

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

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

Twin City Printery
Lewiston, Maine
1988

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
and
SECOND REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

5. Costs to students. There shall be no cost to the student for enrolling a child in a child care service offered by a school administrative unit if the student has an educational plan, approved by the school unit, leading to academic progress and the attainment of reasonable educational goals.

§6652. Parenting and training in child development

A school administrative unit which provides child care services under section 6651 shall offer a one-semester course in parenting and child development to secondary school students.

§6653. Rules

The department may adopt rules governing this subchapter pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. 2. 20-A MRSA §15603, sub-§22, ¶D, as amended by PL 1987, c. 523, §3, is further amended to read:

D. Starting in 1986-87 for expenditures in the base year 1984-85, the following preschool handicapped services:

- (1) The salary and benefit costs of certified professional, assistants and aides or persons contracted to perform preschool handicapped services which have been approved by the commissioner; and
- (2) The cost of tuition to other schools for programs which have been approved by the commissioner; and

Sec. 3. 20-A MRSA §15603, sub-§22, ¶E, as enacted by PL 1987, c. 523, §4, is amended to read:

E. The cost of tuition, books, fees and transportation for courses taken at post-secondary institutions under chapter 208; and

Sec. 4. 20-A MRSA §15603, sub-§22, ¶F is enacted to read:

F. Starting in 1990-91 for expenditures in base year 1988-89, the cost of child care services as specified in section 6651, subsection 3.

Sec. 5. Assessment of program; department report. When adopting rules in accordance with this Act, the Department of Educational and Cultural Services shall identify and provide for the collection of specific information which will enable a long-term study and evaluation of this program to be conducted. The department shall report initially on the operation of this Act to the joint standing committee of the Legislature having jurisdiction over education by January 15, 1990.

Effective August 4, 1988.

CHAPTER 768

S.P. 818 — L.D. 2138

AN ACT to Provide Additional Appropriations to Continue the Dioxin Study.

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

Resolve 1987, c. 57, is amended by adding at the end the following:

; and be it further

Appropriation. Resolved: The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1988-89

HUMAN SERVICES, DEPARTMENT OF

Bureau of Health, Environmental Health Unit

All Other

These funds are to be used to carry out an on-going dioxin contamination study with field research at Highmoor Farm in conjunction with existing University of Maine research. Funds appropriated for this purpose shall carry forward to June 30, 1990.

\$20,000

Effective August 4, 1988.

CHAPTER 769

S.P. 950 — L.D. 2521

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. 1. 1 MRSA §405, sub-§6, ¶A, as amended by PL 1987, c. 477, §2, is repealed and the following enacted in its place:

A. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:

(1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the reputation or the individual's right to privacy would be violated;

(2) Any person charged or investigated shall be permitted to be present at an executive session if that person desires;

(3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against him be conducted in open session. A request, if made to the agency, must be honored; and

(4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion shall be permitted to be present.

This paragraph does not apply to discussion of a budget or budget proposal;

Sec. 2. 3 MRSA §162-A, first ¶, as repealed and replaced by PL 1987, c. 349, Pt. K, §1, is amended to read:

Notwithstanding any other provisions of law, the salaries of the following legislative officials shall be at the salary ranges indicated in this section. At the time of initial appointment, the salary of each of these officials shall be set at Step A and, in no case, may it exceed Step B of their respective ranges. The Legislative Council may adjust the salary of each official by one step for each year of continuous continuous service after the initial appointment to office.

Sec. 3. 3 MRSA §507, sub-§7, ¶B, as repealed and replaced by PL 1985, c. 763, Pt. A, §3 and as amended by PL 1985, c. 779, §5, is repealed and the following enacted in its place:

B. The evaluations and analyses of the justification reports for the programs of the following Group D-2 departments shall be reviewed by the Legislature no later than June 30, 1987: The Department of Educa-

tional and Cultural Services, excluding the State Museum Bureau, the Arts Bureau and the vocational-technical institutes.

Sec. 4. 3 MRSA §507, sub-§10, ¶B, as repealed and replaced by PL 1987, c. 395, Pt. A, §8, and c. 440, §1, is repealed and the following enacted in its place:

B. Unless continued or modified by law, the following Group G-2 independent agencies shall terminate, not including the grace period, no later than June 30, 1990. The Board of Emergency Municipal Finance, the Finance Authority of Maine and the Maine Municipal Bond Bank shall not terminate, but shall be reviewed by the Legislature no later than June 30, 1990:

(1) Board of Emergency Municipal Finance;

(2) Finance Authority of Maine;

(3) Maine Municipal Bond Bank;

(4) State Liquor Commission;

(5) Capitol Planning Commission;

(6) State Board of Property Tax Review;

(7) Maine Vocational-Technical Institute System;

(8) Maine Commission for Women; and

(9) Maine Human Rights Commission.

Sec. 5. 3 MRSA §507-B, sub-§10, as enacted by PL 1987, c. 68, §1, and c. 395, Pt. A, §9, is repealed and the following enacted in its place:

10. Agencies scheduled for termination on June 30, 1986. Pursuant to section 507, subsection 8, paragraph A, the following independent agencies, scheduled for termination on June 30, 1986, are continued.

A. Maine Arts Commission; and

B. Maine State Museum.

Sec. 6. 3 MRSA §507-B, sub-§11 is enacted to read:

11. Agencies scheduled for termination on June 30, 1987; continued. Pursuant to section 507, subsection 8, paragraph B, the following agencies scheduled for termination on June 30, 1987, are continued.

A. Real Estate Commission;

B. Maine Athletic Commission;

C. State Claims Board;

D. Board of Examiners on Speech Pathology and Audiology;

E. Maine State Board for Licensure of Architects and Landscape Architects;

F. State Board of Barbers;

G. State Board of Cosmetology;

H. Manufactured Housing Board;

I. State Board of Substance Abuse Counselors;

J. State Board of Licensure for Professional Foresters;

K. State Board of Certification for Geologists and Soil Scientists;

L. Board of Examiners in Physical Therapy;

M. State Historian;

N. Historic Preservation Commission; and

O. Oil and Solid Fuel Board.

Sec. 7. 4 MRSA §1151, sub-§2, as repealed and replaced by PL 1987, c. 141, Pt. B, §1; c. 395, Pt. A, §15; and c. 402, Pt. A, §9, is repealed and the following enacted in its place:

2. Licensing jurisdiction. Except as provided in Title 5, section 10004; Title 10, section 8003-A; Title 29; Title 32, chapter 113; and Title 35-A, section 3132, the Administrative Court shall have exclusive jurisdiction upon complaint of an agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General, to revoke or suspend licenses issued by the agency, and shall have original jurisdiction upon complaint of a licensing agency to determine whether renewal or reissuance of a license of that agency may be refused. The Administrative Court shall have original concurrent jurisdiction to grant equitable relief in proceedings initiated by an agency or the Department of the Attorney General alleging any violation of a license or licensing laws or rules.

Notwithstanding any other provisions of law, no licensing agency may reinstate or otherwise affect a license suspended, revoked or modified by the Administrative Court pursuant to a complaint filed by the Attorney General, without the approval of the Attorney General.

Sec. 8. 5 MRSA §135, first ¶, as repealed and replaced by PL 1987, c. 247, §1, and c. 402, Pt. A, §10, is repealed and the following enacted in its place:

The Treasurer of State may deposit the money, including trust funds of the State, in any of the banking institutions or trust companies or state or federal savings and loan associations or mutual savings banks organized under the laws of this State or in any national bank or banks or state or federal savings and loan associations located

in the State, except as provided in chapter 161. When there is excess money in the State Treasury which is not needed to meet current obligations, the Treasurer of State may invest, with the concurrence of the State Controller or the Commissioner of Finance and with the consent of the Governor, those amounts in bonds, notes, certificates of indebtedness or other obligations of the United States which mature not more than 24 months from the date of investment or in repurchase agreements secured by obligations of the United States which mature within the succeeding 24 months, prime commercial paper, tax-exempt obligations or banker's acceptances. The Treasurer of State may participate in the securities loan market by loaning state-owned bonds, notes or certificates of indebtedness of the Federal Government, provided that the loans are fully collateralized by treasury bills or cash. The Treasurer of State shall seek competitive bids for investments except when, after a reasonable investigation, it appears that an investment of the desired maturity is procurable by the State from only one source. Interest earned on those investments of money shall be credited to the respective funds, except that interest earned on investments of special revenue funds shall be credited to the General Fund of the State. Interest earned on funds of the Department of Inland Fisheries and Wildlife shall be credited to that fund. Interest earned on funds of the Baxter State Park Authority shall be credited to the Baxter State Park Fund. This section shall not prevent the deposit for safekeeping or custodial care of the securities of the several funds of the State in banks or safe deposit companies in this State or any other state, nor the deposit of such state funds as may be required by the terms of custodial contracts or agreements as may be negotiated in accordance with the laws of this State. All custodial contracts and agreements shall be subject to the approval of the Governor.

Sec. 9. 5 MRSA §200-B, as amended by PL 1987, c. 141, Pt. B, §2, and c. 260, is repealed and the following enacted in its place:

§200-B. Authority of Attorney General to request telephone records

Whenever the Attorney General, a deputy attorney general or a district attorney has reasonable grounds to believe that the services furnished to a person or to a location by a public utility, as defined in Title 35-A, section 102, subsections 17 and 19, whether or not subject to the jurisdiction of the Public Utilities Commission, and that such public utility services are being or may be used for, or to further, an unlawful purpose, he may demand, in writing, all the records in the possession of the public utility relating to that service. Upon a showing of cause to any Justice of the Supreme Judicial Court or the Superior Court or Judge of the District Court, the justice or judge shall approve the demand. Such showing shall be by the affidavit of any law enforcement officer. Upon receipt of a demand, approved by a justice or judge, the public utility shall forthwith deliver to the person making the request all the records or information in compliance

with the demand. If the person making request demands that the public utility not release the fact of the request or that records will be or have been supplied, the public utility shall not release such fact or facts without court order. No public utility or employee of that public utility may be criminally or civilly responsible for furnishing any records or information in compliance with the demand.

Sec. 10. 5 MRSA §282, sub-§6, as amended by PL 1987, c. 395, Pt. A, §17 and c. 448, §1-A, is repealed and the following enacted in its place:

6. Supervise. To supervise and direct the administration of the State Claims Commission; and

Sec. 11. 5 MRSA §285, sub-§1, ¶G, as repealed and replaced by PL 1987, c. 221, §2 and c. 402, Pt. A, §14, is repealed and the following enacted in its place:

G. Subject to subsection 1-A, employees in any of the categories denominated in paragraphs A to F-1 who:

(1) On April 26, 1968, have retired and who were covered under plans of insurance which by virtue of Public Law 1967, chapter 543, were terminated;

(2) After April 26, 1968, retire and who on the date of their retirement are currently enrolled in this group accident and sickness or health insurance plan as an employee;

(3) After December 2, 1986, and after reaching normal retirement age, cease to be members of the Legislature and are recipients of retirement allowances from the Maine State Retirement System based upon creditable service as teachers, as defined by section 1001, subsection 25. This paragraph shall also apply to former members who were members on December 2, 1986; or

(4) After December 2, 1986, and not yet normal retirement age, cease to be members of the Legislature and are recipients of retirement allowances from the Maine State Retirement System based upon creditable service as teachers, as defined by section 1001, subsection 25. This paragraph also applies to former members who were members on December 2, 1986.

Sec. 12. 5 MRSA §1094, sub-§13, as repealed and replaced by PL 1985, c. 790, is repealed.

Sec. 13. 5 MRSA §1951, first ¶, as enacted by PL 1987, c. 247, §4, is amended to read:

After July 1, 1992, no state funds, including trust funds of the State and funds created pursuant to former chapter 101 or Part 20, may be:

Sec. 14. 5 MRSA §7002, sub-§3, as enacted by PL 1987, c. 500, §1; as repealed by PL 1987, c. 534, Pt. A, §§16 and 19; and as enacted by PL 1987, c. 542, Pt. I, §6, is repealed.

Sec. 15. 5 MRSA §12004, sub-§7, ¶A, sub-¶(11), as enacted by PL 1987, c. 438, §2; c. 527, §1; and c. 530, §1, is repealed and the following enacted in its place:

(11)	<u>Maine Court Facilities Authority</u>	<u>Expenses Only</u>	<u>4 MRSA §1602</u>
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Sec. 16. 5 MRSA §12004, sub-§7, ¶A, sub-¶(12) and (13) are enacted to read:

(12)	<u>Board of Directors, Student Educational Enhancement Deposit Plan</u>	<u>\$50/day</u>	<u>20-A MRSA §12610</u>
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(13)	<u>Maine Low-Level Radioactive Waste Authority</u>	<u>\$100/day</u>	<u>38 MRSA §1512</u>
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Sec. 17. 5 MRSA §12004, sub-§8, ¶A, sub-¶(20-A), as enacted by PL 1987, c. 349, Pt. H, §6, and c. 506, §§2 and 4, is repealed and the following enacted in its place:

(20-A)	<u>Mental Health and Mental Retardation</u>	<u>Region II Crisis Intervention Program Advisory Board</u>	<u>Expenses Only</u>	<u>34-B MRSA §3621</u>
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Sec. 18. 5 MRSA §12004, sub-§8, ¶A, sub-¶(20-B) is enacted to read:

(20-B)	<u>Natural Resources</u>	<u>Land for Maine's Future Board</u>	<u>Legislative Per Diem and Expenses for Appointed Members</u>	<u>5 MRSA §6202</u>
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Sec. 19. 5 MRSA §13058, sub-§10 is enacted to read:

10. Assistance to municipalities to generate economic growth. The commissioner shall administer a program of assistance to municipalities to generate jobs and business development. Potential uses of this money include infrastructure development, planning and technical assistance, marketing and other types of capacity building.

A. This program may consist of a fund consisting of money derived from any general obligation bonds issued for the purposes of generating economic development and jobs. This fund with money not exceeding \$1,000,000 shall be administered by the Department of Economic and Community Development to provide assistance as defined in this subsection. Money available for the purpose of this subsection shall not be used to provide financial assistance to business.

B. At least 20% of the money available to implement this program shall be provided to opportunity zones pursuant to chapter 403.

Sec. 20. 5 MRSA §15134, sub-§§2 and 3, as enacted by PL 1987, c. 542, Pt. I, §§3 and 6, are repealed.

Sec. 21. 5 MRSA §15134, sub-§§2-A and 2-B are enacted to read:

2-A. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development.

2-B. Department. "Department" means the Department of Economic and Community Development.

Sec. 22. 5 MRSA §15135, sub-§5, as enacted by PL 1987, c. 542, Pt. I, §§3 and 6, is amended to read:

5. Duties and responsibilities. ~~the~~ The commission shall review the implementation of this chapter and assist the director commissioner in preparing reports. The commission shall report to the Governor and the joint standing committee of the Legislature having jurisdiction over economic development matters pursuant to this chapter.

Sec. 23. 5 MRSA §15136, as enacted by PL 1987, c. 542, Pt. I, §§3 and 6, is amended to read:

§15136. Designation of Job Opportunity Zones

The ~~director~~ commissioner may establish 4 demonstration zones in economically distressed areas of the State as a means of determining the effectiveness of such zones as a tool for stimulating economic growth and development.

1. Standards for zones. The ~~director~~ commissioner, by rules adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, shall establish standards for the selection of areas to be designated as zones. The ~~director~~ commissioner shall consult with the commission in the preparation of rules for the selection of zones and the provision of assistance within those zones. At a minimum, the ~~director~~ commissioner shall apply the following standards.

A. All zones shall be economically distressed areas as determined by the ~~director~~ commissioner. At a minimum, the definition of distress includes areas where the unemployment rate is at least 1.5 times greater than the unemployment rate for the State, as reported by the Department of Labor; the per capita income is less than 80% of the per capita income of the State; there is a significant decline in the population; or there is a significant decline in the labor force, as reported by the Department of Labor.

(1) The level of general assistance by the State and municipalities, as well as the level of federal assistance to persons in these zones, shall also be considered.

B. All areas wishing to be designated as zones shall demonstrate actual or potential local capacity for economic development and the willingness to cooperate with the ~~office~~ department.

C. At least one zone shall be a sudden or severely economically distressed area which shall have experienced significant layoffs.

D. At least one zone shall be an urban zone, comprising all or part of a municipality or a collection of municipalities within the same geographical area, at least one of which has a population greater than 10,000.

E. At least one zone shall be a rural zone, comprising a municipality or collection of municipalities within the same geographical area, no one of which may have a population greater than 10,000.

F. At least one zone shall be designated as a response to proposed economic development which will ensure the retention or creation of job opportunities through the location or expansion of an industry.

2. Duties and responsibilities of the commissioner. The ~~director~~ commissioner shall designate zones. The ~~director~~ commissioner, to the fullest extent possible, shall inform communities eligible for designation about the program, providing technical assistance where necessary to communities interested in pursuing this designation.

3. Review of program; report to Governor and Legislature. The ~~director~~ commissioner shall report to the Governor and the joint standing committee of the Legislature having jurisdiction over economic development matters his findings on regional economic distress with suggestions for action which may alleviate this economic distress. In cooperation with the commission, the ~~director~~ commissioner shall review and evaluate the operation of these demonstration zones. This report shall be presented no later than February 1st each year and shall include the following:

A. The number, type and quality of the new jobs created through the Opportunity Zone Program;

B. The number of jobs retained as a result of the Opportunity Zone Program that would have been otherwise lost without the targeted assistance of this program;

C. Economic and community development activity within the zone which is related to the designation as a zone; and

D. Any other results that the commission or the ~~director~~ commissioner deems significant.

The ~~director~~ commissioner, in this report, shall present findings and recommendations, including recommendations for the extension, expansion or elimination of the Job Opportunity Zone Program.

Sec. 24. 5 MRSA §15137, as enacted by PL 1987, c. 542, Pt. I, §§3 and 6, is amended to read:

§15137. Determination of regional economic distress

The ~~office~~ department shall analyze various regions and localities of the State in order to ascertain the level of economic distress, the causes of that distress and possible actions which may be undertaken to reduce or eliminate the economic distress. This analysis of economic distress shall include, at a minimum, unemployment rate, per capita income, population decline, decline in the labor force, the level of federal assistance afforded to the population, the level of general assistance afforded to the population, plant closings or other significant reductions in employment opportunities, the dependence upon one primary employer or industry within the region and other standards which may measure economic distress and employment opportunities.

Sec. 25. 5 MRSA §15138, as enacted by PL 1987, c. 542, Pt. I, §§3 and 6, is amended to read:

§15138. Assistance to job opportunity zones

Agencies of State Government shall cooperate to assess the needs of zones and provide appropriate assistance to these zones. There shall be a committee composed of, at a minimum, the ~~Director of the State Development Office~~ Commissioner of Economic and Community Development, Director of the State Planning Office, Commissioner of Transportation, Commissioner of Labor, Commissioner of Educational and Cultural Services, Executive Director of the Maine Vocational-Technical Institute System, Chief Executive Officer of the Finance Authority of Maine and the Director of the Maine State Housing Authority.

In special circumstances where it is deemed critical to meeting zone objectives, the ~~director commissioner~~ is authorized to extend zone benefits to a business in a contiguous community.

In order to achieve the purposes for which opportunity zones are established, the ~~State Development Office~~ Department of Economic and Community Development may apply the following programs of assistance.

1. Planning and technical assistance. The ~~office~~ department may provide planning, technical assistance and resources to municipalities, regional development organizations serving the zone, persons, groups and other interested entities to assist in the preparation of short-term and long-term goals, the preparation of implementation plans to achieve these goals and determining approaches and identifying resources which can promote economic growth and development in each zone.

2. Small business assistance centers. The ~~director commissioner~~ may provide business development services, particularly managerial and technical assistance, to businesses in designated opportunity zones through the Small Business Development Centers.

3. The Maine Job Development Program and Financial Assistance to Business. The Finance Authority of Maine shall designate \$750,000 from the Maine Job De-

velopment Program Fund to be administered by the authority and to be used to provide assistance to businesses in zones. This designation shall not be construed to prohibit the use of additional funds from this program to provide additional financial assistance to eligible businesses in the zones. Such financial assistance shall be offered by the Finance Authority of Maine in cooperation with the ~~State Development Office~~ department.

A. This fund may consist of money derived from any general obligation bonds for the purpose of generating business opportunities and jobs.

B. In implementing the Maine Job Development Program, the Finance Authority of Maine and the ~~State Development Office~~ department and its successor shall coordinate their activities and other resources to the maximum extent possible.

4. The Maine Job Development Program; financial assistance to municipalities in opportunity zones. The ~~State Development Office~~ department shall designate \$200,000 from the Maine Job Development Program Fund to be provided to municipalities in opportunity zones. This assistance shall be used to develop municipal capacity to generate jobs and business development. Potential uses of this money shall include, but not be limited to, infrastructure development, planning and technical assistance, marketing and other types of capacity building. Money available for the purpose of this subsection shall not be used to provide financial assistance to businesses.

5. Opportunity Zone Service Delivery System Program. The Opportunity Zone Service Delivery System Program shall be developed by the ~~director commissioner~~ to coordinate development resources and services, including the programs and services of the State Planning Office, the Finance Authority of Maine and the Maine State Housing Authority which shall be targeted to assist zones.

6. Opportunity Zone Human Resource Development Program. The ~~State Development Office~~ department shall coordinate and target state and local government human resource development programs to each zone. The programs shall include, but not be limited to, education, including vocational education; job training; work incentive programs; and dependent care. Any of these programs applied to opportunity zones shall use funds appropriated by the Legislature to carry out the purposes of this Part when other existing resources are insufficient or unavailable.

7. Infrastructure Assistance Program. The ~~office~~ department shall work with the Department of Transportation, the Department of Environmental Protection and the Public Utilities Commission to develop an infrastructure program for each zone. Such a program shall include, but not be limited to, short-term and long-term goals and a carefully designed plan of implementation.

8. Exemption. Application for designation of municipal development districts within zones shall be exempted from the limitations on tax increment financing as stipulated in Title 30, section 4683, subsection 1, paragraph C, subparagraph (1). To that end, municipal development district activities shall not affect or be affected by limitations or activities within the county wherein the zone is located.

9. Assistance to communities, persons and entities. The ~~director~~ commissioner shall provide assistance to communities, persons or entities in opportunity zones to fund programs and activities to develop and implement community economic development, business promotion and marketing activities.

10. Grants for newly created jobs. Businesses within the zones shall be eligible to receive direct grants of up to \$1,250 for each new full-time quality job created for a maximum of 200 jobs in all zones per year. Businesses shall be eligible to receive job grants for a period of 2 years from the date of the designation of the zone. Total grants shall not exceed a total of \$250,000 for all businesses within all the zones in any single year. The grants provided pursuant to this subsection shall be made from funds appropriated by the Legislature to carry out the purposes of this Part.

A. The Finance Authority of Maine shall be responsible for the administration of the Job Grants Program under this subsection. In administering this program, the Finance Authority of Maine, in cooperation with the ~~State Development Office department~~, shall adopt rules for the implementation of this program. These rules shall:

- (1) Establish criteria and the process by which the amounts or sizes of grants shall be determined and awarded. Eligible recipients of grants shall be provided with 50% of the credit after a new position has been filled for a period of 6 months. The remainder of the job credit shall be made available to the eligible recipient after the position has been filled for one year;
- (2) Define a quality job;
- (3) Establish a ranking system with minimum eligibility standards, including factors such as full-time jobs; wages; job benefits, including medical insurance, dependent care, paid vacation and paid sick leave; and any other standards deemed important by the Finance Authority of Maine and the ~~State Development Office department~~;
- (4) Provide special consideration for jobs created in manufacturing companies, natural resource-based companies, as well as companies which contribute to the export base of an opportunity zone and companies engaged in the production of value-added products and services; and

(5) Require companies applying for grants to demonstrate their financial viability which may include the use of the grant to make them financially viable.

B. The ~~State Development Office department~~ shall be responsible for the promotion and packaging of applications for consideration by the Finance Authority of Maine. The ~~State Development Office department~~ shall contract with the Finance Authority of Maine to underwrite and administer the Job Grants Program defined in this subsection. The contract shall allow for the reimbursement of reasonable expenses associated with the administration of the program.

Sec. 26. 5 MRSA §15139, as enacted by PL 1987, c. 542, Pt. I, §§3 and 6, is amended to read:

§15139. Cooperation of state agencies

All state agencies shall cooperate with the ~~State Development Office department~~ and the State Planning Office and expeditiously respond to their requests to undertake the activities required by this chapter.

Sec. 27. 5 MRSA §17003, as amended by PL 1987, c. 283 and as repealed by PL 1987, c. 539, is repealed.

Sec. 28. 5 MRSA §17004, as amended by PL 1987, c. 309, and as repealed by PL 1987, c. 539, is repealed.

Sec. 29. 5 MRSA §17005, sub-§3, as enacted by PL 1987, c. 349, Pt. H, §7, is repealed.

Sec. 30. 5 MRSA §17852, sub-§10, ¶B, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. For members who qualify under section 17851, subsection ~~± 11~~, paragraph B, and who retire upon or after reaching the age of 55, the retirement benefit shall be computed in accordance with subsection 1.

Sec. 31. 5 MRSA §18553, sub-§4, ¶A, as repealed and replaced by PL 1987, c. 529, §3, is amended to read:

A. The amount of the survivor benefit shall be determined as follows.

(1) Until January 1, 1989:

- (a) One dependent child shall be paid \$150 each month;
- (b) Two dependent children shall be paid \$225 each month which shall be divided equally between them; and
- (c) Three or more dependent children shall be paid \$300 each month which shall be divided equally among them.

(2) Starting January 1, 1989, each dependent child shall receive a benefit of \$150 a month.

- (3) Starting July 1, 1989, each dependent child shall receive a benefit of \$175 a month.
- (4) Starting July 1, 1990, each dependent child shall receive a benefit of \$200 a month.
- (5) Starting July 1, 1991, each dependent child shall receive a benefit of \$225 a month.
- (6) Starting July 1, 1992, each dependent child shall receive a benefit of \$250 a month.
- (7) Starting July 1, ~~1991~~ 1993, a participating local district may increase the \$250 benefit under subparagraph (6) by the cost of living, in accordance with the provisions of subsection 10.

Sec. 32. 5 MRSA Pt. 22, first 2 lines, as repealed and replaced by PL 1987, c. 539, is repealed and the following enacted in their place:

PART 23

PUBLIC HEALTH

Sec. 33. 5 MRSA §19202, first ¶, as repealed and replaced by PL 1987, c. 539, is amended to read:

The Committee to Advise the Department of Human Services on AIDS, as established by section 12004, subsection 10, shall consist of not less than 26 members nor more than 30 members to include representation of: One allopathic physician from nominees submitted by the Maine Medical Association; one osteopathic physician from nominees submitted by the Maine Osteopathic Association; one nursing home administrator from nominees submitted by the Maine Health Care Association; one funeral director from nominees submitted by the Maine Funeral Directors Association; one social worker from nominees submitted by the Maine Chapter of the National Association of Social Workers; one public school administrator from a local school district from nominees submitted by the Maine Superintendents Association; one nurse from nominees submitted by the Maine State Nurses Association; one representative from nominees submitted by the Maine Hospice Council; one teacher from nominees submitted by the Maine Teachers Association; 2 members of the high risk community; one insurance industry representative; one employee of a community mental health center; one dentist from nominees submitted by the Maine Dental Association; one state employee from nominees submitted by the Maine State Employees Association; 2 members of the public, including one parent of a school-age child; the Commissioner of Human Services or ~~his~~ the commissioner's designee who shall serve during the commissioner's term of office; one psychologist from nominees submitted by the Maine Psychological Association; one state employee from nominees submitted by the American Federation of State, County and Municipal Employees; one member representing hospitals from nominees submitted by the Maine Hospital Association;

one member representing public health professionals from nominees submitted by the Maine Public Health Association; one representative of a nonprofit hospital or medical service organization; one substance abuse counselor; one member of the clergy; and 2 Legislators, one ~~representative~~ member of the House of Representatives appointed by the Speaker of the House and one Senator appointed by the President of the Senate. The members, except for those specifically designated in this paragraph, shall be appointed by the Governor for their competence and experience in connection with these fields.

Sec. 34. 5 MRSA §19205, sub-§3 is enacted to read:

3. Development of a client support services system. A client support services system shall be developed to assist individuals infected with the Human Immune Deficiency Virus and to ensure that they receive necessary services. The client support service, arranged by the staff of community-based agencies, shall include, but not be limited to, assisting the individual's needs and assisting the individual with obtaining access to necessary health care, social service, housing, transportation, counseling and income maintenance services. The Department of Human Services shall be responsible for providing overall direction for the development of the client support services system.

Sec. 35. 7 MRSA §972, as amended by PL 1987, c. 319, §1, and c. 534, Pt. B, §§2 and 23, is repealed and the following enacted in its place:

§972. Potato Marketing Improvement Committee

There is established an advisory committee, as authorized by Title 5, section 12004, subsection 9, of 10 members to be known as the Potato Marketing Improvement Committee. The Potato Marketing Improvement Committee shall advise the commissioner on the development and implementation of improved potato marketing systems, including the modernization, construction and operation of storage and central packing facilities. The Potato Marketing Improvement Committee shall also advise the commissioner concerning the funding and expenditures of the Potato Marketing Improvement Fund created pursuant to section 973. The commissioner shall appoint one member representing the University of Maine System, one member representing the Farmers Home Administration, one member representing the Farm Credit System, one member representing the Department of Economic and Community Development and one member representing the public. Each executive council established pursuant to Title 36, section 4603, subsection 3, shall appoint one person to serve as a member of the committee. The commissioner and the executive councils shall appoint as members persons with education, training or experience relevant to the development and implementation of improved potato marketing systems, including the modernization, construction and operation of storage and central packing facilities and with an understanding of the importance of those facili-

ties for potato quality and marketing. When the commissioner finds it appropriate, the members representing the Farmers Home Administration and the Farm Credit System may serve as a loan review committee and advise the commissioner, on a confidential basis, on applications for funding.

Sec. 36. 8 MRSA §329, 2nd ¶, as repealed by PL 1987, c. 395, Pt. A, §33, and as amended by PL 1987, c. 402, Pt. A, §82, is repealed.

Sec. 37. 8 MRSA §360, as amended by PL 1987, c. 402, Pt. A, §83, and as repealed by PL 1987, c. 505, §1, is repealed.

Sec. 38. 9 MRSA §2301, as repealed and replaced by PL 1975, c. 381, §1, is amended to read:

§2301. Industrial loan companies

All corporations chartered and doing business as "industrial loan companies" pursuant to ~~sections 2301 to 2382~~ this section and former sections 2302, 2303, 2341 to 2345 and 2381 and 2382 and which were not accepting certificates of investment prior to June 1, 1967 are hereby made corporations organized under Title 13-A and such "industrial loan companies" shall be subject to Title 9-A to the extent that the activities of such companies are within the provisions of said Title 9-A.

Sec. 39. 9-A MRSA §6-103, as amended by PL 1987, c. 105, §1 and c. 402, Pt. A, §84, is repealed and the following enacted in its place:

§6-103. Administration

There is created and established the Bureau of Consumer Credit Protection within the Department of Professional and Financial Regulation. The Superintendent of Consumer Credit Protection is the head of Consumer Credit Protection. As used in this Act, "administrator" means the superintendent of the Bureau of Consumer Credit Protection. He shall be appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance and to confirmation by the Legislature. He shall be appointed for a term of 5 years or until a successor is appointed and qualified. Any vacancy occurring shall be filled by appointment for the unexpired portion of the term. He may be removed from office for cause by impeachment or by the Governor on the address of both branches of the Legislature and Title 5, section 931, subsection 2, shall not apply. During his term of office the administrator shall engage in no other business or profession. The administrator's salary shall be paid from the General Fund.

Sec. 40. 9-B MRSA §211, sub-§1, as amended by PL 1987, c. 105, §2 and c. 402, Pt. A, §85, is repealed and the following enacted in its place:

1. Appointment; term; qualifications. The activities

of the bureau shall be directed by a superintendent who shall be appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance and to confirmation by the Legislature. The superintendent shall hold office for a term of 5 years, or until his successor is appointed and qualified. The superintendent may be removed from office for cause by impeachment or by the Governor on the address of both branches of the Legislature, and Title 5, section 931, subsection 2, shall not apply. Any person appointed as superintendent shall have the knowledge of, or experience in, the theory and practice of banking.

Sec. 41. 10 MRSA §363, sub-§3, as amended by PL 1987, c. 3, §1 and as repealed by PL 1987, c. 413, §4, is repealed.

Sec. 42. 10 MRSA §363, sub-§8, as enacted by PL 1987, c. 3, §2 and c. 413, §4, is repealed and the following enacted in its place:

8. Allocation to the Maine Educational Loan Marketing Corporation. That portion of the state ceiling allocated to the category of bonds providing funds for student loans shall be allocated to the Maine Educational Loan Marketing Corporation, which may further allocate that portion of the state ceiling to student loan bonds requiring an allocation in order to qualify as tax-exempt bonds.

Sec. 43. 10 MRSA §963-A, sub-§49-A, as enacted by PL 1987, c. 393, §2, and c. 521, §3, is repealed and the following enacted in its place:

49-A. Seller-sponsored loan. "Seller-sponsored loan" means a loan to one or more individuals or to a family farm corporation from the seller of agricultural land, which loan represents all or a significant portion of the purchase price for that land, provided that the authority has issued a certificate designating the loan as a seller-sponsored loan with respect to an identified seller after finding that the interest rate to be charged is reasonably consistent with current interest rates for loans for the purchase of agricultural land, and that the purchasers intend to use the land primarily for growing or raising plants or animals for business purposes. The loan shall cease to be a seller-sponsored loan if the land ceases to be used for agricultural purposes.

Sec. 44. 10 MRSA §963-A, sub-§49-B, as enacted by PL 1987, c. 521, §3, is repealed and the following enacted in its place:

49-B. Underground oil storage facility. "Underground oil storage facility" means the same as set forth in Title 38, section 562, subsection 13.

Sec. 45. 10 MRSA §963-A, sub-§49-C is enacted to read:

49-C. Underground oil storage facility replacement

project. "Underground oil storage facility replacement project" means the removal, disposal or replacement of all or any part of an underground oil storage facility which is used for marketing and distribution of oil, petroleum products or their by-products to persons or entities other than the owner of the facility.

Sec. 46. 10 MRSA §1100-S, sub-§1, as enacted by PL 1987, c. 542, Pt. I, §4, is amended to read:

1. Cooperation with the Development of Economic and Community Development. In administering this program, the authority shall cooperate with the State Development Office Department of Economic and Community Development. The authority and the State Development Office Department of Economic and Community Development shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to implement this program. These rules shall:

A. Establish criteria and the process by which the amounts or sizes of grants shall be determined and awarded. Eligible recipients of grants shall be provided with 50% of the credit after a new position has been filled for a period of 6 months. The remainder of the job credit shall be made available to the eligible recipient after the position has been filled for one year;

B. Define a quality job;

C. Establish a ranking system with minimum eligibility standards, including factors such as full-time jobs; wages; job benefits, including medical insurance, dependent care, paid vacation, paid sick leave; and any other standards deemed important by the Finance Authority of Maine and the State Development Office Department of Economic and Community Development;

D. Provide special consideration for jobs created in manufacturing companies, natural resources based companies as well as companies which contribute to the export base of an opportunity zone and companies engaged in the production of value-added products and services; and

E. Require companies applying for grants to demonstrate their financial viability which may include the use of the grant to make them financially viable.

Sec. 47. 12 MRSA §602, sub-§19, as enacted by PL 1987, c. 217, §§1 and 3, and c. 402, Pt. A, §92, is repealed and the following enacted in its place:

19. State Park Reservation System. A State Park Reservation System shall be established and funded as provided in this subsection.

A. The director shall establish a statewide reservation system for overnight camping at state parks with overnight camping facilities incorporating a deposit system and a mechanism for accepting payments by

credit card. Baxter State Park, the Allagash Wilderness Waterway and the Public Reserved Lands System are excluded from this system.

B. The money for this program shall be appropriated from the General Fund. A surcharge shall be collected on all reservations to be deposited in the General Fund.

C. The Bureau of Parks and Recreation shall submit a report detailing the effectiveness of the reservation system to the joint standing committee of the Legislature having jurisdiction over energy and natural resources in the Second Regular Session of the 114th Legislature. The committee shall report its findings no later than March 1, 1990.

Sec. 48. 12 MRSA §602, sub-§20 is enacted to read:

20. Management of ATV's. To administer the ATV Recreational Management Fund, established under section 7854, subsection 4, for the purposes given in that subsection. The bureau may promulgate rules, in accordance with Title 5, chapter 375, subchapter II, for the issuance of grants-in-aid from the fund and to further define alpine tundra areas pursuant to section 7851, subsection 5.

Sec. 49. 12 MRSA §685-B, sub-§1, ¶C, as amended by PL 1985, c. 819, Pt. A, §18, is further amended to read:

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

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

Approval by the commission that the proposed development meets the requirements of subsection 4, and of the land use standards and rules adopted by the commission shall be a sufficient basis to support, but shall not require, a finding by the administering agency that the development meets the requirements of the Site Location of Development Law, Title 38, sections 481 to 488; the Minimum Lot Size Law, sections 4807 to 4807-G; the Wetlands Law, Title 38, sections 471 to 478; the Great Ponds Law, Title 38, chapter 3, subchapter 1, article 1-A; or the Stream Alteration Law, Title 38, chapter 3, subchapter I, article 2-A; and the rules adopted with respect to any of such statutes, as any of such statutes, rules or regulations may apply. Disapproval by the commission shall be a sufficient basis to support, but shall not require, a finding by the administering agency that the proposed development does not meet the requirements of the Site Location of Development Law, Title 38, sections 481 to 488; the Minimum Lot Size Law, sections 4807 to 4807-G; the Wetlands Law, Title 38, sections 471 to 478; the Great

Ponds Law, Title 38, section 422; or the Stream Alteration Law, Title 38, chapter 3, subchapter I, article 2-A; and the rules adopted with respect to any of such statutes, as any of such statutes, rules or regulations may apply.

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

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

Sec. 50. 12 MRSA §7827, sub-§4-A, as amended by PL 1987, c. 317, §23, and c. 402, Pt. B, §15, is repealed and the following enacted in its place:

4-A. Unlawfully operating a vehicle on a snowmobile trail. A person is guilty of unlawfully operating a vehicle on a snowmobile trail if that person operates any 4-wheel drive vehicle, dune buggy, all-terrain vehicle, motorcycle or any other motor vehicle, other than a snowmobile and appurtenant equipment, on snowmobile trails which are financed in whole or in part with funds from the Snowmobile Trail Fund, unless that use has been authorized by the landowner or the landowner's agent, or unless the use is necessitated by an emergency involving safety of persons or property.

Sec. 51. 12 MRSA §8901, sub-§1, as amended by PL 1987, c. 69, §1, and c. 349, Pt. H, §11, is repealed and the following enacted in its place:

1. Appointment. The Director of the Bureau of Forestry shall appoint forest rangers, subject to the Civil Service Law and the State Supervisor, Forest Fire Operations. Rangers assigned to posts at Clayton Lake, St. Pamphile, Estcourt Station, Daaquam, Musquacook Lake, Snare Brook and Baker Lake must be bilingual in French and English.

Sec. 52. 14 MRSA §8102, sub-§1, as amended by PL 1987, c. 218, §1, and c. 386, §1, is repealed and the following enacted in its place:

1. Employee. "Employee" means a person acting on behalf of the governmental entity in any official capacity, whether temporarily or permanently, and whether with or without compensation from local, state or federal funds, including elected or appointed officials, volunteer firefighters as defined in Title 30, section 3771, emergency medical service personnel, and Maine National Guardsmen while receiving state active duty pay under Title 37-B, section 143, in accordance with Title 37-B, sections 181 to 183 and 742, and while engaged in the Domestic Action Program, but the term "employee" shall not mean a person or other legal entity acting in the capacity of an independent contractor under contract to the governmental entity.

Sec. 53. 15 MRSA §3105, sub-§1, ¶A, as repealed by PL 1987, c. 222, §1, and as amended by PL 1987, c. 277, §1, is repealed.

Sec. 54. 15 MRSA §3105-A, sub-§2, ¶C, as enacted by PL 1987, c. 222, §2, is repealed and the following enacted in its place:

C. A prosecution for conduct specified in section 3103, subsection 1, paragraph B, C, D, E or F shall be commenced within one year after it is committed.

Sec. 55. 17 MRSA §1301-A, 2nd ¶, as amended by PL 1987, c. 45, Pt. B, §4, and c. 402, Pt. A, §115, is repealed and the following enacted in its place:

The inspectors and agents of licensing authorities issuing licenses under this section shall have the authority to investigate and prosecute complaints against its licensees for violation of this section and to institute proceedings before the Administrative Court Judge who shall be empowered to proceed under Title 5, chapter 375, and not under Title 28-A, chapter 33.

Sec. 56. 17-A MRSA §1322, sub-§1, ¶C, as enacted by PL 1977, c. 455, §3, is amended to read:

C. Workmen's Workers' compensation;

Sec. 57. 19 MRSA §212 is amended to read:

§212. Actions for loss of services

The parents of a minor child jointly may maintain an action for loss of the services or earnings of such that child when such that loss is caused by the negligent or wrongful act of another, but where one parent refuses to sue, the other may sue alone. Nothing contained herein shall in this section may be deemed to limit, amend, supersede or affect the Workmen's Workers' Compensation Law or acts in amendment thereof Act.

Sec. 58. 20-A MRSA §1401, sub-§1, ¶B, as amended by PL 1987, c. 395, Pt. A, §57, and c. 402, Pt. A, §119, is repealed and the following enacted in its place:

B. The agreement may contain a new method of shar-

ing costs among the member municipalities of the district in accordance with section 1301. The article set out in section 1202, subsection 6, paragraph D, authorizing units to vote on alternate methods of sharing costs shall be used if the agreement recommended by the commissioner contains a provision for using one of the alternate methods of sharing costs.

Sec. 59. 20-A MRSA §3656, first ¶, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

Each employee of an interstate district assigned to a school located in New Hampshire shall be considered an employee of a New Hampshire school district for the purpose of the New Hampshire teachers retirement system, the New Hampshire state employees retirement system, the New Hampshire workmen's workers' compensation law and any other law relating to the regulation of employment or the provision of benefits for employees of New Hampshire school districts except as follows:

Sec. 60. 20-A MRSA §3661, first ¶, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

Each employee of an interstate district assigned to a school located in Maine shall be considered an employee of a Maine school district for the purpose of the Maine State Retirement System, the Maine workmen's workers' compensation law, and any other laws relating to the regulation of employment or the provision of benefits for employees of Maine school districts except as follows:

Sec. 61. 20-A MRSA §3667, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§3667. Immunity from tort liability

Notwithstanding the fact that an interstate district may derive income from operating profit, fees, rentals; and other services, it shall be immune from suit and from liability for injury to persons or property and for other torts caused by it or its agents, servants or independent contractors, except insofar as it may have undertaken such liability under RSA 221:7 relating to workmen's workers' compensation, or RSA 412:3 relating to the procurement of liability insurance by a governmental agency and except insofar as it may have undertaken such liability under Maine laws relating to workmen's workers' compensation or Maine laws relating to the procurement of liability insurance by a governmental agency.

Sec. 62. 20-A MRSA §8606-A, as enacted by PL 1987, c. 395, Pt. A, §80, and c. 496, §2, is repealed and the following enacted in its place:

§8606-A. Reimbursement procedures

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

A. "Adult education program costs" includes expenditures for salaries and supplies as identified in section 8607.

B. "Foundation year" means the 2nd school year prior to the year of allocation of funds.

C. "Maximum allowable expenditures," for state subsidy purposes, means an amount not to exceed the sum of funds raised through taxation and expended in accordance with section 8607 in the foundation year, plus the amount of subsidy paid by the State during the foundation year.

2. Commissioner certification. Prior to December 15th of each year, the commissioner shall prepare and certify to the Legislature and to the Bureau of the Budget a recommendation for the funding level for the various program categories in adult education for payment in the next fiscal year.

A. The requested funding level shall be for the authorized reimbursement rates established in section 8607 and may not exceed the maximum allowable expenditures in the foundation year.

B. A school administrative unit shall provide the commissioner with information which the commissioner shall request to carry out the purpose of this chapter according to time schedules which the commissioner shall establish. The commissioner may withhold subsidy payment or a portion of the subsidy payment from a school administrative unit when information is not filed in specified format and content and within the specified time schedule.

C. The recommendation in this certificate shall include local program cost adjustment to the equivalent of the year prior to the year of allocation.

3. State reimbursement. State reimbursement for expenditures on adult education programs shall be based on each administrative unit's actual adult education program costs in the foundation year.

A. The reimbursement shall be based on the unit's expenditures for the foundation year in accordance with the maximum allowable expenditures and the cost adjustment as in subsection 2.

B. State reimbursement shall be paid to each eligible school administrative unit during the 2nd quarter of the State's fiscal year.

4. Action by the Legislature. The Legislature shall appropriate the necessary funds to meet the state obligation as defined in subsections 1 and 2.

5. Rule-making authority. The commissioner shall have the authority to promulgate rules to administer this section. Upon the effective date of this provision, the commissioner shall begin to promulgate rules which en-

sure that the maximum allowable expenditures for the initial foundation year accurately reflect the total costs of adult education for that year.

6. State administration. The commissioner shall add to the budget request an amount sufficient to provide for the administration of this section.

Sec. 63. 20-A MRSA §12705, sub-§1, ¶E, as amended by PL 1987, c. 532, §2, and c. 534, Pt. B, §§12 and 23, is repealed and the following enacted in its place:

E. The Commissioner of Economic and Community Development, or his successor, who shall serve ex officio.

Sec. 64. 22 MRSA §396-D, sub-§9, ¶E, as enacted by PL 1987, c. 402, Pt. A, §137, and c. 440, §3, is repealed and the following enacted in its place:

E. In determining payment year financial requirements, the commission shall include an adjustment to reflect the reasonable costs, including reasonable attorneys' fees, incurred by a hospital to prosecute an appeal of a commission decision pursuant to section 397, subsection 4, provided that the adjustment shall reflect only those reasonable costs that are associated with the issues on which the hospital has prevailed in court, including costs associated with presenting those issues to the commission in the case from which the appeal was taken. The commission shall make an adjustment under this paragraph only to the extent that the costs found to be reasonable are not otherwise included in financial requirements.

Sec. 65. 22 MRSA §396-D, sub-§9, ¶G is enacted to read:

G. The commission shall include an adjustment to financial requirements for increases in costs of compensation for professional medical personnel, including nurses and certified nurses aides, to the extent that a hospital demonstrates that such increases are reasonably necessary to retain or recruit such personnel, that such increases are in excess of the increases attributable to the compensation proxy included in the economic trend factor, that the hospital has passed on the value of the compensation cost proxy in past years and that the hospital will experience economic hardship without additional funds. Economic hardship means an excess of noncapital operating expenses over noncapital financial requirements. In determining this adjustment, the commission shall consider the current labor market conditions affecting the hospital and the hospital's compensation rates in relation to those of other similarly situated hospitals. Those adjustments may be made during the course of a payment year.

Sec. 66. 22 MRSA §396-D, sub-§9-A, ¶B, as enacted by PL 1987, c. 51, §1, is amended to read:

B. In determining the amount of the excess upon which an adjustment may be based, the commission:

(1) Shall consider the extent to which other adjustments have been made under this section for changes that occurred during the base year; and

(2) Shall adjust the amount determined under ~~subsection~~ paragraph A to reflect the impact, determined by means of the economic trend factor established in accordance with subsection 1, of inflation from the base year through the payment year prior to the year for which an adjustment has been requested.

Sec. 67. 22 MRSA §674, sub-§4, ¶¶H and I, as amended by PL 1987, c. 493, §4, and c. 519, §3, are repealed and the following enacted in their place:

H. Shall encourage, participate in, or conduct studies, investigations, training, research and demonstrations relating to control of sources of radiation;

I. Shall collect and disseminate information relating to control of sources of radiation, including:

(1) Maintenance of a file of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions and revocations;

(2) Maintenance of a file of registrants possessing sources of radiation requiring registration under this Act and any administrative or judicial action pertaining to this Act; and

(3) Maintenance of a file of all of the department's rules relating to regulation of sources of radiation, pending or promulgated, and any connected proceedings;

Sec. 68. 22 MRSA §674, sub-§4, ¶¶J and K, as enacted by PL 1987, c. 493, §4, and c. 519, §4, are repealed and the following enacted in their place:

J. May investigate and sample sites where radioactive substances or devices are stored or handled to identify uncontrolled radioactive substance sites;

K. May take whatever action is deemed necessary to abate, clean up or mitigate the threats or hazards posed or potentially posed by radioactive material or radiation-generating equipment to protect the public health, safety or welfare or the environment, including administering or carrying out measures to abate, clean up or mitigate the threats or hazards and implementing remedies to remove, store, treat, dispose of or otherwise handle radioactive material, including soil and water contaminated by the material;

Sec. 69. 22 MRSA §674, sub-§4, ¶¶L and M are enacted to read:

L. Shall establish and maintain a continuous radiation monitoring system to record the radioactive levels of gaseous and liquid discharges from any commercial nuclear power facility operating in the State; and

M. Shall establish and maintain an off-site monitoring network to provide continuous monitoring of gamma radiation levels within the vicinity of any commercial nuclear power facility operating in the State. Portable off-site monitoring devices shall be made available to members of the public to establish a network of volunteer monitors who shall report to the department their findings. For this purpose, the department shall make Geiger Rate meters available to 50 volunteer monitors. In addition to the placement of Geiger Rate meters, the department shall procure 20 Gamma Scintillation Detection Devices and place 16 of them in homes of members of the public who volunteer to participate in the program. The 4 additional devices shall be maintained by the department in reserve. The volunteers with Gamma Scintillation Detection Devices shall also be provided with 2-way radios so they can report their findings in the case of emergency. All volunteers will assist the department in its continuous monitoring network. All off-site monitoring devices shall be geographically distributed throughout the surveillance area to provide the most effective monitoring network. The department shall adopt rules to provide for the selecting of the volunteers, the appropriate and accurate use of the meters and devices and the method and frequency of reporting to the department and other procedures necessary to implement the program.

Sec. 70. 22 MRSA §674, sub-§5, as amended by PL 1987, c. 370, §3, and c. 519, §5, is repealed and the following enacted in its place:

5. Coordination. In consultation with the State Nuclear Safety Advisor in fulfillment of the advisor's duties pursuant to Title 25, sections 51 and 52, the commissioner shall serve as the coordinator of radiation activities among the Maine Emergency Management Agency, Department of Public Safety, Department of Human Services and Department of Environmental Protection. The commissioner shall:

A. Consult with and review regulations and procedures of the agencies and federal law to assure consistency and to prevent unnecessary duplication, inconsistencies or gaps in regulatory requirements; and

B. Review, prior to promulgation, the proposed rules of all agencies of the State relating to use of control of radiation, to assure that these rules are consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, and rules of other agencies of the State. The review shall be completed within 15 days.

If the commissioner determines that proposed rules are inconsistent with rules of other agencies of the State or

federal law, the commissioner shall consult with the agencies involved in an effort to resolve these inconsistencies. In the event no inconsistency is reported within 15 days, the proposed rules shall be presumed consistent for the purposes of this subsection. Upon notification by the commissioner that the inconsistency has not been resolved, the Governor may find that the proposed rules or parts of rules are inconsistent with rules of other agencies of the State or the Federal Government and may issue or order to that effect, in which event the proposed rules or parts of rules shall not become effective. The Governor may direct, in the alternative, upon a similar determination, the appropriate agency or agencies to amend or repeal existing rules to achieve consistency with the proposed rules.

Sec. 71. 22 MRSA §1682, as repealed and replaced by PL 1987, c. 86, §1, is repealed.

Sec. 72. 22 MRSA §1682-A, as enacted by PL 1987, c. 86, §2, is repealed.

Sec. 73. 22 MRSA §1686, as enacted by PL 1987, c. 8, §2, is repealed and the following enacted in its place:

§1686. Toilet facilities required

Unless it is licensed for fewer than 13 seats and is not licensed for on-premise consumption of alcoholic beverages, an eating establishment shall provide at least one toilet facility for the use of its customers. Toilet facilities which require access through the food preparation area or the use of which would in any way cause the establishment to be in violation of any state law or rule shall not be considered as fulfilling this requirement. The location of the toilets shall be clearly marked, maintained in a sanitary condition, in good repair and their location identifiable from the eating area. There shall be no charge for their use. Lavatory facilities shall be located within or immediately adjacent to all toilet rooms or vestibules.

Upon appeal, the Division of Health Engineering may exempt from the requirements of this chapter eating establishments of 13 to 25 seats which are not licensed for on-premise consumption of alcoholic beverages and which were in existence prior to September 30, 1985, and which:

1. Shopping malls. Are part of an enclosed mall which provides customer toilet facilities which are part of the public portion of the mall and not part of a business within the mall;

2. Other locations. Have submitted evidence of an agreement with a 2nd party that customers of the eating establishment may use toilet facilities which are on the premises owned or rented by the 2nd party in cases where such use would not create a substantial inconvenience to the customer of the eating establishment;

3. Construction costs. Are housed in buildings of unique construction which makes installation of a toilet facility cost prohibitive; or

4. Space loss. Would lose 1/4 or more of their existing seating space if required to provide a toilet facility of a minimum size of 3 feet by 6 feet.

Any eating establishment which does not have a toilet facility available shall post a sign to that effect which may be seen upon entry to the eating establishment.

Sec. 74. 22 MRSA §1686-A is enacted to read:

§1682-A. Eating establishments that permit consumption of alcoholic beverages

Any eating establishment regardless of the number of seats that permits on-premise consumption of alcoholic beverages shall be bound by section 1686, regarding the provision of a toilet facility.

Sec. 75. 22 MRSA §2842, sub-§2, as amended by PL 1987, c. 72, and c. 296, §2, is repealed and the following enacted in its place:

2. Medical certificate by physician. The medical certification of the cause of death shall be completed and signed in a timely fashion by a physician authorized to practice in the State who has knowledge of the patient's recent medical condition, in accordance with department regulations and other laws detailing who can certify and in what time frame, except when the death falls under the jurisdiction of the medical examiner as provided in section 3025. If the patient was a resident of a nursing home licensed under section 1817 at the time of death and if the physician in charge of the patient's care or another physician designated by the physician in charge had not examined the patient within 48 hours prior to death, or within 2 weeks prior to death in the case of a terminally ill patient, the physician in charge or another physician designated by the physician in charge shall examine the body prior to completing the certification of death process. Any physician who fails to complete the medical certification of the cause of death fully, and in a timely manner, or who fails to examine the body of a nursing home resident prior to certifying cause of death as required by this section shall be reported to the Board of Registration in Medicine or the Board of Osteopathic Examination and Registration, whichever is appropriate, by the State Registrar of Vital Statistics of the Department of Human Services.

For the purposes of this subsection, the following terms have the following meanings.

A. "Life-sustaining procedure" means any medical procedure or intervention that, when administered to a qualified patient, will serve only to prolong the dying process and shall not include nutrition and hydration.

B. "Terminally ill patient" means a patient who has been diagnosed as having an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending physician, result in death within a short time.

Sec. 76. 22 MRSA §3725, sub-§2, as enacted by PL 1987, c. 402, Pt. A, §142, is repealed and the following enacted in its place:

2. Limit on disbursements. Of the first \$100,000 of income each year, the amount remaining after payment of operating expenses and expenses for developing public awareness shall be expended by the board in the following proportions: A minimum of 1/3 shall be allocated to the trust fund and up to 2/3 allocated for grants to local programs. One half of the amount of income each year which exceeds \$100,000, but which does not exceed \$500,000, shall be set aside for the development of the trust fund. The board may expend the remainder in accordance with the duties set out in section 4084. The board may not expend the amount of income each year which exceeds \$500,000. For purposes of this section, income includes interest attributed to the fund pursuant to Title 36, section 5285. When the total amount of the fund reaches \$4,000,000, contributions to the fund shall cease, as provided in Title 36, section 5285, and the expenditures by the board shall be limited to the amount of interest credited annually to the fund.

Sec. 77. 22 MRSA §4002, sub-§7-A, ¶F, as enacted by PL 1985, c. 739, §2, is amended to read:

F. Emancipation of the child, if the requirements of Title 15, section ~~3506~~ 3506-A, are met.

Sec. 78. 22 MRSA §4085, sub-§2, as amended by PL 1987, c. 366, and as repealed by PL 1987, c. 402, Pt. A, §144, is repealed.

Sec. 79. 22 MRSA §5304, sub-§14, as enacted by PL 1973, c. 793, §12, is amended to read:

14. Income. "Income" means the sum of Maine adjusted gross income determined in accordance with the Revised Statutes, Title 36, Part 8, the amount of capital gains excluded from adjusted gross income, alimony, support money, nontaxable strike benefits, the gross amount of any pension or annuity including railroad retirement benefits, all payments received under the Federal Social Security Act, state unemployment insurance laws and ~~veterans~~ veterans' disability pensions, nontaxable interest received from the Federal Government or any of its instrumentalities, ~~workmen's~~ workers' compensation and the gross amount of "loss of time" insurance, cash public assistance and relief. It does not include gifts from nongovernmental sources or surplus foods or other relief in kind supplied by a governmental agency or property tax relief for the elderly.

Sec. 80. 22 MRSA §7901-A, sub-§5, as amended by PL 1987, c. 304, §1, is further amended to read:

5. Mobile nonambulatory. "Mobile nonambulatory," as applied to a resident of a boarding care facility, means being able to transfer independently and able to evacuate a facility in less than 2 1/2 minutes with the assistance of another person throughout the evacuation procedure.

Sec. 81. 23 MRSA §152, 5th ¶, as repealed and replaced by PL 1987, c. 395, Pt. A, §92, and c. 402, Pt. A, §145, is repealed and the following enacted in its place:

The commission shall maintain an office in Kennebec County. The Commissioner of Finance shall appoint, subject to the Civil Service Law, a clerk of the commission to keep its records and to perform such other duties as the commission shall prescribe. The clerk shall have authority to certify to all official acts of the commission, administer oaths, issue subpoenas, and issue all processes, notices, orders or other documents necessary to the performance of the duties of the commission.

Sec. 82. 23 MRSA §152, 6th ¶, as repealed and replaced by PL 1987, c. 395, Pt. A, §92, and c. 402, Pt. A, §146, is repealed and the following enacted in its place:

The Commissioner of Finance shall appoint and fix the compensation of a reporter to the commission, and shall review and approve all charges made by such reporter for transcripts of the record of hearings before the commission. The commissioner may appoint, subject to the Civil Service Law, such clerical assistants for the commissioner as he deems necessary.

Sec. 83. 23 MRSA §652, sub-§1, as amended by PL 1987, c. 395, Pt. A, §105, and c. 402, Pt. B, §18, is repealed and the following enacted in its place:

1. Change of grade. Whenever the department changes the grade of any state or state aid highway, as provided in chapters 1 to 19, to the injury of an owner of adjoining land, that owner may apply, within 24 months after completion of the work according to the records of the department, to the department in writing for a determination and assessment of damages. If the department is unable to settle that damages at what it deems a reasonable amount, the department or interested parties may apply to the State Claims Commission in writing for a determination and assessment of the damages. The proceedings shall then be the same as in condemnation cases.

Sec. 84. 23 MRSA §652, sub-§2, ¶E, as amended by PL 1987, c. 395, Pt. A, §106, and c. 402, Pt. B, §19, is repealed and the following enacted in its place:

E. If the department is unable to settle at what it deems a reasonable settlement, the department or owner may apply to the State Claims Commission in writing for a determination of the alleged cause and assessment of the damage. The proceedings shall then be the same as in condemnation cases.

Sec. 85. 23 MRSA §1851, first ¶, as enacted by PL 1987, c. 473, is amended to read:

The department may administer bond issue funds for the construction of municipal or county salt and sand storage facilities in order to reduce salt pollution of ground and surface waters. Any bonds issued un-

der this section shall be paid for out of the Highway Fund. In administering these funds, the department shall provide reimbursement to municipal and county governmental entities for approved projects according to the order of priority established ~~biannually~~ biennially by the Department of Environmental Protection. Allocation of funds shall be based upon 1.25 times the ratio of miles of state and state-aid roads maintained for winter maintenance, as described in sections 1001 and 1003, to all miles maintained for winter maintenance by the municipality, quasi-municipal agency or county. The department shall establish guidelines to reimburse eligible local government entities in a consistent and timely manner.

Sec. 86. 23 MRSA c. 410-A is enacted to read:

CHAPTER 410-A

MAINE TRANSPORTATION CAPITAL IMPROVEMENT

PLANNING COMMISSION

§4261. Commission

The Maine Transportation Capital Improvement Planning Commission, as established in Title 5, section 12004, subsection 10, shall be within the Department of Transportation.

§4262. Composition; appointment; term

1. Membership. The commission shall consist of no more than 17 members. Membership shall include one representative from each of the State's 8 designated planning and economic development regions who shall be appointed by the Governor and who shall serve as representatives of local government or regional planning agencies. In addition to these members, the Governor shall appoint one representative on the commission for each of the following areas: air passenger or cargo service, rail service, truck service, surface passenger transportation, marine passenger service, marine cargo service and economic or community development. To the extent possible, the Governor shall consider representatives who are active members of established corridor committees. At least 2 members of the commission shall be current members of the joint standing committee of the Legislature having jurisdiction over transportation, consisting of one member from the House of Representatives appointed by the Speaker of the House to serve at the Speaker's pleasure and one member from the Senate appointed by the President of the Senate to serve at the President's pleasure.

2. Qualifications. To be qualified to serve, members must have education, training, experience, knowledge, expertise and interest in transportation matters. Members must be residents of different geographical areas of the State who reflect experiential diversity and concern for transportation in the State.

3. Term; vacancy. Members shall be appointed for terms of 3 years, except that, of the members first appointed, 5 shall be appointed for terms of 3 years, 5 shall be appointed for terms of 2 years and 5 shall be appointed for terms of one year, as designated by the Governor at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of that term. Members who are members of the current Legislature and who are appointed by the President of the Senate or the Speaker of the House shall serve at their pleasure. Any vacancy in the commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

4. Reappointment; termination. Members shall be eligible for reappointment for not more than 2 full consecutive terms and may serve after the expiration of their terms until their successors have been appointed, qualified and taken office. The appointing authority may terminate the appointment of any member of the commission for good cause and the reason for the termination of each appointment shall be communicated to each member terminated. The appointment of any member of the commission shall be terminated if a member is absent from 3 consecutive meetings without good cause that is communicated to the chairman. An official, employee, consultant or any other individual employed, retained or otherwise compensated by or representative of the Executive Department of State Government, other than the commissioner, shall not be a member of the commission, but shall assist the commission if requested.

5. Chairman; officers. The commission shall elect biennially the chairman from among its members. The commission may elect such other officers from its members as it deems appropriate.

§4263. Administrative authority

1. Meetings. The commission shall meet at the call of the commissioner, who shall call meetings at least twice within a calendar year.

2. Subcommittee. The commission may establish subcommittees consisting of its own members to carry out the purposes of this chapter.

3. Quorum. A majority of the commission members shall constitute a quorum for the purpose of conducting the business of the commission and exercising all the powers of the commission. A vote of the majority of the members present shall be sufficient for all actions of the commission.

A majority of any subcommittee shall also constitute a quorum for the purposes of conducting the business for which the subcommittee was established. A vote of the majority of the subcommittee members present shall be sufficient for all actions of the subcommittee.

§4264. Duties

The commission shall:

1. Advise, consult and assist. Advise, consult and assist the commissioner on activities of State Government relating to transportation capital improvement planning. The commission shall be solely advisory in nature. The commission shall not become involved in the preparation or any aspect of the implementation of the department's biennial transportation improvement program;

2. Prepare a transportation capital improvement plan. Assist the department in the preparation of a transportation capital improvement plan that identifies long-range capital improvement needs for the State's highways and bridges, ferries and related facilities, cargo ports, airports, public buses and related facilities and rail facilities. The capital improvement plan shall only address needs that are of a statewide significance. The needs to be addressed shall exclude those items to be addressed in the department's current biennial transportation improvement program. The capital improvement plan shall set forth goals, objectives, schedules and a budget that provides a balanced statewide response to the needs identified. The plan shall be updated every 2 years; and

3. Serve as advocate. Serve as advocate for the public in promoting policies which address the long-term transportation capital improvement needs of the entire State.

Sec. 87. 23 MRSA c. 413, as enacted by PL 1987, c. 542, Pt. G, §2, is repealed.

Sec. 88. 24 MRSA §2354, sub-§4, ¶C, as enacted by PL 1987, c. 405, §35, is amended to read:

C. Nothing in this section may be construed to prohibit or limit a corporation from acquiring or investing in related corporations pursuant to section ~~2359~~ 2360.

Sec. 89. 24-A MRSA §721, sub-§6, as enacted by PL 1969, c. 132, §1, is amended to read:

6. This section shall not apply to life or health insurance, annuities, title insurance, insurance of wet marine and transportation risks, ~~workmen's~~ workers' compensation insurance, employers' liability coverages, nor to any policy or type of coverage as to which the maximum possible loss to the insurer is not readily ascertainable on issuance of the policy.

Sec. 90. 24-A MRSA §1160, sub-§1, as enacted by PL 1987, c. 399, §14, is amended to read:

1. Purchase of own common stock. A stock insurer may not purchase its own common stock, except for the purpose of mutualization under chapter 47; for retire-

ment; or pursuant to a plan for investment or loan submitted in writing by the insurer to the superintendent in advance, and which the superintendent has not disapproved within 20 days after the submission or within any additional reasonable period as the superintendent may request, as being unfair or inequitable to the ~~insurer may not purchase its own common insurers'~~ insurer's policyholders or stockholders.

Sec. 91. 24-A MRSA §2302, sub-§2, ¶D, as enacted by PL 1969, c. 132, §1, is amended to read:

D. Insurance of hulls of aircraft, including their accessories and equipment, or against liability, other than ~~workmen's workers'~~ workers' compensation and employers' liability, arising out of the ownership, maintenance or use of aircraft;

Sec. 92. 24-A MRSA §2002, sub-§4, as enacted by PL 1969, c. 132, §1, is amended to read:

4. Insurance of aircraft owned or operated by manufacturers of aircraft, or of aircraft operated in commercial interstate flight, or cargo of such aircraft, or against liability, other than ~~workmen's workers'~~ workers' compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft.

Sec. 93. 24-A MRSA §2361, as enacted by PL 1987, c. 559, §4, is amended to read:

§2361. Title

This subchapter shall be known and may be cited as the "Workers' Compensation ~~Competitive~~ Rating Act."

Sec. 94. 24-A MRSA §2363, sub-§7, ¶C, as enacted by PL 1987, c. 559, §4, is amended to read:

C. The justness and reasonableness of rates shall be determined for the period in which the rates are in effect. ~~Losses~~ Deficits in the residual market in any preceding year may not be included in the determination of rates.

Sec. 95. 24-A MRSA §2363, sub-§11, as enacted by PL 1987, c. 559, §4, is amended to read:

11. Public hearing. The superintendent shall hold a public hearing as provided in sections 229 ~~and~~ to 235 on each filing. The public hearing shall be conducted no sooner than 30 days and no later than 60 days of the date the rate filing is deemed complete by the superintendent, unless the superintendent extends these limits under subsection 6. The superintendent shall establish just and reasonable rates and state his findings in a written order issued within 90 days from the date the filing is completed, unless he extends this limit under subsection 6. If the superintendent denies or dismisses a filing, any further filing shall be deemed to be a new filing, subject to this public hearing requirement.

Sec. 96. 24-A MRSA §2364, sub-1, ¶B, as enacted by PL 1987, c. 559, § 4, is amended to read:

B. The superintendent may disapprove a subclassification if:

- (1) The insurer fails to demonstrate that the data produced may be reported consistent with the uniform statistical plan and classification system; or
- (2) The proposed subclassification:
 - (a) Is not reasonably related to the exposure;
 - (b) Is not adequately defined;
 - (c) Has not been shown to distinguish among insured insureds based on the potential for or hazard of loss; or
 - (d) Is likely to be unfairly discriminatory.

Sec. 97. 24-A MRSA §2366, sub-§8, as enacted by PL 1987, c. 559, §4, is amended to read:

8. Contracts; consultants. The superintendent may, in its the superintendent's discretion, enter into contracts for the provision of any services necessary or appropriate to the operation of the residual market mechanism and may retain consultants to provide such other technical and professional services as ~~he~~ the superintendent may require for the discharge of ~~his~~ the superintendent's duties.

Sec. 98. 24-A MRSA §2371, sub-§2, ¶B, as enacted by PL 1987, c. 559, §4, is amended to read:

B. Claims history information on each claim, including:

- (1) Date of injury or exposure to disease, date of first report, type of injury or exposure disclosure and affected body part;
- (2) Preinjury wage history, date of initial payment and date of notice of controversy, if any, together with the reason for denial;
- (3) Date of maximum medical improvement ~~and independent medical examiner finding or findings;~~
- (4) Identification of cumulative or opened claims; and
- (5) Duration of wage loss period or periods.

Sec. 99. 24-A MRSA §2371, sub-§2, ¶C, as enacted by PL 1987, c. 559, §4, is repealed and the following enacted in its place:

C. Information concerning Workers' Compensation Commission proceedings, including:

(1) As to each informal conference, the date, commissioner, involvement of attorney or other designated representative, employer's or insurer's offer, employee's expectation and resolution; and

(2) As to each hearing, the date, commissioner, involvement of attorney or other designated representative, employer's or insurer's offer, employee's demand and commissioner's decision.

Sec. 100. 24-A MRSA c. 71, first 2 lines, as enacted by PL 1987, c. 481, §3, are repealed and the following enacted in their place:

CHAPTER 72-A

MAINE LIABILITY RISK RETENTION ACT

Sec. 101. 24-A MRSA §6201, sub-§§10 and 16, as enacted by PL 1987, c. 482, §1, are amended to read:

10. Maintenance fee. "Maintenance fee" means any fee which a subscriber is required to pay to the provider on a regular basis to cover the cost of shelter and, health care or supportive services, or any combination thereof, provided to the subscriber.

16. Supportive services. "Supportive services" means providing assistance in the activities of daily living and or other social services, or both. Supportive services does not refer to services of the type commonly provided to tenants in a conventional apartment building.

Sec. 102. 24-A MRSA §6203, sub-§2, ¶F, as enacted by PL 1987, c. 482, §1, is amended to read:

F. The department certifies to the superintendent that the provider has demonstrated the willingness and potential ability to assure that the health care services and or supportive services, or both, will be provided in a manner to assure both availability and accessibility of adequate personnel and facilities and in a manner enhancing availability, accessibility and continuity of service services; and

Sec. 103. 25 MRSA §2901, as amended by PL 1987, c. 251, §2, and c. 411, §1, is repealed and the following is enacted in its place:

§2901. Department; commissioner

There is created and established the Department of Public Safety to coordinate and efficiently manage the law enforcement and public safety responsibilities of the State, to consist of the Commissioner of Public Safety, in this chapter called "commissioner," who shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over state and local government and to confirmation by the Legislature, to serve at the pleasure of the Governor, and the following as created and established: the Bureau of State Police, the Bureau of Liquor

Enforcement, the Office of the State Fire Marshal, the Maine Criminal Justice Academy, the Maine Highway Safety Commission and the Bureau of Intergovernmental Drug Enforcement.

Sec. 104. 25 MRSA §2902, sub-§4, as amended by PL 1987, c. 251, §3, and c. 411, §2, is repealed and the following is enacted in its place:

4. Maine Highway Safety Commission. The Maine Highway Safety Commission, as authorized by Title 5, section 12004, subsection 10, shall be under the direction of the Commissioner of Public Safety and advisory to the Governor. The commission shall consist of not more than 25 members selected by the Governor from state, civic and industrial organizations and individuals with interests relating to highway safety. The Commissioner of Public Safety, the Commissioner of Transportation, the Commissioner of Human Services and the Commissioner of Educational and Cultural Services, the Secretary of State and the Attorney General shall serve as ex officio members. The ex officio members shall appoint persons in major policy-influencing positions as their designees to represent them at meetings of the commission with voting privileges. The commission members shall serve at the pleasure of the Governor and shall be compensated in accordance with Title 5, chapter 379. The commission shall stimulate active support for highway safety measures and programs and shall advise the Department of Public Safety regarding these issues. The commission shall annually report its findings and recommendations, including any necessary implementing legislation, to the Governor and to the joint standing committee of the Legislature having jurisdiction over state and local government; and

Sec. 105. 26 MRSA §811, sub-§1, as enacted by PL 1987, c. 285, §1, is amended to read:

1. Intent. The intent of this Act section is to ensure that members of the state military forces, including the Maine Army and Air National Guards, and the Reserves of the United States Armed Forces will not suffer harm as the result of their military obligations and that an employee returning from military leave from his civilian job shall be treated no differently than any other employee with an approved leave of absence.

Sec. 106. 26 MRSA §1043, sub-§11, ¶F, as amended by PL 1987, c. 17, §1, is further amended to read:

F. The term "employment" shall not include:

(1) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions, except as provided by this subsection;

(2) Service performed in the employ of the United States Government or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this

chapter, except that on and after January 1, 1940 to the extent that the Congress of the United States has permitted states to require any instrumentalities of the United States to make payments into an unemployment compensation fund under a state unemployment compensation or employment security law, all of the provisions of this chapter shall be applicable to such instrumentalities and to services performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services. If this State shall not be certified for any year by the Secretary of Labor under section 3304 of the Federal Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded by the commissioner from the fund in the same manner and within the same period as is provided in section 1225, subsection 5, with respect to contributions erroneously collected;

(3) Service with respect to which unemployment compensation is payable under an unemployment compensation system or employment security system established by an Act of Congress. The commissioner is authorized and directed to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective 10 days after publication thereof in the manner provided in section 1082, subsection 2, for regulations, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this chapter;

(4) Agricultural labor as defined in subsection 1, except as provided in paragraph A-2;

(4-1) Agricultural labor in the harvesting of apples, if performed by an individual who is an alien, other than a citizen of a contiguous country with which the United States has an agreement with respect to unemployment compensation, admitted to the United States to perform agricultural labor pursuant to the United States Immigration and Nationality Act, Sections 214(c) and 101(a) (15) (H);

(5) Domestic service in a private home, except as provided in paragraph A-3;

(6) Service performed by an individual in the employ of his son, daughter or spouse, and service performed by a child under the age of 18 in the employ of his father or mother;

(6-1) Services performed by a student attending an elementary or secondary school while participating in a cooperative program of education and occupational training;

(9) Service performed with respect to which unemployment compensation is payable under the Railroad Unemployment Insurance Act (52 Stat. 1094);

(10) Services performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more states or political subdivisions; and any services performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, immune under the Constitution of the United States from the tax imposed by section 3301 of the Federal Internal Revenue Code; except as provided in paragraph A-1, subparagraph (1);

(11) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the Federal Internal Revenue Code, other than an organization described in section 401(a) or under section 521, of such Code, if the remuneration for such service is less than \$150;

(16) Service performed in the employ of a foreign government, including service as a consular or other officer or employee or a nondiplomatic representative;

(17) Service performed in the employ of an instrumentality wholly owned by a foreign government:

(a) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or an instrumentality thereof; and

(b) If the commissioner finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(18) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a 4 years' course in a medical school chartered or approved pursuant to state law;

(19) Service performed by an individual for a person as a real estate broker, real estate salesman, an insurance agent or as an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission;

(20) Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(21) Service performed in the employ of any organization which is excluded from the term "employment" as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c)(7) or (8) if:

(a) Service performed in the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(b) Service performed by a duly ordained, commissioned or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(c) Prior to January 1, 1978, service performed in the employ of a school primarily operated as an elementary, secondary or preparatory school for higher education, which is not an institution of higher education;

(d) Service performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work;

(e) Service performed as part of an unemployment work — relief or work — training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof by an individual receiving such work-relief or work-training;

(f) Service performed in the employ of a hospital as defined in subsection 26 by a patient of such hospital;

(g) Services performed prior to January 1, 1978, for a hospital in a state prison or other state correctional institution by an inmate of such prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution;

(h) Service performed in the employ of a school, college or university, if such service is performed by a student who is enrolled and is regularly at-

tending classes at such school, college or university; or

(i) Prior to January 1, 1978, service performed in the employ of a school which is not an institution of higher education; after December 31, 1977, service performed in the employ of a governmental entity referred to in paragraph A-1, subparagraph (1) if such service is performed by an individual in the exercise of duties:

(i) As an elected official;

(ii) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision thereof;

(iii) As a member of the State National Guard or Air National Guard;

(iv) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency; or

(v) In a position which, under or pursuant to the laws of this State, is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week;

(29) Services performed by a hairdresser who holds a booth license and operates within another hairdressing establishment if operated under a booth rental agreement or other rental agreement;

(30) Services performed by a barber who holds a booth license and operates within another barbering establishment if operated under a booth rental agreement or other rental agreement;

(31) Services performed by a contract interviewer engaged in marketing research or public opinion interviewing, when such interviewing is conducted in the field or over the telephone on premises not used or controlled by the person for whom such contract services are being provided;

(32) After December 31, 1981, services performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life, unless those services would be included in the definition of "employment" for federal unemployment tax purposes under the Federal Unemployment Act, United States Code, Title 26, Section 3306(c), as it may be amended;

(33) Services performed by a member or leader of a musical group, band or orchestra or an entertainer when the services are performed under terms of a contract entered into by the leader or an agent of the musical group, band, orchestra or entertainer

with an employing unit for whom the services are being performed, provided the leader or agent is not an employer by reason of subsection 9 or of section 1222, subsection 3;

(34) Services performed in the delivery or distribution of periodicals to the ultimate consumer by an individual who is compensated by receiving or retaining a commission or profit on the sale of the periodical;

(35) Services performed by a homemaker in the knitted outerwear industry as those terms are defined, on the effective date of this subparagraph, in the 29 Code of Federal Regulations, Part 530, Section 530.1; and

(36) Service performed by a full-time student, as defined in subsection 30, in the employ of an organized camp if the full-time student performed services in the employ of the camp for less than 13 calendar weeks in the calendar year and the camp:

(a) Did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year; or

(b) Had average gross receipts for any 6 months in the preceding calendar year which were not more than 33 1/3% of its average gross receipts for the other 6 months in the preceding calendar year.

Sec. 107. 26 MRSA §1452, as repealed and replaced by PL 1987, c. 402, Pt. A, §159, and c. 534, Pt. B, §§ 16 and 23, is repealed and the following enacted in its place:

§1452. Maine Occupational Information Coordinating Committee

The Maine Occupational Information Coordinating Committee, as established by Title 5, chapter 379, shall support the development, maintenance and operation of the Comprehensive Career, Occupational and Economic Data-based System and foster communication and coordination of education, employment and training programs through the use of the system. The committee shall consist of the Commissioner of Labor, Commissioner of Human Services, Commissioner of Educational and Cultural Services, Commissioner of Economic and Community Development, Director of the State Planning Office and the Chairmen of the Maine Human Resource Development Council, the State Board of Education and the Board of Trustees of the Maine Vocational-Technical Institute System. The Commissioner of Labor and the Commissioner of Educational and Cultural Services may serve as the representatives of the Chairmen of the Maine Human Resource Development Council and the State Board of Education, respectively, upon the agreement of that designation by the Maine Human Resource Development Council and the State Board of Education. The Commissioner of Labor shall be the chairman of the commit-

tee, with the Department of Labor serving as the fiscal agent for the committee.

Sec. 108. 26 MRSA §2005, sub-§5, ¶C, as enacted by PL 1987, c. 542, Pt. F, §4, is amended to read:

C. Based on its assessment of the need for better coordination of the delivery of services listed in ~~paragraph~~ paragraph A, recommend to the Governor and Legislature the "Human Resource Development Coordination Criteria" affecting agencies involved with human resource development. This document shall contain the elements of the United States Job Training Partnership Act, Section 121, and shall also contain coordination requirements derived from the State Human Resources Development Policy.

The coordination requirements of the "Human Resource Development Coordination Criteria" shall be communicated to affected state, federal and local agencies through planning instructions issued by the Department of Labor;

Sec. 109. 26 MRSA c. 27, first 2 lines, as enacted by PL 1987, c. 356, are repealed and the following enacted in their place:

CHAPTER 28

MINIMUM SAFETY STANDARDS FOR
FIREFIGHTERS

Sec. 110. 26 MRSA §2106, as enacted by PL 1987, c. 356, is repealed and the following enacted in its place:

§2106. Inspection by and assistance of Bureau of Labor Standards

The Bureau of Labor Standards shall inspect each fire department at least once every 2 years to determine compliance with this chapter. The bureau shall assist fire departments in complying with this chapter.

Sec. 111. 26 MRSA §2106-A is enacted to read:

§2106-A. Rules

The Bureau of Labor Standards shall adopt rules to carry out and enforce this chapter.

Sec. 112. 28-A MRSA §62, sub-§11, as amended by PL 1987, c. 342, §15, is further amended to read:

11. Oaths; subpoenas; witnesses. Any member of the commission may administer oaths and issue subpoenas for witnesses and subpoenas ~~duces~~ duces tecum to compel the production of books and papers relating to any question in dispute before the commission or to any matter involved in a hearing. Witness fees in all proceedings shall be the same as for witnesses before the Superior Court and shall be paid by the commission, except that, notwithstanding Title 16, section 253, the

commission is not required to pay the fees before the travel and attendance occur; and

Sec. 113. 28-A MRSA §605, first ¶, as amended by PL 1987, c. 342, §25, is further amended to read:

Except as otherwise provided in this section, no license or any interest in a license may be sold, transferred, assigned or otherwise subject to control by any person other than the licensee. If the business, or any interest in the business, in connection with which a licensed activity is conducted; is sold, transferred or assigned, the license holder shall immediately ~~sent~~ send to the commission ~~his~~ the license and a sworn statement showing the name and address of the purchaser. The commission is not required to refund any portion of the licensee fee if the license is surrendered before it expires.

Sec. 114. 28-A MRSA §652, sub-§5, ¶A, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

A. In unincorporated places, the applicant shall pay the filing fee of \$10 to the county treasurer of the county in which the unincorporated place is located. All applications for a license in unincorporated places must be accompanied by evidence of payment of the filing fee to the county treasurer.

Sec. 115. 29 MRSA §252-A, as amended by PL 1987, c. 56, §4, and c. 352, §2, is repealed and the following enacted in its place:

§252-A. Disabled veterans; special free license plates

The Secretary of State on application and upon evidence of payment of the excise tax required by Title 36, section 1482, shall issue a registration certificate and set of special designating plates to be used in lieu of regular registration plates to any 100% disabled veteran when that application is accompanied by certification from the United States Veterans Administration as to the veteran's disability and receipt of 100% service-connected benefits and that the veteran is permanently confined to a wheelchair or restricted to the use of crutches or braces or otherwise handicapped in such a way that mobility is seriously restricted.

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

Sec. 116. 29 MRSA §2713, sub-§3, ¶A, as amended by PL 1987, c. 141, Pt. B, §30, and c. 442, §1, is repealed and the following enacted in its place:

A. There shall be allocated to the Department of Public Safety for the State Police up to \$1,200,000 annually from the fund to carry out the duties of the bureau imposed by this chapter and Title 35-A and for related activities.

Sec. 117. 32 MRSA c. 2, first 2 lines are repealed and the following enacted in their place:

CHAPTER 2

NURSING HOME ADMINISTRATORS
LICENSING BOARD

Sec. 118. 32 MRSA §62, sub-§§2-A and 2-B, as enacted by PL 1985, c. 233, §4, are amended to read:

2-A. Commissioner. "Commissioner" means the Commissioner of ~~Business, Occupational and Professional and Financial Regulation.~~

2-B. Department. "Department" means the Department of ~~Business, Occupational and Professional and Financial Regulation.~~

Sec. 119. 32 MRSA §407-A, as enacted by PL 1987, c. 395, Pt. A, §141, is repealed and the following enacted in its place:

§407-A. Fees

1. Amounts. Fees may be established by the board in amounts which are reasonable and necessary for their respective purposes. With the exception of the various examination fees which are to be collected upon the administration of such examinations, all fees are to be collected by the board on an annual basis. The fees may not exceed the following amounts:

- A. For an instructor's examination, \$45;
- B. For an instructor's license, \$25;
- C. For a shop license, \$35;
- D. For a barber's examination, \$25;
- E. For a barber's license, \$40;
- F. For a student permit, \$10;
- G. For a temporary permit, \$10;
- H. For an apprentice's registration, \$10; and
- I. For a technician's registration, \$10.

Sec. 120. 32 MRSA §1202, sub-§1, ¶A, as repealed and replaced by PL 1987, c. 395, Pt. B, §7, and c. 402, Pt. A, §168, is repealed and the following enacted in its place:

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

- (1) Complete at least 8,000 hours of service as an apprentice or helper electrician or at least 8,000 hours of experience in electrical installations, as defined in section 1101, and satisfactorily complete a

program of study comprising 576 hours as approved by the Electricians' Examining Board or from an accredited institution. The 576 hours shall consist of 225 hours of required study, including an approved course of not less than 45 hours in the current National Electrical Code; and 351 hours of elective study, comprised of all trade-related electives or 225 hours of trade-related courses and 135 hours of degree-related courses;

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

(3) Be a graduate of an accredited Maine vocational-technical institute electrical program, have worked for 4,000 hours in the field of electrical installations under the supervision of a master electrician or the equivalent and have completed a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board. Persons qualifying under this paragraph may write the journeyman's examination upon graduation if application is made within one year of graduation; or

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

Sec. 121. 32 MRSA §2261, sub-§3, ¶D, as enacted by PL 1985, c. 724, §29, is amended to read:

D. Whether there will be a sufficient supply of both levels ~~or~~ of nurses to meet needs throughout the State if associate or baccalaureate degrees are required;

Sec. 122. 32 MRSA §7060, first ¶, as amended by PL 1987, c. 113, §3, and c. 395, Pt. B, §19, is repealed and the following is enacted in its place:

Licenses shall expire biennially on December 31st or at such other times as the Commissioner of Professional and Financial Regulation may designate. Biennial fees for renewal of license shall be set by the board in an amount not to exceed those amounts specified in section 7056 and shall be due and payable biennially on or before the first day of January. License renewal fees for certified social workers shall be the same as those for

licensed master social workers. Every 2nd renewal shall be contingent upon evidence of participation in a continuing professional education course or program as approved by the board. A license may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the renewal date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration.

Sec. 123. 32 MRSA §9502, sub-§4, as enacted by PL 1981, c. 456, Pt. A, §113, is amended to read:

4. Commissioner. "Commissioner" means the Commissioner of ~~Business~~ Professional and Financial Regulation.

Sec. 124. 32 MRSA c. 113, first 2 lines, as enacted by PL 1987, c. 488, §3, are repealed and the following enacted in their place:

CHAPTER 113-A

ACUPUNCTURISTS

Sec. 125. 32 MRSA c. 113, first 2 lines, as enacted by PL 1987, c. 395, Pt. A, §212, are repealed and the following enacted in their place:

CHAPTER 114

REAL ESTATE BROKERAGE LICENSE ACT

Sec. 126. 34-B MRSA §3006, as enacted by PL 1987, c. 404, §2, is repealed and the following enacted in its place:

§3006. State Mental Health Plan

1. Preparation and development of plan. The Bureau of Mental Health, with the advice of the Mental Health Advisory Council, shall:

A. Prepare a plan which describes the system of mental health services in each of the mental health service regions and statewide.

(1) The plan shall include both existing and needed service resources.

(2) The plan shall include an assessment of the roles and responsibilities of mental health agencies, human services agencies, health agencies and involved state departments and shall suggest ways in which these agencies and departments can better cooperate to improve the service system.

(3) The plan shall incorporate the Office of Commu-

nity Support Systems' report, developed in accordance with section 3004, subsection 3, paragraph C.

(4) The plan shall be prepared biennially and shall be submitted to the joint standing committee of the Legislature having jurisdiction over human resources by December 15th of every even-numbered year. The committee shall review the plan and make recommendations with respect to administrative and funding improvements in the system.

(5) The plan shall be made public within the State in such a manner as to facilitate public involvement;

B. Assure that the development of the plan includes the participation of community mental health service providers, consumer and family groups and others in annual statewide hearings, as well as informal meetings and work sessions; and

C. Consider community service needs, relate these identified needs to biennial budget requests and incorporate necessary service initiatives into a comprehensive planning document.

Sec. 127. 34-B MRSA §5437, first ¶, as amended by PL 1987, c. 349, Pt. H, §22, is further amended to read:

The bureau shall establish a contingency fund for use by community based intermediate care facilities for the mentally retarded and bureau clients residing in licensed boarding and foster homes or intermediate care facilities or participating in appropriate day ~~treatment~~ treatment programs. This fund shall be uses in accordance with the following provisions.

Sec. 128. 34-B MRSA §5464, as enacted by PL 1983, c. 459, §7, is amended to read:

§5464. Correspondence and reports

The commissioner shall provide the client, if ~~he~~ the client is competent, the client's next of kin or legal guardian, if any exists, and the client's advocate with access to copies of correspondence and reports concerning the client, in accordance with section ~~1206~~ 1207.

Sec. 129. 34-B MRSA §5605, sub-§15, as enacted by PL 1983, c. 459, §7, is amended to read:

15. Records. All client records shall remain confidential as provided in section ~~1206~~ 1207.

A. The client or, if the client is incompetent, ~~his~~ a parent or guardian is entitled to have access to the records upon request.

B. The commissioner is entitled to have access to the records of a day facility or a residential facility if necessary to carry out the statutory functions of ~~his~~ the commissioner's office.

Sec. 130. 34-B MRSA §5607, first ¶, as enacted by PL 1983, c. 459, §7, is amended to read:

The commissioner shall provide a written copy of this subchapter and of section ~~1206~~ 1207 to each client and, if the client has been adjudged incompetent, to the parent or guardian of the client.

Sec. 131. 35 MRSA §13-B, sub-§5, as enacted by PL 1987, c. 123, §1, and as repealed by PL 1987, c. 141, Pt. A, §5, is repealed.

Sec. 132. 35 MRSA §17, sub-§1, as amended by PL 1987, c. 37, §1, and as repealed by PL 1987, c. 141, Pt. A, §5, is repealed.

Sec. 133. 35 MRSA §2323, sub-§4, as enacted by PL 1987, c. 123, §2, and as repealed by PL 1987, c. 141, Pt. A, §5, is repealed.

Sec. 134. 35 MRSA §2330, sub-§1, as amended by PL 1987, c. 123, §3, and as repealed by PL 1987, c. 141, Pt. A, §5, is repealed.

Sec. 135. 35 MRSA §2330, sub-§5, as enacted by PL 1987, c. 123, §4, and as repealed by PL 1987, c. 141, Pt. A, §5, is repealed.

Sec. 136. 35 MRSA §3223, sub-§5, as repealed by PL 1987, c. 141, Pt. A, §5, and as repealed and replaced by PL 1987, c. 256, §45, is repealed.

Sec. 137. 35-A MRSA §1316, sub-§1, ¶A, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

A. "Employee" means a person who performs a service for wages or other ~~remuneration~~ remuneration under a contract of hire, expressed or implied, but does not include an independent contractor.

Sec. 138. 35-A MRSA §3133, sub-§9, as enacted by PL 1987, c. 387, §3, and c. 490, Pt. B, §4, is repealed and the following enacted in its place:

9. Imported power. In its review of any petition filed on or after January 1, 1987, for approval of the purchase of generating capacity or energy from outside the State, the commission may consider the comparative economic impact on the State of production of additional power within the State, investments in energy conservation and the purchase of the power from outside the State.

Sec. 139. 35-A MRSA §3133, sub-§10 is enacted to read:

10. Renewal of contracts for purchase or conversion. This section applies to any amendment, extension or renewal of any contract between the utility and other parties governing the terms of their participation in a purchase or conversion subject to this section, for which the original contract was subject to approval by the commission.

A. The commission may waive the approval requirements of this section with respect to a particular amendment, extension or renewal or a group of amendments, extensions or renewals upon request by the utility. The commission may also waive the 2-month notice required in subsection 2. If the commission does not respond to a request for waiver within 30 days, the request shall be deemed to have been granted. The commission shall prescribe by rule the content of a request for waiver and procedures for the expeditious processing of the request in certain circumstances.

B. For any amendment, extension or renewal of any contract otherwise subject to this section for which the original contract was not subject to approval by the commission, the utility shall file a copy of the proposed amendment, extension or renewal with the commission within 7 days of the day when the utility receives notice of the proposal, but approval under this section is not required.

Sec. 140. 35-A MRSA §3152, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§3152. Policy and findings

1. Increased efficiency. The Legislature declares and finds that improvements in electric utility rate design and related regulatory programs have great potential for reducing the cost of electric utility services to consumers, for encouraging energy conservation and efficient use of existing facilities and for minimizing the need for expensive new electric generating and transmission capacity. It is the purpose of this chapter to:

A. Require the commission to relate electric rates more closely to the costs of providing electric service; and

B. Encourage the commission to set electric rates to promote the maximum efficient utilization of natural energy resources existing in the State in order to promote the use of indigenous energy resources to the extent that this will reduce overall electric costs.

Sec. 141. 35-A MRSA §3153, sub-§5, repealed by PL 1987, c. 451, §1, and as amended by PL 1987, c. 490, Pt. B, §6, is repealed.

Sec. 142. 35-A MRSA §3153-A, sub-§1, ¶E, as enacted by PL 1987, c. 451, §2, is repealed and the following enacted in its place:

E. Electric utility financing or subsidization of capital improvements undertaken by ratepayers to conserve electricity used by the ratepayers in the future. The commission may approve and allow cost recovery for proposals that result in savings in fuel other than electricity. This paragraph shall apply to future programs for utility financing of energy conservation or load management and to such programs that the com-

mission has already approved prior to September 29, 1987.

Sec. 143. 35-A MRSA §3303, sub-§1-A is enacted to read:

1-A. Affiliate. "Affiliate" means any person who, as determined by the commission:

A. Directly controls, is controlled by or is under common control with an electric generation enterprise; or

B. Substantially owns, is substantially owned by or is substantially under common ownership with, an electric generation enterprise.

Sec. 144. 35-A MRSA §6303, sub-§5, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed and the following enacted in its place:

5. Trustees' retirement. Persons who have not been trustees prior to January 1, 1987, and who are not full-time employees, shall not be eligible to become members of the Maine State Retirement System as a result of their selection as trustees. For purposes of determining a water district trustee's eligibility to be a member of the Maine State Retirement System prior to January 1, 1987, the provisions of the appropriate governing charter in effect at the time of the trustee's application for membership shall control.

Sec. 145. 36 MRSA §191, sub-§2, ¶K, as repealed and replaced by PL 1987, c. 402, Pt. B, §22, and c. 497, §7, is repealed and the following enacted in its place:

K. The disclosure by a municipal assessor, or by the State Tax Assessor with regard to the unorganized territory, of information contained on the declaration of value form required by section 4641-B;

Sec. 146. 36 MRSA §191, sub-§2, ¶L, as amended by PL 1987, c. 402, Pt. B, §24, and c. 497, §8, is repealed and the following enacted in its place:

L. The listing of gasoline distributors possessing a certificate under section 2904;

Sec. 147. 36 MRSA §191, sub-§2, ¶M, as enacted by PL 1987, c. 402, Pt. B, §26, and c. 497, §9, is repealed and the following enacted in its place:

M. The disclosure by employees of the Bureau of Taxation, in connection with their official duties relating to any examination, collection activity, civil or criminal tax investigation or any other offense under this Title, of return information to the limited extent that disclosure is necessary in obtaining information, which is not otherwise available, with respect to the correct determination of tax, liability for tax or the amount to be collected or with respect to the enforcement of this Title;

Sec. 148. 36 MRSA §191, sub-§2, ¶N, as enacted by PL 1987, c. 497, §9, is amended to read:

N. The disclosure by the State Tax Assessor of computerized individual income tax data, without identification by taxpayer name, number or address, to a research agency of the Legislature; and

Sec. 149. 36 MRSA §191, sub-§2, ¶O is enacted to read:

O. The disclosure to an authorized representative of the Department of Human Services of the most recent address of a delinquent payor of child support when a written request containing the payor's Social Security number is made by the department.

Sec. 150. 36 MRSA §457, sub-§5, ¶B, as enacted by PL 1987, c. 507, §1, is amended to read:

B. "Telecommunications personal property" means personal property used for the transmission of any interactive 2-way communications, include including voice, image, data and information. Transmission of communications includes the use of any medium such as wires, cables, Community Antenna Television or other broadband broad band cables, microwaves, radio waves, light waves or any combination of those of similar media. Telecommunications personal property includes qualifying property used to provide telegraph service. It does not include property used solely to provide value-added nonvoice services in which computer processing applications are used to act on the form, content, code and protocol of the information to be transmitted, unless those services are provided under tariff approved by the Public Utilities Commission. It does not include single or multiline standard telephone instruments. Notwithstanding section 551, "telecommunications personal property" includes any interest of a telecommunications business in poles.

Sec. 151. 36 MRSA §1483, sub-§6, as repealed and replaced by PL 1987, c. 13, and c. 507, §§2 and 6, is repealed and the following enacted in its place:

6. Railroads. Vehicles owned by railroad companies subject to the excise tax imposed in chapter 361.

Sec. 152. 36 MRSA §1484, sub-§3, ¶C, as amended by PL 1987, c. 141, Pt. B, §34, and c. 497, §14, is repealed and the following enacted in its place:

C. If the motor vehicle is owned by a corporation or a partnership, the excise tax shall be paid in the following manner.

(1) If it is a corporation or partnership other than one described in subparagraph (2), the excise tax shall be paid to the place in which the registered or main office of that organization is located, except that if the organization has an additional permanent

place, or places, of business where motor vehicles are customarily kept, the tax on these vehicles shall be paid to the place where such permanent place of business is located. The temporary location of an office and the stationing of vehicles in connection with a construction project of less than 24 months duration is not considered to constitute a permanent place of business. In the case of a foreign corporation or partnership not maintaining a place of business within the State, the excise tax shall be paid to the State.

(2) In the case of corporations described in Title 35-A, sections 2101 to 2104, any excise taxes owed shall be paid to the place in which the registered or main office of that organization is located.

(3) If a municipality, county or motor vehicle owner feels the excise tax has been improperly levied under the authority of this paragraph, the owner, county or municipality may request within 3 years from the date of an excise tax levy a determination of this question by the State Tax Assessor. The State Tax Assessor's determination is limited to the same 3-year period and shall be binding on all parties. Any party may seek review of the determination in accordance with the Maine Rules of Civil Procedure, Rule 80-C. Upon notification by the State Tax Assessor of a determination made under this section, any municipality or county which has incorrectly accepted excise tax money, within 30 days of that determination, shall pay the money, together with interest at the maximum rate determined by the Treasurer of State, pursuant to section 505, to the municipality or county named in the determination as the proper place of payment.

Sec. 153. 36 MRSA §1760, sub-§56, as enacted by PL 1987, c. 343, §5, and c. 497, §39, is repealed and the following enacted in its place:

56. Nonprofit youth organizations. Sales to nonprofit youth organizations whose primary purpose is to provide athletic instruction in a nonresidential setting.

Sec. 154. 36 MRSA §1760, sub-§61 is enacted to read:

61. Construction contracts with exempt organizations. Sales of tangible personal property, to a construction contractor, which are to be physically incorporated in, and become a permanent part of, real property for sale to any organization or government agency provided exemption under this section, except as otherwise provided. In order to qualify for this exemption, the contractor must have entered into a construction contract with the exempt organization prior to the purchase of the tangible personal property.

Sec. 155. 36 MRSA §1764, as amended by PL 1987, c. 49, §2, and c. 128, §2, is repealed and the following enacted in its place:

§1764. Tax against certain isolated sales

The tax imposed by chapters 211 to 225 shall be levied upon all isolated transactions involving the sale of camper trailers, motor vehicles, special mobile equipment, livestock trailers or aircraft excepting those sold for resale, and excepting an isolated transaction involving the sale of camper trailers, motor vehicles, special mobile equipment, livestock trailers or aircraft to a corporation when the seller is the owner of a majority of the common stock of the corporation.

Sec. 156. 36 MRSA §2965, as amended by PL 1987, c. 200, §§1 and 3, and as repealed by PL 1987, c. 472, §§3 and 4, is repealed.

Sec. 157. 36 MRSA §5102, sub-§11, as amended by PL 1987, c. 4, §2, and c. 504, §6, is repealed and the following enacted in its place:

11. Other terms. Any other terms used in this Part have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless different meanings are clearly required.

Sec. 158. 36 MRSA §5127, sub-§2, as amended by PL 1987, c. 343, §10 and as repealed by PL 1987, c. 504, §13, is repealed.

Sec. 159. 36 MRSA §5217, as enacted by PL 1987, c. 343, §11, and c. 504, §32, is repealed and the following enacted in its place:

§5217. Employer-assisted day care

1. Credit allowed. A taxpayer constituting an employing unit is allowed a credit against the tax imposed by this Part for each taxable year equal to the lowest of:

A. Five thousand dollars;

B. Twenty percent of the costs incurred by the taxpayer in providing day care service for children of employees of the taxpayer; or

C. One hundred dollars for each child of an employee of the taxpayer enrolled on a full-time basis, or each full-time equivalent, throughout the taxable year in day care service provided by the taxpayer or in the first year that the taxpayer provides day care services, for each child enrolled on a full-time basis, or each full-time equivalent, on the last day of the year.

2. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Employing unit" has the same meaning as in Title 26, section 1043.

B. "Providing day care services" means expending

funds to build, furnish, license, staff, operate or subsidize a day care center licensed by the Department of Human Services to provide day care services to children of employees of the taxpayer at no profit to the taxpayer or to contract with a day care facility licensed by or registered with the department to provide day care services to children of the employees of the taxpayer. "Providing day care services" also includes the provision of day care resource and referral services to employees and the provision of vouchers by an employer to an employee for purposes of paying for day care services for children of the employee.

3. Carryover; carry back. The amount of the credit that may be used by a taxpayer for a taxable year may not exceed the amount of tax otherwise due under this section. Any unused credit may be carried over to the following year or years for a period not to exceed 15 years or it may be carried back for a period not to exceed 3 years.

Sec. 160. 36 MRSA §5217-A is enacted to read:

§5217-A. Income tax paid to other taxing jurisdiction

A resident individual is allowed a credit against the tax otherwise due under this Part for the amount of income tax imposed on that individual for the taxable year by another state of the United States, a political subdivision of any such state, the District of Columbia or any political subdivision of a foreign country which is analogous to a state of the United States with respect to income derived from sources in that taxing jurisdiction which is also subject to tax under this Part. The credit, for any of the specified taxing jurisdictions, shall not exceed the proportion of the tax otherwise due under this Part that the amount of the taxpayer's Maine adjusted gross income derived from sources in that taxing jurisdiction bears to the taxpayer's entire Maine adjusted gross income; provided that, when a credit is claimed for taxes paid to both a state and a political subdivision of a state, the total credit allowable for those taxes shall not exceed the proportion of the tax otherwise due under this Part that the amount of the taxpayer's Maine adjusted gross income derived from sources in the other state bears to the taxpayer's entire Maine adjusted gross income.

Sec. 161. 36 MRSA §5255-B, as amended by PL 1987, c. 497, §51, and c. 504, §38, is repealed and the following enacted in its place:

§5255-B. Certain items of income under the United States Internal Revenue Code

Any person maintaining an office or transacting business within this State and who is required to deduct and withhold a tax on items of income under the Code, other than wages subject to withholding as provided in section 5250, shall deduct and withhold from such items to the extent they constitute income which is not excluded from taxation under Maine law, a tax equal to 5% thereof, un-

less withholding pursuant to the Code is based on other than a flat rate amount. In that event, the State's withholding procedure should estimate taxable income using the same approach to exemptions as the Code and the amount of tax to be withheld should be calculated in accordance with withholding methods prescribed pursuant to section 5250.

Sec. 162. 37-B MRSA §186, sub-§1, ¶F is enacted to read:

F. For the purpose of Title 39, section 62, all federal benefits received by the member as a result of an injury, disability or disease shall be considered to be derived from the employer and shall constitute a setoff to compensation awarded as a result of this section. A dollar-for-dollar setoff is authorized for all federal benefits to include continuation of pay under section 143, continuation of federal pay and allowances, incapacitation pay, severance pay, disability retirement pay, Veterans' Administration disability payments and military and Veterans' Administration death benefits; and

Sec. 163. 37-B MRSA §186, sub-§1, ¶G, as enacted by PL 1987, c. 271, is repealed and the following enacted in its place:

G. Reporting under the early pay provisions of Title 39 do not have to be initiated until a final decision is reached on the injured service member's entitlement to federal benefits or while military or veterans' disability benefits are received in lieu of compensation under Title 39, whichever ceases first. Veterans' disability benefits provided in this subsection include state military duty pay received under section 143, federal continuation pay or incapacitation pay in lieu of Title 39 benefits. The time provisions of Title 39 are effective upon notification to the service member that federal benefits are not authorized, or the gross monetary federal benefits are determined to be less than the entitlements under Title 39 without taking into account the setoff prescribed in paragraph E.

Sec. 164. 37-B MRSA §824, sub-§1, as enacted by PL 1983, c. 460, §3, is amended to read:

1. General Fund. The Governor may whenever an emergency has been declared, as provided in section 742, transfer to the bureau agency money from the General Fund of the State, including unexpended appropriation balances of any state department or agency, allotted or otherwise. The Governor may expend that money for the purpose of carrying out this chapter.

Sec. 165. 37-B MRSA §960, as amended by PL 1987, c. 370, §19, and as repealed and replaced by PL 1987, c. 519, §11, is repealed and the following enacted in its place:

§960. Emergency planning area

The emergency planning area is identified as follows.

1. Primary Emergency Planning Zone. The Primary Emergency Planning Zone shall be designated by the Maine Emergency Management Agency by rule as the zone where specific evacuation plans are required to protect from radiation exposure by the inhalation pathway. Unless changed by rule, the Primary Emergency Planning Zone shall be the Emergency Planning Zone contained in the existing Emergency Radiological Preparedness Plan, with approximately a 10-mile radius around any nuclear power plant. The Primary Emergency Planning Zone shall be compatible with applicable federal laws and regulations.

1-A. Secondary Emergency Planning Zone. The Secondary Emergency Planning Zone shall be designated by the Maine Emergency Management Agency, by rule, as the zone beyond the Primary Emergency Planning Zone where protective action plans, pursuant to the State's police powers, are required:

A. To further protect the health and safety of the State's citizens from exposure or other potential dangers in that zone; and

B. To protect the State's economic interests. The Secondary Emergency Planning Zone shall extend from the Primary Emergency Planning Zone to a designated area, determined by rule, around any nuclear power plant, including the area within this State which lies within the designated area from nuclear power plants in adjacent states or provinces.

2. Ingestion Pathway Zone. The Ingestion Pathway Zone shall be designated by the Maine Emergency Management Agency, by rule, as the zone beyond the Emergency Planning Zone where protective action plans are required relative to the food chain. Unless changed by rule, the Ingestion Pathway Zone shall be a circle of a radius not less than 50 miles centered on any nuclear power plant, whether located within this State or in any adjacent state or province.

Sec. 166. 37-B MRSA §1052, sub-§3, as enacted by PL 1983, c. 460, §3, is amended to read:

3. Emergency or emergency situation. "Emergency" or "emergency situation" means situations deemed by the bureau agency, after consultation with other state and federal agencies, if time permits, to present a potential but real and imminent danger to life, limb or property because of flooding or potential and imminent flooding and includes those situations which the Governor declares to be emergency pursuant to section 742.

Sec. 167. 37-B MRSA §1053, as enacted by PL 1983, c. 460, §3, is amended to read:

§1053. Administration

This chapter shall be administered by the bureau agency. In carrying out the provisions of this chapter, the bureau agency shall consult with other state agencies,

including the Soil and Water Conservation Commission, the State Planning Office, the Department of Environmental Protection, Department of Conservation, Department of Transportation and Department of Public Safety, on matters pertaining to the technical aspects of the administration of this chapter and in emergency situations may require the aid and assistance of those agencies.

Sec. 168. 37-B MRSA §1054, as enacted by PL 1983, c. 460, §3, is amended to read:

§1054. Powers of agency

1. Rules. The bureau agency may, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, adopt, modify or repeal rules for carrying out this chapter.

2. Orders. The bureau agency may, in emergency situations, issue reasonable orders necessary for carrying out this chapter or rules adopted under subsection 1.

3. Investigations. For the purpose of enabling it to make decisions as compatible as possible, with economy and protection of life and property and for the purpose of determining compliance with this chapter, the bureau agency may make necessary investigations and inspections. In making investigations and inspections required or authorized by this chapter, the bureau agency or its representatives may, as necessary in emergency situations, enter upon public or private property or in nonemergency situations secure administrative warrants from any District Court Judge or Superior Court Justice for the purpose of gaining entry onto private property.

4. Injunction; civil or criminal proceedings. In the event of violation of any of the provisions of this chapter or of any rule, order or decision of the bureau agency, the bureau agency may institute injunctive proceedings or other civil action as provided in section 1059.

5. Remedial means. When an emergency situation arises, the bureau agency shall warn the public of the emergency and shall employ all reasonable remedial means necessary to protect life and property. Remedial means which the bureau agency may employ include, but are not limited to, the following:

- A. Taking full charge and control of any dam or reservoir;
- B. Lowering the water level by releasing water from the reservoir;
- C. Completely emptying the reservoir;
- D. Breaching or removing of the dam itself; and
- E. Taking other necessary steps to safeguard life and property.

6. Contingency plans. The bureau agency shall develop contingency plans for the safe passage of floodwaters and for preparations prior to flood conditions.

Sec. 169. 37-B MRSA §1057, sub-§1, as enacted by PL 1983, c. 460, §3, is amended to read:

1. Immunity. No action may be brought against the State, the bureau agency or its agents or employees for the recovery of damages caused by the partial or total failure of any dam or reservoir or through the operation of any dam or reservoir upon the ground that the defendant is liable by virtue of any of the following:

- A. The issuance or enforcement of orders for the maintenance or operation of the dam or reservoir;
- B. Control and regulation of the dam or reservoir; and
- C. Measures taken to protect against failure during an emergency.

Sec. 170. 37-B MRSA §1105, as repealed by PL 1987, c. 209, and as amended by PL 1987, c. 370, §22, is repealed.

Sec. 171. 38 MRSA §356, as enacted by PL 1987, c. 349, Pt. H, §28, is amended to read:

§356. Disbursements

The fund shall be available to compensate the municipalities of the State for legal expenses, including court costs, ~~attorneys attorneys'~~ fees and expert and other witness fees, incurred in the enforcement of local land use laws and ordinances affecting great ponds and the ~~defence~~ defense of regulatory actions taken pursuant to such land use laws and ordinances. The State shall provide 75% of a municipality's legal expenses which shall be matched with a 25% local share, except that no single municipality may receive more than \$25,000 from the fund in any fiscal year. For purposes of this subchapter, "land use laws and ordinances" means those laws and ordinances enumerated in Title 30, section 4966.

Sec. 172. 38 MRSA §413, sub-§2-E, as enacted by PL 1987, c. 235, and c. 372, is repealed and the following enacted in its place:

2-E. Exemptions; pesticide permits. The following activities have been determined to have no significant adverse effect on the quality of the waters of the State and do not need to obtain an aquatic pesticide permit from the Department of Environmental Protection:

- A. The application of aquatic pesticides by the Department of Inland Fisheries and Wildlife to waters of the State for the purpose of restocking, including the elimination of undesirable species; or
- B. The treatment of public water supplies by the application of copper sulfate or copper sulfate compounds where those water supplies are closed to swimming and fishing.

Sec. 173. 38 MRSA §413, sub-§2-F is enacted to read:

2-F. Exemption; aquaculture. No person may be considered in violation of this section if:

A. The discharge activity is associated with off-shore marine aquaculture operations in the estuarine and marine waters; and

B. As a condition of obtaining a leasehold from the Department of Marine Resources, the Department of Environmental Protection certifies that the aquaculture activities mentioned in this subsection will not have a significant adverse effect on water quality or violate the standards ascribed to the receiving waters' classifications.

Sec. 174. 38 MRSA §413, sub-§8, as enacted by PL 1987, c. 318, §3, and c. 394, §1, is repealed and the following enacted in its place:

8. Treated waste water. Municipalities may apply to the board for authority to issue licenses for the discharge of not more than 2,500 gallons a day of treated domestic waste water to surface waters within their jurisdiction and for the inspection and enforcement of the licenses, in conformance with this chapter and applicable regulation of the board.

Authority shall only be given to a municipality after a finding by the board that the municipality has the capability and will fully execute all responsibilities under applicable state law, will routinely inspect and monitor licensed discharges within its jurisdiction and will take enforcement action against those persons who violate discharge permit requirements.

Upon issuance of a license, a municipality shall forward a copy of that license to the department within 5 working days. Within 30 days of the receipt of the license by the department, any person aggrieved by the decision of the municipality, or the department, may appeal to the board to reverse the decision of the municipality.

Municipalities delegated authority pursuant to this subsection may prescribe, by ordinance, standards for the issuance of waste discharge licenses and for minimum performance and maintenance of treatment systems as may be necessary to carry out the intent of this subsection. No ordinance or other municipal law may establish standards and procedures that are less stringent than those required under relevant state and federal law and departmental rule.

The Board of Environmental Protection may promulgate rules governing the minimum requirements that shall control the licensing and enforcement of discharges by the municipalities. Included in these rules shall be a model ordinance which, if adopted by municipalities, will satisfy the requirements of the rules.

Notwithstanding section 352, municipalities may estab-

lish reasonable fees, not to exceed \$200 per year, to defray the costs of discharge license issuance, inspection and testing. The department shall not collect fees associated with those licenses delegated under this subsection.

The department may provide municipalities with technical assistance in their licensing, inspections and enforcement programs.

If at any time the board determines that a municipality may be failing to exercise its license-granting authority in accordance with its approval procedures or the purposes of this chapter and rules promulgated by the board, it shall notify the municipality of the specific alleged deficiencies and shall order a public hearing, of which adequate public notice shall be given, to be held in the municipality to solicit public or official comment on those alleged deficiencies. Following the hearing, if it finds such deficiencies, it may revoke the municipality's license-granting authority. The municipality may reapply for authority at any time. Nothing in this subsection limits the board's or department's authority to inspect or initiate enforcement action against any discharge within a municipality.

Sec. 175. 38 MRSA §413, sub-§9 is enacted to read:

9. Emergency public water utility license. An emergency license may be issued pursuant to section 414-A to a certified public water supply operator for the purpose of discharging or causing to be discharged copper sulfate or related compounds into a public water supply.

Sec. 176. 38 MRSA §451-A, sub-§1, as amended by PL 1987, c. 192, §14, is further amended to read:

1. Power to grant variances. The Board of Environmental Protection may grant a variance from any statutory water pollution abatement requirement, pursuant to section 414-A, subsection 1, paragraph D, to any municipality or quasi-municipal entity, hereinafter called the "municipality," upon application by it. The board may grant a variance only upon a finding that:

A. Federal funds for the construction of municipal waste water treatment facilities are not available for the project;

B. The municipality has demonstrated that it has completed preliminary plans acceptable to the Department of Environmental Protection for the treatment of municipal wastes and for construction of that portion of the municipal sewage system intended to be served by the planned municipal treatment plant when that plant first begins operations; and

C. Beginning on October 1, 1976, the municipality shall collect, from each discharger into its sewage system and each discharger not connected to the sewage system which has signed an approved agreement with the municipality pursuant to subsection 2, a fee suffi-

cient to equal their proportionate share of the actual current cost of operating the sewage system for which preliminary plans have been completed and approved pursuant to paragraph B. Actual current costs shall include but not be limited to preliminary plans, final design plans, site acquisition, legal fees, interest fees, sewer system maintenance and rehabilitation and other administrative costs. A municipality may provide, when permitted under the federal construction grant program, that in lieu of such annual fees paid by dischargers, the municipality may apportion an appropriate amount from general revenues to cover that share of fees to be paid by dischargers.

The funds collected or apportioned pursuant to this paragraph and interest collected thereon shall be invested and expended pursuant to Title 30, chapter 241.

Any funds paid by a discharger or discharger not connected to the sewage system pursuant to this paragraph may be credited to the account of the discharger if the municipality is subsequently reimbursed by the federal construction grant program. The credit arrangement shall be determined by agreement between the municipality and the discharger.

Variations shall be issued for a term certain not to exceed 3 years, and may be renewed, except that no variance may run longer than the time specified for completion of the municipal waste treatment facility. Notwithstanding the provisions of this subsection, no variance issued under this section may extend beyond July 1, 1988. Upon notice of the availability of federal funds, the municipality shall present to the Department of Environmental Protection for approval an implementation schedule for designing, constructing and placing the waste collection and treatment facilities in operation.

Variations may be conditioned upon reasonable and necessary terms relating to appropriate interim measures to be taken by the municipality to maintain or improve water quality.

Sec. 177. 38 MRS §569, sub-§4, as amended by PL 1987, c. 278, and c. 491, §20, is repealed and the following enacted in its place:

4. Funding. A fee of 3¢ per barrel of gasoline and 2¢ per barrel of refined petroleum products and their by-products other than gasoline and liquid asphalt, including #6 fuel oil, #2 fuel oil, kerosene, jet fuel and diesel fuel, shall be assessed on the transfer of those products by oil terminal facility licensees, as defined in section 542, subsection 7. These fees shall be paid monthly by the oil terminal facility licensees on the basis of records certified to the department. All such transfer fees shall be credited to the Ground Water Oil Clean-up Fund upon receipt by the department.

Sec. 178. 38 MRS §610-A is enacted to read:

§610-A. Hexavalent chromium particulate emission standard

1. Scope. This regulation shall be effective in all ambient air quality control regions in the State.

2. Definition. A potential source of hexavalent chromium air emissions shall be defined as follows: Any fuel burning equipment, incinerator or general process source which handles material containing total aggregate chromium concentration in excess of 0.05%, or 500 parts per million, by weight.

3. Emission standards. The emission standards for any potential source of hexavalent chromium air emission shall represent the lowest emission rate for hexavalent chromium which is technologically achievable. The emission standards shall be decided on a case-by-case basis, with the following conditions representing the minimum requirements:

A. Any potential source of hexavalent chromium air emissions shall demonstrate compliance with the ambient air quality standards;

B. If a source cannot demonstrate to the satisfaction of the commissioner a technique for measuring hexavalent chromium at the emission source, its modeled air quality impact shall be derived from its total chromium emissions and shall not exceed a 24-hour ambient concentration of 25 nanograms per cubic meter; and

C. The modeled impact derived from hexavalent chromium emissions shall not exceed the limits specified in section 584-A, subsection 8, paragraph B, subparagraph (1).

4. Exemptions. Chromium emissions resulting from processes, including leather processing, in which chromium is present only in the trivalent oxidation state; from metal plating operations; and from the preparation of chrome tanning liquors shall not be subject to these emission requirements.

Sec. 179. 38 MRS §611, as enacted by PL 1954, c. 180, §35 and as amended by PL 1985, c. 746, §28, is repealed and the following enacted in its place:

§611 Owner or mortgagee in possession liable for acts of tenants

The owner or mortgagee in possession, as well as any tenant, of any mill used for manufacturing lumber is liable for the acts of the tenant in unlawfully obstructing or diverting the water of any river or stream by the slabs or other mill waste from that mill, but no action may be maintained without a demand of damages, at least 30 days prior to its commencement. Such an unlawful obstruction or diversion by the tenant shall terminate, at the election of the owner or mortgagee and on written notice to the tenant, the tenancy.

Sec. 180. 38 MRS §818, sub-§3, as amended by PL 1987, c. 370, §23, and c. 402, Pt. A, §204, is repealed and the following enacted in its place:

3. Other powers. No provision of this article may be construed as limiting the powers of the Maine Emergency Management Agency under Title 37-B, sections 1051 to 1059.

Sec. 181. 38 MRSA §1303, sub-§5, as amended by PL 1983, c. 432, §3, is further amended to read:

5. Hazardous waste. "Hazardous waste" means a waste substance or material, in any physical state, designated as hazardous by the board under section ~~1303-A~~ 1319-O. It does not include waste resulting from normal household or agricultural activities. The fact that a hazardous waste or part or constituent may have value or other use or may be sold or exchanged does not exclude it from this definition.

Sec. 182. 38 MRSA §1310-L, sub-§4, as enacted by PL 1987, c. 517, §25, is amended to read:

4. Meetings. The council shall meet at least 4 ~~time~~ times per year.

Sec. 183. 38 MRSA §1535, sub-§1, as enacted by PL 1987, c. 530, §4, is amended to read:

1. Assessment. The authority shall assess any nuclear plant within the State for the full cost of planning, siting, licensing and construction of a low-level radioactive waste disposal facility, including reasonable reserves for unforeseen contingencies. The assessment shall not exceed \$10,000,000 and shall be assessed as follows: \$1,500,000 on March 1, 1988; \$2,500,000 on March 1, 1989; \$2,000,000 on March 1, 1990; \$2,000,000 on March 1, 1991; \$2,000,000 on March 1, 1992. The amount assessed shall be paid within 30 days of assessment. This assessment shall be deposited in the Low-level Radioactive Waste Facility Fund.

Sec. 184. 39 MRSA §22-C, as amended by PL 1987, c. 206, §1, is repealed.

Sec. 185. 39 MRSA §22-D, as amended by PL 1987, c. 206, §2, is repealed.

Sec. 186. PL 1985, c. 737, emergency clause is repealed and the following enacted in its place:

Emergency clause. In view of the emergency cited in the preamble, unless otherwise indicated, this Act shall take effect when approved, except for Part A, section 64, which shall take effect on July 1, 1986.

Sec. 187. PL 1985, c. 763, Pt. A, §86, first 2 lines are repealed and the following enacted to read:

Sec. 86. 32 MRSA §4682-A, as enacted by PL 1983, c. 236, §1, is amended to read:

Sec. 188. PL 1985, c. 804, §16, first 2 lines are repealed and the following enacted in their place:

Sec. 16. 24 MRSA c. 21, sub-cc. VI, VII and VIII are enacted to read:

Sec. 189. PL 1987, c. 20, §4, first 2 lines are repealed and the following enacted in their place:

Sec. 4. P&SL 1865, c. 532, §4-B, as amended by P&SL 1969, c. 238, §3, is amended to read:

Sec. 190. PL 1987, c. 20, §4, §4-B, sub-§2 is amended by adding at the end the following:

The chancellor may delegate any of such powers and responsibilities to such members of his staff as he deems necessary.

Sec. 191. PL 1987, c. 239, first 2 lines after the enacting clause are repealed and the following enacted in their place:

32 MRSA §3279, sub-§5 is enacted to read:

Sec. 192. PL 1987, c. 256, §24 is repealed.

Sec. 193. PL 1987, c. 425, §3 is amended to read:

Sec. 3. Effective date. This ~~subchapter~~ Act shall take effect January 1, 1988.

Sec. 194. PL 1987, c. 490, Pt. B, §3 is repealed and the following enacted in its place:

Sec. 3. 35-A MRSA §1103, sub-§3 is enacted to read:

3. Acquiring additional stock. Nothing in this section may be construed to prevent the holding of stock lawfully acquired prior to the effective date of Public Law 1913, chapter 129, section 38, as approved March 27, 1913, or to prevent the acquiring of additional stock by a public utility which owned on that date a majority of the stock of such other utility.

Sec. 195. PL 1987, c. 519, §12, 2nd sentence is amended to read:

~~The Bureau of Civil Emergency Preparedness~~ Maine Emergency Management Agency shall submit a report to the Joint Standing Committee on Human Resources, no later than January 15, 1988.

Sec. 196. PL 1987, c. 534, Pt. A, §18, sub-§1 is amended to read:

1. Funds transferred. Notwithstanding the Maine Revised States Statutes, Title 5, sections 1585 and 1586, all accrued expenditures, assets, liabilities, balances, appropriations or allocations, transfers, revenues or other available funds in any account or subdivision of an account of any unit of State Government, including any department, bureau, division, program or other subunit of a state agency, affected by this Act shall remain with that unit following transfer to another department.

Sec. 197. P&SL 1987, c. 61, §1, first sentence is amended to read:

The Treasurer of State is authorized, under the direction of the Governor, to issue from time to time registered bonds in the name and behalf of the State to an amount not exceeding \$8,000,000 for the purpose of raising funds for capital repairs and improvements to state ~~facilities~~ facilities as authorized by section 6.

Sec. 198. P&SL 1987, c. 70, §1, first sentence is amended to read:

The Treasurer of State is authorized, under the ~~discretion~~ direction of the Governor, to issue from time to time registered bonds in the name and behalf of the State to an amount not exceeding \$8,000,000 for the purpose of raising funds to provide for the remediation and closure of solid waste landfills, including municipal and abandoned landfills, as authorized by section 6.

Sec. 199. P&SL 1987, c. 73, §5 is amended to read:

Sec. 5. **Disbursement of bond proceeds.** The proceeds of the bonds set out in section 6 shall be expended under the direction and supervision of the Director of the State Planning Office until the creation of a ~~Recreation and Natural Heritage~~ the Land for Maine's Future Board for acquisition of lands for conservation, outdoor recreation and wildlife.

Sec. 200. P&SL 1987, c. 73, §6 is amended to read:

Sec. 6. **Allocations from General Fund bond issue; conservation, outdoor recreation and wildlife.** The proceeds of the sale of bonds shall be expended as follows.

EXECUTIVE DEPARTMENT

State Planning Office

Recreation and Natural Heritage Board
Land for Maine's Future Board

All Other	\$35,000,000
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Acquisitions will be targeted to sites with outstanding recreational, scenic, natural or wildlife values.

Sec. 201. P&SL 1987, c. 73, §10, 3rd ¶, 2nd sentence is amended to read:

The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as ~~voters~~ votes for members of the Legislature.

Sec. 202. Resolve 1987, c. 34, first paragraph, 2nd sentence is amended to read:

Notwithstanding any provisions of the attached agreements, the State shall not convey any land or interest therein which comprises a public road ~~of~~ or a great pond.

PART B

Sec. 1. 1 MRSA §151, 2nd ¶, as amended by PL 1979, c. 541, Pt. A, §1, is further amended to read:

At 2 o'clock antemeridian of the ~~last~~ first Sunday in April of each year, the standard time in this State shall be advanced one hour, and at 2 o'clock antemeridian of the last Sunday in October of each year the standard time in this State, by the retarding of one hour, shall be made to coincide with the mean astronomical time of the degree of longitude governing the zone wherein the State is situated, the standard official time of which is described as United States Eastern Standard Time, so that between the ~~last~~ first Sunday of April at 2 o'clock antemeridian and the last Sunday in October at 2 o'clock antemeridian in each year the standard time in this State shall be one hour in advance of the United States Eastern Standard Time and said time shall be known as "Eastern Daylight Time."

Sec. 2. 4 MRSA §120 as enacted by PL 1987, c. 577, is repealed and the following enacted in its place:

§120. Justice of the Superior Court to sit in District Court

The Chief Justice of the Supreme Judicial Court may assign a Justice of the Superior Court who had been serving as a Judge of the District Court and who has been nominated and confirmed as a Justice of the Superior Court to sit in the District Court in order to finish any cases which he had presided over as a Judge of the District Court and which remain unresolved after his confirmation.

When so assigned, the justice has the same authority and jurisdiction in the District Court as a regular Judge of the District Court. The assigned justice may hear all matters and issue all orders, notices, decrees and judgments that any Judge of the District Court may hear and issue.

The order of the Chief Justice of the Supreme Judicial Court directing a Justice of the Superior Court to sit in the District Court shall be filed with the Executive Clerk of the Supreme Judicial Court, but need not be docketed or otherwise recorded in any case heard by the assigned justice.

Sec. 3. 17-A MRSA §1152, sub-§3, ¶C, as repealed and replaced by PL 1987, c. 157, §1, is amended to read:

C. A fine as authorized by chapter 53. Subject to the limitations of section 1302, such a fine may be imposed in addition to the sentencing alternatives ~~alternative~~ in paragraphs B and paragraph D; or

Sec. 4. 17-A MRSA §1304, sub-§1, as enacted by PL 1975, c. 499, §1, is amended to read:

1. When a convicted person sentenced to pay a fine

defaults in the payment thereof of the fine or of any installment, the court, upon the motion of the official to whom the money is payable, as provided in section 1303, or upon its own motion, may require ~~him~~ that person to show cause why ~~he~~ that person should not be sentenced to be imprisoned committed to the custody of the sheriff for nonpayment and may issue a summons or a warrant of arrest for ~~his~~ that person's appearance. Unless such person shows that ~~his~~ the default was not attributable to a ~~willful~~ willful refusal to obey the order of the court or to a failure on ~~his~~ that person's part to make a good faith effort to obtain the funds required for the payment, the court shall find that ~~his~~ the default was unexcused and may order that ~~person imprisoned~~ commit that person to the custody of the sheriff until the fine or a specified part thereof of the fine is paid. The ~~term of imprisonment length of incarceration~~ length of incarceration for such unexcused nonpayment of the fine shall be specified in the court's order and shall not exceed one day for each \$5 of the fine or 6 months, whichever is the shorter. When a fine is imposed on an organization, it is the duty of the person or persons authorized to make disbursements from the assets of the organization to pay it from such assets and failure so to do may be punishable under ~~subject every~~ such person to court action pursuant to this section. A person ~~imprisoned~~ committed for nonpayment of a fine shall be given credit towards its payment for each day after commitment that ~~he~~ the person is in ~~the~~ the custody of ~~the department,~~ at the rate specified in the court's order. ~~He~~ The person shall also be given credit for each day that ~~he~~ the person has been detained as a result of an arrest warrant issued pursuant to this section.

Sec. 5. 24-A MRSA §4435, sub-§6, as amended by PL 1979, c. 658, §3, is further amended to read:

6. Member insurer. "Member insurer" means any authorized insurer which writes any kind of insurance to which this subchapter applies and ~~any group self-insurer as defined in Title 39, section 23.~~

Sec. 6. 25 MRSA §2902, sub-§4, as amended by PL 1987, c. 251, §3, and c. 411, §2, is repealed and the following is enacted in its place:

4. Maine Highway Safety Commission. The Maine Highway Safety Commission, as authorized by Title 5, section 12004, subsection 10, shall be under the direction of the Commissioner of Public Safety and advisory to the Governor. The commission shall consist of not more than 25 members selected by the Governor from state, civic and industrial organizations and individuals with interests relating to highway safety. The Commissioner of Public Safety, the Commissioner of Transportation, the Commissioner of Human Services and the Commissioner of Educational and Cultural Services, the Secretary of State and the Attorney General shall serve as ex officio members. The ex officio members shall appoint persons in major policy-influencing positions as their designees to represent them at meetings of the commission with voting privileges. The commission members shall serve at the pleasure of the Governor and shall

be compensated in accordance with Title 5, chapter 379. The commission shall stimulate active support for highway safety measures and programs and shall advise the Department of Public Safety regarding these issues. The commission shall annually report its findings and recommendations, including any necessary implementing legislation, to the Governor and to the joint standing committee of the Legislature having jurisdiction over state and local government; and

Sec. 7. 26 MRSA §2103, sub-§5, as enacted by PL 1987, c. 356, is amended to read:

5. Foot protection. All firefighters' boots must have a puncture resistant, slip resistant sole. Purchases of new boots by fire departments must meet or exceed the American National Standards Institute ~~Z89.1~~ Z41.1 standard and 29 Code of Federal Regulations, Part 1910, General Industry Standards of the Occupational Safety and Health Administration.

Sec. 8. 38 MRSA §419-A, sub-§1, ¶B, as enacted by PL 1987, c. 474, is amended to read:

B. "Antifouling paint" means a compound, counting coating, paint or treatment applied or used for the purpose of controlling freshwater or marine fouling organisms on vessels.

Sec. 9. 38 MRSA §1493, first paragraph, as enacted by IB 1985, c. 1, is amended to read:

No low-level radioactive waste disposal or storage facility may be constructed or operated within the State of Maine unless such construction and operation are approved by a majority of the voters voting thereon in a statewide election. Such election shall be held in the manner prescribed by law for holding a statewide election and in accordance with the procedures set forth in ~~Title 35, section 3382~~ 35-A, section 4302. The voters shall be asked to vote on the acceptance or rejection of construction or operation by voting on the following question:

"Do you approve (insert construction or operation) of a low-level radioactive waste (insert disposal or storage) facility as proposed for (insert location)?"

Sec. 10. 38 MRSA §1494, first paragraph, as enacted by IB 1985, c. 1, is amended to read:

The State of Maine shall not enter into any compact or agreement with any other state or states or with the Federal Government concerning the disposal or storage of low-level radioactive waste either within or without the State unless the compact or agreement has been approved by a majority of the voters voting thereon in a statewide election. Such election shall be held in the manner prescribed by law for holding a statewide election and in accordance with the procedures set forth in ~~Title 35, section 3382~~ 35-A, section 4302. The voters shall be asked to vote on the acceptance or rejection of

the compact or agreement by voting on the following question:

"Do you approve of the (insert compact or agreement) for the (insert disposal or storage) of low-level radioactive waste proposed to be made with (insert name of state or states or "the Federal Government")?"

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

Effective April 26, 1988.

CHAPTER 770

S.P. 825 — L.D. 2147

AN ACT to Provide Greater Protection to Owners of Mobile Homes and Mobile Home Parks.

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

Sec. 1. 14 MRSA §6027, sub-§4, as reallocated by PL 1983, c. 480, Pt. A, §10, is amended to read:

4. **Exemptions.** This section does not apply to any tenancy for a dwelling unit which is:

A. Part of a structure containing no more than 5 dwelling units, one of which is occupied by the landlord;

B. Part of a structure containing no more than 5 dwelling units, one of which is a professional office or business;

B-1. Located in a mobile home park consisting of no more than 10 dwelling units, one of which is occupied by the owner or operator of the park;

C. Limited by and subject to superceding federal law governing dwelling units authorized, approved, financed or subsidized in whole or in part by a unit of government;

C-1. Part of a privately owned mobile home park, all units of which are occupied or reserved for tenant households with at least one resident over age 60 in each;

D. Part of a privately owned multi-unit structure, all units of which are occupied by or reserved for tenant households with at least one resident over age 62 in each; or

E. A separately-owned condominium unit.

Sec. 2. 14 MRSA §6027, sub-§4-A is enacted to read:

4-A. Application to existing mobile home parks. If,

by January 1, 1989, a mobile home park owner or operator proves by written or other evidence to the satisfaction of the Maine Human Rights Commission that, as of January 1, 1988, there was an effective and enforced prohibition against renting a specific lot in that mobile home park to tenants with children, the mobile home park owner or operator may continue the restriction against children on that lot. If the mobile home park owner or operator, following the procedures under subsection 1, sets aside up to 25% of the total number of dwelling units in the park to be rented to tenants without children, the lot or lots covered by this subsection shall be included in the number set aside.

Sec. 3. 14 MRSA §6027, sub-§6 is enacted to read:

6. **Definitions.** For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Dwelling unit" includes a space in a mobile home park.

B. "Landlord" includes a mobile home park owner or operator.

C. "Tenant" includes a mobile home owner.

Sec. 4. 30 MRSA §4064, as repealed and replaced by PL 1985, c. 324, is repealed and the following enacted in its place:

§4064. Restrictions on sale or removal of mobile homes

1. Park acting as agent; advertising. No mobile home park owner or operator may:

A. Exact a commission or fee with respect to the price realized by the seller of the mobile home unless the park owner or operator has acted as agent for the mobile home owner in the sale under a written contract;

B. Require as a condition of tenancy or continued tenancy that a mobile home owner designate the park owner or operator or any other individual or agent to act as agent for the mobile home owner in the sale of the mobile home; or

C. Restrict in any manner the reasonable advertising for sale of any mobile home in that park, except that the mobile home owner shall notify the park owner or operator before placing a "for sale" sign or other form of advertising within the mobile home park.

2. Rules. No mobile home park owner or operator may require a mobile home to be removed from the park except pursuant to a rule contained in the written copy of park rules given to the tenant under section 4066-B, subsection 5. The rules shall clearly describe the standards under which the park owner or operator may require a tenant to remove a mobile home from the park.