

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND ELEVEN

H.P. 1089 - L.D. 1480

**An Act To Correct Errors and Inconsistencies in the Laws of Maine**

**Emergency preamble.** Whereas, acts and resolves 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.** 2 MRSA §6-A, sub-§3, ¶D, as amended by PL 2009, c. 122, §2, is further amended to read:

D. Director of electric and gas utility industries; and

**Sec. A-2.** 2 MRSA §6-A, sub-§3, ¶D-1, as enacted by PL 2005, c. 23, §1, is repealed.

**Sec. A-3.** 5 MRSA §1764-A, sub-§2, as corrected by RR 2003, c. 1, §2, is amended to read:

**2. Rules.** The Bureau of General Services, in consultation with ~~the Energy Resources Council and~~ the Public Utilities Commission, shall by rule require that all planning and design for the construction of new or substantially renovated state-owned or

state-leased buildings and buildings built with state funds, including buildings funded ~~through~~ through state bonds or the Maine Municipal Bond Bank:

- A. Involve consideration of architectural designs and energy systems that show the greatest net benefit over the life of the building by minimizing long-term energy and operating costs;
- B. Include an energy-use target that exceeds by at least 20% the energy efficiency standards in effect for commercial and institutional buildings pursuant to Title 10, section 1415-D; and
- C. Include a life-cycle cost analysis that explicitly considers cost and benefits over a minimum of 30 years and that explicitly includes the public health and environmental benefits associated with energy-efficient building design and construction, to the extent they can be reasonably quantified.

Rules adopted pursuant to this section apply to all new or substantially renovated state-owned or state-leased buildings and buildings built with state funds, including buildings funded through state bonds or the Maine Municipal Bond Bank, regardless of whether the planning and design for construction is subject to approval by the department.

Rules adopted pursuant to this section may provide for exemptions, waivers or other appropriate consideration for buildings with little or no energy usage, such as unheated sheds or warehouses.

The Bureau of General Services shall adopt rules pursuant to this section by July 1, 2004. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. A-4. 7 MRSA §2104-A**, as enacted by PL 2009, c. 393, §6, is amended to read:

**§2104-A. Arrears in payments to Seed Potato Board**

A person who on July 15th of any year is in arrears as to full payment for potato seed purchased from the Seed Potato Board is not eligible for listing in the Maine certified seed potatoes book for that year published by the department's ~~Division of Plant Industry~~ division of animal and plant health.

**Sec. A-5. 7 MRSA §2106**, as amended by PL 2003, c. 578, §6, is further amended to read:

**§2106. Working capital advance**

The State Controller is authorized to advance \$300,000 from the General Fund unappropriated surplus to the Certified Seed Fund established in section 2107 during any state fiscal year, if requested in writing by the ~~Director of the Division of Plant Industry~~ director of the division of animal and plant health, to be used to provide cash necessary to meet current expenditures of the seed certification program. These funds must be returned to the General Fund unappropriated surplus before the close of the state fiscal year in which the advance was made. The State Controller shall report to the joint

standing committee of the Legislature having jurisdiction over appropriations and financial affairs within 30 days of making any working capital advance for this purpose.

**Sec. A-6. 7 MRSA §2157, sub-§5**, as enacted by PL 1987, c. 813, §1, is amended to read:

**5. Challenge grants.** The commissioner shall establish a challenge grant program to help in establishing field trials for new potato varieties. Grant proposals ~~shall~~ must be approved by the commissioner after review and recommendation by the Potato Plant Breeder at the Maine Agricultural Experiment Station in Presque Isle, the ~~Director of the Division of Plant Industry~~ director of the division of animal and plant health, the ~~chairman~~ chair of the seed grower's executive council of the Maine Potato Board and the Director of the Seed Potato Board. Grants may be given to farmers outside of this State. Grants may consist of seed, and assistance in determining cultural practices, and a percentage of the farmer's production costs to be determined by the commissioner. Those receiving grants shall cooperate with the agronomist of the Maine Agricultural Experiment Station in developing the best cultural practices and sharing production and marketing information.

**Sec. A-7. 7 MRSA §2701, first ¶**, as amended by PL 2009, c. 393, §7, is further amended to read:

All persons owning honeybees within the State shall annually notify the commissioner of the keeping of bees and the location of the bees and shall forward to the commissioner for deposit with the Treasurer of State an annual license fee for all bees kept on June 15th of each year. Fees must be established by rule. Notwithstanding Title 5, section 8071, subsection 3, rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. License fees accrue as a dedicated revenue to the ~~Division of Plant Industry~~ division of animal and plant health to fund the cost of apiary inspection and licensing.

**Sec. A-8. 7 MRSA §2754**, as amended by PL 1999, c. 401, Pt. H, §3, is further amended to read:

**§2754. Registration fees**

A registration fee not to exceed \$2 per colony for all bees to be shipped or moved into the State must be forwarded to the commissioner for deposit with the Treasurer of State. Fees must be established by rule in accordance with the Maine Administrative Procedure Act. The fees accrue as dedicated revenue to the ~~Division of Plant Industry~~ division of animal and plant health to fund the cost of apiary inspection and licensing.

**Sec. A-9. 12 MRSA §6301, sub-§2, ¶R**, as amended by PL 2009, c. 523, §2 and c. 561, §8, is repealed and the following enacted in its place:

R. A wholesale seafood license with a shrimp permit issued under section 6851 expires on March 31st of each year;

**Sec. A-10. 17 MRSA §330**, as amended by IB 2009, c. 2, §50 and repealed by PL 2009, c. 487, Pt. A, §1, is repealed.

**Sec. A-11. 17 MRSA §1831, sub-§5**, as amended by PL 2009, c. 599, §1, is further amended to read:

**5. Game of chance.** "Game of chance" means a game, contest, scheme or device in which:

- A. A person stakes or risks something of value for the opportunity to win something of value;
- B. The rules of operation or play require an event the result of which is determined by chance, outside the control of the contestant or participant; and
- C. Chance enters as an element that influences the outcome in a manner that cannot be eliminated through the application of skill.

For the purposes of this subsection, "an event the result of which is determined by chance" includes but is not limited to a shuffle of a deck of cards, a roll of a die or dice or a random drawing or generation of an object that may include, but is not limited to, a card, a die, a number or simulations of any of these. A shuffle of a deck of cards, a roll of a die, a random drawing or generation of an object or some other event the result of which is determined by chance that is employed to determine impartially the initial order of play in a game, contest, scheme or device does not alone make a game, contest, scheme or device a game of chance. For purposes of this chapter, beano, bingo ~~and~~ a savings promotion raffle and table games as defined in Title 8, section 1001, subsection 43-A are not games of chance.

**Sec. A-12. 18-A MRSA §3-717**, as enacted by PL 1979, c. 540, §1, is amended to read:

**§3-717. Corepresentatives; when joint action required**

If 2 or more persons are appointed corepresentatives and unless the will provides otherwise, the concurrence of all is required on all acts connected with the administration and distribution of the estate. This restriction does not apply when any corepresentative receives and receipts for ~~property~~ property due the estate, when the concurrence of all cannot readily be obtained in the time reasonably available for emergency action necessary to preserve the estate, or when a corepresentative has been delegated to act for the others. Persons dealing with a corepresentative if actually unaware that another has been appointed to serve with ~~him~~ that corepresentative or if advised by the personal representative with whom they deal that ~~he~~ the personal representative has authority to act alone for any of the reasons mentioned herein, are as fully protected as if the person with whom they dealt had been the sole personal representative.

**Sec. A-13. 22 MRSA §2383-B, sub-§3, ¶A-1**, as amended by PL 2001, c. 580, §1, is repealed.

**Sec. A-14. 22 MRSA §2383-B, sub-§3, ¶A-2**, as enacted by IB 1999, c. 1, §7, is repealed.

**Sec. A-15. 22 MRSA §2383-B, sub-§3, ¶E**, as amended by PL 2009, c. 631, §6 and affected by §51, is repealed.

**Sec. A-16. 23 MRSA §4202**, as amended by PL 1971, c. 622, §77-C, is further amended to read:

**§4202. Short title**

This ~~Act shall~~ chapter may be known as and ~~may be~~ cited as the Maine Transportation Act.

**Sec. A-17. 23 MRSA §4203, first ¶**, as amended by PL 1971, c. 622, §77-D, is further amended to read:

The following terms, when used in this ~~Act~~ chapter, ~~shall~~ have the following meanings, unless the context otherwise requires.

**Sec. A-18. 24 MRSA §2317-B, sub-§12-F**, as enacted by PL 2009, c. 578, §1 and affected by §4; enacted by c. 634, §1 and affected by §5; and enacted by c. 635, §1 and affected by §6, is repealed and the following enacted in its place:

**12-F. Title 24-A, sections 2766 and 2847-R.** Enrollment of dependent children in dental coverage, Title 24-A, sections 2766 and 2847-R;

**Sec. A-19. 24 MRSA §2317-B, sub-§12-G** is enacted to read:

**12-G. Title 24-A, sections 2767, 2847-S and 4258.** Coverage for children's early intervention services, Title 24-A, sections 2767, 2847-S and 4258;

**Sec. A-20. 24 MRSA §2317-B, sub-§12-H** is enacted to read:

**12-H. Title 24-A, sections 2768, 2847-T and 4259.** Coverage for diagnosis and treatment of autism spectrum disorders, Title 24-A, sections 2768, 2847-T and 4259;

**Sec. A-21. 24 MRSA §2986, sub-§2**, as enacted by PL 1999, c. 719, §2 and affected by §11, is amended to read:

**2. Victims' Compensation Board billing.** All licensed hospitals and licensed health care practitioners that perform forensic examinations for alleged victims of gross sexual assault shall submit a bill to the Victims' Compensation Board directly for payment of the forensic examinations. The Victims' Compensation Board shall determine what a forensic examination includes pursuant to Title 5, section 3360-M. The hospital or health care practitioner that performs a forensic examination shall take steps necessary to ensure the confidentiality of the alleged victim's identity. The bill submitted by the hospital or health care practitioner may not identify the alleged victim by name but must be assigned a tracking number that corresponds to the forensic examination kit. The tracking number may not be the alleged victim's social security number. The Victims' Compensation Board shall pay the actual cost of the forensic examination up to a maximum of ~~\$500~~ \$750. Licensed hospitals and licensed health care practitioners that perform forensic examinations for alleged victims of gross sexual assault may not bill the alleged victim or the alleged victim's insurer, nonprofit hospital or medical service organization or health maintenance organization for payment for the examination.

**Sec. A-22. 24-A MRSA §957, 2nd ¶**, as enacted by PL 1983, c. 346, §7, is amended to read:

For any life insurance policy issued on or after January 1, 1987, for which the gross premium in the first policy year exceeds that of the 2nd year and for which no comparable additional benefit is provided in the first year for that excess and ~~which that~~ provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than that excess premium, the foregoing provisions of this section ~~shall~~ must be applied as if the method actually used in calculating the reserve for that policy were the method described in section 954, ignoring the 2nd paragraph of section 954. The minimum reserve at each policy anniversary of such a policy ~~shall be~~ is the greater of the minimum reserve calculated in accordance with section 954, including the 2nd paragraph of that section, and the minimum reserve calculated in accordance with this section 957.

**Sec. A-23. 24-A MRSA §2766**, as enacted by PL 2009, c. 634, §2 and affected by §5, is reallocated to 24-A MRSA §2767.

**Sec. A-24. 24-A MRSA §2766**, as enacted by PL 2009, c. 635, §2 and affected by §6, is reallocated to 24-A MRSA §2768.

**Sec. A-25. 24-A MRSA §2847-R**, as enacted by PL 2009, c. 634, §3 and affected by §5, is reallocated to 24-A MRSA §2847-S.

**Sec. A-26. 24-A MRSA §2847-R**, as enacted by PL 2009, c. 635, §3 and affected by §6, is reallocated to 24-A MRSA §2847-T.

**Sec. A-27. 24-A MRSA §4258**, as enacted by PL 2009, c. 635, §4 and affected by §6, is reallocated to 24-A MRSA §4259.

**Sec. A-28. 25 MRSA §2926, sub-§2-A**, as amended by PL 2009, c. 219, §2, is further amended to read:

**2-A. Goal.** To the extent possible, the bureau shall establish a total of between 16 and 24 public ~~service~~ safety answering points. The bureau shall seek to coordinate any reduction in the number of public ~~service~~ safety answering points to achieve this goal with any contractual obligations it may have or may enter into that are or could be affected by that reduction. Prior to implementing a reduction in the number of public safety answering points, the bureau shall make a finding regarding the need for the reduction based on an evaluation of the costs and benefits of the reduction, taking into account impacts on ratepayers, each of the affected municipalities and the State.

**Sec. A-29. 34-B MRSA §9008, sub-§1**, as enacted by PL 1983, c. 459, §7, is amended to read:

**1. Supplemental or substitute guardian.** Nothing in this compact ~~shall~~ may be construed to abridge, diminish or in any way impair the rights, duties and responsibilities of any patient's guardian on ~~his~~ the guardian's own behalf or in respect of any patient for whom ~~he~~ the guardian may serve, except that, where the transfer of any patient to another

~~jurisdiction~~ jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court ~~which~~ that appointed the previous guardian shall, upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent ~~shall~~ be is appropriate in the circumstances. In the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state ~~shall have~~ has the sole discretion to relieve a guardian appointed by it or continue ~~his~~ the guardian's power and responsibility, whichever ~~it shall deem~~ the court considers advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

**Sec. A-30. 35-A MRSA §107, sub-§1, ¶A**, as amended by PL 2009, c. 122, §7, is further amended to read:

A. An administrative director, a director of telephone and water utility industries, a director of electric and gas utility industries, ~~a director of energy programs~~ and a director of consumer assistance;

**Sec. A-31. 35-A MRSA §107, sub-§2, ¶A**, as amended by PL 2009, c. 122, §7, is further amended to read:

A. The general counsel, the administrative director, the assistant administrative director, the director of telephone and water utility industries, the director of electric and gas utility industries, ~~the director of energy programs~~ and the director of consumer assistance serve at the pleasure of the commission and their salaries must be set by the commission within the ranges established by Title 2, section 6-A.

**Sec. A-32. 35-A MRSA §107, sub-§2, ¶C**, as amended by PL 2009, c. 122, §7, is further amended to read:

C. The salaries of the other subordinate officials and employees of the commission, other than those of the general counsel, the administrative director, the assistant administrative director, the director of telephone and water utility industries, the director of electric and gas utility industries, ~~the director of energy programs~~, the director of consumer assistance and the staff attorney and utility analyst positions, are subject to the Civil Service Law.

**Sec. A-33. 35-A MRSA §1309, sub-§5**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

**5. Complaint received within 6 months after reparation or adjustment ordered.** Within 6 months after an order has been made authorizing reparation or adjustment under subsections 2 and 3, any person aggrieved may complain to the commission that ~~he~~ the person is entitled to reparation from the same utility because ~~he~~ the person paid the rates ~~which~~ that the utility admits are excessive or ~~reasonable~~ unreasonable or collected through error, provided the utility might lawfully have made the reparation on its own petition, and provided the person has made a written request for the utility to file its own

petition for authority to make the reparation or adjustment not less than 30 days before filing a complaint with the commission.

**Sec. A-34. 38 MRSA §346, sub-§4**, as amended by PL 2009, c. 615, Pt. E, §5 and c. 642, Pt. B, §4, is repealed and the following enacted in its place:

**4. Appeal of decision.** A judicial appeal of final action by the board or commissioner regarding an application for an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, or a general permit pursuant to section 480-HH or section 636-A must be taken to the Supreme Judicial Court sitting as the Law Court. The Law Court has exclusive jurisdiction over request for judicial review of final action by the commissioner or the board regarding expedited wind energy developments or a general permit pursuant to section 480-HH or section 636-A. These appeals to the Law Court must be taken in the manner provided in Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

**Sec. A-35. 38 MRSA §1310-B, sub-§2**, as amended by PL 2009, c. 579, Pt. A, §1 and c. 610, §1, is repealed and the following enacted in its place:

**2. Hazardous waste information and information on mercury-added products and electronic devices and mercury reduction plans; chemicals.** Information relating to hazardous waste submitted to the department under this subchapter, information relating to mercury-added products submitted to the department under chapter 16-B, information relating to electronic devices submitted to the department under section 1610, subsection 6-A, information relating to mercury reduction plans submitted to the department under section 585-B, subsection 6, information related to priority toxic chemicals submitted to the department under chapter 27 or information related to products that contain the "deca" mixture of polybrominated diphenyl ethers submitted to the department under section 1609 may be designated by the person submitting it as being only for the confidential use of the department, its agents and employees, the Department of Agriculture, Food and Rural Resources and the Department of Health and Human Services and their agents and employees, other agencies of State Government, as authorized by the Governor, employees of the United States Environmental Protection Agency and the Attorney General and, for waste information, employees of the municipality in which the waste is located. The designation must be clearly indicated on each page or other portion of information. The commissioner shall establish procedures to ensure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the person submitting the information and the general nature of the information. Upon a request for information, the scope of which includes information so designated, the commissioner shall notify the submitter. Within 15 days after receipt of the notice, the submitter shall demonstrate to the satisfaction of the department that the designated information should not be disclosed because the information is a trade secret or production, commercial or financial information, the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for the whole or any part of



the designated information requested and within 15 days shall give written notice of the decision to the submitter and the person requesting the designated information. A person aggrieved by a decision of the department may appeal only to the Superior Court in accordance with the provisions of section 346. All information provided by the department to the municipality under this subsection is confidential and not a public record under Title 1, chapter 13. In the event a request for such information is submitted to the municipality, the municipality shall submit that request to the commissioner to be processed by the department as provided in this subsection.

## PART B

**Sec. B-1. 31 MRSA §1592, sub-§8**, as amended by PL 2011, c. 113, Pt. A, §12, is further amended to read:

**8. Delivery of notice.** The Secretary of State shall send notice of ~~its~~ the determination under subsection 1 by regular mail or other medium as defined by rule by the Secretary of State and the service upon the limited liability company is perfected 5 days after the Secretary of State deposits ~~its~~ the notice of the determination in the United States mail, as evidenced by the postmark if mailed postpaid and correctly addressed or delivered by a medium authorized by the Secretary of State to the registered agent of the limited liability company.

**Sec. B-2. 31 MRSA §1626, sub-§7**, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

**7. Delivery of notice.** The Secretary of State shall send notice of ~~its~~ the determination under subsection 1 by regular mail and the service upon the foreign limited liability company is perfected 5 days after the Secretary of State deposits ~~its~~ the notice of the determination in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed to the registered agent in this State and the registered or principal office, wherever located, on file for the foreign limited liability company.

**Sec. B-3. Maine Revised Statutes headnote enacted; revision clause.** In the Maine Revised Statutes, Title 23, chapter 410, after the chapter headnote, the headnote "subchapter 1, general provisions" is enacted and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. B-4. Effective date.** Those sections of this Part that amend the Maine Revised Statutes, Title 31, section 1592, subsection 8 and section 1626, subsection 7 take effect July 1, 2011.

## PART C

**Sec. C-1. 4 MRSA §1804, sub-§3, ¶C**, as enacted by PL 2009, c. 419, §2, is amended to read:

C. Establish processes and procedures consistent with commission standards to ensure that office and contract personnel use information technology and case load

management systems so that detailed expenditure and case load data ~~is~~ are accurately collected, recorded and reported;

**Sec. C-2. 5 MRSA §1514**, as amended by PL 1989, c. 878, Pt. A, §§12 and 13, is repealed.

**Sec. C-3. 17-A MRSA §1202, sub-§2-A**, as amended by PL 2005, c. 265, §9, is further amended to read:

**2-A.** Once the period of probation has commenced, on motion of the probation officer, or of the person on probation, or on the court's own motion, the court may convert at any time a period of probation for a Class D or Class E crime or a Class C crime under Title 29-A, section ~~2557~~ 2557-A to a period of administrative release. A conversion to administrative release may not be ordered unless notice of the motion is given to the probation officer and the attorney for the State. The provisions of chapter 54-G apply when probation is converted to administrative release. Conversion to administrative release serves to relieve the person on probation of any obligations imposed by the probation conditions.

**Sec. C-4. 34-A MRSA §11222, sub-§4-A, ¶C**, as enacted by PL 2009, c. 570, §3, is amended to read:

C. In lieu of mailing the completed verification form under paragraph B, the 10-year registrant shall take the completed verification form and a current photograph of the 10-year registrant to the law enforcement agency having jurisdiction once every 5 years after the anniversary of the 10-year registrant's initial registration or, if there is a reason to believe the offender's appearance has changed significantly, the law enforcement agency having jurisdiction or the bureau may instruct the 10-year registrant in writing:

- (1) To appear in person at the law enforcement agency having jurisdiction with a current photograph or to allow a photograph to be taken; or
- (2) If authorized in writing by the law enforcement agency having jurisdiction ~~for~~ or the bureau, to submit a new photograph without appearing in person.

**Sec. C-5. 34-A MRSA §11222, sub-§4-B, ¶C**, as enacted by PL 2009, c. 570, §4, is amended to read:

C. In lieu of mailing the completed verification form under paragraph B, the lifetime registrant shall take the completed verification form and a current photograph of the lifetime registrant to the law enforcement agency having jurisdiction once every 5 years after the anniversary of the lifetime registrant's initial registration or, if there is a reason to believe the lifetime registrant's appearance has changed significantly, the law enforcement agency having jurisdiction or the bureau may instruct the lifetime registrant in writing:

- (1) To appear in person at the law enforcement agency having jurisdiction with a current photograph or to allow a photograph to be taken; or

(2) If authorized in writing by the law enforcement agency having jurisdiction ~~for~~ or the bureau, to submit a new photograph without appearing in person.

**Sec. C-6. 34-B MRSA §1207, sub-§1, ¶F**, as amended by PL 2003, c. 563, §1, is further amended to read:

F. Nothing in this subsection precludes the disclosure or use of any information, including recorded or transcribed diagnostic and therapeutic interviews, concerning any client in connection with any educational or training program established between a public hospital and any college, university, hospital, psychiatric or counseling clinic or school of nursing, provided that, in the disclosure or use of the information as part of a course of instruction or training program, the client's identity remains undisclosed; and

**Sec. C-7. 34-B MRSA §1207, sub-§1, ¶G**, as amended by PL 2003, c. 563, §2, is repealed.

## PART D

**Sec. D-1. 14 MRSA §6001, sub-§1-B**, as enacted by PL 2011, c. 122, §1, is amended to read:

**1-B. Residential lease without termination or notice language.** If a written residential lease or contract does not include a provision to terminate the tenancy or does not provide for any written notice of termination in the event of a material breach of a provision of the written residential lease or contract, either the landlord or the tenant may terminate the written residential lease or contract pursuant to this subsection.

A. A landlord may terminate the tenancy in accordance with section 6002, subsections 1 and 2. After a landlord has provided notice and service as provided in section 6002, including language advising the tenant that the tenant has the right to contest the termination in court, the landlord may commence a forcible entry and detainer action as provided in this section.

B. A tenant may terminate the tenancy by providing the landlord with 7 days' written notice of the termination if the landlord has substantially breached a provision of the written residential lease or contract. In the event that the tenant or the tenant's agent has made at least 3 good faith efforts to personally serve the landlord in-hand, that service may be accomplished by both mailing the notice by first-class mail to the landlord's last known address and by leaving the notice at the landlord's last and usual place of abode.

**Sec. D-2. 22 MRSA §3025, sub-§1, ¶D**, as amended by PL 2011, c. 60, §1, is further amended to read:

D. Death when the person is in custody pursuant to an arrest, confined in a state correctional or detention facility, county jail, other county correctional or detention facility or local lockup or is ~~in transport between~~ on the way to or from a courthouse or any of these places while in the custody of a law enforcement officer or county or state corrections official;

**Sec. D-3. 30-A MRSA §1562-A**, as enacted by PL 2011, c. 60, §2, is amended to read:

**§1562-A. Death of a person in custody**

When a ~~prisoner~~ person in ~~county or state~~ custody dies, an examination and inquest must be held, and the ~~commissioner or the chief administrative officer of the facility~~ sheriff or jailer shall cause a medical examiner to be immediately notified for that purpose pursuant to Title 22, section 3025. For purposes of this section, "~~county or state~~ custody" means custody pursuant to an arrest, confinement in a ~~state correctional facility,~~ county jail, or other county correctional facility or local lockup or when the ~~prisoner~~ person is ~~in transport between~~ on the way to or from a courthouse or any of these places while in the custody of a county law enforcement officer or ~~county or state~~ corrections official. The medical examiner shall also review the case file and relevant medical records and determine whether an autopsy is needed. If the medical examiner determines that an autopsy is needed, an autopsy must be performed.

**Sec. D-4. 30-A MRSA §2678** is enacted to read:

**§2678. Death of a person in custody**

When a person in custody dies, an examination and inquest must be held, and the chief of police shall cause a medical examiner to be immediately notified for that purpose pursuant to Title 22, section 3025. For purposes of this section, "custody" means custody pursuant to an arrest, confinement in a local lockup or when the person is on the way to or from a courthouse or a local lockup while in the custody of a local law enforcement officer. The medical examiner shall also review the case file and relevant medical records and determine whether an autopsy is needed. If the medical examiner determines that an autopsy is needed, an autopsy must be performed.

**Sec. D-5. 34-A MRSA §3045**, as amended by PL 2011, c. 60, §4, is further amended to read:

**§3045. Death of client**

When any client in ~~county or state~~ custody dies, an examination and inquest must be held, and the commissioner or the chief administrative officer of the facility shall cause a medical examiner to be immediately notified for that purpose pursuant to Title 22, section 3025. For purposes of this section, "~~county or state~~ custody" means ~~eustody pursuant to an arrest,~~ confinement in a state correctional or detention facility, ~~county jail, other correctional facility or local lockup~~ or when the ~~prisoner~~ client is ~~in transport between any of these places~~ on the way to or from a state correctional or detention facility while in the custody of a ~~law enforcement officer or county or state~~ corrections official. The medical examiner shall also review the case file and relevant medical records and determine whether an autopsy is needed. If the medical examiner determines that an autopsy is needed, an autopsy must be performed.

**Sec. D-6. Effective date.** This Part takes effect 90 days after the adjournment of the First Regular Session of the 125th Legislature.

## PART E

**Sec. E-1. 38 MRSA §1665-B, sub-§2, ¶A**, as amended by PL 2011, c. 206, §29, is further amended to read:

A. Establish and maintain a collection and recycling program for out-of-service mercury-added thermostats. The collection and recycling program must be designed and implemented to ensure that:

- (1) A maximum rate of collection of mercury-added thermostats is achieved;
- (2) Handling and recycling of mercury-added thermostats are accomplished in a manner that is consistent with section 1663, with other provisions of this chapter and with the universal waste rules adopted by the board pursuant to section 1319-O;
- (3) Authorized bins for mercury-added thermostat collection are made available at a reasonable one-time fee not to exceed \$25 to all ~~wholesaler~~ heating, ventilation and air conditioning supply, electrical supply and plumbing supply distributor locations that sell thermostats and to all retailers ~~and electrical supply wholesalers~~ who volunteer to participate in the program; and
- (4) By January 1, 2007, authorized bins for mercury-added thermostat collection are made available at a reasonable one-time fee not to exceed \$25 to municipalities and regions requesting bins for mercury-added thermostat collection at universal waste collection sites or at periodic household hazardous waste collection events, as long as the collection sites or events are approved by the department for mercury-added thermostat collections;

**Sec. E-2. 38 MRSA §1665-B, sub-§2, ¶E**, as amended by PL 2011, c. 206, §30, is further amended to read:

E. Within 3 months after the department develops phase one of the plan required by subsection 4, provide a financial incentive with a minimum value of \$5 for the return of each mercury-added thermostat, ~~with or without a cover, by a contractor or service technician~~ to an established ~~wholesaler~~ recycling collection point;

**Sec. E-3. 38 MRSA §1665-B, sub-§2, ¶F**, as amended by PL 2011, c. 206, §31, is further amended to read:

F. Within 3 months after the department develops phase 2 of the plan required by subsection 4, provide a financial incentive with a minimum value of \$5 for the return of each mercury-added thermostat, ~~with or without a cover, by a homeowner~~ to an established ~~retail~~ recycling collection point;

**Sec. E-4. PL 2011, c. 206, §32** is repealed.

**Sec. E-5. Retroactivity.** This Part applies retroactively to June 3, 2011.

## PART F

**Sec. F-1. 20-A MRSA §13201, 2nd ¶**, as amended by PL 2011, c. 172, §2 and affected by §4, is further amended to read:

After a probationary period of 3 years, subsequent contracts of duly certified teachers must be for not less than ~~5~~ 2 years. Unless a duly certified teacher receives written notice to the contrary at least 6 months before the terminal date of the contract, the contract must be extended automatically for one year and similarly in subsequent years. The right to an extension for a longer period of time through a new contract is specifically reserved to the contracting parties.

**Sec. F-2. Effective date.** This Part takes effect 90 days after the adjournment of the First Regular Session of the 125th Legislature.

## PART G

**Sec. G-1. 20-A MRSA §11484, sub-§1, ¶B-1**, as enacted by PL 2001, c. 417, §19, is repealed.

**Sec. G-2. 20-A MRSA §11484, sub-§1, ¶B-2**, as enacted by PL 2001, c. 417, §19, is amended to read:

B-2. ~~One member~~ Two members appointed by the Governor from at large;

**Sec. G-3. 20-A MRSA §11484, sub-§1, ¶C**, as enacted by PL 1997, c. 732, §4, is amended to read:

C. Two members appointed by the Governor with experience in and knowledge of institutional investment of funds; ~~and~~

**Sec. G-4. 20-A MRSA §11484, sub-§1, ¶D**, as enacted by PL 1997, c. 732, §4, is repealed.

**Sec. G-5. 20-A MRSA §11484, sub-§1, ¶¶E and F** are enacted to read:

E. One member appointed by the Governor with experience in and knowledge of institutional investment of funds; and

F. One member appointed by the chair of the board who is a member of the board other than the Treasurer of State.

**Sec. G-6. PL 2011, c. 150, §§5 to 8** are repealed.

**Sec. G-7. PL 2011, c. 150, §9** is amended to read:

**Sec. 9. Effective date.** Those sections of this Act that amend the Maine Revised Statutes, Title 20-A, section 11473, subsections 1 and 5; section 11474, subsection 2; and section 11476 take effect on July 1, 2012. ~~That section of this Act that repeals Title 20-A, section 11484, subsection 1, paragraph B-1 and that section of this Act that amends Title 20-A, section 11484, subsection 1, paragraph B-2 take effect at the expiration of the~~

~~term of the member with knowledge of student financial assistance or when the position is vacant. That section of this Act that repeals Title 20-A, section 11484, subsection 1, paragraph D and that section of this Act that enacts Title 20-A, section 11484, subsection 1, paragraph E take effect at the expiration of the terms of the member representing public institutions of higher education and the member representing private institutions of higher education or when the positions are vacant.~~

**Sec. G-8. Transition.** Notwithstanding that section of this Part that repeals the Maine Revised Statutes, Title 20-A, section 11484, subsection 1, paragraph B-1, the member appointed pursuant to that paragraph may continue to serve until the expiration of the term to which the member was appointed, until the member vacates the membership or until the member is removed for cause, whichever occurs first. Notwithstanding that section of this Part that amends Title 20-A, section 11484, subsection 1, paragraph B-2, the Governor may not appoint a 2nd member under that paragraph until the expiration of the term of the member appointed pursuant to Title 20-A, section 11484, subsection 1, paragraph B-1, the member vacates the membership or the member is removed for cause, whichever occurs first. Notwithstanding that section of this Part that repeals Title 20-A, section 11484, subsection 1, paragraph D, a member appointed pursuant to that paragraph may continue to serve until the expiration of the term to which the member was appointed, until the member vacates the membership or until the member is removed for cause, whichever occurs first. Notwithstanding that section of this Part that enacts Title 20-A, section 11484, subsection 1, paragraph E, the Governor may not appoint a member under that paragraph until the expiration of the term of the member appointed pursuant to the former Title 20-A, section 11484, subsection 1, paragraph D to represent public institutions or until that member is removed for cause or otherwise vacates the membership. Notwithstanding that section of this Part that enacts Title 20-A, section 11484, subsection 1, paragraph F, the chair of the board of directors of the Finance Authority of Maine may not appoint a member under that paragraph until the expiration of the term of the member appointed pursuant to the former Title 20-A, section 11484, subsection 1, paragraph D to represent private institutions or until that member is removed for cause or otherwise vacates the membership.

**Sec. G-9. Effective date.** This Part takes effect 90 days after adjournment of the First Regular Session of the 125th Legislature.

## PART H

**Sec. H-1. 23 MRSA §1980, sub-§2-C, ¶¶B and D,** as enacted by PL 2011, c. 302, §19, are amended to read:

B. The penalties, exclusive of tolls, claimed by the away agency against an owner of ~~an automobile~~ a motor vehicle registered in this State do not exceed \$100 for a first violation or \$600 for all pending violations;

D. An owner of ~~an automobile~~ a motor vehicle registered in this State may present evidence to the away agency or to the authority by mail, telephone, electronic means or other means to invoke rights of due process without having to appear personally in the jurisdiction where the violation occurred; and

**Sec. H-2. Retroactivity.** This Part applies retroactively to June 10, 2011.

## PART I

**Sec. I-1. 22 MRSA §4038-E, sub-§1, ¶¶H and J,** as enacted by PL 2011, c. 402, §15, are amended to read:

H. A statement of the intent of the ~~biological~~ parents to consent to the adoption;

J. A statement that the ~~biological~~ parents are entitled to legal counsel in the adoption from permanency guardianship proceeding and that, if they want an attorney and are unable to afford one, they should contact the court as soon as possible to request appointed counsel.

**Sec. I-2. 22 MRSA §4038-E, sub-§6,** as enacted by PL 2011, c. 402, §15, is amended to read:

**6. Service.** The petition and the notice of the case management conference must be served on the ~~parent whose rights were terminated~~ parents and the guardian ad litem for the child at least 10 days prior to the scheduled case management conference date. Service must be in accordance with the Maine Rules of Civil Procedure or in any other manner ordered by the court.

**Sec. I-3. 22 MRSA §4038-E, sub-§8, ¶B,** as enacted by PL 2011, c. 402, §15, is amended to read:

B. The child's ~~biological~~ parents, ~~if parental rights have not been terminated~~; and

**Sec. I-4. 22 MRSA §4038-E, sub-§11,** as enacted by PL 2011, c. 402, §15, is amended to read:

**11. Effect of consent to adoption by the parent.** An order granting the adoption has the following effect.

A. An order granting the adoption of the child by the permanency guardian divests the consenting parent and child of all legal rights, powers, privileges, immunities, duties and obligations to each other as parent and child, except the inheritance rights between the child and the ~~biological~~ parent.

B. An adoption order may not disentitle a child to benefits due the child from any 3rd person, agency; or state or the United States and may not affect the rights and benefits that a Native American derives from descent from a member of a federally recognized Indian tribe.

**Sec. I-5. Effective date.** This Part takes effect 90 days after the adjournment of the First Regular Session of the 125th Legislature.

## PART J

**Sec. J-1. 23 MRSA §4210-B, sub-§7,** as enacted by PL 2007, c. 677, §1, is amended to read:



**7. Sales tax revenue.** Beginning July 1, 2009 and every July 1st thereafter, the State Controller shall transfer to the STAR Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 50% of the revenue from the tax imposed on the value of rental of a pickup truck or van with a gross weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles and the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the first 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund under Title 30-A, section 5681, subsection 5. Beginning on October 1, 2009 and every October 1st thereafter, the State Controller shall transfer to the STAR Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 50% of the revenue from the tax imposed on the value of rental of a pickup truck or van with a gross weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles and the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the last 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law. The amount transferred from General Fund sales and use tax revenues does not affect the calculation for the transfer to the Local Government Fund.

This subsection is repealed June 30, 2012.

**Sec. J-2. 23 MRSA §4210-B, sub-§7-A,** as enacted by PL 2011, c. 380, Pt. G, §2 and affected by §3, is amended to read:

**7-A. Sales tax revenue.** Beginning July 1, 2012 and every July 1st thereafter, the State Controller shall transfer to the STAR Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 100% of the revenue from the tax imposed on the value of rental of a pickup truck or van with a gross weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles and the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the first 6 months of the prior fiscal year. Beginning on October 1, 2012 and every October 1st thereafter, the State Controller shall transfer to the STAR Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 100% of the revenue from the tax imposed on the value of rental of a pickup truck or van with a gross weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles and the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the last 6 months of the prior fiscal year. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law.

**Sec. J-3. Effective date.** That section of this Part that amends the Maine Revised Statutes, Title 23, section 4210-B, subsection 7 takes effect October 1, 2011. That section of this Part that amends Title 23, section 4210-B, subsection 7-A takes effect June 30, 2012.

## PART K

**Sec. K-1. 29-A MRSA §2251, sub-§7-A, ¶B,** as enacted by PL 2011, c. 390, §2 is amended to read:

B. The Department of Public Safety, Bureau of State Police may not publicly disseminate personally identifying accident report data that are contained in an accident report database maintained, ~~records~~ administered or contributed to by the Bureau of State Police. Such data are not public records for the purposes of Title 1, chapter 13.

**Sec. K-2. Effective date.** This Part takes effect 90 days after adjournment of the First Regular Session of the 125th Legislature.

## PART L

**Sec. L-1. 5 MRSA §17859, sub-§1,** as enacted by PL 2011, c. 380, Pt. MMM, §1, is amended to read:

**1. Restoration to service.** Any state employee or teacher who has reached normal retirement age and who retires ~~on or~~ after July September 1, 2011 may be restored to service for up to 5 years. The decision to hire a retired state employee or retired teacher under this section is at the discretion of the appointing authority. The retired state employee or retired teacher must have had a bona fide termination of employment in accordance with state and federal laws and rules, may not return to employment after retirement with the same employer for at least 30 calendar days after the termination of employment and may not return to employment before the effective date of the person's retirement.

## PART M

**Sec. M-1. 32 MRSA §1103,** as repealed and replaced by PL 1973, c. 363, is amended to read:

### **§1103. Municipal licenses not required; municipal permits**

~~No~~ A municipality, provisions in charters to the contrary, ~~shall~~ may not require electricians to be municipally licensed, ~~nor shall any~~ and a municipality may not issue a permit for an electrical installation unless satisfied that the person, ~~firm or corporation~~ applying for the permit complies with this chapter.

**Sec. M-2. 32 MRSA §1105, sub-§1,** as amended by PL 2007, c. 402, Pt. I, §3, is further amended to read:

**1. Unlicensed practice.** A person, ~~firm or corporation~~ who violates section 1201 is subject to the provisions of Title 10, section 8003-C.

**Sec. M-3. 32 MRSA §1105, sub-§4,** as amended by PL 2011, c. 286, Pt. F, §10, is further amended to read:

**4. Exception.** Subsection 1 does not apply to a person, ~~firm or corporation~~ or work excepted under section 1102 or 1201-A.

**Sec. M-4. 32 MRSA §1155-B, sub-§1, ¶B,** as enacted by PL 2007, c. 402, Pt. I, §10, is amended to read:

B. While in the business of making electrical installations, employ an unlicensed person, ~~firm or corporation~~ to do that work, unless the unlicensed person, ~~firm or corporation~~ is an apprentice electrician or electrician's helper as set forth in this chapter.

**Sec. M-5. 32 MRSA §1201,** as amended by PL 2011, c. 286, Pt. F, §11, is further amended to read:

**§1201. License required**

An electrical installation may not be made unless by an electrician or other person licensed by the board except as provided in this chapter. ~~A person may not perform any electrical installations on behalf of an electrical company unless the company is licensed as provided in section 1202, subsection 5.~~

**Sec. M-6. 32 MRSA §1202, sub-§5,** as amended by PL 2011, c. 286, Pt. F, §14 and repealed by PL 2011, c. 406, §2, is repealed.

**Sec. M-7. Effective date.** This Part takes effect 90 days after adjournment of the First Regular Session of the 125th Legislature.

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

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In House of Representatives, ..... 2011

Read twice and passed to be enacted.

..... Speaker

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In Senate, ..... 2011

Read twice and passed to be enacted.

..... President

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Approved ..... 2011

..... Governor