LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 7, 1994 to June 30, 1995

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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

J.S. McCarthy Company
Augusta, Maine
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claim is approved by the department must be placed by the department in a pool from which supplementary funds periodically must be made available to all counties on a competitive basis. Annually, by September 1st, the commissioner shall submit to the joint standing committee of the Legislature having jurisdiction over corrections matters a report of the activity in the prior fiscal year of the funds retained under this subsection, including the following:

A. The amount retained from each county;

B. The amount of any funds that have been carried over from previous fiscal years for each county;

C. The amount released to each county; and

D. The specific programs for which funds were released for each county, including an indication of whether each program serves juveniles or adults.

During fiscal year 1995-96, the department shall distribute to the counties all retained funds that are committed or uncommitted by June 30, 1995 under this subsection. The amount each county receives is its proportionate share based on the amount owed to that county as compared to the total amount owed to all counties.

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

Effective July 3, 1995.

CHAPTER 462

S.P. 251 - L.D. 648

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

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

Whereas, Acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

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

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

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

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

PART A

Sec. A-1. 2 MRSA §6, sub-§5, as repealed and replaced by PL 1993, c. 410, Pt. L, §1, is amended to read:

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

Director of Labor Standards;

Deputy Chief of the State Police;

State Archivist;

Director of Maine Geological Survey;

Executive Director, Maine Land Use Regulation Commission;

Chair, Maine Unemployment Insurance Commission;

Child Welfare Services Ombudsman; and

Director of the Maine Drug Enforcement Agency~~; and~~.

~~Executive Director, Maine Science and Technology Commission.~~

Sec. A-2. 2 MRSA §7, as amended by PL 1991, c. 885, Pt. A, §2 and affected by §§9 to 11, is repealed.

Sec. A-3. 4 MRSA §164, sub-§1-A, as amended by PL 1993, c. 675, Pt. B, §5 and c. 680, Pt. A, §1, is repealed and the following enacted in its place:

1-A. Appoint bail commissioners. Appoint bail commissioners pursuant to Title 15, section 1023, for any district;

Sec. A-4. 4 MRSA §164, sub-§15, ¶¶A and D, as amended by PL 1993, c. 680, Pt. A, §4, are further amended to read:

A. A fisheries and wildlife offense means any violation of any provision of Title 12, Part 10; any provision of law enumerated in Title 12, section 7053; or any rule adopted by the Com-

missioner of Inland Fisheries and Wildlife pursuant to ~~the rules~~ these provisions.

D. Any person who has been found guilty of or who has signed a plea of guilty to, or who has been found to have committed or who has signed a plea admitting or admitting with an explanation, one or more previous fisheries and wildlife offenses subject to this subsection within a 12-month period may not ~~permitted to~~ appear before the violations clerk unless the court, by order, permits that appearance. Each waiver of hearing filed under this subsection must recite on the oath or affirmation of the offender whether or not the offender has been previously found guilty of, or to have committed, or has previously signed a plea of guilty to, admitting or admitting with an explanation to, one or more fisheries and wildlife offenses within a 12-month period. Any person swearing falsely to such a statement, upon conviction, is subject to a fine of not more than $50.

Sec. A-5. 5 MRSA c. 12, as amended, is repealed.

Sec. A-6. 5 MRSA §937, sub-§1, as amended by PL 1993, c. 684, §1 and c. 708, Pt. J, §2, is repealed and the following enacted in its place:

1. Major policy-influencing positions. The following positions are major policy-influencing positions within the Department of Education. Notwithstanding any other provision of law, these positions and their successor positions are subject to this chapter:

A. Deputy Commissioner;

B. Deputy Commissioner;

F. Director, Planning and Management Information;

G. Federal and State Education Program Coordinator;

H. Executive Director, Interdepartmental Council, with the approval of the other commissioners of the Interdepartmental Council; and

I. Director, Office of Rehabilitation Services.

Sec. A-7. 5 MRSA §4612, sub-§6, as enacted by PL 1993, c. 327, §2, is amended to read:

6. Right to sue. If, within 180 days of a complaint being filed ~~by~~ with the commission, the commission has not filed a civil action in the case or has not entered into a conciliation agreement in the case, the complainant may request a right-to-sue letter, and, if a letter is given, the commission shall end its investigation.

Sec. A-8. 5 MRSA c. 353, first 2 lines, as repealed and replaced by PL 1993, c. 680, Pt. A, §14 and c. 728, §1, are repealed and the following enacted in their place:

CHAPTER 353

LAND FOR MAINE'S FUTURE

Sec. A-9. 5 MRSA §12004-I, sub-§47-A, as enacted by PL 1993, c. 381, §7 and c. 410, Pt. DD, §1, is repealed and the following enacted in its place:

47-A. Human Services	Protection and Advocacy Agency, Advisory Council	Not Authorized	5 MRSA §19504, sub-§2

Sec. A-10. 5 MRSA §12004-I, sub-§47-C is enacted to read:

47-C. Human Services: Public Health	Maine Public Drinking Water Commission	Expenses Only	22 MRSA §2660-C

Sec. A-11. 5 MRSA §13058, sub-§10, ¶B, as enacted by PL 1987, c. 769, §19, is repealed.

Sec. A-12. 5 MRSA §13080-M, as enacted by PL 1993, c. 729, §9, is amended to read:

§13080-M. Relationship to other laws

The activities of the authority must be conducted in accordance with the terms and conditions of the Federal Surplus Property Act, 50 Appendix United States Code, Section 1622 et seq.; the federal Airport and Airway Improvement Act of 1982, 49 United States Code App. Section 2201 et seq.; and Federal Aviation Administration Order 5190.6A. If a conflict exists between this article and those federal laws and rules, the federal requirements control.

Sec. A-13. 5 MRSA §17001, sub-§13, ¶B, as amended by PL 1993, c. 410, Pt. L, §12, is further amended to read:

B. "Earnable compensation" does not include:

(1) For any member who has 10 years of creditable service by July 1, 1993 or who has reached 60 years of age and has been in service for a minimum of one year immediately before that date, payment for more than 30 days of unused accumulated or accrued sick leave, payment for more than 30

days of unused vacation leave or payment for more than 30 days of a combination of both;

(2) For any member who is not covered by ~~subsection 1~~ subparagraph (1), payment for any unused accumulated or accrued sick leave or payment for any unused vacation leave;

(3) Any other payment that is not compensation for actual services rendered or that is not paid at the time the actual services are rendered; or

(4) Teacher recognition grants paid pursuant to Title 20-A, section 13503-A.

A payment for unused sick leave or unused vacation leave may not be included as part of earnable compensation unless it is paid upon the member's last termination before the member applies for retirement benefits.

Sec. A-14. 5 MRSA §17154, sub-§10, as amended by PL 1993, c. 580, §2 and affected by §3, is further amended to read:

10. Payment of additional actuarial costs incurred by the retirement system due to early retirement incentives. Notwithstanding the other provisions of this section, additional actuarial and reasonable administrative costs that result from the early retirement of a member offered a retirement incentive by an employer must be paid by the employer that offered and provided the incentive in a manner prescribed in rules adopted by the board. "Early retirement" means retirement before normal retirement age with a reduced retirement benefit as provided by section 17852, subsection 3 or 3-A, subsection 4, paragraph C or C-1 or subsection 10, paragraph C or C-1; section 17857, subsection 3-A; section 18452, subsection 3; or section 18462, subsection 3. For purposes of this ~~paragraph~~ subsection, "employer" means, in the case of a member who is a state employee, the department of State Government by which the member was last employed prior to retirement; in the case of a member who is a teacher, the local school administrative unit by which the member was last employed prior to retirement; and in the case of a member who is an employee of a participating local district, the district by which the member was last employed prior to retirement. An early retirement incentive that is part of a collective bargaining agreement executed or ratified in its final form by final vote of one party to the agreement prior to July 1, 1993 is not subject to this subsection for the initial term of that agreement.

Sec. A-15. 5 MRSA §18605, sub-§3, as enacted by PL 1993, c. 595, §14, is amended to read:

3. Cost-of-living adjustments. Benefits under this article are subject to adjustment as provided in section ~~17806~~ 18407.

Sec. A-16. 10 MRSA §973, as amended by PL 1993, c. 359, Pt. C, §5 and c. 460, §3 and affected by §9, is repealed and the following enacted in its place:

§973. Conflicts of interest

Notwithstanding Title 5, section 18, subsection 1, paragraph B, each member of the authority, each member of the Maine Education Assistance Board and each employee, contractor, agent or other representative of the authority is deemed an "executive employee" solely for purposes of Title 5, section 18, and for no other purpose, except that the chief executive officer in addition is deemed an "executive employee" for purposes of Title 5, section 19. Title 17, section 3104 does not apply to any of those representatives.

Sec. A-17. 10 MRSA §1013, sub-§10, as amended by PL 1991, c. 824, Pt. A, §12, is further amended to read:

10. Student financial assistance counseling and outreach program. The student financial assistance counseling and outreach program, as established in Title 20-A, chapter 430-B; and

Sec. A-18. 10 MRSA §1013, sub-§12, as amended by PL 1991, c. 612, §1, is repealed.

Sec. A-19. 10 MRSA §1100-T, sub-§3, as amended by PL 1991, c. 854, Pt. A, §11, is further amended to read:

3. Priority. The authority may reserve $500,000 in tax credit authorization for "natural resource enterprises," as defined in section 963-A, subsection 41~~, and may reserve an additional $500,000 in tax credit authorization for eligible investments in businesses located in job opportunity zones designated pursuant to Title 5, chapter 403 or in contiguous communities designated by the Commissioner of Economic and Community Development as being entitled to zone benefits due to special circumstances~~.

Sec. A-20. 10 MRSA c. 202-B, first 2 lines, as enacted by PL 1991, c. 535, are repealed and the following enacted in their place:

CHAPTER 202-C

COMMERCIAL LOAN AGREEMENTS

Sec. A-21. 10 MRSA c. 208-A, as enacted by PL 1993, c. 683, Pt. B, §1, is repealed.

Sec. A-22. 10 MRSA c. 208-B is enacted to read:

CHAPTER 208-B

FARM MACHINERY DEALERSHIPS

§1285. Definitions

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

1. Current net price. "Current net price" means the price listed in the supplier's price list or catalog in effect at the time the dealer agreement is terminated, less any applicable discounts allowed.

2. Dealer. "Dealer" means a person, corporation or partnership primarily engaged in the business of retail sales of farm and utility tractors, farm implements, farm machinery, yard and garden equipment, attachments, accessories and repair parts. "Dealer" does not include a person, corporation or partnership primarily engaged in the business of retail sales of heavy construction, industrial and utility equipment, attachments, accessories and repair parts.

3. Dealer agreement. "Dealer agreement" means a written or oral contract or agreement between a dealer and a wholesaler, manufacturer or distributor by which the dealer is granted the right to sell or distribute goods or services or to use a trade name, trademark, service mark, logotype or advertising or other commercial symbol.

4. Inventory. "Inventory" means farm, utility or industrial equipment, implements, machinery, yard and garden equipment, attachments or repair parts. These terms do not include heavy construction equipment.

5. Net cost. "Net cost" means the price the dealer paid the supplier for the inventory, less all applicable discounts allowed, plus the amount the dealer paid for freight costs from the supplier's location to the dealer's location, plus reasonable cost of assembly or disassembly performed by the dealer.

6. Supplier. "Supplier" means a wholesaler, manufacturer or distributor of inventory as defined in this chapter who enters into a dealer agreement with a dealer.

7. Termination. "Termination" of a dealer agreement means the cancellation, nonrenewal or noncontinuance of the agreement.

§1286. Usage of trade

The terms "utility" and "industrial," when used to refer to equipment, machinery, attachments, yard and garden equipment or repair parts, have the meanings commonly used and understood among dealers and suppliers of farm equipment as usage of trade in accordance with Title 11, section 1-205, subsection 2.

§1287. Notice of termination of dealer agreements

1. Notice of termination. Notwithstanding any agreement to the contrary, prior to the termination of a dealer agreement, a supplier shall notify the dealer of the termination not less than 90 days prior to the effective date of the termination. The supplier may immediately terminate the agreement at any time upon the occurrence of any of the following events:

A. The filing of a petition for bankruptcy or for receivership either by or against the dealer;

B. The making by the dealer of an intentional and material misrepresentation as to the dealer's financial status;

C. Any default by the dealer under a chattel mortgage or other security agreement between the dealer and the supplier;

D. Discontinuance by the dealer of more than 50% of the dealer's business related to the handling of goods provided by the supplier;

E. The commencement of voluntary or involuntary dissolution or liquidation of the dealer if the dealer is a partnership or corporation;

F. A change in location of the dealer's principal place of business as provided in the agreement without the prior written approval of the supplier;

G. Withdrawal of an individual proprietor, partner, major shareholder or the involuntary termination of the manager of the dealership or a substantial reduction in the interest of a partner or major shareholder without the prior written consent of the supplier; or

H. Breach by the dealer of a written obligation contained in the agreement.

2. Time of notice. Unless there is an agreement to the contrary, a dealer who intends to terminate a dealer agreement with a supplier shall notify the supplier of that intent not less than 90 days prior to the effective date of the termination.

3. Notice in writing. Notification required by this section must be in writing and be made by certified mail or by personal delivery and must contain:

A. A statement of intention to terminate the dealer agreement;

B. A statement of the reasons for the termination; and

C. The date on which the termination is effective.

§1288. Supplier's duty to repurchase

1. Repurchase. Whenever a dealer enters into a dealer agreement under which the dealer agrees to maintain an inventory, and the agreement is terminated by either party as provided in this chapter, the supplier, upon written request of the dealer filed within 30 days of the effective date of the termination, shall repurchase the dealer's inventory as provided in this chapter. There is no requirement for the supplier to repurchase inventory pursuant to this section if:

A. The supplier and dealer have made a written agreement with respect to repurchase;

B. The dealer has made an intentional and material misrepresentation as to the dealer's financial status;

C. The dealer has defaulted under a chattel mortgage or other security agreement between the dealer and supplier; or

D. The dealer has filed a voluntary petition in bankruptcy.

2. Death of dealer. Whenever a dealer enters into a dealer agreement in which the dealer agrees to maintain an inventory and the dealer or the majority stockholder of the dealer, if the dealer is a corporation, dies or becomes incompetent, the supplier shall, at the option of the heir, personal representative, or guardian of the dealer, or the person who succeeds to the stock of the majority stockholder, repurchase the inventory as if the agreement had been terminated. The heir, personal representative, guardian or succeeding stockholder has one year from the date of the death of the dealer or majority stockholder to exercise the option under this chapter.

§1289. Repurchase terms

1. Examination of records. Within 90 days from receipt of the written request of the dealer, a supplier under the duty to repurchase inventory pursuant to section 1288 may examine any books or records of the dealer to verify the eligibility of any item for repurchase. Except as otherwise provided in this chapter, the supplier shall repurchase from the dealer all inventory previously purchased from the supplier in the possession of the dealer on the date of termination of the dealer agreement.

2. Payment terms. The supplier shall pay the dealer:

A. One hundred percent of the net cost of all new and undamaged and complete farm, utility and industrial equipment, implements, machinery, yard and garden equipment and attachments, less a reasonable allowance for deterioration attributable to weather conditions at the dealer's location;

B. Ninety percent of the current net prices of all new and undamaged repair parts; and

C. Eighty-five percent of the current net prices of all new and undamaged superseded repair parts.

3. Return costs. The party that initiates the termination of the dealer agreement shall pay the cost of the return, handling, packing and loading of the inventory.

4. Payment date. Payment to the dealer required under this section must be made by the supplier not later than 60 days after receipt of the inventory by the supplier. The supplier is entitled to apply any payment required under this section to be made to the dealer, as a setoff against any amount owed by the dealer to the supplier.

§1290. Exceptions to repurchase requirement

1. Exceptions. The provisions of this chapter do not require the repurchase from a dealer of:

A. A repair part with a limited storage life or otherwise subject to physical or structural deterioration including, but not limited to, gaskets or batteries, but excluding industrial "press on" or industrial pneumatic tires;

B. A single repair part normally priced and sold in a set of 2 or more items;

C. A repair part that, because of its condition, can not be marketed as a new part without repackaging or reconditioning by the supplier or manufacturer;

D. An item of inventory for which the dealer does not have title free of all claims, liens and encumbrances other than those of the supplier;

E. Any inventory that the dealer elects to retain;

F. Any inventory ordered by the dealer after receipt of notice of termination of the dealer agreement by either the dealer or supplier;

G. Any inventory that was acquired by the dealer from a source other than the supplier; or

H. Any farm, utility or industrial equipment, implements, machinery, yard and garden equip-

ment or attachments that were purchased by the dealer more than 30 months prior to the termination of the dealer agreement.

§1291. Transfer of business

1. Transfer. A supplier may not unreasonably withhold or delay consent to any transfer of the dealer's business or transfer of the stock or other interest in the dealership, whenever the dealer to be substituted meets the material and reasonable qualifications and standards required of its dealers. If a supplier determines that a proposed transferee does not meet its qualifications and standards, it shall give the dealer written notice thereof, stating the specific reasons for withholding consent. A prospective transferee may not be disqualified from being a dealer because it is a publicly held corporation. A supplier has 45 days to consider a dealer's request to make a transfer under this subsection.

2. Withhold consent. Notwithstanding subsection 1, no supplier may withhold consent to, or in any manner retain a right of prior approval of, the transfer of the dealer's business to a member or members of the family of the dealer or the principal owner of the dealer. As used in this subsection, "family" means and includes the spouse, parent, siblings, children, stepchildren and lineal descendants, including those by adoption of the dealer or principal owner of the dealer.

3. Assume obligations. Whenever a transfer of a dealer's business occurs, the transferee shall assume all the obligations imposed on and succeed to all the rights held by the selling dealer by virtue of any agreement, consistent with this chapter, entered into prior to the transfer between the selling dealer and one or more suppliers.

4. Burden of proof. In any dispute as to whether a supplier has denied consent in violation of this section, the supplier has the burden of proving a substantial and reasonable justification for the denial of consent.

§1292. Uniform commercial practice

1. Security interest. Nothing contained in this chapter may be construed to release or terminate a perfected security interest of the supplier in the inventory of the dealer.

§1293. Warranty obligations

1. Payment of warranty claim. Whenever a supplier and a dealer enter into an agreement providing consumer warranties, the supplier shall pay any warranty claim made by the dealer for warranty parts or service within 30 days after its receipt and approval. The supplier shall approve or disapprove a warranty claim within 30 days after its receipt. If a claim is not specifically disapproved in writing within 30 days after its receipt, it is deemed to be approved and payment must be made by the supplier within 30 days.

2. Indemnity. Whenever a supplier and a dealer enter into a dealer agreement, the supplier shall indemnify and hold harmless the dealer against any judgment for damages arising from breach of warranty or rescission of the sale by the supplier.

§1294. Remedies

1. Jurisdiction. Concurrent jurisdiction under this chapter is in the District Court or Superior Court of the city or county where the dealer has its principal place of business. The court may grant equitable relief as is necessary to remedy the effects of conduct that it finds to exist and is prohibited under this chapter, including, but not limited to, declaratory judgment and injunctive relief.

2. Recovery. In addition to any other remedies available at law or in equity, if a supplier has attempted or accomplished an annulment, cancellation or termination, or refused to continue or renew an agreement without good cause or withheld or delayed consent in violation of section 1287 or 1291, then the dealer is entitled to recover losses and damages, together with the cost of the action and reasonable legal fees. These damages include compensation for the value of the agreement and the good will of the dealer's business.

3. Arbitration. Nothing contained in this section may bar the right of an agreement to provide for binding arbitration of disputes. Any arbitration must be consistent with the provisions of this chapter and Title 14, chapter 706, and the place of any arbitration must be in the city or county in which the dealer maintains the dealer's principal place of business in the State.

4. Renewal of agreement. No supplier may cancel, terminate or refuse to continue to renew an agreement during the 90-day period set forth in section 1287 or during the pendency of litigation or arbitration, except under the conditions set forth in section 1287, subsection 1.

§1295. Management

A supplier may not require or prohibit any change in management or personnel of any dealer unless the current or potential management or personnel fails to meet reasonable qualifications and standards required by the supplier for its dealers.

§1296. Waiver of chapter void

The provisions of this chapter are deemed to be incorporated in every agreement and supersede and control all other provisions of the agreement. A supplier may not require any dealer to waive compliance with any provision of this chapter. Any contract or agreement purporting to do so is void and unenforceable to the extent of the waiver or variance. Nothing in this chapter may be construed to limit or prohibit good faith settlements of disputes voluntarily entered into between the parties.

§1297. Applicability

This chapter applies to agreements in effect as of October 1, 1989. In addition, this chapter applies to any agreements entered into after October 1, 1989. The provisions of this chapter are also applicable to any renewal or amendment of the agreements.

§1298. Reasonableness and good faith

1. Good faith. Every agreement entered into under this chapter imposes on the parties the obligation to act in good faith.

2. Reasonableness. This chapter imposes on every term and provision of any agreement a requirement of reasonableness. Every term or provision of any agreement must be interpreted so that the requirements or obligations imposed are reasonable.

Sec. A-23. Retroactivity. Those sections of this Act that repeal the Maine Revised Statutes, Title 10, chapter 208-A and enact chapter 208-B take effect retroactively to January 1, 1995.

Sec. A-24. 10 MRSA §1522, sub-§1, ¶G, as amended by PL 1993, c. 616, §1 and c. 718, Pt. B, §2, is repealed and the following enacted in its place:

G. Consists of or comprises a corporate, limited liability company or limited partnership name, unless the corporation, limited liability company or limited partnership executes and files with the Secretary of State proof of authorization of the use of a mark similar to the corporation, limited liability company or limited partnership name by the applicant seeking to use the mark;

Sec. A-25. 10 MRSA §3411, as amended by PL 1983, c. 824, Pt. X, §1, is further amended to read:

§3411. Lien

Every individual, partnership, firm, association, corporation, institution or any governmental unit or combination or parts ~~thereof~~ of a partnership, firm, association, corporation, institution or governmental unit maintaining and operating a hospital licensed in the State ~~shall be~~ is entitled to a lien for the reasonable charges for hospital care, treatment and maintenance of an injured person upon any and all causes of action, suits, claims, ~~counter-claims~~ counterclaims or demands accruing to the person to whom such care, treatment or maintenance was furnished, or to the legal representatives of such person, on account of injuries giving rise to such causes of action and which necessitated such hospital care, treatment and maintenance, except that no entitlement to such a lien may exist against the principal residence of any person in any 12-month period or periods during which that person is eligible for financial assistance under the catastrophic illness program, Title 22, section 3185. Such lien ~~shall~~ may not be applied or considered valid against anyone coming under the former Workers' Compensation Act ~~in this State~~ or the Maine Workers' Compensation Act of 1992, and nothing enacted by this chapter ~~shall~~ may be construed so as to give such lien precedence over the claim or contract of an attorney for legal services rendered with respect to the claim of the injured party nor ~~shall~~ may this lien be applicable to any accident or health insurance policy, or the proceeds from the same, owned by or running to the benefit of the injured person.

Sec. A-26. 10 MRSA §9003, sub-§2, as amended by PL 1993, c. 600, Pt. A, §13 and c. 642, §10, is repealed and the following enacted in its place:

2. Composition of board; terms of members. The members of the board must include:

A. One member who is a manufactured housing owner and whose manufactured housing unit is not located in a mobile home park or similar rental community;

B. Two members who are manufactured housing owners and the manufactured housing units in which the owners live are located on lots, within mobile home parks or similar rental communities, that the manufactured housing owners do not own;

C. One member who is a professional engineer with demonstrated experience in construction and building technology;

D. One member who is a dealer;

E. One member who is an owner or operator of a mobile home park with 15 or fewer lots;

F. One member who is an owner or operator of a mobile home park with more than 15 lots;

G. One member who is a builder of manufactured housing; and

H. One member with a minimum of 2 years of practical experience in building code administra-

tion and enforcement and with current employment as a code enforcement officer.

The term of office of the members is 4 years. Appointment of a member must comply with Title 32, section 60. A member of the board may be removed for cause by the Governor.

Sec. A-27. 10 MRSA §9003, sub-§3, as repealed by PL 1993, c. 600, Pt. A, §14 and amended by c. 642, §10, is repealed.

Sec. A-28. 11 MRSA §9-402, sub-§(1), as amended by PL 1977, c. 696, §144, is further amended to read:

(1) A financing statement is sufficient~~,~~ if it gives the names of the debtors and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral; ~~provided~~ except that, for purposes of this section, if the collateral is a mobile home ~~as defined in Title 10, section 1402, subsection 2,~~ the description of collateral ~~shall~~ must include the location designated by the debtor in the security agreement as the place at which the mobile home is, or is to be, located. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers timber to be cut ~~or covers~~; minerals or the like, including oil and gas~~,~~ or accounts subject to section 9-103, subsection (5)~~,~~; or ~~covers~~ crops growing or to be grown, or when the financing statement is filed as a fixture filing, section 9-313~~,~~ and the collateral is goods ~~which~~ that are or are to become fixtures, the statement must comply with subsection (5). A copy of the security agreement is sufficient as a financing statement~~,~~ if it contains the above information and is signed by the debtor. A legible carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this State.

Sec. A-29. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 11, section 9-402, subsection (1), applies retroactively to April 8, 1994.

Sec. A-30. 12 MRSA §685-A, sub-§8, as amended by PL 1977, c. 694, §227-B, is repealed and the following enacted in its place:

8. Amendments to district boundaries and standards. The commission, of its own accord, may initiate, and any state or federal agency or any property owner or lessee, may petition for a change in the boundary of any land use district or for amendments to any land use standard.

The commission shall, within 45 days of receipt of the petition, either approve the proposed amendment, deny the proposed amendment or schedule a public hearing on the proposed amendment in the manner provided in subsection 7. The notification procedures set forth in Title 5, section 8053 are not required prior to the commission's action upon a petition by a landowner for revision to the district boundaries within the landowner's ownership unless the commission determines to hold a hearing prior to acting upon the petition. Notice of the hearing must be given to all abutting landowners.

No change in a district boundary may be approved, unless there is substantial evidence that:

A. The change is consistent with the standards for district boundaries in effect at the time; the comprehensive land use plan; and the purpose, intent and provisions of this chapter; and

B. The change in districting satisfies demonstrated need in the community or area and has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area.

No amendment to land use standards may be approved unless there is substantial evidence that the change would better serve the purpose, intent and provisions of this chapter and would be consistent with the comprehensive land use plan.

Amendments to land use standards so adopted are effective immediately but must be submitted to the next regular or special session of the Legislature for approval or modification. If the Legislature fails to act, those standards continue in full force and effect.

Sec. A-31. 12 MRSA §4807-G, as repealed and replaced by PL 1977, c. 300, §7, is amended to read:

§4807-G. Violations

Each day of violation of any provision of this chapter or the ~~regulations~~ rules enacted ~~hereunder shall be~~ under this chapter is considered a separate offense. Alternatively, and in addition ~~thereto~~ to being an offense, any use of land in violation of this chapter ~~shall be deemed~~ is considered to be a nuisance and the ~~board~~ Department of Human Services may seek an injunction to prevent or abate a violation of this chapter or ~~regulations promulgated thereunder~~ rules adopted under this chapter.

Sec. A-32. 12 MRSA §6749-Q, as enacted by PL 1993, c. 740, §3, is amended to read:

§6749-Q. License surcharges

The following surcharges are assessed on licenses sold for calendar years 1995, 1996 and 1997:

1. Hand fishing sea urchin license. One hundred and sixty dollars on a sea urchin hand harvesting license;

2. Sea urchin dragging license. One hundred and sixty dollars on a sea urchin dragging license;

3. Sea urchin boat tender's license. Thirty-five dollars on a sea urchin boat tender's license;

4. Wholesale seafood license with a sea urchin buyer's permit. Five hundred dollars on a wholesale seafood license with a sea urchin buyer's permit; and

5. Wholesale seafood license with a sea urchin processor's permit. Two thousand five hundred dollars on a wholesale seafood license with a sea urchin processor's permit.

~~The commissioner shall deposit all surcharges assessed in this section in the Sea Urchin Research Fund established in section 6749-R.~~

The commissioner shall deposit all surcharges assessed in this section in the Sea Urchin Research Fund established in section 6749-R.

Sec. A-33. 12 MRSA §7076, sub-§1, as amended by PL 1993, c. 24, §1 and c. 574, §7, is repealed and the following enacted in its place:

1. Residents over 70 years of age. A complimentary license to hunt, trap or fish, including an archery license under section 7102-A, a pheasant hunting permit under section 7106-B and a muzzle-loading hunting license under section 7107-A, must be issued to any resident of Maine who is 70 years of age or older upon application to the commissioner. These complimentary licenses, upon issuance, remain valid for the remainder of the life of the license holder, provided the license holder continues to satisfy the residency requirements set out in section 7001, subsection 32 and provided the license is not revoked or suspended. Residents who apply for these complimentary licenses at any time during the calendar year of their 70th birthday must be issued a license upon application, regardless of the actual date during that calendar year in which they attain age 70. A guide license may be renewed without charge for any resident of Maine who is 70 years of age or older upon application to the commissioner. The application must be accompanied by a birth certificate or other certified evidence of the applicant's date of birth and residency. When the holder of a license issued under this subsection no longer satisfies the residency requirements set out in section 7001, subsection 32, the license is no longer valid and further use of the license for purposes of hunting, fishing or trapping constitutes a license violation under section 7371, subsection 3.

Sec. A-34. 12 MRSA §7106-A, as repealed and replaced by PL 1993, c. 438, §5, is repealed.

Sec. A-35. 12 MRSA §7106-B is enacted to read:

§7106-B. Pheasant hunting permit

1. Issuance. The commissioner or the commissioner's authorized agent may issue a pheasant hunting permit in the form of a stamp to applicants 16 years of age or older permitting them to hunt or possess pheasants in Cumberland County and York County. A person under 16 years of age may hunt or possess pheasants in accordance with chapters 701 to 721, except that a person under 16 years of age is not required to purchase or carry a pheasant hunting permit in order to hunt or possess pheasants.

2. Fee. The fee for a pheasant hunting permit is $16, $1 of which is retained by the commissioner's authorized agent.

3. Validation. A pheasant hunting permit is validated by the permittee writing the permittee's signature across the face of the stamp in ink.

4. Restrictions. The following restrictions apply to the hunting or possession of any pheasant in Cumberland County and York County.

A. A person must carry an unexpired validated pheasant hunting permit at all times when hunting or possessing a pheasant.

B. A pheasant hunting permit must be exhibited to a warden or employee of the department upon request.

5. Pheasant Fund; agreements. Revenues generated from the sale of pheasant hunting permits must be deposited into a separate account within the department, to be known as the Pheasant Fund and referred to in this section as the "fund." The fund is nonlapsing. The fund may be used only for costs directly related to the administration of the pheasant program, including grants to a qualified rod and gun club or qualified hunting-oriented organization to help defray the costs of purchasing and raising pheasants in accordance with an agreement with the commissioner. The commissioner may enter into an agreement with any qualified rod and gun club or qualified hunting-oriented organization to allow the club or organization to purchase and raise pheasants. An agreement

entered into pursuant to this subsection may provide for the use of department facilities for raising pheasants by a qualified rod and gun club or qualified hunting-oriented organization. For purposes of this subsection, "qualified rod and gun club or qualified hunting-oriented organization" means a rod and gun club or a hunting-oriented organization that has demonstrated involvement in raising and releasing pheasants in the year prior to entering into an agreement with the commissioner to purchase and raise pheasants.

6. Department participation. The department may not purchase or raise pheasants.

7. Release of birds. All pheasants purchased and raised under an agreement with the commissioner pursuant to subsection 5 must be released under the direction of department officials in areas open to hunting for the general public.

8. Rules. The commissioner may adopt rules necessary for the proper administration, enforcement and interpretation of this section.

Sec. A-36. 13-B MRSA §201, sub-§3, ¶G, as enacted by PL 1985, c. 737, Pt. A, §35, is amended to read:

G. Volunteer fire associations, as that term is used in Title ~~30~~ 30-A, chapter ~~228~~ 153.

Sec. A-37. 17 MRSA §331, sub-§7, as repealed and replaced by PL 1989, c. 254, §1, is amended to read:

7. Special exempt raffles; prizes more than $10,000 but not more than $25,000. The following rules apply to special exempt raffles licensed under this subsection.

A. Except as provided in subsection 8, the Chief of the State Police may issue one special exempt raffle license per year to any organization, department or class eligible to hold a raffle under subsection 6 without obtaining a license. The special exempt raffle license entitles the licensee to hold one raffle in which the holder of a winning chance receives something of value worth more than $10,000 but not more than $25,000. Section 341 does not apply to raffles licensed under this section.

B. The Chief of the State Police may not issue a license under this subsection to hold a raffle in which the holder of a winning chance receives a cash prize worth more than $10,000.

C. All tickets sold pursuant to a special exempt raffle license shall be purchased from a licensed distributor or licensed printer. Tickets shall be sequentially numbered and have printed on their faces the following information: the name of the special exempt raffle licensee; a description of the prize or prizes; the price of the ticket; and the date, time and place of the drawing. Any organization, department or class listed in subsection 6 that conducts a raffle under section 331-A shall retain all unsold raffle tickets for 6 months after the raffle drawing and make those tickets available for inspection at the request of the Chief of the State Police.

Sec. A-38. 17 MRSA §331, sub-§8-A, as enacted by PL 1991, c. 796, §3, is amended to read:

8-A. Special exempt raffles; prizes more than $10,000 but not more than $75,000. The following rules apply to special exempt raffles licensed under this subsection.

A. The Chief of the State Police may issue one special exempt raffle license per year to any organization, department or class eligible to hold a raffle under subsection 6 without obtaining a license. The special exempt raffle license entitles the licensee to hold one raffle in which the holder of a winning chance receives something of value worth more than $10,000 but not more than $75,000. Section 341 does not apply to raffles licensed under this section.

B. The Chief of the State Police may not issue a license under this subsection to hold a raffle in which the holder of a winning chance receives a cash prize worth more than $10,000.

C. All tickets sold pursuant to a special exempt raffle license must be purchased from a licensed distributor or licensed printer. Tickets must be sequentially numbered and have printed on their faces the following information: the name of the special exempt raffle licensee; a description of the prize or prizes; the price of the ticket; and the date, time and place of the drawing. Any organization, department or class listed in subsection 6 that conducts a raffle under section 331-A shall retain all unsold raffle tickets for 6 months after the raffle drawing and make those tickets available for inspection at the request of the Chief of the State Police.

D. The Chief of the State Police may issue only one special exempt raffle license per year, either under this subsection or subsection 7, to the same organization, department or class listed in subsection 6.

Sec. A-39. 18-A MRSA §5-419, sub-§(a), as amended by PL 1991, c. 641, §4, is further amended to read:

(a) Every conservator must account to the court for the administration of the trust as specified by the court at the time of the initial order or at the time of a subsequent order or as provided by court rule and upon resignation or removal. On termination of the protected person's minority or disability, a conservator may account to the court or may account to the former protected person or that person's personal representative. Prior to the termination of the protected person's minority ~~and the termination of any extension ordered pursuant to section 5-408, paragraph (6)~~, the conservator must account to the court and the protected person.

Sec. A-40. 20-A MRSA c. 701, first 2 lines, as enacted by PL 1993, c. 708, Pt. A, §1, are repealed and the following enacted in their place:

PART 8

REHABILITATION SERVICES

CHAPTER 701

REHABILITATION ACT

Sec. A-41. 22 MRSA §309, sub-§1, ¶D, as amended by PL 1993, c. 477, Pt. D, §4 and affected by Pt. F, §1, is further amended to read:

D. That the proposed services are consistent with the orderly and economic development of health facilities and health resources for the State, that the citizens of the State have the ability to underwrite the additional costs of the proposed services and that the proposed services are in accordance with standards, criteria or plans adopted and approved pursuant to the state health plan developed by the department and the findings of the Maine Health Care Finance Commission under section ~~396-J~~ 396-K with respect to the ability of the citizens of the State to pay for the proposed services.

Sec. A-42. 22 MRSA §2660-C, first ¶, as enacted by PL 1993, c. 410, Pt. DD, §4, is amended to read:

The Maine Public Drinking Water Commission as established by Title 5, section 12004-I, subsection ~~47-A~~ 47-C, is created within the department.

Sec. A-43. 22 MRSA §3187, first ¶, as enacted by PL 1987, c. 402, Pt. A, §141, is amended to read:

The department shall meet annually with providers of community based intermediate care facilities for the mentally retarded to review current principles of reimbursement ~~for United States Code~~ under the federal Social Security Act, Title XIX, 42 United States Code, chapter 7, and discuss necessary and appropriate changes.

Sec. A-44. 22 MRSA §4318, 2nd ¶, as enacted by PL 1991, c. 622, Pt. M, §27, is amended to read:

Notwithstanding any other provision of law, municipalities have a lien for the value of all general assistance payments made to a recipient on any lump sum payment made to that recipient under the former Workers' Compensation Act, the Maine Workers' Compensation Act of 1992 or similar law of any other state.

Sec. A-45. 22 MRSA §5001, sub-§9, as repealed by PL 1989, c. 400, §6 and amended by PL 1989, c. 410, §23, is repealed.

Sec. A-46. 24-A MRSA §1519, sub-§2, as amended by PL 1993, c. 637, §19, is repealed and the following enacted in its place:

2. As to applicants not licensed under this Title or licensed as insurance agent, broker or adjuster in this State under laws now in force, the superintendent shall secure, as soon as is reasonably possible after filing of the application, a credit or investigation report relative to the applicant from a recognized and established independent investigation and reporting agency. The cost, if any, of such report, in a reasonable uniform flat amount as from time to time fixed by the superintendent, must be paid by or on behalf of the applicant, and must be deposited with the superintendent at the time of filing the application. The superintendent shall promptly deposit the payment with the Treasurer of State to the credit of the Insurance Regulatory Fund. The superintendent shall keep confidential the contents of any such report and shall destroy the report after the application has been approved.

Sec. A-47. 24-A MRSA c. 79, first 2 lines, as enacted by PL 1993, c. 688, §1, are repealed and the following enacted in their place:

CHAPTER 81

MULTIPLE-EMPLOYER WELFARE ARRANGEMENTS

Sec. A-48. 25 MRSA §2359, as amended by PL 1987, c. 35, §2 and c. 192, §5, is repealed and the following enacted in its place:

§2359. Refusing admission to inspector

An owner or occupant of a building, who refuses to permit an inspector of buildings to enter the buildings or willfully obstructs the inspector in the inspection of such building as required by chapters

313 to 321, must be penalized in accordance with Title 30-A, section 4452.

Sec. A-49. 25 MRSA §2806, sub-§2, ¶A, as amended by PL 1993, c. 551, §4 and c. 744, §14, is repealed and the following enacted in its place:

A. For subsection 1, paragraph A and subsection 1, paragraph B, subparagraph (2), (4), (5) or (6):

(1) In accordance with Title 5, chapter 375, subchapter IV; or

(2) Upon notice, through conducting an informal conference with the officer. If the board finds the factual basis of the complaint is true and that further action is warranted, it may enter into a consent agreement with the officer, which may contain provisions including voluntary surrender of the certificate and terms and conditions of recertification;

Sec. A-50. 30-A MRSA §66, sub-§2, ¶A, as amended by PL 1993, c. 554, §1, is further amended to read:

A. Commissioner District Number 1 consists of the municipalities of Amity, Ashland, Bancroft, Blaine, Bridgewater, Cary Plantation, Crystal, Dyer Brook, Easton, Fort Fairfield, Garfield Plantation, Glenwood Plantation, Hammond, Haynesville, Hersey, Hodgdon, Houlton, Island Falls, Linneus, Littleton, Ludlow, Macwahoc Plantation, Mars Hill, Masardis, Merrill, Monticello, Moro Plantation, Nashville Plantation, New Limerick, Oakfield, Orient, Oxbow Plantation, Reed Plantation, Sherman, Smyrna, Westfield, Weston and the unorganized territories of Central Aroostook and South Aroostook and ~~that portion~~ those portions of the unorganized territory formerly known as Benedicta and E Plantation. The term of office of the county commissioner from this district expires in 1994 and every 4 years thereafter.

Sec. A-51. 30-A MRSA §899-A is enacted to read:

§899-A. Review

The joint standing committee of the Legislature having jurisdiction over county government matters may review the operation of the budget committee before February 1, 1997 and, if it determines necessary, introduce legislation to amend or repeal this article. If the committee fails to act, this article continues in effect.

Sec. A-52. 30-A MRSA §900, as enacted by PL 1993, c. 582, §1, is repealed.

Sec. A-53. 30-A MRSA §5263, sub-§10, as enacted by PL 1993, c. 671, §2, is amended to read:

10. Pulp and paper industry. "Pulp and paper industry" means any industrial activity currently described by the United States Office of Management and Budget under Standard Industrial Classification 261, 262 or 263 or those activities classified under classification 2679 that press or mold wood pulp or recycled fiber to make products, including, without limitation, any activity regarding the treatment, recycling or disposal of wastewater, air emissions, solid residues or other related manufacturing by-products. This term does not include activity relating to, associated with or otherwise involving the growth, harvesting, transportation or preparation of timber, pulpwood or other wood products prior to the manufacture of pulp, paper or paperboard.

Sec. A-54. 30-A MRSA §5703, sub-§1, as enacted by PL 1989, c. 381, is amended to read:

1. Limitations on municipal debt. The limitations on municipal debt in section 5702 shall not be construed as applying to any funds received in trust by any municipality, any loan which has been funded or refunded, notes issued in anticipation of federal or state aid or revenue sharing money, tax anticipation loans, notes maturing in the current municipal year, indebtedness of entities other than municipalities, indebtedness of any municipality to the Maine School Building Authority, debt issued under chapter ~~235~~ 213 and Title 10, chapter 110, subchapter IV, obligations payable from revenues of the current municipal year or from other revenues previously appropriated by or committed to the municipality, and the state reimbursable portion of school debt. The limitations on municipal debt set forth in section 5702 do not apply to obligations incurred by one or more municipalities pursuant to Title 38, section 1304-B, with respect to solid waste facilities, which obligations are regulated in the manner set forth in Title 38, section 1304-B.

Sec. A-55. 32 MRSA §1075, last ¶, as amended by PL 1993, c. 600, Pt. A, §61 and c. 659, Pt. B, §4, is repealed and the following enacted in its place:

The commissioner may not exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by law to the board. The commissioner may require the board to be accessible to the public for complaints and questions during regular business hours and to provide any information the commissioner requires in order to ensure that the board is operating administratively within the requirements of this chapter.

Sec. A-56. 32 MRSA §2153-A, sub-§11, as enacted by PL 1993, c. 600, Pt. A, §123, is amended to read:

11. Budget. Shall submit to the Commissioner of Professional and Financial Regulation its budgetary requirements in the same manner as is provided in Title 5, section 1665 and the commissioner shall in turn transmit these requirements to the Bureau of the Budget without revision or change, unless alterations are mutually agreed upon by the department and the board or the board's designee. The budget submitted by the board to the commissioner must be sufficient to enable the board to comply with this subchapter;

Sec. A-57. 32 MRSA §2153-A, last ¶, as enacted by PL 1993, c. 600, Pt. A, §123, is amended to read:

The Commissioner of Professional and Financial Regulation shall act as a liaison between the board and the Governor. The commissioner does not have the authority to exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by statute to the board. The commissioner may require the board to be accessible to the public for complaints and questions during regular business hours and to provide any information the commissioner requires in order to ensure that the board is operating administratively within the requirements of this chapter.

Sec. A-58. 32 MRSA §2418, last ¶, as amended by PL 1993, c. 600, Pt. A, §147 and c. 659, Pt. B, §10, is repealed and the following enacted in its place:

The commissioner may not exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by statute to the board. The commissioner may require the board to be accessible to the public for complaints and questions during regular business hours and to provide any information the commissioner requires in order to ensure that the board is operating administratively within the requirements of this chapter.

Sec. A-59. 32 MRSA §2418-A, as amended by PL 1993, c. 600, Pt. A, §148 and c. 659, Pt. B, §11, is repealed and the following enacted in its place:

§2418-A. Budget

The board shall submit to the Commissioner of Professional and Financial Regulation its budgetary requirements as provided in Title 5, section 1665, and the commissioner shall in turn transmit these requirements to the Bureau of the Budget without any revision or other change, unless alterations are mutually agreed upon by the department and the board or the board's designee. The budget submitted by the board to the commissioner must be sufficient to enable the board to comply with this subchapter.

Sec. A-60. 32 MRSA §3271, sub-§2, as amended by PL 1993, c. 600, Pt. A, §208 and c. 659, Pt. B, §16, is repealed and the following enacted in its place:

2. Postgraduate training. Each applicant who has graduated from an accredited medical school on or after January 1, 1970 must have satisfactorily completed at least 24 months in a graduate educational program approved by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada. Each applicant who has graduated from an accredited medical school prior to January 1, 1970, must have satisfactorily completed at least 12 months in a graduate educational program approved by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada. Each applicant who has graduated from an unaccredited medical school must have satisfactorily completed at least 36 months in a graduate educational program approved by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association, the Royal College of Physicians and Surgeons of Canada or the Royal Colleges of Physicians of England, Ireland or Scotland. Notwithstanding this subsection, an applicant who is board certified in family practice and who graduated prior to July 1, 1974, is board certifiable, board certified or board eligible in emergency medicine and who graduated prior to July 1, 1982, is deemed to meet the postgraduate training requirements of this subsection.

Sec. A-61. 32 MRSA §3280, as amended by PL 1993, c. 600, Pt. A, §216, is repealed.

Sec. A-62. 32 MRSA §3604, as amended by PL 1993, c. 600, Pt. A, §237 and c. 659, Pt. B, §17, is repealed and the following enacted in its place:

§3604. Reports; liaison; limitations

On or before August 1st of each year, the board shall submit to the commissioner, for the preceding fiscal year ending June 30th, an annual report of its operations and financial position, together with comments and recommendations the board determines essential.

The commissioner shall act as a liaison between the board and the Governor.

The commissioner may not exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by law to the board. The commissioner may require the board to be accessible to the public for complaints and questions during regular business hours and to provide any information the commissioner requires in order to ensure that the

board is operating administratively within the requirements of this chapter.

Sec. A-63. 34-A MRSA §1001, sub-§6, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

6. Correctional facility. "Correctional facility" means any facility that falls under the jurisdiction of the department, but does not include a county jail, holding facility, short-term detention area or a detention facility.

Sec. A-64. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 34-A, section 1001, subsection 6 applies retroactively to October 9, 1991.

Sec. A-65. 35-A MRSA §4403, as enacted by PL 1993, c. 662, §1, is amended to read:

§4403. Surplus energy pool established

The commission shall, within 90 days of the effective date of this section, estimate the total amount of surplus electricity that is likely to be available to each eligible electric utility and the period during which that surplus will be available. The commission shall calculate the total surplus as the amount of electricity not required to meet the utility's projected load at any time during the period of surplus and not needed to satisfy the requirements of the utility's participation in the New England power pool as defined in section 4103. The energy pool available to be auctioned under this chapter may be no more than 80% of the total surplus electricity estimated by the commission. The commission may further restrict the size of the pool to the extent the commission determines necessary to protect the interests of ratepayers. This ~~subsection~~ section does not preclude an eligible electric utility from marketing surplus energy under any other applicable tariff or special contract filed with the commission.

Sec. A-66. 35-A MRSA §7302, sub-§1, as amended by PL 1993, c. 589, §13 and c. 708, Pt. J, §10, is repealed and the following enacted in its place:

1. Rate reduction. The commission shall establish a 70% rate reduction for intrastate toll calls made on lines, or via credit cards assigned to lines, used for making calls from certified deaf, hard-of-hearing or speech-impaired persons who must rely on teletypewriters for residential telephone communications. In addition, the 70% rate reduction must apply to all calls using the state telecommunications relay service. Upon request, this discount must be provided to any noncertified user making calls to a certified user, provided the noncertified user informs the local exchange carrier or toll provider of the relevant billed calls made during each billing period. This reduction must also apply to intrastate toll calls made by agencies certified by the Division of Deafness in the Department of Education as eligible to receive a discount, while providing vocal relay services to deaf, hard-of-hearing or speech-impaired persons, as well as to community service centers serving deaf, hard-of-hearing or speech-impaired persons certified by the Division of Deafness of the Department of Education as eligible to receive a discount. The costs incurred by a telephone company under this subsection are just and reasonable expenses for rate-making purposes.

Sec. A-67. 36 MRSA §305, sub-§1, as amended by PL 1993, c. 696, §4, is further amended to read:

1. Just value. Certify to the Secretary of State before the first day of February the equalized just value of all real and personal property in each municipality and unorganized place that is subject to taxation under the laws of this State, except that percentage of captured assessed value located within a tax increment financing district that is used to finance that district's development plan and the valuation amount by which the current assessed value of commercial and industrial property within a municipal incentive development zone, as determined in Title 30-A, section 5284, exceeds the assessed value of commercial and industrial property within the zone as of the date the zone is approved by the Commissioner of Economic and Community Development, known in this subsection as the "sheltered value," up to the amount invested by a municipality in infrastructure improvements under an infrastructure improvement plan adopted pursuant to Title 30-A, section 5283. The equalized just value must be uniformly assessed in each municipality and unorganized place and be based on 100% of the current market value. It must separately show for each municipality and unorganized place the actual or estimated value of all real estate that is exempt from property taxation by law or is the captured value within a tax increment financing district that is used to finance that district's development plan, as reported on the municipal valuation return filed pursuant to section 383, or that is the sheltered value of a municipal incentive development zone. The valuation as filed remains in effect until the next valuation is filed and is the basis for the computation and apportionment of the state and county taxes;

Sec. A-68. 36 MRSA §653, sub-§1, ¶E, as amended by PL 1993, c. 680, Pt. A, §29 and repealed and replaced by c. 739, §3, is repealed and the following enacted in its place:

E. The word "veteran" as used in this subsection means any person, male or female, who was in active service in the Armed Forces of the United States and who, if discharged, retired or separated from the Armed Forces, was discharged,

retired or separated under other than dishonorable conditions.

Sec. A-69. 36 MRSA §4641-C, sub-§16, as amended by PL 1993, c. 647, §3 and c. 718, Pt. B, §11, is repealed and the following enacted in its place:

16. Certain corporate, partnership and limited liability company deeds. Deeds between a family corporation, partnership, limited partnership or limited liability company and its stockholders, partners or members for the purpose of transferring real property in the organization, dissolution or liquidation of the corporation, partnership, limited partnership or limited liability company under the laws of this State, if the deeds are given for no actual consideration other than shares, interests or debt securities of the corporation, partnership, limited partnership or limited liability company. For purposes of this subsection a family corporation, partnership, limited partnership or limited liability company is a corporation, partnership, limited partnership or limited liability company in which the majority of the voting stock of the corporation, or of the interests in the partnership, limited partnership or limited liability company is held by and the majority of the stockholders, partners or members are persons related to each other, including by adoption, as descendants or as spouses of descendants of a common ancestor who was also a transferor of the real property involved, or persons acting in a fiduciary capacity for persons so related;

Sec. A-70. 36 MRSA §4641-C, sub-§17, as enacted by PL 1993, c. 647, §4 and c. 718, Pt. B, §12, is repealed and the following enacted in its place:

17. Deeds to charitable conservation organizations. Deeds for gifts of land or interests in land granted to bona fide nonprofit institutions, organizations or charitable trusts under state law or charter, a similar law or charter of any other state or the Federal Government that meet the conservation purposes requirements of Title 33, section 476, subsection 2, paragraph B without actual consideration for the deeds; and

Sec. A-71. 36 MRSA §4641-C, sub-§18 is enacted to read:

18. Limited liability company deeds. Deeds to a limited liability company from a corporation, a general or limited partnership or another limited liability company, when the grantor or grantee owns an interest in the limited liability company in the same proportion as the grantor's or grantee's interest in or ownership of the real estate being conveyed.

Sec. A-72. 37-B MRSA §823, as enacted by PL 1983, c. 460, §3, is amended to read:

§823. Compensation for injuries received in line of duty

All members of the civil emergency preparedness forces ~~shall be~~ are deemed to be employees of the State while on, or training for, civil emergency preparedness duty. They ~~shall~~ have all the rights given to state employees under the former Workers' Compensation Act or the Maine Workers' Compensation Act of 1992. All claims ~~shall~~ must be filed, prosecuted and determined in accordance with the procedure set forth in the former Workers' Compensation Act or the Maine Workers' Compensation Act of 1992.

1. Average weekly wage. In computing the average weekly wage of any claimant under this section, the average weekly wage ~~shall~~ must be taken to be the earning capacity of the injured person in the occupation in which ~~he~~ the injured person is regularly engaged.

2. Setoff. Any sums payable under any act of Congress or other federal program as compensation for death, disability or injury of civil emergency preparedness workers ~~shall~~ must be considered with the determination and settlement of any claim brought under this section. When payments received from the Federal Government are less than an injured member would have been entitled to receive under this section, ~~he shall be~~ the injured member is entitled to receive all the benefits to which ~~he~~ the injured member would have been entitled under this section, less the benefits actually received from the Federal Government.

Sec. A-73. 38 MRSA §352, sub-§5-B, as amended by PL 1993, c. 632, §2 and affected by §3, and repealed by c. 735, §5, is repealed.

Sec. A-74. 38 MRSA §353, sub-§3, as amended by PL 1993, c. 410, Pt. G, §4, is further amended to read:

3. License fee. The license fee assessed in section 352, subsection 5 must be paid at the time of filing the application. Failure to pay the license fee at the time of filing results in the application being returned to the applicant. One-half the processing fee assessed in section 352, subsection ~~5-B~~ 5-A for licenses issued for a 10-year term must be paid at the time of filing the application. The remaining 1/2 of the processing fee for licenses issued for a 10-year term must be paid 5 years after issuance of the license. The commissioner shall refund the license fee if the board or commissioner denies the application or if the application is withdrawn by the applicant. Notwithstanding the provisions of this subsection, the license fee for a subdivision must be paid prior to the issuance of the license.

The license fees for nonferrous metal mining must be paid annually on the anniversary date of the license for the life of the project, up to and including the period of closure and reclamation.

Sec. A-75. 38 MRSA §488, sub-§14, as enacted by PL 1993, c. 721, Pt. C, §2 and affected by Pt. H, §1, is amended to read:

14. Developments within designated growth areas. The following provisions apply to developments within a designated growth area.

A. A development is exempt from review under traffic movement, flood plain, noise and infrastructure standards under section 484 if that development is located entirely within:

(1) A municipality that has adopted a local growth management program that the Department of Economic and Community Development has certified under Title 30-A, section 4348; and

(2) An area designated in that municipality's local growth management program as a growth area.

An applicant claiming an exemption under this paragraph shall include with the application a statement from the Department of Economic and Community Development affirming that the location of the proposed development meets the provisions of subparagraphs (1) and (2).

An applicant claiming an exemption under this paragraph shall publish a notice of that application in a newspaper of general circulation in the region that includes the municipality in which the development is proposed to occur. That notice must include a statement indicating the standard or standards for which the applicant is claiming an exemption.

B. The commissioner may require application of the traffic movement, noise, flood plain or infrastructure standards to a proposed development if the commissioner determines, after receipt of a petition under subparagraph (1) or on the commissioner's own initiative under subparagraph (2), that a reasonable likelihood exists that the development will have a significant and unreasonable impact on traffic movement, flood plains, infrastructure or noise beyond the boundaries of the municipality within which the development is to be located.

(1) Within 15 working days after the publication of the notice required under paragraph A, municipal officers or residents of the municipality in which the development is proposed to occur or municipal officers or residents of an abutting municipality may petition the commissioner to apply one or more of the standards for which an exemption is claimed under this subsection. A petition must be signed either by the municipal officers of the petitioning municipality or by 10% of that number of registered voters of the petitioning municipality casting ballots in the most recent gubernatorial election or 150 registered voters of the petitioning municipality, whichever is less. The petition must include the name and legal address of each signatory and must designate one signatory as the contact person. The commissioner shall notify the contact person and the applicant of the commissioner's decision within 10 working days after receipt of a petition meeting the requirements of this subsection. A decision by the commissioner under this subparagraph is appealable to the board.

(2) A decision to require the application of one or more standards made on the commissioner's own initiative must be made within 15 working days after the application is filed with the department.

~~Nothing in this subsection may be construed to exempt a proposed development from review for flooding potential due to increases in stormwater runoff caused by the development.~~

Nothing in this subsection may be construed to exempt a proposed development from review for flooding potential due to increases in stormwater runoff caused by the development.

Sec. A-76. 38 MRSA §1303-C, sub-§39, as amended by PL 1993, c. 424, §2 and affected by §3, is repealed and the following enacted in its place:

39. Treatment. "Treatment" means any process, including but not limited to incineration, designed to change the character or composition of any hazardous waste, waste oil or biomedical waste so as to render the waste less hazardous or infectious.

Sec. A-77. 38 MRSA §1310-F, sub-§2, as amended by PL 1993, c. 621, §6 and repealed and replaced by c. 732, Pt. C, §15, is repealed and the following enacted in its place:

2. Eligibility. A municipality that owns, rents or leases a solid waste landfill for which obligations are required or permitted by this chapter or rules adopted under this chapter is eligible for cost-sharing grants or reimbursement payments. In order to receive reimbursement pursuant to this section, the

municipality must, at a minimum, provide such reasonable proof of municipal expenditures as the department may require, as well as certification signed by the municipal officers that, to the best of their knowledge and the knowledge of all the pertinent municipal officials, the closure activities were performed in accordance with the applicable standards established by section 1310-E-1. A municipality that has spent funds to close its solid waste landfill or to remedy environmental and public health hazards posed by the landfill prior to the adoption of a closure or remediation plan under this subchapter or that closed a landfill or remediated environmental or public health hazards posed by a landfill is also eligible for reimbursement of closure or remediation costs incurred after February 1, 1976, as long as the closure or remediation actions were in conformance with all applicable laws or rules in effect at the time. Costs incurred by closure or remediation actions taken after the adoption of a closure or remediation plan under this subchapter are eligible for reimbursement only if those actions conform to that plan. Grant or reimbursement payments may not be made to a municipality for a portion of payments to settle civil or criminal judgments against that municipality for damages or injuries caused by the landfill. In addition, for landfills in operation prior to January 1, 1993, grant payments may not be made to a municipality for remediation to mitigate a threat posed by that landfill to structures built after January 1, 1994 by that municipality, the county in which that municipality is located, a school administrative unit as defined in Title 20-A, section 1, a quasi-municipal corporation as defined in Title 30-A, section 2351 or a special district as defined in Title 30-A, section 5704 that includes any portion of the municipality unless the commissioner determines that the municipality could not have reasonably anticipated the threat. Any interest paid by a municipality prior to reimbursement on a municipal bond or commercial bank note issued to raise funds for remediation and closure activities is a cost eligible for reimbursement under this section. Unless otherwise directed by the terms of a bond issue approved by the voters, the commissioner shall use at least 1/3 of the funds approved by the voters for municipalities eligible for reimbursement of closure and remediation costs eligible under this subsection until all those municipalities have been reimbursed. The remainder of the available funds must be allocated in an equitable manner so that, at a minimum, an adequate cap is constructed over all identified high-risk landfills subject to closure. The department shall issue, upon the request of a municipality, a notice in writing that projects to a date certain the availability of cost-sharing funds for which the municipality is eligible. The inability or failure of the department to issue a written projection to a date certain means that the cost-sharing funds are not available for the foreseeable future. A landfill that is privately owned and operated is not eligible for reimbursement under this subchapter.

A. The commissioner may act to abate public health, safety and environmental threats at sites identified as uncontrolled hazardous substance sites under section 1362, subsection 3 or at federally declared Superfund sites. Notwithstanding any other provision of this article, the commissioner shall determine the amount of funds expended at those sites.

B. The commissioner may enter into contracts with the Maine Municipal Bond Bank to manage bonds issued under this article, as long as the management fee structure does not allow dilution of the bond principal.

C. In a circumstance where the department finds that further closure or remediation activities are required for a landfill because the landfill was not closed in accordance with the standards of closure that the municipal officers certified to the department pursuant to this subsection and further finds that the certification was a negligent misrepresentation of a material fact results in the ineligibility of the municipality for cost sharing for the additional activities that may be required as a result of the nonperformance of the previously certified activities.

D. A municipality that is eligible or authorized by the department to use the closing procedure established in section 1310-E-1, subsection 1, 2 or 3 is not eligible for reimbursement of costs associated with closing activities that are more stringent than the minimum required by that section unless those additional activities are approved in writing by the department.

Sec. A-78. 38 MRSA §1364, sub-§5, ¶¶A and B, as enacted by PL 1993, c. 621, §7, are amended to read:

A. Neither the commissioner nor any responsible party is obligated under this ~~subchapter~~ chapter to reimburse any person for the expense of treating or replacing the well if the well is installed in an area delineated by the department as contaminated as provided in section 548, subsection 1; and

B. The obligation of the commissioner or any responsible party under this ~~subchapter~~ chapter with regard to replacement or treatment of the well is limited to reimbursement of the expense of installing the well and its proper abandonment if the well is installed in an area other than one described in paragraph A. The well owner is responsible in such a case for other expenses of replacing or treating the water supply well, in-

cluding the cost of any pump or piping installed with the well.

Sec. A-79. 38 MRSA §1367-C, sub-§§1 and 2, as enacted by PL 1993, c. 621, §8, are amended to read:

1. Delineated contaminated area. Neither the commissioner nor any responsible party is obligated under this ~~subchapter~~ chapter to reimburse any person for the expense of treating or replacing the well if the well is installed in an area delineated by the department as contaminated as provided in section 548, subsection 1; and

2. Areas not delineated. The obligation of the commissioner or any responsible party under this ~~subchapter~~ chapter with regard to replacement or treatment of the well is limited to reimbursement of the expense of installing the well and its proper abandonment if the well was installed in an area other than one described in subsection 1. The well owner is responsible in such a case for other expenses of replacing or treating the water supply well, including the cost of any pump or piping installed with the well.

Sec. A-80. 39-A MRSA §602, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

§602. Application

Except as otherwise specifically provided, incapacity to work or death of an employee arising out of and in the course of employment and resulting from an occupational disease must be treated as the happening of a personal injury arising out of and in the course of the employment, within the meaning of the former Workers' Compensation Act or the Maine Workers' Compensation Act of 1992, and all the provisions of ~~that~~ the applicable Act apply to ~~such~~ that occupational ~~diseases~~ disease. This chapter applies only to cases in which the last exposure to an occupational disease in an occupation subject to the hazards of ~~such~~ that disease occurred in the State and after January 1, 1946.

Sec. A-81. 39-A MRSA §606, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

§606. Date from which compensation is computed; employer liable

The date when an employee becomes incapacitated by an occupational disease from performing the employee's work in the last occupation in which the employee was injuriously exposed to the hazards of the occupational disease is the date of the injury equivalent to the date of injury under the former Workers' Compensation Act or the Maine Workers' Compensation Act of 1992. ~~Where~~ When compensation is payable for an occupational disease, the employer in whose employment the employee was last injuriously exposed to the hazards of the occupational disease and the insurance carrier, if any, on the risk when the employee was last exposed under that employer, are liable. The amount of the compensation must be based on the average wages of the employee when last exposed under that employer and notice of injury and claim for compensation must be given to that employer. The only employer and insurance carrier liable are the last employer in whose employment the employee was last injuriously exposed to the hazards of the disease during a period of 60 days or more and the insurance carrier, if any, on the risk when the employee was last so exposed, under that employer.

Sec. A-82. PL 1991, c. 314, §5 is repealed.

Sec. A-83. Retroactivity. That section of this Act that repeals Public Law 1991, chapter 314, section 5 applies retroactively to October 9, 1991.

Sec. A-84. PL 1993, c. 413, §4, amending clause is amended to read:

Sec. 4. PL 1991, c. 780, Pt. KKK, §7, under the caption "ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF," in that part relating to Departments and Agencies - Statewide, 2nd line, as amended by PL 1993, c. 70, §8, is repealed and the following enacted in its place:

Sec. A-85. PL 1993, c. 415, Pt. L, §3 is amended to read:

Sec. L-3. PL 1993, c. 159, §2, as amended by PL 1993, c. 410, Pt. XXX, §1, is repealed.

Sec. A-86. PL 1993, c. 582, §1, amending clause is amended to read:

Sec. 1. 30-A MRSA c. 3, sub-c. I, art. 12 is enacted to read:

Sec. A-87. PL 1993, c. 642, §40 is repealed.

Sec. A-88. Retroactivity. That section of this Act that repeals Public Law 1993, chapter 642, section 40, applies retroactively to April 8, 1994.

Sec. A-89. PL 1993, c. 659, Pt. B, §§8 and 9 are repealed.

Sec. A-90. PL 1993, c. 732, Pt. A, §8 is repealed.

Sec. A-91. PL 1995, c. 1, §1, amending clause is amended to read:

Sec. 1. PL 1993, c. 684, ~~§5~~ §4, sub-§5 is amended to read:

Sec. A-92. Retroactivity. That section of this Part that enacts Title 12, section 7106-B applies retroactively to June 30, 1993.

PART B

Sec. B-1. 5 MRSA §943, sub-§1, ¶A, as enacted by PL 1983, c. 729, §4, is repealed.

Sec. B-2. 5 MRSA §1543, 3rd ¶, as amended by PL 1969, c. 186, §1, is further amended to read:

Notwithstanding the foregoing paragraph, the ~~Chairman of the Maine Employment Security Commission~~ Commissioner of Labor is authorized to prepare and sign warrants for the payment of benefits to eligible unemployed persons and allowances to persons eligible ~~therefor~~ under federally sponsored human resources development programs ~~which~~ that authorize the ~~Maine Employment Security Commission~~ Department of Labor to designate the recipients of ~~such~~ allowances from federal funds granted or allocated to the ~~commission~~ department under ~~such~~ these programs, which warrants ~~shall~~, upon being ~~countersigned by the remaining 2 members of the commission and~~ delivered to the payee, become a check against a designated bank or trust company acting as a depository of the State Government. The authority of the ~~chairman~~ commissioner to prepare and sign ~~such~~ the warrants is limited solely to the payment of benefits to eligible unemployed persons and to allowances to persons eligible ~~therefor~~ under ~~the aforesaid~~ these federal programs. The facsimile ~~signatures~~ signature of the ~~chairman of the commission and the remaining 2 members of the commission~~ commissioner who ~~are~~ is leaving office ~~shall be~~ is valid until a new signature ~~plates~~ plate for the ~~signatures~~ signature authorized ~~have~~ has been obtained for ~~their successors~~ the commissioner's successor.

Sec. B-3. 17 MRSA §331, sub-§6, as enacted by PL 1987, c. 190, §3, is amended to read:

6. Raffles with prizes of $10,000 or less. Notwithstanding subsection 1, ~~no~~ a license to conduct or operate a raffle as defined in section 330, subsection 5, in which the holder of the winning chance does not receive something of value worth more than $10,000, is not required of the following:

A. Any agricultural society eligible for the state stipend under Title 7, section 62, or any bona fide, nonprofit organization ~~which~~ that is either charitable, educational, political, civic, recreational, fraternal, patriotic or religious or any auxiliary of such organization;

B. Any volunteer police force, fire department or ambulance corps; or

C. Any class or organization of an elementary, secondary or post-secondary educational institution operated or accredited by the State.

Any exempt organization, department or class or combination listed in paragraph A, B or C may sponsor, operate and conduct a raffle without a license only for the exclusive benefit of that organization, department or class or combination ~~thereof~~ and that raffle ~~shall~~ must be conducted only by duly authorized members of the sponsoring organization, department or class or combination ~~thereof~~.

Sec. B-4. 23 MRSA §3031, sub-§3, as enacted by PL 1987, c. 385, §2, is amended to read:

3. Shorter duration of public and private rights; rights of lesser extent. Notwithstanding subsections 1 and 2, the developer or other person recording a subdivision plan in the registry of deeds may set a shorter duration for the public and private rights established in subsections 1 and 2 than the period provided in those subsections. The developer or other person recording the subdivision plan shall cause the shorter duration to be noted on the face of the subdivision plan.

Pursuant to a subdivision review under Title ~~30~~ 30-A, ~~section 4956~~ chapter 187, subchapter IV, the municipal reviewing authority may set a shorter duration for the public and private rights established in subsections 1 and 2 than the period provided in those subsections. The municipal reviewing authority shall cause the shorter duration to be noted on the face of the subdivision plan.

Nothing in this section may be construed to prohibit the developer or other person recording a subdivision plan in the registry of deeds from granting rights of lesser extent than those established in subsections 1 and 2. If rights of lesser extent are granted, the person recording the subdivision plan shall cause the extent of those rights to be described on the face of the subdivision plan and in any conveyance of land shown on the plan.

Sec. B-5. 24-A MRSA §2384-B, sub-§10, as amended by PL 1993, c. 610, §1, is further amended to read:

10. Claims covered. This section applies to all claims occurring on or after January 1, 1989 and prior to January 1, 1993 and to all death, permanent total and major permanent partial claims occurring between January 1, 1987 and December 31, 1988; and to a reasonable sample, as approved by the superintendent, of all other indemnity claims occurring between January 1, 1987 and December 31, 1988. The super-

intendent may suspend the reporting requirements of specific items for periods when information that is to be obtained from the ~~Workers' Compensation Commission or~~ Workers' Compensation Board is temporarily unavailable ~~from those entities~~.

Sec. B-6. 32 MRSA §3269, sub-§13, as amended by PL 1993, c. 600, Pt. A, §202 and c. 659, Pt. B, §14, is repealed.

Sec. B-7. 32 MRSA §3269, sub-§14, as amended by PL 1993, c. 600, Pt. A, §202 and c. 659, Pt. B, §15, is repealed and the following enacted in its place:

14. Budget. The duty to submit to the Commissioner of Professional and Financial Regulation its budgetary requirements in the same manner as is provided in Title 5, section 1665, and the commissioner shall in turn transmit these requirements to the Bureau of the Budget without revision, alteration or change, unless alterations are mutually agreed upon by the department and the board or the board's designee;

Sec. B-8. 32 MRSA §3269, as amended by PL 1993, c. 659, Pt. B, §§14 and 15, is further amended by adding at the end 2 new paragraphs to read:

The Commissioner of Professional and Financial Regulation acts as a liaison between the board and the Governor.

The Commissioner of Professional and Financial Regulation does not have the authority to exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by statute to the board. The commissioner may require the board to be accessible to the public for complaints and questions during regular business hours and to provide any information the commissioner requires in order to ensure that the board is operating administratively within the requirements of this chapter.

Sec. B-9. 36 MRSA §1760, sub-§64, as amended by PL 1993, c. 670, §5, is further amended to read:

64. Schools and school-sponsored organizations. Sales of tangible personal property and taxable services by public and private elementary and secondary schools that otherwise qualify as schools under subsection 16, and by student organizations sponsored by those schools, including booster clubs and student or parent-teacher organizations, as long as the profits from such sales are used to benefit those schools or student organizations or are used for a charitable purpose.

PART C

Sec. C-1. 14 MRSA §8112, sub-§9, as repealed by PL 1993, c. 707, Pt. G, §9, is reenacted to read:

9. Certain suits arising out of use of motor vehicles. A governmental entity is not required to assume the defense of or to indemnify an employee of that governmental entity who uses a privately owned vehicle, while acting in the course and scope of employment, to the extent that applicable liability insurance coverage exists other than that of the governmental entity. In such cases, the employee of the governmental entity and the owner of the privately owned vehicle may be held liable for the negligent operation or use of the vehicle but only to the extent of any applicable liability insurance, which constitutes the primary coverage of any liability of the employee and owner and of the governmental entity. To the extent that liability insurance other than that of the governmental entity does not provide coverage up to the limit contained in section 8105, the governmental entity remains responsible for any liability up to that limit.

Sec. C-2. PL 1995, c. 352, §1 is repealed.

Sec. C-3. Retroactivity. This Part applies retroactively to June 30, 1995.

PART D

Sec. D-1. 5 MRSA §6207, sub-§2, ¶¶A and C, as enacted by PL 1987, c. 506, §§1 and 4, are amended to read:

A. Contains recreation lands, prime physical features of the Maine landscape, areas of special scenic beauty, farmland or open space, undeveloped shorelines, wetlands, fragile mountain areas or lands with other conservation, wilderness or recreation values;

C. Provides nonmotorized or motorized public access to recreation opportunities or those natural resources identified in this section.

Sec. D-2. 22 MRSA §14, sub-§2-I, ¶A, as amended by PL 1993, c. 707, Pt. I, §1, is further amended to read:

A. The department has a claim against the estate of a Medicaid recipient when, after the death of the recipient:

(1) Property or other assets are discovered that existed and were owned by the recipient during the period when Medicaid benefits were paid for the recipient and disclosure of the property or assets at the

time benefits were being paid would have rendered the recipient ineligible to receive the benefits;

(2) It is determined that the recipient was 55 years of age or older when that person received Medicaid assistance; or

(3) It is determined that the recipient has received or is entitled to receive benefits under a long-term care insurance policy in connection with which assets or resources ~~that~~ are disregarded and medical assistance was paid on behalf of the recipient for nursing facility or other long-term care services.

Sec. D-3. 22 MRSA §14, sub-§2-I, ¶B, as amended by PL 1993, c. 707, Pt. I, §1, is repealed and the following enacted in its place:

B. The amount of Medicaid benefits paid and recoverable under this subsection is a claim against the estate of the deceased recipient.

(1) As to assets of the recipient included in the probated estate, this claim may be enforced pursuant to Title 18-A, Article III, Part 8.

(2) As to assets of the recipient not included in the probated estate, this claim may be enforced by filing a claim in any court of competent jurisdiction.

Sec. D-4. 28-A MRSA §161-B, sub-§§1, 4 and 5, as enacted by PL 1995, c. 140, §3, are amended to read:

1. Application to local authorities. Prior to registration with the ~~commission~~ bureau under section 161, an owner or operator of a bottle club must apply to the municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, for permission to operate the bottle club or for transfer of location of an existing bottle club. The ~~commission~~ bureau shall prepare and supply application forms.

4. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the ~~commission~~ bureau. The ~~commission~~ bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the ~~commission~~ bureau may consider all of the requirements referred to in subsection 3.

A. If the decision appealed is approval of the application, the ~~commission~~ bureau may reverse the decision if it was arbitrary or based on an erroneous finding.

B. If the decision appealed is denial of the application, the ~~commission~~ bureau may reverse the decision and register the bottle club under section 161 only if it finds by clear and convincing evidence that the decision was without justifiable cause.

5. Appeal to Superior Court. Any person or governmental entity aggrieved by a ~~commission~~ bureau decision under this section may appeal the decision to the Superior Court.

Sec. D-5. 30-A MRSA §1561, sub-§2, as repealed and replaced by PL 1995, c. 201, §1, is amended to read:

2. Civil action for recovery of expenses. Notwithstanding the other provisions of this section, ~~the State~~ a county may bring a civil action in a court of competent jurisdiction to recover the cost of medical, dental, psychiatric or psychological expenses incurred by ~~the State~~ a county on behalf of a prisoner incarcerated in a facility. The following assets are not subject to judgment under this subsection:

A. Joint ownership, if any, that the prisoner may have in real property;

B. Joint ownership, if any, that the prisoner may have in any assets, earnings or other sources of income; and

C. The income, assets, earnings or other property, both real and personal, owned by the prisoner's spouse or family.

Sec. D-6. 34-A MRSA §3031, sub-§2, ¶A, as repealed and replaced by PL 1995, c. 201, §2, is amended to read:

A. A client is exempt from payment of medical and dental services fees and fees for prescriptions, medication or prosthetic devices when the client:

(1) Receives treatment initiated by facility staff;

(2) Is a juvenile;

(3) Is pregnant;

(4) Is seriously mentally ill or developmentally disabled. For the purposes of this paragraph, "seriously mentally ill" or "developmentally disabled" means a client who, as a result of a mental disorder or developmental disability, exhibits emotional or behavioral functioning that is so

impaired as to interfere substantially with the client's capacity to remain in the general prison population without supportive treatment or services of a long-term or indefinite duration, as determined by the facility's psychiatrist or psychologist;

(5) Is an inpatient at a state-funded mental health or mental retardation facility;

(6) Is undergoing follow-up treatment;

(7) Receives emergency treatment as determined by the facility's medical or dental staff; ~~and~~ or

(8) Has less than $15 in the client's facility account and did not receive additional money from any source for 6 months following the medical or dental service or provision of the prescription, medication or prosthetic device.

Sec. D-7. PL 1991, c. 415, §1, first 3 lines are repealed and the following enacted in its place:

Sec. 1. 7 MRSA §18, as enacted by PL 1989, c. 869, Pt. C, §1, is repealed and the following enacted in its place:

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

Effective July 3, 1995, unless otherwise indicated.

CHAPTER 463

H.P. 806 - L.D. 1123

An Act to Ensure That Rulemaking by Agencies Does Not Exceed the Intent of Authorizing Legislation

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

Sec. 1. 5 MRSA §8052, sub-§1, as amended by PL 1977, c. 694, §34-A, is further amended to read:

1. Notice; public hearing. Prior to the adoption of any rule, the agency shall give notice as provided in section 8053 and may hold a public hearing, provided that a public hearing ~~shall be~~ is held if otherwise required by statute or requested by any 5 interested persons.

A public meeting or other public forum held by an agency for any purpose that includes receiving public comments on a proposed agency rule is a public hearing and is subject to all the provisions of this subchapter regarding public hearings. This paragraph does not require compliance with this subchapter when an agency holds an informal meeting for the purpose of gathering public input prior to developing or deciding whether to proceed with development of a proposed rule.

Sec. 2. 5 MRSA c. 375, sub-c. II-A is enacted to read:

SUBCHAPTER II-A

RULEMAKING PROCEDURES GOVERNING RULES AUTHORIZED AND ADOPTED AFTER JANUARY 1, 1996

§8071. Legislative review of certain agency rules

Except as otherwise provided in this subchapter, rules adopted pursuant to rule-making authorization delegated to an agency after January 1, 1996 are subject to the procedures of this subchapter and subchapter II.

1. Legislative action. All new rules authorized to be adopted by delegation of legislative authority that are enacted after January 1, 1996, including new rules authorized by amendment of provisions of laws in effect on that date, must be assigned by the Legislature to one of 2 categories and subject to the appropriate level of rule-making procedures as provided in this subchapter. The Legislature shall assign the category and level of review to all rules at the time it enacts the authorizing legislation. The Legislature may assign different categories and levels of review to different types of rules authorized by the same legislation.

2. Categories of rules. There are 2 categories of rules authorized for adoption after January 1, 1996.

A. Routine technical rules are procedural rules that establish standards of practice or procedure for the conduct of business with or before an agency and any other rules that are not major substantive rules as defined in paragraph B. Routine technical rules include, but are not limited to, forms prescribed by an agency; they do not include fees established by an agency except fees established or amended by agency rule that are below a cap or within a range established by statute.

B. Major substantive rules are rules that, in the judgment of the Legislature:

(1) Require the exercise of significant agency discretion or interpretation in drafting; or