

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985
Chapters 384-End

AND AT THE

FIRST SPECIAL SESSION

November 13, 1985

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

J.S. McCarthy Co., Inc.
Augusta, Maine
1985

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
FIRST REGULAR SESSION
CONTINUED
and
FIRST SPECIAL SESSION
of the
ONE HUNDRED AND TWELFTH LEGISLATURE
1985

Sec. 10. Effective Date. Sections 1 to 7 of this Act shall become effective July 1, 1986. Any local bridge projects that have progressed to the time of approval under the Maine Revised Statutes, Title 23, chapter 9, subchapter III or VI, prior to July 1, 1986, shall be completed under the provisions of the laws that were in effect at the time of their approval.

Sec. 11. Program evaluation. Prior to January 1, 1990, the Commissioner of Transportation shall conduct an evaluation of the Local Bridge Program. He shall report his findings and any recommendations for proposed legislation to the joint standing committee of the Legislature having jurisdiction over transportation prior to the Second Regular Session of the 114th Legislature.

Effective September 19, 1985, unless otherwise indicated.

CHAPTER 481

S.P. 637 - L.D. 1653

AN ACT Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws.

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of departments and agencies will become due and payable on or immediately after July 1, 1985; and

Whereas, certain independent agencies will terminate unless continued by the Legislature prior to June 30, 1985; and

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

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

PART A

Sec. 1. 1 MRSA §25 is amended to read:

§25. The Maine Geological Survey to have charge of topographic mapping

The Public Utilities Commission Maine Geological Survey shall have charge of topographic mapping on behalf of the State. ~~Said commission~~ The Maine Geological Survey is authorized and directed to enter into such agreements with the Director of the United States Geological Survey as will assure the progress of the work in an efficient and economical manner.

Sec. 2. 3 MRSA §507, sub-§7, as repealed and replaced by PL 1983, c. 819, Pt. A, §2, is amended to read:

7. Group D-1 and D-2 departments.

A. The evaluations and analyses of the justification reports for the programs of the following Group D-1 departments shall be reviewed by the Legislature no later than June 30, 1986:

(1) Department of Business, Occupational and Professional Regulation; and

(2) Department of Educational and Cultural Services, but limited to the cultural bureaus, library services, State Museum Bureau, Arts and Humanities Bureau, Historic Preservation Commission, and the Management Information Division, higher education services and the Bryant Pond Conservation School.

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

(1) Board of Trustees of the University of Maine; ~~and~~

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

(3) Department of Educational and Cultural Services, except for the cultural bureaus,

Management Information Division, higher education services and the Bryant Pond Conservation School.

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

7. Agencies scheduled for termination on June 30, 1985. Pursuant to section 507, subsection 6, paragraph B, the following agencies scheduled for termination on June 30, 1985, are continued or modified by an Act of the Legislature passed prior to June 30, 1985:

- (1) Public Utilities Commission;
- (2) State Development Office;
- (3) Office of Energy Resources;
- (4) Maine Development Foundation;
- (5) Saco River Corridor Commission;
- (6) State Soil and Water Conservation Commission; and
- (7) Atlantic Sea Run Salmon Commission.

8. Agencies scheduled for termination on June 30, 1985. The following agencies and those scheduled for termination on June 30, 1985, pursuant to section 507, subsection 6, paragraph B, shall continue, but shall terminate, not including the grace period, no later than June 30, 1986, unless continued or modified by law:

- (1) Maine Sardine Council;
- (2) Atlantic States Marine Fisheries Commission;
- (3) Board of Directors, Maine Municipal and Rural Electrification Cooperative Agency;
- (4) State Energy Resource Advisory Board;
- (5) Low-level Waste Siting Commission;
- (6) Lobster Advisory Council;
- (7) Board of Environmental Protection; and
- (8) State Board of Examiners of Psychologists.

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

17. Marine Resources Bureau. Establish in each division a Marine Resources Bureau. The Chief Judge shall appoint the clerks of the District Court in each division as violations clerk for the Marine Resources Bureau in their respective divisions.

The violations clerk shall accept written appearances, waiver of trial, plea of guilty and payment of fine and costs in marine resources' offense cases, subject to the limitations prescribed in this subsection. The violations clerk shall serve under the direction and control of the judge of the court for which he is appointed.

A. A marine resources' offense means any violation of any provision of Title 12, chapters 601 to 627 and chapter 715, or any regulation promulgated by the Commissioner of Marine Resources pursuant to those chapters.

B. The Chief Judge shall by order, which may from time to time be amended, suspended or repealed, designate the marine resources' offenses within the authority of the violations clerk, except that the offenses shall not include any offense for which a mandatory minimum term of imprisonment is provided by law. The court shall establish schedules, within the limits prescribed by law, of the amount of fines to be imposed for the offenses. The order of the court establishing the schedules shall be prominently posted in the place where the fines are paid. Fines and costs shall be paid to, receipted by and accounted for by the violations clerk in accordance with these provisions.

C. Any person charged with any marine resources' offense within the authority of the violations clerk may file an appearance in person or by mail before the violations clerk. Any person may enter a plea admitting the violation charged and waiver of trial and pay the fine, and costs, established for the violation charged. Any person so entering a plea admitting the infraction charged shall be informed of his rights, including his right to stand trial, that his signature to a plea admitting the violation charged will have the same effect as a judgment of the court and that the record of adjudication will be sent to the Commissioner of Marine Resources.

D. Any person who has been found guilty of or who has signed a plea of guilty to, or who has

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

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

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

§173-A. Costs taxable for the State in civil violation or traffic infraction proceedings

Costs taxable for the State in civil violation or traffic infraction proceedings shall be as follows.

Unless the defendant shows that his failure to pay was neither intentional nor knowing nor due to a failure on his part to make a good faith effort to obtain the funds required for the payment, for failure to pay a fine, imposed for the commission of a civil violation or traffic infraction within 30 days of entry of judgment, \$25.

Sec. 6. 5 MRSA §672, as amended by PL 1975, c. 766, §4, is further amended to read:

§672. Filling of positions

Positions in the classified service shall be filled by original appointment, promotion, transfer, reinstatement or demotion in pursuance of rules and regulations established and administered by the commissioner. These rules shall provide for the direct hire of positions in the classified service where appropriate.

Sec. 7. 5 MRSA §931, sub-§1, ¶H, as repealed and replaced by PL 1983, c. 862, §10, is amended to read:

H. Officers and employees of the unorganized territory school system; the teachers, administrators and professional employees of the state vocational-technical institutes and the Governor Baxter School for the Deaf; and the teachers, administrators and professional employees of school systems in other state institutions; and

Sec. 8. 5 MRSA §931, sub-§1, ¶I, as enacted by PL 1983, c. 729, §4, is amended to read:

I. Deputies, assistants, staff attorneys, research assistants and the secretary to the Attorney General of the Department of Attorney General; and

Sec. 9. 5 MRSA §931, sub-§1, ¶J is enacted to read:

J. Staff attorney, financial analyst and chief utility accountant positions at the Public Utilities Commission.

Sec. 10. 5 MRSA §945, as enacted by PL 1983, c. 729, §4, is amended to read:

§945. Department of Marine Resources

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

A. Deputy Commissioner; and

B. Chief, Bureau of Marine Patrol; and

~~C. Assistant to the Commissioner.~~

Sec. 11. 5 MRSA §1742, sub-§21 is amended to read:

21. Rules. To make rules and regulations, subject to the approval of the Commissioner of Finance and Administration for the purposes of carrying out this subchapter; and

Sec. 12. 5 MRSA §1742, sub-§22 is enacted to read:

22. Drug-related seized property. To review and comment on all records provided by the Commissioner of Public Safety relating to the disposition of

drug-related seized property pursuant to Title 22, section 2387, subsection 5.

Sec. 13. 5 MRSA §1825 is enacted to read:

§1825. Prohibitions

All state agencies, except the Department of Transportation, are prohibited from purchasing what is normally classified as heavy equipment not previously authorized by the Legislature through the budget process, without prior written authorization from the Commissioner of Finance and Administration. All purchase requisitions for heavy equipment shall indicate the budget year and account which authorized each item of equipment and, if required, contain the written authorization of the Commissioner of Finance and Administration.

Sec. 14. 5 MRSA §5004, sub-§2, as repealed and replaced by PL 1975, c. 587, §1, is amended to read:

2. Qualifications. The Director of the Office of Energy Resources shall have a background in ~~engineering, economics,~~ energy research or the administration of energy programs and ~~shall be qualified to evaluate energy conservation or development proposals in terms of technical and economic feasibility.~~

Sec. 15. 5 MRSA §5004, sub-§4, as amended by PL 1981, c. 701, §3, is repealed.

Sec. 16. 5 MRSA §5005, sub-§1, as amended by PL 1981, c. 701, §§4 to 7, is further amended to read:

1. Powers and duties. The Office of Energy Resources shall:

A. Prepare an energy resources plan to be submitted to the Governor and the Legislature by September 15, 1983, and every 2 years thereafter.

(1) The plan shall include:

(a) A description of historical energy demand by end use sector and energy resources used to meet that demand;

(b) A forecast of energy demand by end use sector for the next 5, 10 and 20 years, including an electricity demand forecast and the unit cost of the resources that may be utilized to meet that demand. A description of the assumptions upon which the forecasts are

based and the probability of error shall also be provided. This forecast shall include the electric and gas forecast from paragraph B;

(c) A description and quantification of potentially available energy resources for use in the State;

(d) A report on the progress of implementing the last energy resources plan; **and**

(e) Recommendations for energy policy, including specific recommendations for state action necessary to implement this policy. The recommendations shall include proposals concerning the types and quantity of resources that will meet the future energy demand in the most desirable and feasible manner. Preference shall be given to conservation and renewable resources where they are technically and economically feasible; and

(f) A report on the progress of programs developed and implemented by the Office of Energy Resources and the direction of programs planned for the ensuing 2 years.

(2) The director shall hold a public hearing on the report prior to submission to the Governor and the Legislature.

(3) The director shall assist the Governor in the preparation of a state energy policy;
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B. Prepare a biennial electric and gas energy forecast for use in preparing the biennial energy resources plan. That forecast shall be prepared as follows.

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

(2) The director shall prepare a draft forecast based on the information received under subparagraph (1) and any other information available to him, and hold a public hearing to receive comments on the draft. The draft report shall contain:

(a) Projection of the demand for electrical energy and natural gas in the State for the succeeding 5-year, 10-year and 20-year periods;

(b) Identification of supplies and capacity for meeting the electric and gas needs including planned increases in supply and capacity intended to meet that demand and other options for meeting the electric and gas needs, such as conservation or other supplies; and

(c) Such other information as the director deems appropriate.

(3) Within 60 days of the public hearing described in subparagraph (2), the director shall publish a final forecast. That forecast shall be included in the biennial energy resources plan.

(4) The director shall submit a copy of the electric and gas energy forecast to the Public Utilities Commission. The commission may consider the forecast in all relevant proceedings;

B-1. Nothing in this section may prohibit the director from preparing additional reports and forecasts in order to carry out the responsibilities of the office;

C. Encouragement of voluntary energy conservation among state and local government, industry, business and the public for the most efficient utilization of available energy;

D. The Director of Energy Resources shall be responsible for collecting and analyzing energy data from all available energy sources in the State. Data relating to activities outside the State may be requested only insofar as these activities have a direct impact upon energy costs and availability within the State. The director shall afford confidential treatment to information, documents and data dealing with sales of

individual companies which are engaged in the wholesale and retail trade of petroleum products in the State, upon request of the individual companies;

E. Provide technical assistance to the Governor and the Legislature in identifying the emergency and long-range needs and resources to meet these needs for the State;

F. Upon request, provide planning and technical assistance to public and private groups in the field of energy planning;

G. Encourage and direct or sponsor research, experiments, and demonstration projects within the State to develop alternate energy sources, particularly, but not limited to, those sources which rely on the renewable natural resources of the State, such as solar energy, the water of the tides and rivers, the forests, the winds and other sources which to date have not been fully explored or utilized;

H. Encourage and direct, in conjunction with private industry, the practical development and operation on a small scale of experimental projects involving alternate energy sources, in order to ascertain the potential usefulness of such alternate energy sources and their costs, provided only that such projects shall be subject to the regulations of those state agencies concerned with the protection of the environment and preservation of the natural resources of the State, and with regulation of other energy sources;

I. The Office of Energy Resources, with the consent of the Governor, may employ such expert and professional consultants as it deems necessary within the limit of funds available and consistent with the powers and duties of the office; ;

J. Provide conservation alternatives to proposed new electric power generating plants and render an account of the long-term and short-term energy savings realized by the conservation alternatives;

K. Study, in conjunction with the Department of Transportation, car pooling parking facilities throughout the State, determine the need for such facilities and report its findings and any necessary legislation to the Legislature; and

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

M. Encourage the use of solar energy equipment under the state policy of providing tax incentives to develop alternate energy resources. This paragraph shall remain in effect until January 1, 1983; ;

N. In cooperation with the Office of the State Fire Marshal and other interested parties, prepare proposed standards for the installation of stoves designed exclusively to burn wood for the purposes of heating or cooking, but shall not include wood stoves designed as furnaces attached to a central heating system. A hearing shall be held, preceded by reasonable notice to the public, on these proposed standards and they shall be modified as deemed necessary in response to the public hearing. The Office of Energy Resources shall make these standards available to those municipalities which desire to regulate the installation of wood stoves, pursuant to their powers as expressed in Title 30, section 2151; ;

O. In cooperation with the Plumbers' Examining Board and the Department of Business, Occupational and Professional Regulation, establish a voluntary training and certification program for installers of solar energy equipment; and

P. Have the authority to collect inventory and product delivery data from the state's primary storage facilities of petroleum products and shall afford confidential treatment to that information; ; and

Q. Be the designated state agency to handle all energy matters within the State which are not the responsibilities of other state agencies under the provisions of federal or state law, and authority is conferred on the direction of that office to accept, use and administer all energy funds, including federal, state and private funds, in accordance with established budgetary procedures which become available pursuant to this Act. The director may receive and accept, on behalf of the Office of Energy Resources or on behalf of the State, any grants or gifts.

Sec. 17. 5 MRSA §5006, as amended by PL 1981, c. 701, §8, is further amended to read:

§5006. Maine Energy Resources Development Program

All federal and private moneys received by the Office of Energy Resources for energy research and development shall be deposited in the Maine Energy Resources Development Fund. The Maine Energy Resources Development Fund shall be administered by the Director of the Office of Energy Resources and shall be used only to carry out the provisions of this Act. The Office of Energy Resources shall be the designated state agency to handle all energy matters within the State which are not the specific responsibility of another state agency under the provisions of federal or state law; and authority is conferred on the director of such office to accept, use and administer all energy funds, including federal, state and private funds, in accordance with established budgetary procedures which become available pursuant to this Act. The director may receive on behalf of the Office of Energy Resources or on behalf of the State any grants or gifts and may accept them.

The Office of Energy Resources shall, as funding allows, administer a program of energy research and demonstration activities related to both the use of indigenous, renewable resources and more efficient use of energy. The director may accept private money for the purpose of pursuing this program.

1. Report to Legislature. The Director of Energy Resources shall report annually to the Legislature in January of every regular and special session of the Legislature include, in the biennial comprehensive energy plan, a report which specifies in regard to the Maine Energy Resources Development Program the expenditure of funds, the purposes for which said the funds were used and the amount of as well as the sources from which the funds were derived.

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

Sec. 18. 5 MRSA §12004, sub-§1, ¶A, as amended by PL 1983, c. 862, §§17 to 19, is further amended to read:

A. This classification includes the following boards:

	NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE
(1)	Board of Accountancy	\$35/Day	32 MRSA §3971
(2)	Arborist Examining Board	\$25/Day	32 MRSA §2001
(3)	Maine State Board for Registration of Architects and Land- scape Architects	\$35/Day	32 MRSA §211
(4)	Board of Examiners of Applicants for Admission to the Bar	Legislative Per Diem	4 MRSA §801
(5)	State Board of Barbers	\$35/Day	32 MRSA §351
(6)	Board of Boiler Rules	Expenses Only	26 MRSA §171
(7)	Board of Chiro- practic Exami- nation and Registration	\$25/Day	32 MRSA §501
(8)	State Board of Cosmetology	\$35/Day	32 MRSA §1601
(9)	Board of Dental Examiners	\$35/Day	32 MRSA §1071
(10)	Board of Commer- cial Driver Education	\$35/Day Public Member	32 MRSA §9552
(11)	Electricians' Examining Board	\$30/Day	32 MRSA §1151
(12)	Board of Elevator and Tramway Safety	Expenses Only	26 MRSA §475
(13)	State Board of Registration for Professional Engi- neers	Expenses Only	32 MRSA §1301
(14)	State Board of Registration for Professional Foresters	Expenses Only	32 MRSA §5004
(15)	State Board of Funeral Service	\$20/Day	32 MRSA §1451

(16)	State Board of Certification for Geologists and Soil Scientists	Expenses Only	32 MRSA §4907
(17)	Board of Examiners for the Licensing of Guides	Expenses Only	12 MRSA §7301
(18)	Junior Maine Guides and Trip Leaders' Curriculum Board	Expenses Only	12 MRSA §7302
(19)	Board of Hearing Aid Dealers and Fitters	\$35/Day	32 MRSA §1658
(20)	State Board of Registration for Land Surveyors	Expenses Only	32 MRSA §1671
(21)	Manufactured Housing Board	\$35/Day	10 MRSA §9003
(22)	State Board of Licensure of Administrators of Medical Care Facilities other than Hospitals	\$30/Day	32 MRSA §63
(23)	Board of Registration in Medicine	\$1,250/Year- Member \$1,500/Year- Chairman \$7,500/Year- Secretary	32 MRSA §3263
(24)	State Board of Nursing	Legislative Per Diem	32 MRSA §2151
(24-A)	Board of Occupa- tional Therapy Practice	Expenses Only	32 MRSA §2273
(25)	Oil and Solid Fuel Board	\$30/Day	32 MRSA §2351
(26)	State Board of Optometry	\$25/Day	32 MRSA §2415
(27)	Board of Osteopathic Examination and Registration	Legislative Per Diem	32 MRSA §2561

(28)	Board of Commissioners of the Profession of Pharmacy	\$25/Day	32 MRSA §2851
(29)	Board of Examiners in Physical Therapy	\$25/Day	32 MRSA §3112
(30)	Plumbers' Examining Board	\$35/Day	32 MRSA §3401
(31)	Board of Examiners of Podiatrists	\$25/Day	32 MRSA §3601
(32)	State Board of Examiners of Psychologists	\$35/Day	32 MRSA §3821
(32-A)	<u>Joint Committee of Licensure-Certification for School Psychological Services</u>	<u>See subsection 1, paragraph A, subparagraph (32) and subsection 8, paragraph A, subparagraph (3)</u>	<u>32 MRSA §3840</u>
(33)	Real Estate Commission	\$35/Day	32 MRSA §4051-A
(34)	State Board of Social Worker Registration	Expenses Only	32 MRSA §7026
(35)	Board of Examiners on Speech Pathology and Audiology	\$25/Day	32 MRSA §6010
(36)	Board of Registration of Substance Abuse Counselors	Not Authorized	32 MRSA §6201
(37)	State Board of Veterinary Medicine	Legislative Per Diem	32 MRSA §4854
(38)	Penobscot Bay and River Pilotage Commission	Not Authorized	38 MRSA §89
(39)	Maine Athletic Commission		8 MRSA §141

(a) The total per diem compensation for each member shall not exceed \$1,000 per year.

Sec. 19. 10 MRSA §1415-A, sub-§4, as enacted by PL 1979, c. 676, §2, is repealed.

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

§206. Establishment of fund

There is established a fund to encourage local soil and water conservation projects. The fund shall consist of all moneys appropriated to it and any moneys received as donations or from other sources. Moneys in this fund shall be disbursed periodically by the Soil and Water Conservation Commission on a competitive basis to one or more of the soil and water conservation districts for the funding of innovative soil and water conservation projects. Any balance in this fund, except moneys appropriated by the State, shall not lapse, but shall be carried forward from year to year to be expended for the purposes set forth in this subchapter. The commission shall establish by rule criteria for project submission, evaluation and selection. These criteria shall, among other factors, address priority of need, boldness of approach, program feasibility and reproducibility and verification of results. The commission may impose such conditions on the use of funds awarded as in its judgment are best suited to accomplish the purposes of this subchapter and insure that moneys awarded by the commission are properly spent by the districts. Any final decision of the commission to fund a project or to not fund a project shall constitute "final agency action" for purposes of Title 5, chapter 375, subchapter IV. The commission shall submit an annual report on the status of the Challenge Grant Program to the joint standing committees of the Legislature having jurisdiction over agriculture and audit and program review, as well as the Finance Authority of Maine for public hearing and critique.

Sec. 21. 12 MRSA §4807-B, as enacted by PL 1973, c. 411, §1, is amended to read:

§4807-B. Approval of smaller lots

A lot of less than the size required in section 4807-A may be used for subsurface waste disposal if approved in writing by the Board of Environmental Protection Department of Human Services. Approval shall be granted if the applicant for approval demonstrates to the Board of Environmental Protection Department of Human Services that, based upon the amount and nature of wastes, construction of the sub-

surface disposal system, soil types and slopes, percolation rates, depth to bedrock and groundwater, density of any proposed development, and other relevant factors, the proposed subsurface waste disposal will not lower the water quality of or otherwise pose a threat to any lake, pond, stream, river or tidal waters, any underground water supply, or to the public health, safety and general welfare.

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

§4807-C. Approval of lesser frontage

A lot of less than the frontage required in section 4807-A may be used for subsurface waste disposal if approved in writing by the Board of Environmental Protection Department of Human Services. Approval shall be granted if the applicant for approval demonstrates to the board that such frontage will not cause such lot to be of such configuration as to prevent compliance with the standards in section 4807-B, or not otherwise present any harm to public health, safety or general welfare.

Sec. 23. 12 MRSA §4811, as amended by PL 1983, c. 458, §2, is repealed.

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

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

Sec. 26. 12 MRSA §4812, as amended by PL 1975, c. 497, §3, is repealed.

Sec. 27. 12 MRSA §4812-A, as amended by PL 1975, c. 438, is reallocated to be Title 38, section 439.

Sec. 28. 12 MRSA §4812-B, as amended by PL 1975, c. 623, §§15A and 15B, is reallocated to be Title 38, section 440.

Sec. 29. 12 MRSA §4812-C, as enacted by PL 1983, c. 796, §4, is reallocated to be Title 38, section 441.

Sec. 30. 12 MRSA §4813, as amended by PL 1979, c. 541, Pt. A, §131, is repealed.

Sec. 31. 12 MRSA §4814, as amended by PL 1983, c. 306, §1, is repealed.

Sec. 32. 12 MRSA §4815, as repealed and replaced by PL 1983, c. 796, §5, is reallocated to be Title 38, section 444.

Sec. 33. 12 MRSA §§4816 and 4817, as enacted by PL 1983, c. 458, §5, are repealed.

Sec. 34. 12 MRSA §6022, sub-§1, as amended by PL 1979, c. 127, §82, is further amended to read:

1. Appointment and term. The commissioner shall be appointed by the Governor and shall be subject to review by the Joint Standing Committee on Marine Resources and to confirmation by the Legislature. ~~His term shall be coterminous with the Governor, but shall continue until his successor is appointed and qualified.~~ The commissioner shall serve at the pleasure of the Governor.

Sec. 35. 12 MRSA §6024, sub-§1, as amended by PL 1983, c. 812, §81, is further amended to read:

1. Appointment; composition; term; compensation. The advisory council, established by Title 5, section 12004, subsection 10, shall consist of 9 members. Each member shall be appointed by the Governor and shall be subject to review by the joint standing committee of the Legislature having jurisdiction over marine resources and to confirmation by the Legislature. Eight of the members shall be selected from persons directly engaged in commercial activities or industries based on marine resources, and one of the members shall be selected from persons who represent recreational fishing interests. The composition of the council shall adequately represent the commercial fisheries' activities over which the department has jurisdiction and shall also reflect a geographical distribution along the coast. All members shall be appointed for a term of 3 years, except a vacancy shall be filled in the same manner as an original for the unexpired portion of the term. No member may serve more than 2 consecutive terms at any one time. Members shall serve until their successors are appointed. Members shall be compensated as provided in Title 5, chapter 379.

Sec. 36. 12 MRSA §6024, sub-§5, as enacted by PL 1979, c. 357, is amended to read:

5. Research oversight. The commissioner shall annually report to the council on the research of the department. The report shall include the present research plan and its implementation, any necessary revision of the plan and its necessary extension over

the planning period. The council may appoint marine scientists, who are not employees of the department, to advise it in considering the research plan. After completing its review, the council shall report the plan, and any recommendations or comments, to the joint standing committee of the Legislature having jurisdiction over marine resources.

Sec. 37. 12 MRSA §6208 is enacted to read:

§6208. Marine resources' citation form

1. Form. The commissioner may establish citation forms for use by the Bureau of Marine Patrol. These forms, if established, shall be uniform throughout the State and shall be issued in books with citations in not less than quadruplicate. When the form requires a signature by a person upon whom the citation is served, the form shall include a statement that signing the citation does not constitute an admission of guilt and that failure to sign constitutes a separate offense which is a Class E crime. The form shall be approved by the Chief Judge of the District Court prior to its use.

2. Responsibility for issuance and disposition. Responsibility for issuance and disposition shall be as follows.

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

B. The commissioner may in his discretion provide books to other law enforcement agencies and officers listed in section 7055 for their use in the enforcement of chapters 601 to 627. The commissioner may not require other agencies to use this form.

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

4. When a lawful complaint. If the citation provided for in this section is duly sworn to and otherwise satisfies the requirements of the general laws of this State, in respect to the form of a complaint and charges an offense, it may be filed in a court having jurisdiction and shall constitute a lawful complaint for the purpose of the commencement of any criminal prosecution or civil violation proceeding.

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

6. Refusal to sign; prohibited act. No person may refuse to sign a citation after having been ordered to do so by a law enforcement officer.

Sec. 38. 12 MRSA §6251, as amended by PL 1983, c. 812, §§82 and 83, is repealed.

Sec. 39. 12 MRSA §6251-A is enacted to read:

§6251-A. Atlantic Sea Run Salmon Commission

1. Purposes. For the purposes of undertaking projects in research, planning, management, restoration and propagation of the Atlantic Sea Run Salmon in the State, the Atlantic Sea Run Salmon Commission is established.

2. Members. The commission shall have the following members:

A. The Commissioner of Marine Resources or his designee;

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

C. A public member, who shall be a resident of the State, appointed by the Governor. The appointment shall be for 4 years or thereafter until a successor is appointed. Any vacancy shall be filled by an appointment for a full 4-year term.

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

4. Chairman. The Commissioner of Inland Fisheries and Wildlife shall act as permanent chairman of the commission and shall have sole authority over the administrative and financial matters of the commission.

5. Meetings. Except as otherwise provided in this section, the commission shall conduct its business in public meetings, from time to time called by the chairman, in accordance with Title 1, sections

401 to 406. Decisions of the commission require at least 2 affirmative votes. The commission may delegate to any of its members or to its staff any routine business as it deems necessary to carry out its purposes.

6. Staff. Subject to appropriation or allocation and in accordance with the Personnel Law, staff may be hired to carry out the work of the commission. Hiring and management of the staff shall be the responsibility of the Commissioner of Inland Fisheries and Wildlife.

Sec. 40. 12 MRSA §6252, as enacted by PL 1977, c. 661, §5, is repealed.

Sec. 41. 12 MRSA §6252-A is enacted to read:

§6252-A. Powers

In furtherance of the purposes described in section 6251-A, subsection 1, the commission shall have the following powers.

1. Programs. The commission shall make studies, undertake research, publish and disseminate information, plans and reports and implement programs as it deems necessary in furtherance of its purposes.

2. Contracts and agreements. Subject to the applicable provisions of Title 5, sections 1811 to 1824 and other requirements of state law, the commission may enter into any contracts, agreements or other arrangements with public agencies and with private parties which the commission finds necessary to carry out its purposes.

3. Funding. Subject to other applicable requirements of state law, the commission may receive and expend funds from any source, public or private, which it finds necessary to carry out its purposes. Any funds received shall be placed in a nonlapsing, separate account by the Treasurer of State, to be expended by the commission for the purposes stated in this section.

4. Regulations. Subject to the applicable requirements of Title 5, section 8051 to 8059, the commission may adopt and may amend regulations to promote the conservation and propagation of the Atlantic sea run salmon in the same manner and with the same limits as provided for the conservation and propagation of marine organisms under sections 6171 and 6191 to 6193. The advice and consent of the advisory

council shall not be required for the promulgation of those regulations. The regulations of the commission shall have the same effect, shall bear the same penalty and shall be proved and enforced in the same manner as regulations of the Commissioner of Marine Resources under sections 6174 and 6201 to 6207. Proof of such regulations may be effected by a certified copy and statement by either the Commissioner of Marine Resources or the Commissioner of Inland Fisheries and Wildlife. Any marine patrol officer of the Department of Marine Resources, any warden of the Department of Inland Fisheries and Wildlife and any other law enforcement officer may enforce the regulations of the commission.

5. Property. Subject to other applicable requirements of state law, the commission may acquire, install, construct, operate, manage, sell and convey interests in real and personal property, including, without limitation, lands, dams, buildings, facilities, structures, flowage rights, mill privileges, easements and rights-of-way, as it finds necessary to carry out its purposes, provided that prior right of municipalities are not affected by the requirements.

Sec. 42. 12 MRSA §6253, as amended by PL 1983, c. 680, §2, is repealed.

Sec. 43. 12 MRSA §6741, sub-§3 is enacted to read:

3. Inspection. The commissioner or his duly authorized agents shall have free access, ingress and egress at all reasonable hours to any establishment where quahogs are held or to any records required to make a proper inspection.

Sec. 44. 12 MRSA §6742, as enacted by PL 1981, c. 297, §4, is repealed.

Sec. 45. 12 MRSA §7776, as enacted by PL 1979, c. 420, §1, is repealed.

Sec. 46. 12 MRSA §7776-A, as enacted by PL 1983, c. 458, §6, is repealed.

Sec. 47. 12 MRSA §7777, as amended by PL 1983, c. 458, §7, is repealed.

Sec. 48. 12 MRSA §7778, as enacted by PL 1979, c. 420, §1, is reallocated to be Title 38, section 428.

Sec. 49. 12 MRSA §7779, as repealed and replaced

by PL 1983, c. 796, §6, is reallocated to be Title 38, section 429.

Sec. 50. 12 MRSA §7780, as amended by PL 1983, c. 819, Pt. A, §28, is repealed.

Sec. 51. 22 MRSA §2387, sub-§5, as amended by PL 1981, c. 529, §4, is further amended to read:

5. Records. Any officer, department or agency having custody of property subject to forfeiture under subsection 1, paragraph A, B or C, or having disposed of the property shall keep and maintain full and complete records showing from whom it received the property, under what authority it held or received or disposed of the property, to whom it delivered the property, the date and manner of destruction or disposition of the property and the exact kinds, quantities and forms of the property. Said records shall be open to inspection by all federal and state officers charged with enforcement of federal and state drug control laws. Persons making final disposition or destruction of said property under court order shall report, under oath, to the court the exact circumstances of said disposition or destruction.

The Department of Public Safety shall be responsible for maintaining a centralized record of property seized, held by and ordered to the department. A report of the disposition of property previously held by the department and ordered by the court to any governmental entity shall be provided at least quarterly to the Commissioner of Finance and Administration and the Legislative Finance Office for review. These records shall include an estimate as to the fair market value of items seized.

Sec. 52. 29 MRSA §2241-D, sub-§1, as amended by PL 1983, c. 505, §3, is repealed and the following enacted in its place:

1. Fee. Notwithstanding any other provisions of this Title, before a mandatory suspension, a mandatory revocation or a suspension ordered by the Secretary of State or a court of a person's driving privilege may be terminated or reinstated, there shall be paid to the Secretary of State a fee of \$25 which shall be in addition to the regular registration or license fee.

All reinstatement fees paid for court-ordered suspensions under sections 2301 and 2301-A shall be deposited equally between the Highway Fund and the General Fund.

Sec. 53. 29 MRSA §2241-E, as repealed and replaced by PL 1977, c. 694, §525, is amended to read:

§2241-E. Suspension

Suspension Except for a court-ordered suspension under section 2301 or 2301-A, any suspension authorized under this Title shall be effective on a specified date not less than 10 days after the mailing of the notification of suspension and the period of suspension shall be computed from that date. For the purpose of the reinstatement fee, any court-ordered suspension under section 2301 or 2301-A shall be effective when entered by the court. Upon motion and good cause shown, the court ordering the suspension under section 2301 or 2301-A may waive all or any part of the reinstatement fee.

Sec. 54. 30 MRSA §1962, sub-§1, as amended by PL 1983, c. 812, §179, is further amended to read:

1. Commission. "Commission" means a river corridor commission granted approval by the commissioner under section 1963 and authorized by Title 5, section 12004, subsection 8, or as established pursuant to Title 38, sections 951 to 968.

Sec. 55. 32 MRSA §3811, sub-§§1 and 2, as enacted by PL 1967, c. 544, §82, are amended to read:

1. Psychological examiner. A person practices as a "psychological examiner" within the meaning of this chapter when he holds himself out to be a psychological examiner, or renders to individuals or to the public for remuneration services involving the application of recognized principles, methods and procedures of the science and profession of psychology, but limited to interviewing or administering and interpreting tests of mental abilities, aptitudes, interests and personality characteristics, for such purposes as psychological evaluation or for educational or vocational selection, guidance or placement. A psychological examiner may provide intervention, such as consultation, behavior management or social skills training under the supervision of a licensed psychologist or as otherwise provided in law or rules issued in accordance with this chapter. A psychological examiner may not provide psychotherapy services under any circumstances. The State Board of Examiners of Psychologists shall establish rules for supervision of psychological examiners for intervention services.

2. Psychologist. A person practices as a "psy-

chologist" within the meaning of this chapter when he holds himself out to be a psychologist, or renders to individuals or to the public for remuneration any service involving the application of recognized principles, methods and procedures of the science and profession of psychology, such as interviewing or administering and interpreting tests of mental abilities, aptitudes, interests and personality characteristics, for such purposes as psychological evaluation or for educational or vocational selection, guidance or placement, or for such purposes as overall personality appraisal or classification, personality counseling, psychotherapy or personality readjustment. Services which may be provided by psychologists include diagnosing, assessing and treating mental, emotional and psychological illness, disorders, problems and concerns and evaluation and treatment of vocational, social, educational, behavioral, intellectual and learning and cognitive disorders. These functions are performed through recognized psychological techniques such as, but not limited to, psychological testing, psychological interviews, psychological assessments, psychotherapy, personality counseling, behavior modification, cognitive therapies, learning therapies, biofeedback, hypnotherapy and psychological consultation to individuals and organizations.

Sec. 56. 32 MRSA §3811-A is enacted to read:

§3811-A. Definitions

For the purposes of this chapter, unless the context otherwise indicates, "mental illness" means a clinically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is typically associated with either a painful symptom or impairment in one or more important areas of functioning.

Sec. 57. 32 MRSA §3821, as amended by PL 1983, c. 812, §233, is further amended to read:

§3821. Membership; terms; vacancies

The State Board of Examiners of Psychologists, as established by Title 5, section 12004, subsection 1, and called the "board," shall consist of 6 9 members who shall be appointed by the Governor to serve a term of 5 3 years. One member Two members of the board shall be a representative representatives of the public. Five Seven members of the board shall be licensed psychologists or psychological examiners with at least one member licensed as a psychological examiner. These 7 members shall be representative of

the field of psychology insofar as possible. Any vacancy occurring on the board shall be filled by the Governor for the unexpired term by a person qualified and selected as was the member he is replacing. No person may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 5-year term shall be deemed a full term at any one time. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 5 3 years from the date of that expiration, regardless of the date of his appointment. Prior to the filling of any vacancies of professional or public members, the Governor shall solicit recommendations. A board member may be removed by the Governor for cause.

Sec. 58. 32 MRSA §3822, as amended by PL 1983, c. 812, §234, is further amended to read:

§3822. Meetings; organizations

The board shall meet at least once a year to conduct its business and to elect a chairman, secretary and treasurer. Additional meetings shall be held as necessary to conduct the business of the board, and may be convened at the call of the chairman or a majority of the board members. Each member shall be compensated according to the provisions of Title 5, chapter 379, provided that the expense shall not exceed the fees collected by the board. ~~Four~~ Five members of the board shall at all times constitute a quorum. The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.

Sec. 59. 32 MRSA §3824, sub-§1, as enacted by PL 1983, c. 413, §151, is amended to read:

1. Licenses; enforcement. The board shall evaluate the qualifications and supervise the examination of applicants for licensure under this chapter, and investigate or cause to be investigated all complaints made to it and all cases of noncompliance with this chapter, including the supervision of psychological examiners.

Sec. 60. 32 MRSA §3824, sub-§§5 and 6 are enacted to read:

5. Temporary licensure. The board shall provide in rules for the granting of a temporary license to enable psychologists to practice in this State under supervision prior to full licensure by the board. An applicant who fulfills all the requirements for li-

censure, except the written examination, may apply to the board for a temporary license. Upon receiving a completed application and fee, the board shall issue a temporary license which entitles the applicant to practice as a psychologist or psychological examiner under supervision while completing the requirements for permanent licensure. The temporary license shall be effective for one year.

6. Continuing education. The board shall establish in rules requirements for continuing education. The board shall require the applicant for license renewal to present evidence of his satisfactory completion of continuing professional education in accordance with rules adopted by the board. This subsection takes effect on January 1, 1986.

Sec. 61. 32 MRSA §3831, sub-§2, as repealed and replaced by PL 1983, c. 816, Pt. A, §34, is amended to read:

2. Psychologist. Any person wishing to obtain the right to practice as a psychologist, who has not been licensed to do so, shall, before it shall be lawful for him to practice psychology, make application to the State Board of Examiners of Psychologists, upon such form and in such manner as prescribed by the board, and obtain from the board a license to do so. Unless such a person has obtained a license, it shall be unlawful for him to practice and, if he shall practice psychology without first having obtained a license, he shall be deemed to have violated this chapter. A candidate for this license shall furnish the board with satisfactory evidence that he is trustworthy and competent to practice as a psychologist in such manner as to safeguard the interest of the public; has received a doctorate degree reflecting comprehensive training in psychology from an accredited institution recognized by the board as maintaining satisfactory standards, at the time the degree was granted; has had at least 2 years of experience in psychology of a type considered by the board to be qualifying in nature; is competent in psychology, as shown by passing such examinations, written or oral, or both, as the board deems necessary; is not considered by the board to be engaged in unethical practice; and has not within the preceding 6 months failed an examination given by the board. The board shall recognize that valid comprehensive training in psychology must be received in or accepted by a single program, but may be obtained through a degree given by administrative units other than a department of psychology, including programs approved by the National Association of School Psy-

chologists or the American Psychological Association designation program. The board shall adopt a list of these programs. Individuals with degrees from programs not on that list shall be evaluated on a case-by-case basis.

Sec. 62. 32 MRSA §3835, first ¶, as amended by PL 1983, c. 553, §46, is further amended to read:

Licenses issued under this chapter shall expire biennially on such date as may be established by the Commissioner of Business, Occupational and Professional Regulation, if not renewed. Every person licensed under this chapter shall, on or before the biennial expiration date, submit an application for license renewal together with the biennial renewal fee of up to \$80. The board shall establish these fees as necessary in rules to cover the cost of operation.

Sec. 63. 32 MRSA §3838, as repealed and replaced by PL 1983, c. 413, §158, is amended to read:

§3838. Hearing on refusal to issue or renew

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

Sec. 64. 32 MRSA §3840 is enacted to read:

§3840. Joint licensure-certification process

1. Established. There is established a Joint Committee of Licensure-Certification for School Psychological Services.

2. Purpose. The purpose of the Joint Committee of Licensure-Certification for School Psychological Services shall be to ensure that school psychologists and school psychological consultants shall be competent to provide services in the schools. This licensure-certification process shall serve to pro-

vide accessible and timely services to meet the needs of the school systems in the State.

3. Membership. The joint committee shall consist of 6 members. Three shall be appointed by the State Board of Examiners of Psychologists from the present membership of the State Board of Examiners of Psychologists and 3 shall be appointed by the State Board of Education from the present membership of the State Board of Education.

4. Chairman. The board shall convene for the first time at the call of the chairman of the State Board of Examiners of Psychologists at which time the Joint Committee of Licensure-Certification of School Psychological Services shall select a chairman.

5. Term of office. Members shall be appointed for a minimum term of one year or until the expiration of their term on the board of appointment.

6. Meetings. The committee shall meet as necessary to fulfill its purposes and duties.

7. Quorum. A majority vote of the 3 members appointed from the State Board of Examiners of Psychologists shall be necessary for the granting of a license.

A majority of the 3 members appointed from the State Board of Education shall be necessary for the granting of a certificate.

8. Compensation. Committee members shall be compensated according to the provisions of Title 5, chapter 379. Compensation shall be paid by the board of appointment.

9. Records. The committee shall keep records and minutes of its activities and meetings. The records and minutes shall be housed by the Department of Educational and Cultural Services or the Department of Business, Occupational and Professional Regulation and made easily accessible to the public and shall be provided expeditiously upon request.

10. Vacancies. Vacancies shall be filled by the appointing authority to complete the term of the appointee who vacated the position.

11. Responsibilities and duties. The responsibilities and duties of the joint committee are as follows.

A. The Joint Committee on Licensure - Certification of School Psychological Services shall be responsible for developing and implementing a simultaneous licensure-certification process for school psychologists and school psychological consultants.

B. The criteria for joint licensure - certification as a school psychologist or school psychological consultant shall be based, in part, on the granting of a license as a psychologist or psychological examiner respectively.

C. The joint committee may promulgate rules to carry out this section.

D. The joint committee shall report to the joint standing committees of the Legislature having jurisdiction over audit and program review and business and commerce by the First Regular Session of the 113th Legislature.

Sec. 65. 35 MRSA §1, as amended by PL 1983, c. 729, §8, is further amended to read:

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

The Public Utilities Commission, as heretofore established, shall consist of 3 members appointed by the Governor, subject to review by the legislative committee having jurisdiction over public utilities and to confirmation by the Legislature from time to time upon the expiration of the terms of the several members, for terms of 6 years and all 3 members of the commission shall devote full time to their duties. Each term shall end on March 31st of the 6th year of the term. A commissioner may continue to serve beyond the end of his term until a duly qualified successor is appointed. Any vacancy occurring in said commission shall be filled by appointment for the unexpired portion of the term in which such vacancy occurs. One member of the commission shall be designated by the Governor as chairman. The basic policies of the Public Utilities Commission are to be set by the commission. Each commissioner is entitled to full access to the Public Utilities Commission staff and to any information available at the commission. The chairman shall be the principal executive officer of the commission in carrying out its policies and shall preside at meetings of the commission. The chairman shall be responsible for the expedient organization of the work of the commission. When absent one working day or more, the chairman shall name

another commissioner to act as chairman. For any particular hearing or series of hearings before the commission, the chairman may assign a commissioner, including the chairman, to attend. The commission shall adopt and have a seal and be provided with an office at the State House in which its records shall be kept space. The commission shall appoint an administrative director, a director of finance and a director of technical analysis. The director of technical analysis shall have a bachelor's degree in an appropriate field and 4 years' experience in engineering, or shall be registered as a professional engineer. It shall appoint, with the approval of the Attorney General, a general counsel. It shall appoint, subject to the Personnel Law, an assistant to the administrative director. The administrative director shall keep a full and minute record of the proceedings of the commission which shall be open to public inspection at all times. The assistant director shall assist the director in the performance of his duties, and in the absence of the director shall have the same powers as the director. The administrative director shall have authority to certify to all official acts of the commission, administer oaths, issue subpoenas and issue all processes, notices, orders or other documents necessary to the performance of the duties of the commission. The commission shall have custody and control of all records, maps and papers pertaining to the offices of the former Board of Railroad Commissioners and the former State Water Storage Commission. The commission may delegate to its staff such powers and duties as the commission finds proper. All delegations existing as of the effective date of this section shall remain valid.

The salaries of the other subordinate officials and employees of that commission, other than those of the general counsel, the Administrative Director, the director of finance and the director of technical analysis, staff attorney, financial analyst and chief utility accountant positions, shall be subject to the Personnel Law. The general counsel, the Administrative Director, the Director of Finance and the Director of Technical Analysis shall serve at the pleasure of the commission and their salaries shall be set by the commission within the range established by Title 2, section 6-A. After successful completion of a probationary period, the employees occupying the staff attorney, financial analyst and chief utility accountant positions may be dismissed, suspended or otherwise disciplined only for cause. The compensation of staff attorney, financial analyst and chief utility accountant positions shall be fixed by the commission with the approval of the Governor, but the compensations shall not in the aggregate exceed the to-

tal amount appropriated or allocated in the commission's budget. The commissioners and all employees shall receive actual expenses when traveling on official business.

Sec. 66. 35 MRSA §1-A, sub-§4, ¶¶J and K, as enacted by PL 1981, c. 479, §2, are amended to read:

J. When deemed necessary by the Public Advocate, in the interest of the using and consuming public, or any particular group thereof, intervening and appearing on their behalf in any proceedings before the commission, appeals from orders of the commission, or proceedings before state and federal agencies and courts in which the subject matter of the action affects the customers of any utility doing business in this State, except that the Public Advocate shall not intervene in any proceeding in which the commission staff is representing a position substantially similar to that of the Public Advocate, as determined by the Public Advocate; ~~and~~

K. Preparing and submitting an annual report of the activities of the Public Advocate to the Governor and to the legislative committee having jurisdiction over public utilities by August 1st of each year, with copies available to all legislators on request; and

Sec. 67. 35 MRSA §1-A, sub-§4, ¶L is enacted to read:

L. Assisting customers of consumer-owned electric utilities in reviewing proposed rate increases and preparing questions and testimony for public hearings and, on request of a customer and when deemed necessary by the Public Advocate, intervening in the proceedings conducted in accordance with sections 75, 76 and 77.

Sec. 68. 35 MRSA §2, as amended by PL 1981, c. 456, Pt. A, §118, is further amended to read:

§2. Conflicts of interest

In addition to the limitations of Title 5, section 18, no member or employee of said commission shall have any official or professional connection or relation with or hold any stock or securities in any public utility, as defined in section 15, operating within this State, nor shall he render any professional service against any such public utility nor shall he be a member of a firm which shall render any such service. No commissioner may hold any other

civil office of profit or trust under the Government of the United States or of this State except the ~~office of Coordinator of Atomic Development Activities~~ or the office of notary public, nor shall he serve on or under any committee of any political party. Any willful violation of ~~chapters 1 to 17~~ this Title by any commissioner shall constitute sufficient cause for his removal by the Governor, on the address of both branches of the Legislature, or by impeachment, pursuant to the Constitution of Maine, Article IX, section 5.

Sec. 69. 35 MRSA §§4-A and 7-A are enacted to read:

§4-A. Commission action

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

§7-A. Five-year review

Commencing with a review in 1985, the Public Utilities Commission shall review the laws governing Public Utility Commission operations and areas of jurisdiction every 5 years. Upon the review, the commission shall submit to the joint standing committee of the Legislature having jurisdiction over utilities legislation to remove any outdated references.

Sec. 70. 35 MRSA §§9 to 12 are repealed.

Sec. 71. 35 MRSA §15, sub-§13, as amended by PL 1983, c. 304, §1, is further amended to read:

13. Public utility. "Public utility" includes every gas company, natural gas pipeline company, electrical company, telephone company, telegraph company, water company, public heating company, ~~wharfinger and warehouseman~~ and water carrier, as those terms are defined in this section, and each thereof is declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission, and to chapters 1 to 17. "Public utility" does not include the operation of a radio paging service as that term is defined in this section. Nothing in this subsection precludes the jurisdiction, control and regulation by the commission pursuant to private and special Act of the Legislature.

Sec. 72. 35 MRSA §15, sub-§24-A is enacted to read:

24-A. Water carrier. "Water carrier" is any water carrier subject to the commission's jurisdiction, control and regulation pursuant to Private and Special Act of the Legislature. A water carrier is not a public utility for the purposes of safety jurisdiction of the commission.

Sec. 73. 35 MRSA §69, next to last paragraph, as amended by PL 1981, c. 428, §3, is further amended to read:

This section shall not apply to municipal or quasi-municipal corporations which are water companies within the definition of section 15, subsection 25, or to consumer-owned electric utilities as defined in sections 75 to 79, any provisions in any charter notwithstanding, and which elect to proceed pursuant to the terms of section 72 or section 76, unless by the express terms of section 72 or section 76 the provisions of this section are made applicable to those corporations and consumer-owned utilities.

Sec. 74. 35 MRSA §§75 to 79 are enacted to read:

§75. Consumer-owned electric utilities

For purposes of this section and sections 76 to 79, "consumer-owned electric utility" means any electric utility which is wholly owned by its consumers, including, but not limited to, any rural electrification cooperative organized under chapters 221 to 227, any electrification cooperative organized on a cooperative plan under the laws of the State, any municipal plantation or quasi-municipal electric corporation or district, the electric portion of any municipal, plantation or electric and other services or any electric utility wholly owned by a municipality.

§76. Procedures for changes in rates

Notwithstanding section 69, any consumer-owned electric utility which proposes to increase rates, tolls or charges by not more than 15% of the utility's annual operating revenues, may elect to set rates pursuant to this section and section 77. These sections do not apply to fuel adjustment clauses as governed by section 131.

1. Public hearing. Any consumer-owned electric utility which elects to set rates under this section shall not file with the commission or increase any rate, toll or charge without first holding a public

hearing at which the Public Advocate and any person, firm or corporation which pays these rates, tolls or charges to the consumer-owned electric utility may present testimony and may question the officials present regarding the proposed increase.

2. Notification. The consumer-owned electric utility as defined shall, at least 30 days prior to the hearing, publish a notice of the amount of the proposed rate increase, the percent of increase for each customer class and the hearing, including the date, time, place and purpose of the hearing at least twice in a newspaper of general circulation in the area encompassed by the consumer-owned electric utility. In addition, 60 days prior to the hearing, the consumer-owned electric utility shall notify the Public Utilities Commission and the Public Advocate of its intent to increase rates, tolls or charges.

3. Ratepayer notification. Each consumer-owned electric utility shall give, at least 30 days prior to the public hearing, one notice to each of its ratepayers of the amount of the proposed rate increase, the percent of increase for each customer class, the customer's right to request information relating to the present and proposed rates, his right to an open and fair hearing and his right to further hearings before the Public Utilities Commission, the availability of assistance from the Public Advocate and the date, time and place of hearing.

4. Customer rights. At the commencement of each hearing held pursuant to this section, the consumer-owned electric utility shall inform those present of customer rights as specified in subsection 3 and that the rate increase may be investigated by the Public Utilities Commission in accordance with subsection 8.

5. Supporting materials. The consumer-owned electric utility shall file a copy of all materials supporting the proposed increase with the Public Utilities Commission and the Public Advocate, at least 30 days prior to the hearing. A copy of all material supporting the proposed increase shall be made available to customers for examination at the offices of the consumer-owned electric utility for at least 30 days prior to the hearing. The consumer-owned electric utility shall promptly provide any relevant additional material or information requested by a customer or by the Public Utilities Commission or by the Public Advocate.

6. Rate filing. The consumer-owned electric

utility shall file its changed rates with the commission within 30 days of the public hearing, but not sooner than 10 days following the public hearing. The Public Utilities Commission may order the consumer-owned electric utility to correct any mathematical or clerical errors.

7. Effective date of rate change. Subject to the notice and waiver requirements of section 64, consumer-owned electric utilities electing to set rates under this section may establish an effective date for any rate change of at least one month, but not more than 9 months, from the date the rates are filed with the commission.

8. Petition and suspension. If, within 30 days of the public hearing, 10% of the customers of the consumer-owned electric utility or 750 customers, whichever is less, file petitions with the treasurer of the corporation and with the Public Utilities Commission, the rate change may be suspended, investigated, reviewed and changed in accordance with section 69, except that no suspension ordered issued by the commission pursuant to section 69 may be effective for a period greater than 9 months from the date the rate changes were filed. If the number of signatures on the petition is at least 750 or if the number of signatures on the petition equals or exceeds 10% of the customers indicated on the consumer-owned electric utility's most recent annual report on file with the Public Utilities Commission, the commission may suspend the rate change pursuant to section 69. The commission shall notify the electric utility of any such suspension. The electric utility shall have 10 days from the receipt of notice to notify the commission whether it intends to contest any aspect of the validity of the petition, after which it shall lose that right. If the electric utility notifies the commission in a timely fashion that it wishes to contest the validity of the petitions, the commission shall set the matter down for hearing. It shall hold the hearing and issue its decision on the validity of the petitions within 30 days of notification by the electric utility that it intends to contest the validity of the petitions. If the commission finds the petitions to be invalid, it shall lift its order of suspension. For the purposes of this subsection, "customer" means, in the case of residential accounts, any adult residing in a household where the utility's electric service is provided, and in the case of all other accounts where the utility's electric service is provided, a corporate officer, a partner or a proprietor. No one person may sign on behalf of more than one account unless receiving service at that account.

9. Section 69 petition. Nothing in this section may prohibit a consumer-owned electric utility from petitioning the Public Utilities Commission for review pursuant to section 69 in the first instance.

10. Frequency of rate increases. No consumer-owned electric utility may initiate a proceeding under this section for a general increase in its rates within one year of its most recent notification in accordance with subsection 3. For the purposes of this section, a "general increase in rates" means any change in the rates, tolls and charges of the public utility, the effect of which is to increase the annual operating revenues of a public utility by more than 1%, provided that this term shall not include a rate change made for the sole purpose of implementing a fuel cost adjustment rate, pursuant to section 131.

11. Penalty. If, upon the filing of a rate increase pursuant to this section, the commission finds that the utility has failed to comply with this section, the commission may suspend the rates for investigation pursuant to section 69. If there is a substantial procedural violation of this section, the commission may prohibit the utility from filing rates pursuant to this section in its next rate case.

§77. Rates for consumer-owned electric utilities

1. Scope of section. Notwithstanding any other provision of law or any charter to the contrary and in addition to any charter or private and special laws creating or affecting any consumer-owned electric utility, the rate, toll or charge made, exacted, demanded or collected by the consumer-owned electric utility is governed by this section.

2. Definition. As used in this section, the term "governing body" means the governing body of a consumer-owned electric utility.

3. Just and reasonable rates. The governing body shall establish and file rates, tolls or charges which are just and reasonable and which provide revenue as may be required for the consumer-owned electric utility to perform its public utility service and to attract necessary capital on just and reasonable terms.

4. Nondiscriminatory rates. The governing body shall establish and file rates which are nondiscriminatory and which are applied on a nondiscriminatory basis.

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

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

B. To provide for the payment of the interest on the indebtedness created or assumed by the utility;

C. For consumer-owned electric utilities, except rural electrification cooperatives:

(1) To provide each year a sum equal to not less than 2 % nor more than 10% of the term indebtedness represented by the issuance of bonds created or assumed by the utility, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of term indebtedness. The money set aside in this sinking fund and all interest accrued to this fund shall be devoted to the retirement of the term obligations of the utility and may be invested in such securities as savings banks in the State are allowed to hold;

(2) To provide for annual principal payments on serial indebtedness created or assumed by the utility; and

(3) To provide for a contingency reserve fund to reflect up to a 5% addition to yearly revenues over what is required to operate the electric utility. Any surplus in excess of 5% shall be used to offset future revenue requirements in the setting of rates. Any interest generated on these funds shall be deposited into the contingency reserve fund. The balance in the contingency reserve fund at the close of the utility's fiscal year shall not exceed 5% of the yearly revenues over what is required to operate the electric utility.

D. For rural electrification cooperatives supplying or authorized to supply energy, to provide for a contingency reserve fund by providing rates to reflect an additional amount no more than the amount of yearly long-term interest payments. The total accumulation of funds shall not exceed the level of equity required by the lender and in

no case may exceed 25% of the long-term debt. Any surplus in excess shall be used to offset future revenue requirements in the setting of rates.

6. Penalty. If, as a result of investigation pursuant to sections 69, 291 or 296, the commission finds that the utility has set rates pursuant to section 76 which significantly exceed the limits of this section, the commission may order the utility to use any existing surplus to offset future revenue requirements and may suspend the utility's rights pursuant to section 76 for a specified time period.

§78. Treatment of certain small electric utilities

Upon request of a consumer-owned electric utility of not more than 150 customers, the commission may exempt the utility from any of the requirements of this Title and any commission rules with the exception of sections 76 and 77. The commission when promulgating rules shall take into account the effect of those rules on the consumer-owned utilities with not more than 150 customers and in doing so shall not impose unreasonable requirements.

§79. Sunset provision

This section and sections 75 to 78 shall be repealed on June 30, 1989, pending review by the joint standing committee of the Legislature having jurisdiction over utilities and continuation by legislative Act.

Sec. 75. 35 MRSA §§83 to 85, as enacted by PL 1975, c. 585, §1, are repealed

Sec. 76. 35 MRSA §212, as amended by PL 1981, c. 469, §17, is further amended to read:

§212. Abandonment of property or service

No public utility as defined in chapters 1 to 17 this Title shall abandon all or any part of its plant, property or system necessary or useful in the performance of its duties to the public, or discontinue the service which it is rendering to the public by the use of such facilities, without first securing the approval of the commission. In granting its approval, the commission may impose such terms, conditions or requirements as in its judgment are necessary to protect the public interest. Any public utility abandoning all or any part of its plant, property or system or discontinuing service in pursuance of authority granted by the commission under this sec-

tion shall be deemed to have waived any and all objections to the terms, conditions or requirements imposed by the commission in that regard. This section shall not apply to any action under any order of a court having and exercising jurisdiction over a public utility in bankruptcy, foreclosure or receivership proceedings.

Sec. 77. 35 MRSA §299, as amended by PL 1981, c. 642, is further amended to read:

§299. Hearings; examiners

Each of the commissioners, for the purposes mentioned in chapters 1 to 17 this Title, may hold hearings and conduct investigations, administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, documents and testimony, punish by fine and imprisonment for contempt and issue all processes necessary to the performance of the duties of the commission. Said commission shall have power to appoint, to serve during its pleasure, examiners, who, being first duly sworn, shall have authority to administer oaths, examine witnesses, issue subpoenas, require the production of books, accounts, papers, documents and testimony, and receive evidence in any matter under the jurisdiction of the commission, and shall perform such other duties as may be assigned to them. Evidence so taken and received shall have the same force and effect as though taken and received by said commission and shall authorize action by said commission as though by it taken and received. When objection is made to admissibility of evidence, examiners authorized to practice before the Supreme Judicial Court shall rule on the admissibility of evidence in accordance with the practice and rules of evidence in civil actions in the Superior Court. The commission shall fix the salary of said examiners. Either the examiner or the commissioner, who is the presiding officer at said hearing, shall at the outset of said hearing inform the public as to the steps necessary to preserve their right to appeal the final order or decision of the commission to the Supreme Judicial Court under the provisions of sections 303 and 305.

For any particular hearing or series of hearings before the commission, the chairman may assign a commissioner, including the chairman, to attend.

Sec. 78. 35 MRSA §315, as enacted by PL 1981, c. 171, is amended to read:

§315. Appearance by officer or employee of corporation or partnership

Notwithstanding Title 4, section 807, the ~~authorized~~ appearance of an authorized officer or employee or representative of a corporation or partnership party in any hearing, action or proceeding before the commission in which the ~~corporation or partnership party~~ is participating or desires to participate is not deemed to be an unauthorized practice of law and is not subject to any criminal sanction. In order to facilitate the efficient processing of any proceeding, the commission may, in its discretion, require the appearance of counsel on behalf of the ~~corporation or partnership party~~.

Sec. 79. 35 MRSA §2404 is amended to read:

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

If any consumer to whom a meter has been furnished shall apply in writing to the city or town clerk for the inspection of such meter, and shall deposit with the clerk the fee fixed by the municipal officers for said service, the inspector shall inspect and test said meter and, if said meter on being so tested, shall be found to be incorrect to the extent of 4% if an electric meter or 2% if a gas or water meter, to the prejudice of such consumer, the inspector shall order the corporation, district, municipality or person furnishing said meter forthwith to remove the same and to install in place thereof a meter which has been tested, approved, marked and sealed by an inspector of meters. The inspector shall thereupon give a certificate to the consumer, showing the result of said test. Upon presenting said certificate to the city or town clerk, the consumer shall receive the fee deposited with said clerk. In such case the corporation, district, municipality or person shall bear the expense of such inspection and shall pay to the treasurer of the city or town the fee required of the consumer, but such consumer shall not be entitled to recover back in whole or in part from such corporation, municipality, district or person any sums paid for service prior to the filing of his application for inspection. All fees collected by the city or town clerk or treasurer shall be placed to the credit of the city or town to be used for municipal purposes.

Sec. 80. 35 MRSA §2963, as enacted by PL 1981, c. 694, §2, is amended to read:

§2963. Rate setting

Municipal power districts, which are electric companies within the definition of section 15, shall be subject to the suspension, investigation, hearing and rate substitution provisions of ~~section~~ sections 69, 75, 76, 77, 78 and 79 applicable to electric utilities.

Sec. 81. 36 MRSA §2903-A, as amended by PL 1983, c. 94, Pt. C, §§11 and 20, is further amended to read:

§2903-A. Finding of fact

The Legislature makes a finding of fact that the percentage relationship of "gasoline tax" paid by that segment of the nonhighway gasoline user, the motorboat user, is not less than 1.25% of the total "gasoline tax" revenue, but certainly is more than the 1.25% referred to. Based on this legislative "finding of fact" there is set aside 1.25% of the total excise tax on internal combustion engine fuel sold or used within the State, but not including internal combustion engine fuel sold for use in the propulsion of aircraft, not to exceed \$555,000 annually. From this allocation shall be deducted the refunds paid out under section 2908 to purchasers and users of internal combustion engine fuel for commercial motorboats; 20% of the balance of this allocation after paying out such refunds shall be paid to the Treasurer of State to be made available to the Commissioner of Marine Resources for the purpose of conducting research, development and propagation activities by the department, and it is the responsibility of the Commissioner of Marine Resources to select activities and projects that will be most beneficial to the commercial fisheries of the State as well as the development of sports fisheries activities in the State; the remaining 80% of the balance of this allocation after paying out such refunds shall be credited to the Boating Facilities Fund, established under Title 38, section 322, within the Bureau of Parks and Recreation. The State Tax Assessor shall certify to the State Controller, on or before the 15th day of each month, the amounts to be credited under the previous sentence, as of the close of the State Controller's records for the previous month. When refunds paid to purchasers and users of internal combustion engine fuel for commercial motorboats in any month exceed 1.25% of gasoline tax revenues for that month, such excess shall be carried forward in computing amounts to be credited to the Department of Marine Resources and to the Boating Facilities Fund under this section for the succeeding

month or months. Funds credited to the Department of Marine Resources shall be allocated by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

Sec. 82. 38 MRSA §361-A, sub-§1-E is enacted to read:

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

Sec. 83. 38 MRSA §425 is enacted to read:

§425. Prohibited acts

A person, municipality, state agency or other legal entity is guilty, except as provided in section 430, of unlawful alteration of a river, stream or brook if he or it dredges or causes to be dredged, fills or causes to be filled, or erects or causes to be erected a causeway, bridge, marina, wharf, dock or other permanent structure, above head of tide, in, on or over any river, stream or brook, or on the land adjacent to any river, stream or brook in such a manner that any dredged spoil, fill or structure may fall or be washed into such waters, without first obtaining a permit therefor from the commissioner.

Sec. 84. 38 MRSA c. 3, sub-c. 1, is amended by inserting before §425, the following:

ARTICLE 2-A
ALTERATION OF RIVERS
STREAMS AND BROOKS

Sec. 85. 38 MRSA §426 is enacted to read:

§426. Special protection for outstanding river segments

In accordance with Title 12, section 402, outstanding river segments shall include:

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

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

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

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

5. East Machias River. The East Machias River, including the Maine River, from the old powerhouse in East Machias to the East Machias and T.18, E.D., B.P.P. townline, from the T.19, E.D., B.P.P. and Wesley townline to the outlet of Crawford Lake, and from the No. 21 Plantation and Alexander townline to the outlet of Pocomoonshine Lake, excluding Hadley Lake, Lower Mud Pond and Upper Mud Pond;

6. Fish River. The Fish River from the bridge in Fort Kent Mills to the Fort Kent and Wallagrass Plantation townline, from the T.16, R.6, W.E.L.S. and Eagle Lake townline to the Eagle Lake and Winterville Plantation townline, and from the T.14, R.6, W.E.L.S. and Portage Lake townline to the Portage Lake and T.13, R.7, W.E.L.S. townline, excluding Portage Lake;

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

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

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

10. Mattawamkeag River. The Mattawamkeag River from the Penobscot River to the Mattawamkeag and Kingman Township townline, and from the Reed Plantation and Bancroft townline to the East Branch, including its tributaries the West Branch from the Mattawamkeag River to the Haynesville and T.3, R.3, W.E.L.S. townline and from its inlet into Upper Mattawamkeag Lake in Island Falls to the Hersey and Moro Plantation townline; the East Branch from the

Mattawamkeag River to the Haynesville and Forkstown Township townline and from the T.4, R.3, W.E.L.S. and Oakfield townline to the Smyrna and Dudley Township townline; the Fish Stream for the West Branch of the Mattawamkeag River to the Crystal and Patten townline; the Molunkus Stream from the Silver Ridge Township and Benedicta townline to the East Branch Molunkus Stream; the Macwahoc Stream from the Silver Ridge Township and Sherman townline to the outlet of Macwahoc Lake; and the Baskehegan Stream from the Mattawamkeag River to the Danforth and Brookton Township townline, and from the Brookton Township and Topsfield townline to the Topsfield and Kossuth Township townline, excluding Baskehegan Lake and Crooked Brook Flowage;

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

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

13. Piscataquis River. The Piscataquis River from the Penobscot River to the Monson and Blanchard Plantation townline, including its tributaries the East and West Branches of the Piscataquis River from the Blanchard Plantation and Shirley townline to the Shirley and Little Squaw Township townline; the Seboeis Stream from its confluence with the Piscataquis River in Howland to the Howland and Mattamiscontis Township townline and from the Mattamiscontis and Maxfield townline to the Maxfield and Seboeis Plantation townline, excluding Shirley Pond and West Shirley Bog;

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

15. Rapid River. The Rapid River from the Magalloway Plantation and Upton townline to the outlet of Pond in the River;

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

17. St. Croix River. The St. Croix River from

the cotton mill dam in Milltown to the Calais and Baring Plantation townline, from the Baring Plantation and Baileyville townline to the Baileyville and Fowler Township townline, and from the Lambert Lake Township and Vanceboro townline to the outlet of Spednik Lake, excluding Woodland Lake and Grand Falls Flowage;

18. St. George River. The St. George River from the Route 90 bridge in Warren to the outlet of Lake St. George in Liberty, excluding White Oak Pond, Seven Tree Pond, Round Pond, Sennebec Pond, Trues Pond, Stevens Pond and Little Pond;

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

20. Sandy River. The Sandy River from the Kennebec River to the Madrid and Township E townline;

21. Sheepscot River. The Sheepscot River from the Head Tide dam in Alna to the Halldale Road in Montville, excluding Long Pond and Sheepscot Pond, including its tributary the West Branch of the Sheepscot from its confluence with the Sheepscot River in Whitefield to the outlet of Branch Pond in China;

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

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

Sec. 86. 38 MRSA §427 is enacted to read:

§427. Permits

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

A. Unreasonably interfere with existing recreational and navigational uses;

B. Cause unreasonable soil erosion;

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

D. Unreasonably harm any wildlife habitat; and

E. Lower the quality of any waters.

If the proposed activity is a crossing of an outstanding river segment, as identified in section 426, the applicant shall demonstrate that no reasonable alternative exists which would have less adverse effect upon the natural and recreation features of the river segment.

2. Issuance. The commissioner may grant the permit upon such terms as he deems necessary to insure that the proposed activity will comply with the standards set out in subsection 1. The commissioner may permit the applicant to provide evidence on the economic benefits of the proposal as well as the impact of the proposal on energy resources.

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

4. Conditions of application. If the river, stream or brook is utilized by a water company, municipality or water district as a source of supply, the applicant for the permit shall, at the time of filing an application, forward a copy of the application to the water company or water district by certified mail.

5. Participation by the Department of Inland Fisheries and Wildlife. The commissioner or the board shall solicit comments from the Department of Inland Fisheries and Wildlife regarding each stream alteration permit application. The commissioner shall notify the Department of Inland Fisheries and Wildlife about the disposition of each stream alteration permit application.

Sec. 87. 38 MRSA §430 is enacted to read:

§430. Exceptions

1. Public works and private crossing and dam projects. Notwithstanding section 425, that section shall not apply to river, stream or brook crossings in connection with public works projects which alter not more than a total of 300 feet in any mile of shore nor to private crossing or dam projects which alter not more than a total of 100 feet in any mile of shore. Alterations to both shores of the river, stream or brook shall be combined in arriving at a total shore footage. This exception shall not apply

to any project on outstanding river segments, as identified in section 426.

2. Railroad repair and maintenance. Notwithstanding section 425, that section shall not apply to emergency repairs, maintenance of railroad structures, track or roadbed within the located right-of-way of any railroad.

3. Maine Land Use Regulation Commission jurisdiction. Notwithstanding section 425, a permit shall not be required from the commissioner provided:

A. The Maine Land Use Regulation Commission's standards for the alterations will not be exceeded where standards for stream alterations are established by the commission; or

B. A permit has been obtained from the Maine Land Use Regulation Commission for the alterations.

Sec. 88. 38 MRSA §431 is enacted to read;

§431. Transfer of files

Pursuant to this Article, the Department of Inland Fisheries and Wildlife shall transfer all files to the Board of Environmental Protection after July 1, 1985.

Sec. 89. 38 MRSA §435 is enacted to read:

§435. Shoreland areas

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

It is further declared that, in accordance with Title 12, section 402, certain river and stream segments, as identified in the Department of Conservation's 1982 Maine Rivers Study and as specif-

ically delineated in section 437, are significant river segments and deserve special shoreland zoning controls designed to protect their natural and recreation features.

Sec. 90. 38 MRSA c. 3, sub-c. 1, is amended by inserting before §435, the following:

ARTICLE 2-B
MANDATORY ZONING AND
SUBDIVISION CONTROL

Sec. 91. 38 MRSA §438 is enacted to read:

§438. Municipal control

Cities and towns pursuant to presently existing enabling legislation are authorized to plan, zone and control the subdivision of land. With respect to the shoreland areas defined in section 435, cities and towns, hereafter called municipalities, shall adopt zoning and subdivision control ordinances according to the following schedule.

1. Prior to July 1, 1973. Prior to July 1, 1973 the municipal officers of each city or town shall have appointed an appropriate municipal body with responsibility for preparing such ordinances as are necessary for compliance with this chapter and shall certify such appointment to the State Planning Office.

2. Prior to July 1, 1974. Prior to July 1, 1974 each municipality shall have:

A. Prepared a comprehensive plan adequate to comply with the requirements of Title 30, section 4961 and this chapter and notified the State Planning Office; and

B. Adopted shoreland protection, subdivision and zoning ordinances adequate to comply with the requirements of this chapter for shoreland protection and filed a copy of said ordinances with the State Planning Office.

In order to aid municipalities in meeting the requirements of this chapter, the Department of Inland Fisheries and Wildlife shall, prior to January 1, 1973, identify all of those areas in municipalities which it finds to be areas of moderate to high waterfowl breeding areas. Any or all areas within a municipality which are subject to nonmunicipal zoning controls may be exempted from the operation of this section upon a finding by the Board of Environmental

Protection and the Maine Land Use Regulation Commission that the purposes of this chapter have been accomplished by such nonmunicipal zoning.

3. After July 1, 1985. After July 1, 1985, pursuant to this Article, the following shall occur:

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

B. The municipalities shall notify the Board of Environmental Protection of the completion or amendment of their comprehensive plans and shall file a copy of their zoning and subdivision control ordinances and amendments with the Board of Environmental Protection unless these documents have been filed previously with the State Planning Office.

Sec. 92. 38 MRSA §442 is enacted to read:

§442. Municipal failure to accomplish purposes

If any municipality fails to adopt ordinances as required by section 438 for shoreland areas as defined in section 435 or if the Board of Environmental Protection and the Maine Land Use Regulation Commission determine that particular municipal ordinances because of their laxity and permissiveness do not adequately prevent and control water pollution, protect wildlife habitat, conserve shore cover or otherwise fail to accomplish the purposes outlined in section 435, the Department of Environmental Protection and the Maine Land Use Regulation Commission shall adopt suitable ordinances for these municipalities, which ordinances the respective municipalities shall then administer and enforce.

The Department of Environmental Protection and the Maine Land Use Regulation Commission, shall by December 15, 1973 adopt minimum guidelines for the protection of shoreland areas reflecting considerations of preventing and controlling water pollution, protecting spawning grounds, fish, aquatic life, bird and other wildlife habitat, location and size of structures and signs and conserving shore cover. The incorporation of such guidelines into a municipal regulatory ordinance shall be deemed sufficient to meet the requirements of this section.

Sec. 93. 38 MRSA §443 is enacted to read:

§443. Cooperation

The Board of Environmental Protection and the Maine Land Use Regulation Commission, municipalities and all state agencies shall mutually cooperate to accomplish the objectives of this chapter. To that end, the board and the commission shall consult with the governing bodies of municipalities and to whatever extent necessary with other state agencies to secure voluntary uniformity of regulations, so far as practicable, and shall extend all possible assistance therefor. The Board of Environmental Protection shall be responsible for coordinating the efforts of the Maine Land Use Regulation Commission, municipalities and all state agencies acting pursuant to this chapter.

If a municipality fails to administer and enforce zoning ordinances adopted by it or the State, pursuant to the requirements of this chapter, the Attorney General shall seek an order of the Superior Court of the county in which the municipality lies, requiring the municipal officials to enforce such zoning ordinance. The Attorney General shall be made a party to all civil and criminal actions in which the pleadings challenge the legality of any ordinance or portion thereof adopted pursuant to the guidelines promulgated under section 442.

Sec. 94. 38 MRSA §445 is enacted to read:

§445. Guidelines for shoreland zoning along significant river segments

In addition to the guidelines adopted under section 438, the following guidelines for the protection of the shorelands shall apply along significant river segments identified in section 437. These guidelines are intended to maintain the special values of these particular river segments by protecting their scenic beauty and undeveloped character.

1. New principal structures. New principal structures, except for structures related to hydropower facilities, shall be set back a minimum of 125 feet from the normal high-water mark of the river. These structures shall be screened from the river by existing vegetation.

2. New roads. Developers of new permanent roads, except for those providing access to a structure or facility allowed in the 250-foot zone, shall demonstrate that no reasonable alternative route outside of the zone exists. When roads must be located within the zone, they shall be set back as far as practicable from the normal high-water mark and screened from the river by existing vegetation.

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

Sec. 95. 38 MRSA §446 is enacted to read:

§446. Municipal ordinance review and certification

Each municipality with shorelands along significant river segments, as identified in section 438, shall review the adequacy of the zoning on these shorelands to protect the special values cited for these river segments by the Department of Conservation's 1982 Maine Rivers Study and for consistency with the guidelines established under section 445. Prior to December 15, 1984, each such municipality shall certify to the Board of Environmental Protection either that its existing zoning for these areas is at least as restrictive as the guidelines established under section 445, or that it has amended its zoning for this purpose. This certification shall be accompanied by the ordinances and zoning maps covering these areas. Failure to accomplish the purposes of this subsection shall result in adoption of suitable ordinances for these municipalities, as provided for in section 442.

Sec. 96. 38 MRSA §964, as enacted by PL 1979, c. 459, §1, is repealed and the following enacted in its place:

§964. Certificate of compliance

It shall be unlawful to use or occupy, or permit the use or occupancy of, any land, structure or part of any land or structure created, erected, changed, converted or wholly or partly altered or enlarged in its use or structural form, which use or structure requires a permit under this chapter unless the permit requirements and conditions of approval have been met.

For the purposes of inspection and to assure compliance with this chapter and any standards, rules and orders issued by the commission pursuant to this chapter, commission members, staff, consultant personnel and designated municipal officials may conduct such investigations, examinations, tests and site evaluations as necessary to verify compliance with any permits or variances issued by the commission.

Sec. 97. 38 MRSA §1304-A, sub-§2, as enacted by PL 1981, c. 478, §5, is amended to read:

2. Report to the board. The commissioner shall annually, prior to ~~October~~ May 1st, prepare a report to the board covering the prior ~~fiscal~~ calendar year which shall include the following data:

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

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

C. The number of hazardous waste facility permits by type currently active and the number granted and revoked in the year;

D. The amount of hazardous waste by type generated outside the State that was handled at permitted facilities within the State, and the amount of hazardous waste generated within the State that was handled at facilities located outside the State;

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

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

Sec. 98. 38 MRSA §1306, sub-§3 is enacted to read:

3. Discharge of hazardous waste. The discharge of hazardous waste into or upon any waters of the State, or into or upon any land within the State's territorial boundaries or into the ambient air, is prohibited unless licensed or authorized under state or federal law.

Sec. 99. P&SL 1885, c. 495, §10, 4th sentence, as repealed and replaced by P&SL 1963, c. 174, §1, is amended to read:

All authorized carriers shall maintain safe and adequate service to the islands of Casco Bay under rules and regulations promulgated by the Public Utilities Commission as to rates, and schedules and the Department of Transportation as to safety.

Sec. 100. P&SL 1885, c. 495, §10, 7th ¶, as repealed and replaced by P&SL 1963, c. 174, §1, is amended to read:

Any vessel authorized to be used under this section shall be examined at least once each year by the Public Utilities Commission Department of Transportation or its authorized agent.

Sec. 101. P&SL 1981, c. 22, §12 is amended to read:

Sec. 12. Regulation by the Public Utilities Commission. Nothing in this chapter may be construed to exempt the district from regulation by the Public Utilities Commission. The district shall operate under all the restraint, responsibilities and privileges as have applied to Casco Bay Lines, provided that alterations to rates and tolls by the district shall go into effect after such public notice as the Public Utilities Commission shall by rule prescribe without further action by the Public Utilities Commission, unless 10 50 ratepayers request in writing an investigation of the alterations, in which case the investigation shall be conducted as prescribed in the Revised States, Title 35, chapter 15.

Sec. 102. Transition clause. Any funds appropriated or allocated to the State Planning Office and any corresponding powers and duties granted to the State Planning Office for the purpose of carrying out the provisions of the Maine Revised Statutes, Title 12, chapter 424, sections 4811 to 4817, shall be transferred to the Department of Environmental Protection for the purpose of carrying out the provisions of the Maine Revised Statutes, Title 38, chapter 3, subchapter I, Article 2-B, sections 435 to 446.

Sec. 103. Transition clause. Any funds appropriated or allocated to the Department of Inland Fisheries and Wildlife and any corresponding powers and duties granted to the Department of Inland Fisheries and Wildlife for the purpose of carrying out the provisions of the Maine Revised Statutes, Title 12, sections 7776 to 7780, shall be transferred to the Department of Environmental Protection for the purposes of carrying out the provisions of the Maine Revised Statutes, Title 38, sections 425 to 430.

Sec. 104. Public Utilities Commission staff alignment. Upon completion of a review by the joint standing committee of the Legislature having jurisdiction over audit and program review, the Public Utilities Commission may proceed with a realignment

of staff positions to funding source provided that the realignment does not increase costs to either the General Fund or Public Utilities Commission Regulatory Fund.

Sec. 105. Reorganization of Atlantic Sea Run Salmon Commission. There shall be a reorganization of the Atlantic Sea Run Salmon Commission as provided for in Parts D, E and F of this Act.

It is the Legislature's intent that the reorganization be accomplished within the existing resources of the commission. The establishment of new positions shall be effective upon the termination of the old positions, provided that the occupants of the old positions shall remain on staff until the new positions are filled.

Sec. 106. Review by joint standing committee; report. The Department of Marine Resources shall not proceed with the conversion of the Jubilee without prior review of the joint standing committees having jurisdiction over marine resources and audit and program review. The Department of Marine Resources shall forward to both legislative committees and the Legislative Finance Office, 30 days prior to commencing conversion, a report on the full cost of conversion, anticipated annual operating expenditures for vessel and expected research capability upon conclusion of that conversion. The department shall provide a schedule of planned research activities for the coming year.

PART B

Sec. 1. Recodification; purpose. The joint standing committee of the Legislature having jurisdiction over utilities shall have the responsibility for the recodification of the laws governing the Public Utilities Commission. The legislation resulting from this recodification shall be presented to the First Regular Session of the 113th Legislature.

The recodification shall include and consist of a complete revision, redraft and rearrangement of all sections of the Maine Revised Statutes, Title 35, pertaining to public utilities. A statement of purpose for the Public Utilities Commission shall be developed and included in the proposed redraft. Other than the statement of purpose, the recodification shall not involve substantive changes.

Sec. 2. Meetings. The joint standing committee of the Legislature having jurisdiction over utili-

ties, with approval of the Legislative Council, shall determine how the recodification shall be undertaken, the size of the study committee should one be formed and the number of required meetings. The study shall commence 30 days upon enactment of this Part.

Sec. 3. Staffing. The Legislative Council shall assign legislative staff as appropriate to conduct this study. In addition, the Public Utilities Commission shall make commission staff available.

PART C

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

§6. Information to be furnished

Every public utility shall furnish the commission with all information necessary to carry into effect ~~chapters 1 to 17~~ this Title. In case it is unable to furnish such information, it shall give a good and sufficient reason for such failure, and the reason for such failure shall be verified by an officer, owner or agent of such public utility and returned to the commission at its office within the time fixed by the commission.

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

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

The commission shall inquire into any neglect or violation of the laws of the State by any public utility doing business therein, or by the officers, agents or employees thereof or by any person operating the plant of any public utility; and shall enforce ~~chapters 1 to 17~~ this Title and all other laws relating to public utilities and shall report all violations thereof to the Attorney General. Upon the request of the commission, the Attorney General or the district attorney of the proper county shall aid in any investigation, hearing or trial had under ~~chapters 1 to 17~~ this Title, and shall institute and prosecute all necessary actions or proceedings for the enforcement of ~~chapters 1 to 17~~ this Title and of all other laws of this State relating to public utilities and to the punishment of all violations thereof. Any forfeiture or penalty shall be recovered and suit therefor be brought in the name of the State in the Superior Court in the county where the main office of the public utility is located or in Kennebec County. Complaint for the recovery of any such forfeiture may be made by the commission or any member

thereof, and when so made the action so commenced shall be prosecuted by the Attorney General. The commission may employ counsel in any proceeding, investigation or trial.

Sec. 3. 35 MRSA §15, sub-§13, as amended by PL 1983, c. 304, §1, is further amended to read:

13. Public utility. "Public utility" includes every gas company, natural gas pipeline company, electrical company, telephone company, telegraph company, water company, public heating company, wharfinger and warehouseman, as those terms are defined in this section, and each thereof is declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission, and to ~~chapters 1 to 17~~ this Title. "Public utility" does not include the operation of a radio paging service as that term is defined in this section. Nothing in this subsection precludes the jurisdiction, control and regulation by the commission pursuant to private and special Act of the Legislature.

Sec. 4. 35 MRSA §54 is amended to read:

§54. Account of subsidiary business

Every public utility engaged directly or indirectly in any other subsidiary business shall, if ordered by the commission, keep and render separately to the commission in like manner and form, the accounts of all such business, in which case all the provisions of ~~chapters 1 to 17~~ this Title shall apply with like force and effect to the books, accounts, papers and records of such other business.

Sec. 5. 35 MRSA §55, as amended by PL 1965, c. 91, §3, is further amended to read:

The commission shall prescribe the forms of all books, accounts, papers and records required to be kept, and every public utility is required to keep and render its books, accounts, papers and records accurately and faithfully in the manner and form prescribed by the commission and to comply with all directions of the commission relating to such books, accounts, papers and records. The requirements of this section shall not apply to a public utility having no property located within this State other than such as is employed therein while in transit, but every such public utility shall appoint an agent residing in this State upon whom all notices, processes of the commission or other papers relating to ~~chapters 1 to 17~~ this Title may be served, and shall file a copy

of such appointment with the secretary of the commission.

Sec. 6. 35 MRSA §56 is amended to read:

§56. Blanks furnished

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

Sec. 7. 35 MRSA §57 is amended to read:

§57. Other systems prohibited

No public utility shall keep any other books, accounts, papers or records of its business transacted than those prescribed or approved by the commission. Nothing contained in ~~chapters 1 to 17~~ this Title shall require any public utility engaged in interstate commerce to do, or not to do, anything contrary to the requirements of any federal law relating thereto.

Sec. 8. 35 MRSA §66, as amended by PL 1981, c. 666, is further amended to read:

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

It is unlawful for any public utility to charge, demand, collect or receive a greater or less compensation, except as otherwise provided in section 103, for any service performed by it within the State or for any service in connection therewith, than is specified in such printed schedules as may at the time be in force, or to demand, collect or receive any rate, toll or charge not specified in the schedules, except that when a public utility changes its rates, tolls or charges pursuant to any provision of this Title, the commission may, for billing purposes, order that the change be applied to all service reflected in meter readings on or after the effective date of the change, or to such other period as it deems just and reasonable. The rates, tolls and charges named therein shall be the lawful rates, tolls and charges until they are changed as provided in ~~chapters 1 to 17~~ this Title. The commission may prescribe such changes in the form in which the schedules are issued by any public utility as may be found to be expedient.

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

It shall be unlawful for any person, firm or corporation knowingly to solicit, accept or receive any rebate, discount or discrimination in respect to any service rendered, or to be rendered by any public utility, or for any service in connection therewith whereby any such service shall in any manner, or by any device whatsoever, be rendered free or at a rate less than named in the schedules in force or whereby any service or advantage is received other than is specified. ~~Chapters 1 to 17~~ This Title shall not prohibit such free or reduced rates by public utilities as is defined and provided for in the Acts of Congress entitled, "An Act to Regulate Commerce" and Acts amendatory thereof, nor free or reduced transportation to the officers of leased lines or to police officers or firemen in uniform or of municipal fire apparatus, call men of fire departments wearing badges, while going to or returning from fires, chiefs, captains, sergeants, lieutenants and inspectors of police departments, in plain clothes and wearing badges; nor shall it be construed to prohibit any public utility from granting service at free or reduced rates for charitable or benevolent purposes, or for national or civilian defense purposes, nor to prohibit any public utility from supplying water and service free or at reduced or special rates to any person, firm or corporation for fire protection purposes through or by means of any apparatus or appliances furnished, installed or maintained by such person, firm or corporation, provided the same be approved by the commission; nor shall it be unlawful for any public utility to make special rates to its employees or in case of emergency service, nor shall the furnishing by any public utility of any product or service at the rates and upon terms and conditions provided for in any contract in existence January 1, 1913 be construed as constituting a discrimination or undue or unreasonable preference or advantage within the meaning specified. When any such contract or contracts are or become terminable by notice of such utility, the commission shall have power in its discretion to direct by order that such contract or contracts shall be terminated by such utility as and when directed by such order. It shall be lawful for any public utility to make a contract for a definite term subject to the approval of the commission for its product or service, but such published rates shall not be changed during the term of the contract without the consent of the commission.

Sec. 10. 35 MRSA §104, sub-§3, as amended by PL 1983, c. 604, is further amended to read:

3. Consent by commission. No public utility may extend or receive credit or make or receive a loan to

or from an affiliated interest or make any contract or arrangement for the furnishing of management, supervision of construction, engineering, accounting, legal, financial or similar services, or for the furnishing of any service other than those enumerated with any affiliated interest unless and until such contract or arrangement shall have been found by the commission not to be adverse to the public interest and shall have received its written approval.

Any such contract or arrangement filed with the commission hereunder shall be deemed approved unless the commission disapproves such within 60 days of filing. The commission may, however, suspend the effective date of the contract or arrangement for an additional 60 days if necessary to enable the commission to complete its review of the contract or arrangement.

The commission may approve a contract or arrangement undertaken subsequent to the effective date of this Act, subject to such terms and conditions as it deems necessary to safeguard the public interest. If such contracts or arrangements are not consented to or approved by the commission as provided in this section, the commission may disallow, for rate-making purposes, payments or such part of any such payments thereunder as the commission finds not to be in the public interest.

The commission shall, in the case of any utility or groups of utilities, have the power to exempt herefrom, from time to time, such classes of transactions as it may specify by rule or regulation in advance and which in its judgment will not be adverse to the public interest.

Commission approval of any such contract or arrangement under this section shall not limit or restrict the powers of the commission in determining and fixing any rate, fare, toll, charge, classification, schedule or joint rate as provided in chapters 1 to 17 this Title.

Sec. 11. 35 MRSA §105, last ¶, as enacted by PL 1983, c. 233, §1, is amended to read:

No later than December 31, 1983, every public utility shall file with the commission schedules containing its terms and conditions for requiring a deposit from nonresidential customers, which terms and conditions shall be subject to the commission's power under chapters 1 to 17 this Title. Every public utility shall comply with its terms and conditions. The commission shall adopt rules which provide a procedure for resolution by the commission or its dele-

gate of disputes as to whether a deposit being required by a public utility is in compliance with its terms and conditions. If the rules authorize a delegate to resolve disputes, the rules shall include a procedure for appeal of the decision to the commission.

Sec. 12. 35 MRSA §171, sub-§1 is amended to read:

1. Conditions precedent to issuance generally. Any public utility, now organized and existing or hereafter incorporated under and by virtue of the laws of this State and doing business in the State, may issue stocks, bonds which may be secured by mortgages on its property, franchises or otherwise, notes or other evidences of indebtedness, payable at periods of more than 12 months after the date thereof, when necessary for the acquisition of property to be used for the purpose of carrying out its corporate powers, the construction, completion, extension or improvement of its facilities, or for the improvement or maintenance of its service, or for the discharge or lawful refunding of its obligations, including capital stock, or to reimburse its treasury for moneys used for the acquisition of property, the construction, completion, extension or improvement of its facilities, for the discharge or lawful refunding of its obligations, and which actually were expended from income or from other moneys in the treasury of the corporation not secured by or obtained from the issue of stocks, bonds, notes or other evidences of indebtedness of such corporation, or for any other lawful purposes, provided and not otherwise, that upon written application, setting forth such information as the commission may require, there shall have been secured from the commission an order authorizing such issue and the amount thereof and stating that in the opinion of the commission the sum of the capital to be secured by the issue of said stocks, bonds, notes or other evidences of indebtedness is required in good faith for purposes enumerated in this section. Every such order authorizing the issue of stock shall, if authorized to be sold at less than its par value, specify a minimum price at which the shares so authorized are to be sold, and any and all shares of stock, issued in accordance with such an order, shall be fully paid stock and not liable to any further call or payment thereon, notwithstanding it may have been authorized for sale at less than its par value; but ~~chapters 1 to 17~~ this Title shall not apply to any stocks or bonds or other evidences of indebtedness heretofore lawfully authorized and issued. The commission may at the request of any public utility approve the issue of any stocks or bonds

heretofore authorized but not issued. For the purpose of enabling the commission to determine whether it shall issue such an order, the commission shall make such inquiries for investigation, hold such hearings and examine such witnesses, books, papers, documents or contracts as it may deem of importance in enabling it to reach a determination. No order of the commission authorizing the issue of any stocks, bonds, notes or other evidences of indebtedness shall limit or restrict the powers of the commission in determining and fixing any rate, fare, toll, charge, classification, schedule or joint rate as provided in chapters 1 to 17 this Title. No public utility shall be required to apply to the commission for authority to issue stocks, bonds, notes or other evidences of indebtedness for the acquisition of property, for the purposes of carrying out its corporate powers, the construction, completion, extension or improvement of its facilities, or the improvement or maintenance of its service outside the State, and this proviso shall apply to section 172.

Sec. 13. 35 MRSA §171, sub-§3, as amended by PL 1983, c. 163, is further amended to read:

3. Municipal or quasi-municipal corporations. Without in any way restricting the general language hereof, this section shall be construed to authorize any municipal or quasi-municipal corporation referred to in chapters 1 to 17 this Title to issue, upon vote of its trustees or similar governing board, bonds, notes or other evidences of indebtedness for the purposes specified and subject to the approval of the commission. The trustees or similar governing boards of any such corporations may issue notes or other evidences of indebtedness payable at periods of less than 12 months after the date thereof when necessary to carry out the purposes of the corporations. Notwithstanding the provisions of any legislative charter, the trustees or similar governing board of any such corporations may issue the notes or other evidences of indebtedness payable at periods of less than 12 months after the date thereof, without securing authorization from the commission pursuant to subsection 1.

Sec. 14. 35 MRSA §294, first ¶ is amended to read:

If upon such formal public hearing the rates, tolls, charges, schedules or joint rates shall be found to be unjust, unreasonable, insufficient or unjustly discriminatory or otherwise in violation of chapters 1 to 17 this Title, the commission shall have power to fix and order substituted therefor such

rate or rates, tolls, charges or schedules as shall be just or reasonable. If upon such public hearing it shall be found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, insufficient or unjustly discriminatory or otherwise in violation of any of the provisions of chapters 1 to 17 this Title or if it is found that any service is inadequate or that any reasonable service cannot be obtained, the commission shall have power to establish and substitute therefor such other regulations, measurements, practice, service or acts, and to make such order respecting and such changes in such regulations, measurements, practice, service and acts as shall be just and reasonable.

Sec. 15. 35 MRSA §299, first ¶, as amended by PL 1975, c. 392, §1, is further amended to read:

Each of the commissioners, for the purposes mentioned in chapters 1 to 17 this Title, may hold hearings and conduct investigations, administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, documents and testimony, punish by fine and imprisonment for contempt and issue all processes necessary to the performance of the duties of the commission. Said commission shall have power to appoint, to serve during its pleasure, examiners, who, being first duly sworn, shall have authority to administer oaths, examine witnesses, issue subpoenas, require the production of books, accounts, papers, documents and testimony, and receive evidence in any matter under the jurisdiction of the commission, and shall perform such other duties as may be assigned to them. Evidence so taken and received shall have the same force and effect as though taken and received by said commission and shall authorize action by said commission as though by it taken and received. When objection is made to admissibility of evidence, examiners authorized to practice before the Supreme Judicial Court shall rule on the admissibility of evidence in accordance with the practice and rules of evidence in civil actions in the Superior Court. The commission shall fix the salary of said examiners. Either the examiner or the commissioner, who is the presiding officer at said hearing, shall at the outset of said hearing inform the public as to the steps necessary to preserve their right to appeal the final order or decision of the commission to the Supreme Judicial Court under the provisions of sections 303 and 305.

Sec. 16. 35 MRSA §307 is amended to read:

§307. Burden of proof

In all trials, actions and proceedings arising under chapters 1 to 17 this Title or growing out of the exercise of the authority and powers granted to the commission, the burden of proof shall be upon the party adverse to the commission or seeking to set aside any determination, requirement, direction or order of said commission complained of as unreasonable, unjust or unlawful as the case may be. In all original proceedings before said commission where an increase in rates, tolls, charges or schedules, or joint rate or rates is complained of, the burden of proof shall be upon the public utility to show that such increase is just and reasonable.

Sec. 17. 35 MRSA §308 is amended to read:

§308. Practice and rules of evidence; process service

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

Sec. 18. 35 MRSA §313, as amended by PL 1979, c. 361, is further amended to read:

§313. Implied powers

The provisions of chapters 1 to 17 this Title shall be interpreted and construed liberally in order to accomplish the purposes therein. The commission shall have all implied and inherent powers pursuant to chapters 1 to 17 this Title which are necessary and proper to faithfully execute its express powers and functions specified in chapters 1 to 17 this Title, including the power to order reparation or adjustment when it finds that an amount charged to or collected from a customer was not in accordance with the filed rate applicable to him or was based upon error. The customer shall attempt to settle any dispute concerning the alleged overcharge or billing error at an informal hearing with the utility company prior to filing a complaint with the commission. If the customer is dissatisfied with the utility company decision, the customer may appeal the decision to the commission. The commission shall not order a rebate for a billing error or excessive charge that ante-

dates the order by more than 6 years. A substantial compliance with the requirements of ~~chapters 1 to 17~~ this Title shall be sufficient to give effect to all the rules, orders, acts and regulations of the commission, and they shall not be declared inoperative, illegal or void for any omission of a technical and immaterial nature in respect thereto. Each section of ~~chapters 1 to 17~~ this Title, and every part of each section, are hereby declared to be independent sections and the holding of any section or sections or part or parts thereof to be void, ineffective or unconstitutional for any cause shall not be deemed to affect any other section or part thereof.

Sec. 19. 35 MRSA §314, 2nd ¶, as enacted by PL 1983, c. 233, §2, is amended to read:

No later than December 31, 1983, every public utility shall file with the commission schedules containing its terms and conditions applicable to termination of utility services to any nonresidential customer, which terms and conditions shall be subject to the commission's power under ~~chapters 1 to 17~~ this Title. Every public utility shall comply with its terms and conditions. The commission shall adopt rules which provide a procedure for resolution by the commission or its delegate of disputes as to whether a proposed termination by a public utility is in compliance with its terms and conditions. A public utility may not terminate service to a nonresidential customer if the commission or its delegate rules within 7 days of receipt of the request for ruling that the proposed termination is not in compliance with the utility's terms and conditions. If the rules authorize a delegate to resolve disputes, the rule shall include a procedure for appeal of the decision to the commission.

Sec. 20. 35 MRSA §351 is amended to read:

§351. Utility liable for civil damages

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

Sec. 21. 35 MRSA §352 is amended to read:

§352. Contempt

Every public utility, corporation or person failing to observe, obey or comply with any order, decision, rule, regulation, direction, demand or requirement, or any part or portion thereof, of the commission or of any commissioner shall be in contempt of the commission and shall be punished by the commission for contempt in the same manner and to the same extent as contempt is punished by courts of record. The remedy prescribed in this section shall not be a bar to or affect any other remedy prescribed in ~~chapters 1 to 17~~ this Title, but shall be cumulative and in addition to such other remedy or remedies.

Sec. 22. 35 MRSA §353 is amended to read:

§353. Refusal to obey or comply

Any officer, agent or employee of any public utility who shall willfully fail or refuse to fill out and return any blanks required by ~~chapters 1 to 17~~ this Title, or shall willfully fail or refuse to answer any question therein propounded, or shall knowingly or willfully give a false answer to any such question, or shall willfully evade the answer to any question where the fact inquired of is within his knowledge, or who shall, upon proper demand, willfully fail or refuse to exhibit to the commission or to any commissioner or to any person authorized to examine the same, any book, paper, account, record or memorandum of such public utility which is in his possession or under his control, or who shall willfully fail properly to use and keep his system of accounting or any part thereof as prescribed by the commission or who shall willfully refuse to do any act or thing in connection with such system of accounting when and as directed by the commission, shall upon conviction thereof be punished by a fine of not more than \$1,000 for each offense. A penalty of not more than \$1,000 shall be recovered from the public utility for each such offense when such officer, agent or employee acted in obedience to the direction, instruction or request of such public utility or any owner or general officer thereof.

Sec. 23. 35 MRSA §354 is amended to read:

§354. Each day, distinct offense

Every day, during which any public utility or any officer, agent or employee thereof shall willfully fail to observe or comply with any order of the commission or to perform any order of the commission or to perform any duty enjoined by ~~chapters 1 to 17~~ this

Title, shall constitute a separate and distinct offense.

Sec. 24. 35 MRSa §355 is amended to read:

§355. Illegal issue of stocks, bonds or notes; misappropriation of proceeds

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

Sec. 25. 35 MRSa §356 is amended to read:

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

Any officer, owner or agent of any public utility who shall knowingly or willfully make any false statement to secure the issue of any stock, bond or other evidence of indebtedness, or who shall, by false statement knowingly or willfully made, procure of the commission the making of the order or issue with knowledge of such fraud, negotiate or cause to be negotiated any such stock, bond, note or other evidence of indebtedness in violation of ~~chapters 1 to 17~~ this Title shall, upon conviction thereof, be punished by a fine of not less than \$500 or by imprisonment for not less than one year nor more than 10 years, or by both.

Sec. 26. 35 MRSa §357, as amended by PL 1969, c. 40, §1, is further amended to read:

§357. Punishment where no penalty

If any public utility shall willfully violate any provision of ~~chapters 1 to 17~~ this Title or shall do any act therein prohibited or shall fail or refuse to perform any duty enjoined upon it for which a penalty has not been provided or shall fail or refuse to obey any lawful requirement or order made by the commission, for any such violation, failure or refusal such public utility shall forfeit and pay into the State Treasury not more than \$1,000 for each offense, to be recovered in a civil action in the name of the State. In construing and enforcing this section, the act, omission or failure of any officer, agent or other person acting for or employed by any public utility

acting within the scope of his employment shall in every case be deemed to be the act, omission or failure of such public utility.

Sec. 27. 35 MRSA §359, first ¶, as enacted by PL 1969, c. 40, §2, is amended to read:

Any gas company or any natural gas pipeline company that violates any provision of ~~chapters 1 to 17 or chapter 181~~ this Title, relating to safety of pipeline facilities or transportation of gas or of any regulation issued thereunder, shall be subject to a civil penalty of not to exceed \$1,000 for each violation for each day that the violation persists. However, the maximum civil penalty shall not exceed \$200,000 for any related series of violations.

Sec. 28. 35 MRSA §2540 is amended to read:

§2540. Application of provisions

Any corporation as described in section 2532 shall be subject to all the provisions of ~~chapters 1 to 17~~ this Title so far as applicable, and to such orders, rules and regulations as shall be adopted and promulgated by the commission under the authority of said chapters.

Sec. 29. 35 MRSA §2809, as repealed and replaced by PL 1967, c. 382, §5, is amended to read:

§2809. Cooperatives are public utilities; jurisdiction of Public Utilities Commission

Cooperatives shall be public utilities and subject to ~~chapters 1 to 17~~ this Title, notwithstanding any public or private and special laws to the contrary. Any person who has been refused membership in or service by a cooperative or who is receiving inadequate service may complain to the Public Utilities Commission which may, after hearing, upon finding that such service may reasonably be rendered, order such person to be served with reasonably adequate service. If said commission, after hearing, shall determine that any requirement of membership in a cooperative is unreasonable or unjust, it shall order such requirement repealed or not to be enforced.

Sec. 30. 35 MRSA §3322, 3rd ¶, as enacted by PL 1975, c. 541, is amended to read:

The Public Utilities Commission may enforce the provisions of section 3321 and this section or any of the rules and regulations promulgated thereunder in

the same manner and with the same effect as it is permitted to enforce ~~chapters 1 to 17~~ this Title.

PART D

Adjustment to General Fund. In order to provide for necessary adjustments to the General Fund to implement the recommendations of the Joint Standing Committee on Audit and Program Review, appropriations are adjusted by the amounts designated in the following tabulations.

	<u>1985-86</u>	<u>1986-87</u>
<u>INLAND FISHERIES AND</u>		
<u>WILDLIFE, DEPARTMENT OF</u>		
Atlantic Sea Run Salm-		
on Commission		
Positions - Legisla-	(-2)	(-2)
tive Count		
Personal Services	(\$48,700)	(\$50,000)
Deappropriation pro-		
vides funding for		
commission reorgani-		
zation by eliminating		
a Biologist I, Biolo-		
gy Aide and 2 Laborer		
II seasonal positions		
which are reestab-		
lished as a Biologist		
II, Biologist I and a		
9-month Conservation		
Aide position.		
Atlantic Sea Run Salm-		
on Commission		
Positions - Legisla-	(2)	(2)
tive Count		
Personal Services	\$ 43,900	\$ 47,325
Appropriation pro-		
vides for commission		
reorganization by es-		
tablishing a Biolo-		
gist II and Biologist		
I.		
DEPARTMENT OF INLAND		
FISHERIES AND WILDLIFE		
TOTAL	(\$4,800)	(\$2,675)
<u>LEGISLATURE</u>		
Unallocated	\$ 1,500	\$ 2,000

	<u>1985-86</u>	<u>1986-87</u>
Provides a General Fund appropriation for the recodification of the Public Utilities Commission's statutes.		
TOTAL PART D	<u>(\$ 3,300)</u>	<u>(\$ 675)</u>

PART E

Adjustments to federal funds. In order to provide for necessary adjustments of federal funds to implement the recommendations of the Joint Standing Committee on Audit and Program Review, allocations are adjusted by the amounts designated in the following tabulations.

	<u>1985-86</u>	<u>1986-87</u>
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ENVIRONMENTAL PROTECTION,
DEPARTMENT OF

Land Quality Control Positions	(1)	(1)
Personal Services	\$24,607	\$24,607
Provides for the transfer of Coastal Zone Management funds for one position from the State Planning Office to the Department of Environmental Protection to correspond with the transfer of administration of the Mandatory Zoning and Subdivision Control Law.		

EXECUTIVE, DEPARTMENT OF

Planning Office		
All Other	(\$24,607)	(\$24,607)
Provides for the transfer of Coastal Zone Management funds for one position from the State Planning Office to the Department of Environmental Protection to corre-		

spond with the transfer of administration for the Mandatory Zoning and Subdivision Control Law.

INLAND FISHERIES AND
WILDLIFE, DEPARTMENT OF

Atlantic Sea Run Salmon Commission
Federal Expenditure Fund

	<u>1985-86</u>	<u>1986-87</u>
Legislative Position Count	(1)	(1)
Personal Services	\$15,185	\$16,120
All Other	4,950	5,515

Provides allocation for new Technician I position to draw down on anticipated federal fund increase. Position is fully reimbursable from National Marine Fisheries grant money.

DEPARTMENT OF INLAND
FISHERIES AND WILDLIFE
TOTAL

	\$20,135	\$21,635
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TOTAL PART E

	\$20,135	\$21,635
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PART F

Adjustments to special revenue. In order to provide for necessary adjustments to other special revenue to implement the recommendations of the Joint Standing on Audit and Program Review, allocations are adjusted by the amounts designated in the following tabulation.

BUSINESS, OCCUPATIONAL
AND PROFESSIONAL REGULATION,
DEPARTMENT OF

State Board of Examiners of Psychologists

	<u>1985-86</u>	<u>1986-87</u>
Personal Services	\$ 4,000	\$ 4,000
All Other	4,000	4,000

	<u>1985-86</u>	<u>1986-87</u>
Provides funds to cover increased costs resulting from the implementation of the recommendations of the Joint Standing Committee on Audit and Program Review to include an increase in board membership from 6 members to 9. Increased allocations are to be offset by increased revenues resulting from a change in license fees.		
DEPARTMENT OF BUSINESS, OCCUPATIONAL AND PROFESSIONAL REGULATION TOTAL	\$ 8,000	\$ 8,000
<u>INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF</u>		
Atlantic Sea Run Salmon Commission		
All Other	(\$22,500)	(\$22,500)
Atlantic Sea Run Salmon Commission		
Positions	(1)	(1)
Personal Services	\$16,420	\$17,000
All Other	16,080	16,000
Deallocations and reallocations provide for the establishment of a Conservation Aide position to replace the 2 Laborer II seasonal positions deappropriated in Part D.		
DEPARTMENT OF INLAND FISHERIES AND WILDLIFE TOTAL	\$32,500	\$33,000
TOTAL PART F	\$18,000	\$18,500

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect July 1, 1985.

Effective July 1, 1985.

CHAPTER 482

S.P. 489 - L.D. 1316

AN ACT to Encourage a Viable Agriculture for Maine.

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

Sec. 1. 5 MRSA §12004, sub-§10, ¶A, sub-¶(1-A) is enacted to read:

<u>(1-A) Agriculture</u>	<u>Maine</u>	<u>Expenses</u>	<u>7 MRSA §313</u>
	<u>Agricultural</u>	<u>Only</u>	
	<u>Viability</u>		
	<u>Advisory</u>		
	<u>Committee</u>		

Sec. 2. 7 MRSA Pt. 1-A is enacted to read:

PART 1-A

AGRICULTURAL AND RURAL RESOURCES DEVELOPMENT

CHAPTER 51

THE MAINE AGRICULTURAL VIABILITY ACT OF 1985

§311. Short title

This chapter shall be known as the "Maine Agricultural Viability Act of 1985."

§312. Legislative findings

The Legislature finds that:

1. Importance of agriculture. Agriculture is important to the overall economy of the State and that regional variations in the State's agricultural economy exist because of differences in climate, soil, availability and cost of productive land, access to service, supply and market infrastructure, size of local markets and distances to other markets. These regional variations result in different production and marketing opportunities and constraints;