STATE OF MAINE
119TH LEGISLATURE
FIRST REGULAR SESSION

Staff Study of

LAWS OUTSIDE TITLE 35-A POTENTIALLY AFFECTED BY RESTRUCTURING

A Report by
Jon Clark, Senior Attorney

January 1, 2000

Office of Policy & Legal Analysis
13 State House Station
Augusta, Maine 04333
(207) 287-1670

Background

On September 19, 1997, Public Law 1997, Chapter 316, the Act to Restructure the State's Electric Industry, took effect. The heart of the law was new Chapter 32 inserted into Title 35-A.

The law required a fundamental restructuring of the electric utility industry and established March 1, 2000 as the beginning date for retail competition. Subsequent to the passage of this law, a variety of proceedings at the Public Utilities Commission were begun to implement the requirements of the law. As envisioned when the law was enacted, issues began to arise as implementation went forward; in 1998 and again in 1999, the Legislature made various changes to the law in response to some of the issues that arose.

It was understood at the time of the enactment of the restructuring law that while the new Chapter 32 established the necessary provisions for the implementation of restructuring, many other laws would need to be examined and amended to bring them into conformity with the provisions of Chapter 32. Consequently, the law required that the Public Utilities Commission, by December 31, 1998, submit to the Joint Standing Committee on Utilities and Energy legislation "proposing amendments required to conform other statutes to the provisions" of the restructuring law.

The commission interpreted the law as requiring an examination only of utility laws in Title 35-A and not of statutes outside of Title 35-A. At the beginning of the 1999 legislative session, the commission presented draft legislation to the Joint Standing Committee on Utilities and Energy proposing many "conforming amendments" to Title 35-A. This draft was examined and modified by the committee. The committee also considered a number of other law changes suggested by the Public Utilities Commission, by others, and by members of the committee; the committee ultimately produced (pursuant to authority granted under Section 12 of Public Law 1997, Chapter 316) a 75-page bill (LD 2154) that was enacted as Public Law 1999, Chapter 398. Part A of that law included the so-called "conforming amendments" to Title 35-A; other parts made various modifications to the restructuring law.

In May of 1999, the committee requested a staff study by the Office of Policy and Legal Analysis to complete the examination of laws (outside Title 35-A) that may need to be amended to conform to the provisions of restructuring. A letter was sent to the Legislative Council (copy attached as Appendix A) requesting the staff study; the request was approved. This report is the product of that study.

Methodology

While there is probably no mechanical method of discovering with certainty all provisions of law potentially affected by restructuring, the attempt has been made in this study to be as thorough as possible, using available resources.

The first step was a computer search of all Titles, other than Title 35-A, of the Maine Revised Statutes Annotated for the following terms:

utility
utilities
electric utility
electric utilities
electric plant
excluded electric plant
public utility
public utilities
public service corporation
Title 35-A

The next step was to solicit suggestions from persons closely involved in the restructuring discussion at the Legislature. A few helpful suggestions were received and one person provided a list of citations of laws that might need to be examined. No one indicated having done any particular research on the subject; interest was expressed in reviewing the results of this study.

All citations gathered from the prior two steps were examined. In the vast majority of instances, no issues associated with restructuring were found. Thirty-some citations were identified as possibly needing some amendment.

A chart was produced (Appendix B) that identifies the citations, the subject and the issue that may suggest a need for amendment. Legislation was drafted proposing changes to address the issues identified. The draft legislation and the chart were distributed for comment to the persons listed below.

After reviewing the few comments received, the draft was modified slightly. The final draft may found in Appendix C.

Pursuant to PL 1997, Ch. 316, Section 12, the Joint Standing Committee on Utilities and Energy has authority to report out legislation on restructuring to the 2nd Regular Session of the 119th Legislature.

Persons consulted

The following persons were provided an opportunity to review draft legislation produced by this study:

David Allen, Central Maine Power
Anthony Buxton, Esq., Preti, Flaherty, Beliveau, Pachios & Haley, LLC
James Cohen, Esq., Verrill & Dana, LLP
Joseph Donahue, Esq., Preti, Flaherty, Beliveau, Pachios & Haley, LLC
Marjorie Force, Public Utilities Commission
Susan Hawkes, Hawkes and Mayhew
Robert Howe, Howe and Company
Daniel Riley, Esq., Bernstein, Shur, Sawyer & Nelson
Mitchell Tannenbaum, Esq., Public Utilities Commission
Steven Ward, Esq. Public Advocate

The following persons were contacted with regard to discrete sections of this report:

David Bauer, Dir. Maine Revenue Services, DAFS
Jeff Crawford, SIP, Bureau of Air Quality, DEP
Anne Head, Dir., Licensing and Registration, DPFR
Dennis Finn, Exec. Dir., Saco River Corridor Commission

The author expresses his appreciation for all comments and suggestions received.

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APPENDIX A

letter requesting study

JON

SENATE

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CAROL A. KONTOS, DISTRICT 26
BETTY LOU MITCHELL, DISTRICT 10

JON CLARK, LEGISLATIVE ANALYST
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STATE OF MAINE

ONE HUNDRED AND NINETEENTH LEGISLATURE

COMMITTEE ON UTILITIES AND ENERGY

May 13, 1999

Honorable Mark W. Lawrence, Chair
Legislative Council
115 State House Station
Augusta, ME 04333-0115

Dear President Lawrence:

We are writing to request a staff study for this interim.

As you know, the electric industry restructuring law fundamentally changes not only the structure of the electric industry but the structure of the laws governing that industry. These changes require that provisions of other laws that relate to the electric industry be examined to determine whether modifications are in order. We have undertaken this examination with regard to provisions in Title 35-A and have reported out legislation to address the issues we have found. We have not had the time, however, to undertake an examination of laws outside of Title 35-A.

We would request that the Office of Policy and Legal Analysis undertake an examination of laws outside Title 35-A and provide to us next session a report on laws that need to be examined in light of the changes made by the electric industry restructuring law and recommendations for updating those laws.

Thank you for your consideration of our request. If you have any questions, please contact us.

Sincerely,

Richard J. Carey
Senate Chair

Thomas M. Davidson
House Chair

cc: Members, Legislative Council
Members, Joint Standing Committee on Utilities and Energy

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APPENDIX B

Table of provisions of law identified for review

CITE	Broad Subject	Specific Subject	Issue	Recommendation
5 § 200-B	AG access to records	access to utility records	CEP records?	*no change*
5 § 1766	Biomass facilities	sale to electric public utility	"electric public utility" reference	delete reference
9-A § 1-202	Consumer credit code	exemption: credit involving reg. public utl. services	unregulated service by CEP not exempted	*no change*
10 § 963-A	FAME	electric rate stabilization program	"electric utility" reference	change to T&D
10 § 1041	FAME	revenue obligation programs	"electric public utility" reference	delete reference (T. 35-A addresses the issues)
10 § 1415-H	Energy efficiency	building standards	"electric utility" reference	change to T&D
12 § 685-A	LURC zoning	exemptions for public service corporations w/PUC approval	what's a "public service corp."?	change to public utility
14 § 6045	Consumer information	electric consumption and cost estimates	"electric utility" reference	change to T&D and use SO price to estimate cost
17 § 3204	Sunday closure law	not apply to public utilities	apply to CEP?	clarify not apply to CEP
17 § 3601	Strikes	violence during strike against electric light or power co.	what's an electric light or power co.?	*no change*?
17A § 357(5)	Criminal code	theft of public utility property	what about CEP?	include CEP
20A § 8354	Education; voc. tech	tuition based on public utility service costs	what about electricity costs?	add in reference to electricity costs
23 § 154	Transportation	condemnation of public utility facilities	CEP?	*no change*
30A § 2252	Municipal self-funded pools	definition of "political subdivision"	municipal "electric utility" reference	change to T&D
30A § 5715	Municipal investments	limit on investments in stock of public utilities	include CEP?	*no change*

30A § 4152	Municipal electrical inspections	exemptions for utility corp. and persons under juris. of PUC	what is a "utility corp."? include CEP?	change to "public utility"
32 § 1101 (7) & 1102 (1-A), (2)	Electrician licensing	exemptions for utility employees	"electric utility" reference "utility corp." reference	?
32 § 1102-B	State electrical inspections	Exemption for utility corporations	what's a "utility corp."? include CEP?	?
32 § 1104	State inspections	electrical inspection on complaint of electric utility	"electric utility" reference	change to T&D
32 § 2315	State inspections	oil and solid waste inspection on complaint of electric utility	"electric utility" reference	change to T&D
33 § 1952 & 1953 (1) (M) & (O)	Unclaimed property presumption of abandonment	deposit or refund owed by public utility	what about those owed by CEP?	include CEP
36 § 1760 (9-B)	Sales tax	exemption for 1st 750 kwh of residential electric use	reference to "electric utility" tariff	change to T&D tariff
36 § 5215	Job creation tax credit	exclusion of public utilities	exclude CEP too?	?
36 § 6201 (4)	Maine Residents Property Tax Program	"gross rent" does not include utilities supplied by landlord	"utilities" presumably includes electricity	*no change*
36 § 6753 (11)	Employment tax increment financing	public utilities excluded	exclude CEP too?	?
38 § 353-A	Air emissions license	fees for electric utility generators	reference to "electric utility"; is this provision obsolete?	strike provision
38 § 487-A	Site location of development	permit for utility facility; PUC approval	"electric utility" reference generation facility reference	change to T&D; delete reference to generators
38 § 603-A (4-A)	Air emissions	low sulfur fuel use by regulated electric utility	reference to "electric utility"; provision obsolete?	delete provision

38 § 957-B (3) (E) (7) & (G)	Saco R. Corridor Comm.	limited residential dist. allow w/permit public utility structure	what is "public utility structure"? include generator?	*no change*
38 § 957-C (3)(T)	Saco R. Corridor Comm.	gen. dev. dist. allow w/permit public utility structure	what is "public utility structure"? include generator?	*no change*
38 § 1304-B (5-A) (D) (3) (4) & (5)	Public waste disposal corporation	investments in electric utility	"electric utility" references	update terms
38 § 2232	Incineration facilities	revenues include sales of electricity to electric utilities	"electric utility" reference	change to T&D

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APPENDIX C

draft legislation

AN ACT RELATING TO ELECTRIC INDUSTRY RESTRUCTURING

(Reported by the Joint Standing Committee on Utilities and Energy
pursuant to PL 1997, Ch. 316, Section 12)

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

Whereas, retail choice in the State's electricity market is scheduled by law to occur on March 1, 2000; and

Whereas, changes to various laws are necessary to bring the laws into conformity with the restructuring of the electric industry; and

Whereas, these changes must occur contemporaneously with the start of retail choice;

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:

Sec. XX. 5 MRSA §200-B is amended to read: (no change recommended)

§200-B. Authority of Attorney General to request utility records
(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. (TEXT EFFECTIVE UNTIL 3/1/00) Public utility services. As used in this section, the term "public utility services" means services furnished by a public utility as defined in Title 35-A, section 102, subsections 5, 7, 8, 12, 14, 15, 19 and 22 whether or not subject to the jurisdiction of the Public Utilities Commission.

1. (TEXT EFFECTIVE 3/1/00) Public utility services. *As used in this section, the term "public utility services" means services furnished by a public utility as defined in Title 35-A, section 102, subsections 7, 8, 12, 14, 15, 19, 20-B and 22 whether or not subject to the jurisdiction of the Public Utilities Commission.*

2. Demand for utility records; cause. The Attorney General, a deputy attorney general or a district attorney may demand, in writing, all the records or information in the possession of the public utility relating to the furnishing of public utility services to a person or a location if the attorney has reasonable grounds to believe that the services furnished to a person or to a location by a public utility are being or may be used for, or to further, an unlawful purpose. Upon a

showing of cause to any Justice of the Superior Court or Judge of the District Court, the justice or judge shall approve the demand. Showing of cause must be by the affidavit of any law enforcement officer.

3. Release of other information. An order approving a demand for utility records may include a provision prohibiting the public utility from releasing the fact of the request or that the records or information will be or have been supplied. The public utility may not release the fact or facts without obtaining a court order to that effect.

4. Production of utility records. Upon receipt of a demand, approved by a justice or judge, the public utility shall immediately deliver to the attorney, or the attorney's designee or agent, making the request all the records or information demanded. A public utility or employee of that public utility is not criminally or civilly liable for furnishing any records or information in compliance with the order approving the demand.

5. Orders permitted under federal law. The Attorney General, a deputy attorney general or a district attorney may, upon an affidavit of an investigating law enforcement officer, make application to any Justice of the Superior Court or any Judge of the District Court for any order permitted pursuant to 18 United States Code, Section 3122(a)(2).

Sec. XX. 5 MRSA §1766 is amended to read:

§1766. Use of biomass and solid waste fuels in state facilities

For the purposes of the installation, development or operation of any energy production improvement at or in connection with a state facility, and not withstanding any other provision of law, any department or agency of the State, subject to approval of the Bureau of Public Improvements, may enter into an agreement with a private party under which the private party may, for consideration, lease or otherwise acquire property interest, exclusive of ownership in fee, in land, buildings or other existing heating facilities and right of access thereto; provided that any improvement to the land, buildings or other existing heating facility installed, erected, owned, developed or operated by the private party utilizes biomass, solid waste or some combination of biomass and solid waste for at least 50% of its total energy input. The duration of the agreement shall not exceed 20 years.

The private party undertaking the installation, erection, ownership, development or operation of such an improvement may cogenerate thermal energy and electricity and may sell thermal energy to a state facility located at or near the site of the improvement. The private party may sell thermal energy in excess of the requirements of the state facility to any other customer and may sell cogenerated electricity to the state facility ~~or to an electric public utility, subject to the provisions of Title 35, chapter 172~~.

A forest harvest operation to supply biomass fuel to the improvement shall be conducted in accordance with a landowner's forest management plan approved by a registered professional forester. The private party undertaking the improvement shall make available the services of a

registered professional forester at no cost to a landowner whose land will be harvested to provide biomass fuel to the improvement.

Any department or agency of the State, subject to approval by the Bureau of Public Improvements, at the termination of the agreement with the private party pursuant to this section, may acquire, operate and maintain the improvement, may renew the agreement with the private party or may make an agreement with another private party to operate and maintain the improvement.

All agreements made with private parties as contemplated in this section shall be subject to review by a subcommittee of the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

The provisions of section 1587 shall not apply to an agreement with a private party as contemplated in this section except, in the event that the state department or agency chooses to exercise an option to purchase energy production improvements, the department or agency before or at the time of the exercise of the option shall submit the proposed purchase of the energy production improvements for approval by the Legislature through the usual budget procedure.

Sec. XX. 9-A MRSA §1-202 is amended to read: (no change recommended)

§1-202. Exclusions

This Act does not apply to:

1. Extensions of credit primarily for business, commercial or agricultural purposes or from governments or governmental agencies, instrumentalities or organizations;

1-A. Transactions for which the administrator, by rule, determines that coverage under this Title is not necessary to carry out the purposes of this Title;

2. Except as otherwise provided in the Article on Insurance (Article 4), the sale of insurance by an insurer if the insured is not obliged to pay installments of the premium and the insurance may terminate or be canceled after nonpayment of an installment of the premiums;

3. *An extension of credit that involves public utility services provided through pipe, wire, other connected facilities, radio or similar transmission, including extensions of these facilities, if the charges for service, delayed payments or any discounts for prompt payment are filed with or regulated by any subdivision or agency of this State or of the United States. This exemption does not apply to financing of goods or home improvements by a public utility;*

4. Ceilings on rates and charges or limits on loan maturities of a credit union organized under the laws of this State or of the United States if these ceilings or limits are established by these laws;

5. Ceilings on rates and charges of a licensed pawnbroker if these ceilings are established by statute;

6. Transactions in securities or commodities accounts with a broker-dealer registered with either the Securities and Exchange Commission or the Commodities Futures Trading Commission;

7. A loan or consumer credit sale made exclusively for the purpose of deferring or financing educational expenses and on which the finance charge does not exceed that rate per year on the unpaid balances of the amount financed, as shall be established by federal law, or, for loans or consumer credit sales for which federal law does not establish a rate, the highest rate established for educational loans under any federal program and which is insured, guaranteed, subsidized or made directly by the Federal Government, a state, a nonprofit private loan guaranty or organization, by the educational institution itself or through an endowment or trust fund affiliated with such an institution; or

8. A loan or credit sale made by a creditor to finance or refinance the acquisition of real estate or the initial construction of a dwelling, or a loan made by a creditor secured by a first mortgage on real estate, if the security interest in real estate is not made for the purpose of circumventing or evading this Act, provided that:

A. With respect to advances of additional funds on the loan or credit sale made more than 30 days after the initial advance, this exclusion applies only to advances made:

(1) Pursuant to the terms of a construction financing agreement;

(2) To protect the security or to perform the covenants of the consumer;

(3) As negative amortization of principal under the terms of the financing agreement;

(4) From funds withheld at consummation pending the resolution of matters that otherwise would tend to delay or prevent closing, including, without limitation, remedy of title defects or repairs to meet appraisal standards; or

(5) Pursuant to the terms of a reverse mortgage transaction, as defined in section 8-103, subsection 1, paragraph H-1, if the transaction is made pursuant to a commitment to purchase issued by, or is in a form approved for purchase by, any state or federal agency, instrumentality or government-sponsored enterprise, including, without limitation, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation;

B. The exemption provided by this subsection does not apply to the requirements on servicing of assigned supervised loans, section 2-310; and

C. With respect to a creditor other than a supervised financial organization, the exemption provided by this subsection shall apply to articles II, III, IV and V only.

8-A.

9.

The exclusions set forth in subsection 1 relating to extensions of credit to consumers by governments or governmental agencies, instrumentalities or organizations, and in subsections 2, 4, 5, 7 and 8, shall not apply to the Maine Consumer Credit Code, Truth-in-lending, Article VIII.

Sec. XX. 10 MRSA §963-A is amended to read:

§963-A. Definitions

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

.....

7-A. Electric rate stabilization project. "Electric rate stabilization project" means an agreement by ~~an electric utility~~ a transmission and distribution utility with a qualifying facility, as defined in Title 35-A, section 3303, that will result in the reduction of costs to the ~~electric utility~~ transmission and distribution utility and that has been certified by the Public Utilities Commission to meet the standards established under Title 35-A, section 3156.

.....

Sec. XX. 10 MRSA §1041 is amended to read:

§1041. General powers

The authority may in addition to its other powers and in furtherance of the purposes of this chapter:

.....

17. Electricity. Provide financial assistance for electricity generation projects.[1] ~~Any municipality, firm or corporation producing electricity by means of projects described in section 1044, subsection 12, or by means of a pollution control project, recreational project, multi-level~~

[1] "Electricity generation projects" are nowhere defined.

~~parking facility or combined project may without the approval of and regulation by the Public Utilities Commission generate and distribute electricity solely for its own use or the use of its tenant, but may not, without proper approval, sell electricity to other than an electric public utility corporation or cooperative authorized to make, generate, sell and distribute electricity~~; and

.....

§ 1044 Issuance of revenue obligation securities.

.....

12. Energy facilities. In the case of an energy generating system, an energy distribution system or an industrial-commercial project, any of which includes hydroelectric facilities:

A. Revenue obligation securities of the authority shall not be issued until the Public Utilities Commission has certified that all licenses required by that commission with respect to the project have been issued or that none are required; and

B. Revenue obligation securities of the authority shall not be issued until the Director of Energy Resources has reviewed and commented upon the project proposal. The director shall make his comments within 30 days after receipt of a notification and copy of the project proposal from the authority. The authority shall take the comments into consideration in its processing of the project.

Sec. XX. 10 MRSA §1415-H is amended to read:

§1415-H. Certification of compliance

The following provisions apply to new construction of a commercial or institutional building, other than a building constructed or owned by a local unit of government, undertaken after the effective date of this section. For purposes of this section, the term "local unit of government" has the same meaning as the term used in the Constitution of Maine, Article IX, Section 21 and any implementing legislation.

1. Certification. Before installing permanent service to a commercial or institutional building, ~~an electric utility~~ a transmission and distribution utility, as defined in Title 35-A, section 102, shall obtain from the owner of the building or from the owner's legal agent, on a form provided by the utility, a signed certification that the building complies with the requirements of section 1415-D. A copy of the signed certification must be provided by the ~~electric utility~~ transmission and distribution utility to the Department of Economic and Community Development, Energy Conservation Division or a successor agency charged with administering energy building standards.

2. Form. The Commissioner of Economic and Community Development shall develop a model certification form to be used by ~~electric utilities~~ transmission and distribution utilities under subsection 1.

3. Fee. ~~An electric utility~~ A transmission and distribution utility may charge a reasonable fee to cover its costs of processing certificates under this section.

4. Penalties. ~~An electric utility~~ A transmission and distribution utility that knowingly violates subsection 1 commits a civil violation for which a forfeiture of not less than $100 nor more than $500 must be adjudged. An owner of a building who falsely certifies that a building complies with the standards established under section 1415-D commits a civil violation for which a forfeiture of not less than $100 and not more than 5% of the value of the construction must be adjudged.

Sec. XX. 12 MRSA §685-A is amended to read:

§685-A. Land use districts and standards

.....

11. Public ~~service corporation~~ utility exemptions. Real estate used or to be used by a public ~~service corporation~~ utility, as defined in Title 35-A, section 102, may be wholly or partially exempted from regulation to the extent that the commission may not prohibit such use but may impose terms and conditions for use consistent with the purpose of this chapter, when, upon timely petition to the Public Utilities Commission and after a hearing, the Public Utilities Commission ~~said commission~~ determines that such exemption is necessary or desirable for the public welfare or convenience.[2]

Sec. XX. 14 MRSA §6045 is amended to read:

§6045. Disclosure of electric utility costs

Upon request, ~~an electric utility~~ a transmission and distribution utility, as defined in Title 35-A, section 102, shall provide free of charge to current or prospective customers, tenants or property owners residential electric energy consumption and cost information for a dwelling unit for the prior 12-month period or figures reflecting the highest and lowest electric energy consumption and cost for the previous 12 months. The cost must include and separately identify the cost of the transmission and distribution utility's services and the cost of electricity. If a unit has been occupied for a period of less than 12 months or for any other reasons the utility does not have information regarding electricity consumption or costs for a period of 12 months, the ~~electric~~ utility shall estimate the unit's annual kilowatt-hour consumption ~~and~~ or cost. The

[2] "Public service corporation" is not defined in Title 12. This amendment would exclude sewer districts, but this section does not seem to intend to encompass sewer districts since PUC does not regulate sewer.

estimated cost must be based on the applicable standard offer service price or default service price established by the Public Utilities Commission. Provision of this information is neither a breach of customer confidentiality nor a guarantee or contract by the utility as to future consumption levels or the cost of the provision of electricity ~~for~~ to that unit. For purposes of this section, "dwelling unit" includes mobile homes, apartments, buildings or other structures used for human habitation.

Sec. XX. 17 MRSA §3204 is amended to read:

§3204. Business, traveling or recreation on Sunday

No person, firm or corporation may, on the Lord's Day except between the hours of noon and 5:00 p.m. on those Sundays falling between Thanksgiving Day and Christmas Day; Memorial Day, the last Monday in May, but if the Federal Government designates May 30th as the date for observance of Memorial Day, the 30th of May; July 4th; Labor Day, the first Monday of September; Veterans' Day, November 11th; Christmas Day and Thanksgiving Day as proclaimed by the Governor, keep open a place of business to the public, except for works of necessity, emergency or charity.

This section does not apply to: The operation or maintenance of common, contract and private carriers; taxicabs; airplanes; newspapers; radio and television stations; hotels, motels, rooming houses, tourist and trailer camps; restaurants; garages and motor vehicle service stations; retail monument dealers; automatic laundries; machines that vend anything of value, including, but not limited to, a product, money or service; a satellite facility approved by the Superintendent of Banking under Title 9-B; or comparable facility approved by the appropriate federal authority; pharmacies; greenhouses; seasonal stands engaged in sale of farm produce, dairy products, sea food or Christmas trees; public utilities; industries normally kept in continuous operations, including, but not limited to, electric generation plants and pulp and paper plants and textile plants; processing plants handling agricultural produce or products of the sea; ship chandleries; marinas; establishments primarily selling boats, boating equipment, sporting equipment, souvenirs and novelties; motion picture theatres; public dancing; sports and athletic events; bowling alleys; displaying or exploding fireworks, under Title 8, chapter 9-A; musical concerts; religious, educational, scientific or philosophical lectures; scenic, historic, recreational and amusement facilities; real estate brokers and real estate sales representatives; mobile home brokers and mobile home sales representatives; provided that this section does not exempt the businesses or facilities specified in sections 3205 and 3207 from closing in any municipality until the requirements of those sections have been met; stores wherein no more than 5 persons, including the proprietor, are employed in the usual and regular conduct of business; stores which have no more than 5,000 square feet of interior customer selling space, excluding back room storage, office and processing space; and stores with more than 5,000 square feet of interior customer selling space which engage in retail sales and which do not require, as a condition of employment, that their employees work on Sundays. If an employer decreases the average weekly work hours of an employee who has declined to work on Sundays, it is prima facie evidence that the employer has required Sunday work as a condition of employment in violation of this section, unless the employer and employee agreed that the employee would work on

Sundays when the employee was initially hired. In no event, however, may any store having more than 5,000 square feet of interior customer selling space be open on Easter Day, Thanksgiving Day and Christmas Day.

For the purpose of determining qualification, a "store" shall be deemed to be any operation conducted within one building advertising as, and representing itself to the public to be, one business enterprise regardless of internal departmentalization. All subleased departments of any store shall for the purpose of this section be deemed to be operated by the store in which they are located. Contiguous stores owned by the same proprietor or operated by the same management shall be deemed to be a single store for the purpose of this statute.

Any person, firm or corporation found guilty of violating any of the provisions of this section shall be punished by a fine of not more than $100 or by imprisonment for 30 days, or by both, for the first offense; and by a fine of $500 or by imprisonment for 60 days, or by both, for the 2nd offense occurring within one year following the first conviction. Any offense subsequent to the 2nd offense and occurring within 2 years following the 2nd conviction shall be punished by a fine of not more than $1,000 or by imprisonment for 90 days, or by both. No complaint charging violation of this section shall issue later than 5 days after its alleged commission.

Each separate sale, trade or exchange of property or offer thereof, in violation of this section, and each Lord's Day or one of the aforementioned holidays a person, firm or corporation engages in or employs others to engage in the sale, trade or exchange of property in violation of the law constitutes a separate offense.

In addition to any criminal penalties provided in this section, the Attorney General, district attorney or any resident of a municipality in which a violation is claimed to have occurred may file a complaint with the Superior Court to enjoin any violation of this section. The Superior Court shall have original jurisdiction of such complaints and authority to enjoin such violations.

This section shall not apply to isolated or occasional sales by persons not engaged in the sale, transfer or exchange of property as a business.

Sec. XX. 17 MRSA §3601 is amended to read: (no change recommended)[3]

§3601. Violence or intimidation to promote controversy between utility and workers

Whoever, alone or in pursuance or furtherance of any agreement or combination with others to do or procure to be done any act in contemplation or furtherance of a dispute or controversy between a gas, telegraph, telephone, *electric light, electric power* or railroad *corporation* and its employees or workmen, wrongfully and without legal authority, uses violence towards or intimidates any person in any way or by any means, with intent thereby to compel such person against his will to do or abstain from doing any act which he has a legal right

[3] This section may be obsolete under current federal labor law (29 USC §141).

to do or abstain from doing; or, on the premises of such corporation, by bribery or in any manner or by any means induces or endeavors or attempts to induce such person to leave the employment and service of such corporation, with intent thereby to further the objects of such combination or agreement; or in any way interferes with such person while in the performance of his duty; or threatens or persistently follows such person in a disorderly manner or injures or threatens to injure his property with either of said intents, shall be punished by a fine of not more than $300 or by imprisonment for not more than 3 months.

Sec. XX. 17-A MRSA §357 is amended to read:

§357. Theft of services

1. A person is guilty of theft if he obtains services which he knows are available only for compensation by deception, threat, force or any other means designed to avoid the due payment therefor. As used in this section, "deception" has the same meaning as in section 354, and "threat" is deemed to occur under the circumstances described in section 355, subsection 2.

2. A person is guilty of theft if, having control over the disposition of services of another, to which he knows he is not entitled, he diverts such services to his own benefit, or to the benefit of some other person who he knows is not entitled thereto.

3. As used in this section, "services" includes, but is not necessarily limited to, labor, professional service, public utility and transportation service, ski lift service, restaurant, hotel, motel, tourist cabin, rooming house and like accommodations, the supplying of equipment, tools, vehicles or trailers for temporary use, telephone, cellular telephone, telegraph, cable television or computer service, gas, electricity, water or steam, admission to entertainment, exhibitions, sporting events or other events or services for which a charge is made.

4. Where compensation for service is ordinarily paid immediately upon the rendering of such service, as in the case of hotels, restaurants, ski lifts or sporting events and garages, nonpayment prior to use or enjoyment, refusal to pay or absconding without payment or offer to pay gives rise to a presumption that the service was obtained by deception.

5. Proof that utility services have been improperly diverted or that devices belonging to the utility and installed for the delivery, regulation or measurement of utility services have been interfered with constitutes prima facie evidence that the person to whom the utility service is being delivered or diverted knowingly created or caused to be created the improper diversion or interference with the devices of the utility. <u>For purposes of this subsection, the term "utility" includes a public utility, a sewer district, a sanitary district, a competitive electricity provider licensed by the Public Utilities Commission and an entity lawfully providing electric metering or billing services in accordance with Title 35A or rules adopted by the Public Utilities Commission.</u>

This inference does not apply unless the person to whom the utility service is being delivered has been furnished the service for at least 30 days.

Sec. XX. 20-A MRSA §8354 is amended to read:

§8354. Tuition computation for out-of-state students

The tuition charge for each out-of-state student receiving vocational education at a center, satellite program or region is determined as follows.

1. Primary method. The per student tuition charge is determined by:

A. Adding the amounts paid by the center, satellite program or region during the previous fiscal year for:

(1) Teachers' salaries;

(2) Fuel;

(3) Janitorial services;

(4) Textbooks;

(5) Reference books;

(6) School supplies for desk and laboratory use;

(7) *Public utility services*;

(8) Replacement of instructional equipment;

(9) Insurance;

(10) Compensation for the applied technology director and the applied technology director's assistants; ~~and~~

(11) Employee fringe benefits; and

(12) Electricity services provided by competitive electricity providers or other entities authorized by the Public Utilities Commission to provide electricity services;

B. Adjusting the amounts in paragraph A by the allowable percentages set forth in section 5805, subsection 1, paragraph D; and

C. Dividing this sum by the average number of all regularly enrolled students at the center, satellite program or region on October 1st and April 1st of the previous fiscal year.

2. Alternate method. When the cost of fuel, janitorial services, public utility services, electricity services, or insurance for facilities used to provide vocational education can not be separated from similar costs for other facilities not used to provide vocational education, the costs of facilities used to provide vocational education are determined by prorating the square footage of floor space used to provide vocational education to the total amount of floor space at the facilities.

Sec. XX. 23 MRSA §154 is amended to read: (no change recommended)

§154. Condemnation proceedings

If the department determines that public exigency requires the taking of property or any interest in property, or is unable to purchase a property or any interest in a property, or the necessary ways and access to a property at what it considers a reasonable valuation, or if the title in a property is defective, it shall file in the registry of deeds for the county or registry district where the land is located a notice of condemnation which must contain a description of the project specifying the property and the interest taken and the name or names of the owner or owners of record so far as they can be reasonably determined. The department may prescribe procedures for the reasonable determination of the owner or owners of record. The department may join in the notice one or more separate properties whether in the same or different ownership and whether or not taken for the same use.

The department shall serve a check in the amount of the determined net damage and offering price and a copy of the notice of condemnation on the owner or owners of record. In case there is multiple ownership, the check may be served on any one of the owners. With that copy the department must serve on each individual owner of record a copy of that part of the plan as relates to the particular parcel or parcels of land taken from that owner and a statement by the department with respect to the particular parcel or parcels of land taken from that owner which must:

.....

4. Compensation in cases involving the facilities of a public utility. *Where the condemnation involves the taking of established rights and facilities owned by a public utility and located outside of an established highway right-of-way, no statement by the department as provided above may be sent to the public utility concerned. In any negotiations for an agreement with such public utility with regard to such rights and facilities, the department shall consider, without being limited to, the following elements of damage:*

A. Relocation costs, which must include the cost of acquisition of substitute rights and the cost of establishing either existing or substitute facilities in a new location;

B. The salvage value of facilities removed;

C. Cost of removal; and

D. The value of betterments where the function of the substitute facilities exceeds the function of the replaced facilities.

Service of the notice of condemnation with a copy of the plan, check and the statement by the department must be made by registered or certified mail or by personal service as required for service of a summons on a complaint in the Superior Court. A notice describing the condemnation must be published once in a newspaper of general circulation in the county where the property is located and such publication constitutes service on any unknown owner or owners or other persons who may have or claim an interest in the property. The notice must consist of an area map depicting the general location of the property interests to be condemned and such other information as the department determines will sufficiently identify the area in which the property interests are to be taken; an informative summary listing the parcel or item numbers to be condemned, the name of the apparent owner or owners of record of the property interests, the estimated areas to be condemned and the nature of the interests to be condemned; and a location at which the complete notice of layout and taking may be examined.

If such owner is a person under the age of 18 years, or an incompetent person, the commission shall cause such notice and check to be served upon the legal guardian of such person or incompetent. If there is no such guardian, then the department shall apply to the judge of probate for the county wherein the property is situated, briefly stating the facts and requesting the appointment of a guardian. The reasonable fee of such guardian as approved by the court must be paid by the department.

In case there is a mortgage, tax lien of record or other encumbrance covering any of said land, a copy of the notice of condemnation must be sent forthwith by registered or certified mail to the holder of record of said mortgage, tax lien or other encumbrance addressed to the holder's office or place of abode if known, otherwise to the office, abode or address as set forth in said record.

The recording of the notice of condemnation is the date of taking and vests title to the property therein described in the State in fee simple or such lesser state as is specified in the notice of condemnation. Within one year after the completion of the project for which the land is taken, the department shall file a plan for recording in the registry of deeds for the county or registry district where the land is located.

If a condemnation proceeding is instituted and then abandoned, the owner of any right, title or interest in any real property included in said proceeding must be reimbursed by the

department for reasonable attorney, appraisal and engineering fees, actually incurred because of the condemnation proceedings.

Sec. XX. 30-A MRSA §2252 is amended to read:

§2252. "Political subdivision" defined

"Political subdivision" means any municipality, plantation, county, quasi-municipal corporation and special purpose district, including, but not limited to, any water district, sanitary district, hospital district, municipal ~~electric utility~~ transmission and distribution utility and school administrative unit. "School administrative unit" has the same meaning as found in Title 20-A, section 1, subsection 26.

Sec. XX. 30-A MRSA §5715 is amended to read: (no change recommended)

§5715. Other stock investments

Municipalities may invest in:

1. Preferred stock of public utilities. The preferred stock of any public corporation if all of the publicly issued bonds of the corporation qualify as legal investments under section 5713, subsection 1 or 2. Not more than 10% of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in preferred stocks of public utilities, and not more than 1% of any such fund may be invested in the preferred stocks of any one corporation;

.....

Sec. XX. 30-A MRSA §4152 is amended to read:

§4152. Applicability of provisions

This subchapter applies to all installations of electrical equipment, made after August 6, 1949, within or on public and private buildings and premises, including mobile homes, with the following general exceptions which apply to all of this subchapter:

1. Under jurisdiction of certain commissions. Any person under the jurisdiction of the Public Utilities Commission of the State or of the Federal Communications Commission;

2. Public utilities ~~Utility corporations~~. The electrical work and equipment employed in connection with the construction, installation, operation, repair or maintenance of any utility facility by a public utility, as defined in Title 35A, section 102, or by a sewer district or sanitary

district ~~corporation~~ in providing its authorized service, or in any way incidental to providing that service;

3. Industrial or manufacturing plants. Any electrical equipment and work, including construction, installation, operation, maintenance and repair in or about industrial or manufacturing plants;

4. Other property of industrial or manufacturing plants. Any electrical equipment and work, including construction, installation, operation, maintenance and repair in, on or about other properties, equipment or buildings, residential or of any other kind, owned or controlled by the operators of industrial or manufacturing plants, if the work is done under the supervision of an electrical engineer employed by the operator;

5. Mines, transportation and sound equipment. The electrical work and equipment in mines, pipe line systems, ships, railway rolling stock or automotive equipment, or the operation of portable sound equipment;

6. Electrical equipment in manufacturer's plant. Any electrical installations or equipment involved in the manufacture, test or repair of electrical equipment in the manufacturer's plant; and

7. Certain laboratories. Installations in suitable laboratories of exposed electrical wiring for experimental purposes only.

Sec. XX. 32 MRSA §1101 & 1102 are amended to read: (further changes may be appropriate)

§1101. Definitions

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

.....

7. Public service corporation. "Public service corporation" means a public utility, as defined in Title 35-A, section 102, or a person, firm or corporation subject to the jurisdiction of the Federal Communications Commission.

8. Utility corporation. *"Utility corporation" means a utility not described in subsection 7.*

§1102. Exceptions

The provisions of this chapter shall not apply to the following:

1. Commissions.

1-A. Public service corporations. A public service corporation or an employee of a public service corporation making electrical installations in the course of the employee's employment, including installations of conductors and equipment that are not under the exclusive control of the ~~electric utilities~~ public service corporation and are used to connect the ~~electric utility~~ public service corporation supply system to the service entrance conductors of the premises served, including such installations of conductors and equipment that are outside a building or terminate immediately inside a building. This exception does not apply to the installation of mobile home service equipment;

2. Utility corporations. *Regular employees of utility corporations not qualifying under subsection 1-A, performing electrical work in connection with the construction, installation, operation, repair or maintenance of any utility by a utility corporation in rendering its authorized service, or in any way incidental thereto; or*

.....

Sec. XX. 32 MRSA §1102-B is amended to read: (changes may be appropriate)

§1102-B. Permits and inspections

1. Permits required. Except as otherwise provided in this section, no electrical equipment may be installed or altered unless the person making the installation first obtains a permit from the Electrician's Examining Board.

2. Application procedure. An application for a permit must be made in a form prescribed by the board together with any plans, specifications or schedules the board may require. If the board determines that the installation or alteration planned is in compliance with all applicable statutes, ordinances and rules, it shall issue a permit, provided that the fee required under subsection 3 has been paid.

3. Inspection required. When the installation or alteration is completed, the person making the installation or alteration shall notify the state electrical inspector. The inspector shall inspect the installation within a reasonable time so as not to cause undue delay in the progress of the construction contract or installation. The inspector shall determine whether the installation complies with all applicable statutes, ordinances and rules. If the inspector determines that the installation does not so comply, the procedures set forth in section 1104 apply. Any utility corporation must require proof of permit prior to connecting power to the installation.

4. Procedures and fees. Pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, the board may adopt procedures and fees for permit applications and the conduct of inspections. The combined fee for permit and inspection must be paid with every application for

a permit. The board shall adopt by rule a schedule of appropriate fees, but in no event may any scheduled fee exceed $100.

5. Exceptions to permitting requirement. This section does not apply to the following:

A. Single-family dwellings;

B. The electrical work and equipment employed in connection with the construction, installation, operation, repair or maintenance of any utility by a utility corporation in rendering its authorized service or in any way incidental thereto;

C. Minor repair work, including the replacement of lamps, fuses, lighting fixtures, switches and sockets, the installation and repair of outlets, radio and other low voltage equipment and the repair of entrance service equipment;

D. Installations or alterations for which a permit and inspection are required by municipal resolution or ordinance under Title 30-A, section 4173;

E. Any electrical equipment and work, including construction, installation, operation, maintenance and repair in or about industrial or manufacturing facilities;

F. Any electrical equipment and work, including construction, installation, operation, maintenance and repair in, on or about other properties, equipment or buildings, residential or of any other kind, owned or operated by a person engaged in industrial or manufacturing operations provided that the work is done under the supervision of an electrical engineer or master electrician in the employ of that person;

G. Work performed by any person licensed under chapter 33 as an oil burner technician, subject to the restrictions of the license as issued;

H. Work performed by a person licensed under chapter 130 as a propane and natural gas installer, when installing propane and natural gas utilization equipment, subject to the restrictions of that person's license;

I. Work performed by a person licensed under chapter 49 as a plumber, except that this exception applies only to disconnection and connection of electrical conductors required in the replacement of water pumps and water heaters of the same or smaller size in residential properties; or

J. Work performed by a person licensed under chapter 69-C as a pump installer, except that this exception applies only to disconnection and connection of electrical conductors required in the replacement of water pumps of the same or smaller size in residential properties and the installation of new water pumps and associated equipment of 3 horsepower or smaller.

Sec. XX. 32 MRSA §1104 is amended to read:

§1104. State electrical inspectors

State electrical inspectors, upon an oral complaint of imminent danger or upon written complaint of any owner, lessee or tenant of a building, state fire inspector, fire chief, fire department inspector, personnel of a transmission and distribution utility ~~an electric utility~~ or local electrical inspector or whenever they determine it necessary at all reasonable hours, for purposes of examination, may enter into and upon all buildings or premises within their jurisdiction and inspect the same. They may enter any building only with the permission of the person having control thereof, or after hearing, upon order of court. Whenever any state electrical inspector finds any electrical installation in any building or structure that does not comply with this chapter, the inspector shall order the same to be removed or remedied and the owner or occupant of the premises or buildings shall immediately comply with the order. Whenever any state electrical inspector finds any electrical installation in any building or structure that creates a danger to other property or to the public, the inspector may forbid use of the building or structure by serving a written order upon the owner and the occupant, if any, to vacate within a reasonable period of time to be stated in the order.

Any person ordered by a state electrical inspector to correct an electrical deficiency or to vacate a building or structure may appeal the order to the Electricians' Examining Board by filing with that board within 48 hours of receipt of the order a written notice of appeal. The board shall review that appeal and issue its written decision thereof within 10 days after receipt of the notice of appeal. If the board upholds the inspector's order, it shall prescribe the time period for the requisite correction specified in its written decision or the time within which that person must vacate the building or structure. The decision shall be complied with, unless appealed as provided. Any person ordered by the board to correct an electrical deficiency or to vacate a building or structure may appeal the order to the Superior Court in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII, by filing a petition for review within 48 hours of receipt of the order. The court shall issue its written decision within 20 days after receipt of the petition for review.

The decision of the Superior Court on an appeal as provided is final. An order by a state electrical inspector and an order by the Electricians' Examining Board shall likewise be final and subject to no further appeal upon failure to file a timely, written appeal therefrom as provided.

Upon the failure of any person to carry out a final order as provided, the Electricians' Examining Board may petition the Superior Court for the county in which the building or premises are located for an injunction to enforce that order. If the court determines, upon hearing such petition, that a lawful final order was issued, it shall order compliance.

Sec. XX. 32 MRSA §2315 is amended to read:

§2315. State oil and solid fuel compliance officers

1. Inspection. State oil and solid fuel compliance officers, upon written complaint of any owner, lessee or tenant of a building, state fire inspector, fire chief, fire department inspector, personnel of a transmission and distribution utility ~~an electric utility~~ or local electrical inspector, or whenever they consider it necessary, for purposes of examination of the burner, chimney or fireplace installation, may at all reasonable hours enter into and upon all buildings or premises within their jurisdiction and inspect the buildings or premises. The inspectors may enter any building only with the permission of the person having control of the building or, after hearing, upon order of the court. Whenever any such compliance officer finds any burner, chimney or fireplace installation in any building or structure that does not comply with the requirements of this chapter, that officer shall order the burner, chimney or fireplace to be removed or remedied, and the order must forthwith be complied with by the owner or occupant of that building or structure or the installer of the equipment. If the compliance officer finds an installation, which falls under the compliance officer's jurisdiction in any building or structure that creates a danger to other property or to the public, the compliance officer may forbid the use of the building or structure by serving a written order upon the owner and the occupant, if any, to vacate within a reasonable period of time to be stated in the order.

.....

Sec. XX. 33 MRSA §1952 & 1953 are amended to read:

§1952. Definitions

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

1. Administrator. "Administrator" means the Treasurer of State.

2. Apparent owner. "Apparent owner" means a person whose name appears on the records of a holder as the person entitled to property held, issued or owing by the holder.

3. Business association. "Business association" means a corporation, joint stock company, investment company, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, mutual fund, utility or other business entity consisting of one or more persons, whether or not for profit.

3-A. Competitive electricity provider. Competitive electricity provider" has the same meaning as that term defined in Title 35-A, section 102, subsection 2-A.

4. Domicile. "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of a holder other than a corporation.

5. Financial organization. "Financial organization" means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization or credit union.

6. Holder. "Holder" means a person obligated to hold for the account of, or deliver or pay to, the owner property that is subject to this Act.

7. Insurance company. "Insurance company" means an association, corporation or fraternal or mutual benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities or insurance, including accident, burial, casualty, credit life, contract performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage protection and workers' compensation insurance.

8. Mineral. "Mineral" means gas, oil, coal, other gaseous, liquid and solid hydrocarbons, oil shale, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources or any other substance defined as a mineral by the laws of this State.

9. Mineral proceeds. "Mineral proceeds" means amounts payable for the extraction, production or sale of minerals, or, upon the abandonment of those payments, all payments that become payable after abandonment. "Mineral proceeds" include amounts payable:

A. For the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties and delay rentals;

B. For the extraction, production or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments and production payments; and

C. Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement and farm-out agreement.

10. Money order. "Money order" includes an express money order and a personal money order on which the remitter is the purchaser. "Money order" does not include a bank money order or any other instrument sold by a financial organization if the seller has obtained the name and address of the payee.

11. Owner. "Owner" means a person who has a legal or equitable interest in property subject to this Act or the person's legal representative. "Owner" includes a depositor in the case of a deposit, a beneficiary in the case of a trust, other than a deposit in trust, and a creditor, claimant or payee in the case of other property.

12. Person. "Person" means an individual, business association, financial organization, estate, trust, government, governmental subdivision, agency or instrumentality or any other legal or commercial entity.

13. Property. "Property" means tangible property described in section 1954 or a fixed and certain interest in intangible property that is held, issued or owed in the course of a holder's business or by a government, governmental subdivision, agency or instrumentality and all income or increments therefrom. "Property" includes property that is referred to as or evidenced by:

A. Money, a check, draft, deposit, interest or dividend;

B. Credit balance, customer's overpayment, gift certificate, security deposit, refund, credit memorandum, unpaid wage, unused ticket, mineral proceeds or unidentified remittance;

C. Stock or other evidence of ownership of an interest in a business association or financial organization;

D. A bond, debenture, note or other evidence of indebtedness;

E. Money deposited to redeem stocks, bonds, coupons or other securities or to make distributions;

F. An amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance or health and disability insurance; and

G. An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefits.

14. Record. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

15. State. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States.

16. Utility. *"Utility" has the same meaning as set forth for public utility in Title 35-A, section 102, subsection 13.*

§1953. Presumptions of abandonment

1. Presumptive abandonment periods. Property is presumed abandoned if it is unclaimed by the apparent owner during the times, as follows for the particular property:

A. A traveler's check, 15 years after issuance;

B. A money order, 7 years after issuance;

C. Stock or other equity interest in a business association or financial organization, including a security entitlement under Title 11, Article 8, 5 years after the earlier of:

(1) The date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner; or

(2) The date of the 2nd mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;

D. A debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 5 years after the date of the most recent interest payment unclaimed by the apparent owner;

E. A demand, savings or time deposit 5 years after the earlier of maturity or the date of the last indication by the owner of interest in the property. In the case of certain types of deposits, the following rules apply:

(1) In the case of a time deposit that is automatically renewable and whose term is longer than one year, at the date of maturity following the 5th renewal of the deposit after the last indication of interest by the owner; and

(2) In the case of a deposit for the benefit of a minor, the later of 5 years after the last indication of interest by the owner or the date on which the minor reaches 18 years of age;

F. Money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;

G. A gift certificate, 3 years after December 31st of the year in which the certificate was sold; the amount abandoned is the price paid by the purchaser for the gift certificate, except that the amount abandoned is 60% of the certificate's face value if the issuer of the certificate does not impose a dormancy charge or period of limitations on the owner's right to redeem the certificate at 100% of face value;

H. The amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or

would have attained if living, the limiting age under the mortality table on which the reserve is based;

I. Property distributable by a business association or financial organization in a course of dissolution, one year after the property becomes distributable;

J. Property received by a court as proceeds of a class action, and not distributed pursuant to the judgment, one year after the distribution date;

K. Property held by a court, government, governmental subdivision, agency or instrumentality, one year after the property becomes distributable;

L. Wages or other compensation for personal services, one year after the compensation becomes payable;

M. A deposit or refund owed to a subscriber by a utility or by a competitive electricity provider, one year after the deposit or refund becomes payable;

N. Property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, including property described in this subsection, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty;

O. All other property, 5 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs; and

P. Notwithstanding paragraph E, property contained in a prearranged funeral or burial plan described in Title 32, section 1401, including deposits containing funds from such a plan, 3 years after the death of the person on whose behalf funds were paid into the plan.

.....

Sec. XX. 36 MRSA §1760 is amended to read:

§1760. Exemptions
(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

Subject to the provisions of section 1760-C, no tax on sales, storage or use may be collected upon or in connection with:

.....

9-B. Residential electricity. Sale and delivery of the first 750 kilowatt hours of residential electricity per month. For the purpose of this subsection, "residential electricity" means electricity furnished to homes, mobile homes, boarding homes and apartment houses, with the exception of hotels and motels. Where residential electricity is furnished through one meter to more than one residential unit and where the ~~electric~~ transmission and distribution utility applies its tariff on a per unit basis, the furnishing of electricity is considered a separate sale for each unit to which the tariff applies. For purposes of this subsection, "delivery" means transmission and distribution;

.....

80. Electricity used for net billing. Sale or delivery of kilowatt hours of electricity to net energy billing customers as defined by the Public Utilities Commission for which no money is paid to the electricity provider or to the transmission and distribution utility.

.....

Sec. XX. 36 MRSA §5215 is amended to read: (?)

§5215. Jobs and investment tax credit

1. Credit allowed. A taxpayer, *other than a public utility as defined by Title 35-A, section 102*, is allowed a credit to be computed as provided in this section against the tax imposed by this Part, subject to the limitations contained in subsection 3. The amount of the credit equals the qualified federal credit, as defined in subsection 2, for taxable years beginning on or after January 1, 1979, except that a credit may be taken with respect to used property, and may not be allowed with respect to an excluded investment.

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

A. "Qualified federal credit" means, with respect to any taxable year, that portion of the credit allowed by the Internal Revenue Code of 1954, Section 38(b)(1), as of December 31, 1985, that is directly and solely attributable to qualified investment with a location in this State.

A-1. "Excluded investment" means an investment related to a retail facility, unless the taxpayer can demonstrate to the satisfaction of the State Tax Assessor that the commercial result of the project or projects to which the credit relates has not or will not result in a substantial detriment to existing businesses in the State.

A-2. "Retail facility" does not include a facility primarily engaged in warehousing, order taking, manufacturing, storage or distribution, even when a portion of the facility is used to make retail sales of tangible personal property directly from the facility.

B. The term "new jobs credit base" means the excess of Bureau of Unemployment Compensation wages for the taxable year of the qualified investment or either of the next 2 calendar years over the Bureau of Unemployment Compensation wages for the highest of the 3 calendar years preceding the year of the qualified investment. In computing its new jobs credit base, a successor-taxpayer shall add to its own Bureau of Unemployment Compensation wages the Bureau of Unemployment Compensation wages of its predecessor.

C. The term "Bureau of Unemployment Compensation wages" means the total amount of wages paid by an employer subject to tax under Title 26, section 1221, less any excesses attributable to statutory increases.

D. "Successor-taxpayer" means a taxpayer that has acquired, within 4 years of its taxable year-end, the organization, trade or business, or 50% or more of the assets of the organization, trade or business, of another taxpayer that, at the time of the acquisition, was an employing unit.

E. "Used property" means property that is originally placed in service by the taxpayer outside of this State. The cost of property used by the taxpayer outside of this State and then placed into service in this State on or after January 1, 1997 is the original cost of the property to the taxpayer, minus the straight-line depreciation allowable for the tax years or portions of the tax years during which the taxpayer used the property outside of this State. The cost of property used by the taxpayer outside of this State and then placed into service in this State before to January 1, 1997 is the original cost of the property.

3. Limitations. The tax credit for any taxable year is applicable only to those taxpayers:

A. With property considered to be qualified investment of at least $5,000,000 for that taxable year with a situs in the State and placed in service by the taxpayer after January 1, 1979;

B. With payroll records and reports substantiating that at least 100 new jobs attributable to the operation of property considered to be qualified investment were created in the 24-month period following the date the property was placed in service. To assess the continuing nature of the jobs, the taxpayer must demonstrate that the new jobs credit base is at least $700,000 for the taxable year of the qualified federal credit for either of the next 2 calendar years. The $700,000 must be adjusted proportionally for any change in Title 26, section 1043, subsection 2 wages from $7,000. With respect to new jobs created after August 1, 1998, but before October 1, 2001, the employer must also demonstrate that the qualifying jobs are covered by a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461, as

amended; that group health insurance is provided for employees in those positions; and that the wages for those positions, calculated on a calendar year basis, are greater than the average per capita income in the labor market area in which the employee is employed; and

C.

4. Carry-over. The amount of credit that may be used by a taxpayer for any taxable year may not exceed either $500,000 or the amount of tax otherwise due, whichever is less. Any unused credit may be carried over to the following year or years for a period not to exceed 7 years, including the year the credit was first taken, and may be deducted from the taxpayer's tax for that year or those years, subject to the same limitations provided in this subsection.

5. Carry-back. There may be no carry-back to prior years of the amount of credit allowable under this section.

6. Recapture. If, during any taxable year, any qualified investment property is disposed of, or otherwise ceases to be property covered by subsection 2, paragraph A with respect to the taxpayer, before the end of the useful life that was taken into account in computing the credit under subsection 1, then the tax under this Part for that taxable year must be increased by an amount equal to the aggregate decrease in the credit allowed under subsection 1 for all prior taxable years that would have resulted solely from substituting for the useful life, in determining qualified investment under the Internal Revenue Code, the period beginning with the time the property was placed in service by the taxpayer and ending with the time the property ceased to be property covered by subsection 2.

6-A. Affiliated groups; tax years prior to January 1, 1995. This subsection applies retroactively to all tax years beginning before the effective date of this subsection as well as prospectively to all tax years beginning on or after the effective date of this subsection but prior to January 1, 1995 and for which the taxpayer's right to file an original or amended return had not or has not expired at the time of the taxpayer's filing of the return. In the case of corporations that are members of an affiliated group engaged in a unitary business, the credit provided for in this section applies as follows.

A. The credit provided for in this section, in an amount equal to the aggregate qualified federal credit for all taxable corporations that are members of an affiliated group engaged in a unitary business, must be allowed against the total tax liability of all the taxable corporations that are members of the affiliated group engaged in a unitary business if the taxable corporations that are members of the affiliated group have, in the aggregate:

(1) Property considered to be qualified investment of at least $5,000,000 for that taxable year with a situs in the State and placed in service by the taxable corporations after January 1, 1979;

(2) Payroll records and reports substantiating that at least 200 new jobs attributable to the operation of property considered to be qualified investment were created in the 12-month period following the date the property was placed in service; and

(3) A new jobs credit base of at least $1,400,000 for the taxable year of the qualified federal credit or the next calendar year. The $1,400,000 must be adjusted proportionally for any change in Title 26, section 1043, subsection 2 wages from $7,000.

B. The amount of the credit that may be used in any taxable year may not exceed the lesser of $300,000 or the total amount of tax liability otherwise due of all taxable corporations that are members of an affiliated group engaged in a unitary business. Any unused credit may be carried over to the following year or years for a period not to exceed 7 years, including the year the credit was first taken, and may be deducted from the tax imposed by this Part for that year or those years, subject to the same limitations provided in this subsection.

The credit must be apportioned among the taxable corporations in the affiliated group in the same proportion that the tax liability of each taxable corporation in the affiliated group bears to the total tax liability of all the taxable corporations in the affiliated group.

6-B. Affiliated groups; tax years beginning on or after January 1, 1995. This subsection applies to tax years beginning on or after January 1, 1995. In the case of corporations that are members of an affiliated group engaged in a unitary business, the credit provided for in this section applies as follows.

A. The credit provided for in this section, in an amount equal to the aggregate qualified federal credit for all taxable corporations that are members of an affiliated group engaged in a unitary business, must be allowed against the total tax liability of all the taxable corporations that are members of the affiliated group engaged in a unitary business if the taxable corporations that are members of the affiliated group have, in the aggregate:

(1) Property considered to be qualified investment of at least $5,000,000 for that taxable year with a situs in the State and placed in service by the taxable corporations after January 1, 1979;

(2) Payroll records and reports substantiating that at least 100 new jobs attributable to the operation of property considered to be qualified investment were created in the 24-month period following the date the property was placed in service; and

(3) A new jobs credit base of at least $700,000 for the taxable year of the qualified federal credit or either of the next 2 calendar years. The $700,000 must be adjusted proportionally for any change in Title 26, section 1043, subsection 2 wages from $7,000.

B. The amount of the credit that may be used in any taxable year may not exceed the lesser of $500,000 or the total amount of tax liability otherwise due of all taxable corporations that are members of an affiliated group engaged in a unitary business. Any unused credit may be carried over to the following year or years for a period not to exceed 7 years, including the year the credit was first taken, and may be deducted from the tax imposed by this Part for that year or those years, subject to the same limitations provided in this subsection.

The credit must be apportioned among the taxable corporations in the affiliated group in the same proportion that the tax liability of each taxable corporation in the affiliated group bears to the total tax liability of all the taxable corporations in the affiliated group.

7. Legislative findings. The Legislature finds that encouragement of the growth of major industry in the State is in the public interest and promotes the general welfare of the people of the State; that the use of investment tax credits to encourage industry to make substantial capital investments in the State is necessary to promote the purpose of the Legislature of encouraging the growth of industry; and that the requirements of at least $5,000,000 in qualified investment in the State and an increase of at least 100 new jobs following the investment are reasonable qualifying criteria for the application of an investment tax credit and will best promote substantial capital investment in the State.

8. Report on jobs and investment tax credit. The State Tax Assessor shall submit annually, no later than June 1st, to the joint standing committee of the Legislature having jurisdiction over taxation matters a report on the jobs and investment tax credit. The report must reflect the number of taxpayers applying for the credits, the number of taxpayers granted the credit, the amount of qualified investments made, the number of jobs created and the annual average wage of the new jobs. The report must be presented in as much detail as possible without identifying the taxpayers receiving the credit or violating confidentiality requirements of section 191.

Sec. XX. 36 MRSA §6201 is amended to read: (no change recommended)

§6201. Definitions

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

.....

4. Gross rent. *"Gross rent" means rental paid at arm's length solely for the right of occupancy of a homestead, exclusive of charges for any utilities, services, furniture, furnishings or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement.* If the landlord and tenant have not dealt with each other at arm's length, and the State Tax Assessor is satisfied that the gross rent charged

was excessive, the State Tax Assessor may adjust the gross rent to a reasonable amount for purposes of this chapter.

Sec. XX. 36 MRSA §6753 is amended to read: (?)

§6753. Definitions

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

.....

11. Qualified business. "Qualified business" means any for-profit business in this State, *other than a public utility as defined by Title 35-A, section 102*, that adds 15 or more qualified employees above its base level of employment in this State within any 2-year period commencing on or after January 1, 1996 and that meets one of the following criteria:

A. The business is not engaged in retail operations;

B. The business is engaged in retail operations but less than 50% of its total annual revenues from Maine-based operations are derived from sales taxable in this State; or

C. The business is engaged in retail operations and can demonstrate to the commissioner by a preponderance of the evidence that any increased sales will not include sales tax revenues derived from a transferring or shifting of retail sales from other businesses in this State.

For purposes of this subsection, "retail operations" means sales of consumer goods for household use to consumers who personally visit the business location to purchase the goods.

12. Qualified employees. "Qualified employees" means new, full-time employees hired in this State by a qualified business and for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461, as amended, and group health insurance are provided, and whose income derived from employment with the applicant, calculated on a calendar year basis is greater than the average annual per capita income in the county in which the qualified employee is employed and whose state income withholding taxes are subject to reimbursement to the qualified business under this chapter. "Qualified employees" must be residents of this State.

Sec. XX. 38 MRSA §353-A is amended to read:

§353-A. Annual air emissions license fees

1. Fees assessed. After the effective date of this section, a licensee must pay an annual fee assessed on the sum of all licensed allowable air pollutants, except for carbon monoxide, as follows:

Annual licensed emissions in tons	Per ton fee
1 - 1,000	$5
1,001 - 4,000	$10
over 4,001	$15

1-A. Annual fee surcharge. Beginning November 1, 1994, a licensee shall pay an annual fee surcharge of $10 per every 1,000 air quality units as defined in section 582, subsection 11-E.

2. Fee adjustment. The commissioner may adjust the per ton fees, the annual fee surcharge set forth in subsection 1-A and the maximum and minimum fees set forth in subsection 4 on an annual basis according to the United States Consumer Price Index established by the federal Department of Labor, Bureau of Labor Statistics.

3. Schedule. The fee for existing licenses must be paid on the anniversary date of the license. This date, once established, remains the scheduled date for paying the annual fee, regardless of future changes of the anniversary date. The annual fee for new applications must be estimated and paid at the time of filing the application. When the processing of the application is complete, the final annual fee is determined. Any additional amount is due prior to the issuance of the license. Any overpayment must be refunded. If the application is denied, 50% of the initial annual fee must be refunded. The effective date of the license becomes the anniversary date.

4. Maximum and minimum fees. The minimum annual fee is $250 per year. The maximum annual fee is $150,000 per year. Beginning November 1, 1994, the minimum annual fee surcharge is $100 per year and the maximum annual fee surcharge is $50,000 per year. The commissioner may reduce any fee required under the federal Clean Air Act Amendments of 1990 to take into account the financial resources of a small business stationary source as defined in section 343-D, subsection 1.

5. Transition for existing licenses. A licensee of a source in existence on the effective date of this section may request a revision to that license to reduce the sum of the licensed allowable air pollutants.

~~**6. Electrical generating facilities.** The annual fee for an electrical generating facility owned or operated by a regulated electric utility that has operated the facility at not more than 20% of its capacity factor over the most recent 4-year period is calculated on the 20% capacity factor. If the facility exceeds the 20% capacity factor in any calendar year, the annual fee is based on licensed allowable emissions.~~

7. Renewals and amendments. There are no additional fees assessed for license renewals or amendments.

8. Nonpayment of fee. Failure to pay the annual fee within 30 days of the anniversary date of a license is sufficient grounds for revocation of the license under section 341-D, subsection 3.

9. Funds used solely for air pollution control activities. The money collected from the annual air emission fees must be used solely for air pollution control activities.

Sec. XX. 38 MRSA §487-A is amended to read:

§487-A. Hazardous activities; transmission lines

1. Preliminary notice required for hazardous activities.

2. Power generating facilities. In case of a permanently installed ~~power generating facility of more than 1,000 kilowatts or~~ a transmission line carrying 100 kilovolts, or more, proposed to be erected within this State by ~~an electric~~ a transmission and distribution utility or utilities, the proposed development, in addition to meeting the requirements of section 484, must also have been approved by the Public Utilities Commission under Title 35-A, section 3132.

In the event that ~~an electric~~ a transmission and distribution utility or utilities file a notification pursuant to section 485-A before they are issued a certificate of public convenience and necessity by the Public Utilities Commission, they shall file a bond or, in lieu of that bond, satisfactory evidence of financial capacity to make that reimbursement with the department, payable to the department, in a sum satisfactory to the commissioner and in an amount not to exceed $50,000. This bond or evidence of financial capacity must be conditioned to require the applicant to reimburse the department for its cost incurred in processing any application in the event that the applicant does not receive a certificate of public convenience and necessity.

3. Easement required; transmission line or gas pipeline. In the case of a gas pipeline or a transmission line carrying 100 kilovolts or more, a permit under this chapter may be obtained prior to any acquisition of lands or easements to be acquired by purchase. The permit must be obtained prior to any acquisition of land by eminent domain.

4. Notice to landowners; transmission line or gas pipeline. Any person making application under this article, for approval for a transmission line or gas pipeline shall, prior to filing a notification pursuant to this article, provide notice to each owner of real property upon whose land the applicant proposes to locate a gas pipeline or transmission line. Notice must be sent by certified mail, postage prepaid, to the landowner's last known address contained in the applicable tax assessor's records. The applicant shall file a map with the town clerk of each municipality through which the pipeline or transmission line is proposed to be located, indicating

the intended approximate location of the pipeline or transmission line within the municipality. The applicant is not required to provide notice of intent to construct a gas pipeline or transmission line other than as set forth in this subsection. The department shall receive evidence regarding the location, character and impact on the environment of the proposed transmission line or pipeline. In addition to finding that the requirements of section 484 have been met, the department, in the case of the transmission line or pipeline, shall consider whether any proposed alternatives to the proposed location and character of the transmission line or pipeline may lessen its impact on the environment or the risks it would engender to the public health or safety, without unreasonably increasing its cost. The department may approve or disapprove all or portions of the proposed transmission line or pipeline and shall make such orders regarding its location, character, width and appearance as will lessen its impact on the environment, having regard for any increased costs to the applicant.

Sec. XX. 38 MRSA §603-A is amended to read:

§603-A. Low sulfur fuel

1. Scope. This section shall apply to those fuel-burning sources in the State which are not required to achieve the lower emission rates of new source performance standards or as required to satisfy the case-by-case requirements of best available control technology.

2. Prohibitions. Except as provided in subsections 4, 4-A and 5, no person may use any liquid fossil fuel with a sulfur content exceeding the limits in paragraph A or any solid fossil fuel with a sulfur content to heat content ratio exceeding the limits of paragraph B.

A. The sulfur content for liquid fossil fuels is as follows.

(1) In the Central Maine, Downeast, Aroostook County and Northwest Maine Air Quality Control Regions, no person may use any liquid fossil fuel with a sulfur content greater than 2.5% until November 1, 1991, and 2.0% by weight any time thereafter. In the Metropolitan Portland Air Quality Control Region outside the Portland Peninsula Air Quality Control Region, no person may use any liquid fossil fuel with a sulfur content greater than 2.5% until November 1, 1991, and 2.0% by weight any time thereafter.

(2) In the Portland Peninsula Air Quality Control Region, no person may use any liquid fossil fuel with a sulfur content greater than 1.5% by weight any time after November 1, 1975.

B. The sulfur content for solid fossil fuels is as follows:

(1) 1.2 pounds sulfur per million British Thermal Units until November 1, 1991, and .96 pounds sulfur per million British Thermal Units thereafter, calculated as a calendar quarter average for sources in the Central Maine, Downeast, Aroostook County, Northwest Maine Air Quality Control Regions and that portion of the

Metropolitan Portland Air Quality Region outside the Portland Peninsula Air Quality Region. A calendar quarter shall be composed of the months as follows: (1) January, February, March; (2) April, May, June; (3) July, August, September; and (4) October, November, December; and

(2) 0.72 pounds sulfur per million British Thermal Units calculated as a calendar quarter average for sources in the Portland Peninsula Air Quality Region. A calendar quarter shall be composed of the months as follows: (1) January, February, March; (2) April, May, June; (3) July, August, September; and (4) October, November, December.

3. Records.

4. Flue gas desulfurization. Any source that installs any approved flue gas desulfurization system or other prescribed sulfur removal device must be permitted to use fuel with a sulfur content in excess of the limitations of subsection 2 such that, after control, total sulfur dioxide emissions do not exceed 1.92 pounds of sulfur dioxide per million British Thermal Units in any 24-hour period or emission rates corresponding to the fuel sulfur limitations required for sources on the Portland peninsula.

Except for lime kilns at pulp and paper mills, the department may require any person achieving compliance by means of an approved flue gas desulfurization system or other prescribed sulfur removal device to operate a continuous emission monitoring device for sulfur dioxide.

~~**4-A. Electrical generating facilities.** Any electrical generating facility owned or operated by a regulated electric utility may use liquid fossil fuel with a sulfur content of up to 2.5% by weight provided that the facility has operated at an average of not more than 20% of its capacity factor over the most recent 4-year period. This exemption is not applicable to the ambient air quality provisions of this chapter.~~

5. Fuel blending.

6. Test methods and procedures.

7. Emergency variance.

Sec. XX. 38 MRSA §957-B is amended to read: (?)

§957-B. Limited Residential District

1. Areas to be included. The Limited Residential District shall include lands within the corridor which may be suitable for development, but which are not necessary for the growth of areas of intensive development. The Limited Residential District shall serve as the residuary district and shall include all areas within the corridor which are not included in the Resource Protection or General Development Districts.

2. Uses for which no permit from the commission is required. Uses for which no permit from the commission is required within the Limited Residential District shall include those uses for which no permit from the commission is required within the Resource Protection District.

3. Uses allowed by permit. Uses within the Limited Residential District which may be allowed by permit shall include:

A. Uses allowed by permit within the Resource Protection District;

B. Roads;

C. Commercial establishments related, necessary and accessory to uses allowed without permit, except as prohibited by subsection 4;

D. Home occupations or enterprises;

E. Single-family residences and accessory structures meeting all of the following performance standards:

(1) The minimum lot frontage on the river measured at the normal or mean high water line is 100 feet;

(2) The minimum setback of any building is 100 feet from the normal or mean high water line of the river and is 75 feet from the normal or mean high water line of any tributary stream;

(3) The combined river frontage and setback of any building is not less than 500 feet;

(4) The structures and fill do not encroach on the 100-year floodplain;

(5) Where there is an accepted road or public right-of-way, as of March 19, 1974, within 500 feet of the normal or mean high water mark of the river with different land ownership on either side of the road or public right-of-way, the landowner on the far side of the road or public right-of-way from the river has an aggregate of setback from the river and frontage on the far side of the road or public right-of-way equal to 500 feet;

(6) Where there is a recorded subdivision, as of March 19, 1974, "frontage," for the purposes of determining compliance with this section, means lot frontage on the side of the lot nearest to and most nearly parallel to the river; and

(7) Where a landowner, as of March 19, 1974, owns a lot abutting land owned by a public utility, and the public utility land lies between the abutting landowner's

lot and the river, "frontage," for the purpose of determining compliance with this section, means the frontage on the side of the lot abutting that public utility land that is nearest to and most nearly parallel to the river;

F. Libraries and firehouses;

G. Public utility structures;

H. Necessary expansion or enlargement of nonconforming uses; and

I. Reconstruction of nonconforming structures damaged or destroyed by casualty.

4. Prohibited uses. Prohibited uses within the Limited Residential District shall include:

A. Hotels, motels, mobile home parks and trailer courts;

B. Restaurants, cafeterias or other commercial establishments involved in the preparation or sale of food or other beverages;

C. Commercial uses other than those undertaken and permitted pursuant to subsections 2 and 3;

D. Any fill or deposit of materials, or dredging or alteration of wetlands, not permitted as accessory to uses allowed within this district;

E. Manufacturing and industrial uses;

F. Hospitals and clinics;

G. Billboards; and

H. All uses prohibited in the General Development District.

Sec. XX. 38 MRSA §957-C is amended to read: (?)

§957-C. General Development District

1. Areas to be included. The General Development District shall include those areas within the corridor which exhibit a clearly defined pattern of intensive residential, commercial or industrial development and such reserve growth areas as may be deemed necessary by the commission after considering whether or not:

A. There is suitable area outside the corridor which could adequately accommodate the anticipated growth of the area of intensive development;

B. The growth of the area of intensive development within the corridor is both necessary and desirable;

C. The reserve growth area qualifies for inclusion in the Resource Protection District;

D. The reserve growth area is suitable for the uses permitted within this district;

E. The uses permitted in this district within the reserve growth area would result in water quality degradation; and

F. The uses permitted in this district within the reserve growth area would unreasonably interfere with the fish or wildlife habitat or educational, scenic, scientific, historic or archaeological values of those areas eligible for inclusion within the Resource Protection District.

2. Uses for which no permit from the commission is required. Uses and accessory structures within the General Development District for which no permit from the commission is required include:

A. Uses for which no permit from the commission is required within the Resource Protection District; and

B.

C.

D. Home occupations or enterprises.

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3. Uses allowed by permit. Uses allowed within the General Development District by permit only include:

A. Manufacturing and industrial uses;

B. Sand, gravel and topsoil (loam) excavations;

C. Dredging, filling or other alteration of wetlands;

D. Any fill or deposit of material in excess of 100 cubic yards;

E. Oil or petroleum storage facilities;

F. Processing plants;

G. Airports;

H. Roads;

I. Single-family residences;

J. Multi-unit residential dwellings;

K. Restaurants and cafeterias;

L. Retail commercial establishments, such as stores, supermarkets and pharmacies;

M. Municipal buildings;

N. Schools;

O. Hospitals and clinics;

P. Funeral homes;

Q. Warehouses;

R. Churches;

S. Libraries; and

T. Public utility structures except for service drops.

4. Prohibited uses. Prohibited uses within the General Development District shall include:

A. Dumping or disposing of any liquid or solid wastes other than agricultural uses of animal wastes and sanitary wastes in accordance with all federal, state and municipal requirements;

B. Auto graveyards;

C. Junkyards;

D. Extractive uses of mining other than sand, gravel and topsoil (loam) excavations allowed by permit;

E. Oil refineries; and

F. Smelting operations.

Sec. XX. 38 MRSA §1304-B is amended to read:

§1304-B. Delivery of solid wastes to specific waste facilities

.....

5-A. Other regional associations. Notwithstanding any law, charter, ordinance provision or limitation to the contrary, any 2 or more municipalities, counties, refuse disposal districts, public waste disposal corporations or other quasi-municipal corporations may organize or cause to be organized or may acquire membership in one or more regional associations for the purpose, among other permissible purposes, of facilitating the disposal of domestic and commercial solid waste generated within the geographic boundaries of each member of the regional association. In accordance with this subsection, a regional association may conduct business without an interlocal agreement.

A. The articles of incorporation or bylaws of the regional association must provide that:

(1) The regional association must be organized and continuously operated as a nonprofit corporation, no part of the net earnings of which may inure to the benefit of any member, director, officer or other private person; the receipt, directing and application of money in accordance with paragraph E may not be considered to be part of the net earnings, income or profit of the regional association;

(2) The directors of the regional association must be elected by the municipal officers, the trustees or the directors, as applicable, of the members of the regional association; and

(3) Upon dissolution or liquidation of the corporation, title to all of its property vests in one or more of the municipalities participating in the regional association.

B. Each member must enter into at least one solid waste disposal agreement with the owners of at least one solid waste disposal facility, including, but not limited to, a solid waste disposal facility that is a qualifying facility as defined in Title 35-A, section 3303.

C. Each member must be in good standing with the regional association and abide by the bylaws of the regional association.

D. Notwithstanding any limitation imposed by Title 30-A, chapter 223, subchapter III-A, or any other limitation on investments imposed on a member pursuant to state law, each member may invest its funds in and participate in the ownership of:

(1) One or more solid waste disposal facilities;

(2) An entity that owns one or more solid waste disposal facilities;

(3) An ~~electric utility or~~ transmission and distribution utility that has a power purchase agreement with the owners of a solid waste disposal facility that, in turn, has a solid waste disposal contract with the member;

(4) ~~An electric power generation company~~ A competitive electricity provider, as defined in Title 35-A, section 102, established by a public utility whether or not it is regulated by the Public Utilities Commission or a successor state agency; and

(5) A subsidiary entity formed by ~~an electric utility~~ a transmission and distribution utility.

E. To the extent provided in its bylaws, a regional association may perform the following functions, among others, on behalf of its members:

(1) Receive and direct distributions of cash from and ownership interests in the entities described in paragraph D as well as other revenues from activities authorized under this subsection, including, but not limited to:

(a) Distribution on behalf of members based on a minimum tonnage guaranteed to be delivered or actually delivered to solid waste disposal facilities; and

(b) Earnings and other distributions from the members' investments in and participation in the entities described in paragraph D in the form of capital stock, limited partnership interest, warrants for equity interest or other equity positions in entities;

(2) Manage assets of its members that are related to the functions of the regional association, including, but not limited to, functions related to the entities described in paragraph D;

(3) Manage money or other value received on account of members from any source;

(4) Determine the use and application of assets on behalf of and for the benefit of its members, including investment and reinvestment in the entities described in paragraph D;

(5) Purchase, sell and otherwise deal with ownership interests, including the authority to exercise warrants for the purpose of making any purchase, in the entities described in paragraph D; and

(6) Administer the solid waste disposal agreement described in paragraph B and act as agent for its members under and pursuant to and to the extent provided by the solid waste disposal agreement, including the authority to bind its members through arbitration proceedings.

F. A regional association may receive, direct and apply money as described in paragraph E without the need for further action by any member by appropriation or otherwise and, unless otherwise provided by a member in connection with its participation in a regional association, that money may not be taken into account for purposes of calculating any limitation on the member's annual expenditures or appropriations.

A regional association may not pledge the full faith and credit of its members but it has all other powers necessary and incidental to carry out the purposes of this chapter. Notwithstanding any contrary provision in Title 13-B, a regional association may have more than one class of members as prescribed or established in its bylaws.

Sec. XX. 38 MRSA §2232 is amended to read:

§2232. Reporting

An incineration facility shall submit an annual report to the office no later than 90 days after the end of the incineration facility's fiscal year. For reasonable cause shown and upon written application by an incineration facility, the office may grant an extension of the 90-day period. The report must be certified by an appropriate executive officer of the incineration facility as being complete and accurate. The office may prescribe the form of the annual report and the number of copies that must be submitted. The report must include the following information:

1. Waste. The total weight in tons of all solid waste received by the incineration facility in the last completed fiscal year and each month of that year and a breakdown of these totals according to the waste sources;

2. Tipping fee. A schedule of various tipping fees imposed by the incineration facility on the incineration facility's municipal and commercial customers over the last completed fiscal year including an identification of all changes in those fees and a similar schedule of fees to be imposed on municipal and commercial customers for the next fiscal year. The tipping fees for commercial customers must be set out separately by each rate charged to each category of commercial customer;

3. Revenue. The total revenue of the incineration facility from all sources for the last completed fiscal year and each month of that year. Revenue figures must identify revenues from each revenue source, including, but not limited to, tipping fees and any revenue from sales of electricity to ~~electric~~ transmission and distribution utilities;

4. Expenditures. The total expenditures of the incineration facility during the last completed fiscal year including details of those expenditures as required by the office; and

5. Other information. Any other information required by the office.

Sec. XX Emergency Clause; . In view of the emergency cited in the preamble, this Act takes effect on March 1, 2000.

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