

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 395

8 S.P. 141

In Senate, February 1, 1985

9 Referred to the Committee on Audit and Program Review and ordered
10 printed. Sent down for concurrence.

11 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Diamond of Cumberland.
Cosponsored by Representative Rolde of York.

13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-FIVE
17

18 AN ACT Relating to Periodic Justification of
19 Departments and Agencies of State
20 Government under the Maine Sunset
21 Laws.
22

23 Emergency preamble. Whereas, Acts of the Legis-
24 lature do not become effective until 90 days after
25 adjournment unless enacted as emergencies; and

26 Whereas, the 90-day period may not terminate un-
27 til after the beginning of the next fiscal year; and

28 Whereas, certain obligations and expenses inci-
29 dent to the operation of departments and agencies
30 will become due and payable on or immediately after
31 July 1, 1985; and

32 Whereas, certain independent agencies will termi-
33 nate unless continued by the Legislature prior to
34 June 30, 1985; and

1 B. The evaluations and analyses of the justifi-
2 cation reports for the programs of the following
3 Group D-2 departments shall be reviewed by the
4 Legislature no later than June 30, 1987:

5 (1) Board of Trustees of the University of
6 Maine; and

7 (2) Board of Trustees of the Maine Maritime
8 Academy; and

9 (3) Department of Educational and Cultural
10 Services, except for the cultural bureaus,
11 Management Information Division, higher edu-
12 cation services and the Bryant Pond Conser-
13 vation School.

14 Sec. 3. 3 MRSA §507-B, sub-§§7 and 8 are enacted
15 to read:

16 7. Agencies scheduled for termination on June
17 30, 1985. Pursuant to section 507, subsection 6,
18 paragraph B, the following agencies scheduled for
19 termination on June 30, 1985, are continued or modi-
20 fied by an Act of the Legislature passed prior to
21 June 30, 1985:

22 (1) Public Utilities Commission;

23 (2) State Development Office;

24 (3) Office of Energy Resources;

25 (4) Maine Development Foundation;

26 (5) State Board of Examiners of Psycholo-
27 gists;

28 (6) Saco River Corridor Commission; and

29 (7) State Soil and Water Conservation Com-
30 mission.

31 8. Agencies scheduled for termination on June
32 30, 1985. The following agencies and those scheduled
33 for termination on June 30, 1985, pursuant to section
34 507, subsection 6, paragraph B, shall continue, but

1 shall terminate, not including the grace period, no
2 later than June 30, 1986, unless continued or modi-
3 fied by law:

4 (1) Maine Sardine Council;

5 (2) Atlantic Sea Run Salmon Commission;

6 (3) Atlantic States Marine Fisheries Com-
7 mission;

8 (4) Board of Directors, Maine Municipal and
9 Rural Electrification Cooperative Agency;

10 (5) State Energy Resource Advisory Board;

11 (6) Low-level Waste Siting Commission;

12 (7) Lobster Advisory Council; and

13 (8) Board of Environmental Protection.

14 Sec. 4. 4 MRSA §164, sub-§17 is enacted to read:

15 17. Marine Resources Bureau. Establish in each
16 division a Marine Resources Bureau. The Chief Judge
17 shall appoint the clerks of the District Court in
18 each division as violations clerk for the Marine Re-
19 sources Bureau in their respective divisions.

20 The violations clerk shall accept written appear-
21 ances, waiver of trial, plea of guilty and payment of
22 fine and costs in marine resources' offense cases,
23 subject to the limitations prescribed in this subsec-
24 tion. The violations clerk shall serve under the di-
25 rection and control of the judge of the court for
26 which he is appointed.

27 A. A marine resources' offense means any viola-
28 tion of any provision of Title 12, chapters 601
29 to 627, or any regulation promulgated by the Com-
30 missioner of Marine Resources pursuant to those
31 chapters.

32 B. The Chief Judge shall by order, which may
33 from time to time be amended, suspended or re-
34 pealed, designate the marine resources' offenses

1 within the authority of the violations clerk, ex-
2 cept that the offenses shall not include any of-
3 fense for which a mandatory minimum term of im-
4 prisonment is provided by law. The court shall
5 establish schedules, within the limits prescribed
6 by law, of the amount of fines to be imposed for
7 the offenses. The order of the court establish-
8 ing the schedules shall be prominently posted in
9 the place where the fines are paid. Fines and
10 costs shall be paid to, receipted by and ac-
11 counted for by the violations clerk in accordance
12 with these provisions.

13 C. Any person charged with any marine resources'
14 offense within the authority of the violations
15 clerk may file an appearance in person or by mail
16 before the violations clerk. Any person may enter
17 a plea admitting the infraction charged and
18 waiver of trial and pay the fine, and costs, es-
19 tablished for the infraction charged. Any person
20 so entering a plea admitting the infraction
21 charged shall be informed of his rights, includ-
22 ing his right to stand trial, that his signature
23 to a plea admitting the infraction charged will
24 have the same effect as a judgment of the court
25 and that the record of adjudication will be sent
26 to the Commissioner of Marine Resources.

27 D. Any person who has been found guilty of or
28 who has signed a plea of guilty to, or who has
29 been found to have committed or who has signed a
30 plea admitting or admitting with an explanation,
31 one or more previous marine resources' offenses
32 subject to this subsection within a 12-month pe-
33 riod shall not be permitted to appear before the
34 violations clerk unless the court, by order, per-
35 mits such appearance. Each waiver of hearing
36 filed under this subsection shall recite on the
37 oath or affirmation of the offender whether or
38 not he has been previously found guilty of or to
39 have committed or has previously signed a plea of
40 guilty to, admitting or admitting with an expla-
41 nation to, one or more marine resources' offenses
42 within a 12-month period. Any person swearing
43 falsely to such statement shall, upon conviction,
44 be subject to a fine of not more than \$50.

1 E. The Chief Judge, following notification to
2 the Chief Justice of the Supreme Judicial Court
3 or his delegate, may authorize such forms and
4 procedures as he deems appropriate to carry out
5 this subsection.

6 Sec. 5. 4 MRSA §173-A, as enacted by PL 1975, c.
7 731, §12-A, is amended to read:

8 §173-A. Costs taxable for the State in civil viola-
9 tion and traffic infraction proceedings

10 Costs taxable for the State in civil violation
11 and traffic infraction proceedings shall be as fol-
12 lows.

13 Unless the defendant shows that his failure to
14 pay was neither intentional nor knowing nor due to a
15 failure on his part to make a good faith effort to
16 obtain the funds required for the payment, for fail-
17 ure to pay a fine, imposed for the commission of a
18 civil violation and traffic infraction within 30 days
19 of entry of judgment, \$25.

20 Sec. 6. 5 MRSA §931, sub-§1, ¶H, as repealed and
21 replaced by PL 1983, c. 862, §10, is amended to read:

22 H. Officers and employees of the unorganized
23 territory school system; the teachers, adminis-
24 trators and professional employees of the state
25 vocational-technical institutes and the Governor
26 Baxter School for the Deaf; and the teachers, ad-
27 ministrators and professional employees of school
28 systems in other state institutions; ~~and~~

29 Sec. 7. 5 MRSA §931, sub-§1, ¶I, as enacted by
30 PL 1983, c. 729, §4, is amended to read:

31 I. Deputies, assistants, staff attorneys, re-
32 search assistants and the secretary to the Attor-
33 ney General of the Department of Attorney Gener-
34 al- ; and

35 Sec. 8. 5 MRSA §931, sub-§1, ¶J is enacted to
36 read:

37 J. Staff attorneys at the Public Utilities Com-
38 mission.

1 Sec. 9. 5 MRSA §945, as enacted by PL 1983, c.
2 729, §4, is amended to read:

3 §945. Department of Marine Resources

4 1. Major policy-influencing positions. The fol-
5 lowing positions are major policy-influencing posi-
6 tions within the Department of Marine Resources.
7 Notwithstanding any other provision of law, these po-
8 sitions and their successor positions shall be sub-
9 ject to this chapter:

10 A. Deputy Commissioner; and

11 B. Chief, Bureau of Marine Patrol; and .

12 C- ~~Assistant to the Commissioner-~~

13 Sec. 10. 5 MRSA §1742, sub-§21 is amended to
14 read:

15 21. Rules. To make rules and regulations, sub-
16 ject to the approval of the Commissioner of Finance
17 and Administration for the purposes of carrying out
18 this subchapter; and

19 Sec. 11. 5 MRSA §1742, sub-§22 is enacted to
20 read:

21 22. Disposition of drug-related seized proper-
22 ty. For the final disposition of property seized
23 during drug enforcement, actions as defined in Title
24 22, section 2387, subsection 1, and Title 25, section
25 3501. This statutory authority in no way is intended
26 to interfere with the powers of the Federal Govern-
27 ment.

28 Sec. 12. 5 MRSA §1825 is enacted to read:

29 §1825. Prohibitions

30 All state agencies, except the Department of
31 Transportation, are prohibited from purchasing what
32 is normally classified as heavy equipment without
33 prior authorization from the joint standing committee
34 of the Legislature having jurisdiction over appropri-
35 ations and financial affairs.

1 Sec. 13. 5 MRSA §5004, sub-§2, as repealed and
2 replaced by PL 1975, c. 587, §1, is amended to read:

3 2. Qualifications. The Director of the Office of
4 Energy Resources shall have a background in ~~engineer-~~
5 ~~ing, economics,~~ energy research or the administration
6 of energy programs and ~~shall be qualified to evaluate~~
7 ~~energy conservation or development proposals in terms~~
8 ~~of technical and economic feasibility.~~

9 Sec. 14. 5 MRSA §5004, sub-§4, as amended by PL
10 1981, c. 701, §3, is repealed.

11 Sec. 15. 5 MRSA §5005, sub-§1, as amended by PL
12 1981, c. 701, §§4 to 7, is further amended to read:

13 1. Powers and duties. The Office of Energy Re-
14 sources shall:

15 A. Prepare an energy resources plan to be sub-
16 mitted to the Governor and the Legislature by
17 September 15, 1983, and every 2 years thereafter.

18 (1) The plan shall include:

19 (a) A description of historical energy
20 demand by end use sector and energy re-
21 sources used to meet that demand;

22 (b) A forecast of energy demand by end
23 use sector for the next 5, 10 and 20
24 years, including an electricity demand
25 forecast and the unit cost of the re-
26 sources that may be utilized to meet
27 that demand. A description of the as-
28 sumptions upon which the forecasts are
29 based and the probability of error
30 shall also be provided. This forecast
31 shall include the electric and gas
32 forecast from paragraph B;

33 (c) A description and quantification
34 of potentially available energy re-
35 sources for use in the State;

36 (d) A report on the progress of imple-
37 menting the last energy resources plan;
38 and

1 (e) Recommendations for energy policy,
2 including specific recommendations for
3 state action necessary to implement
4 this policy. The recommendations shall
5 include proposals concerning the types
6 and quantity of resources that will
7 meet the future energy demand in the
8 most desirable and feasible manner.
9 Preference shall be given to conserva-
10 tion and renewable resources where they
11 are technically and economically feasi-
12 ble; and

13 (f) A report on the progress of pro-
14 grams developed and implemented by the
15 Office of Energy Resources and the di-
16 rection of programs planned for the en-
17 suing 2 years.

18 (2) The director shall hold a public hear-
19 ing on the report prior to submission to the
20 Governor and the Legislature.

21 (3) The director shall assist the Governor
22 in the preparation of a state energy policy-
23 i

24 B. Prepare a biennial electric and gas energy
25 forecast for use in preparing the biennial energy
26 resources plan. That forecast shall be prepared
27 as follows.

28 (1) Each electric company serving more than
29 20,000 customers within the State or gas
30 company serving within the State shall file
31 with the Office of Energy Resources a long-
32 range forecast of demand for the utility's
33 service 5, 10 and 20 years ahead. A fore-
34 cast prepared to meet this requirement may
35 also be filed by the utility in any proceed-
36 ing before the Public Utilities Commission.

37 (2) The director shall prepare a draft
38 forecast based on the information received
39 under subparagraph (1) and any other infor-
40 mation available to him, and hold a public
41 hearing to receive comments on the draft.
42 The draft report shall contain:

1 (a) Projection of the demand for elec-
2 trical energy and natural gas in the
3 State for the succeeding 5-year,
4 10-year and 20-year periods;

5 (b) Identification of supplies and ca-
6 pacity for meeting the electric and gas
7 needs including planned increases in
8 supply and capacity intended to meet
9 that demand and other options for meet-
10 ing the electric and gas needs, such as
11 conservation or other supplies; and

12 (c) Such other information as the di-
13 rector deems appropriate.

14 (3) Within 60 days of the public hearing
15 described in subparagraph (2), the director
16 shall publish a final forecast. That fore-
17 cast shall be included in the biennial ener-
18 gy resources plan.

19 (4) The director shall submit a copy of the
20 electric and gas energy forecast to the Pub-
21 lic Utilities Commission. The commission
22 may consider the forecast in all relevant
23 proceedings;

24 B-1. Nothing in this section may prohibit the
25 director from preparing additional reports and
26 forecasts in order to carry out the responsibili-
27 ties of the office;

28 C. Encouragement of voluntary energy conserva-
29 tion among state and local government, industry,
30 business and the public for the most efficient
31 utilization of available energy;

32 D. The Director of Energy Resources shall be re-
33 sponsible for collecting and analyzing energy da-
34 ta from all available energy sources in the
35 State. Data relating to activities outside the
36 State may be requested only insofar as these ac-
37 tivities have a direct impact upon energy costs
38 and availability within the State. The director
39 shall afford confidential treatment to informa-
40 tion, documents and data dealing with sales of

- 1 individual companies which are engaged in the
2 wholesale and retail trade of petroleum products
3 in the State, upon request of the individual com-
4 panies;
- 5 E. Provide technical assistance to the Governor
6 and the Legislature in identifying the emergency
7 and long-range needs and resources to meet these
8 needs for the State;
- 9 F. Upon request, provide planning and technical
10 assistance to public and private groups in the
11 field of energy planning;
- 12 G. Encourage and direct or sponsor research, ex-
13 periments, and demonstration projects within the
14 State to develop alternate energy sources, par-
15 ticularly, but not limited to, those sources
16 which rely on the renewable natural resources of
17 the State, such as solar energy, the water of the
18 tides and rivers, the forests, the winds and oth-
19 er sources which to date have not been fully ex-
20 plored or utilized;
- 21 H. Encourage and direct, in conjunction with
22 private industry, the practical development and
23 operation on a small scale of experimental
24 projects involving alternate energy sources, in
25 order to ascertain the potential usefulness of
26 such alternate energy sources and their costs,
27 provided only that such projects shall be subject
28 to the regulations of those state agencies con-
29 cerned with the protection of the environment and
30 preservation of the natural resources of the
31 State, and with regulation of other energy
32 sources;
- 33 I. The Office of Energy Resources, with the con-
34 sent of the Governor, may employ such expert and
35 professional consultants as it deems necessary
36 within the limit of funds available and consist-
37 ent with the powers and duties of the office; ;
- 38 J. Provide conservation alternatives to proposed
39 new electric power generating plants and render
40 an account of the long-term and short-term energy
41 savings realized by the conservation alterna-
42 tives;

1 K. Study, in conjunction with the Department of
2 Transportation, car pooling parking facilities
3 throughout the State, determine the need for such
4 facilities and report its findings and any neces-
5 sary legislation to the Legislature; ~~and~~

6 L. Compile a list of all the statutes pertaining
7 to energy and energy conservation. The list
8 shall include the Title and section affected and
9 the content of each provision- ;

10 M. Encourage the use of solar energy equipment
11 under the state policy of providing tax incen-
12 tives to develop alternate energy resources. This
13 paragraph shall remain in effect until January 1,
14 1983- ;

15 N. In cooperation with the Office of the State
16 Fire Marshal and other interested parties, pre-
17 pare proposed standards for the installation of
18 stoves designed exclusively to burn wood for the
19 purposes of heating or cooking, but shall not in-
20 clude wood stoves designed as furnaces attached
21 to a central heating system. A hearing shall be
22 held, preceded by reasonable notice to the pub-
23 lic, on these proposed standards and they shall
24 be modified as deemed necessary in response to
25 the public hearing. The Office of Energy Re-
26 sources shall make these standards available to
27 those municipalities which desire to regulate the
28 installation of wood stoves, pursuant to their
29 powers as expressed in Title 30, section 2151- ;

30 O. In cooperation with the Plumbers' Examining
31 Board and the Department of Business, Occupation-
32 al and Professional Regulation, establish a vol-
33 untary training and certification program for in-
34 stallers of solar energy equipment; ~~and~~

35 P. Have the authority to collect inventory and
36 product delivery data from the state's primary
37 storage facilities of petroleum products and
38 shall afford confidential treatment to that in-
39 formation- ; and

40 Q. Be the designated state agency to handle all
41 energy matters within the State which are not the

1 responsibilities of other state agencies under
2 the provisions of federal or state law, and au-
3 thority is conferred on the direction of that of-
4 rice to accept, use and administer all energy
5 funds, including federal, state and private
6 funds, in accordance with established budgetary
7 procedures which become available pursuant to
8 this Act. The director may receive and accept,
9 on behalf of the Office of Energy Resources or on
10 behalf of the State, any grants or gifts.

11 Sec. 16. 5 MRSA §5006, as amended by PL 1981, c.
12 701, §8, is further amended to read:

13 §5006. Maine Energy Resources Development Fund

14 All federal and private moneys received by the
15 Office of Energy Resources for energy research and
16 development shall be deposited in the Maine Energy
17 Resources Development Fund. The Maine Energy Re-
18 sources Development Fund shall be administered by the
19 Director of the Office of Energy Resources and shall
20 be used only to carry out the provisions of this Act.
21 The Office of Energy Resources shall be the desig-
22 nated state agency to handle all energy matters with-
23 in the State which are not the specific responsibility
24 of another state agency under the provisions of
25 federal or state law, and authority is conferred on
26 the director of such office to accept, use and admin-
27 ister all energy funds, including federal, state and
28 private funds, in accordance with established budget-
29 ary procedures which become available pursuant to
30 this Act. The director may receive on behalf of the
31 Office of Energy Resources or on behalf of the State
32 any grants or gifts and may accept them.

33 All private money received by the Office of Ener-
34 gy Resources for research and demonstration activi-
35 ties pertaining to energy conservation and develop-
36 ment shall be deposited into the Maine Energy Re-
37 sources Development Fund. The fund shall be adminis-
38 tered by the Director of the Office of Energy Re-
39 sources and shall be used only for the purpose of
40 furthering any such research efforts within the
41 State.

1 1. Report to Legislature. The Director of Energy
2 Resources shall ~~report annually to the Legislature in~~
3 January of every regular and special session of the
4 Legislature includes, in the biennial comprehensive
5 energy plan, a report which specifies in regard to
6 the Maine Energy Resources Development Fund the ex-
7 penditure of funds, the purposes for which said the
8 funds were used and the amount of as well as the
9 sources from which the funds were derived.

10 2. Expenditures requiring approval. For all
11 programs involving expenditures of \$10,000 or more,
12 the director shall recommend those expenditures to
13 the Governor. If the Governor approves, he shall
14 recommend those expenditures to the Legislature under
15 the procedure authorizing the transfer of funds set
16 forth in section 1585, subsection 3.

17 Sec. 17. 10 MRSA §1415-A, sub-§4, as enacted by
18 PL 1979, c. 676, §2, is repealed.

19 Sec. 18. 12 MRSA §206, as enacted by PL 1983, c.
20 522, is amended to read:

21 §206. Establishment of fund

22 There is established a fund to encourage local
23 soil and water conservation projects. The fund shall
24 consist of all moneys appropriated to it and any mon-
25 eys received as donations or from other sources.
26 Moneys in this fund shall be disbursed periodically
27 by the Soil and Water Conservation Commission on a
28 competitive basis to one or more of the soil and wa-
29 ter conservation districts for the funding of innova-
30 tive soil and water conservation projects. Any bal-
31 ance in this fund, except moneys appropriated by the
32 State, shall not lapse, but shall be carried forward
33 from year to year to be expended for the purposes set
34 forth in this subchapter. The commission shall es-
35 tablish by rule criteria for project submission,
36 evaluation and selection. These criteria shall,
37 among other factors, address priority of need,
38 boldness of approach, program feasibility and repro-
39 ducibility and verification of results. The commis-
40 sion may impose such conditions on the use of funds
41 awarded as in its judgment are best suited to accom-
42 plish the purposes of this subchapter and insure that

1 moneys awarded by the commission are properly spent
2 by the districts. Any final decision of the commis-
3 sion to fund a project or to not fund a project shall
4 constitute "final agency action" for purposes of Ti-
5 tle 5, chapter 375, subchapter IV. The commission
6 shall submit an annual report on the status of the
7 Challenge Grant Program to the joint standing commit-
8 tee of the Legislature having jurisdiction over agri-
9 culture for public hearing and critique.

10 Sec. 19. 12 MRSA §682, sub-§7, as amended by PL
11 1973, c. 569, §5, is further amended to read:

12 7. Development. Development shall mean means any
13 land use activity or activities directed toward
14 using, reusing or rehabilitating air space, land, wa-
15 ter or other natural resources, excluding, however,
16 small solid waste disposal facilities serving remote
17 recreational and woods camp uses in the unorganized
18 areas and plantations and such specific uses or
19 classes and categories of uses as the commission may
20 by regulation determine do not need regulating to
21 achieve the purpose, intent and provisions of this
22 chapter.

23 Sec. 20. 12 MRSA §682, sub-§11 is enacted to
24 read:

25 11. Small solid waste disposal facilities
26 -serving remote recreational and woods camp uses in
27 the unorganized areas and plantations. Small solid
28 waste disposal facilities serving remote recreational
29 and woods camp uses in the unorganized areas and
30 plantations means small remote woodlands waste dis-
31 posal facilities used primarily to dispose of kitchen
32 type refuse, and paper goods, recreational visitor
33 refuse and some scrap metals in the unorganized areas
34 and plantations. Waste oils, pesticides, all other
35 hazardous or toxic wastes and hot loads containing
36 burning materials of any kind are prohibited at these
37 remote woodlands waste disposal sites. A typical
38 waste disposal site shall consist of:

39 A. A disposal area;

40 B. A 10-foot-wide hazard zone around the dispos-
41 al area cleared to mineral soil; and

1 C. A 100-foot-wide clean zone around the hazard
2 area that is clean of all slash, brush, debris
3 and other inflammable material.

4 Waste disposal at each site will be confined to the
5 disposal area of the facility.

6 Sec. 21. 12 MRSA §685-B, sub-§1, ¶C, as amended
7 by PL 1979, c. 127, §68, is further amended to read:

8 C. No person ~~shall~~ may commence any construction
9 or operation of any development without a permit
10 issued by the commission, except for small solid
11 waste disposal facilities serving remote recrea-
12 tional and woods camps uses in the unorganized
13 areas and plantations.

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

19 Approval by the commission that the proposed de-
20 velopment meets the requirements of subsection 4,
21 and of the land use standards, rules ~~and~~
22 ~~regulations~~ adopted by the commission shall be a
23 sufficient basis to support, but shall not re-
24 quire, a finding by the administering agency that
25 the development meets the requirements of the
26 Site Location of Development Law, Title 38, sec-
27 tions 481 to 488, the Minimum Lot Size Law, sec-
28 tions 4807 to 4807-G, the Wetlands Law, Title 38,
29 sections 471 to 478, the Great Ponds Law, Title
30 38, chapter 3, subchapter 1, Article 1-A or the
31 Stream Alteration Law, sections 2206 to 2212 and
32 the rules ~~and regulations~~ adopted with respect to
33 any of such statutes, as any of such statutes,
34 rules or regulations may apply. Disapproval by
35 the commission shall be a sufficient basis to
36 support, but shall not require, a finding by the
37 administering agency that the proposed develop-
38 ment does not meet the requirements of the Site
39 Location of Development Law, Title 38, sections
40 481 to 488, the Minimum Lot Size Law, sections
41 4807 to 4807-G, the Wetlands Law, Title 38, sec-
42 tions 471 to 478, the Great Ponds Law, Title 38,

1 section 422, or the Stream Alteration Law, sec-
2 tions 2206 to 2212 and the rules and regulations
3 adopted with respect to any of such statutes, as
4 any of such statutes, rules or regulations may
5 apply.

6 The commission may establish standards within
7 which authority may be delegated to its staff, to
8 approve with reasonable conditions or deny appli-
9 cations submitted hereunder. Any person aggrieved
10 by a decision of the staff shall have the right
11 to a review of such decision by the commission
12 members.

13 The commission shall establish coordination and
14 assistance procedures for all land use permits
15 issued by agencies of the State for proposed de-
16 velopment within the unorganized townships and
17 plantations. Such procedures shall, to the extent
18 practicable, ensure: The availability to the pub-
19 lic of necessary information concerning such land
20 use permits; the provision of assistance to ap-
21 plicants in obtaining such permits from such
22 agencies; the coordination of application proce-
23 dures, time schedules, application forms and sim-
24 ilar requirements so as to reduce delay and du-
25 plication of effort by applicants and the issuing
26 agencies. Such permit issuing agencies shall co-
27 operate with the commission in the development
28 and effectuation of such coordination and assist-
29 ance procedures.

30 Sec. 22. 12 MRSA §4807-B, as enacted by PL 1973,
31 c. 411, §1, is amended to read:

32 §4807-B. Approval of smaller lots

33 A lot of less than the size required in section
34 4807-A may be used for subsurface waste disposal if
35 approved in writing by the Board of Environmental
36 Protection Department of Human Services. Approval
37 shall be granted if the applicant for approval demon-
38 strates to the Board of Environmental Protection De-
39 partment of Human Services that, based upon the
40 amount and nature of wastes, construction of the sub-
41 surface disposal system, soil types and slopes,
42 percolation rates, depth to bedrock and groundwater,

1 density of any proposed development, and other rele-
2 vant factors, the proposed subsurface waste disposal
3 will not lower the water quality of or otherwise pose
4 a threat to any lake, pond, stream, river or tidal
5 waters, any underground water supply, or to the pub-
6 lic health, safety and general welfare.

7 Sec. 23. 12 MRSA §4807-C, as enacted by PL 1973,
8 c. 411, §1, is amended to read:

9 §4807-C. Approval of lesser frontage

10 A lot of less than the frontage required in sec-
11 tion 4807-A may be used for subsurface waste disposal
12 if approved in writing by the Board of Environmental
13 Protection Department of Human Services. Approval
14 shall be granted if the applicant for approval demon-
15 strates to the board that such frontage will not
16 cause such lot to be of such configuration as to pre-
17 vent compliance with the standards in section 4807-B,
18 or not otherwise present any harm to public health,
19 safety or general welfare.

20 Sec. 24. 12 MRSA §4811, as amended by PL 1983,
21 c. 458, §2, is repealed.

22 Sec. 25. 12 MRSA §4811-A, as amended by PL 1983,
23 c. 796, §3, is reallocated to be Title 38, section
24 436.

25 Sec. 26. 12 MRSA §4811-B, as enacted by PL 1983,
26 c. 458, §4, is reallocated to be Title 38, section
27 437.

28 Sec. 27. 12 MRSA §4812, as amended by PL 1975,
29 c. 497, §3, is repealed.

30 Sec. 28. 12 MRSA §4812-A, as amended by PL 1975,
31 c. 438, is reallocated to be Title 38, section 439.

32 Sec. 29. 12 MRSA §4812-B, as amended by PL 1975,
33 c. 623, §§15A and 15B, is reallocated to be Title 38,
34 section 440.

35 Sec. 30. 12 MRSA §4812-C, as enacted by PL 1983,
36 c. 796, §4, is reallocated to be Title 38, section
37 441.

1 Sec. 31. 12 MRSA §4813, as amended by PL 1979,
2 c. 541, Pt. A, §131, is repealed.

3 Sec. 32. 12 MRSA §4814, as amended by PL 1983,
4 c. 306, §1, is repealed.

5 Sec. 33. 12 MRSA §4815, as repealed and replaced
6 by PL 1983, c. 796, §5, is reallocated to be Title
7 38, section 444.

8 Sec. 34. 12 MRSA §§4816 and 4817, as enacted by
9 PL 1983, c. 458, §5, are repealed.

10 Sec. 35. 12 MRSA §6022, sub-§1, as amended by PL
11 1979, c. 127, §82, is further amended to read:

12 1. Appointment and term. The commissioner shall
13 be appointed by the Governor and shall be subject to
14 review by the Joint Standing Committee on Marine Re-
15 sources and to confirmation by the Legislature. ~~His~~
16 ~~term shall be ceterminous with the Governor, but~~
17 ~~shall continue until his successor is appointed and~~
18 ~~qualified.~~ The commissioner shall serve at the plea-
19 sure of the Governor.

20 Sec. 36. 12 MRSA §6024, sub-§1, as amended by PL
21 1983, c. 812, §81, is further amended to read:

22 1. Appointment; composition; term; compensation.
23 The advisory council, established by Title 5, section
24 12004, subsection 10, shall consist of 9 members.
25 Each member shall be appointed by the Governor and
26 shall be subject to review by the joint standing com-
27 mittee of the Legislature having jurisdiction over
28 marine resources and to confirmation by the Legisla-
29 ture. Eight of the members shall be selected from
30 persons directly engaged in commercial activities or
31 industries based on marine resources, and one of the
32 members shall be selected from persons who represent
33 recreational fishing interests. The composition of
34 the council shall adequately represent the commercial
35 fisheries' activities over which the department has
36 jurisdiction and shall also reflect a geographical
37 distribution along the coast. All members shall be
38 appointed for a term of 3 years, except a vacancy
39 shall be filled in the same manner as an original for
40 the unexpired portion of the term. No member may

1 serve more than 2 consecutive terms at any one time.
2 Members shall serve until their successors are ap-
3 pointed. Members shall be compensated as provided in
4 Title 5, chapter 379.

5 Sec. 37. 12 MRSA §6024, sub-§5, as enacted by PL
6 1979, c. 357, is amended to read:

7 5. Research oversight. The commissioner shall
8 annually report to the council on the research of the
9 department. The report shall include the present re-
10 search plan and its implementation, any necessary re-
11 vision of the plan and its necessary extension over
12 the planning period. The council may appoint marine
13 scientists, who are not employees of the department,
14 to advise it in considering the research plan. After
15 completing its review, the council shall report the
16 plan, and any recommendations or comments, to the
17 joint standing committee of the Legislature having
18 jurisdiction over marine resources.

19 Sec. 38. 12 MRSA §6208 is enacted to read:

20 §6208. Marine resources' citation form

21 1. Form. The commissioner may establish cita-
22 tion forms for use by the Bureau of Marine Patrol.
23 These forms, if established, shall be uniform
24 throughout the State and shall be issued in books
25 with citations in not less than quadruplicate. When
26 the form requires a signature by a person upon whom
27 the citation is served, the form shall include a
28 statement that signing the citation does not consti-
29 tute an admission of guilt and that failure to sign
30 constitutes a separate offense which is a Class E
31 crime. The form shall be approved by the Chief Judge
32 of the District Court prior to its use.

33 2. Responsibility for issuance and disposi-
34 tion. Responsibility for issuance and disposition
35 shall be as follows.

36 A. The commissioner shall be responsible for all
37 marine resources' citation forms.

38 B. The commissioner may in his discretion pro-
39 vide books to other law enforcement agencies and

1 officers listed in section 7055 for their use in
2 the enforcement of chapters 601 to 627. The com-
3 missioner may not require other agencies to use
4 this form.

5 3. Illegal disposition; prohibited act. It is
6 unlawful and official misconduct for any marine pa-
7 trool officer or other public employee to dispose of
8 an official citation form, except in accordance with
9 law and as provided for in any applicable official
10 policy or procedure of the Bureau of Marine Patrol.

11 4. When a lawful complaint. If the citation
12 provided for in this section is duly sworn to and
13 otherwise satisfies the requirements of the general
14 laws of this State, in respect to the form of a com-
15 plaint and charges an offense, it may be filed in a
16 court having jurisdiction and shall constitute a law-
17 ful complaint for the purpose of the commencement of
18 any criminal prosecution or civil violation proceed-
19 ing.

20 5. When a lawful summons. A citation, as pro-
21 vided for in this section, when served upon a person
22 by a law enforcement officer, shall act as a summons
23 to appear in court or, if a civil violation is
24 charged, to otherwise respond in accordance with law
25 on or before the date specified in this citation.

26 6. Refusal to sign; prohibited act. No person
27 may refuse to sign a citation after having been or-
28 dered to do so by a law enforcement officer.

29 Sec. 39. 12 MRSA §6251, as amended by PL 1983,
30 c. 812, §§82 and 83, is repealed.

31 Sec. 40. 12 MRSA §6251-A is enacted to read:

32 §6251-A. Atlantic Sea Run Salmon Commission

33 1. Purposes. For the purposes of undertaking
34 projects in research, planning, management, restora-
35 tion and propagation of the Atlantic Sea Run Salmon
36 in the State, the Atlantic Sea Run Salmon Commission
37 is established.

38 2. Members. The commission shall have the fol-
39 lowing members:

1 A. The Commissioner of Marine Resources or his
2 designee;

3 B. The Commissioner of Inland Fisheries and
4 Wildlife or his designee; and

5 C. A public member, who shall be a resident of
6 the State, appointed by the Governor. The ap-
7 pointment shall be for 4 years or thereafter un-
8 til a successor is appointed. Any vacancy shall
9 be filled by an appointment for a full 4-year
10 term.

11 3. Compensation. The appointed public member
12 shall be compensated as provided in Title 5, chapter
13 379.

14 4. Chairman. The Commissioner of Inland Fisher-
15 ies and Wildlife shall act as permanent chairman of
16 the commission and shall have sole authority over the
17 administrative and financial matters of the commis-
18 sion.

19 5. Meetings. Except as otherwise provided in
20 this section, the commission shall conduct its busi-
21 ness in public meetings, from time to time called by
22 the chairman, in accordance with Title 1, sections
23 401 to 406. Decisions of the commission require at
24 least 2 affirmative votes. The commission may dele-
25 gate to any of its members or to its staff any rou-
26 tine business as it deems necessary to carry out its
27 purposes.

28 6. Staff. Subject to appropriation and in ac-
29 cordance with the Personnel Law, staff may be hired
30 to carry out the work of the commission. Hiring and
31 management of the staff shall be the responsibility
32 of the Commissioner of Inland Fisheries and Wildlife.

33 Sec. 41. 12 MRSA §6252, as enacted by PL 1977,
34 c. 661, §5, is repealed.

35 Sec. 42. 12 MRSA §6252-A is enacted to read:

36 §6252-A. Powers

1 In furtherance of the purposes described in sec-
2 tion 6251-A, subsection 1, the commission shall have
3 the following powers.

4 1. Programs. The commission shall make studies,
5 undertake research, publish and disseminate informa-
6 tion, plans and reports and implement programs as it
7 deems necessary in furtherance of its purposes.

8 2. Contracts and agreements. Subject to the ap-
9 licable provisions of Title 5, sections 1811 to 1824
10 and other requirements of state law, the commission
11 may enter into any contracts, agreements or other ar-
12 rangements with public agencies and with private par-
13 ties which the commission finds necessary to carry
14 out its purposes.

15 3. Funding. Subject to other applicable re-
16 quirements of state law, the commission may receive
17 and expend funds from any source, public or private,
18 which it finds necessary to carry out its purposes.
19 Any funds received shall be placed in a nonlapsing,
20 separate account by the Treasurer of State, to be ex-
21 pended by the commission for the purposes stated in
22 this section.

23 4. Regulations. Subject to the applicable re-
24 quirements of Title 5, section 8051 to 8059, the com-
25 mission may adopt and may amend regulations to pro-
26 motte the conservation and propagation of the Atlantic
27 sea run salmon in the same manner and with the same
28 limits as provided for the conservation and propaga-
29 tion of marine organisms under sections 6171 and 6191
30 to 6193. The advice and consent of the advisory
31 council shall not be required for the promulgation of
32 those regulations. The regulations of the commission
33 shall have the same effect, shall bear the same pen-
34 alty and shall be proved and enforced in the same
35 manner as regulations of the Commissioner of Marine
36 Resources under sections 6174 and 6201 to 6207.
37 Proof of such regulations may be effected by a certi-
38 fied copy and statement by either the Commissioner of
39 Marine Resources or the Commissioner of Inland Fish-
40 eries and Wildlife. Any marine patrol officer of the
41 Department of Marine Resources, any warden of the De-
42 partment of Inland Fisheries and Wildlife and any
43 other law enforcement officer may enforce the regula-
44 tions of the commission.

1 5. Property. Subject to other applicable re-
2 quirements of state law, the commission may acquire,
3 install, construct, operate, manage, sell and convey
4 interests in real and personal property, including,
5 without limitation, lands, dams, buildings, facili-
6 ties, structures, flowage rights, mill privileges,
7 easements and rights-of-way, as it finds necessary to
8 carry out its purposes.

9 Sec. 43. 12 MRSA §6253, as amended by PL 1983,
10 c. 680, §2, is repealed.

11 Sec. 44. 12 MRSA §6741, sub-§3 is enacted to
12 read:

13 3. Inspection. The commissioner or his duly au-
14 thorized agents shall have free access, ingress and
15 egress at all reasonable hours to any establishment
16 where quahogs are held or to any records required to
17 make a proper inspection.

18 Sec. 45. 12 MRSA §6742, as enacted by PL 1981,
19 c. 297, §4, is repealed.

20 Sec. 46. 12 MRSA §7776, as enacted by PL 1979,
21 c. 420, §1, is repealed.

22 Sec. 47. 12 MRSA §7776-A, as enacted by PL 1983,
23 c. 458, §6, is repealed.

24 Sec. 48. 12 MRSA §7777, as amended by PL 1983,
25 c. 458, §7, is repealed.

26 Sec. 49. 12 MRSA §7778, as enacted by PL 1979,
27 c. 420. §1, is reallocated to be Title 38, section
28 428.

29 Sec. 50. 12 MRSA §7779, as repealed and replaced
30 by PL 1983, c. 796, §6, is reallocated to be Title
31 38, section 429.

32 Sec. 51. 12 MRSA §7780, as amended by PL 1983,
33 c. 819, Pt. A, §28, is repealed.

34 Sec. 52. 29 MRSA §2241-D, sub-§1, as amended by
35 PL 1983, c. 505, §3, is further amended to read:

1 1. Fee. Notwithstanding any other provisions of
2 this Title, before a mandatory suspension, a mandato-
3 ry revocation or a suspension ordered by the Secre-
4 tary of State or a court of a person's driving privi-
5 lege may be terminated or reinstated, there shall be
6 paid to the Secretary of State a fee of \$25 which
7 shall be in addition to the regular registration or
8 license fee. This fee shall be charged immediately
9 upon order of suspension. The court shall retain the
10 right to waive the fee for good reason. Failure to
11 pay the fee shall result in a suspension of the li-
12 cence. All fees collected under this section shall
13 be deposited equally between the Highway Fund and the
14 General Fund.

15 Sec. 53. 30 MRSA §1962, sub-§1, as amended by PL
16 1983, c. 812, §179, is further amended to read:

17 1. Commission. "Commission" means a river cor-
18 ridor commission granted approval by the commissioner
19 under section 1963 and authorized by Title 5, section
20 12004, subsection 8, or as established pursuant to
21 Title 38, sections 951 to 968.

22 Sec. 54. 32 MRSA §3811, sub-§§1 and 2, as en-
23 acted by PL 1967, c. 544, §82, are amended to read:

24 1. Psychological examiner. A person practices as
25 a "psychological examiner" within the meaning of this
26 chapter when he holds himself out to be a psychologi-
27 cal examiner, or renders to individuals or to the
28 public for remuneration services involving the appli-
29 cation of recognized principles, methods and proced-
30 ures of the science and profession of psychology,
31 but limited to interviewing or administering and in-
32 terpreting tests of mental abilities, aptitudes, in-
33 terests and personality characteristics, for such
34 purposes as psychological evaluation or for educa-
35 tional or vocational selection, guidance or place-
36 ment. A psychological examiner may provide interven-
37 tion, such as consultation, behavior management or
38 social skills training and school services, such as
39 curriculum planning and program development, under
40 the supervision of a licensed psychologist. A psy-
41 chological examiner may not provide psychotherapy
42 services under any circumstances. The State Board of
43 Examiners of Psychologists shall establish rules for

1 supervision of psychological examiners for interven-
2 tion services, taking into account their varying edu-
3 cation, training and experience.

4 2. Psychologist. A person practices as a "psy-
5 chologist" within the meaning of this chapter when he
6 holds himself out to be a psychologist, or renders to
7 individuals or to the public for remuneration any
8 service involving the application of recognized prin-
9 ciples, methods and procedures of the science and
10 profession of psychology; such as interviewing or ad-
11 ministering and interpreting tests of mental abili-
12 ties, aptitudes, interests and personality character-
13 istics, for such purposes as psychological evaluation
14 or for educational or vocational selection, guidance
15 or placement, or for such purposes as overall
16 personality appraisal or classification, personality
17 counseling, psychotherapy or personality
18 readjustment. Services which may be provided by psy-
19 chologists include diagnosing, assessing and treating
20 mental, emotional and psychological illness, disor-
21 ders, problems and concerns, and evaluation and
22 treatment of vocational, social, educational,
23 behavioral, intellectual and learning and cognitive
24 disorders. These functions are performed through
25 recognized psychological techniques, but not limited
26 to, psychological testing, psychological interviews,
27 psychological assessments, psychotherapy, personality
28 counseling, behavior modification, cognitive
29 therapies, learning therapies, biofeedback,
30 hypnotherapy and psychological consultation to indi-
31 viduals and organizations.

32 Sec. 55. 32 MRSA §3821, as amended by PL 1983,
33 c. 812, §233, is further amended to read:

34 §3821. Membership; terms; vacancies

35 The State Board of Examiners of Psychologists, as
36 established by Title 5, section 12004, subsection 1,
37 and called the "board," shall consist of 6 9 members
38 who shall be appointed by the Governor to serve a
39 term of 5 3 years. One member Two members of the
40 board shall be a representative representatives
41 of the public. Five Seven members of the board shall be
42 licensed psychologists or psychological examiners
43 with at least one member licensed as a psychological

1 examiner. These 7 members shall be representative of
2 the field of psychology insofar as possible. Any va-
3 cancy occurring on the board shall be filled by the
4 Governor for the unexpired term by a person qualified
5 and selected as was the member he is replacing. No
6 person may be eligible to serve more than 2 full con-
7 secutive terms, provided that for this purpose only a
8 period actually served which exceeds 1/2 of the
9 5-year term shall be deemed a full term at any one
10 time. Upon expiration of a member's term, he shall
11 serve until his successor is qualified and appointed.
12 The successor's term shall be 5 3 years from the date
13 of that expiration, regardless of the date of his ap-
14 pointment. Prior to the filling of any vacancies of
15 professional or public members, the Governor shall
16 solicit recommendations. A board member may be re-
17 moved by the Governor for cause.

18 Sec. 56. 32 MRSa §3822, as amended by PL 1983,
19 c. 812, §234, is further amended to read:

20 §3822. Meetings; organizations

21 The board shall meet at least once a year to con-
22 duct its business and to elect a chairman, secretary
23 and treasurer. Additional meetings shall be held as
24 necessary to conduct the business of the board, and
25 may be convened at the call of the chairman or a ma-
26 jority of the board members. Each member shall be
27 compensated according to the provisions of Title 5,
28 chapter 379, provided that the expense shall not ex-
29 ceed the fees collected by the board. ~~Four~~ Five
30 members of the board shall at all times constitute a
31 quorum. The board shall keep such records and min-
32 utes as are necessary to the ordinary dispatch of its
33 functions.

34 Sec. 57. 32 MRSa §3824, sub-§1, as enacted by PL
35 1983, c. 413, §151, is amended to read:

36 1. Licenses; enforcement. The board shall eval-
37 uate the qualifications and supervise the examination
38 of applicants for licensure under this chapter, and
39 investigate or cause to be investigated all com-
40 plaints made to it and all cases of noncompliance
41 with this chapter, including the supervision of psy-
42 chological examiners.

1 Sec. 58. 32 MRSA §3824, sub-§§5 and 6 are en-
2 acted to read:

3 5. Temporary licensure. The board shall provide
4 in rules for the granting of a temporary license to
5 enable psychologists to practice in this State under
6 supervision prior to full licensure by the board.

7 6. Continuing education. The board shall estab-
8 lish in rules requirements for continuing education.
9 The board shall require the applicant for license re-
10 newal to present evidence of his satisfactory comple-
11 tion of continuing professional education in accord-
12 ance with rules adopted by the board. This subsec-
13 tion takes effect on January 1, 1986.

14 Sec. 59. 32 MRSA §3831, sub-§2, as repealed and
15 replaced by PL 1983, c. 816, Pt. A, §34, is amended
16 to read:

17 2. Psychologist. Any person wishing to obtain
18 the right to practice as a psychologist, who has not
19 been licensed to do so, shall, before it shall be
20 lawful for him to practice psychology, make applica-
21 tion to the State Board of Examiners of Psycholo-
22 gists, upon such form and in such manner as pre-
23 scribed by the board, and obtain from the board a li-
24 cense to do so. Unless such a person has obtained a
25 license, it shall be unlawful for him to practice
26 and, if he shall practice psychology without first
27 having obtained a license, he shall be deemed to have
28 violated this chapter. A candidate for this license
29 shall furnish the board with satisfactory evidence
30 that he is trustworthy and competent to practice as a
31 psychologist in such manner as to safeguard the in-
32 terest of the public; has received a doctorate degree
33 reflecting comprehensive training in psychology from
34 an accredited institution recognized by the board as
35 maintaining satisfactory standards, at the time the
36 degree was granted; has had at least 2 years of expe-
37 rience in psychology of a type considered by the
38 board to be qualifying in nature; is competent in
39 psychology, as shown by passing such examinations,
40 written or oral, or both, as the board deems neces-
41 sary; is not considered by the board to be engaged in
42 unethical practice; and has not within the preceding
43 6 months failed an examination given by the board.

1 The board shall recognize that valid comprehensive
2 training in psychology must be received in or ac-
3 cepted by a single program, but may be obtained
4 through a degree given by administrative units other
5 than a department of psychology, including programs
6 approved by the National Association of School Psy-
7 chologists or the American Psychological Association
8 designation program. The board shall adopt a list of
9 these programs. Individuals with degrees from pro-
10 grams not on that list shall be evaluated on a
11 case-by-case basis.

12 Sec. 60. 32 MRSA §3835, first ¶, as amended by
13 PL 1983, c. 553, §46, is further amended to read:

14 Licenses issued under this chapter shall expire
15 biennially on such date as may be established by the
16 Commissioner of Business, Occupational and Profes-
17 sional Regulation, if not renewed. Every person li-
18 censed under this chapter shall, on or before the bi-
19 ennial expiration date, submit an application for li-
20 cense renewal together with the biennial renewal fee
21 of up to \$80. The board shall establish these fees as
22 necessary in rules to cover the cost of operation.

23 Sec. 61. 32 MRSA §3838, as repealed and replaced
24 by PL 1983, c. 413, §158, is amended to read:

25 §3838. Hearing on refusal to issue or renew

26 The board shall not refuse to renew a license for
27 any reason other than failure to pay a required fee,
28 unless it has afforded the licensee an opportunity
29 for an adjudicatory hearing. The board shall hold an
30 adjudicatory hearing at the written request of any
31 person who is denied a license without a hearing for
32 any reason other than failure to pay a required fee,
33 provided that the request for hearing is received by
34 the board within 30 days of the applicant's receipt
35 of written notice of the denial of his application,
36 the reasons for the denial and his right to request a
37 hearing. The hearing shall be held within 60 days of
38 the board's receipt of the applicant's request for a
39 hearing.

40 Sec. 62. 35 MRSA §1, as amended by PL 1983, c.
41 729, §8, is further amended to read:

1 §1. Members; terms; vacancies; seal; clerks; office
2 and equipment; salary; expenses

3 The Public Utilities Commission, as heretofore
4 established, shall consist of 3 members appointed by
5 the Governor, subject to review by the legislative
6 committee having jurisdiction over public utilities
7 and to confirmation by the Legislature from time to
8 time upon the expiration of the terms of the several
9 members, for terms of 6 years and all 3 members of
10 the commission shall devote full time to their du-
11 ties. Each term shall end on March 31st of the 6th
12 year of the term. A commissioner may continue to
13 serve beyond the end of his term until a duly quali-
14 fied successor is appointed. Any vacancy occurring
15 in said commission shall be filled by appointment for
16 the unexpired portion of the term in which such va-
17 cancy occurs. One member of the commission shall be
18 designated by the Governor as chairman. The basic
19 policies of the Public Utilities Commission are to be
20 set by the commission. Each commissioner is entitled
21 to full access to the Public Utilities Commission
22 staff and to any information available at the commis-
23 sion. The chairman shall be the principal executive
24 officer of the commission in carrying out its poli-
25 cies and shall preside at meetings of the commission.
26 The chairman shall be responsible for the expedient
27 organization of the work of the commission. When ab-
28 sent one working day or more, the chairman shall name
29 another commissioner to act as chairman. For any par-
30 ticular hearing or series of hearings before the com-
31 mission, the chairman may assign a commissioner, in-
32 cluding the chairman, to attend. The commission shall
33 adopt and have a seal and be provided with an office
34 at the State House in which its records shall be kept
35 space. The commission shall appoint an administrative
36 director, a director of finance and a director of
37 technical analysis. The director of technical anal-
38 ysis shall have a bachelor's degree in an appropriate
39 field and 4 years' experience in engineering, or
40 shall be registered as a professional engineer. It
41 shall appoint, with the approval of the Attorney Gen-
42 eral, a general counsel. It shall appoint, subject to
43 the Personnel Law, an assistant to the administrative
44 director. The administrative director shall keep a
45 full and minute record of the proceedings of the com-
46 mission which shall be open to public inspection at

1 all times. The assistant director shall assist the
2 director in the performance of his duties, and in the
3 absence of the director shall have the same powers as
4 the director. The administrative director shall have
5 authority to certify to all official acts of the com-
6 mission, administer oaths, issue subpoenas and issue
7 all processes, notices, orders or other documents
8 necessary to the performance of the duties of the
9 commission. The commission shall have custody and
10 control of all records, maps and papers pertaining to
11 the offices of the former Board of Railroad Commis-
12 sioners and the former State Water Storage Commis-
13 sioner. The commission may delegate to its staff such
14 powers and duties as the commission finds proper. All
15 delegations existing as of the effective date of this
16 section shall remain valid.

17 The salaries of the other subordinate officials
18 and employees of that commission, other than those of
19 the general counsel, the Administrative Director, the
20 director of finance and, the director of technical
21 analysis and staff attorneys, shall be subject to the
22 Personnel Law. The general counsel, the Administra-
23 tive Director, the Director of Finance and the Direc-
24 tor of Technical Analysis shall serve at the pleasure
25 of the commission and their salaries shall be set by
26 the commission within the range established by Title
27 2, section 6-A. The compensation of staff attorneys
28 shall be fixed by the commission, but the compensa-
29 tions shall not in the aggregate exceed the amount
30 appropriated or allocated in the commission's budget.
31 The commission shall inform the joint standing com-
32 mittees of the Legislature having jurisdiction over
33 appropriations and financial affairs and utilities of
34 any increases in staff attorneys' salaries. The com-
35 missioners and all employees shall receive actual ex-
36 penditures when traveling on official business.

37 Sec. 63. 35 MRS §2, as amended by PL 1981, c.
38 456, Pt. A, §118, is further amended to read:

39 §2. Conflicts of interest

40 In addition to the limitations of Title 5, sec-
41 tion 18, no member or employee of said commission
42 shall have any official or professional connection or
43 relation with or hold any stock or securities in any

1 public utility, as defined in section 15, operating
2 within this State, nor shall he render any profes-
3 sional service against any such public utility nor
4 shall he be a member of a firm which shall render any
5 such service. No commissioner may hold any other
6 civil office of profit or trust under the Government
7 of the United States or of this State except the of-
8 ~~fice of Coordinator of Atomic Development Activities~~
9 ~~or~~ the office of notary public, nor shall he serve on
10 or under any committee of any political party. Any
11 willful violation of ~~chapters 1 to 17~~ this Title by
12 any commissioner shall constitute sufficient cause
13 for his removal by the Governor, on the address of
14 both branches of the Legislature, or by impeachment,
15 pursuant to the Constitution of Maine, Article IX,
16 section 5.

17 Sec. 64. 35 MRSA §§4-A and 7-A are enacted to
18 read:

19 §4-A. Commission action

20 A majority of the duly appointed commissioners
21 shall constitute a quorum and the act or decision of
22 a majority of commissioners present, if at least a
23 quorum is present, shall be the act or decision of
24 the commission in any formal proceeding before the
25 commission.

26 §7-A. Five-year review

27 Commencing with a review in 1985, the Public
28 Utilities Commission shall review the laws governing
29 Public Utility Commission operations and areas of ju-
30 risdiction every 5 years. Upon the review, the com-
31 mission shall submit to the joint standing committee
32 of the Legislature having jurisdiction over utilities
33 legislation to remove any outdated references.

34 Sec. 65. 35 MRSA §§9 to 12 are repealed.

35 Sec. 66. 35 MRSA §15, sub-§24-A is enacted to
36 read:

37 24-A. Water carrier. "Water carrier" is any wa-
38 ter carrier subject to the commission's jurisdiction,
39 control and regulation pursuant to Private and Spe-

1 cial Act of the Legislature. A water carrier is not a
2 public utility for the purposes of safety jurisdic-
3 tion of the commission.

4 Sec. 67. 35 MRSA §51, as amended by PL 1975, c.
5 409, is further amended to read:

6 §51. Safe facilities; just and reasonable rates

7 Every public utility and water carrier is re-
8 quired to furnish safe, reasonable and adequate fa-
9 cilities. The rate, toll or charge, or any joint rate
10 made, exacted, demanded or collected by any public
11 utility for the conveyance or transportation of pers-
12 sons or property between points within this State, or
13 for any heat, light, water or power produced, trans-
14 mitted, delivered or furnished, or for any telephone
15 or telegraph message conveyed, or for any service
16 rendered or to be rendered in connection with any
17 public utility, shall be just and reasonable. In de-
18 termining just and reasonable rates, the commission
19 shall provide such revenues to the utility as may be
20 required to perform its public service and to attract
21 necessary capital on just and reasonable terms. Every
22 unjust or unreasonable charge for such service is
23 prohibited and declared unlawful. In determining
24 just and reasonable rates, the commission may consid-
25 er whether the utility is operating as efficiently as
26 possible and is utilizing sound management practices.

27 Sec. 68. 35 MRSA §§75 and 76 are enacted to
28 read:

29 §75. Suspension; investigation; hearing and rate
30 substitution; procedure

31 Notwithstanding section 69, any electric cooper-
32 ative organized under chapters 221 to 227 or on a co-
33 operative plan under the laws of the State and sup-
34 plying or authorized to supply electric energy or any
35 municipal, plantation or quasi-municipal electric, or
36 electric and utility corporation, or municipal elec-
37 tric or electric system within the State which was
38 authorized to and engaged in the manufacture, genera-
39 tion, transmission, distribution, purchase or sale of
40 electricity to the general public shall be subject to
41 the suspension, investigation, hearing and rate sub-

1 stitution provisions of section 69 under conditions
2 specified in this section.

3 Cooperatives or municipal corporations which
4 elect to set rates under this section shall not file
5 with the commission or increase any rate, toll or
6 charge without first holding a public hearing at
7 which any person, firm or corporation which pays
8 those rates, tolls or charges to the cooperatives or
9 municipal corporations may testify and may question
10 the officials present regarding the proposed in-
11 crease. The cooperatives or municipal corporations as
12 described in this section shall, at least 14 days
13 prior to the hearing, publish a notice of the amount
14 of the proposed rate increase and the hearing, in-
15 cluding the date, time, place and purpose of the
16 hearing, at least twice in a newspaper of general
17 circulation in the area encompassed by the coopera-
18 tive or municipal corporation. In addition, each co-
19 operative or municipal corporation shall give one no-
20 tice of the amount of the proposed rate increase and
21 the date, time and place of hearing to each of its
22 ratepayers. At the commencement of each hearing held
23 pursuant to this section, the cooperative or municip-
24 al corporation shall inform those present that the
25 rate increase may be investigated by the Public Util-
26 ities Commission in accordance with this section. The
27 electric utility shall file its changed rates with
28 the commission within 30 days of the public hearing,
29 but not sooner than 10 days following the public
30 hearing.

31 Subject to the notice and waiver requirements of
32 section 64, electric utilities electing to set rates
33 under this section may establish an effective date
34 for any rate change of at least one month, but not
35 more than 9 months, from the date the rates are filed
36 with the commission.

37 If, within 30 days of the public hearing, 15% of
38 the customers of the cooperative or municipal corpo-
39 ration or 1,000 customers, whichever is less, file
40 petitions with the treasurer of the corporation and
41 with the Public Utilities Commission, the rate change
42 may be suspended, investigated, reviewed and changed
43 in accordance with section 69, except that no suspen-
44 sion order issued by the commission pursuant to sec-

1 tion 69 may be effective for a period greater than 9
2 months from the date the rate changes were filed. If
3 the number of signatures on the petitions is 1,000 or
4 if the number of signatures on the petition equals or
5 exceeds 15% of the customers indicated on the elec-
6 tric utility's most recent annual report on file with
7 the Public Utilities Commission, the commission may
8 suspend the rate change pursuant to section 69. The
9 commission shall notify the electric utility of any
10 such suspension. The electric utility shall have 10
11 days from the receipt of notice to notify the commis-
12 sion whether it intends to contest any aspect of the
13 validity of the petition, after which it shall lose
14 that right. If the electric utility notifies the
15 commission in a timely fashion that it wishes to con-
16 test the validity of the petitions, the commission
17 shall set the matter down for hearing. It shall hold
18 the hearing and issue its decision on the validity of
19 the petitions within 30 days of notification by the
20 electric utility that it intends to contest the va-
21 lidity of the petitions. If the commission finds the
22 petitions to be invalid, it shall lift its order of
23 suspension.

24 Nothing in this section may prohibit a coopera-
25 ative or municipal corporation from petitioning the
26 Public Utilities Commission for review pursuant to
27 section 69 in the first instance.

28 Upon review of a rate filing made pursuant to
29 this section, the Public Utilities Commission may or-
30 der the cooperative or municipal corporation to cor-
31 rect any mathematical or clerical errors.

32 §76. Rates for electric cooperatives or municipal
33 electric corporations

34 1. Scope of section. Notwithstanding any other
35 provision of law or any charter to the contrary and
36 in addition to any charter or private and special
37 laws creating or affecting any electric cooperative
38 or municipal electric corporation, the rate, toll or
39 charge made, exacted, demanded or collected by the
40 electric cooperative or municipal electric corpora-
41 tion is governed by this section.

1 2. Definition. As used in this section, the
2 term "governing body" means the governing body of an
3 electric cooperative or municipal electric corpora-
4 tion.

5 3. Just and reasonable rates. The governing
6 body shall establish and file rates, tolls or charges
7 which are just and reasonable and which provide reve-
8 nuce as may be required to perform its public utility
9 service and to attract necessary capital on just and
10 reasonable terms.

11 4. Uniform rates. The governing body shall es-
12 tablish and file rates which are uniform and which
13 are applied on a uniform basis.

14 5. Purposes. The governing body may establish
15 and file rates under this section so as to provide
16 revenue for the following purposes, but no other:

17 A. To pay the current expenses for operating and
18 maintaining the electric system and to provide
19 for normal renewals and replacements;

20 B. To provide for the payment of the interest on
21 the indebtedness created or assumed by the utili-
22 ty;

23 C. For municipal electric districts and corpora-
24 tions on a cooperative plan under the laws of the
25 State and supplying or authorized to supply elec-
26 tric energy, but not rural electrification coop-
27 eratives:

28 (1) To provide each year a sum equal to not
29 less than 2% nor more than 10% of the term
30 indebtedness represented by the issuance of
31 bonds created or assumed by the utility,
32 which sum shall be turned into a sinking
33 fund and there kept to provide for the ex-
34 tinguishment of term indebtedness. The mon-
35 ey set aside in this sinking fund shall be
36 devoted to the retirement of the term obli-
37 gations of the utility and may be invested
38 in such securities as savings banks in the
39 State are allowed to hold;

1 (2) To provide for annual principal pay-
2 ments on serial indebtedness created or as-
3 sumed by the utility; and

4 (3) To provide for a contingency reserve
5 fund to reflect up to a 5% addition to year-
6 ly revenues over what is required to operate
7 the electric utility, to be subject to the
8 same limitations as those applying to water
9 utilities under section 3311; and

10 D. For rural electrification cooperatives sup-
11 plying or authorized to supply energy, to provide
12 for a contingency reserve fund by providing rates
13 to reflect an additional amount no more than the
14 amount of yearly long-term interest payments.

15 Sec. 69. 35 MRSA §§83 to 85, as enacted by PL
16 1975, c. 585, §1, are repealed

17 Sec. 70. 35 MRSA §212, as amended by PL 1981, c.
18 469, §17, is further amended to read:

19 §212. Abandonment of property or service

20 No public utility as defined in ~~chapters 1 to 17~~
21 this Title shall abandon all or any part of its
22 plant, property or system necessary or useful in the
23 performance of its duties to the public, or discon-
24 tinue the service which it is rendering to the public
25 by the use of such facilities, without first securing
26 the approval of the commission. In granting its ap-
27 proval, the commission may impose such terms, condi-
28 tions or requirements as in its judgment are neces-
29 sary to protect the public interest. Any public utili-
30 ty abandoning all or any part of its plant, property
31 or system or discontinuing service in pursuance of
32 authority granted by the commission under this sec-
33 tion shall be deemed to have waived any and all ob-
34 jections to the terms, conditions or requirements im-
35 posed by the commission in that regard. This section
36 shall not apply to any action under any order of a
37 court having and exercising jurisdiction over a pub-
38 lic utility in bankruptcy, foreclosure or receiver-
39 ship proceedings.

1 Sec. 71. 35 MRSA §299, as amended by PL 1981, c.
2 642, is further amended to read:

3 §299. Hearings; examiners

4 Each of the commissioners, for the purposes men-
5 tioned in ~~chapters 1 to 17~~ this Title, may hold hear-
6 ings and conduct investigations, administer oaths,
7 certify to official acts, issue subpoenas, compel the
8 attendance of witnesses and the production of books,
9 accounts, papers, documents and testimony, punish by
10 fine and imprisonment for contempt and issue all pro-
11 cesses necessary to the performance of the duties of
12 the commission. Said commission shall have power to
13 appoint, to serve during its pleasure, examiners,
14 who, being first duly sworn, shall have authority to
15 administer oaths, examine witnesses, issue subpoenas,
16 require the production of books, accounts, papers,
17 documents and testimony, and receive evidence in any
18 matter under the jurisdiction of the commission, and
19 shall perform such other duties as may be assigned to
20 them. Evidence so taken and received shall have the
21 same force and effect as though taken and received by
22 said commission and shall authorize action by said
23 commission as though by it taken and received. When
24 objection is made to admissibility of evidence, exam-
25 iners authorized to practice before the Supreme Judi-
26 cial Court shall rule on the admissibility of evi-
27 dence in accordance with the practice and rules of
28 evidence in civil actions in the Superior Court. The
29 commission shall fix the salary of said examiners.
30 Either the examiner or the commissioner, who is the
31 presiding officer at said hearing, shall at the
32 outset of said hearing inform the public as to the
33 steps necessary to preserve their right to appeal the
34 final order or decision of the commission to the Su-
35 preme Judicial Court under the provisions of sections
36 303 and 305.

37 ~~For any particular hearing or series of hearings~~
38 ~~before the commission, the chairman may assign a com-~~
39 ~~missioner, including the chairman, to attend:~~

40 Sec. 72. 35 MRSA §315, as enacted by PL 1981, c.
41 171, is amended to read:

1 §315. Appearance by officer or employee of corpora-
2 tion or partnership

3 Notwithstanding Title 4, section 807, the autho-
4 rized appearance of an officer ~~or~~, employee or
5 representative of a corporation ~~or~~, partnership or
6 governmental entity in any hearing, action or pro-
7 ceeding before the commission in which the corpora-
8 tion ~~or~~, partnership or governmental entity is par-
9 ticipating or desires to participate is not deemed to
10 be an unauthorized practice of law and is not subject
11 to any criminal sanction. In order to facilitate the
12 efficient processing of any proceeding, the commis-
13 sion may, in its discretion, require the appearance
14 of counsel on behalf of the corporation or partner-
15 ship.

16 Sec. 73. 35 MRSA §2404 is amended to read:

17 §2404. Application for inspection; removal of faulty
18 meter; expense of inspection

19 If any consumer to whom a meter has been fur-
20 nished shall apply in writing to the city or town
21 clerk for the inspection of such meter, and shall de-
22 posit with the clerk the fee fixed by the municipal
23 officers for said service, the inspector shall in-
24 spect and test said meter and, if said meter on being
25 so tested, shall be found to be incorrect to the ex-
26 tent of 4% if an electric meter or 2% if a gas or wa-
27 ter meter, to the prejudice of such consumer, the in-
28 spector shall order the corporation, district, munic-
29 ipality or person furnishing said meter forthwith to
30 remove the same and to install in place thereof a me-
31 ter which has been tested, approved, marked and
32 sealed by an inspector of meters. The inspector shall
33 thereupon give a certificate to the consumer, showing
34 the result of said test. Upon presenting said certifi-
35 cate to the city or town clerk, the consumer shall
36 receive the fee deposited with said clerk. In such
37 case the corporation, district, municipality or per-
38 son shall bear the expense of such inspection and
39 shall pay to the treasurer of the city or town the
40 fee required of the consumer, ~~but such consumer shall~~
41 ~~not be entitled to recover back in whole or in part~~
42 ~~from such corporation, municipality, district or per-~~
43 ~~son any sums paid for service prior to the filing of~~

1 his application for inspection. All fees collected by
2 the city or town clerk or treasurer shall be placed
3 to the credit of the city or town to be used for mu-
4 nicipal purposes.

5 Sec. 74. 35 MRSA §2963, as enacted by PL 1981,
6 c. 694, §2, is amended to read:

7 §2963. Rate setting

8 Municipal power districts, which are electric
9 companies within the definition of section 15, shall
10 be subject to the suspension, investigation, hearing
11 and rate substitution provisions of ~~section~~ sections
12 69, 75 and 76 applicable to electric utilities.

13 Sec. 75. 36 MRSA §2903-A, as amended by PL 1983,
14 c. 94, Pt. C, §§11 and 20, is further amended to
15 read:

16 §2903-A. Finding of fact

17 The Legislature makes a finding of fact that the
18 percentage relationship of "gasoline tax" paid by
19 that segment of the nonhighway gasoline user, the mo-
20 torboat user, is not less than 1.25% of the total
21 "gasoline tax" revenue, but certainly is more than
22 the 1.25% referred to. Based on this legislative
23 "finding of fact" there is set aside 1.25% of the to-
24 tal excise tax on internal combustion engine fuel
25 sold or used within the State, but not including in-
26 ternal combustion engine fuel sold for use in the
27 propulsion of aircraft, not to exceed \$555,000 annu-
28 ally. From this allocation shall be deducted the re-
29 funds paid out under section 2908 to purchasers and
30 users of internal combustion engine fuel for commer-
31 cial motorboats; 20% of the balance of this alloca-
32 tion after paying out such refunds shall be paid to
33 the Treasurer of State to be made available to the
34 Commissioner of Marine Resources for the purpose of
35 conducting research, development and propagation ac-
36 tivities by the department, and it is the responsi-
37 bility of the Commissioner of Marine Resources to se-
38 lect activities and projects that will be most bene-
39 ficial to the commercial fisheries of the State as
40 well as the development of sports fisheries activi-
41 ties in the State enforcement for the conservation of

1 marine resources; the remaining 80% of the balance of
2 this allocation after paying out such refunds shall
3 be credited to the Boating Facilities Fund, estab-
4 lished under Title 38, section 322, within the Bureau
5 of Parks and Recreation. The State Tax Assessor
6 shall certify to the State Controller, on or before
7 the 15th day of each month, the amounts to be cred-
8 ited under the previous sentence, as of the close of
9 the State Controller's records for the previous
10 month. When refunds paid to purchasers and users of
11 internal combustion engine fuel for commercial motor-
12 boats in any month exceed 1.25% of gasoline tax reve-
13 nues for that month, such excess shall be carried
14 forward in computing amounts to be credited to the
15 Department of Marine Resources and to the Boating Fa-
16 cilities Fund under this section for the succeeding
17 month or months.

18 Sec. 76. 38 MRSA §361-A, sub-§1-E is enacted to
19 read:

20 1-E. Commissioner. "Commissioner" means the
21 Commissioner of Environmental Protection.

22 Sec. 77. 38 MRSA §425 is enacted to read:

23 §425. Prohibited acts

24 A person, municipality, state agency or other leg-
25 al entity is guilty, except as provided in section
26 430, of unlawful alteration of a river, stream or
27 brook if he or it dredges or causes to be dredged,
28 fills or causes to be filled, or erects or causes to
29 be erected a causeway, bridge, marina, wharf, dock or
30 other permanent structure, above head of tide, in, on
31 or over any river, stream or brook, or on the land
32 adjacent to any river, stream or brook in such a man-
33 ner that any dredged spoil, fill or structure may
34 fall or be washed into such waters, without first ob-
35 taining a permit therefor from the commissioner.

36 Sec. 78. 38 MRSA c. 3, sub-c. 1, is amended by
37 inserting before §425, the following:

38 ARTICLE 2-A
39 ALTERATION OF RIVERS
40 STREAMS AND BROOKS

1 Sec. 79. 38 MRSA §426 is enacted to read:

2 §426. Special protection for outstanding river seg-
3 ments

4 In accordance with Title 12, section 402, out-
5 standing river segments shall include:

6 1. Aroostook River. The Aroostook River from
7 the Canadian border to the Masardis and T.10, R.6,
8 W.E.L.S. townline, excluding the segment in T.9, R.5,
9 W.E.L.S., including its tributaries the Big Machias
10 River from the Aroostook River to the Ashland and
11 Garfield Plantation townline and the St. Croix
12 Stream from the Aroostook River in Masardis to the
13 Masardis and T.9, R.5, W.E.L.S. townline;

14 2. Carrabassett River. The Carrabassett River
15 from the Kennebec River to the Carrabassett Valley
16 and Mt. Abram Township townline;

17 3. Crooked River. The Crooked River from its
18 inlet into Sebago Lake in Casco to the Waterford and
19 Albany Township townlines;

20 4. Dennys River. The Dennys River from the
21 railroad bridge in Dennysville Station to the outlet
22 of Meddybemps Lake, excluding the western shore in
23 Edmunds Township and No. 14 Plantation;

24 5. East Machias River. The East Machias River,
25 including the Maine River, from the old powerhouse in
26 East Machias to the East Machias and T.18, E.D.,
27 B.P.P. townline, from the T.19, E.D., B.P.P. and Wes-
28 ley townline to the outlet of Crawford Lake, and from
29 the No. 21 Plantation and Alexander townline to the
30 outlet of Pocomoonshine Lake, excluding Hadley Lake,
31 Lower Mud Pond and Upper Mud Pond;

32 6. Fish River. The Fish River from the bridge
33 in Fort Kent Mills to the Fort Kent and Wallagrass
34 Plantation townline, from the T.16, R.6, W.E.L.S.
35 and Eagle Lake townline to the Eagle Lake and
36 Winterville Plantation townline, and from the T.14,
37 R.6, W.E.L.S. and Portage Lake townline to the Por-
38 tagage Lake and T.13, R.7, W.E.L.S. townline, excluding
39 Portage Lake;

1 7. Kennebago River. The Kennebago River from
2 its inlet into Cupsuptic Lake to the Rangeley and
3 Lower Cupsuptic Township townline;

4 8. Kennebec River. The Kennebec River from the
5 Route 148 bridge in Madison to the Caratunk and The
6 Forks Plantation townline, excluding the western
7 shore in Concord Township, Pleasant Ridge Plantation
8 and Carrying Place Township, and excluding Wyman
9 Lake;

10 9. Machias River. The Machias River from the
11 Route 1 bridge to the Northfield and T.19, M.D.,
12 B.P.P. townline, including its tributaries the Old
13 Stream from the Machias River to the northern most
14 crossing of the Wesley and T.31, M.D., B.P.P.
15 townline, excluding the segments in T.25, M.D.,
16 B.P.P. and T.31, M.D., B.P.P.;

17 10. Mattawamkeag River. The Mattawamkeag River
18 from the Penobscot River to the Mattawamkeag and
19 Kingman Township townline, and from the Reed
20 Plantation and Bancroft townline to the East Branch,
21 including its tributaries the West Branch from the
22 Mattawamkeag River to the Haynesville and T.3, R.3,
23 W.E.L.S. townline and from its inlet into Upper
24 Mattawamkeag Lake in Island Falls to the Hersey and
25 Moro Plantation townline; the East Branch from the
26 Mattawamkeag River to the Haynesville and Forkstown
27 Township townline and from the T.4, R.3, W.E.L.S. and
28 Oakfield townline to the Smyrna and Dudley Township
29 townline; the Fish Stream for the West Branch of the
30 Mattawamkeag River to the Crystal and Patten
31 townline; the Molunkus Stream from the Silver Ridge
32 Township and Benedicta townline to the East Branch
33 Molunkus Stream; the Macwahoc Stream from the Silver
34 Ridge Township and Sherman townline to the outlet of
35 Macwahoc Lake; and the Baskehegan Stream from the
36 Mattawamkeag River to the Danforth and Brookton Town-
37 ship townline, and from the Brookton Township and
38 Topsfield townline to the Topsfield and Kossuth Town-
39 ship townline, excluding Baskehegan Lake and Crooked
40 Brook Flowage;

41 11. Narraguagus River. The Narraguagus River
42 from the ice dam above the railroad bridge in
43 Cherryfield to the Beddington and Devereaux Township
44 townline, excluding Beddington Lake;

1 12. Penobscot River. The Penobscot River from
2 the Bangor Dam in Bangor to the Veazie Dam and its
3 tributary the East Branch of the Penobscot from the
4 Penobscot River to the East Millinocket and
5 Grindstone Township townline;

6 13. Piscataquis River. The Piscataquis River
7 from the Penobscot River to the Monson and Blanchard
8 Plantation townline, including its tributaries the
9 East and West Branches of the Piscataquis River from
10 the Blanchard Plantation and Shirley townline to the
11 Shirley and Little Squaw Township townline; the
12 Seboeis Stream from its confluence with the
13 Piscataquis River in Howland to the Howland and
14 Mattamiscontis Township townline and from the
15 Mattamiscontis and Maxfield townline to the Maxfield
16 and Seboeis Plantation townline, excluding Shirley
17 Pond and West Shirley Bog;

18 14. Pleasant River. The Pleasant River from the
19 dam in Columbia Falls (formerly the Hathaway Dam) to
20 the Columbia and T.18, M.D., B.P.P. townline, and
21 from the T.24, M.D., B.P.P. and Beddington townline
22 to the outlet of Pleasant River Lake in Beddington;

23 15. Rapid River. The Rapid River from the
24 Magalloway Plantation and Upton townline to the out-
25 let of Pond in the River;

26 16. Saco River. The Saco River from the Little
27 Ossipee River to the New Hampshire border;

28 17. St. Croix River. The St. Croix River from
29 the cotton mill dam in Milltown to the Calais and
30 Baring Plantation townline, from the Baring
31 Plantation and Baileyville townline to the
32 Baileyville and Fowler Township townline, and from
33 the Lambert Lake Township and Vanceboro townline to
34 the outlet of Spednik Lake, excluding Woodland Lake
35 and Grand Falls Flowage;

36 18. St. George River. The St. George River from
37 the Route 90 bridge in Warren to the outlet of Lake
38 St. George in Liberty, excluding White Oak Pond, Sev-
39 en Tree Pond, Round Pond, Sennebec Pond, Trues Pond,
40 Stevens Pond and Little Pond;

1 19. St. John River. The St. John River from the
2 Hamlin Plantation and Van Buren townline to the Fort
3 Kent and St. John Plantation townline, and from the
4 St. John Plantation and St. Francis townline to the
5 Allagash and St. Francis townline;

6 20. Sandy River. The Sandy River from the Ken-
7 nebec River to the Madrid and Township E townline;

8 21. Sheepscot River. The Sheepscot River from
9 the Head Tide dam in Alna to the Halldale Road in
10 Montville, excluding Long Pond and Sheepscot Pond,
11 including its tributary the West Branch of the
12 Sheepscot from its confluence with the Sheepscot Riv-
13 er in Whitefield to the outlet of Branch Pond in
14 China;

15 22. West Branch Pleasant River. The West Branch
16 Pleasant River from the East Branch to the Brownville
17 and Williamsburg Township townline; and

18 23. West Branch Union River. The West Branch
19 Union River from the Route 181 bridge in Mariaville
20 to the outlet of Great Pond in the Town of Great
21 Pond.

22 Sec. 80. 38 MRSA §427 is enacted to read:

23 §427. Permits

24 1. Eligibility. In order to obtain a permit, an
25 applicant shall demonstrate to the satisfaction of
26 the commissioner that the proposed activity will not:

27 A. Unreasonably interfere with existing recrea-
28 tional and navigational uses;

29 B. Cause unreasonable soil erosion;

30 C. Unreasonably interfere with the natural flow
31 of any waters;

32 D. Unreasonably harm any wildlife habitat; and

33 E. Lower the quality of any waters.

1 If the proposed activity is a crossing of an out-
2 standing river segment, as identified in section 426,
3 the applicant shall demonstrate that no reasonable
4 alternative exists which would have less adverse ef-
5 fect upon the natural and recreation features of the
6 river segment.

7 2. Issuance. The commissioner may grant the
8 permit upon such terms as he deems necessary to in-
9 sure that the proposed activity will comply with the
10 standards set out in subsection 1. The commissioner
11 may permit the applicant to provide evidence on the
12 economic benefits of the proposal as well as the im-
13 act of the proposal on energy resources.

14 3. Fees. The commissioner shall charge such
15 fees as he deems necessary to properly administer
16 this subchapter.

17 4. Conditions of application. If the river,
18 stream or brook is utilized by a water company, mu-
19 nicipality or water district as a source of supply,
20 the applicant for the permit shall, at the time of
21 filing an application, forward a copy of the applica-
22 tion to the water company or water district by certi-
23 fied mail.

24 Sec. 81. 38 MRSA §430 is enacted to read:

25 §430. Exceptions

26 1. Public works and private crossing and dam
27 projects. Notwithstanding section 425, that section
28 shall not apply to river, stream or brook crossings
29 in connection with public works projects which alter
30 not more than a total of 300 feet in any mile of
31 shore nor to private crossing or dam projects which
32 alter not more than a total of 100 feet in any mile
33 of shore. Alterations to both shores of the river,
34 stream or brook shall be combined in arriving at a
35 total shore footage. This exception shall not apply
36 to any project on outstanding river segments, as
37 identified in section 426.

38 2. Railroad repair and maintenance. Notwith-
39 standing section 425, that section shall not apply to
40 emergency repairs, maintenance of railroad struc-

1 tures, track or roadbed within the located right-
2 of-way of any railroad.

3 3. Maine Land Use Regulation Commission jurisdic-
4 tion. Notwithstanding section 425, a permit shall
5 not be required from the commissioner provided:

6 A. The Maine Land Use Regulation Commission's
7 standards for the alterations will not be ex-
8 ceeded where standards for stream alterations are
9 established by the commission; or

10 B. A permit has been obtained from the Maine
11 Land Use Regulation Commission for the altera-
12 tions.

13 Sec. 82. 38 MRSA §435 is enacted to read:

14 §435. Shoreland areas

15 To aid in the fulfillment of the state's role as
16 trustee of its waters and to promote public health,
17 safety and the general welfare, it is declared to be
18 in the public interest that shoreland areas defined
19 as land within 250 feet of the normal high water mark
20 of any pond, river or salt water body be subjected to
21 zoning and subdivision controls. The purposes of such
22 controls shall be to further the maintenance of safe
23 and healthful conditions; prevent and control water
24 pollution; protect spawning grounds, fish, aquatic
25 life, bird and other wildlife habitat; control build-
26 ing sites, placement of structures and land uses; and
27 conserve shore cover, visual as well as actual points
28 of access to inland and coastal waters and natural
29 beauty.

30 It is further declared that, in accordance with
31 Title 12, section 402, certain river and stream seg-
32 ments, as identified in the Department of
33 Conservation's 1982 Maine Rivers Study and as specif-
34 ically delineated in section 437, are significant
35 river segments and deserve special shoreland zoning
36 controls designed to protect their natural and recre-
37 ation features.

38 Sec. 83. 38 MRSA c. 3, sub-c. 1, is amended by
39 inserting before §435, the following:

1 Protection and the Maine Land Use Regulation Commis-
2 sion that the purposes of this chapter have been ac-
3 complished by such nonmunicipal zoning.

4 **Sec. 85. 38 MRSA §442 is enacted to read:**

5 §442. Municipal failure to accomplish purposes

6 If any municipality fails to adopt ordinances as
7 required by section 438 for shoreland areas as de-
8 defined in section 435 or if the Board of Environmental
9 Protection and the Maine Land Use Regulation Commis-
10 sion determine that particular municipal ordinances
11 because of their laxity and permissiveness do not ad-
12 equately prevent and control water pollution, protect
13 wildlife habitat, conserve shore cover or otherwise
14 fail to accomplish the purposes outlined in section
15 435, the Department of Environmental Protection and
16 the Maine Land Use Regulation Commission shall adopt
17 suitable ordinances for these municipalities, which
18 ordinances the respective municipalities shall then
19 administer and enforce.

20 The Department of Environmental Protection and
21 the Maine Land Use Regualtion Commission, shall by
22 December 15, 1973 adopt minimum guidelines for the
23 protection of shoreland areas reflecting considera-
24 tions of preventing and controlling water pollution,
25 protecting spawning grounds, fish, aquatic life, bird
26 and other wildlife habitat, location and size of
27 structures and signs and conserving shore cover. The
28 incorporation of such guidelines into a municipal
29 regulatory ordinance shall be deemed sufficient to
30 meet the requirements of this section.

31 **Sec. 86. 38 MRSA §443 is enacted to read:**

32 §443. Cooperation

33 The Board of Environmental Protection and the
34 Maine Land Use Regulation Commission, municipalities
35 and all state agencies shall mutually cooperate to
36 accomplish the objectives of this chapter. To that
37 end, the board and the commission shall consult with
38 the governing bodies of municipalities and to whatev-
39 er extent necessary with other state agencies to se-
40 cure voluntary uniformity of regulations, so far as

1 practicable, and shall extend all possible assistance
2 therefor. The Board of Environmental Protection shall
3 be responsible for coordinating the efforts of the
4 Maine Land Use Regulation Commission, municipalities
5 and all state agencies acting pursuant to this chap-
6 ter.

7 If a municipality fails to administer and enforce
8 zoning ordinances adopted by it or the State, pursu-
9 ant to the requirements of this chapter, the Attorney
10 General shall seek an order of the Superior Court of
11 the county in which the municipality lies, requiring
12 the municipal officials to enforce such zoning ordi-
13 nance. The Attorney General shall be made a party to
14 all civil and criminal actions in which the pleadings
15 challenge the legality of any ordinance or portion
16 thereof adopted pursuant to the guidelines promul-
17 gated under section 442.

18 Sec. 87. 38 MRSA §445 is enacted to read:

19 §445. Guidelines for shoreland zoning along signifi-
20 cant river segments

21 In addition to the guidelines adopted under sec-
22 tion 438, the following guidelines for the protec-
23 tion of the shorelands shall apply along significant
24 river segments identified in section 437. These
25 guidelines are intended to maintain the special val-
26 ues of these particular river segments by protecting
27 their scenic beauty and undeveloped character.

28 1. New principal structures. New principal
29 structures, except for structures related to
30 hydropower facilities, shall be set back a minimum of
31 125 feet from the normal high-water mark of the riv-
32 er. These structures shall be screened from the riv-
33 er by existing vegetation.

34 2. New roads. Developers of new permanent roads,
35 except for those providing access to a structure or
36 facility allowed in the 250-foot zone, shall demon-
37 strate that no reasonable alternative route outside
38 of the zone exists. When roads must be located with-
39 in the zone, they shall be set back as far as practi-
40 cable from the normal high-water mark and screened
41 from the river by existing vegetation.

1 3. New gravel pits. Developers of new gravel
2 pits shall demonstrate that no reasonable mining site
3 outside of the zone exists. When gravel pits must be
4 located within the zone, they shall be set back as
5 far as practicable from the normal high-water mark
6 and no less than 75 feet and screened from the river
7 by existing vegetation.

8 Sec. 88. 38 MRSA §446 is enacted to read:

9 §446. Municipal ordinance review and certification

10 Each municipality with shorelands along signifi-
11 cant river segments, as identified in section 437,
12 shall review the adequacy of the zoning on these
13 shorelands to protect the special values cited for
14 these river segments by the Department of
15 Conservation's 1982 Maine Rivers Study and for con-
16 sistency with the guidelines established under sec-
17 tion 445. Prior to December 15, 1984, each such mu-
18 nicipality shall certify to the State Planning Office
19 either that its existing zoning for these areas is at
20 least as restrictive as the guidelines established
21 under section 445, or that it has amended its zoning
22 for this purpose. This certification shall be accom-
23 panied by the ordinances and zoning maps covering
24 these areas. Failure to accomplish the purposes of
25 this subsection shall result in adoption of suitable
26 ordinances for these municipalities, as provided for
27 in section 442.

28 Sec. 89. 38 MRSA §447 is enacted to read:

29 §447. Transfer of files and submission and notifica-
30 tion to the Board of Environmental Protection

31 1. Transfer of files; notification. Pursuant to
32 chapter 3, subchapter I, Article 2-B, the following
33 shall occur after July 1, 1985:

34 A. The State Planning Office shall transfer all
35 files to the Board of Environmental Protection;
36 and

37 B. The municipalities shall notify the Board of
38 Environmental Protection of the completion or

1 amendment of their comprehensive plans and shall
2 file a copy of their zoning and subdivision con-
3 trol ordinances and amendments with the Board of
4 Environmental Protection unless these documents
5 have been filed previously with the State Plan-
6 ning Office.

7 Sec. 90. 38 MRSA §964, as enacted by PL 1979, c.
8 459, §1, is repealed.

9 Sec. 91. 38 MRSA §1304-A, sub-§2, as enacted by
10 PL 1981, c. 478, §5, is amended to read:

11 2. Report to the board. The commissioner shall
12 annually, prior to ~~October~~ March 1st, prepare a re-
13 port to the board covering the prior fiscal year
14 which shall include the following data:

15 A. The amount of hazardous waste by type that is
16 generated, handled or transported within the
17 State;

18 B. The amount of hazardous waste by type that is
19 handled at commercial hazardous waste facilities
20 within the State;

21 C. The number of hazardous waste facility per-
22 mits by type currently active and the number
23 granted and revoked in the year;

24 D. The amount of hazardous waste by type gener-
25 ated outside the State that was handled at per-
26 mitted facilities within the State, and the
27 amount of hazardous waste generated within the
28 State that was handled at facilities located out-
29 side the State;

30 E. A list of hazardous waste facilities located
31 within the State and those located outside the
32 State which are available for use by generators
33 in the State; and

34 F. A list of known firms that provide testing,
35 consulting, brokerage, waste exchange, transport
36 or other services to hazardous waste generators.

37 Sec. 92. 38 MRSA §1306, sub-§3 is enacted to
38 read:

1 2. Fee. Any person who applies for a permit for
2 an underground oil storage facility shall pay a fee
3 of ~~10~~ \$25 per tank or container to the department,
4 except that no fee may be charged for a permit for a
5 residential oil storage facility. No fee may be
6 charged for an underground oil storage facility that
7 is subject to review under the provisions of the site
8 location of development law, Title 38, Article 6.
9 No permit may be issued until the fee has been paid.
10 Upon receipt by the department, the fee shall be
11 credited to the ~~Maine Coastal Protection Fund~~ Under-
12 ground Oil Storage Facility Clean-up Fund.

13 The fee shall be used to cover costs of administering
14 the permitting program and the balance shall be used
15 for public education regarding underground tanks.

16 Sec. 2. 38 MRSA §§545-B and 545-C are enacted to
17 read:

18 §545-B. Underground Oil Storage Facility Clean-up
19 Fund

20 The Underground Oil Storage Facility Clean-up
21 Fund is established to be used by the department as a
22 nonlapsing, revolving fund to prevent discharges of
23 oil, petroleum products or their by-products; remove
24 prohibited discharges of oil, petroleum products or
25 their by-products; and replace and restore water sup-
26 plies contaminated by oil, petroleum products or
27 their by-products.

28 The fund shall accumulate from the following
29 sources and be limited to:

30 A. One million dollars from fees collected pur-
31 suant to section 551, subsection 4;

32 B. Interest income accrued by the Maine Oil Con-
33 tamination Prevention and Clean-up Fund and the
34 Underground Oil Storage Facility Clean-up Fund;
35 and

36 C. The permitting fees collected pursuant to
37 section 545-A for new or replacement underground
38 oil storage facilities.

1 Money in the fund, not needed currently to meet
2 the obligations of the department in the exercise of
3 its responsibilities under this subchapter, shall be
4 deposited with the Treasurer of State to the credit
5 of the fund and may be invested in such manner as is
6 provided for by statute. Interest received on that
7 investment shall be credited to the Underground Oil
8 Storage Facility Clean-up Fund.

9 The department shall submit to each Legislature
10 its budget recommendations for disbursements from the
11 Underground Oil Storage Facility Clean-up Fund.

12 §545-C. Reimbursements to the Underground Oil Stor-
13 age Facility Clean-up Fund

14 The department shall seek recovery to the use of
15 the Underground Oil Storage Facility Clean-up Fund
16 all sums expended therefrom, including overdrafts,
17 unless the department finds the amount involved too
18 small or the likelihood of success too uncertain.

19 Sec. 3. 38 MRSA §546, sub-§4, ¶¶I and J, as en-
20 acted by PL 1983, c. 785, §13, are amended to read:

21 I. The design, installation and operating proce-
22 dure requirements for both new and replacement
23 underground oil storage facilities to prevent
24 discharges of oil prohibited by this subchapter;
25 and

26 J. The proper methods for safe abandonment or
27 removal of underground oil storage facilities
28 which have been used to hold oil-;

29 Sec. 4. 38 MRSA §546, sub-§4, ¶¶K to N are en-
30 acted to read:

31 K. Registration procedures for existing under-
32 ground oil storage facilities;

33 L. The monitoring, maintenance, operating and
34 remedial procedures for existing underground oil
35 storage facilities;

36 M. Certifying installers of underground oil
37 storage facilities; and

1 N. The replacement or restoration of water sup-
2 plies contaminated with oil, petroleum products
3 or their by-products limited to a disbursement
4 from the Underground Oil Storage Facility
5 Clean-up Fund of not more than \$15,000 per fiscal
6 year for each contaminated well. The department
7 shall employ the lowest cost alternative that is
8 both technologically feasible and reliable and
9 that effectively mitigates or minimizes damage to
10 and provides adequate protection of public
11 health, welfare and the environment. The board
12 may authorize a disbursement above the \$15,000 a
13 year per well limit in the event of special or
14 exceptional circumstances.

15 Sec. 5. 38 MRSA §551, first ¶, as amended by PL
16 1983, c. 483, §11, is further amended to read:

17 The Maine Coastal Protection Oil Contamination
18 Prevention and Clean-up Fund is established to be
19 used by the department as a nonlapsing, revolving
20 fund for carrying out the purposes of this subchap-
21 ter. The fund shall be limited to \$4,000,000 until
22 July 1, 1978. Thereafter, the fund shall be limited
23 to ~~\$6,000,000~~ \$7,000,000 and the Department of Envi-
24 ronmental Protection shall collect fees in accordance
25 with subsection 4. To this fund shall be credited all
26 license fees, penalties and other fees and charges
27 related to this subchapter, and to this fund shall be
28 charged any and all expenses of the department relat-
29 ed to this subchapter, including administrative exp-
30 enses, costs of removal of discharges of pollutants
31 and 3rd party damages covered by this subchapter.

32 Sec. 6. 38 MRSA §551, 2nd ¶, as amended by PL
33 1983, c. 483, §12, is further amended to read:

34 Moneys in the fund, not needed currently to meet
35 the obligations of the department in the exercise of
36 its responsibilities under this subchapter shall be
37 deposited with the Treasurer of State to the credit
38 of the fund, and may be invested in such manner as is
39 provided for by statute. Interest received on that
40 investment shall be credited to the Maine Coastal
41 Protection Underground Oil Storage Facility Clean-up
42 Fund. Up to one million dollars of the fund shall be
43 transferred to the Underground Oil Storage Facility
44 Clean-up Fund in any one fiscal year.

1 Sec. 7. 38 MRSA §551, sub-§2, ¶A, as repealed
2 and replaced by PL 1977, c. 375, §11, is amended to
3 read:

4 A. If the claimant, the board and the person
5 causing the discharge can agree to the damage
6 claim, or in the case where the person causing
7 the discharge is not known after the board shall
8 have exercised reasonable efforts to ascertain
9 the discharger, if the claimant and the board can
10 agree to the damage claim, the board shall certi-
11 fy the amount of the claim and the name of the
12 claimant to the Treasurer of State and the Treas-
13 urer of State shall pay the same from the Maine
14 Coastal Protection Oil Contamination Prevention
15 Clean-up Fund.

16 Sec. 8. 38 MRSA §551, sub-§3, ¶G, as enacted by
17 PL 1983, c. 273, §2, is amended to read:

18 G. If the final determination of the Board of
19 Arbitration includes a damage award, the Board of
20 Arbitration shall certify the amount of the dam-
21 age award and the name of the party to receive
22 the award to the Treasurer of State. The Treas-
23 urer of State shall pay that amount to the party
24 from the Maine Coastal Protection Oil Contamina-
25 tion Prevention and Clean-up Fund no sooner than
26 35 days after the date of the final determination
27 of the Board of Arbitration. If the determina-
28 tion of the Board of Arbitration is appealed pur-
29 suant to paragraph E, the Treasurer of State
30 shall withhold payment of the damage award until
31 a final judgment on the appeal is entered, at
32 which time the Treasurer of State shall pay any
33 damage awards according to the terms of the final
34 judicial judgment, with interest at the commer-
35 cial rate as established by the Treasurer of
36 State calculated from the date of the Board of
37 Arbitration's final determination.

38 Sec. 9. 38 MRSA §551, sub-§4, ¶A, as amended by
39 PL 1983, c. 483, §13, is further amended to read:

40 A. License fees shall be determined on the basis
41 of 1¢ per barrel of oil transferred by the li-
42 censee during the licensing period and shall be

1 paid monthly by the licensee on the basis of
2 records certified to the department, provided
3 that during such time as any bonds issued pursu-
4 ant to private and special law 1969, chapter 239,
5 shall remain outstanding and funds made available
6 for interest and debt retirement shall be inade-
7 quate for that purpose, the license fee shall be
8 determined on the basis of 2¢ per barrel. License
9 fees shall be paid to the department and upon re-
10 ceipt by it credited to the ~~Maine Coastal~~
11 ~~Protection~~ Oil Contamination Prevention and
12 Clean-up Fund.

13 Sec. 10. 38 MRSA §551, sub-§5, as amended by PL
14 1981, c. 356, §1, is further amended to read:

15 5. Disbursements from fund. Moneys in the Maine
16 ~~Coastal Protection~~ Oil Contamination Prevention and
17 Clean-up Fund shall be disbursed for the following
18 purposes and no others:

19 A. Administrative expenses, personnel expenses
20 and equipment costs of the board related to the
21 enforcement of this subchapter- ;

22 B. All costs involved in the abatement of pollu-
23 tion related to the discharge of oil, petroleum
24 products and their by-products covered by this
25 subchapter- ;

26 C. Sums allocated to research and development in
27 accordance with this section- ;

28 D. Payment of 3rd party claims awarded in ac-
29 cordance with this section- ;

30 E. Payment of costs of arbitration and arbitra-
31 tors- ;

32 F. Payment of costs of insurance by the State to
33 extend or implement the benefits of the fund- ;

34 G. Payments to Treasurer of State pursuant to
35 subsection 4, paragraph B- ;

36 H. Sums, up to \$50,000 each year, which have
37 been allocated by the Legislature on a contingen-

1 cy basis in accordance with section 555 for pay-
2 ment of costs for studies of the environmental
3 impacts of discharges prohibited by section 543
4 which may have adverse economic effects and which
5 occur subsequent to such allocation, when such
6 studies are deemed necessary by the commissioner;
7 ; and

8 I. All costs involved in the treatment or clean-
9 up of a discharge of hazardous waste or hazardous
10 matter or any action necessary to prevent or min-
11 imize danger from a discharge or threatened dis-
12 charge.

13 Sec. 11. 38 MRSA §551, sub-§6, as amended by PL
14 1983, c. 483, §15, is further amended to read:

15 6. Reimbursements to Maine Oil Contamination
16 Prevention and Clean-up Fund. The department shall
17 seek recovery to the use of the fund all sums ex-
18 pended therefrom, including overdrafts, for the fol-
19 lowing purposes, unless the department finds the
20 amount involved too small or the likelihood of suc-
21 cess too uncertain; provided that recoveries result-
22 ing from damage due to an oil pollution disaster de-
23 clared by the Governor pursuant to section 547 shall
24 be apportioned between the ~~Maine Coastal Protection~~
25 Oil Contamination Prevention and Clean-up Fund and
26 the General Fund so as to repay the full costs to the
27 General Fund of any bonds issued as a result of the
28 disaster:

29 A. All disbursements made by the fund pursuant
30 to subsection 5, paragraphs B, D, E and H in con-
31 nection with a prohibited discharge;

32 B. In the case of a licensee promptly reporting
33 a discharge as required by this subchapter, dis-
34 bursement made by the fund pursuant to subsection
35 5, paragraphs B, D and E in connection with any
36 single prohibited discharge including 3rd party
37 claims in excess of \$15,000, except to the extent
38 that the costs are covered by payments received
39 under any federal program;

40 C. Requests for reimbursement to the fund if not
41 paid within 30 days of demand shall be turned

1 over to the Attorney General for collection; and

2 D. The department may file claims with appropri-
3 ate federal agencies to recover for the use of
4 the fund all disbursement from the fund in con-
5 nection with a prohibited discharge.

6 PART C

7 Sec. 1. Recodification; purpose. The joint
8 standing committee of the Legislature having juris-
9 diction over utilities shall have the responsibility
10 for the recodification of the laws governing the Pub-
11 lic Utilities Commission. The legislation resulting
12 from this recodification shall be presented to the
13 First Regular Session of the 113th Legislature.

14 The recodification shall include and consist of a
15 complete revision, redraft and rearrangement of all
16 sections of the Maine Revised Statutes, Title 35,
17 pertaining to public utilities. A statement of pur-
18 pose for the Public Utilities Commission shall be de-
19 veloped and included in the proposed redraft. Other
20 than the statement of purpose, the recodification
21 shall not involve substantive changes.

22 Sec. 2. Meetings. The joint standing committee
23 of the Legislature having jurisdiction over utili-
24 ties, with approval of the Legislative Council, shall
25 determine how the recodification shall be undertaken,
26 the size of the study committee should one be formed
27 and the number of required meetings. The study shall
28 commence 30 days upon enactment of this Part.

29 Sec. 3. Staffing. The Legislative Council shall
30 assign legislative staff as appropriate to conduct
31 this study. In addition, the Public Utilities Commis-
32 sion shall make commission staff available.

33 PART D

34 Sec. 1. 35 MRSA §6 is amended to read:

35 §6. Information to be furnished

36 Every public utility shall furnish the commission
37 with all information necessary to carry into effect

1 ~~chapters 1 to 17~~ this Title. In case it is unable to
2 furnish such information, it shall give a good and
3 sufficient reason for such failure, and the reason
4 for such failure shall be verified by an officer,
5 owner or agent of such public utility and returned to
6 the commission at its office within the time fixed by
7 the commission.

8 Sec. 2. 35 MRSA §8, as amended by PL 1973, c.
9 567, §20, is further amended to read:

10 §8. Violations and penalties; duties of Attorney
11 General and county attorneys; actions

12 The commission shall inquire into any neglect or
13 violation of the laws of the State by any public
14 utility doing business therein, or by the officers,
15 agents or employees thereof or by any person operat-
16 ing the plant of any public utility; and shall en-
17 force ~~chapters 1 to 17~~ this Title and all other laws
18 relating to public utilities and shall report all vi-
19 olations thereof to the Attorney General. Upon the
20 request of the commission, the Attorney General or
21 the district attorney of the proper county shall aid
22 in any investigation, hearing or trial had under
23 ~~chapters 1 to 17~~ this Title, and shall institute and
24 prosecute all necessary actions or proceedings for
25 the enforcement of ~~chapters 1 to 17~~ this Title and of
26 all other laws of this State relating to public util-
27 ities and to the punishment of all violations there-
28 of. Any forfeiture or penalty shall be recovered and
29 suit therefor be brought in the name of the State in
30 the Superior Court in the county where the main of-
31 fice of the public utility is located or in Kennebec
32 County. Complaint for the recovery of any such for-
33 feiture may be made by the commission or any member
34 thereof, and when so made the action so commenced
35 shall be prosecuted by the Attorney General. The com-
36 mission may employ counsel in any proceeding, inves-
37 tigation or trial.

38 Sec. 3. 35 MRSA §15, first ¶ is repealed and the
39 following enacted in its place:

40 As used in this Title, unless the context other-
41 wise indicates, the following terms have the follow-
42 ing meanings.

1 Sec. 4. 35 MRSA §15, sub-§13, as amended by PL
2 1983, c. 304, §1, is further amended to read:

3 13. Public utility. "Public utility" includes
4 every gas company, natural gas pipeline company,
5 electrical company, telephone company, telegraph com-
6 pany, water company, public heating company,
7 wharfinger and warehouseman, as those terms are de-
8 fined in this section, and each thereof is declared
9 to be a public utility and to be subject to the ju-
10 risdiction, control and regulation of the commission,
11 and to ~~chapters 1 to 17~~ this Title. "Public utility"
12 does not include the operation of a radio paging ser-
13 vice as that term is defined in this section. Noth-
14 ing in this subsection precludes the jurisdiction,
15 control and regulation by the commission pursuant to
16 private and special Act of the Legislature.

17 Sec. 5. 35 MRSA §54 is amended to read:

18 §54. Account of subsidiary business

19 Every public utility engaged directly or indi-
20 rectly in any other subsidiary business shall, if or-
21 dered by the commission, keep and render separately
22 to the commission in like manner and form, the ac-
23 counts of all such business, in which case all the
24 provisions of ~~chapters 1 to 17~~ this Title shall apply
25 with like force and effect to the books, accounts,
26 papers and records of such other business.

27 Sec. 6. 35 MRSA §55, as amended by PL 1965, c.
28 91, §3, is further amended to read:

29 The commission shall prescribe the forms of all
30 books, accounts, papers and records required to be
31 kept, and every public utility is required to keep
32 and render its books, accounts, papers and records
33 accurately and faithfully in the manner and form pre-
34 scribed by the commission and to comply with all di-
35 rections of the commission relating to such books,
36 accounts, papers and records. The requirements of
37 this section shall not apply to a public utility hav-
38 ing no property located within this State other than
39 such as is employed therein while in transit, but ev-
40 ery such public utility shall appoint an agent resid-
41 ing in this State upon whom all notices, processes of

1 the commission or other papers relating to ~~chapters 1~~
2 ~~to 17~~ this Title may be served, and shall file a copy
3 of such appointment with the secretary of the commis-
4 sion.

5 Sec. 7. 35 MRSA §56 is amended to read:

6 §56. Blanks furnished

7 The commission shall cause suitable blanks to be
8 prepared for carrying out the purposes of ~~chapters 1~~
9 ~~to 17~~ this Title and shall, when necessary, furnish
10 such blanks to each public utility.

11 Sec. 8. 35 MRSA §57 is amended to read:

12 §57. Other systems prohibited

13 No public utility shall keep any other books, ac-
14 counts, papers or records of its business transacted
15 than those prescribed or approved by the commission.
16 Nothing contained in ~~chapters 1 to 17~~ this Title
17 shall require any public utility engaged in inter-
18 state commerce to do, or not to do, anything contrary
19 to the requirements of any federal law relating
20 thereto.

21 Sec. 9. 35 MRSA §66, as amended by PL 1981, c.
22 666, is further amended to read:

23 §66. Adherence to rate schedules; change in form of
24 schedules

25 It is unlawful for any public utility to charge,
26 demand, collect or receive a greater or less compen-
27 sation, except as otherwise provided in section 103,
28 for any service performed by it within the State or
29 for any service in connection therewith, than is
30 specified in such printed schedules as may at the
31 time be in force, or to demand, collect or receive
32 any rate, toll or charge not specified in the sched-
33 ules, except that when a public utility changes its
34 rates, tolls or charges pursuant to any provision of
35 this Title, the commission may, for billing purposes,
36 order that the change be applied to all service re-
37 flected in meter readings on or after the effective
38 date of the change, or to such other period as it

1 deems just and reasonable. The rates, tolls and
2 charges named therein shall be the lawful rates,
3 tolls and charges until they are changed as provided
4 in ~~chapters 1 to 17~~ this Title. The commission may
5 prescribe such changes in the form in which the
6 schedules are issued by any public utility as may be
7 found to be expedient.

8 Sec. 10. 35 MRSA §103, first ¶, as amended by PL
9 1977, c. 234, §1, is further amended to read:

10 It shall be unlawful for any person, firm or cor-
11 poration knowingly to solicit, accept or receive any
12 rebate, discount or discrimination in respect to any
13 service rendered, or to be rendered by any public
14 utility, or for any service in connection therewith
15 whereby any such service shall in any manner, or by
16 any device whatsoever, be rendered free or at a rate
17 less than named in the schedules in force or whereby
18 any service or advantage is received other than is
19 specified. ~~Chapters 1 to 17~~ This Title shall not
20 prohibit such free or reduced rates by public utili-
21 ties as is defined and provided for in the Acts of
22 Congress entitled, "An Act to Regulate Commerce" and
23 Acts amendatory thereof, nor free or reduced trans-
24 portation to the officers of leased lines or to po-
25 lice officers or firemen in uniform or of municipal
26 fire apparatus, call men of fire departments wearing
27 badges, while going to or returning from fires,
28 chiefs, captains, sergeants, lieutenants and inspec-
29 tors of police departments, in plain clothes and
30 wearing badges; nor shall it be construed to prohibit
31 any public utility from granting service at free or
32 reduced rates for charitable or benevolent purposes,
33 or for national or civilian defense purposes, nor to
34 prohibit any public utility from supplying water and
35 service free or at reduced or special rates to any
36 person, firm or corporation for fire protection pur-
37 poses through or by means of any apparatus or appli-
38 ances furnished, installed or maintained by such per-
39 son, firm or corporation, provided the same be ap-
40 proved by the commission; nor shall it be unlawful
41 for any public utility to make special rates to its
42 employees or in case of emergency service, nor shall
43 the furnishing by any public utility of any product
44 or service at the rates and upon terms and conditions
45 provided for in any contract in existence January 1,

1 1913 be construed as constituting a discrimination or
2 undue or unreasonable preference or advantage within
3 the meaning specified. When any such contract or
4 contracts are or become terminable by notice of such
5 utility, the commission shall have power in its dis-
6 cretion to direct by order that such contract or con-
7 tracts shall be terminated by such utility as and
8 when directed by such order. It shall be lawful for
9 any public utility to make a contract for a definite
10 term subject to the approval of the commission for
11 its product or service, but such published rates
12 shall not be changed during the term of the contract
13 without the consent of the commission.

14 Sec. 11. 35 MRSA §104, sub-§3, as amended by PL
15 1983, c. 604, is further amended to read:

16 3. Consent by commission. No public utility may
17 extend or receive credit or make or receive a loan to
18 or from an affiliated interest or make any contract
19 or arrangement for the furnishing of management, su-
20 pervision of construction, engineering, accounting,
21 legal, financial or similar services, or for the fur-
22 nishing of any service other than those enumerated
23 with any affiliated interest unless and until such
24 contract or arrangement shall have been found by the
25 commission not to be adverse to the public interest
26 and shall have received its written approval.

27 Any such contract or arrangement filed with the com-
28 mission hereunder shall be deemed approved unless the
29 commission disapproves such within 60 days of filing.
30 The commission may, however, suspend the effective
31 date of the contract or arrangement for an additional
32 60 days if necessary to enable the commission to com-
33 plete its review of the contract or arrangement.

34 The commission may approve a contract or arrangement
35 undertaken subsequent to the effective date of this
36 Act, subject to such terms and conditions as it deems
37 necessary to safeguard the public interest. If such
38 contracts or arrangements are not consented to or ap-
39 proved by the commission as provided in this section,
40 the commission may disallow, for rate-making pur-
41 poses, payments or such part of any such payments
42 thereunder as the commission finds not to be in the
43 public interest.

1 The commission shall, in the case of any utility or
2 groups of utilities, have the power to exempt
3 herefrom, from time to time, such classes of transac-
4 tions as it may specify by rule or regulation in ad-
5 vance and which in its judgment will not be adverse
6 to the public interest.

7 Commission approval of any such contract or arrange-
8 ment under this section shall not limit or restrict
9 the powers of the commission in determining and fix-
10 ing any rate, fare, toll, charge, classification,
11 schedule or joint rate as provided in ~~chapters 1 to~~
12 17 this Title.

13 Sec. 12. 35 MRSA §105, last ¶, as enacted by PL
14 1983, c. 233, §1, is amended to read:

15 No later than December 31, 1983, every public
16 utility shall file with the commission schedules con-
17 taining its terms and conditions for requiring a de-
18 posit from nonresidential customers, which terms and
19 conditions shall be subject to the commission's power
20 under ~~chapters 1 to 17~~ this Title. Every public
21 utility shall comply with its terms and conditions.
22 The commission shall adopt rules which provide a pro-
23 cedure for resolution by the commission or its dele-
24 gate of disputes as to whether a deposit being re-
25 quired by a public utility is in compliance with its
26 terms and conditions. If the rules authorize a dele-
27 gate to resolve disputes, the rules shall include a
28 procedure for appeal of the decision to the commis-
29 sion.

30 Sec. 13. 35 MRSA §171, sub-§1 is amended to
31 read:

32 1. Conditions precedent to issuance generally.
33 Any public utility, now organized and existing or
34 hereafter incorporated under and by virtue of the
35 laws of this State and doing business in the State,
36 may issue stocks, bonds which may be secured by mort-
37 gages on its property, franchises or otherwise, notes
38 or other evidences of indebtedness, payable at peri-
39 ods of more than 12 months after the date thereof,
40 when necessary for the acquisition of property to be
41 used for the purpose of carrying out its corporate
42 powers, the construction, completion, extension or

1 improvement of its facilities, or for the improvement
2 or maintenance of its service, or for the discharge
3 or lawful refunding of its obligations, including
4 capital stock, or to reimburse its treasury for mon-
5 eys used for the acquisition of property, the con-
6 struction, completion, extension or improvement of
7 its facilities, for the discharge or lawful refunding
8 of its obligations, and which actually were expended
9 from income or from other moneys in the treasury of
10 the corporation not secured by or obtained from the
11 issue of stocks, bonds, notes or other evidences of
12 indebtedness of such corporation, or for any other
13 lawful purposes, provided and not otherwise, that
14 upon written application, setting forth such informa-
15 tion as the commission may require, there shall have
16 been secured from the commission an order authorizing
17 such issue and the amount thereof and stating that in
18 the opinion of the commission the sum of the capital
19 to be secured by the issue of said stocks, bonds,
20 notes or other evidences of indebtedness is required
21 in good faith for purposes enumerated in this sec-
22 tion. Every such order authorizing the issue of
23 stock shall, if authorized to be sold at less than
24 its par value, specify a minimum price at which the
25 shares so authorized are to be sold, and any and all
26 shares of stock, issued in accordance with such an
27 order, shall be fully paid stock and not liable to
28 any further call or payment thereon, notwithstanding
29 it may have been authorized for sale at less than its
30 par value; but ~~chapters 1 to 17~~ this Title shall not
31 apply to any stocks or bonds or other evidences of
32 indebtedness heretofore lawfully authorized and is-
33 sued. The commission may at the request of any public
34 utility approve the issue of any stocks or bonds
35 heretofore authorized but not issued. For the purpose
36 of enabling the commission to determine whether it
37 shall issue such an order, the commission shall make
38 such inquiries for investigation, hold such hearings
39 and examine such witnesses, books, papers, documents
40 or contracts as it may deem of importance in enabling
41 it to reach a determination. No order of the commis-
42 sion authorizing the issue of any stocks, bonds,
43 notes or other evidences of indebtedness shall limit
44 or restrict the powers of the commission in determin-
45 ing and fixing any rate, fare, toll, charge, classi-
46 fication, schedule or joint rate as provided in ~~chap-~~
47 ~~ters 1 to 17~~ this Title. No public utility shall be

1 required to apply to the commission for authority to
2 issue stocks, bonds, notes or other evidences of in-
3 debtedness for the acquisition of property, for the
4 purposes of carrying out its corporate powers, the
5 construction, completion, extension or improvement of
6 its facilities, or the improvement or maintenance of
7 its service outside the State, and this proviso shall
8 apply to section 172.

9 Sec. 14. 35 MRSA §171, sub-§3, as amended by PL
10 1983, c. 163, is further amended to read:

11 3. Municipal or quasi-municipal corporations.
12 Without in any way restricting the general language
13 hereof, this section shall be construed to authorize
14 any municipal or quasi-municipal corporation referred
15 to in ~~chapters 1 to 17~~ this Title to issue, upon vote
16 of its trustees or similar governing board, bonds,
17 notes or other evidences of indebtedness for the pur-
18 poses specified and subject to the approval of the
19 commission. The trustees or similar governing boards
20 of any such corporations may issue notes or other ev-
21 idences of indebtedness payable at periods of less
22 than 12 months after the date thereof when necessary
23 to carry out the purposes of the corporations. Not-
24 withstanding the provisions of any legislative
25 charter, the trustees or similar governing board of
26 any such corporations may issue the notes or other
27 evidences of indebtedness payable at periods of less
28 than 12 months after the date thereof, without se-
29 curing authorization from the commission pursuant to
30 subsection 1.

31 Sec. 15. 35 MRSA §294, first ¶ is amended to
32 read:

33 If upon such formal public hearing the rates,
34 tolls, charges, schedules or joint rates shall be
35 found to be unjust, unreasonable, insufficient or un-
36 justly discriminatory or otherwise in violation of
37 ~~chapters 1 to 17~~ this Title, the commission shall
38 have power to fix and order substituted therefor such
39 rate or rates, tolls, charges or schedules as shall
40 be just or reasonable. If upon such public hearing it
41 shall be found that any regulation, measurement,
42 practice, act or service complained of is unjust, un-
43 reasonable, insufficient or unjustly discriminatory

1 or otherwise in violation of any of the provisions of
2 ~~chapters 1 to 17~~ this Title or if it is found that
3 any service is inadequate or that any reasonable ser-
4 vice cannot be obtained, the commission shall have
5 power to establish and substitute therefor such other
6 regulations, measurements, practice, service or acts,
7 and to make such order respecting and such changes in
8 such regulations, measurements, practice, service and
9 acts as shall be just and reasonable.

10 Sec. 16. 35 MRSA §299, first ¶, as amended by PL
11 1975, c. 392, §1, is further amended to read:

12 Each of the commissioners, for the purposes men-
13 tioned in ~~chapters 1 to 17~~ this Title, may hold hear-
14 ings and conduct investigations, administer oaths,
15 certify to official acts, issue subpoenas, compel the
16 attendance of witnesses and the production of books,
17 accounts, papers, documents and testimony, punish by
18 fine and imprisonment for contempt and issue all pro-
19 cesses necessary to the performance of the duties of
20 the commission. Said commission shall have power to
21 appoint, to serve during its pleasure, examiners,
22 who, being first duly sworn, shall have authority to
23 administer oaths, examine witnesses, issue subpoenas,
24 require the production of books, accounts, papers,
25 documents and testimony, and receive evidence in any
26 matter under the jurisdiction of the commission, and
27 shall perform such other duties as may be assigned to
28 them. Evidence so taken and received shall have the
29 same force and effect as though taken and received by
30 said commission and shall authorize action by said
31 commission as though by it taken and received. When
32 objection is made to admissibility of evidence, exam-
33 iners authorized to practice before the Supreme Judi-
34 cial Court shall rule on the admissibility of evi-
35 dence in accordance with the practice and rules of
36 evidence in civil actions in the Superior Court. The
37 commission shall fix the salary of said examiners.
38 Either the examiner or the commissioner, who is the
39 presiding officer at said hearing, shall at the
40 outset of said hearing inform the public as to the
41 steps necessary to preserve their right to appeal the
42 final order or decision of the commission to the Su-
43 preme Judicial Court under the provisions of sections
44 303 and 305.

1 Sec. 17. 35 MRSA §307 is amended to read:

2 §307. Burden of proof

3 In all trials, actions and proceedings arising
4 under ~~chapters 1 to 17~~ this Title or growing out of
5 the exercise of the authority and powers granted to
6 the commission, the burden of proof shall be upon the
7 party adverse to the commission or seeking to set
8 aside any determination, requirement, direction or
9 order of said commission complained of as unreason-
10 able, unjust or unlawful as the case may be. In all
11 original proceedings before said commission where an
12 increase in rates, tolls, charges or schedules, or
13 joint rate or rates is complained of, the burden of
14 proof shall be upon the public utility to show that
15 such increase is just and reasonable.

16 Sec. 18. 35 MRSA §308 is amended to read:

17 §308. Practice and rules of evidence; process ser-
18 vice

19 In all actions and proceedings arising under
20 ~~chapters 1 to 17~~ this Title, all processes shall be
21 served and the practice and rules of evidence shall
22 be the same as in civil actions in the Superior Court
23 except as otherwise provided. Every sheriff or other
24 officer empowered to execute civil processes may exe-
25 cute any process issued under ~~chapters 1 to 17~~ this
26 Title and shall receive such compensation therefor as
27 may be prescribed by law for similar service.

28 Sec. 19. 35 MRSA §313, as amended by PL 1979, c.
29 361, is further amended to read:

30 §313. Implied powers

31 The provisions of ~~chapters 1 to 17~~ this Title
32 shall be interpreted and construed liberally in order
33 to accomplish the purposes therein. The commission
34 shall have all implied and inherent powers pursuant
35 to ~~chapters 1 to 17~~ this Title which are necessary
36 and proper to faithfully execute its express powers
37 and functions specified in ~~chapters 1 to 17~~ this
38 Title, including the power to order reparation or ad-
39 justment when it finds that an amount charged to or

1 collected from a customer was not in accordance with
2 the filed rate applicable to him or was based upon
3 error. The customer shall attempt to settle any dis-
4 pute concerning the alleged overcharge or billing er-
5 ror at an informal hearing with the utility company
6 prior to filing a complaint with the commission. If
7 the customer is dissatisfied with the utility company
8 decision, the customer may appeal the decision to the
9 commission. The commission shall not order a rebate
10 for a billing error or excessive charge that ante-
11 dates the order by more than 6 years. A substantial
12 compliance with the requirements of ~~chapters 1 to 17~~
13 this Title shall be sufficient to give effect to all
14 the rules, orders, acts and regulations of the com-
15 mission, and they shall not be declared inoperative,
16 illegal or void for any omission of a technical and
17 immaterial nature in respect thereto. Each section of
18 ~~chapters 1 to 17~~ this Title, and every part of each
19 section, are hereby declared to be independent sec-
20 tions and the holding of any section or sections or
21 part or parts thereof to be void, ineffective or un-
22 constitutional for any cause shall not be deemed to
23 affect any other section or part thereof.

24 Sec. 20. 35 MRSA §314, 2nd ¶, as enacted by PL
25 1983, c. 233, §2, is amended to read:

26 No later than December 31, 1983, every public
27 utility shall file with the commission schedules con-
28 taining its terms and conditions applicable to termi-
29 nation of utility services to any nonresidential cus-
30 tomer, which terms and conditions shall be subject to
31 the commission's power under ~~chapters 1 to 17~~ this
32 Title. Every public utility shall comply with its
33 terms and conditions. The commission shall adopt
34 rules which provide a procedure for resolution by the
35 commission or its delegate of disputes as to whether
36 a proposed termination by a public utility is in com-
37 pliance with its terms and conditions. A public
38 utility may not terminate service to a nonresidential
39 customer if the commission or its delegate rules
40 within 7 days of receipt of the request for ruling
41 that the proposed termination is not in compliance
42 with the utility's terms and conditions. If the
43 rules authorize a delegate to resolve disputes, the
44 rule shall include a procedure for appeal of the de-
45 cision to the commission.

1 Sec. 21. 35 MRSA §351 is amended to read:

2 §351. Utility liable for civil damages

3 If any public utility shall do or cause to be
4 done or permit to be done any matter, act or thing in
5 ~~chapters 1 to 17~~ this Title prohibited or declared to
6 be unlawful, or shall omit to do any act, matter or
7 thing required to be done by it, such public utility
8 shall be liable in damages to the person, association
9 or corporation injured thereby. Any recovery as in
10 this section provided shall in no manner affect a re-
11 covery by the State of the penalty prescribed for
12 such violation.

13 Sec. 22. 35 MRSA §352 is amended to read:

14 §352. Contempt

15 Every public utility, corporation or person fail-
16 ing to observe, obey or comply with any order, deci-
17 sion, rule, regulation, direction, demand or require-
18 ment, or any part or portion thereof, of the commis-
19 sion or of any commissioner shall be in contempt of
20 the commission and shall be punished by the commis-
21 sion for contempt in the same manner and to the same
22 extent as contempt is punished by courts of record.
23 The remedy prescribed in this section shall not be a
24 bar to or affect any other remedy prescribed in ~~chap-~~
25 ~~ters 1 to 17~~ this Title, but shall be cumulative and
26 in addition to such other remedy or remedies.

27 Sec. 23. 35 MRSA §353 is amended to read:

28 §353. Refusal to obey or comply

29 Any officer, agent or employee of any public
30 utility who shall willfully fail or refuse to fill
31 out and return any blanks required by ~~chapters 1 to~~
32 ~~17~~ this Title, or shall willfully fail or refuse to
33 answer any question therein propounded, or shall
34 knowingly or willfully give a false answer to any
35 such question, or shall willfully evade the answer to
36 any question where the fact inquired of is within his
37 knowledge, or who shall, upon proper demand,
38 willfully fail or refuse to exhibit to the commission
39 or to any commissioner or to any person authorized to

1 examine the same, any book, paper, account, record or
2 memorandum of such public utility which is in his
3 possession or under his control, or who shall
4 willfully fail properly to use and keep his system of
5 accounting or any part thereof as prescribed by the
6 commission or who shall willfully refuse to do any
7 act or thing in connection with such system of ac-
8 counting when and as directed by the commission,
9 shall upon conviction thereof be punished by a fine
10 of not more than \$1,000 for each offense. A penalty
11 of not more than \$1,000 shall be recovered from the
12 public utility for each such offense when such offi-
13 cer, agent or employee acted in obedience to the di-
14 rection, instruction or request of such public utility
15 or any owner or general officer thereof.

16 Sec. 24. 35 MRSAs §354 is amended to read:

17 §354. Each day, distinct offense

18 Every day, during which any public utility or any
19 officer, agent or employee thereof shall willfully
20 fail to observe or comply with any order of the com-
21 mission or to perform any order of the commission or
22 to perform any duty enjoined by ~~chapters 1 to 17~~ this
23 Title, shall constitute a separate and distinct of-
24 fense.

25 Sec. 25. 35 MRSAs §355 is amended to read:

26 §355. Illegal issue of stocks, bonds or notes; mis-
27 appropriation of proceeds

28 Any director or officer of any public utility who
29 shall directly or indirectly issue or cause to be is-
30 sued any stocks, bonds, notes or other evidences of
31 indebtedness contrary to ~~chapters 1 to 17~~ this Title,
32 or who shall apply the proceeds from the sale thereof
33 to any other purpose than that specified in the order
34 of the commission shall, upon conviction thereof, be
35 punished by imprisonment for not less than one year
36 nor more than 10 years.

37 Sec. 26. 35 MRSAs §356 is amended to read:

38 §356. False statements as to issue of stocks, bonds
39 or notes

1 Any officer, owner or agent of any public utility
2 who shall knowingly or willfully make any false
3 statement to secure the issue of any stock, bond or
4 other evidence of indebtedness, or who shall, by
5 false statement knowingly or willfully made, procure
6 of the commission the making of the order or issue
7 with knowledge of such fraud, negotiate or cause to
8 be negotiated any such stock, bond, note or other ev-
9 idence of indebtedness in violation of ~~chapters 1 to~~
10 ~~17~~ this Title shall, upon conviction thereof, be pun-
11 ished by a fine of not less than \$500 or by imprison-
12 ment for not less than one year nor more than 10
13 years, or by both.

14 Sec. 27. 35 MRSA §357, as amended by PL 1969, c.
15 40, §1, is further amended to read:

16 §357. Punishment where no penalty

17 If any public utility shall willfully violate any
18 provision of ~~chapters 1 to 17~~ this Title or shall do
19 any act therein prohibited or shall fail or refuse to
20 perform any duty enjoined upon it for which a penalty
21 has not been provided or shall fail or refuse to obey
22 any lawful requirement or order made by the commis-
23 sion, for any such violation, failure or refusal such
24 public utility shall forfeit and pay into the State
25 Treasury not more than \$1,000 for each offense, to be
26 recovered in a civil action in the name of the State.
27 In construing and enforcing this section, the act,
28 omission or failure of any officer, agent or other
29 person acting for or employed by any public utility
30 acting within the scope of his employment shall in
31 every case be deemed to be the act, omission or fail-
32 ure of such public utility.

33 Sec. 28. 35 MRSA §359, first ¶, as enacted by PL
34 1969, c. 40, §2, is amended to read:

35 Any gas company or any natural gas pipeline com-
36 pany that violates any provision of ~~chapters 1 to 17~~
37 ~~or chapter 18~~ this Title, relating to safety of
38 pipeline facilities or transportation of gas or of
39 any regulation issued thereunder, shall be subject to
40 a civil penalty of not to exceed \$1,000 for each vio-
41 lation for each day that the violation persists. How-
42 ever, the maximum civil penalty shall not exceed
43 \$200,000 for any related series of violations.

	<u>1985-86</u>	<u>1986-87</u>
1		
2	<u>ENVIRONMENTAL PROTECTION,</u>	
3	<u>DEPARTMENT OF</u>	
4	Land Quality Control	
5	Positions	(1)
6	Personal Services	\$24,607
7	Provides for the	
8	transfer of one po-	
9	sition from the	
10	State Planning Of-	
11	fice to the Depart-	
12	ment of Environmen-	
13	tal Protection to	
14	correspond with the	
15	transfer of adminis-	
16	tration of the Man-	
17	datory Zoning and	
18	Subdivision Control	
19	Law.	
20	DEPARTMENT OF ENVIRONMENTAL	
21	PROTECTION	
22	TOTAL	\$24,607
23	<u>EXECUTIVE, DEPARTMENT OF</u>	
24	Planning Office	
25	Positions	(-1)
26	Personal Services	\$(24,607)
27	Provides for the	
28	transfer of one po-	
29	sition from the	
30	State Planning Of-	
31	fice to the Depart-	
32	ment of Environmen-	
33	tal Protection to	
34	correspond with the	
35	transfer of adminis-	
36	tration for the Man-	
37	datory Zoning and	
38	Subdivision Control	
39	Law.	
40	EXECUTIVE DEPARTMENT	
41	TOTAL	\$(24,607)

	<u>1986-87</u>	<u>1987-88</u>
1		
2	<u>PUBLIC UTILITIES COMMISSION</u>	
3	Regulatory Fund	
4	Personal Services	\$(13,145)
5	<u>PUBLIC UTILITIES COMMISSION</u>	
6	TOTAL	<u>\$(13,145)</u>
7	<u>PUBLIC UTILITIES COMMISSION</u>	
8	Regulatory Fund	
9	Personal Services	\$ 9,590
10	Together, the	
11	deallocation and re-	
12	allocation provide	
13	an increase in range	
14	from Range 15 to	
15	Range 20 for 3 Hear-	
16	ing Reporters.	
17	<u>PUBLIC UTILITIES COMMISSION</u>	
18	TOTAL	<u>\$ 9,590</u> <u>\$ 13,145</u>
19	TOTAL PART F	-0- -0-

20 STATEMENT OF FACT

21 PART A

22 Section 1 of the bill removes outdated legisla-
23 tion charging the Public Utilities Commission with
24 topographic mapping.

25 Section 2 reschedules the audit review of program
26 components within the Department of Educational and
27 Cultural Services.

28 Section 3 continues state agencies scheduled for
29 termination on June 30, 1985, under the Maine Sunset
30 Law.

31 Section 4 establishes a procedure in District
32 Court to handle payments for minor violations of ma-
33 rine resource laws.

1 Section 5 enables the court to charge a \$25 rein-
2 statement fee upon the court's order of a suspension
3 of a driver's license.

4 Sections 6, 7 and 8 establish the staff attorneys
5 at the Public Utilities Commission as unclassified
6 positions.

7 Section 9 eliminates the vacant position of As-
8 sistant to the Commissioner in the Department of Ma-
9 rine Resources.

10 Sections 10 and 11 transfer the authority to dis-
11 pose of drug-related seized property from the Commis-
12 sioner of Public Safety to the Commissioner of Fi-
13 nance and Administration.

14 Section 12 prohibits state agencies from purchas-
15 ing heavy equipment without prior authorization from
16 the joint standing committee of the Legislature hav-
17 ing jurisdiction over appropriations and financial
18 affairs.

19 Section 13 establishes broader qualifications for
20 the Director of the Office of Energy Resources.

21 Section 14 repeals the legislation requiring sub-
22 mission of an annual report from the Office of Energy
23 Resources to the Legislature.

24 Section 15 requires that the biennial energy re-
25 sources plan shall include a status report of the ac-
26 tivities and programs of the Office of Energy Re-
27 sources and allows the Office of Energy Resources to
28 function as the designated state agency for all ener-
29 gy concerns not specifically delegated to another
30 state agency.

31 Section 16 specifies the purpose and use of the
32 Energy Resources Development Fund and provides for an
33 updating of the status of the fund to be included in
34 the biennial comprehensive energy plan.

35 Section 17 repeals the required filing fee for
36 obtaining a certificate of energy efficiency.

37 Section 18 requires the submission of an annual

1 report on the Soil and Water Conservation Commis-
2 sion's Challenge Grant Program.

3 Sections 19, 20 and 21 eliminate the Maine Land
4 Use Regulation Commission's jurisdiction over small
5 solid waste disposal facilities in the unorganized
6 areas and plantations.

7 Sections 22 and 23 transfer the administrative
8 responsibility for the minimum lot size law from the
9 Department of Environmental Protection to the Depart-
10 ment of Human Services.

11 Sections 24 to 34 transfer existing legislation
12 governing the primary responsibility for administer-
13 ing the mandatory zoning and subdivision control law,
14 shoreland zoning law, from the Maine State Planning
15 Office to the Department of Environmental Protection
16 and reallocates the laws to correspond with this
17 change.

18 Section 35 provides that the Commissioner of Ma-
19 rine Resources serve at the pleasure of the Governor.

20 Section 36 limits membership on the Department of
21 Marine Resources' Advisory Council to 2 consecutive
22 terms at any one time.

23 Section 37 increases legislative oversight by re-
24 quiring the Department of Marine Resources to submit
25 an annual report to the joint standing committee of
26 the Legislature having jurisdiction over marine re-
27 sources.

28 Section 38 establishes uniform citation forms to
29 be used by the Bureau of Marine Patrol.

30 Sections 39 to 43 repeal outdated legislation,
31 establish and expand the purpose and delegated duties
32 of the Atlantic Sea Run Salmon Commission.

33 Section 44 maintains the authority of the Commis-
34 sioner of Marine Resources to make necessary inspec-
35 tions regarding quahogs.

36 Section 45 repeals the quahog tax and related
37 funds because they are no longer functional.

1 Sections 46 to 51 transfer the administration of
2 the alteration of rivers, streams and brooks law,
3 stream alteration law, from the Department of Inland
4 Fisheries and Wildlife to the Department of Environ-
5 mental Protection, authorizes the commissioner to
6 grant permits and requires the charging of a reason-
7 able fee.

8 Section 52 establishes that a \$25 reinstatement
9 fee shall be charged immediately upon the court's order
10 of suspension of a driver's license and ensures
11 that the revenues collected are deposited equally be-
12 tween the Highway Fund and the General Fund.

13 Section 53 includes the Saco River Corridor Com-
14 mission as a river corridor commission defined in the
15 Maine rivers bill.

16 Section 54 expands the services of a psychologi-
17 cal examiner beyond evaluation to include consulta-
18 tion under supervision and updates the definition of
19 psychologist.

20 Section 55 changes the membership term on the
21 State Board of Examiners of Psychologists to 3-year
22 terms and increases the membership on the board
23 through the addition of 2 professionals and one pub-
24 lic member.

25 Section 56 changes the number of members of the
26 State Board of Examiners of Psychologists necessary
27 to constitute a quorum.

28 Sections 57 and 58 place the responsibility for
29 the supervision of the State Board of Examiners of
30 Psychologists, ensures the granting of temporary li-
31 censure and authorizes the board to develop continu-
32 ing education requirements.

33 Section 59 clarifies that the State Board of Ex-
34 aminers of Psychologists shall consider degrees in
35 fields which provide comprehensive training in psy-
36 chology.

37 Section 60 establishes the authority of the State
38 Board of Examiners of Psychologists to determine li-
39 censing fees to cover administrative cost of opera-

1 tion.

2 Section 61 requires a hearing to be held within
3 60 days of the State Board of Examiners of Psycholo-
4 gists receipt of a hearing request.

5 Section 62 establishes the administrative author-
6 ity of the chairman of the Public Utilities Commis-
7 sion, eliminates outdated legislation, eliminates the
8 qualifications for Director of Technical Analysis,
9 authorizes the commission to delegate responsibili-
10 ties and authorizes the commission to establish com-
11 pensation for staff attorneys with legislative over-
12 sight.

13 Section 63 eliminates outdated Public Utilities
14 Commission legislation.

15 Section 64 establishes the number of commis-
16 sioners necessary to constitute a quorum for any formal
17 proceeding of the Public Utilities Commission and es-
18 tablishes a 5-year statutory review process to be un-
19 dertaken by the Public Utilities Commission to remove
20 outdated legislation.

21 Section 65 repeals the outdated authority of the
22 Public Utilities Commission to collect water re-
23 sources information, repeals the outdated laws which
24 provide for conferences between the Public Utilities
25 Commission and the United States Geological Survey,
26 repeals the outdated authority of the Public Utili-
27 ties Commission to review plans for proposed dams and
28 repeals the outdated statutory requirement that the
29 Public Utilities Commission include in its biennial
30 report information relating to water power and re-
31 sources and proposed dams.

32 Sections 66 and 67 clarify that the commission's
33 jurisdiction over water carriers does not extend to
34 safety.

35 Section 68 enables consumer-owned electric utili-
36 ties to set rates subject to appeal and review by the
37 Public Utilities Commission. This section further ex-
38 empts these utilities from the automatic rate hearing
39 process held under the Public Utilities Commission
40 but still retains the commission's jurisdiction and

1 the utility's right to request the review. This
2 rate-setting authority parallels that of municipal
3 and quasi-municipal water districts and is estab-
4 lished because these utilities are subject to public-
5 ly elected governing bodies and are consumer owned.
6 This section also establishes the purposes for which
7 a governing body of a consumer-owned electric utility
8 can set rates.

9 Section 69 repeals outdated legislation.

10 Section 70 eliminates the statutory provision
11 which excludes the Public Utilities Commission's ju-
12 risdiction in a bankruptcy, foreclosure or receiver-
13 ship proceeding.

14 Section 71 repeals statutory language established
15 in section 47 and corrects an outdated reference.

16 Section 72 broadens the definition of who may ap-
17 pear before the Public Utilities Commission in any
18 hearing, action or proceeding to include a represen-
19 tative of a corporation, partnership or governmental
20 entity.

21 Section 73 repeals confusing and conflicting Pub-
22 lic Utilities Commission legislation.

23 Section 74 clarifies the statutory sections gov-
24 erning municipal power districts.

25 Section 75 ensures that the portion of the gas
26 tax received by marine resources is used for the en-
27 forcement of marine resources instead of research ac-
28 tivities.

29 Section 76 defines "commissioner" as the Commis-
30 sioner of Environmental Protection.

31 Sections 77 to 82 transfer existing legislation
32 governing the administration of the alteration of
33 rivers, streams and brooks law, stream alteration
34 law, from the Department of Inland Fisheries and
35 Wildlife to the Department of Environmental Protec-
36 tion, authorizes the commissioner to grant permits
37 and requires the charging of a reasonable fee.

1 Sections 83 to 88 transfer the existing legisla-
2 tion governing responsibility for administering the
3 mandatory zoning and subdivision control law, shore-
4 land zoning law, from the Maine State Planning Office
5 to the Department of Environmental Protection and
6 reallocates the laws to correspond with this change.

7 Section 89 is a new provision requiring the State
8 Planning Office to transfer its files on the shore-
9 land zoning law to the Department of Environmental
10 Protection after July 1, 1985.

11 Section 90 repeals the provision requiring the
12 Saco River Corridor Commission to issue certificates
13 of compliance.

14 Section 91 changes the commissioner's annual
15 deadline to report to the board on hazardous waste
16 from October 1st to March 1st.

17 Section 92 prohibits the discharge of hazardous
18 waste unless licensed or authorized.

19 Sections 93 and 94 transfer responsibility for
20 safety regulation of the Casco Bay Island Transit
21 District from the Public Utilities Commission to the
22 Department of Transportation to reflect the Depart-
23 ment of Transportation's area of expertise.

24 Section 95 changes the number of signatures re-
25 quired to petition the Public Utilities Commission
26 for a rate hearing for the Casco Bay Island Transit
27 District to be more representative of the number of
28 customers served.

29 PART B

30 Part B addresses the serious issue of leaking un-
31 derground petroleum storage tanks by establishing a
32 separate fund to prevent and clean up the impacts of
33 leaking tanks and by providing the department with
34 additional authority to deal with the problem.

35 Section 1 increases the permitting fee for new or
36 replacement underground oil storage facilities to \$25
37 and requires the fee to be used for administering the
38 permit program or for public education.

1 Section 2 establishes the Underground Oil Storage
2 Facility Cleanup Fund and requires the department to
3 seek recovery for disbursements from the fund.

4 Sections 3 and 4 authorize the board to register
5 existing underground tanks, regulate existing under-
6 ground tanks, certify installers of underground tanks
7 and replace or restore contaminated water supplies to
8 a limited extent.

9 Sections 5 to 9 change the name of the Maine
10 Coastal Protection Fund to the Maine Oil Contamina-
11 tion Prevention and Cleanup Fund and raises the cap
12 of the fund to \$7,000,000.

13 Section 10 changes the name of the Maine Coastal
14 Protection Fund to the Maine Oil Contamination Pre-
15 vention and Cleanup Fund and authorizes money in the
16 Maine Oil Contamination Prevention and Cleanup Fund
17 to be disbursed for the treatment, cleanup or preven-
18 tion of a hazardous waste or hazardous matter dis-
19 charge.

20 Section 11 changes the name of the Maine Coastal
21 Protection Fund to the Maine Oil Contamination Pre-
22 vention and Cleanup Fund.

23 PART C

24 Part C provides for the recodification of the
25 laws governing the Public Utilities Commission.

26 PART D

27 Part D corrects outdated references to the Maine
28 Revised Statutes, Title 35, chapters 1 to 17, the
29 public utilities' laws, by substituting the words
30 "this Title" to reflect the expansion of the Public
31 Utilities Commission's charge beyond the Maine Re-
32 vised Statutes, Title 35, chapter 17.

33 PART E

34 Part E makes changes in the appropriation, allo-
35 cations and revenues affecting the Department of En-
36 vironmental Protection, Public Utilities Commission
37 and State Planning Office. The net appropriation to

1 the General Fund in Part E is \$1,500 in fiscal year
2 1986 and \$2,000 in fiscal year 1987. Increased reve-
3 nues to the General Fund as a result of sections 5,
4 24 to 34, 52 and 83 to 89 and an administrative rec-
5 ommendation should amount to \$143,250 in fiscal year
6 1986 and \$141,250 in fiscal year 1987.

7 The effect on the Highway Fund as a result of
8 sections 5 and 52 of the bill is a decrease of reve-
9 nues in fiscal year 1986 by approximately \$41,250 and
10 \$41,250 in fiscal year 1987 for a 2-year total of
11 \$82,500.

12 PART F

13 In Part F there is no net effect on the Regulator-
14 ry Fund as the current funding can accommodate the
15 proposed increase in range for 3 hearing reporters
16 from Range 15 to Range 20. Finally, section 80 in-
17 creases revenues to the Maine Environmental Protec-
18 tion Fund by an estimated \$4,125.

19 Other sections of this bill and the committee's
20 report should result in future savings to the agen-
21 cies under review and Part B, section 5 raises the
22 cap on the Maine Coastal Protection Fund from
23 \$6,000,000 to \$7,000,000 to accommodate the creation
24 of the Underground Tank Fund.

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