% less than the population reported in the 1960 census, the most recent federal decennial census must be used to determine the number of rooms required.

(1) If the hotel is located in a municipality having a population of 7,500 or less, the hotel must have at least 12 adequate sleeping rooms.

(2) If the hotel is located in a municipality having a population of more than 7,500, the hotel must have at least 30 adequate sleeping rooms.

See title page for effective date.

## CHAPTER 584

H.P. 876 - L.D. 1262

### An Act to Enhance Access to Financing for Health Care Facilities

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

**Sec. 1. 22 MRSA §2053, sub-§3-A** is enacted to read:

**3-A. Health care facility.** "Health care facility" means any nursing home or boarding home that is, or will be upon completion, licensed under the laws of the State.

**Sec. 2. 22 MRSA §2053, sub-§4-A**, as enacted by PL 1973, c. 713, §2, is repealed.

**Sec. 3. 22 MRSA §2053, sub-§5**, as amended by PL 1973, c. 713, §3, is further amended to read:

**5. Participating health care facility.** "Participating hospital health care facility" means a any hospital ~~or~~,

nursing home ~~which or boarding home that~~, pursuant to this chapter, ~~shall undertake~~ undertakes the financing and construction or acquisition of a project or ~~shall undertake~~ undertakes the refunding or refinancing of existing indebtedness as provided in and permitted by this chapter.

**Sec. 4. 22 MRSA §2055, sub-§12**, as amended by PL 1991, c. 50, §11, is further amended to read:

**12. Loans.** To make loans to any participating hospital, participating community mental health facility ~~or, participating institution for higher education, other entity eligible to use the authority or consortium of entities eligible to use the authority~~ for the cost of a project in accordance with an agreement between the authority and ~~such the participating hospital, participating community mental health facility or participating institution for higher education~~ entity or entities, provided that no such loan may exceed the total cost of the project as determined by the participating ~~hospital, participating community mental health facility or participating institution for higher education~~ entity or entities, and approved by the authority;

**Sec. 5. 22 MRSA §2061, sub-§2**, as amended by PL 1991, c. 50, §19, is further amended to read:

**2. Review.** Each project for a hospital, community mental health facility or nursing home has been reviewed and approved to the extent required by the agency of the State ~~which that~~ serves as the Designated Planning Agency of the State ~~in accordance with the provisions of Section 1122 of the United States Social Security Act, as amended~~, or by the Department of Human Services in accordance with the provisions of the Maine Certificate of Need Act of 1978, as amended, or, in the case of a project for a hospital, has been reviewed and approved by the Maine Health Care Finance Commission to the extent required by chapter 107;

**Sec. 6. 22 MRSA §2075** is enacted to read:

**§2075. Maine Health Facilities' Reserve Fund**

**1. Maine Health Facilities' Reserve Fund.** The authority shall establish and maintain a reserve fund called the "Maine Health Facilities' Reserve Fund" in which is deposited all money appropriated by the State for the purpose of that fund, all proceeds of bonds required to be deposited in the fund by terms of any contract between the authority and its bondholders or any resolution of the authority with respect to the proceeds of bonds and any other money or funds of the authority that the authority determines to deposit in the fund and any other money made available to the authority only for the purposes of the fund from any other source or sources.

**A.** Money in the reserve fund is held and applied solely to the payment of the interest on and principal of bonds secured by the reserve fund and sinking

fund payments referred to in this chapter with respect to bonds secured by the reserve fund as the interest, principal and sinking fund payments become due and payable; and for the retirement of bonds, including the payment of any redemption premium required to be paid when any bonds are redeemed or retired before maturity. Money may not be withdrawn from the fund if the withdrawal reduces the amount in the reserve fund to an amount less than the required debt service reserve, except for:

(1) Payment of interest then due and payable on bonds;

(2) Payment of the principal of bonds then maturing and payable;

(3) Sinking fund payments referred to in this chapter with respect to bonds;

(4) The retirement of bonds in accordance with the terms of any contract between the authority and its bondholders; or

(5) The payment for which other money of the authority is not then available for payment of interest, principal or sinking fund payments or the retirement of bonds in accordance with the terms of any such contract.

**B.** As used in this chapter, "required debt service reserve" means, as of any date of computation, the amount or amounts required to be on deposit in the reserve fund as provided by resolution of the authority. The required debt service reserve is, as of any date of computation, an aggregate amount equal to at least the largest amount of money required by the terms of all contracts between the authority and holders of bonds secured by the reserve fund to be raised in the current or any succeeding calendar year for:

(1) The payment of interest on and maturing principal of that portion of outstanding bonds secured by the reserve fund; and

(2) Sinking fund payments required by the terms of any such contracts to sinking funds established for the payment or redemption of those bonds.

**C.** To ensure the maintenance of the required debt service reserve in the reserve fund, there must be annually appropriated and paid to the authority for deposit in the fund the sum, if any, certified by the executive director of the authority to the Governor, required to restore the reserve fund to an amount equal to the required debt service reserve. On or before December 1st of each year, the executive director shall make and deliver to the Governor a certificate stating the sum and the sum or sums so certi-

fied must be appropriated and paid to the authority during the current state fiscal year.

To ensure the maintenance of the required debt service reserve in any capital reserve fund to which, at the direction of the authority pursuant to the resolution or resolutions establishing a capital reserve fund, this provision applies, there is annually appropriated and paid to the authority for deposit in the fund the sum, if any, certified by the executive director of the authority to the Governor, required to restore the reserve fund to an amount equal to the required debt service reserve. On or before December 1st of each year, the director shall make and deliver to the Governor a certificate stating the sum and the sum or sums so certified must be appropriated and paid to the authority during the current state fiscal year.

**2. Capital reserve fund.** This subsection applies to capital reserve funds.

**A.** The authority may establish and maintain one or more special funds called "capital reserve funds" in which must be deposited:

(1) All money appropriated by the State for the purpose of those funds;

(2) All proceeds of bonds required to be deposited in those funds by the terms of any contract between the authority and its bondholders or any resolution of the authority with respect to the proceeds of bonds;

(3) Any other money or funds of the authority that the authority determines to deposit in those funds; and

(4) Any other money made available to the authority only for the purposes of the fund from any other source or sources.

**B.** Money in any capital reserve fund is held and applied solely:

(1) To pay the interest on and principal of bonds secured by the capital reserve fund and sinking fund payments referred to in this chapter with respect to bonds secured by the capital reserve fund as the interest and principal becomes due and payable; and

(2) To retire bonds secured by the capital reserve fund, including the payment of any redemption premium required to be paid when any such bonds are redeemed or retired before maturity.

**C.** The minimum amount of any capital reserve fund must be equal to the amounts required under the resolutions pursuant to which the bonds secured by

the capital reserve fund are issued. These amounts are referred to in this chapter as the "required minimum reserve." With respect to bonds secured by a capital reserve fund for which the resolution authorizing the issuance of those bonds states that the provisions of subsection 1, paragraph C apply, the required minimum reserve is, as of any date of computation, an aggregate amount equal to at least the largest amount of money required by the terms of all contracts between the authority and its bondholders of the bonds to be raised in the current or any succeeding calendar year for the payment of interest on and maturing principal of that portion of the outstanding bonds or sinking fund payments required by the terms of any such contracts to sinking funds established for the payment or redemption of the bonds, all calculated on the assumption that the bonds will cease to be outstanding after the date of the computation because of the payment of the bonds at their respective maturities and the payments of the required money to sinking funds and the application of the sinking funds in accordance with the terms of all such contracts to the retirement of the bonds.

**D.** Money in any capital reserve fund may not be withdrawn if the withdrawal reduces the amount in the capital reserve fund to an amount less than the required minimum reserve for all such bonds issued and to be issued that are secured by the capital reserve fund, except for:

(1) Payment of interest then due and payable on bonds secured by the capital reserve fund then maturing and payable;

(2) Sinking fund payments required by the terms of any such contracts to sinking funds established for the payment of redemption of the bonds;

(3) The retirement of bonds secured by the capital reserve fund in accordance with the terms of any contract between the authority and its bondholders; and

(4) The payments for which other money of the authority is not then available for payment of interest or principal or sinking fund payments or retirement of bonds secured by the capital reserve fund in accordance with the terms of any such contract.

Sec. 7. 22 MRSA §2076 is enacted to read:

**§2076. Authority to intercept federal and state aid**

**1. Treasurer to withhold funds.** When the authority notifies the Treasurer of State in writing that an entity eligible to use the authority is in default as to the payment of principal or interest on any securities of that entity sold through or by the authority, or that the authority has reasonable grounds to predict that the entity

will not be able to make a full payment when that payment is due, the Treasurer of State shall withhold any funds in the Treasurer of State's custody that are due or payable to the eligible entity until the amount of the principal or interest due or anticipated to be due has been paid to the authority or the trustee for the bondholders, or the authority notifies the Treasurer of State that satisfactory arrangements have been made for the payment of the principal and interest. Funds subject to withholding under this subsection include, but are not limited to, federal and state grants, contracts, allocations or appropriations.

**2. Withheld funds to be made available to authority.** If the authority further notifies the Treasurer of State in writing that no other arrangements are satisfactory, the Treasurer of State shall deposit in the General Fund and make available to the authority any funds withheld from the eligible entity under this section. The authority shall apply the funds to the costs incurred by the eligible entity, including payments required to be made to the authority or trustee for any bondholders of debt service on any debt issued by the authority for the eligible entity or required by the terms of any other law or contract to be paid to the holders or owners of debt issued on behalf of the eligible entity upon failure or default, or reasonable expectation of failure or default, of the eligible institution to pay the principal or interest on its securities when due.

**3. Other agencies to be notified.** Concurrent with any notice from the authority to the Treasurer of State under this section, the authority shall notify any other agency, department or authority of State Government that exercises regulatory, supervisory or statutory control over the operations of the eligible entity. Upon notification, the agency, department or authority shall immediately undertake reviews to determine what action, if any, that agency, department or authority should undertake to assist in the payment by the eligible entity of the money due or steps that the agencies of the State other than the Treasurer of State or the authority should take to assure the continued prudent operation of the eligible entity or provision of services to the people served by the eligible entity.

See title page for effective date.

## CHAPTER 585

H.P. 1015 - L.D. 1483

### An Act to Remove the Statute of Limitations for Incest and Gross Sexual Assault

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

**Sec. 1. 17-A MRSA §8, sub-§1,** as amended by PL 1981, c. 470, Pt. A, §37, is further amended to read:

1. It is a defense that prosecution was commenced after the expiration of the applicable period of limitations provided in this section; provided that a prosecution for murder or criminal homicide in the first or 2nd degree, or, if the victim had not attained the age of 16 years at the time of the crime, a prosecution for incest, rape or gross sexual assault, formerly denominated as gross sexual misconduct, may be commenced at any time.

**Sec. 2. 17-A MRSA §8, sub-§2,** as amended by PL 1981, c. 470, Pt. A, §38, is further amended to read:

2. Prosecutions for crimes other than murder or criminal homicide in the first or 2nd degree, or, if the victim had not attained the age of 16 years at the time of the crime, prosecutions for incest, rape or gross sexual assault, formerly denominated as gross sexual misconduct, are subject to the following periods of limitations:

- A. A prosecution for a Class A, Class B or Class C crime must be commenced within 6 years after it is committed; and
- B. A prosecution for a Class D or Class E crime must be commenced within 3 years after it is committed.

**Sec. 3. Application.** This Act applies to the following crimes in which the victim has not attained the age of 16 years at the time of the crime:

- 1. Incest and gross sexual assault committed on or after the effective date of this Act; and
- 2. Incest, rape and gross sexual assault, formerly denominated as gross sexual misconduct, for which the prosecution has not yet been barred by the previous statute of limitations in force on the effective date of this Act.

See title page for effective date.

## CHAPTER 586

H.P. 283 - L.D. 404

### An Act to Increase Revenues to the General Fund by Streamlining Collection Methods for Use Taxes on Snowmobiles and All-terrain Vehicles Pursuant to the Maine Sunset Act

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

**Whereas,** it is in the State's best interest to collect all taxes in the most efficient manner possible; and