LAWS RELATING

TO

PROPERTY TAXATION

Volume 2

Excerpts from Maine Revised Statutes, Titles 1, 4, 5, 7, 10, 11, 12, 13, 14, 17, 20-A, 22, 23, 24, 29-A, 30-A, 33, 35-A, 37-B, and 38

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FOREWORD

This volume contains certain laws relating to property taxation that affect municipal assessors, municipal officials, and the work of the Property Tax Division of Maine Revenue Services.

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CHAPTER 1
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§16. Property not to be taxed

Lands with the tenements and appurtenances acquired for the purposes mentioned in section 15 shall be and continue exempt from all state, county and municipal taxation, assessment or other charges which may be levied or imposed under the authority of this State, so far as the taxation of such property is prohibited under the Constitution and laws of the United States, so long as the said lands shall remain the property of the United States, and no longer.

CHAPTER 3
RULES OF CONSTRUCTION

§71. Laws

The following rules shall be observed in the construction of statutes, unless such construction is inconsistent with the plain meaning of the enactment.

1. Acts by agents. When an act that may be lawfully done by an agent is done by one authorized to do it, his principal may be regarded as having done it.

2. And; or. The words "and" and "or" are convertible as the sense of a statute may require.

3. Authority to 3 or more. Words in any statute, charter or ordinance giving authority to 3 or more persons authorize a majority to act when the statute, charter or ordinance does not otherwise specify. Notwithstanding any law to the contrary, a vacancy on an elected or appointed body does not in itself impair the authority of the remaining members to act unless a statute, charter or ordinance expressly prohibits the body from acting during the period of any vacancy and does not in itself affect the validity of any action no matter when taken.

4. Corporations. Acts of incorporation shall be regarded in legal proceedings as public Acts. All special Acts of incorporation become null and void in 2 years from the day when the same take effect, unless such corporations shall have organized and commenced actual business under their charters.

5. Dates. Wherever in the Revised Statutes or any legislative Act a reference is made to several dates and the dates given in the reference are connected by the word "to", the reference includes both the dates which are given and all intervening dates.

6. Disqualification. When a person is required to be disinterested or indifferent in a matter in which others are interested, a relationship by consanguinity or affinity within the 6th degree according to the civil law, or within the degree of 2nd cousins inclusive, except by written consent of the parties, will disqualify.

7. Gender. (Repealed)

7-A. Gender. In the construction of statutes, gender-neutral construction shall be applied as provided in this subsection.

A. Whenever reasonable, as determined by the Revisor of Statutes, nouns rather than pronouns shall be used to refer to persons in order to avoid gender identification.

B. In preparing any legislation which amends a section or larger division of statutes, the Revisor of Statutes shall be authorized to change any masculine or feminine gender word to a gender-neutral word when it is clear that the statute is not exclusively applicable to members of one sex. The Revisor of Statutes shall not otherwise alter the sense, meaning or effect of any statute.

C. The rule of construction concerning gender on the effective date of an Act or resolve shall apply to that Act or resolve.

8. Severability. The provisions of the statutes are severable. The provisions of any session law are severable. If any provision of the statutes or of a session law is invalid, or if the application of either to any person or circumstance is invalid, such invalidity does not affect other provisions or applications which can be given effect without the invalid provision or application. The repeal of a severability clause located in and applicable to any title or a division of a title, chapter, section or Act, must be construed as the removal of surplus language unless the law indicates otherwise.

9. Singular and plural. Words of the singular number may include the plural; and words of the plural number may include the singular.

9-A. Shall; must; may. "Shall" and "must" are terms of equal weight that indicate a mandatory duty, action or requirement. "May" indicates authorization or permission to act. This subsection applies to laws enacted or language changed by amendment after December 1, 1989.

10. Statute Titles. Abstracts of Titles, chapters and sections, and notes are not legal provisions.

11. Statutory references. Wherever in the Revised Statutes the word "Title" or "chapter" or "subchapter" appears without definite reference, it refers to the Title or chapter or subchapter in which the word "Title" or "chapter" or "subchapter" appears; if the chapter or subchapter is given a number without reference to a numbered Title, it refers to the chapter or subchapter of the Title in which the numbered chapter or subchapter appears. Wherever in the Revised Statutes a numbered section appears without reference to a numbered Title, it refers to the section of the Title in which the numbered section appears.

Wherever in the Revised Statutes or any legislative Act a reference is made to several sections, subsections, paragraphs, subparagraphs, divisions, subdivisions or sentences, the section, subsection, paragraph, subparagraph, division, subdivision or sentence numbers given in the reference are connected by the word "to," the reference includes both the sections, subsections, paragraphs, subparagraphs, divisions, subdivisions or sentences whose numbers are given and all intervening sections, subsections, paragraphs, subparagraphs, divisions, subdivisions and sentences.

Wherever in the Revised Statutes the designation of a division of the statutes larger than a section is numbered with the use of a Roman numeral, it may be known and cited by its Arabic equivalent.

12. Statutory time periods. The statutory time period for the performance or occurrence of any act, event or default that is a prerequisite to or is otherwise involved in or related to the commencement, prosecution or defense of any civil or criminal action or other judicial proceeding or any action or proceeding of the Public Utilities Commission is governed by and computed under Rule 6(a) of the Maine Rules of Civil Procedure as amended from time to time, when the nature of such action or proceeding is civil, and under Rule 45(a) of the Maine Rules of Unified Criminal Procedure, as amended from time to time, when the nature of such action or proceeding is criminal.

13. Reporting dates. If legislation or another legislative instrument requires a report to be filed by a date certain, and the date certain falls on a Saturday, Sunday or legal holiday, the report is due by close of business on the next day that is not a Saturday, Sunday or legal holiday.

§72. Words and phrases

The following rules shall be observed in the construction of statutes relating to words and phrases, unless such construction is inconsistent with the plain meaning of the enactment, the context otherwise requires or definitions otherwise provide.

1. Adult. "Adult" means a person who has attained the age of 18 years.

1-A. Affirmations. When a person required to be sworn is conscientiously scrupulous of taking an oath, he may affirm.

2. Annual meeting. "Annual meeting," applied to towns, means the annual meeting required by law for choice of town officers.

2-A. Child or children. "Child or children" means a person who has not attained the age of 18 years.

2-B. Full age. "Full age" means the age of 18 and over.

3. General rule. Words and phrases shall be construed according to the common meaning of the language. Technical words and phrases and such as have a peculiar meaning convey such technical or peculiar meaning.

4. Grantee. "Grantee" means the person to whom a freehold estate or interest in land is conveyed.

5. Grantor. "Grantor" means the person who conveys a freehold estate or interest in land.

6. Highway. "Highway" may include a county bridge, county road or county way.

6-A. Infant. "Infant" means a person who has not attained the age of 18 years.

7. Inhabitant. "Inhabitant" means a person having an established residence in a place.

8. Insane person. (Repealed)

9. Issue. "Issue," applied to the descent of estates, includes all lawful lineal descendants of the ancestor.

10. Land or lands. "Land" or "lands" includes lands and all tenements and hereditaments connected therewith, and all rights thereto and interests therein.

10-A. Lawful age. "Lawful age" means the age of 18 and over.

10-B. Legal age. "Legal age" means the age of 18 and over.

11. Majority. "Majority" when used in reference to age shall mean the age of 18 and over.

11-A. Minor or minors. "Minor or minors" means any person who has not attained the age of 18 years.

11-B. Minority. "Minority" when used in reference to age shall mean under the age of 18.

11-C. Month. "Month" means a calendar month.

12. Municipal officers. "Municipal officers" means the mayor and aldermen or councillors of a city, the selectmen or councillors of a town and the assessors of a plantation.

13. Municipality. "Municipality" includes cities, towns and plantations, except that "municipality" does not include plantations in Title 10, chapter 110, subchapter IV; or Title 30-A, Part 2.

14. Oath. "Oath" includes an affirmation, when affirmation is allowed.

15. Person. "Person" may include a body corporate.

16. Pledge; mortgage, etc. The terms "pledge," "mortgage," "conditional sale," "lien," "assignment" and like terms, when used in referring to a security interest in personal property shall include a corresponding security interest under Title 11, the Uniform Commercial Code.

17. Real estate. "Real estate" includes lands and all tenements and hereditaments connected therewith, and all rights thereto and interests therein.

17-A. Registered apprenticeship. "Registered apprenticeship" means an apprenticeship program registered with the Maine Apprenticeship Program in accordance with Title 26, chapter 37.

18. Registered mail. The words "registered mail" when used in connection with any requirement for notice by mail shall mean either registered mail or certified mail.

19. Seal, corporate. Whenever a corporate seal is used or required on any instrument, an impression made on the paper of such instrument by the seal of the corporation, without any adhesive substance, shall be deemed a valid seal. A seal of a corporation upon a certificate of stock,

corporate bond or other corporate obligation for the payment of money may be facsimile, engraved or printed.

20. Seal, court. When the seal of a court, magistrate or public officer is to be affixed to a paper, the word "seal" may mean an impression made on the paper for that purpose with or without wafer or wax.

21. State. "State," used with reference to any organized portion of the United States, may mean a territory or the District of Columbia.

22. State paper. "State paper" means the newspaper designated by the Legislature, in which advertisements and notices are required to be published.

23. Sworn. "Sworn," "duly sworn" or "sworn according to law," used in a statute, record or certificate of administration of an oath, refers to the oath required by the Constitution or laws in the case specified, and includes every necessary subscription to such oath.

24. Timber and grass. "Timber and grass," when used in reference to the public reserved lots, so called, in unorganized territory in the State, means all growth of every description on said lots.

25. Town. "Town" includes cities and plantations, unless otherwise expressed or implied.

26. Under age. "Under age" means under the age of 18.

26-A. United States. "United States" includes territories and the District of Columbia.

26-B. Unsealed instruments, when given effect of sealed instruments in any written instrument. A recital that such instrument is sealed by or bears the seal of the person signing the same or is given under the hand and seal of the person signing the same, or that such instrument is intended to take effect as a sealed instrument, shall be sufficient to give such instrument the legal effect of a sealed instrument without the addition of any seal of wax, paper or other substance or any semblance of a seal by scroll, impression or otherwise; but the foregoing shall not apply in any case where the seal of a court, public office or public officer is expressly required by the Constitution, by statute or by rule of the court to be affixed to a paper, nor shall it apply in the case of certificates of stock of corporations. The word "person" as used in this subsection shall include a corporation, association, trust or partnership.

27. Vacant and vacancy. "Vacant" and "vacancy" as applied to public office shall comprise and include all cases where the person elected or appointed to such office resigns therefrom or dies while holding the same or, being elected or appointed, is ineligible, dies or becomes incapacitated before qualifying as required by law.

28. Written and in writing. "Written" and "in writing" include printing and other modes of making legible words. When the signature of a person is required, he must write it or make his mark, but the signatures upon all commissions or the signatures on interest coupons annexed to a corporate bond or other corporate obligation may be facsimiles, engraved or printed. The signatures of any officer or officers of a corporation upon a corporate bond or other corporate obligation, other than interest coupons, may be facsimiles, engraved or printed, on condition that such bond or obligation is signed or certified by a trustee, registrar or transfer agent. In case any officer who has

signed or whose facsimile signature has been placed upon such corporate bond, other corporate obligation or interest coupon shall have ceased to be such officer before such corporate bond or other corporate obligation is issued, it may be issued by the corporation with the same effect as if he were such officer at the date of its issue.

29. Will. "Will" includes a codicil.

30. Year. "Year" means a calendar year, unless otherwise expressed. "Year," used for a date, means year of our Lord.

CHAPTER 13
PUBLIC RECORDS AND PROCEEDINGS

§400. Short title

This subchapter may be known and cited as "the Freedom of Access Act."

§401. Declaration of public policy; rules of construction

The Legislature finds and declares that public proceedings exist to aid in the conduct of the people's business. It is the intent of the Legislature that their actions be taken openly and that the records of their actions be open to public inspection and their deliberations be conducted openly. It is further the intent of the Legislature that clandestine meetings, conferences or meetings held on private property without proper notice and ample opportunity for attendance by the public not be used to defeat the purposes of this subchapter.

This subchapter does not prohibit communications outside of public proceedings between members of a public body unless those communications are used to defeat the purposes of this subchapter.

This subchapter shall be liberally construed and applied to promote its underlying purposes and policies as contained in the declaration of legislative intent.

§402. Definitions

1. Conditional approval. Approval of an application or granting of a license, certificate or any other type of permit upon conditions not otherwise specifically required by the statute, ordinance or regulation pursuant to which the approval or granting is issued.

1-A. Legislative subcommittee. "Legislative subcommittee" means 3 or more Legislators from a legislative committee appointed for the purpose of conducting legislative business on behalf of the committee.

2. Public proceedings. The term "public proceedings" as used in this subchapter means the transactions of any functions affecting any or all citizens of the State by any of the following:

A. The Legislature of Maine and its committees and subcommittees;

B. Any board or commission of any state agency or authority, the Board of Trustees of the University of Maine System and any of its committees and subcommittees, the Board of Trustees of the Maine Maritime Academy and any of its committees and subcommittees, the Board of Trustees of the Maine Community College System and any of its committees and subcommittees;

C. Any board, commission, agency or authority of any county, municipality, school district or any regional or other political or administrative subdivision;

D. The full membership meetings of any association, the membership of which is composed exclusively of counties, municipalities, school administrative units or other political or administrative subdivisions; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities;

E. The board of directors of a nonprofit, nonstock private corporation that provides statewide noncommercial public broadcasting services and any of its committees and subcommittees;

F. Any advisory organization, including any authority, board, commission, committee, council, task force or similar organization of an advisory nature, established, authorized or organized by law or resolve or by Executive Order issued by the Governor and not otherwise covered by this subsection, unless the law, resolve or Executive Order establishing, authorizing or organizing the advisory organization specifically exempts the organization from the application of this subchapter; and

G. The committee meetings, subcommittee meetings and full membership meetings of any association that:

(1) Promotes, organizes or regulates statewide interscholastic activities in public schools or in both public and private schools; and

(2) Receives its funding from the public and private school members, either through membership dues or fees collected from those schools based on the number of participants of those schools in interscholastic activities.

This paragraph applies to only those meetings pertaining to interscholastic sports and does not apply to any meeting or any portion of any meeting the subject of which is limited to personnel issues, allegations of interscholastic athletic rule violations by member schools, administrators, coaches or student athletes or the eligibility of an individual student athlete or coach.

3. Public records. The term "public records" means any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business, except:

A. Records that have been designated confidential by statute;

B. Records that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding;

C. Legislative papers and reports until signed and publicly distributed in accordance with legislative rules, and records, working papers, drafts and interoffice and intraoffice memoranda used or maintained by any Legislator, legislative agency or legislative employee to prepare proposed Senate or House papers or reports for consideration by the Legislature or any of its committees during the legislative session or sessions in which the papers or reports are prepared or considered or to which the paper or report is carried over;

C-1. Information contained in a communication between a constituent and an elected official if the information:

(1) Is of a personal nature, consisting of:

(a) An individual's medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(b) Credit or financial information;

(c) Information pertaining to the personal history, general character or conduct of the constituent or any member of the constituent's immediate family;

(d) Complaints, charges of misconduct, replies to complaints or charges of misconduct or memoranda or other materials pertaining to disciplinary action; or

(e) An individual's social security number; or

(2) Would be confidential if it were in the possession of another public agency or official;

D. Material prepared for and used specifically and exclusively in preparation for negotiations, including the development of bargaining proposals to be made and the analysis of proposals received, by a public employer in collective bargaining with its employees and their designated representatives;

E. Records, working papers, interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System. The provisions of this paragraph do not apply to the boards of trustees and the committees and subcommittees of those boards, which are referred to in subsection 2, paragraph B;

F. Records that would be confidential if they were in the possession or custody of an agency or public official of the State or any of its political or administrative subdivisions are confidential if those records are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities;

G. Materials related to the development of positions on legislation or materials that are related to insurance or insurance-like protection or services which are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities;

H. Medical records and reports of municipal ambulance and rescue units and other emergency medical service units, except that such records and reports must be available upon request to law enforcement officers investigating criminal conduct;

I. Juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter;

J. Working papers, including records, drafts and interoffice and intraoffice memoranda, used or maintained by any advisory organization covered by subsection 2, paragraph F, or any member or staff of that organization during the existence of the advisory organization. Working papers are public records if distributed by a member or in a public meeting of the advisory organization;

K. Personally identifying information concerning minors that is obtained or maintained by a municipality in providing recreational or nonmandatory educational programs or services, if the municipality has enacted an ordinance that specifies the circumstances in which the information will be withheld from disclosure. This paragraph does not apply to records governed by Title 20-A, section 6001 and does not supersede Title 20-A, section 6001-A;

L. Records describing security plans, security procedures or risk assessments prepared specifically for the purpose of preventing or preparing for acts of terrorism, but only to the extent that release of information contained in the record could reasonably be expected to jeopardize the physical safety of government personnel or the public. Information contained in records covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure. For purposes of this paragraph, "terrorism" means conduct that is designed to cause serious bodily injury or substantial risk of bodily injury to multiple persons, substantial damage to multiple structures whether occupied or unoccupied or substantial physical damage sufficient to disrupt the normal functioning of a critical infrastructure;

M. Records or information describing the architecture, design, access authentication, encryption or security of information technology infrastructure, systems and software. Records or information covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure;

N. Social security numbers;

O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For the purposes of this paragraph:

(1) "Personal contact information" means home address, home telephone number, home facsimile number, home e-mail address and personal cellular telephone number and personal pager number; and

(2) "Public employee" means an employee as defined in Title 14, section 8102, subsection 1, except that "public employee" does not include elected officials;

P. Geographic information regarding recreational trails that are located on private land that are authorized voluntarily as such by the landowner with no public deed or guaranteed right of public access, unless the landowner authorizes the release of the information;

Revisor's Note: (Paragraph P as enacted by PL 2009, c. 339, §3 is REALLOCATED TO TITLE 1, SECTION 402, SUBSECTION 3, PARAGRAPH Q)

Q. Security plans, staffing plans, security procedures, architectural drawings or risk assessments prepared for emergency events that are prepared for or by or kept in the custody of the Department of Corrections or a county jail if there is a reasonable possibility that public release or inspection of the records would endanger the life or physical safety of any individual or disclose security plans and procedures not generally known by the general public. Information contained in records covered by this paragraph may be disclosed to state and county officials if necessary to carry out the duties of the officials or the Department of Corrections under conditions that protect the information from further disclosure; [

R. (Repealed)

S. E-mail addresses obtained by a political subdivision of the State for the sole purpose of disseminating noninteractive notifications, updates and cancellations that are issued from the political subdivision or its elected officers to an individual or individuals that request or regularly accept these noninteractive communications;

T. Records describing research for the development of processing techniques for fisheries, aquaculture and seafood processing or the design and operation of a depuration plant in the possession of the Department of Marine Resources;

U. Records provided by a railroad company describing hazardous materials transported by the railroad company in this State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those routes that are in the possession of a state or local emergency management entity or law enforcement agency, a fire department or other first responder. For the purposes of this paragraph, "hazardous material" has the same meaning as set forth in 49 Code of Federal Regulations, Section 105.5; and

V. Participant application materials and other personal information obtained or maintained by a municipality or other public entity in administering a community well-being check program, except that a participant's personal information, including health information, may be made available to first responders only as necessary to implement the program. For the purposes of this paragraph, "community well-being check program" means a voluntary program that involves daily, or regular, contact with a participant and, when contact cannot be established, sends first responders to the participant's residence to check on the participant's well-being.

3-A. Public records further defined. "Public records" also includes the following criminal justice agency records:

A. Records relating to prisoner furloughs to the extent they pertain to a prisoner's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, address of furlough and dates of furlough;

B. Records relating to out-of-state adult probationer or parolee supervision to the extent they pertain to a probationer's or parolee's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, address of residence and dates of supervision; and

C. Records to the extent they pertain to a prisoner's, adult probationer's or parolee's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, and current address or location, unless the Commissioner of Corrections determines that it would be detrimental to the welfare of a client to disclose the information.

4. Public records of interscholastic athletic organizations. Any records or minutes of meetings under subsection 2, paragraph G are public records.

5. Public access officer. "Public access officer" means the person designated pursuant to section 413, subsection 1.

6. Reasonable office hours. "Reasonable office hours" includes all regular office hours of an agency or official.

§402-A. Public records defined (REPEALED)

§403. Meetings to be open to public; record of meetings

1. Proceedings open to public. Except as otherwise provided by statute or by section 405, all public proceedings must be open to the public and any person must be permitted to attend a public proceeding.

2. Record of public proceedings. Unless otherwise provided by law, a record of each public proceeding for which notice is required under section 406 must be made within a reasonable period of time after the proceeding and must be open to public inspection. At a minimum, the record must include:

A. The date, time and place of the public proceeding;

B. The members of the body holding the public proceeding recorded as either present or absent; and

C. All motions and votes taken, by individual member, if there is a roll call.

3. Audio or video recording. An audio, video or other electronic recording of a public proceeding satisfies the requirements of subsection 2.

4. Maintenance of record. Record management requirements and retention schedules adopted under Title 5, chapter 6 apply to records required under this section.

5. Validity of action. The validity of any action taken in a public proceeding is not affected by the failure to make or maintain a record as required by this section.

6. Advisory bodies exempt from record requirements. Subsection 2 does not apply to advisory bodies that make recommendations but have no decision-making authority.

§404. Recorded or live broadcasts authorized

In order to facilitate the public policy so declared by the Legislature of opening the public's business to public scrutiny, all persons shall be entitled to attend public proceedings and to make written, taped or filmed records of the proceedings, or to live broadcast the same, provided the writing, taping, filming or broadcasting does not interfere with the orderly conduct of proceedings. The body or agency holding the public proceedings may make reasonable rules and regulations governing these activities, so long as these rules or regulations do not defeat the purpose of this subchapter.

§404-A. Decisions (REPEALED)

§405. Executive sessions

Those bodies or agencies falling within this subchapter may hold executive sessions subject to the following conditions.

1. Not to defeat purposes of subchapter. An executive session may not be used to defeat the purposes of this subchapter as stated in section 401.

2. Final approval of certain items prohibited. An ordinance, order, rule, resolution, regulation, contract, appointment or other official action may not be finally approved at an executive session.

3. Procedure for calling of executive session. An executive session may be called only by a public, recorded vote of 3/5 of the members, present and voting, of such bodies or agencies.

4. Motion contents. A motion to go into executive session must indicate the precise nature of the business of the executive session and include a citation of one or more sources of statutory or other authority that permits an executive session for that business. Failure to state all authorities justifying the executive session does not constitute a violation of this subchapter if one or more of the authorities are accurately cited in the motion. An inaccurate citation of authority for an executive session does not violate this subchapter if valid authority that permits the executive session exists and the failure to cite the valid authority was inadvertent.

5. Matters not contained in motion prohibited. Matters other than those identified in the motion to go into executive session may not be considered in that particular executive session.

6. Permitted deliberation. Deliberations on only the following matters may be conducted during an executive session:

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

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

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

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

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

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

B. Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, as long as:

(1) The student and legal counsel and, if the student is a minor, the student's parents or legal guardians are permitted to be present at an executive session if the student, parents or guardians so desire;

C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency;

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions;

E. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage;

F. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute;

G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and

H. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph C in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter.

§405-A. Recorded or live broadcasts authorized (REPEALED)

§405-B. Appeals (REPEALED)

§405-C. Appeals from actions (REPEALED)

§406. Public notice

Public notice shall be given for all public proceedings as defined in section 402, if these proceedings are a meeting of a body or agency consisting of 3 or more persons. This notice shall be given in ample time to allow public attendance and shall be disseminated in a manner reasonably calculated to notify the general public in the jurisdiction served by the body or agency concerned. In the event of an emergency meeting, local representatives of the media shall be notified of the meeting, whenever practical, the notification to include time and location, by the same or faster means used to notify the members of the agency conducting the public proceeding.

§407. Decisions

1. Conditional approval or denial. Every agency shall make a written record of every decision involving the conditional approval or denial of an application, license, certificate or any other type of permit. The agency shall set forth in the record the reason or reasons for its decision and make finding of the fact, in writing, sufficient to appraise the applicant and any interested member of the public of the basis for the decision. A written record or a copy thereof shall be kept by the agency and made available to any interested member of the public who may wish to review it.

2. Dismissal or refusal to renew contract. Every agency shall make a written record of every decision involving the dismissal or the refusal to renew the contract of any public official, employee or appointee. The agency shall, except in case of probationary employees, set forth in the record the reason or reasons for its decision and make findings of fact, in writing, sufficient to apprise the individual concerned and any interested member of the public of the basis for the decision. A written record or a copy thereof must be kept by the agency and made available to any interested member of the public who may wish to review it.

§408. Public records available for public inspection and copying (REPEALED)

§408-A. Public records available for inspection and copying

Except as otherwise provided by statute, a person has the right to inspect and copy any public record in accordance with this section within a reasonable time of making the request to inspect or copy the public record.

1. Inspect. A person may inspect any public record during reasonable office hours. An agency or official may not charge a fee for inspection unless the public record cannot be inspected without being converted or compiled, in which case the agency or official may charge a fee as provided in subsection 8.

2. Copy. A person may copy a public record in the office of the agency or official having custody of the public record during reasonable office hours or may request that the agency or official having custody of the record provide a copy. The agency or official may charge a fee for copies as provided in subsection 8.

A. A request need not be made in person or in writing.

B. The agency or official shall mail the copy upon request.

3. Acknowledgment; clarification; time estimate; cost estimate. The agency or official having custody or control of a public record shall acknowledge receipt of a request made according to this section within 5 working days of receiving the request and may request clarification concerning which public record or public records are being requested. Within a reasonable time of receiving the request, the agency or official shall provide a good faith, nonbinding estimate of the time within which the agency or official will comply with the request, as well as a cost estimate as provided in subsection 9. The agency or official shall make a good faith effort to fully respond to the request within the estimated time. For purposes of this subsection, the date a request is received is the date a sufficient description of the public record is received by the agency or official at the office responsible for maintaining the public record. An agency or official that receives a request for a public record that is maintained by that agency but is not maintained by the office that received the request shall forward the request to the office of the agency or official that maintains the record, without willful delay, and shall notify the requester that the request has been forwarded and that the office to which the request has been forwarded will acknowledge receipt within 5 working days of receiving the request.

4. Refusals; denials. If a body or an agency or official having custody or control of any public record refuses permission to inspect or copy or abstract a public record, the body or agency or official shall provide, within 5 working days of the receipt of the request for inspection or copying, written notice of the denial, stating the reason for the denial or the expectation that the request will be denied in full or in part following a review. A request for inspection or copying may be denied, in whole or in part, on the basis that the request is unduly burdensome or oppressive if the procedures established in subsection 4-A are followed. Failure to comply with this subsection is considered failure to allow inspection or copying and is subject to appeal as provided in section 409.

4-A. Action for protection. A body, an agency or an official may seek protection from a request for inspection or copying that is unduly burdensome or oppressive by filing an action for an order of protection in the Superior Court for the county where the request for records was made within 30 days of receipt of the request.

A. The following information must be included in the complaint if available or provided to the parties and filed with the court no more than 14 days from the filing of the complaint or such other period as the court may order:

(1) The terms of the request and any modifications agreed to by the requesting party;

(2) A statement of the facts that demonstrate the burdensome or oppressive nature of the request, with a good faith estimate of the time required to search for, retrieve, redact if necessary and compile the records responsive to the request and the resulting costs calculated in accordance with subsection 8;

(3) A description of the efforts made by the body, agency or official to inform the requesting party of the good faith estimate of costs and to discuss possible modifications of the request that would reduce the burden of production; and

(4) Proof that the body, agency or official has submitted a notice of intent to file an action under this subsection to the party requesting the records, dated at least 10 days prior to filing the complaint for an order of protection under this subsection.

B. Any appeal that may be filed by the requesting party under section 409 may be consolidated with an action under this subsection.

C. An action for protection may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require upon the request of any party.

D. If the court finds that the body, agency or official has demonstrated good cause to limit or deny the request, the court shall enter an order making such findings and establishing the terms upon which production, if any, must be made. If the court finds that the body, agency or official has not demonstrated good cause to limit or deny the request, the court shall establish a date by which the records must be provided to the requesting party.

5. Schedule. Inspection, conversion pursuant to subsection 7 and copying of a public record subject to a request under this section may be scheduled to occur at a time that will not delay or inconvenience the regular activities of the agency or official having custody or control of the public record requested. If the agency or official does not have regular office hours, the name and telephone number of a contact person authorized to provide access to the agency's or official's records must be posted in a conspicuous public place and at the office of the agency or official, if an office exists.

6. No requirement to create new record. An agency or official is not required to create a record that does not exist.

7. Electronically stored public records. An agency or official having custody or control of a public record subject to a request under this section shall provide access to an electronically stored public record either as a printed document of the public record or in the medium in which the record is stored, at the requester's option, except that the agency or official is not required to provide access to an electronically stored public record as a computer file if the agency or official does not have the ability to separate or prevent the disclosure of confidential information contained in or associated with that file.

A. If in order to provide access to an electronically stored public record the agency or official converts the record into a form susceptible of visual or aural comprehension or into a usable format for inspection or copying, the agency or official may charge a fee to cover the cost of conversion as provided in subsection 8.

B. This subsection does not require an agency or official to provide a requester with access to a computer terminal.

8. Payment of costs. Except as otherwise specifically provided by law or court order, an agency or official having custody of a public record may charge fees for public records as follows.

A. The agency or official may charge a reasonable fee to cover the cost of copying.

B. The agency or official may charge a fee to cover the actual cost of searching for, retrieving and compiling the requested public record of not more than $15 per hour after the first hour of staff time per request. Compiling the public record includes reviewing and redacting confidential information.

C. The agency or official may charge for the actual cost to convert a public record into a form susceptible of visual or aural comprehension or into a usable format.

D. An agency or official may not charge for inspection unless the public record cannot be inspected without being compiled or converted, in which case paragraph B or C applies.

E. The agency or official may charge for the actual mailing costs to mail a copy of a record.

F. An agency or official may require payment of all costs before the public record is provided to the requester.

9. Estimate. The agency or official having custody or control of a public record subject to a request under this section shall provide to the requester an estimate of the time necessary to complete the request and of the total cost as provided by subsection 8. If the estimate of the total cost is greater than $30, the agency or official shall inform the requester before proceeding. If the estimate of the total cost is greater than $100, subsection 10 applies.

10. Payment in advance. The agency or official having custody or control of a public record subject to a request under this section may require a requester to pay all or a portion of the estimated costs to complete the request prior to the search, retrieval, compiling, conversion and copying of the public record if:

A. The estimated total cost exceeds $100; or

B. The requester has previously failed to pay a properly assessed fee under this chapter in a timely manner.

11. Waivers. The agency or official having custody or control of a public record subject to a request under this section may waive part or all of the total fee charged pursuant to subsection 8 if:

A. The requester is indigent; or [PL 2011, c. 662, §5 (NEW).]

B. The agency or official considers release of the public record requested to be in the public interest because doing so is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester.

§409. Appeals

1. Records. Any person aggrieved by a refusal or denial to inspect or copy a record or the failure to allow the inspection or copying of a record under section 408-A may appeal the refusal, denial or failure within 30 calendar days of the receipt of the written notice of refusal, denial or failure to the Superior Court within the State for the county where the person resides or the agency has its principal office. The agency or official shall file a statement of position explaining the basis for denial within 14 calendar days of service of the appeal. If a court, after a review, with taking of testimony and other evidence as determined necessary, determines such refusal, denial or failure was not for just and proper cause, the court shall enter an order for disclosure. Appeals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

2. Actions. If any body or agency approves any ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action in an executive session, this action is illegal and the officials responsible are subject to the penalties hereinafter provided. Upon learning of any such action, any person may appeal to any Superior Court in the State. If a court, after a trial de novo, determines this action was taken illegally in an executive session, it shall enter an order providing for the action to be null and void. Appeals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

3. Proceedings not exclusive. The proceedings authorized by this section are not exclusive of any other civil remedy provided by law.

4. Attorney's fees. In an appeal under subsection 1 or 2, the court may award reasonable attorney's fees and litigation expenses to the substantially prevailing plaintiff who appealed the refusal under subsection 1 or the illegal action under subsection 2 if the court determines that the refusal or illegal action was committed in bad faith. Attorney's fees and litigation costs may not be awarded to or against a federally recognized Indian tribe.

This subsection applies to appeals under subsection 1 or 2 filed on or after January 1, 2010.

§410. Violations

1. Civil violation. An officer or employee of a state government agency or local government entity who willfully violates this subchapter commits a civil violation.

2. Penalties. A state government agency or local government entity whose officer or employee commits a civil violation described in subsection 1 is subject to:

A. A fine of not more than $500 for a civil violation described in subsection 1;

B. A fine of not more than $1,000 for a civil violation described in subsection 1 that was committed not more than 4 years after a previous adjudication of a civil violation described in subsection 1 by an officer or employee of the same state government agency or local government entity; or

C. A fine of not more than $2,000 for a civil violation described in subsection 1 that was committed not more than 4 years after 2 or more previous adjudications of a civil violation described in subsection 1 by an officer or employee of the same state government agency or local government entity.

§411. Right To Know Advisory Committee

1. Advisory committee established. The Right To Know Advisory Committee, referred to in this chapter as "the advisory committee," is established to serve as a resource for ensuring compliance with this chapter and upholding the integrity of the purposes underlying this chapter as it applies to all public entities in the conduct of the public's business.

2. Membership. The advisory committee consists of the following members:

A. One Senator who is a member of the joint standing committee of the Legislature having jurisdiction over judiciary matters, appointed by the President of the Senate;

B. One member of the House of Representatives who is a member of the joint standing committee of the Legislature having jurisdiction over judiciary matters, appointed by the Speaker of the House;

C. One representative of municipal interests, appointed by the Governor;

D. One representative of county or regional interests, appointed by the President of the Senate;

E. One representative of school interests, appointed by the Governor;

F. One representative of law enforcement interests, appointed by the President of the Senate;

G. One representative of the interests of State Government, appointed by the Governor;

H. One representative of a statewide coalition of advocates of freedom of access, appointed by the Speaker of the House;

I. One representative of newspaper and other press interests, appointed by the President of the Senate;

J. One representative of newspaper publishers, appointed by the Speaker of the House;

K. Two representatives of broadcasting interests, one appointed by the President of the Senate and one appointed by the Speaker of the House;

L. Two representatives of the public, one appointed by the President of the Senate and one appointed by the Speaker of the House;

M. The Attorney General or the Attorney General's designee; and

N. One member with broad experience in and understanding of issues and costs in multiple areas of information technology, including practical applications concerning creation, storage, retrieval and accessibility of electronic records; use of communication technologies to support meetings, including teleconferencing and Internet-based conferencing; databases for records management and reporting; and information technology system development and support, appointed by the Governor.

The advisory committee shall invite the Chief Justice of the Supreme Judicial Court to designate a member of the judicial branch to serve as a member of the committee.

3. Terms of appointment. The terms of appointment are as follows.

A. Except as provided in paragraph B, members are appointed for terms of 3 years.

B. Members who are Legislators are appointed for the duration of the legislative terms of office in which they were appointed.

C. Members may serve beyond their designated terms until their successors are appointed.

4. First meeting; chair. The Executive Director of the Legislative Council shall call the first meeting of the advisory committee as soon as funding permits. At the first meeting, the advisory committee shall select a chair from among its members and may select a new chair annually.

5. Meetings. The advisory committee may meet as often as necessary but not fewer than 4 times a year. A meeting may be called by the chair or by any 4 members.

6. Duties and powers. The advisory committee:

A. Shall provide guidance in ensuring access to public records and proceedings and help to establish an effective process to address general compliance issues and respond to requests for interpretation and clarification of the laws;

B. Shall serve as the central source and coordinator of information about the freedom of access laws and the people's right to know. The advisory committee shall provide the basic information about the requirements of the law and the best practices for agencies and public officials. The advisory committee shall also provide general information about the freedom of access laws for a wider and deeper understanding of citizens' rights and their role in open government. The advisory committee shall coordinate the education efforts by providing information about the freedom of access laws and whom to contact for specific inquiries;

C. Shall serve as a resource to support the establishment and maintenance of a central publicly accessible website that provides the text of the freedom of access laws and provides specific guidance on how a member of the public can use the law to be a better informed and active participant in open government. The website must include the contact information for agencies, as well as whom to contact with complaints and concerns. The website must also include, or contain a link to, a list of statutory exceptions to the public records laws;

D. Shall serve as a resource to support training and education about the freedom of access laws. Although each agency is responsible for training for the specific records and meetings pertaining to that agency's mission, the advisory committee shall provide core resources for the training, share best practices experiences and support the establishment and maintenance of online training as well as written question-and-answer summaries about specific topics. The advisory committee shall recommend a process for collecting the training completion records required under section 412, subsection 3 and for making that information publicly available;

E. Shall serve as a resource for the review committee under subchapter 1-A in examining public records exceptions in both existing laws and in proposed legislation;

F. Shall examine inconsistencies in statutory language and may recommend standardized language in the statutes to clearly delineate what information is not public and the circumstances under which that information may appropriately be released;

G. May make recommendations for changes in the statutes to improve the laws and may make recommendations to the Governor, the Legislature, the Chief Justice of the Supreme Judicial Court and local and regional governmental entities with regard to best practices in providing the public access to records and proceedings and to maintain the integrity of the freedom of access laws and their underlying principles. The joint standing committee of the Legislature having jurisdiction over judiciary matters may report out legislation based on the advisory committee's recommendations;

H. Shall serve as an adviser to the Legislature when legislation affecting public access is considered;

I. May conduct public hearings, conferences, workshops and other meetings to obtain information about, discuss, publicize the needs of and consider solutions to problems concerning access to public proceedings and records;

J. Shall review the collection, maintenance and use of records by agencies and officials to ensure that confidential records and information are protected and public records remain accessible to the public; and

K. May undertake other activities consistent with its listed responsibilities.

7. Outside funding for advisory committee activities. The advisory committee may seek outside funds to fund the cost of public hearings, conferences, workshops, other meetings, other activities of the advisory committee and educational and training materials. Contributions to support the work of the advisory committee may not be accepted from any party having a pecuniary or other vested interest in the outcome of the matters being studied. Any person, other than a state agency, desiring to make a financial or in-kind contribution shall certify to the Legislative Council that it has no pecuniary or other vested interest in the outcome of the advisory committee's activities. Such a certification must be made in the manner prescribed by the Legislative Council. All contributions are subject to approval by the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council along with an accounting record that includes the amount of funds, the date the funds were received, from whom the funds were received and the purpose of and any limitation on the use of those funds. The

Executive Director of the Legislative Council shall administer any funds received by the advisory committee.

8. Compensation. Legislative members of the advisory committee are entitled to receive the legislative per diem, as defined in Title 3, section 2, and reimbursement for travel and other necessary expenses for their attendance at authorized meetings of the advisory committee. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses and, upon a demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of the advisory committee.

9. Staffing. The Legislative Council shall provide staff support for the operation of the advisory committee, except that the Legislative Council staff support is not authorized when the Legislature is in regular or special session. In addition, the advisory committee may contract for administrative, professional and clerical services if funding permits.

10. Report. By January 15, 2007 and at least annually thereafter, the advisory committee shall report to the Governor, the Legislative Council, the joint standing committee of the Legislature having jurisdiction over judiciary matters and the Chief Justice of the Supreme Judicial Court about the state of the freedom of access laws and the public's access to public proceedings and records.

§412. Public records and proceedings training for certain officials and public access officers

1. Training required. A public access officer and an official subject to this section shall complete a course of training on the requirements of this chapter relating to public records and proceedings. The official or public access officer shall complete the training not later than the 120th day after the date the official takes the oath of office to assume the person's duties as an official or the person is designated as a public access officer pursuant to section 413, subsection 1.

2. Training course; minimum requirements. The training course under subsection 1 must be designed to be completed by an official or a public access officer in less than 2 hours. At a minimum, the training must include instruction in:

A. The general legal requirements of this chapter regarding public records and public proceedings;

B. Procedures and requirements regarding complying with a request for a public record under this chapter; and

C. Penalties and other consequences for failure to comply with this chapter.

An official or a public access officer meets the training requirements of this section by conducting a thorough review of all the information made available by the State on a publicly accessible website pursuant to section 411, subsection 6, paragraph C regarding specific guidance on how a member of the public can use the law to be a better informed and active participant in open government. To meet the requirements of this subsection, any other training course must include all of this information and may include additional information.

3. Certification of completion. Upon completion of the training course required under subsection 1, the official or public access officer shall make a written or an electronic record attesting to the fact that the training has been completed. The record must identify the training completed and the date of completion. The official shall keep the record or file it with the public entity to which the official was elected or appointed. A public access officer shall file the record with the agency or official that designated the public access officer.

4. Application. This section applies to a public access officer and the following officials:

A. The Governor;

B. The Attorney General, Secretary of State, Treasurer of State and State Auditor;

C. Members of the Legislature elected after November 1, 2008;

D. (Repealed)

E. Commissioners, treasurers, district attorneys, sheriffs, registers of deeds, registers of probate and budget committee members of county governments;

F. Municipal officers, clerks, treasurers, assessors and budget committee members of municipal governments;

G. Officials of school administrative units; and

H. Officials of a regional or other political subdivision who, as part of the duties of their offices, exercise executive or legislative powers. For the purposes of this paragraph, "regional or other political subdivision" means an administrative entity or instrumentality created pursuant to Title 30-A, chapter 115 or 119 or a quasi-municipal corporation or special purpose district, including, but not limited to, a water district, sanitary district, hospital district, school district of any type, transit district as defined in Title 30-A, section 3501, subsection 1 or regional transportation corporation as defined in Title 30-A, section 3501, subsection 2.

§413. Public access officer

1. Designation; responsibility. Each agency, county, municipality, school administrative unit and regional or other political subdivision shall designate an existing employee as its public access officer to serve as the contact person for that agency, county, municipality, school administrative unit or regional or other political subdivision with regard to requests for public records under this subchapter. The public access officer is responsible for ensuring that each public record request is acknowledged within 5 working days of the receipt of the request by the office responsible for maintaining the public record requested and that a good faith estimate of when the response to the request will be complete is provided according to section 408-A. The public access officer shall serve as a resource within the agency, county, municipality, school administrative unit and regional or other political subdivision concerning freedom of access questions and compliance.

2. Acknowledgment and response required. An agency, county, municipality, school administrative unit and regional or other political subdivision that receives a request to inspect or copy a public record shall acknowledge and respond to the request regardless of whether the request was delivered to or directed to the public access officer.

3. No delay based on unavailability. The unavailability of a public access officer may not delay a response to a request.

4. Training. A public access officer shall complete a course of training on the requirements of this chapter relating to public records and proceedings as described in section 412.

§414. Public records; information technology

An agency shall consider, in the purchase of and contracting for computer software and other information technology resources, the extent to which the software or technology will:

1. Maximize public access. Maximize public access to public records; and

2. Maximize exportability; protect confidential information. Maximize the exportability of public records while protecting confidential information that may be part of public records.

TITLE 4
JUDICIARY

CHAPTER 1
SUPREME JUDICIAL COURT

§51. Constitution of court; concurrence required

When sitting as a Law Court to determine questions of law arising in any civil or criminal action or proceeding, the Supreme Judicial Court must be composed as provided by rules adopted by that court and shall hear and determine such questions by the concurrence of a majority of the justices sitting and qualified to act.

TITLE 5
ADMINISTRATIVE PROCEDURES AND SERVICES

CHAPTER 9
ATTORNEY GENERAL

§195. Opinions on questions of law

The Attorney General shall give his written opinion upon questions of law submitted to him by the Governor, by the head of any state department or any of the state agencies or by either branch of the Legislature or any members of the Legislature on legislative matters.

CHAPTER 421
GENERAL PROVISIONS

§17057. Information not public record

1. Medical information. Medical information of any kind in the possession of the retirement system, including information pertaining to diagnosis or treatment of mental or emotional disorders, is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3. Records containing medical information may be examined by the employee to whom they relate or by the State or participating local district employer of the employee for any purposes related to any claim for workers' compensation or any other benefit. The employee must be advised in writing by the retirement system of any request by the employer to examine the employee's medical records. Medical information obtained pursuant to this section remains confidential, except as otherwise provided by law, and except when involved in proceedings resulting from an appeal pursuant to section 17451, subsection 2.

2. Financial and personal information. The following private financial and personal information of members, beneficiaries or participants in any of the programs of the retirement system in the possession of the retirement system is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3:

A. Information regarding member, beneficiary or participant accounts with financial institutions, including account numbers;

B. Information regarding member and beneficiary election of payment methods, including elected deductions from those payments;

C. Information regarding participation in defined contribution or deferred compensation plans, including account numbers, investment allocations, contributions, distributions and balances;

D. Information regarding designated beneficiaries; and

E. Information regarding a participant's amount of insurance coverage or group life insurance.

3. Home contact information. Except as provided in this subsection, records of home contact information of members and benefit recipients of any of the programs of the retirement system and of staff members that are in the possession of the retirement system are confidential, not open to public inspection and not public records as defined in Title 1, section 402, subsection 3.

A. For purposes of this subsection, "home contact information" means a home address, home telephone number, home facsimile transmission number or home e-mail address.

B. (Repealed)

C. This subsection does not apply to the home address of a member or a benefit recipient of any of the programs of the retirement system used only for membership recruitment purposes by a nonprofit or public organization established to provide programs, services and representation to Maine public sector retirees unless the retirement system member or benefit recipient has signed a form made available by the retirement system indicating that the individual does not authorize disclosure of that individual's home address. The retirement system may not provide information under this subsection to an organization if the retirement system has determined that the organization obtained information for the purpose of membership recruitment but used the information for a purpose other than membership recruitment.

4. Investment activity information. Disclosure of private market investment activity of the retirement system is governed by this subsection.

A. Documentary material, data or information in the possession of the retirement system that consists of trade secrets or commercial or financial information that relates to actual or potential private market investments of the retirement system is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3 if, in the sole discretion of the retirement system, the disclosure of the material, data or information may:

(1) Impair the retirement system's ability to obtain such material, data or information in the future;

(2) Cause substantial harm to the competitive position of the retirement system or of the person or entity from whom the information was obtained; or

(3) Result in the potential violation of state and federal laws and regulations relating to insider trading.

B. The following information concerning any fund in which the retirement system is invested is not exempt from disclosure:

(1) The retirement system's total commitment to the fund;

(2) The date of the commitment to the fund;

(3) Contributions and distributions made to or received from the fund;

(4) The market value of the investment;

(5) The name of the fund; and

(6) The interim internal rate of return of the fund.

C. For purposes of this subsection, "private market investment" means:

(1) Direct investments in land, timber, mineral rights, private company equity or private company debt;

(2) Indirect investments in limited partnerships, limited liability corporations or other entities that may invest in the investments described in subparagraph (1);

(3) Investments in unregistered securities or funds offered under exemptions provided in Section 144(A) of the Securities Act of 1933, as amended, or Section 3(c)1 or 3(c)7 of the Investment Company Act of 1940, as amended; or

(4) Investments or potential investments of the retirement system pursuant to the state innovation finance program authorized under Title 10, section 1026-T.

5. Personnel records of Maine Public Employees Retirement System staff. The following records are confidential and not open to public inspection and are not public records as defined in Title 1, section 402, subsection 3:

A. Papers relating to applications, examinations or evaluations of applicants. Except as provided in this subsection, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the retirement system for use in the examination or evaluation of applicants for positions as retirement system employees, are confidential.

(1) Notwithstanding any confidentiality provision to the contrary, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired, except that personal contact information is not a public record as provided in Title 1, section 402, subsection 3, paragraph O.

(2) Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference.

(3) This paragraph does not preclude a union representative from access to personnel records, consistent with paragraph D, that may be necessary for the bargaining agent to carry out collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this paragraph remain confidential and are not open to public inspection;

B. Personal information. Records containing the following information are confidential, except that the records may be examined by the employee to whom they relate when the examination is permitted or required by law:

(1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of the employee's immediate family;

(5) Personal information pertaining to the employee's race, color, religion, sex, national origin, ancestry, age, physical disability, mental disability, marital status and sexual orientation; social security number; personal contact information as provided in Title 1, section 402, subsection 3, paragraph O; and personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance; and

(6) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written decision, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

(a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or

(b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days.

This paragraph does not preclude a union representative from having access to personnel records that are necessary for the bargaining agent to carry out collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this paragraph remain confidential and are not open for public inspection;

C. Other information to which access by the general public is prohibited by law; and

D. Certain information for grievance and other proceedings. The retirement system may release specific information designated confidential by this paragraph to be used in negotiations, mediation, fact finding, arbitration, grievance proceedings and other proceedings in which the retirement system is a party. For the purpose of this paragraph, "other proceedings" means unemployment compensation proceedings, workers' compensation proceedings, human rights proceedings and labor relations proceedings.

6. Treatment of confidential information. Confidential information provided under subsection 5 is governed by the following.

A. Only the information that is necessary and directly related to the proceeding may be released.

B. The proceeding for which the confidential information is provided must be private and not open to the public if possible. If the proceeding is open to the public, the confidential information may not be disclosed except exclusively in the presence of the fact finder, the parties and counsel of record and the employee who is the subject of the proceeding and provisions are made to ensure that there is no public access to the confidential information.

C. The retirement system may use this confidential information in proceedings and provide copies to an employee organization if that organization is a party to the proceedings and the information is directly related to those proceedings as defined by the applicable collective bargaining agreement. Confidential personnel records in the possession of the retirement system are not open to public inspection and are not public records.

TITLE 7
AGRICULTURE AND ANIMALS

CHAPTER 2-C
VOLUNTARY MUNICIPAL FARM SUPPORT PROGRAM

§60. Definitions

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

1. Farm support arrangement. "Farm support arrangement" means an arrangement that meets requirements established by the department by rule under which:

A. The owner of qualified farmland grants to a municipality a qualified easement; and

B. The municipality obligates itself to make farm support payments.

2. Farm support payments. "Farm support payments" means annual payments by a municipality during the term of a qualified easement:

A. In an amount up to 100% of the annual property taxes assessed by that municipality against land and buildings subject to a qualified easement up to the fair market value of the easement; and

B. To the person against whom the property taxes are assessed.

3. Qualified easement. "Qualified easement" means an agricultural conservation easement held by a municipality on qualified farmland in that municipality that:

A. Meets standards adopted by rule by the department designed to ensure that no development other than development related to agricultural use occurs on the qualified farmland; and

B. Is limited to a term of not less than 20 years.

4. Qualified farmland. "Qualified farmland" means farmland that meets eligibility requirements established by the department by rule.

§60-A. Program established

1. Program. In order to protect and support local farms, preserve farmland and reduce the potential tax burdens from new development, a municipality may enter into farm support arrangements with the owners of qualified farmland.

A. A farm support arrangement must be approved by majority vote of the municipality's legislative body.

B. Unless approved by a 2/3 vote of the municipality's legislative body, the municipality may not enter into farm support arrangements:

(1) Affecting more than 3% of the total annual valuation of taxable land in the municipality; and

(2) In any calendar year, affecting more than 1% of the total annual valuation of taxable land in the municipality.

2. Effects of arrangement. A farm support arrangement may not diminish the eligibility of qualified farmland for participation in tax benefits under Title 36, chapter 105, subchapter 2-A or 10 or for consideration under Title 5, Part 15-A by the Land for Maine's Future Board.

3. Nullification. A farm support arrangement, once finally executed, is binding on the municipality. A municipality may not cease to make payments under the arrangement unless the land subject to the qualified easement is taken by eminent domain or state law otherwise authorizes the payments to cease. In the event that a municipality's obligation to make farm support payments ceases, the farm support arrangement and the related qualified easement are void and may not be given effect and the municipality shall provide notice of this fact to the owner of the qualified farmland and record that notice with the appropriate registry of deeds.

4. Rules. The department shall adopt rules governing farm support arrangements. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

CHAPTER 4
AGRICULTURAL FAIRS AND PULLING EVENTS

§86. Stipend Fund

1. Annual distribution. The commissioner shall annually distribute all money contributed to the Stipend Fund under Title 8, sections 286 and 287 to qualified licensees in accordance with this section.

2. Distribution of funds to fair licensees that conduct pari-mutuel racing. Forty-four percent of the amounts contributed to the Stipend Fund under Title 8, sections 286 and 287 must be divided into equal amounts for reimbursement to each licensee that:

A. Conducts pari-mutuel racing in conjunction with its annual fair;

B. Has improved its racing facilities; and

C. Has met the standards for facility improvements set by the commissioner for that licensee.

A licensee that has not complied with the improvement standards set by the commissioner for a given year is not eligible for a reimbursement under this subsection for that year.

3. Distribution of funds to fair licensees who do not conduct pari-mutuel racing. Eight percent of the amount contributed to the Stipend Fund under Title 8, sections 286 and 287

for a calendar year must be divided into amounts in proportion to the sums expended for premiums by the licensee in that year for reimbursement to each licensee that:

A. Does not conduct pari-mutuel racing; and

B. Has met the standards for facility improvements set by the commissioner for that licensee.

A licensee that has not complied with the improvement standards set by the commissioner for a given year is not eligible for a reimbursement under this subsection for that year.

4. Expenditures for administration and inspection services. The commissioner may expend annually up to 13% of the Stipend Fund for administrative and inspection services provided under this chapter.

5. Distribution to all eligible licensees. The amount remaining in the Stipend Fund after distributions in accordance with subsections 2, 3 and 4 must be divided among fair licensees meeting the eligibility criteria in subsection 6, prorated according to the amount of premiums and gratuities actually paid by those licensees in full and in cash or valuable equivalent.

In determining distribution under this subsection, no allowance is made on premiums offered and paid by a licensee at any competition held other than during the period at which its annual fair is held. Allowance may not be made or consideration given for lump sums, payments or premiums previously arranged and agreed upon for the presentation and display of any animals or products without regard to competition.

Premiums and gratuities used to determine apportionment under this subsection are limited to those paid for:

A. Livestock and poultry;

B. Vegetables, grains, fruits and flowers;

C. Products derived from livestock;

D. Home-canned, home-cooked and home-baked goods;

E. Grange and farm exhibits;

F. Boys' and girls' club exhibits;

G. Mechanical arts exhibits;

H. Domestic and fancy articles produced in the home;

I. Pulling contests for equines and oxen; and

J. Pulling contests for farm tractors and pickup trucks.

6. Eligibility for stipend. A licensee is not entitled to a stipend under this chapter unless:

A. The licensee holds a license that is valid for the year for which the stipend is calculated;

B. Exhibits of vegetables, fruits, grains or dairy products are regularly displayed in an attractive manner upon the fairgrounds during the fair, the products exhibited are representative of those produced in the county in which the fair is held and the quality of the products is acceptable to the commissioner;

C. The health status of domestic animals shown or exhibited at the fair satisfies the health requirements established by the commissioner in accordance with section 1811 and rules adopted pursuant to section 1752;

D. The fair is conducted in accordance with performance standards established in rules adopted pursuant to section 82, subsection 5; and

E. The minimum premiums established in subsection 7 are paid.

7. Minimum premiums required. To be eligible to receive a stipend, a licensee must:

A. Upon receiving an initial license, spend a minimum of $750 per year on premiums for 3 years for displays of agricultural products, excluding premiums for equine and ox pulling contests and farm tractor and pickup truck pulling contests; and

B. Upon fulfilling the requirement under paragraph A, continue to spend a minimum of $1,200 on premiums yearly for displays of agricultural products, excluding premiums for equine and ox pulling contests and farm tractor and pickup truck pulling contests.

8. Maximum allowed distribution from Stipend Fund. A licensee may not receive a stipend from the Stipend Fund greater than the amount actually raised and spent by the licensee on premiums and gratuities in the classes provided in subsection 5. A licensee may not receive a stipend from the Stipend Fund in excess of $10,000, except that this limitation does not apply to any additional stipend provided for by Title 8, section 287 or to funds distributed from the Fair Fund or the Agricultural Fair Support Fund in accordance with section 91.

CHAPTER 6
MAINE AGRICULTURE PROTECTION ACT

§152. Definitions

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

1. Agricultural composting operation. "Agricultural composting operation" means composting that takes place on a farm. "Agricultural composting operation" does not include an operation that involves nonorganic municipal solid waste or that composts municipal sludge, septage, industrial solid waste or industrial sludge. "Agricultural composting operation" does not include an operation that composts materials with a moderate or high risk of contamination from heavy metals, volatile and semivolatile organic compounds, polychlorinated biphenyls or dioxin.

2. Agricultural products. "Agricultural products" means those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products, manure and compost and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products.

3. Agricultural support services. "Agricultural support services" means the aerial or surface application of seed, fertilizer, pesticides or soil amendments and custom harvesting.

4. Composting. "Composting" means the controlled aerobic decomposition of organic materials to produce a soil-like product beneficial to plant growth and suitable for agronomic use.

5. Farm. "Farm" means the land, plants, animals, buildings, structures, ponds and machinery used in the commercial production of agricultural products.

6. Farm operation. "Farm operation" means a condition or activity that occurs on a farm in connection with the commercial production of agricultural products and includes, but is not limited to, operations giving rise to noise, odors, dust, insects and fumes; operation of machinery and irrigation pumps; disposal of manure; agricultural support services; and the employment and use of labor.

CHAPTER 747
NUTRIENT MANAGEMENT ACT

§4204. Nutrient management plan

1. Nutrient management plan required. A person who owns or operates a farm that meets the criteria established in subsection 2 shall have a nutrient management plan for that farm and shall implement the provisions in that plan by the dates specified for that category of farm in subsection 4, 5, 6 or 7. The nutrient management plan must be prepared by a person certified in accordance with section 4202, subsection 2 and must address the storage and utilization of all farm nutrients generated on or transported to the farm. A nutrient management plan developed by a farm owner or operator is deemed to have been prepared by a certified nutrient management specialist if a certified nutrient management specialist reviews the plan for compliance with this chapter, signs the plan and notifies the department in accordance with subsection 3.

1-A. Plan requirements. For livestock farms, the nutrient management plan must address storage and utilization of farm nutrients for the entire farm operation including leased or rented land. For crop farms, the plan must address storage and utilization of farm nutrients on land on which manure is utilized or stored. A nutrient management plan must include or provide for:

A. Minimum distances between manure storage, stacking and spreading areas and property lines and surface water based on site-specific factors;

B. Manure storage for a minimum of 180 days;

C. Provisions for soil erosion control;

D. (Repealed)

E. Results of soil tests for land designated in the plan for manure spreading or manure irrigation;

F. Results of manure tests;

G. A statement of yield goals for land receiving farm nutrients;

H. Additional information established through rulemaking;

I. Site-specific dates recommended for the spreading of manure and spraying or irrigation of liquid manure. In compliance with section 4207, the plan may not recommend spreading between December 1st of a calendar year and March 15th of the following calendar year; and

J. A recommended timetable for implementing the plan.

2. Farms requiring a nutrient management plan. A farm that meets one or more of the following criteria is required to have a nutrient management plan:

A. A farm that confines and feeds 50 or more animal units at any one time;

B. A farm that stores or utilizes more than 100 tons of manure per year not generated on that farm;

C. A farm that is the subject of a verified complaint of improper manure handling; or

D. A farm that stores or utilizes regulated residuals.

3. Responsibility of person preparing nutrient management plans. Upon completion of a nutrient management plan, a person certified to prepare nutrient management plans in accordance with this chapter shall notify the department. The notification must include the name and address of the owner or operator of the farm and the location of the farm for which the plan was prepared. A person preparing a nutrient management plan required by this chapter shall adhere to rules adopted in accordance with this chapter pertaining to the preparation and requirements of the plan.

4. Compliance date for farms operational on March 31, 1998. Except for a farm requiring a livestock operations permit under section 4205 or as provided in subsection 8, an owner or operator of a farm that was operational on March 31, 1998 and meets the criteria established in subsection 2, paragraph A or B shall have a nutrient management plan prepared for that farm no later than January 1, 2001. Except as provided in subsection 8, the plan must be implemented no later than October 1, 2007.

5. Compliance date for farms that were operational on March 31, 1998 that store or use regulated residuals. An owner or operator of a farm that is required to have a nutrient management plan under subsection 2, paragraph D and that was operational on March 31, 1998 shall have that plan prepared by January 1, 2000. Except as provided in subsection 8, the plan must be implemented no later than January 1, 2000.

6. Compliance date for farms becoming operational after March 31, 1998. An owner or operator of a farm that is required to have a nutrient management plan under subsection 2 and that was not operational on March 31, 1998 shall have a nutrient management plan prepared before the farm becomes operational. Except as provided in subsection 8, the plan must be implemented at the time the farm becomes operational.

7. Compliance date for farms subject of verified complaint. When a farm is required to have a nutrient management plan under subsection 2, paragraph C, the commissioner shall establish a date by which the plan must be developed and a date for implementation of the plan.

8. Variances. For farms with compliance dates established in subsection 4, the commissioner may grant a variance from the date by which a nutrient management plan must be prepared and certified when the commissioner finds that technical assistance or resources are not available to complete and certify the plan by January 1, 2001. The commissioner may grant a variance from the implementation date in subsection 4, 5 or 6 when the commissioner finds that implementation of the plan would cause undue hardship. A person requesting a variance shall submit a request in writing to the commissioner at least 90 days prior to the applicable implementation date. The commissioner shall establish by rule criteria and a process for granting a variance. Factors considered must include protection of groundwater and surface water, cost of implementing the plan, availability of financial assistance to implement the plan and availability of technical assistance or resources to complete and certify the plan. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. Notwithstanding the provisions of this subsection, a variance may not extend an implementation date beyond December 31, 2008. A person denied a variance by the commissioner may appeal that decision to the board.

9. Violation. The following are civil violations for which a fine of up to $1,000 plus up to an additional $250 per day for each day that the violation continues may be adjudged:

A. Failure to develop a nutrient management plan in accordance with this section; and

B. Failure to implement a nutrient management plan in accordance with this section or rules adopted pursuant to this section. Prior to the development of a plan, a person is not subject to a penalty for failure to implement a nutrient management plan.

10. Nutrient management plan confidential. A nutrient management plan prepared in accordance with this section is confidential and is not a public record as defined in Title 1, section 402, subsection 3. A copy of a nutrient management plan required under this section must be available to the commissioner or the commissioner's designee upon request.

TITLE 10
COMMERCE AND TRADE

CHAPTER 110
FINANCE AUTHORITY OF MAINE

§980. Taxation and fees

Notwithstanding any other provision of law, for the purposes of this chapter, transactions and property of the authority shall be treated as follows.

1. Revenue obligation securities; exemption from taxation. Revenue obligation securities of the authority are declared to be issued for an essential public and governmental purpose and to be public instruments and, together with interest and income, including the profit made from their transfer or sale, shall be exempt from taxation within the State.

2. Conveyances, leases, mortgages, deeds of trust; indentures; exemptions from taxation. Conveyances by or to the authority and leases, mortgages and deeds of trust or trust indentures by or to the authority shall be exempt from all taxation by the State or any of its political subdivisions, including, but not limited to, any applicable license, excise or other taxes imposed in respect of the privilege of engaging in any of the activities in which the authority may engage.

3. Property exemption from taxation and other assessments. Property acquired, held or transferred by the authority shall be exempt from all taxes and from betterments and special assessments of the city, town, county, State or any political subdivision thereof. The authority may agree to make payments in lieu of taxes to the applicable political subdivisions.

CHAPTER 951
MANUFACTURED HOUSING ACT

§9081. Definitions

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

1. Manufactured home. "Manufactured home" means a structure, transportable in one or more sections, that is 8 body feet or more in width and is 32 body feet or more in length and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.

2. Manufactured housing community. "Manufactured housing community" means a parcel or adjoining parcel of land, under single ownership, that has been planned and improved for the placement of 3 or more manufactured homes, but does not include a construction camp.

§9090. Municipal foreclosure; unlicensed manufactured housing communities

Notwithstanding any other provision of law, a municipality that, as a result of the nonpayment of property taxes, forecloses and takes possession of real estate on which is located an

unlicensed manufactured housing community may, if the municipality determines the manufactured housing community poses a risk to public health, welfare or safety, close the manufactured housing community and, with at least 30 days' prior written notice, evict the inhabitants of the community. A municipality that takes possession of real estate on which is located an unlicensed manufactured housing community does not enter a landlord and tenant relationship with any inhabitant of the community and is not subject to the provisions of chapter 953 or any other laws governing relations between a landlord and tenant. This section does not apply to a municipality that is or becomes the licensed operator of the manufactured housing community.

TITLE 11
UNIFORM COMMERCIAL CODE

ARTICLE 9-A
TRANSACTIONS

§9-1502. Contents of financing statement; record of mortgage as financing statement; time of filing financing statement

(1). Subject to subsection (2), a financing statement is sufficient only if it:

(a). Provides the name of the debtor;

(b). Provides the name of the secured party or a representative of the secured party; and

(c). Indicates the collateral covered by the financing statement.

(2). Except as otherwise provided in section 9-1501, subsection (2), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (1) and also:

(a). Indicate that it covers this type of collateral;

(b). Indicate that it is to be recorded in the real property records;

(c). Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this State if the description were contained in a record of the mortgage of the real property; and

(d). If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(3). A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(a). The record indicates the goods or accounts that it covers;

(b). The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(c). The record satisfies the requirements for a financing statement in this section, but:

(i) The record need not indicate that it is to be filed in the real property records; and

(ii) The record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom section 9-1503, subsection (1), paragraph (c-1) applies; and

(d). The record is recorded.

(4). A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

TITLE 12
CONSERVATION

CHAPTER 1
SOIL AND WATER CONSERVATION DISTRICTS

§6. Powers of districts and supervisors

A soil and water conservation district organized under this chapter shall constitute an agency of the State and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this chapter:

1. Preventive and control measures; flood prevention. To carry out preventive and control measures and works of improvement for flood prevention, or the conservation, development, utilization and disposal of water within the district, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands;

2. Agreements. To cooperate, or enter into agreements with, and within the limits of appropriations or other funds duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any occupier of lands within the district, in the carrying on of erosion control and prevention operations and works of improvement for flood prevention and the conservation, development, utilization and disposal of water within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this chapter;

3. Options, purchase, sale, etc. of property. To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest or devise, any property, real or personal, or rights or interests therein, after consultation with town, city and county officials; all such property shall be exempt from taxation by the State or any subdivisions or agencies thereof; to maintain, administer and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this chapter; and to sell, lease or otherwise dispose of any of its real and personal property or interests therein in furtherance of the purposes and provisions of this chapter;

4. Equipment and machinery made available. To make available, on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, and such other equipment or material, as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion, and for flood prevention or the conservation, development, utilization and disposal of water;

5. Construct and maintain structures. To construct, improve, operate and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this chapter;

6. Plans. To develop comprehensive plans for the conservation of soil resources, for the control and prevention of soil erosion, and for flood prevention or the conservation, development, utilization and disposal of water within the district, which plans shall specify in such detail as may be possible the acts, procedures, performances and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

7. Agent for federal and state agencies; accept gifts; contracts. To act as agent for the United States or any of its agencies, or for this State or any of its agencies, in connection with the acquisition, construction, operation or administration of any project for soil conservation, erosion control, erosion prevention, flood prevention or for the conservation, development, utilization and disposal of water within its boundaries; to accept donations, gifts and contributions in money, services, materials or otherwise from the United States or any of its agencies; or from this State or any of its agencies, and to use or expend such moneys, services, materials or other contributions in carrying on its operations; and to enter into contracts or negotiations with any and all federal agencies having responsibility for the distribution of surplus war or other materials suitable for utilization in soil conservation or water conservation projects for the use thereof; to enter into contracts and negotiate with any agency of the United States Government in any plan related to soil conservation, flood prevention, or the conservation, development, utilization and disposal of water;

8. Sue and be sued; seal; borrow money. To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers; to borrow money and to execute promissory notes, bonds and other evidences of indebtedness in connection therewith; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this chapter, to carry into effect its purposes and powers;

9. Supervisors may require contributions. As a condition to the extending of any benefits under this chapter to, or the performance of work upon, any lands not owned or controlled by this State or any of its agencies, the supervisors may require contributions in money, services, materials or otherwise to any operations conferring such benefits, and may require land occupiers to enter into such agreements as to the permanent use of such lands as will tend to prevent or control erosion thereon;

10. Cooperate with other districts. To cooperate with any other district organized under this chapter in the exercise of any or all powers conferred in this chapter.

Provisions with respect to the acquisition, operation or disposition of property by other public bodies shall not be applicable to a district organized hereunder unless the Legislature shall specifically so state.

CHAPTER 206-A
USE REGULATION

§685-G. Funding

1. Unorganized territories. Beginning with fiscal year 2009-10, funding for services and activities of the commission for planning, permitting and ensuring compliance in the unorganized territories must be assessed and allocated to the unorganized territories through a fee equal to .014% of the most recent equalized state valuation established by the State Tax Assessor. This fee must be collected through the municipal cost component under Title 36, chapter 115.

2. Towns and plantations. Beginning with fiscal year 2009-10, a town or a plantation in the commission's jurisdiction that elects not to administer land use controls at the local level but receives commission services or a town or plantation with a portion of its land under the commission's jurisdiction and receiving commission services, including planning, permitting and ensuring compliance, must be assessed a fee equal to .018% of the most recent equalized state valuation established by the State Tax Assessor for that town or plantation or that portion of a town or plantation under the commission's jurisdiction. The State Tax Assessor shall issue a warrant to each such town or plantation no later than March 1st of each year. The warrant is payable on demand. Interest charges on unpaid fees begin on June 30th of each year and are compounded monthly at the interest rate for unpaid property tax as established by the State Tax Assessor for the unorganized territory. For any assessment that remains unpaid as of September 1st of the year in which it is due, state revenue sharing to that town or plantation must be reduced by an amount equal to any unpaid warrant amount plus any accrued interest, until the amount is paid. These fees must be deposited to the General Fund.

3. Report. By January 15, 2009 and annually thereafter, the commission shall report to the joint standing committees of the Legislature having jurisdiction over conservation matters and taxation matters regarding commission funding and other financial matters. The report must cover the 5 previous fiscal years and must identify General Fund appropriations and other resources, amounts assessed and collected from the assessments required under this section and former section 685-E and amounts assessed and collected from other fees and penalties assessed under this chapter. Beginning in January 2010, the report must include an accounting of the permitting fees and administrative penalties collected that segregates the amounts collected from the unorganized territories from the amounts collected from the towns and plantations and must include recommendations to adjust the fees for the unorganized territories and for towns and plantations based on the amounts collected for permitting fees and administrative penalties from each of these entities. The joint standing committees of the Legislature having jurisdiction over conservation matters and taxation matters shall jointly review the distribution of funding and other assessments among the General Fund, unorganized territories and towns and plantations under the commission's jurisdiction and may submit legislation considered necessary as a result of the commission's report to the First Regular Session of the 124th Legislature.

CHAPTER 937
SNOWMOBILES

§13113. Registration of trail-grooming equipment

1. Definitions. For purposes of this section, "trail-grooming equipment" means a self-propelled vehicle that:

A. (Repealed)

B. (Repealed)

C. Is driven by a track or tracks in contact with the snow; and

D. Is performing snowmobile trail maintenance by plowing, leveling or compacting snow by use of a front plow or rear attachments that include but are not limited to rollers, compactor bars or trail drags.

2. Operating unregistered trail-grooming equipment. Except as provided in this section, a person may not operate trail-grooming equipment on a snowmobile trail that is financed in whole or in part by the Snowmobile Trail Fund unless that trail-grooming equipment is registered in accordance with this section.

A. A registration is not required for trail-grooming equipment operated on land on which the owner lives or on land on which the owner is domiciled, if the trail-grooming equipment is not operated elsewhere within the jurisdiction of this State.

B. A registration is not required for trail-grooming equipment operated by a commercial ski area for the purpose of packing snow or for rescue operation, unless the trail-grooming equipment is required to cross a public way during that operation.

C. Trail-grooming equipment owned and operated by the Federal Government, the State or a political subdivision of the State is exempt from registration fees, but must be registered and is required to display the registration.

3. Application and issuance. The commissioner may register trail-grooming equipment upon application by the owner if the owner is a nonprofit organization that has an approved contract for snowmobile trail grooming with the Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands, Off-Road Vehicle Division or a person that can provide proof to the department at the time of application that the person is a member of an organization eligible to register trail-grooming equipment under this section. The commissioner may establish procedures necessary to carry out the purposes of this section.

4. Form of registration. The trail-grooming equipment registration must be in such form as the commissioner may determine.

5. Fee. The registration fee for trail-grooming equipment is a one-time fee of $33. The registration fee is valid from the date of issuance until the date that the equipment is sold or transferred. Revenue from the registration fee is allocated according to section 10206, subsection 2, paragraph A.

6. Fraudulent acquisition of trail-grooming registration. (Repealed)

7. Penalty. The following penalties apply to violations of this section.

A. A person who violates this section commits a civil violation for which a fine of not less than $100 nor more than $500 may be adjudged.

B. A person who violates this section after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

TITLE 13
CORPORATIONS

CHAPTER 83
CEMETERY CORPORATIONS

§1141. Grounds inalienable; description recorded

When any persons appropriate for a burying ground a piece of land containing not more than 1/2 of an acre, it shall be exempt from attachment and execution, and inalienable and indivisible by the owners without the consent of all; and be kept fenced or otherwise substantially marked and occupied as a burying ground. They shall cause a written description of it, under their hands, attested by 2 disinterested witnesses, to be recorded in the registry of deeds in the county or district where it lies or by the clerk of the town where it is situated.

§1142. Family burying grounds

When a person appropriates for a family burying ground a piece of land containing not more than 1/4 of an acre, causes a description of it to be recorded in the registry of deeds of the same county or by the clerk of the town where it is situated and substantially marks the bounds of the burying ground or encloses it with a fence, it is exempt from attachment and execution. No subsequent conveyance of it is valid while any person is interred in the burying ground; but it must remain to the person who appropriated, recorded and marked that burying ground and to that person's heirs as a burial place forever. If property surrounding a burying ground appropriated pursuant to this section is conveyed, the property is conveyed by the person who appropriated the property or by an heir of that person and the conveyance causes the burying ground to be inaccessible from any public way, the conveyance is made subject to an easement for the benefit of the spouse, ancestors and descendants of any person interred in the burying ground. The easement may be used only by persons to walk in a direct route from the public way nearest the burying ground to the burying ground at reasonable hours.

§1143. Lots

Lots in public or private cemeteries are exempt from attachment and levy on execution and from liability to be sold by executors and administrators of insolvent estates for the payment of debts and charges of administration. Only one lot shall be so exempt for any one person.

§1301. Incorporation; exemption from attachment and taxation

Any 7 or more persons may be incorporated, not for profit, in the manner provided in section 901 for the purpose of owning, managing and protecting lands and their appurtenances appropriated for public cemeteries. The property of such corporations and the shares of stock therein are exempt from attachment and taxation. Any cemetery corporation may accept and receive donations of money, general legacies and devises of real estate or legacies in trust, for the purpose of landscaping, general beautification and care of lots, memorials, avenues and plots in said cemetery, without being appointed or confirmed by any court as such trustee.

TITLE 14
COURT PROCEDURE – CIVIL

CHAPTER 741
TORT CLAIMS

§8111. Personal immunity for employees; procedure

1. Immunity. Notwithstanding any liability that may have existed at common law, employees of governmental entities shall be absolutely immune from personal civil liability for the following:

A. Undertaking or failing to undertake any legislative or quasi-legislative act, including, but not limited to, the adoption or failure to adopt any statute, charter, ordinance, order, rule, policy, resolution or resolve;

B. Undertaking or failing to undertake any judicial or quasi-judicial act, including, but not limited to, the granting, granting with conditions, refusal to grant or revocation of any license, permit, order or other administrative approval or denial;

C. Performing or failing to perform any discretionary function or duty, whether or not the discretion is abused; and whether or not any statute, charter, ordinance, order, resolution, rule or resolve under which the discretionary function or duty is performed is valid;

D. Performing or failing to perform any prosecutorial function involving civil, criminal or administrative enforcement;

E. Any intentional act or omission within the course and scope of employment; provided that such immunity does not exist in any case in which an employee's actions are found to have been in bad faith; or

F. Any act by a member of the Maine National Guard within the course and scope of employment; except that immunity does not exist when an employee's actions are in bad faith or in violation of military orders while the employee is performing active state service pursuant to Title 37-B.

The absolute immunity provided by paragraph C shall be applicable whenever a discretionary act is reasonably encompassed by the duties of the governmental employee in question, regardless of whether the exercise of discretion is specifically authorized by statute, charter, ordinance, order, resolution, rule or resolve and shall be available to all governmental employees, including police officers and governmental employees involved in child welfare cases, who are required to exercise judgment or discretion in performing their official duties.

2. Attachment and trustee process. Attachment, pursuant to Rule 4A, Maine Rules of Civil Procedure, and trustee process, pursuant to Rule 4B, Maine Rules of Civil Procedure, shall not be used in connection with the commencement of a civil action against an employee of a governmental entity based on any act or omission of the employee in the course and scope of employment.

§8116. Liability insurance

The legislative or executive body or any department of the State or any political subdivision may procure insurance against liability for any claim against it or its employees for which immunity is waived under this chapter or under any other law. If the insurance provides protection in excess of the limit of liability imposed by section 8105, then the limits provided in the insurance policy shall replace the limit imposed by section 8105. If the insurance provides coverage in areas where the governmental entity is immune, the governmental entity shall be liable in those substantive areas but only to the limits of the insurance coverage. Reserve funds, excess insurance or reinsurance contracts maintained by a governmental entity, by an insurer providing liability insurance or by a public self-funded pool to meet obligations imposed by this Act shall not increase the limits of liability imposed by section 8105.

A governmental entity or a public self-funded pool, which self-insures against the obligations and liabilities imposed by this Act, shall designate funds set aside to meet such obligations and liabilities as self-insurance funds. Any such governmental entity which self-insures under this Act or any entity that is a member of a public self-funded pool shall maintain as part of its public records a written statement which shall include a provision setting forth the financial limits of liability assumed by the governmental entity, those limits to be no less than the limits imposed in this Act, and a provision setting forth the scope of the liability assumed by the governmental entity, or the pool, that scope to be no less than that imposed in this Act.

A governmental entity may purchase insurance or may self-insure on behalf of its employees to insure them against any personal liability for which a governmental entity is obligated or entitled to provide defense or indemnity under section 8112.

Any insurance purchased by the State under this section must be purchased through the Department of Administrative and Financial Services, Risk Management Division.

TITLE 17
CRIMES

CHAPTER 91
NUISANCES

§2853. Recovery of expenses

All expenses incurred by a municipality or county related to an order issued under section 2851, including, but not limited to, expenses relating to the abatement or removal of a building, must be repaid to the municipality or county by the owner within 30 days after demand, or a special tax may be assessed by the assessors against the land on which the building was located for the amount of the expenses and that amount must be included in the next annual warrant to the tax collector of the municipality or county for collection and must be collected in the same manner as other state, county and municipal taxes are collected.

In the case of any claim for expenses incurred in the abatement or removal of any wharf, pier, pilings or any portion thereof that extends beyond the low water mark, the special tax authorized by this section must apply to the land from which the wharf, pier or pilings extended or to which they were adjacent, if the owner of the land is also the owner of the wharf, pier, pilings or portion thereof.

Expenses include, but are not limited to, the costs of title searches, location reports, service or process, reasonable attorney's fees, costs of removal of the building, any costs incurred in securing the building pending its removal and all other costs incurred by the municipality or county that are reasonably related to the removal of the building. In addition to levying a special tax, the municipality or county may recover its expenses, including its reasonable attorney's fees, by means of a civil action brought against the owner.

TITLE 20-A
EDUCATION

CHAPTER 103-A
REGIONAL SCHOOL UNITS

§1486. Budget validation referendum

After January 31, 2008, the procedure for approval of the annual budget of a regional school unit must be in accordance with this section and section 1485.

1. Budget validation. Following development of the annual regional school unit budget and approval at a regional school unit budget meeting as provided in section 1485, a referendum must be held in the regional school unit as provided in this section to allow the voters to validate or reject the total budget adopted at the regional school unit budget meeting.

Every 3 years, the voters in a regional school unit shall consider continued use of the budget validation referendum process. The warrant at the budget validation referendum in the 3rd year following adoption or continuation of the referendum process must include an article by which the voters of the school administrative unit may indicate whether they wish to continue the process for another 3 years. The warrant for the referendum to validate the fiscal year 2010-11 budget is deemed the 3rd-year warrant. A vote to continue retains the process for 3 additional years. A vote to discontinue the process ends its use beginning with the following budget year and prohibits its reconsideration for at least 3 years.

An article to consider reinstatement of the budget validation referendum process may be placed on a warrant for a referendum vote by either a majority vote of the regional school unit board or a written petition filed with the regional school unit board by at least 10% of the number of voters voting in the last gubernatorial election in the municipalities in the school administrative unit. The regional school unit board shall place the article on the next scheduled warrant or an earlier one if determined appropriate by the regional school unit board. If adopted by the voters, the budget validation referendum process takes effect beginning in the next budget year or the following budget year if the adoption occurs less than 90 days before the start of the next budget year. Once approved by the voters, the budget validation referendum process may not be changed for 3 years.

2. Validation referendum procedures. The budget validation referendum must be held on or before the 30th calendar day following the scheduled date of the regional school unit budget meeting. The referendum may not be held on a Sunday or legal holiday. The vote at referendum is for the purpose of approving or rejecting the total regional school unit budget approved at the regional school unit budget meeting. The regional school unit board shall provide printed information to be displayed at polling places to assist voters in voting. That information is limited to the total amounts proposed by the regional school unit board for each cost center summary budget category article, the amount approved at the regional school unit budget meeting, a summary of the total authorized expenditures and, if applicable because of action on an article under section 15690, subsection 3, paragraph A, a statement that the amount approved at the regional school unit budget meeting includes locally raised funds that exceed the maximum state and local spending target pursuant to section 15671-A, subsection 5. If the legislative body of the

regional school unit at the regional school unit budget meeting approves an article pursuant to section 1485, subsection 5, the substance of the article must be included in the printed information displayed at polling places for the budget validation referendum.

3. Budget validation referendum voting. The method of calling and voting at a budget validation referendum is as provided in sections 1502 and 1503, except as otherwise provided in this subsection or as is inconsistent with other requirements of this section.

A. A public hearing is not required before the vote.

B. (Repealed)

C. The warrant and absentee ballots must be delivered to the municipal clerk no later than the day after the date of the regional school unit budget meeting.

D. Absentee ballots received by the municipal clerk may not be processed or counted unless received on the day after the conclusion of the regional school unit budget meeting and before the close of the polls.

E. All envelopes containing absentee ballots received before the day after the conclusion of the regional school unit budget meeting or after the close of the polls must be marked "rejected" by the municipal clerk.

F. The article to be voted on must be in the following form:

(1) "Do you favor approving the (name of regional school unit) budget for the upcoming school year that was adopted at the latest (name of regional school unit) budget meeting? Yes No"

4. Failure to approve budget. If the voters do not validate the budget approved in the regional school unit budget meeting at the budget validation referendum vote, the regional school unit board shall hold another regional school unit budget meeting in accordance with this section and section 1485 at least 10 days but no longer than 45 days after the referendum to vote on a budget approved by the regional school unit board. The budget approved at the regional school unit budget meeting must be submitted to the voters for validation at referendum in accordance with this section. The process must be repeated until a budget is approved at a regional school unit budget meeting and validated at referendum. If a budget is not approved and validated before July 1st of each year, section 1487 applies.

§1487. Failure to pass budget

If a budget for the operation of a regional school unit is not approved prior to July 1st, the latest budget approved at a regional school unit budget meeting and submitted to the voters for validation at a referendum in accordance with section 1486 is automatically considered the budget for operational expenses for the ensuing year until a final budget is approved, except that, when the regional school unit board delays the regional school unit budget meeting, the operating budget must be approved within 30 days of the date the commissioner notifies the regional school unit board of the amount allocated to the regional school unit under section 15689-B, or the latest budget submitted by the regional school unit board becomes the operating budget for the next school year until a budget is approved at a regional school unit budget meeting and validated at a

referendum. If the budget of a regional school unit is not approved and validated before July 1st and the officers of any affected municipality determine that the property taxes must be committed in a timely manner to the collector pursuant to Title 36, section 709, the municipal assessor or assessors may commit the property taxes on the basis of the latest budget approved at a regional school unit budget meeting and submitted to the voters for validation at a referendum in accordance with section 1486.

CHAPTER 111
MUNICIPAL SCHOOLS

§2307. School budgets

Notwithstanding any other law, municipal school budgets developed after January 1, 2008 must follow the same school budget requirements as regional school units pursuant to chapter 103-A, except as described in subsections 1 and 2. A municipal school unit is deemed to be a regional school unit solely for the purpose of developing a budget pursuant to chapter 103-A. A municipality has the same authority to commit property taxes as provided in section 1487.

1. Budget meeting. In charter municipalities the budget meeting required by section 1485, subsection 3 must be a meeting of the municipal council or other municipal legislative body established by the charter with authority to approve the budget.

2. Municipal charter. In charter municipalities where the municipal charter confers upon a municipal council or other municipal legislative body the authority to determine the total amount of the school budget and confers upon the school committee or school board the authority to direct the expenditure of those funds for school purposes, the municipal council or other municipal legislative body shall determine the total amount of the school budget to be submitted to a budget validation referendum and the school committee or school board shall determine the allocation of the approved school budget among the cost centers of the cost center summary budget format.

CHAPTER 201
GENERAL PROVISIONS

§4001. Facilities

The following provisions shall apply to school facilities.

1. Maintenance and repairs. A school administrative unit shall repair, improve and maintain its facilities with funds from its own budget.

2. Erect buildings. A school administrative unit may raise money to erect and equip school buildings.

3. Lease. A school administrative unit may lease facilities and other property.

A. The term of a lease must be at least equal to the period during which similar property of the unit is used. A lease may not exceed a term of 10 years.

B. A lease of classroom space shall provide for its exclusive use by the unit during the period of instruction. A lease may provide for the nonexclusive use of other property, but that property may be used for housing only in emergencies.

C. Leased property shall be considered property of the unit in all respects.

D. A lease may not be eligible for the state school subsidy unless it is approved by the commissioner before it is signed.

3-A. Long-term leases authorized. Notwithstanding the provisions of subsection 3, paragraph A, the school committee of the Town of Blue Hill is authorized to lease for school purposes, for one or more terms of up to 99 years each, the existing site of the Blue Hill Consolidated School and up to 20 acres of adjacent land and any buildings located thereon, on terms and conditions as may be approved by the Blue Hill School Committee, and during the term or terms of any leases which may be entered into by the Blue Hill School Committee, the leased premises shall constitute school property for all purposes including, without limitation, school construction projects, provided that any school construction projects on the leased premises shall be subject to the requirements of chapter 609 and its successor provisions.

4. Financing. School administrative units may, with approval of the legislative body, arrange financing for maintenance of plant and minor remodeling.

5. Capital reserve fund. School administrative units may establish a capital reserve fund for maintenance of plant and minor remodeling.

6. Insurance. School administrative units shall carry fire insurance and allied coverage in the amount of the replacement cost of any school construction project. The commissioner may adjust the amount of coverage required if insurance cannot be obtained at a reasonable cost.

7. Maintenance and capital improvement program. A school administrative unit, including the unorganized territories, shall establish and maintain a maintenance and capital improvement program for all school facilities.

CHAPTER 221
SCHOOL RECORDS, AUDITS AND REPORTS

§6101. Record of directory information

The following provisions apply to employee records.

1. Contents. A school administrative unit shall maintain a record of directory information on each employee as follows:

A. Name;

B. Dates of employment;

C. Regular and extracurricular duties, including all courses taught in that school administrative unit;

D. Post-secondary educational institutions attended;

E. Major and minor fields of study recognized by the post-secondary institutions attended; and

F. Degrees received and dates awarded.

2. Access. The following provisions apply to access of employee records.

A. The record of directory information shall be available for inspection and copying by any person.

B. Except as provided in paragraph A, information in any form relating to an employee or applicant for employment, or to the employee's immediate family, must be kept confidential if it relates to the following:

(1) All information, working papers and examinations used in the examination or evaluation of all applicants for employment;

(2) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(3) Performance evaluations, personal references and other reports and evaluations reflecting on the quality or adequacy of the employee's work or general character compiled and maintained for employment purposes;

(4) Credit information;

(5) Except as provided by subsection 1, the personal history, general character or conduct of the employee or any member of the employee's immediate family;

(6) Complaints, charges of misconduct, replies to complaints and charges of misconduct and memoranda and other materials pertaining to disciplinary action;

(7) Social security number;

(8) The teacher action plan and support system documents and reports maintained for certification purposes; and

(9) Criminal history record information obtained pursuant to section 6103.

C. Any written record of a decision involving disciplinary action taken with respect to an employee by the governing body of the school administrative unit shall not be included within any category of confidential information set forth in paragraph B.

3. Commissioner's review. The commissioner shall have access to any of the records or documents designated as confidential in this section for carrying out the commissioner's duties pursuant to section 13020. Copies of any such records or documents shall simultaneously be provided to the employee.

The commissioner shall also have access to support system documents for carrying out the commissioner's certification and support system approval duties pursuant to chapter 502 and to other confidential employee records for carrying out the commissioner's school approval duties pursuant to chapter 206.

CHAPTER 225
PENALTIES

§6807. Liability for injury to books or appliances

If a public school student loses, destroys or unnecessarily injures a schoolbook or appliance furnished to the student at the expense of the school administrative unit, the student's parent must be notified. If the loss or damage is not made good to the satisfaction of the school board within 45 working days, the board shall report the case to the assessors of the municipality in which the student resides. The municipal assessors shall include in the next municipal tax of the delinquent parent the replacement costs of the book or appliance, to be assessed and collected as other municipal taxes, and the money collected must go the municipality.

CHAPTER 606-B
ESSENTIAL PROGRAMS AND SERVICES

§15670. Short title

This chapter may be known and cited as "the Essential Programs and Services Funding Act."

§15671. Essential programs and services

Essential programs and services are those educational resources that are identified in this chapter necessary to ensure the opportunity for all students to meet the standards in the 8 content standard subject areas and goals of the system of learning results established in chapter 222. In order to achieve this system of learning results, school funding based on essential programs and services must be available in all schools on an equitable basis. Essential programs and services utilize resources that are currently provided or could be adapted to implement a system of learning results, as well as additional resources including federal funds that are also needed to ensure that these programs and services are available to all students. These essential programs and services must provide the basis for the system of school funding no later than 2007-08. School funding must be adequate to fully provide for all of the staffing and other material resource needs of the essential programs and services identified by the Legislature.

1. State and local partnership. The State and each local school administrative unit are jointly responsible for contributing to the cost of the components of essential programs and services described in this chapter. The state contribution to the cost of the components of essential programs and services must be made in accordance with this subsection:

A. The level of the state share of funding attributable to the cost of the components of essential programs and services must be at least 50% of eligible state and local General Fund education costs statewide, no later than fiscal year 2006-07; and

B. By fiscal year 2008-09 the state share of the total cost of funding public education from kindergarten to grade 12, as described by essential programs and services, must be 55%. Beginning in fiscal year 2005-06 and in each fiscal year until fiscal year 2008-09, the state share of essential programs and services described costs must increase toward the 55% level required in fiscal year 2008-09.

Beginning in fiscal year 2005-06 and in each fiscal year thereafter, the commissioner shall use the funding level determined in accordance with this section as the basis for a recommended funding level for the state share of the cost of the components of essential programs and services.

1-A. State funding for kindergarten to grade 12 public education. Beginning in fiscal year 2017-18 and in each fiscal year thereafter until the state share percentage of the total cost of funding public education from kindergarten to grade 12 reaches 55% pursuant to subsection 7, paragraph B, the State shall increase the state share percentage of the funding for the cost of essential programs and services by at least one percentage point per year over the percentage of the previous year and the department, in allocating funds, shall make this increase in funding a priority. For those fiscal years that the funding appropriated or allocated for the cost of essential programs and services is not sufficient to increase the state share percentage of the total cost of funding public education from kindergarten to grade 12 by at least one percentage point, no new programs or initiatives may be established for kindergarten to grade 12 public education within the department that would divert funds that would otherwise be distributed as general purpose aid for local schools pursuant to subsection 5.

2. Per-pupil rate amounts. A per-pupil rate represents an amount of funds that is to be made available for each subsidizable pupil. Per-pupil rates are determined pursuant to section 15676.

3. Specialized student populations. In recognition that educational needs can be more costly for some student populations than for others, special student populations are specifically addressed in sections 15675 and 15681-A, subsection 2.

4. Educational cost components outside the per-pupil rate. A per-pupil rate is not a suitable method for allocation of all educational cost components. These components may include, but are not limited to, debt service, transportation, bus purchases, career and technical education, small school adjustments, teacher educational attainment and longevity of service and adjustments to general purpose aid. The funding methodology of these educational cost components must be established based on available research.

5. Local control of expenditures. Except for those components that are targeted funds, funds provided for the essential programs and services described in this section must be distributed as general purpose aid for local schools, and each school administrative unit shall make its own determination regarding the configuration of resources best suited for its pupils and how to allocate available funds for these resources.

5-A. Funds from casino slot machines or table games. Revenues received by the department from casino slot machines or casino table games pursuant to Title 8, section 1036, subsection 2-A, paragraph A or Title 8, section 1036, subsection 2-B, paragraph A must be distributed as general purpose aid for local schools, and each school administrative unit shall make its own determination as to how to allocate these resources. Neither the Governor nor the

Legislature may divert the revenues payable to the department to any other fund or for any other use. Any proposal to enact or amend a law to allow distribution of the revenues paid to the department from casino slot machines or casino table games for another purpose must be submitted to the Legislative Council and to the joint standing committee of the Legislature having jurisdiction over education matters at least 30 days prior to any vote or public hearing on the proposal.

6. Targeted funds. Funds for technology, implementation of a standards-based system and the costs of additional investments in educating children in kindergarten to grade 2 as described in section 15681 must be provided as targeted allocations. School administrative units shall submit a plan for the use of these funds and receive funding based on approval of the plan by the commissioner. State funds for extended learning provided above the basic economically disadvantaged student adjustment in section 15675, subsection 2 must also be provided as targeted allocations and restricted to approved programs that benefit economically disadvantaged students.

7. Transition; annual targets. To achieve the system of school funding based on essential programs and services required by this section, the following annual targets are established.

A. The base total calculated pursuant to section 15683, subsection 2 is subject to the following annual targets.

(1) For fiscal year 2005-06, the target is 84%.

(2) For fiscal year 2006-07, the target is 90%.

(3) For fiscal year 2007-08, the target is 95%.

(4) For fiscal year 2008-09, the target is 97%.

(5) For fiscal year 2009-10, the target is 97%.

(6) For fiscal year 2010-11, the target is 97%.

(7) For fiscal year 2011-12, the target is 97%.

(8) For fiscal year 2012-13, the target is 97%.

(9) For fiscal years 2013-14, 2014-15, 2015-16, 2016-17 and 2017-18, the target is 97%.

(10) For fiscal year 2018-19 and succeeding years, the target is 100%.

B. The annual targets for the state share percentage of the statewide adjusted total cost of the components of essential programs and services are as follows.

(1) For fiscal year 2005-06, the target is 52.6%.

(2) For fiscal year 2006-07, the target is 53.86%.

(3) For fiscal year 2007-08, the target is 53.51%.

(4) For fiscal year 2008-09, the target is 52.52%.

(5) For fiscal year 2009-10, the target is 48.93%.

(6) For fiscal year 2010-11, the target is 45.84%.

(7) For fiscal year 2011-12, the target is 46.02%.

(8) For fiscal year 2012-13, the target is 45.87%.

(9) For fiscal year 2013-14, the target is 47.29%.

(10) For fiscal year 2014-15, the target is 46.80%.

(11) For fiscal year 2015-16, the target is 47.54%.

(12) For fiscal year 2016-17, the target is 48.14%.

(13) For fiscal year 2017-18, the target is 49.14%.

(14) For fiscal year 2018-19, the target is 49.77%.

(15) For fiscal year 2019-20, the target is 50.78%.

(16) For fiscal year 2020-21, the target is 51.78%

C. Beginning in fiscal year 2011-12, the annual targets for the state share percentage of the total cost of funding public education from kindergarten to grade 12 including the cost of the components of essential programs and services plus the state contributions to the unfunded actuarial liabilities of the Maine Public Employees Retirement System that are attributable to teachers, retired teachers' health insurance and retired teachers' life insurance are as follows.

(1) For fiscal year 2011-12, the target is 49.47%.

(2) For fiscal year 2012-13, the target is 49.35%.

(3) For fiscal year 2013-14, the target is 50.44%.

(4) For fiscal year 2014-15, the target is 50.13%.

(5) For fiscal year 2015-16, the target is 50.08%.

(6) For fiscal year 2016-17, the target is 50.82%.

(7) For fiscal year 2017-18, the target is 52.02%.

(8) For fiscal year 2018-19, the target is 53.37%.

(9) For fiscal year 2019-20, and subsequent fiscal years, the target is 55%.

§15671-A. Property tax contribution to public education

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

A. "Funding public education from kindergarten to grade 12" means providing the cost of funding the essential programs and services described in this chapter, including the total allocations for other subsidizable costs, debt service costs and adjustments.

B. "Local cost share expectation" means the maximum amount of money for funding public education from kindergarten to grade 12 that may be derived from property tax for the required local contribution established in section 15688, subsection 3-A.

C. "Statewide total local share" means the local share, calculated on a statewide basis, of the statewide total cost of the components of essential programs and services as adjusted, if at all, pursuant to section 15671, subsection 7 to reflect the application of the transition targets to the base total component.

D. "Statewide valuation" means the certified total state valuation for the year prior to the most recently certified total state valuation for all municipalities statewide.

2. Local cost share expectation. This subsection establishes full-value education mill rates that limit a municipality's required local contribution pursuant to section 15688, subsection 3-A. The full-value mill rates represent rates that, if applied to the statewide valuation, would produce the statewide total local share. Notwithstanding any other provision of law, with respect to the assessment of any property taxes for property tax years beginning on or after April 1, 2005, a municipality's required local contribution determined pursuant to section 15688, subsection 3-A establishes the local cost share expectation for that municipality.

A. Based on the funding requirements established in section 15671, the commissioner shall annually by February 1st notify each school administrative unit of its local cost share expectation and tabulate that local cost share expectation, total allocation and the projected state subsidy for each school administrative unit and post those tabulations, itemized by school administrative unit, on the department's publicly accessible website. Each superintendent shall report to the municipal officers whenever a school administrative unit is notified of the local cost share expectation or a change made in the local cost share expectation resulting from an adjustment.

B. The commissioner shall calculate the full-value education mill rate that is required to raise the statewide total local share. The full-value education mill rate is calculated for each fiscal year by dividing the applicable statewide total local share by the applicable statewide valuation. The full-value education mill rate must be applied according to section 15688, subsection 3-A, paragraph A to determine a municipality's local cost share expectation.

(1) For the 2005 property tax year, the full-value education mill rate is the amount necessary to result in a 47.4% statewide total local share in fiscal year 2005-06.

(2) For the 2006 property tax year, the full-value education mill rate is the amount necessary to result in a 46.14% statewide total local share in fiscal year 2006-07.

(3) For the 2007 property tax year, the full-value education mill rate is the amount necessary to result in a 46.49% statewide total local share in fiscal year 2007-08.

(4) For the 2008 property tax year, the full-value education mill rate is the amount necessary to result in a 47.48% statewide total local share in fiscal year 2008-09.

(4-A) For the 2009 property tax year, the full-value education mill rate is the amount necessary to result in a 51.07% statewide total local share in fiscal year 2009-10.

(4-B) For the 2010 property tax year, the full-value education mill rate is the amount necessary to result in a 54.16% statewide total local share in fiscal year 2010-11.

(4-C) For the 2011 property tax year, the full-value education mill rate is the amount necessary to result in a 53.98% statewide total local share in fiscal year 2011-12.

(5) For the 2012 property tax year, the full-value education mill rate is the amount necessary to result in a 54.13% statewide total local share in fiscal year 2012-13.

(6) For the 2013 property tax year, the full-value education mill rate is the amount necessary to result in a 52.71% statewide total local share in fiscal year 2013-14.

(7) For the 2014 property tax year, the full-value education mill rate is the amount necessary to result in a 53.20% statewide total local share in fiscal year 2014-15.

(8) For the 2015 property tax year, the full-value education mill rate is the amount necessary to result in a 52.46% statewide total local share in fiscal year 2015-16.

(9) For the 2016 property tax year, the full-value education mill rate is the amount necessary to result in a 51.86% statewide total local share in fiscal year 2016-17.

(10) For the 2017 property tax year, the full-value education mill rate is the amount necessary to result in a 50.86% statewide total local share in fiscal year 2017-18.

(11) For the 2018 property tax year, the full-value education mill rate is the amount necessary to result in a 50.23% statewide total local share in fiscal year 2018-19.

(12) For the 2019 property tax year, the full-value education mill rate is the amount necessary to result in a 49.22% statewide total local share in fiscal year 2019-20.

(13) For the 2020 property tax year, the full-value education mill rate is the amount necessary to result in a 48.22% statewide total local share in fiscal year 2020-21.

(14) For the 2021 property tax year and subsequent tax years, the full-value education mill rate is the amount necessary to result in a 45% statewide total local share in fiscal year 2020-21 and after.

3. Exceeding maximum local cost share expectations; separate article. Beginning with the 2005-2006 school budget, the legislative body of a school administrative unit may adopt an additional local appropriation that exceeds the local cost share expectation established by

section 15688, subsection 3-A, paragraph A only if that action is approved in a separate article by a vote of the school administrative unit's legislative body through the same process that the school budget is approved in that school administrative unit and in accordance with section 15690. If that additional appropriation causes the school administrative unit to exceed the maximum state and local spending target described in subsection 4, the requirements of subsection 5 apply.

4. Maximum state and local spending target. The maximum state and local spending target for a school administrative unit is the sum of the following costs calculated by the commissioner for the unit:

A. The base total calculated pursuant to section 15683, subsection 1 without the adjustment for transition targets under section 15671, subsection 7, paragraph A;

B. Other subsidizable costs described in section 15681-A; and

C. The debt service allocation pursuant to section 15683-A.

The commissioner shall annually notify each school administrative unit of its maximum state and local spending target.

5. Exceeding maximum state and local spending target. If the sum of a school administrative unit's required local contribution determined pursuant to section 15688, subsection 3-A plus the state contribution as calculated pursuant to section 15688, subsection 3-A, paragraph D plus any additional local amount proposed to be raised pursuant to section 15690, subsection 3 exceeds the school administrative unit's maximum state and local spending target established pursuant to subsection 4, the following provisions govern approval of that additional amount.

A. The article approving the additional amount must conform to the requirements of section 15690, subsection 3, paragraph B. Notwithstanding section 1304, subsection 6; section 1701, subsection 7; Title 30-A, section 2528, subsection 5, or any other provision of law, municipal charter provision or ordinance, voter approval of the article, whether in town meeting, district meeting or other voting process established by law, municipal charter or ordinance, including, but not limited to, any vote on the article initiated by voter petition, must be by referendum or written ballot.

B. In a municipality where the responsibility for final adoption of the school budget is vested by the municipal charter in a council, this paragraph applies, except that the petition and referendum provisions apply only if the municipal charter does not otherwise provide for or prohibit a petition and referendum process with respect to the matters described in this paragraph.

(1) A majority of the entire membership of the school board or committee must approve the additional amount in a regular budget meeting.

(2) An article approving the additional amount must conform to the requirements of section 15690, subsection 3, paragraph B and be approved by a majority of the entire membership of the council in a vote taken in accordance with section 15690, subsection 5 or, if the council votes not to approve the article, by a majority of voters voting in a referendum called pursuant to subparagraph (4).

(3) If an article is approved by the council pursuant to subparagraph (2), the voters may petition for a referendum vote on the same article in accordance with subparagraph (4). If a petition is filed in accordance with subparagraph (4), the vote of the council is suspended pending the outcome of the referendum vote. Upon approval of the article by a majority of the voters voting in that referendum, the article takes effect. If the article is not approved by a majority of the voters voting in that referendum, the article does not take effect. Subsequent to the vote, the school committee or board may again propose an additional amount, subject to the requirements of this section.

(4) If a written petition, signed by at least 10% of the number of voters voting in the last gubernatorial election in the municipality, requesting a vote on the additional amount is submitted to the municipal officers within 30 days of the council's vote pursuant to subparagraph (2), the article voted on by the council must be submitted to the legal voters in the next regular election or a special election called for the purpose. The election must be held within 45 days of the submission of the petition. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters and absentee ballots must be prepared and made available at least 14 days prior to the date of the referendum. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the election. The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the article. The results must be declared by the municipal officers and entered upon the municipal records.

§15672. Definitions

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

1. Allocation year. "Allocation year" means the year that subsidy is distributed to school administrative units.

1-A. Adjusted total cost of components of essential programs and services. "Adjusted total cost of the components of essential programs and services" means the total cost of the components of essential programs and services adjusted to reflect the application of the transition targets to the base total component as specified in section 15671, subsection 7, paragraph A.

1-B. Base year. "Base year" means the 2nd year prior to the allocation year.

1-C. Bus purchase costs. "Bus purchase costs" includes expenditures for bus purchase payments approved by the commissioner and made during the year prior to the allocation year. For bus purchases approved in fiscal year 2004-05 only, 50% of first year approved payments must be allocated in fiscal year 2006-07 and 50% of first year approved payments must be allocated in fiscal year 2007-08.

1-D. Career and technical education costs. "Career and technical education costs" for subsidy purposes means all costs incurred by the career and technical education regions, centers or satellites in providing approved secondary school and middle school level career and technical education programs, excluding transportation, capital costs and debt service.

2. Clerical staff. "Clerical staff" means full-time equivalent public school secretaries, as documented in the department's database.

2-A. Debt service costs. "Debt service costs," for subsidy purposes, includes:

A. Principal and interest costs for approved major capital projects in the allocation year, excluding payments made with funds from state and local government accounts established under the federal Internal Revenue Code and regulations for disposition of excess, unneeded proceeds of bonds issued for a school project and excluding any principal and interest costs attributable to a school closed for lack of need pursuant to chapter 202;

B. Lease costs for school buildings when the leases, including leases under which the school administrative unit may apply the lease payments to the purchase of portable, temporary classroom space, have been approved by the commissioner for the year prior to the allocation year. Lease costs include costs for leasing:

(1) Administrative space. A school administrative unit engaged in a state-approved lease-purchase agreement for administrative space is eligible for state support until July 1, 2008;

(2) Temporary and interim instructional space. Temporary space is instructional space consisting of one or more mobile or modular buildings that are portable, that are constructed on- or off-site and that can be disassembled and moved economically to a new location. Interim instructional space is fixed instructional space that a school administrative unit rents for a defined period of time and then vacates at the end of the lease.

(a) A school administrative unit with state-approved need for instructional space may lease temporary or interim space, with state support, for a maximum of 5 years. A school administrative unit may appeal to the commissioner if this limitation presents an undue burden. When making a determination on a school administrative unit's request for relief based on undue burden, the commissioner may consider, but is not limited to considering, the following:

(i) Fiscal capacity;

(ii) Enrollment demographics; and

(iii) Unforeseen circumstances not within the control of the appealing school administrative unit.

An extension granted by the commissioner beyond the 5-year maximum for state support is limited to a period of one year. Any additional request for extensions must be submitted and reviewed on an annual basis. The commissioner's decision is final.

(b) A school administrative unit with state-approved need for instructional space may engage in a lease-purchase agreement for temporary or interim instructional space with state support for a maximum of 5 years;

(3) Permanent small instructional space that replaces existing approved leased temporary or interim instructional space. Permanent small instructional space consists of new buildings or additions to existing buildings that are secured to a permanent foundation. Once an existing leased temporary or interim instructional space has been replaced by a permanent small instructional space through an approved financing agreement, that space is eligible for state support for a maximum of 10 years; and

(4) Regional programs and services space. A school administrative unit engaged in a state-approved lease-purchase agreement for regional programs and services space that serves students from 2 or more school administrative units is eligible for state support for a maximum of 5 years.

The department shall adopt rules necessary to implement this paragraph. Rules adopted by the department to implement this paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A; and

C. The portion of the tuition costs applicable to the insured value factor for the base year computed under section 5806.

2-B. Debt service adjustment mill rate. "Debt service adjustment mill rate" is the mill rate derived by dividing 45% of the debt service costs by the property fiscal capacity for all school administrative units.

3. Economically disadvantaged students. "Economically disadvantaged students" means students who are included in the department's count of students who are eligible for free or reduced-price meals or free milk or both.

4. Education technician. "Education technician" means a full-time equivalent public teacher aide or education technician I, associate teacher or education technician II or assistant teacher or education technician III but not a special education technician I, II or III, as documented in the department's database.

5. Elementary free or reduced-price meals percentage. "Elementary free or reduced-price meals percentage" means the percentage, as determined by the commissioner, that reflects either:

A. The actual percentage of elementary students in a school administrative unit who are eligible to receive free or reduced-price meals or free milk or both; or

B. The commissioner's estimated percentage of elementary students in a school administrative unit who are eligible to receive free or reduced-price meals or free milk or both.

6. Elementary grades. "Elementary grades" means public preschool programs to grade 8.

7. Elementary school level. "Elementary school level" means the grades from public preschool programs to grade 5.

7-A. EPS per-pupil rate. "EPS per-pupil rate" means the rate calculated under section 15676 or 15676-A, as applicable.

7-B. English learner. "English learner" means a student who has a primary or home language other than English, as determined by a language use survey developed by the department; who is not yet proficient in English, as determined by a state-approved English language proficiency assessment; and who satisfies the definition of an English learner under the federal Elementary and Secondary Education Act of 1965, as amended, 20 United States Code, Chapter 70.

8. Essential programs and services. "Essential programs and services" means those educational resources that are identified in this chapter that enable all students to meet the standards in the 8 content standard subject areas and goals of the system of learning results established in chapter 222.

9. Essential programs and services transition percentage. "Essential programs and services transition percentage" means the percentage of the base total calculated pursuant to section 15671, subsection 7, paragraph A.

9-A. Gifted and talented costs. "Gifted and talented costs" means the cost of programs for gifted and talented students that have been approved by the commissioner.

10. Grade 9 to 12 portion. "Grade 9 to 12 portion" means those pupils in the secondary grades or high school level.

11. Guidance staff. "Guidance staff" means full-time equivalent public guidance counselors, directors of guidance or school social workers, as documented in the department's database.

12. Health staff. "Health staff" means full-time equivalent public school nurses, as documented in the department's database.

13. High school level. "High school level" means grade 9 to grade 12.

13-A. Institutional resident. "Institutional resident" means a person between 5 years of age and 20 years of age who is attending a public school of the school administrative unit and who is committed or otherwise legally admitted to and residing at a state-operated institution. "Institutional resident" does not include students attending private facilities, regardless of the means of placement.

14. Income weight. (Repealed)

14-A. Kindergarten. "Kindergarten" means kindergarten or a prekindergarten early education program for students who are at least 4 years of age on October 15th of the school year.

15. Kindergarten to grade 8 portion. "Kindergarten to grade 8 portion" means those pupils in the elementary grades or a combination of the elementary school level and middle school level.

16. Kindergarten to grade 2 student. "Kindergarten to grade 2 student" means a student in any grade from prekindergarten to grade 2 who is at least 4 years old on October 15th of the school year.

17. Librarian. "Librarian" means a full-time equivalent public librarian or media specialist, as documented in the department's database.

18. Limited English proficiency student. (Repealed)

18-A. Major capital costs. "Major capital costs" means costs relating to school construction projects, as defined in section 15901.

19. Media assistant. "Media assistant" means a full-time equivalent public librarian aide or library technician I, librarian assistant or library technician II or librarian associate or library technician III, as documented in the department's database.

20. Middle school level. "Middle school level" means grade 6 to grade 8.

20-A. Minor capital costs. "Minor capital costs" means costs relating to plant maintenance, minor remodeling, site development or the purchase of land not in conjunction with a construction project.

A. "Minor capital costs" does not include construction of new buildings or the purchase of land in conjunction with a school construction project.

B. Expenditures to repay funds borrowed for minor capital expenditures must be considered minor capital costs in the year in which these funds are repaid.

C. Purchase of land made in accordance with this subsection must be approved:

(1) By the legislative body of the school administrative unit; and

(2) By the commissioner, under rules adopted for this purpose.

21. Municipality. "Municipality" means a city, town or organized plantation.

21-A. Other subsidizable costs. "Other subsidizable costs" means those costs identified in section 15681-A. These costs are part of the total operating allocation under section 15683.

21-B. Portable, temporary classroom space. "Portable, temporary classroom space" means one or more mobile or modular buildings that are at least partially constructed off site and that are designed to be moved to other sites with a minimum of disassembly and reassembly.

22. Per-pupil guarantee. (Repealed)

22-A. Predicted per-pupil transportation costs. "Predicted per-pupil transportation costs" means the greater of:

A. A pupil density model based on the net cost per resident pupil for each school administrative unit that is predicted by pupil density per mile of Class 1 to Class 5 roads in the school administrative unit and approved adjustments; and

B. The average of the pupil density model under paragraph A and an odometer miles model based on the gross cost per pupil conveyed for each school administrative unit that is predicted by the odometer miles traveled per pupil conveyed by the school administrative unit.

Approved adjustments include a per-mile rate equal to the state average gross transportation operating costs per mile driven for transportation associated with out-of-district special education programs, up to 2 round trips per day to each facility for transportation associated with career and technical education programs, and adjustments for expenditures for ferry services within a school administrative unit, transportation of homeless children in accordance with section 5205 and transportation costs of island school administrative units.

23. Property fiscal capacity. "Property fiscal capacity" means:

A. Prior to fiscal year 2014-15, the certified state valuation for the year prior to the most recently certified state valuation;

B. For fiscal year 2014-15, the average of the certified state valuations for the 2 most recent years prior to the most recently certified state valuation;

C. For fiscal years 2015-16, 2016-17 and 2017-18, the average of the certified state valuations for the 3 most recent years prior to the most recently certified state valuation;

D. For fiscal year 2018-19, the average of the certified state valuations for the 2 most recent years prior to the most recently certified state valuation; and

E. For fiscal year 2019-20 and each subsequent fiscal year, the average of the certified state valuations for the 3 most recent years prior to the most recently certified state valuation or the certified state valuation for the most recent prior year, whichever is lower.

24. Property weight. (Repealed)

25. School administrative staff. "School administrative staff" means full-time equivalent public school principals and assistant principals, as documented in the department's database.

25-A. School administrative unit. "School administrative unit" means a school administrative unit as defined by section 1, subsection 26, paragraphs A to G.

26. School administrative unit's local contribution to EPS per-pupil rate. "School administrative unit's local contribution to the EPS per-pupil rate" means the funds that a school administrative unit provides for each subsidizable pupil who resides in that unit.

27. School administrative unit's state contribution to EPS per-pupil rate. "School administrative unit's state contribution to the EPS per-pupil rate" means the funds that the State provides to a school administrative unit for each subsidizable pupil who resides in that unit.

28. School level. "School level" means elementary level, middle school level and high school level.

29. School level teaching staff. "School level teaching staff" means full-time equivalent public classroom teachers, itinerant classroom teachers and special teachers of reading or literacy specialists excluding special education teachers and career and technical education teachers, as documented in the department's database.

30. Secondary grades. "Secondary grades" means grade 9 to grade 12.

30-A. Special education costs. "Special education costs" for subsidy purposes includes:

A. The salary and benefit costs of certified professionals, assistants and aides or costs of persons contracted to perform a special education service;

B. The costs of tuition and board to other schools for programs that have been approved by the commissioner and not paid directly by the State. Medical costs are not allowable as part of a tuition charge;

C. The following preschool handicapped services:

(1) The salary and benefit costs of certified professionals, assistants and aides or persons contracted to perform preschool handicapped services that have been approved by the commissioner; and

(2) The cost of tuition to other schools for programs that have been approved by the commissioner; and

D. Special education costs that are the costs of educational services provided to students who are temporarily unable to participate in regular school programs. Students who may be included are pregnant students, hospitalized students or those confined to their homes for illness or injury, students involved in substance use disorder programs within hospital settings or in residential rehabilitation facilities licensed by the Department of Health and Human Services for less than 6 weeks duration or students suffering from other temporary conditions that prohibit their attendance at school. Students served under this paragraph may not be counted as children with disabilities for federal reporting purposes.

30-B. State-operated institution. "State-operated institution" means any residential facility or institution that is operated by the Department of Health and Human Services or a school operated by the Department of Education.

31. State share percentage. "State share percentage" means the percentage of the state contribution determined under section 15688, subsection 3-A, paragraph D divided by the total cost determined in section 15688, subsection 1.

31-A. State subsidy. "State subsidy" means the total of the state contribution determined under section 15688, subsection 3-A, paragraph D and any applicable adjustment under section 15689.

31-B. Subsidizable costs. "Subsidizable costs" includes the costs described in paragraphs A to C and used to calculate the total allocation amount:

A. The total operating allocation under section 15683;

B. Debt service cost; and

C. Adjustments and miscellaneous costs under sections 15689 and 15689-A including special education tuition and board, excluding medical costs. For purposes of this paragraph, "special education tuition and board" means:

(1) Tuition and board for pupils placed directly by the State in accordance with rules adopted or amended by the commissioner; and

(2) Special education tuition and other tuition for institutional residents of state-operated institutions attending programs in school administrative units or private schools in accordance with rules adopted or amended by the commissioner.

32. Subsidizable pupils. "Subsidizable pupils" means all school level pupils who reside in a school administrative unit and who are educated at public expense at a public school or at a private school approved for tuition purposes.

32-A. Total allocation. "Total allocation" means the total of the operating allocation as described in section 15683 and the debt service allocation as described in section 15683-A.

Nonsubsidizable costs are not considered in the calculation of the total allocation. "Nonsubsidizable costs" includes the following:

A. Community service costs;

B. Major capital costs;

C. Expenditures from all federal revenue sources, except for amounts received under United States Public Law 81-874;

D. Transportation costs not associated with transporting students from home to school and back home each day; and

E. Costs payable to the Maine Public Employees Retirement System under Title 5, section 17154, subsections 10 and 11.

32-B. Total cost of components of essential programs and services. "Total cost of the components of essential programs and services" means the total of the following components:

A. The base total determined pursuant to section 15683, subsection 1;

B. Other subsidizable costs identified in section 15681-A;

C. Debt service costs;

D. Adjustments determined pursuant to section 15689; and

E. Miscellaneous costs appropriated pursuant to section 15689-A.

32-C. Transportation operating costs. "Transportation operating costs" means all costs incurred in the transportation of pupils in kindergarten to grade 12, including lease costs for bus garage and maintenance facilities and lease-purchase costs that the school administrative unit may apply to the purchase of bus garage and maintenance facilities, when the leases and lease-purchase agreements have been approved by the commissioner, but excluding the costs of bus purchases and excluding all costs not associated with transporting students from home to school and back home each day. The amount includable for determining the subsidy for a school administrative unit for lease-purchase of bus garage and maintenance facilities may not exceed the amount for the lease of a comparable facility.

32-D. Vocational education costs. (Repealed)

32-E. Year. "Year" means a fiscal year starting July 1st and ending June 30th of the succeeding year.

33. Year of funding. "Year of funding" means the fiscal year during which state subsidies are disbursed to school administrative units, except as specified in section 15005, subsection 1.

§15673. Relationship to School Finance Act of 1985 (REPEALED)

§15674. Pupil counts

1. Pupil counts used for determination of operating costs. In addition to the additional weighted counts authorized under section 15675 and except as provided in subsection 2, the pupil count used for operating costs in this Act is the sum of:

A. The average number of secondary school-age persons enrolled in an adult education course counted during the most recent calendar year counted pursuant to section 8605, subsection 2;

B. The average number of students in equivalent instruction programs during the most recent calendar year, as reported pursuant to section 5021, subsection 8; and

C. Beginning in fiscal year 2018-19:

(1) The average of the pupil counts for October 1st of the 2 most recent calendar years prior to the year of funding, reported in accordance with section 6004, including the counts of students enrolled in an alternative education program made in accordance with section 5104-A.

2. Exception. Notwithstanding subsection 1, paragraph C, the pupil count identified in subsection 1, paragraph C, subparagraph (1) must be used for:

A. Elementary school level and middle school level students for school administrative units that send all their elementary school level and middle school level students as tuition students to schools elsewhere in the State;

B. High school level students for school administrative units that send all their high school level students as tuition students to schools elsewhere in the State; and

C. School level students for school administrative units that send all their school level students to schools elsewhere in the State.

3. Pupil count for public preschool programs. Beginning with funding for the 2015-2016 school year, the pupil count for students 4 years of age and students 5 years of age attending public preschool programs must be based on the most recent October 1st count prior to the year of funding.

§15675. Specialized student populations; additional weights

For the purpose of calculating the total operating allocation under this chapter pursuant to section 15683, the following additional weights must be added to the per-pupil count calculated under section 15674, subsection 1, paragraph C, subparagraph (1).

1. English learners. The additional weights for school administrative units with English learners are as follows:

A. For a school administrative unit with 15 or fewer English learners, the unit receives an additional weight of .70 per student;

B. For a school administrative unit with more than 15 and fewer than 251 English learners, the unit receives an additional weight of .50 per student;

C. For a school administrative unit with 251 or more English learners, the unit receives an additional weight of .525 per student; and

2. Economically disadvantaged students. For each economically disadvantaged student, an eligible school administrative unit receives the following additional weights:

A. An additional weight of .15. The number of economically disadvantaged students for each school administrative unit is determined by multiplying the number of resident pupils in the most recent calendar year by the most recent available elementary free or reduced-price meals percentage. The elementary free or reduced-price meals percentage may be applied to determine the number of economically disadvantaged students in the unit's secondary grades; and

B. An additional weight for approved extended learning programs that specifically benefit economically disadvantaged students equal to .05. The commissioner shall approve qualifying extended learning programs based on evidence-based research by a statewide education policy research institute.

To be eligible to receive funds under this paragraph, a school administrative unit must certify that any funds previously received under this section and any funds that will be received are used in direct support of learning for economically disadvantaged students through summer schools, extended learning programs, tutoring and other evidence-based practices conforming

to rules developed by the department and informed by evidence from a statewide education policy research institute.

3. Public preschool program to grade 2 students. If a school administrative unit is eligible to receive targeted funds for its public preschool to grade 2 program under section 15681, then for each public preschool program to grade 2 student the unit receives an additional weight of .10.

A. For purposes of the additional weight under this subsection, the count of public preschool program to grade 2 students is calculated based on the number of resident pupils in the most recent calendar year. Beginning with funding for the 2015-2016 school year, the pupil count for students 4 years of age and students 5 years of age attending public preschool programs must be based on the most recent October 1st count prior to the allocation year.

B. Only school administrative units with public preschool to grade 2 programs approved by the department are eligible for funds pursuant to this subsection or other comparable index.

C. Funds provided pursuant to this subsection may be expended only on behalf of public preschool program to grade 2 students.

§15676. EPS per-pupil rate

For each school administrative unit, the commissioner shall calculate the unit's EPS per-pupil rate for each year as the sum of:

1. Teaching staff costs. Beginning July 1, 2017, the salary and benefit costs for school level teaching staff that are necessary to carry out this Act, calculated in accordance with section 15678 and adjusted by the regional adjustment under section 15682;

2. Other staff costs. Beginning July 1, 2017, the salary and benefit costs for school-level staff who are not teachers, but including substitute teachers, that are necessary to carry out this Act, calculated in accordance with section 15679 and adjusted by the regional adjustment under section 15682; and

3. Additional costs. The per-pupil amounts not related to staffing, calculated in accordance with section 15680.

The EPS per-pupil rate is calculated on the basis of which schools students attend. For school administrative units that do not operate their own schools, the EPS per-pupil rate is calculated under section 15676-A.

§15676-A. EPS per-pupil rate for units that do not operate schools

1. Definitions. For purposes of this section, the following terms have the following meanings.

A. "Receiving unit" means the school administrative unit to which students are sent by the sending unit.

B. "Receiving unit cost" means the amount arrived at by multiplying the receiving unit's EPS rate by the number of students sent to that unit by the sending unit.

C. "Sending unit" means the school administrative unit sending students to other school administrative units.

2. Calculation of EPS per-pupil rate. For school administrative units that do not operate certain types of schools, the commissioner shall calculate that unit's EPS per-pupil rate for each year as follows.

A. For units that do not operate elementary grade schools, the EPS per-pupil rate for elementary grades is calculated by multiplying the number of students sent by the sending unit to an elementary grade receiving unit multiplied by the receiving unit's EPS per-pupil rate for elementary grades and the result divided by the number of students sent by the sending unit to that elementary grade receiving unit. If the sending unit sends students to more than one elementary grade receiving unit, then the elementary grade receiving unit cost for each student sent by the sending unit is added and the result divided by the total number of students sent to elementary grade receiving units by the sending unit. The result is the average elementary grade EPS per-pupil rate for the sending unit.

The EPS per-pupil rate for private schools approved for tuition purposes under chapter 117 is the statewide average EPS per-pupil rate for elementary grades. The elementary attending student count is the most recent October 1st count prior to the allocation year.

B. For units that do not operate secondary grade schools, the EPS per-pupil rate for secondary grades is calculated by multiplying the number of students sent by the sending unit to a secondary grade receiving unit multiplied by the receiving unit's EPS per-pupil rate for secondary grades and the result divided by the number of students sent by the sending unit to that secondary grade receiving unit. If the sending unit sends students to more than one secondary grade receiving unit, then the secondary grade receiving unit cost for each student sent by the sending unit is added and the result divided by the total number of students sent to secondary grade receiving units by the sending unit. The result is the average secondary grade EPS per-pupil rate for the sending unit.

The EPS per-pupil rate for private schools approved for tuition purposes under chapter 117 is the statewide average EPS per-pupil rate for secondary grades. The secondary attending student count is the most recent October 1st count prior to the allocation year.

§15677. Salary matrix

1. Salary matrix defined. For purposes of this section, "salary matrix" means the relationships on a statewide basis between average staff salaries and:

A. Years of staff experience; and

B. Levels of staff education.

2. Determination of matrix. The salary matrix must be determined in accordance with the following.

A. For fiscal year 2005-06, the commissioner, using information provided by a statewide education policy research institute, shall establish the salary matrix based on the most recently available relevant data and appropriate trends in the Consumer Price Index or other comparable index.

B. For fiscal year 2006-07 and each subsequent year, the commissioner shall update the previous year's salary matrix to reflect appropriate trends in the Consumer Price Index or other comparable index.

§15678. Calculation of salary and benefit costs; school level teaching staff

1. Salary and benefit costs; teaching positions. The commissioner shall annually determine, for each school administrative unit, the salary and benefit costs of all school level teaching positions that are necessary to carry out this Act.

2. Ratios. In calculating the salary and benefit costs pursuant to this section, the commissioner shall utilize the following student-to-teacher ratios.

A. For the elementary school level, the student-to-teacher ratio is 17:1.

B. For the middle school level, beginning July 1, 2017, the student-to-teacher ratio is 17:1.

C. For the high school level, beginning July 1, 2017, the student-to-teacher ratio is 16:1.

D. For the kindergarten level, beginning July 1, 2018, the student-to-teacher ratio is 15:1.

3. Number of teaching positions required. The commissioner shall identify for each school administrative unit, using the pupil count arrived at under section 15674, subsection 1, paragraph C, subparagraph (1), the number of school level teaching positions that are required in order to achieve the student-to-teacher ratios set forth in subsection 2.

4. Estimated salary costs. The commissioner shall determine the estimated salary cost for the number of school level teaching positions required under subsection 3. In order to calculate this amount, the commissioner shall use the salary matrix pursuant to section 15677 for all school level teaching positions in each category.

5. Total salary and benefit costs for school level teaching staff. The total salary and benefit costs for school level teaching staff are equal to the sum of:

A. The amount identified pursuant to subsection 4; and

B. The amount, as determined by the commissioner, that equals the statewide percentage of salary costs that represents the statewide average benefit costs. [

§15679. Calculation of salary and benefit costs; other school level staff

1. Salary and benefit costs; other school level positions. The commissioner shall annually determine, for each school administrative unit, the salary and benefit costs of all school

level positions other than teaching positions, referred to in this section as "staff," that are necessary to carry out this Act.

2. Students-to-staff ratios. In calculating the salary and benefit costs pursuant to this section, the commissioner shall utilize the student-to-staff ratios specified in paragraphs A and B and adjusted as provided in paragraph C.

A. For the elementary school level and the middle school level:

(1) Beginning July 1, 2017, the student-to-education technician ratio is 114:1 for the elementary school level and 312:1 for the middle school level;

(2) The student-to-guidance staff ratio is 350:1;

(3) The student-to-librarian ratio is 800:1;

(4) The student-to-media assistant ratio is 500:1;

(5) The student-to-health staff ratio is 800:1;

(6) The student-to-school administrative staff ratio is 305:1; and

(7) The student-to-clerical staff ratio is 200:1.

B. For the high school level:

(1) Beginning July 1, 2017, the student-to-education technician ratio is 316:1;

(2) The student-to-guidance staff ratio is 250:1;

(3) The student-to-librarian ratio is 800:1;

(4) The student-to-media assistant ratio is 500:1;

(5) The student-to-health staff ratio is 800:1;

(6) The student-to-school administrative staff ratio is 315:1; and

(7) The student-to-clerical staff ratio is 200:1.

C. Beginning in fiscal year 2012-13, and for each subsequent fiscal year, if the total attending student population for a school administrative unit is less than 1,200 students, the commissioner shall reduce the ratios set forth in paragraphs A and B by 10%.

3. Number of staff positions required. The commissioner shall identify for each school administrative unit, using the pupil count arrived at under section 15674, subsection 1, paragraph C, subparagraph (1), the number of staff positions that are required in order to achieve the student-to-staff ratios set forth in subsection 2.

4. Estimated salary costs. The commissioner shall determine the estimated salary costs for the number of staff positions required under subsection 3. In order to calculate this amount, the commissioner, where appropriate, shall use the salary matrix pursuant to section 15677 for all staff positions in each category.

5. Salary costs for substitute teachers. The commissioner shall calculate the additional salary costs for substitute teachers for each school administrative unit using the pupil count arrived at under section 15674, subsection 1, paragraph C, subparagraph (1). In order to calculate this amount, the commissioner shall establish a per-pupil rate for the cost of a substitute teacher for 1/2 day.

6. Total salary and benefit costs for staff. The total salary and benefit costs for staff is equal to the sum of:

A. The estimated salary costs determined pursuant to subsection 4;

B. The amount, as determined by the commissioner, that equals the statewide percentage of estimated salary costs determined pursuant to subsection 4 that represents the statewide benefit costs; and

C. The substitute teacher salary costs determined pursuant to subsection 5.

§15680. Per-pupil amounts not related to staffing

1. Additional cost components. The commissioner shall calculate one set of per-pupil amounts for each of the following cost categories to be applied to the elementary school level and middle school level and shall calculate another set of per-pupil amounts for each of the following cost categories to be applied to the high school level:

A. (Repealed)

B. Operation and maintenance of plant. The per-pupil amount for "operation and maintenance of plant" is the actual operation and maintenance of plant expenditures, as defined in the State's accounting handbook for local school systems, for the most recent year available excluding expenditures for leases and the purchase of land and buildings, divided by the average October and April enrollment counts for that fiscal year and then inflated to an estimated allocation year level by a 10-year average increase in the Consumer Price Index or other comparable index. For school year 2008-2009, the resulting per-pupil amount must be reduced by 5%;

C. Supplies and equipment;

D. Cocurricular and extracurricular activities;

E. Professional development; and

F. Instructional leadership support.

2. Fiscal year 2005-06. For fiscal year 2005-06, the commissioner shall submit the per-pupil amounts for additional cost components under subsection 1 to the state board for approval.

3. Fiscal year 2006-07 and beyond. For fiscal year 2006-07 and for each subsequent year, the commissioner shall recalculate the per-pupil amounts for additional cost components under subsection 1 using the amounts approved by the state board under subsection 2 as a base and appropriate trends in the Consumer Price Index or other comparable index.

4. Review; approval. (Repealed)

§15680-A. System administration allocation

Beginning in fiscal year 2017-18, the commissioner shall determine system administration allocation in accordance with this section based on the number of subsidizable students determined pursuant to section 15674.

1. Fiscal year 2017-18. (Repealed)

2. Fiscal year 2018-19. (Repealed)

3. Fiscal year 2019-20. For fiscal year 2019-20, the system administration allocation is $141 per pupil. Of this amount, $47 must be allocated to the school administrative unit for system administration and $94 must be allocated as a targeted amount to school administrative units that have established regionalized administrative services pursuant to chapter 123.

4. Beginning in fiscal year 2020-21. Beginning in fiscal year 2020-21, the system administration allocation is $135 per pupil.

§15681. Targeted funds

1. Eligibility. In order for a school administrative unit to receive targeted funds under this section, the school administrative unit must meet the following eligibility criteria.

A. To receive targeted student assessment funds calculated pursuant to subsection 2, a school administrative unit must be in compliance with applicable state statutes and department rules regarding local assessment systems for the system of learning results established in section 6209 and be in compliance with applicable federal statutes and regulations pertaining to student assessment as required by the federal No Child Left Behind Act of 2001, 20 United States Code, Chapter 70.

B. To receive targeted technology resource funds calculated pursuant to subsection 3, a school administrative unit must be in compliance with the technology components of the unit's comprehensive education plan as required under section 4502, subsection 1.

C. To receive targeted public preschool program to grade 2 funds calculated pursuant to subsection 4, the school administrative unit must be in compliance with any applicable reporting requirements for local early childhood programs. Any program must be in compliance with chapter 203, subchapter 2 or 3.

D. To receive targeted educator evaluation funds, a school administrative unit must have or be in the process of developing a performance evaluation and professional growth system pursuant to chapter 508 and the rules adopted pursuant to that chapter.

2. Targeted student assessment funds. (Repealed)

2-A. Targeted funds to implement a standards-based system. For targeted funds to implement a standards-based system, the commissioner shall:

A. (Repealed)

B. For fiscal year 2007-08 and every subsequent year, calculate an amount to be made available to address the components of a standards-based system.

3. Targeted technology resource funds. For targeted technology resource funds, the commissioner shall calculate one amount that may be made available to the elementary school level and middle school level and another amount that may be made available to the high school level in accordance with the following.

A. For fiscal year 2005-06, the commissioner shall establish a per-pupil amount for targeted technology resource funds.

B. For fiscal year 2006-07 and each subsequent year, the commissioner shall recalculate the per-pupil amount by using the amount calculated under paragraph A as a base and appropriate trends in the Consumer Price Index or other comparable index.

4. Public preschool program to grade 2 funds. For targeted public preschool program to grade 2 funds, the commissioner shall calculate the amount that may be made available to eligible school administrative units as follows.

A. For fiscal year 2005-06, the amount equals the product of the per-pupil guarantee calculated pursuant to section 15676 multiplied by the additional weight calculated pursuant to section 15675, subsection 3.

B. For fiscal year 2006-07 and each subsequent year, the commissioner shall recalculate the amount by using the amount calculated under paragraph A as a base and appropriate trends in the Consumer Price Index or other comparable index.

§15681-A. Other subsidizable costs

The following are other subsidizable costs:

1. Bus purchases. Bus purchase costs;

2. Special education costs. A school administrative unit receives an additional weight of 1.50 for each special education student identified on the annual December 1st child count as required by the federal Individuals with Disabilities Education Act for the most recent year, up to a maximum of 15% of the school administrative unit's resident pupils as determined under section 15674, subsection 1, paragraph C, subparagraph (1). For those school administrative units in which the annual December 1st child count for the most recent year is less than 15% of the school administrative unit's resident pupils as determined under section 15674, subsection 1, paragraph C, subparagraph (1), the special education child count percentage may not increase more than 0.5% in any given year, up to a maximum of 1.0% in any given 3-year period. For each special education

student above the 15% maximum, the unit receives an additional weight of .38. In addition, each school administrative unit must receive additional allocations:

A. For lower staff-student ratios and expenditures for related services for school administrative units with fewer than 20 special education students identified on the annual December 1st child count as required by the federal Individuals with Disabilities Education Act for the most recent year;

B. For high-cost in-district special education placements. Additional funds must be allocated for each student estimated to cost 3 times the statewide special education EPS per-pupil rate. The additional funds for each student must equal the amount by which that student's estimated costs exceed 3 times the statewide special education EPS per-pupil rate;

C. (Repealed)

D. Beginning July 1, 2018, to ensure the school administrative unit meets the federal maintenance of effort requirement for receiving federal Individuals with Disabilities Education Act funds in accordance with recommendations of any legislative task force established in the First Regular Session of the 128th Legislature to identify special education cost drivers and innovative approaches to services; and

E. A separate allocation must be determined for high-cost out-of-district special education placements in accordance with this paragraph.

(1) For private school placements, additional funds must be allocated for each student estimated to cost 4 times the statewide special education EPS per-pupil rate. The additional funds for each student must equal the amount by which that student's estimated costs exceed 4 times the statewide special education EPS per-pupil rate.

(2) For public school placements, additional funds must be allocated for each student estimated to cost 3 times the statewide special education EPS per-pupil rate. The additional funds for each student must equal the amount by which that student's estimated costs exceed 3 times the statewide special education EPS per-pupil rate.

(3) For public regional special education program placements, additional funds must be allocated for each student estimated to cost 2 times the statewide special education EPS per-pupil rate. The additional funds for each student must equal the amount by which that student's estimated costs exceed 2 times the statewide special education EPS per-pupil rate. Resident students for the fiscal agent of the regional special education program are considered out-of-district placements for purposes of this determination. The commissioner may expend and disburse funds pursuant to section 15689, subsection 9 for direct contractual agreements to provide legal services, facilitation services and other services to assist a school administrative unit with planning and implementing a regional special education program.

The commissioner shall develop an appeals procedure for calculated special education costs for school administrative units;

2-A. Reduction for fiscal year 2008-09. (Repealed)

3. Transportation costs. For fiscal year 2006-07, the commissioner, using information provided by a statewide education policy research institute, shall establish for each school administrative unit a predicted per-pupil transportation cost as defined in section 15672, subsection 22-A. The established predicted per-pupil transportation cost multiplied by the number of the school administrative unit's resident students for each school administrative unit must be no less than 90% of the most recent year's reported net transportation expenditures. Beginning in fiscal year 2007-08, and for each subsequent fiscal year, the per-pupil transportation costs for each school administrative unit are its predicted per-pupil transportation cost for the most recent year adjusted by the Consumer Price Index or other comparable index, except that the established predicted per-pupil transportation cost multiplied by the number of the school administrative unit's resident students for each school administrative unit must be no less than 90% of the most recent year's reported net transportation expenditures. The commissioner shall develop an appeals procedure for established per-pupil transportation costs for school administrative units;

3-A. Reduction for fiscal year 2008-09. (Repealed)

4. Career and technical education costs. Career and technical education costs in the base year adjusted to the year prior to the allocation year. This subsection does not apply to the 2018-19 funding year and thereafter; and

4-A. Costs of plans for middle school career and technical education exploration programs. Beginning in fiscal year 2018-19, and in each subsequent fiscal year, costs approved pursuant to chapter 313 attributable to establishing and operating career and technical education exploration programs for middle school students. The commissioner may establish an allocation to school administrative units for plans under this subsection. The plans must be implemented within the school administrative unit; and

5. Gifted and talented education costs. Gifted and talented education costs in the base year adjusted to the year prior to the allocation year.

§15682. Regional adjustment

The commissioner shall make a regional adjustment in the total operating allocation for each school administrative unit determined pursuant to section 15683. The regional adjustment must be based on the regional differences in teacher salary costs, for labor market areas in which the school administrative unit is located, as computed by a statewide education policy research institute, and must be applied only to appropriate teacher salary and benefits costs as calculated under section 15678 and salary and benefit costs of other school-level staff who are not teachers as calculated under section 15679. Beginning in fiscal year 2012-13, and for each subsequent fiscal year, the commissioner shall make a regional adjustment in the total operating allocation for each school administrative unit determined pursuant to section 15683. The regional adjustment must be based on the regional differences in teacher salary costs, for labor market areas in which the school administrative unit is located, as computed by a statewide education policy research institute, and must be applied only to appropriate teacher salary costs as calculated under section 15678 and salary costs of other school-level staff who are not teachers as calculated under section 15679.

§15683. Total operating allocation

For each school administrative unit, that unit's total operating allocation is the base total set forth in subsection 1 as adjusted in accordance with subsection 2 and including the total amount of other subsidizable costs as described in section 15681-A.

1. Base total. The base total of a school administrative unit's total operating allocation is the sum of:

A. The product of the school administrative unit's kindergarten to grade 8 EPS per-pupil rate multiplied by the total of the kindergarten to grade 8 portions of the following pupil counts:

(1) The pupil count set forth in section 15674, subsection 1, paragraph C;

(2) The additional weight for English learners calculated pursuant to section 15675, subsection 1; and

(3) The additional weight for economically disadvantaged students calculated pursuant to section 15675, subsection 2;

B. The product of the school administrative unit's grade 9 to 12 EPS per-pupil rate multiplied by the total of the grade 9 to 12 portion of the following pupil counts:

(1) The pupil count set forth in section 15674, subsection 1, paragraphs A, B and C;

(2) The additional weight for English learners calculated pursuant to section 15675, subsection 1; and

(3) The additional weight for economically disadvantaged students calculated pursuant to section 15675, subsection 2;

C. If the school administrative unit is eligible for targeted funds for the implementation of a standards-based system pursuant to section 15681, subsection 1, the sum of:

(1) The product of the elementary school level and middle school level per-pupil amount for targeted funds for the implementation of a standards-based system calculated pursuant to section 15681, subsection 2 multiplied by the kindergarten to grade 8 portion of the pupil count calculated pursuant to section 15674, subsection 1, paragraph C, subparagraph (1); and

(2) The product of the high school level per-pupil amount for targeted funds for the implementation of a standards-based system calculated pursuant to section 15681, subsection 2 multiplied by the grade 9 to 12 portion of the pupil count calculated pursuant to section 15674, subsection 1, paragraph C, subparagraph (1);

D. If the school administrative unit is eligible for targeted technology resource funds pursuant to section 15681, subsection 1, the sum of:

(1) The product of the elementary school level and middle school level per-pupil amount for targeted technology resource funds calculated pursuant to section 15681, subsection

3 multiplied by the kindergarten to grade 8 portion of the pupil count calculated pursuant to section 15674, subsection 1, paragraph C, subparagraph (1); and

(2) The product of the high school level per-pupil amount for targeted technology resource funds calculated pursuant to section 15681, subsection 3 multiplied by the grade 9 to 12 portion of the pupil count calculated pursuant to section 15674, subsection 1, paragraph C, subparagraph (1);

E. If the school administrative unit is eligible for targeted kindergarten to grade 2 funds pursuant to section 15681, subsection 1, the product of the EPS per-pupil rate multiplied by the additional weight for kindergarten to grade 2 calculated pursuant to section 15675, subsection 3;

E-1. If the school administrative unit is eligible for the targeted extended learning weight pursuant to section 15675, the product of the EPS per-pupil rate multiplied by the additional weight for extended learning calculated pursuant to section 15675, subsection 2; and

F. An isolated small unit adjustment. A school administrative unit is eligible for an isolated small school adjustment when the unit meets the size and distance criteria as established by the commissioner. The amount of the adjustment is the result of adjusting the necessary student-to-staff ratios determined in section 15679, subsection 2, the per-pupil amount for operation and maintenance of plant in section 15680, subsection 1, paragraph B or other essential programs and services components in chapter 606-B, as recommended by the commissioner. The isolated small school adjustment must be applied to discrete school buildings that meet the criteria for the adjustment. The adjustment is not applicable to sections, wings or other parts of a building that are dedicated to certain grade spans.

2. Adjustments. The base total calculated pursuant to subsection 1 must be adjusted by multiplying it by the appropriate transition percentage in accordance with section 15671, subsection 7, paragraph A.

§15683-A. Total debt service allocation

For each school administrative unit, that unit's total debt service allocation is that unit's debt service costs as defined in section 15672, subsection 2-A. Each school administrative unit's total debt service allocation must include the portion of the tuition cost applicable to the insured value factor for the base year computed under section 5806. Beginning in school year 2014-2015, each school administrative unit's total debt service allocation must include the portion of the tuition cost applicable to the insured value factor for the base year computed under section 5806 limited to an insured value factor no greater than the percentage established in section 5806, excluding any higher percentage authorized by local school boards, for each eligible student for the base year.

§15683-B. Public charter schools; calculation of total allocation and state contribution

Beginning with fiscal year 2015-16, this section applies to public charter schools authorized by the Maine Charter School Commission, established under Title 5, section 12004-G, subsection 10-D, in accordance with the funding provisions established in section 2413-A.

1. Calculation of EPS per-pupil rates. If there is only one school administrative unit sending students to a public charter school in a school year, the commissioner shall use that

resident school administrative unit's EPS per-pupil rate. If there is more than one school administrative unit sending students to the public charter school, the commissioner shall calculate a public charter school's EPS per-pupil rate for each year as follows.

A. When there are elementary students from outside of a single resident school administrative unit sending students to an elementary public charter school, the EPS per-pupil rate for elementary grades is calculated by multiplying the number of students from a resident school administrative unit attending the public charter school by that resident school administrative unit's elementary EPS per-pupil rate to find the total cost for elementary students enrolled in the public charter school in that resident school administrative unit, then adding the total cost for elementary students enrolled in the public charter school from each resident school administrative unit. The result is divided by the total number of elementary students in the public charter school.

B. When there are secondary students from outside of a single resident school administrative unit sending students to a secondary public charter school, the EPS per-pupil rate for secondary grades is calculated by multiplying the number of students from a resident school administrative unit attending the public charter school by that resident school administrative unit's secondary EPS per-pupil rate to find the total cost for secondary students enrolled in the public charter school in that resident school administrative unit, then adding the total cost for secondary students enrolled in the public charter school from each resident school administrative unit. The result is divided by the total number of secondary students in the public charter school.

2. Pupil counts. Notwithstanding section 15674, the commissioner shall determine a public charter school's student counts for each year as follows.

A. The basic student count for a public charter school is the pupil count for October 1st of the most recent calendar year prior to the year of funding.

B. The number of economically disadvantaged students for each public charter school is determined by multiplying the number of students at the public charter school by the most recent available elementary free or reduced-price meals percentage for that public charter school. The elementary free or reduced-price meals percentage may be applied to determine the number of economically disadvantaged students in the public charter school secondary grades. If the public charter school does not operate elementary grades, the most recent available secondary free or reduced-price meals percentage must be used in place of the elementary free or reduced-price meals percentage.

C. The number of English learners for each public charter school is the number of English learners from the most recent October count prior to the year of funding.

D. The number of special education students for each public charter school is the number of special education students from the most recent October count prior to the year of funding.

3. Operating allocation. The commissioner shall determine a public charter school's operating allocation for each year as the sum of:

A. The base allocation, which is the pupil count pursuant to subsection 2, paragraph A multiplied by the public charter school's EPS per-pupil rates calculated pursuant to subsection 1;

B. The economically disadvantaged student allocation, which is the pupil count determined pursuant to subsection 2, paragraph B multiplied by the additional weight for each economically disadvantaged student pursuant to section 15675, subsection 2;

C. The English learner allocation, which is the pupil count pursuant to subsection 2, paragraph C multiplied by the additional weight for each English learner pursuant to section 15675, subsection 1;

D. The targeted funds for standards-based system allocation, which is based on the per-pupil amount pursuant to section 15683, subsection 1, paragraph C multiplied by the pupil count pursuant to subsection 2, paragraph A;

E. The targeted funds for technology resource allocation, which is based on the per-pupil amount pursuant to section 15683, subsection 1, paragraph D multiplied by the pupil count in subsection 2, paragraph A; and

F. The targeted funds for public preschool to grade 2 student allocation, which is based on the preschool to grade 2 pupil count pursuant to subsection 2, paragraph A multiplied by the public charter school's elementary EPS per-pupil rates in subsection 1.

The operating allocation calculated pursuant to this subsection must be adjusted by multiplying it by the appropriate transition percentage in accordance with section 15671, subsection 7.

4. Other subsidizable costs allocation. The commissioner shall determine a public charter school's other subsidizable costs allocation for each year as the sum of:

A. The gifted and talented allocation pursuant to section 2413-A, subsection 2, paragraph A, subparagraph (4);

B. The special education allocation pursuant to section 2413-A, subsection 2, paragraph B. The special education allocation may not be less than 90% of the public charter school base year expenditures for special education; and

C. The transportation operating allocation, which is the statewide per-pupil essential programs and services transportation operating allocation multiplied by a percentage established by the Maine Charter School Commission for that public charter school based on the cost of transportation services provided by the public charter school to the student but not to exceed 100% multiplied by the pupil count in subsection 2, paragraph A.

A public charter school is not entitled to career and technical education funding. The school administrative unit in which the public charter school student resides must pay the cost of attendance for the student at a career and technical education program.

5. Total allocation and state contribution. The commissioner shall determine a public charter school's total allocation as the sum of the school's operating allocation under subsection 3 and other subsidizable costs allocation under subsection 4. That total allocation is the state

contribution, except that up to 3% of this amount must be withheld in accordance with section 2405, subsection 5, paragraph B and transferred to the Maine Charter School Commission.

6. Payment of state contribution. The commissioner shall authorize state subsidy payments to be made to public charter schools in accordance with the same schedule of payments for school administrative units pursuant to section 15689-B.

7. MaineCare seed. The commissioner may deduct from a public charter school's state subsidy and pay on behalf of the public charter school allowable school-based costs that represent the public charter school's portion of MaineCare payments. A transfer of payment by the department to the Department of Health and Human Services must be made pursuant to a schedule agreed upon by the Department of Health and Human Services and the department and based on documentation of payments made from MaineCare funds.

8. Curtailment adjustment. In any funding year, if general purpose aid for local schools funding is curtailed, then the public charter school state contribution under this chapter must be curtailed by the proportional percentage that school administrative units have been curtailed.

9. Phase-in procedures for new or newly expanded public charter schools. For new or newly expanded public charter schools, the commissioner shall make a preliminary calculation of total allocation based on the following:

A. Estimated student counts not to exceed the enrollment limit established by the Maine Charter School Commission;

B. Estimated rates and weights based on statewide averages; and

C. The preliminary calculation of total allocation, which must be replaced with actual student data once students have been enrolled for the new school year. The new or newly expanded public charter school shall enroll new students no later than August 1st in a student information system maintained by the department.

§15683-C. Education service center members; calculation of education service center administration allocation and state contribution

This section applies to school administrative units that are members of education service centers pursuant to chapter 123.

1. Education service center per-pupil rate. Beginning in fiscal year 2020-21, the commissioner shall set a per-pupil rate for education service center administration of $94 per pupil. The per-pupil amount set in fiscal year 2020-21 may be annually adjusted by appropriate trends in the Consumer Price Index or other comparable index.

2. Categories of services of education service center. The following are the categories of services that a school administrative unit that is a member of an education service center pursuant to chapter 123 may purchase for funding purposes under section 3806.

A. Category 1, appropriate instructional services in the least restrictive settings that comply with federal regulations and state rules, including:

(1) Special education programs and administration;

(2) Gifted and talented programs and administration;

(3) Alternative education programs and administration;

(4) Shared educational programs or staff; and

(5) Educational programs such as summer school, extended school year, tutoring, advanced placement and other programs that serve students and improve student achievement.

B. Category 2, education support services, including the following services:

(1) Substitute teachers and staff augmentation;

(2) Technology and technology support;

(3) Staff training and professional development;

(5) Shared support services programs; and

(6) Shared extracurricular or cocurricular programs.

C. Category 3, central office services, including the following services:

(1) Accounting, payroll, financial management services and procurement;

(2) Reporting functions;

(3) Food service planning and purchasing; and

(4) Superintendent services.

D. Category 4, facilities and transportation system services, including the following services:

(1) Transportation, transportation routing and vehicle maintenance; and

(2) Energy management and facilities maintenance.

3. Eligibility for education service center allocation. The commissioner shall determine that a school administrative unit is eligible for an education service center allocation if according to its education service center interlocal agreement pursuant to section 3801, subsection 3, the school administrative unit purchases at least 2 different services covering a total of at least 2 different categories from the education service center as specified in subsection 2.

4. Total allocation and state contribution. The commissioner shall determine an eligible school administrative unit's total education service center allocation under subsection 3 as the education service center per-pupil rate in subsection 1 multiplied by the school administrative unit's subsidizable pupil count for October 1st of the most recent calendar year prior to the year of

funding. The state contribution for each school administrative unit's education service center allocation is the allocation multiplied by the school administrative unit's state share percentage pursuant to section 15672, subsection 31, not to exceed 70% and not less than 30%.

§15684. School administrative unit contributions to total operating allocation (REPEALED)

§15685. Weighted relative property fiscal capacity (REPEALED)

§15686. Transition adjustment (REPEALED)

§15686-A. Review of essential programs and services components

1. Components to be reviewed beginning in fiscal year 2017-18. Beginning in fiscal year 2017-18, and at least every 3 years thereafter, the commissioner, using information provided by a statewide education policy research institute, shall review the essential programs and services student-to-staff ratios, salary and benefits matrices, small schools adjustments, labor markets and gifted and talented components and components related to implementation of reporting and graduation requirements under this chapter and shall submit to the joint standing committee of the Legislature having jurisdiction over education matters any recommended changes for legislative action.

2. Components to be reviewed beginning in fiscal year 2018-19. Beginning in fiscal year 2018-19, and at least every 3 years thereafter, the commissioner, using information provided by a statewide education policy research institute, shall review the essential programs and services career and technical education, special education, specialized student populations, system administration and operations and maintenance components under this chapter and shall submit to the joint standing committee of the Legislature having jurisdiction over education matters any recommended changes for legislative action.

3. Components to be reviewed beginning in fiscal year 2019-20. Beginning in fiscal year 2019-20, and at least every 3 years thereafter, the commissioner, using information provided by a statewide education policy research institute, shall review the essential programs and services professional development, student assessment, technology, transportation, leadership support, cocurricular and extra-curricular activities, supplies and equipment and, beginning in fiscal year 2016-17, charter school components under this chapter and shall submit to the joint standing committee of the Legislature having jurisdiction over education matters any recommended changes for legislative action.

4. Components to be reviewed beginning in fiscal year 2017-18. (Repealed)

The commissioner may adjust the schedule by replacing one component in one year with another component in another year if information on a specific component is needed in an earlier time frame. This replacement may not result in a component's being reviewed beyond a 4-year period. The commissioner may include a review of one or more of the components from sections 15688-A, 15689 and 15689-A to the schedule in addition to the components listed in this section.

§15687. Rules

The commissioner shall adopt rules to implement this Act. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

§15688. School administrative unit contribution to total cost of funding public education from kindergarten to grade 12

1. School administrative unit; total cost. For each school administrative unit, the commissioner shall annually determine the school administrative unit's total cost of education. A school administrative unit's total cost of education must include:

A. The school administrative unit's base total calculated pursuant to section 15683, subsection 1, adjusted pursuant to the transition targets described in section 15671, subsection 7, paragraph A;

B. The other subsidizable costs described in section 15681-A;

C. The total debt service allocation described in section 15683-A; and

D. Beginning in the 2013-14 funding year, the normal cost of retirement for a teacher pursuant to Title 5, section 17154, subsection 6.

2. Member municipalities in school administrative districts, community school districts, regional school units; total costs. For each municipality that is a member of a school administrative district, community school district or regional school unit, the commissioner shall annually determine each municipality's total cost of education. A municipality's total cost of education is the school administrative district's, community school district's or regional school unit's total cost of education multiplied by the percentage that the municipality's most recent calendar year average pupil count is to the school administrative district's, community school district's or regional school unit's most recent calendar year average pupil count.

3. School administrative unit; contribution. (Repealed)

3-A. School administrative unit; contribution. For each school administrative unit, the commissioner shall annually determine the school administrative unit's required contribution, the required contribution of each municipality that is a member of the unit, if the unit has more than one member, and the State's contribution to the unit's total cost of education in accordance with the following.

A. For a school administrative unit composed of only one municipality, the contribution of the unit and the municipality is the same and is the lesser of:

(1) The total cost described in subsection 1; and

(2) The total of the full-value education mill rate calculated in section 15671-A, subsection 2 multiplied by the property fiscal capacity of the municipality.

B. For a school administrative district, community school district or regional school unit composed of more than one municipality, each municipality's contribution to the total cost of education is the lesser of:

(1) The municipality's total cost as described in subsection 2; and

(2) The total of the full-value education mill rate calculated in section 15671-A, subsection 2 multiplied by the property fiscal capacity of the municipality.

B-1. (Repealed)

C. For a school administrative district, community school district or regional school unit composed of more than one municipality, the unit's contribution to the total cost of education is the lesser of:

(1) The total cost as described in subsection 1; and

(2) The sum of the totals calculated for each member municipality pursuant to paragraph B, subparagraph (2).

D. The state contribution to the school administrative unit's total cost of education is the total cost of education calculated pursuant to subsection 1 less the school administrative unit's contribution calculated pursuant to paragraph A or C, as applicable. The state contribution is subject to reduction in accordance with section 15690, subsection 1, paragraph C.

4. Method of cost sharing; exception. For the purpose of local cost sharing, the provisions of subsection 3-A do not apply to municipalities that are members of a school administrative district or a community school district whose cost sharing formula was established pursuant to private and special law prior to January 1, 2004. For each municipality that is a member of a school administrative district or a community school district whose cost sharing formula was established pursuant to private and special law prior to January 1, 2004, the cost sharing formula established pursuant to private and special law determines each municipality's local cost of education.

5. Effective date. This section takes effect July 1, 2005.

§15688-A. Enhancing student performance and opportunity; costs

Beginning in fiscal year 2013-14, the commissioner may expend and disburse funds to meet the purposes of this section to the appropriate school administrative unit or institution or to meet contractual obligations.

1. Career and technical education program components. Beginning in fiscal year 2018-19, the allocation for career and technical education centers and career and technical education regions is based upon a model that recognizes program components that have been approved by the department pursuant to chapter 313 for:

A. Direct instruction. The direct instruction component includes personnel costs for teachers, education technicians for programs and clinical supervisors for health care programs. The

allocation for direct instruction is the sum of the costs as determined based on the following components, which the commissioner shall determine annually:

(1) A teacher salary matrix. In determining the teacher salary matrix for each program, the commissioner shall give consideration to the most recent available data regarding years of education experience and years of professional work experience relevant to instructional assignment;

(2) Student-to-teacher ratios for each program;

(3) The number of education technicians required for purposes of instructional support, based on student enrollment and program requirements. The commissioner shall calculate the education technician allocation by multiplying the number of education technicians required by the statewide average salary for full-time education technicians, based on the most recent available salary data, but shall ensure that each career and technical education center or career and technical education region is allocated at least one full-time education technician; and

(4) The clinical supervision staffing level necessary for each program requiring such staffing, based on student enrollment as determined pursuant to paragraph G;

B. Central administration. The central administration component includes personnel costs for directors, assistant directors and clerical staff working in career and technical education centers and career and technical education regions, as well as business managers working in career and technical education regions. The central administration allocation is the sum of:

(1) Costs for personnel for each career and technical education center and career and technical education region, as follows:

(a) A director, the allocation for which must be for one full-time equivalent;

(b) An assistant director, the allocation for which must be based on student enrollment as determined pursuant to paragraph G but may not exceed one full-time equivalent;

(c) Clerical staff, the allocation for which must be for at least one full-time equivalent, with additional clerical staff allocations based on student enrollment as determined pursuant to paragraph G;

(d) A career and technical education region business manager, the allocation for which must be for one full-time equivalent; and

(e) Benefit costs for employees in central administration, which must be calculated pursuant to section 15678, subsection 5, paragraph B; and

(2) Nonpersonnel costs, which the commissioner shall calculate annually based upon the relationship of the most recent available career and technical education expenditures for nonpersonnel costs to personnel costs;

C. Supplies and other expenditures such as purchased services, dues and fees for instructional programs. The allocation for supplies and other expenditures is the sum of:

(1) A per-program allocation for supplies, as determined by the commissioner based on the most recent available career and technical education expenditures amount, adjusted to the year prior to the allocation year; and

(2) A per-pupil allocation for each student in each career and technical education center and each career and technical education region, determined by the commissioner based on:

(a) The most recent available career and technical education expenditures amount, adjusted for inflation to the year prior to the allocation year; and

(b) Student enrollment, as determined pursuant to paragraph G;

D. Plant operation and maintenance, including all costs for operating and maintaining buildings and grounds. The commissioner shall determine the allocation for plant operation and maintenance costs for each career and technical education center and each career and technical education region by multiplying the square footage of the career and technical education center or career and technical education region building by an amount per square foot, as determined by the commissioner;

E. Other student and staff support, which includes costs for student services coordination, career preparation, instructional technology, professional development, student assessment and program safety. The other student and staff support allocation is the sum of the costs for:

(1) A counselor, the allocation for which must be for one full-time equivalent, to collaborate with sending school guidance counselors in order to maximize student participation at the middle school and high school grade levels;

(2) Career and technical education center or career and technical education region student services coordinators, the allocation for which must be based on student enrollment, as determined pursuant to paragraph G, but no less than one full-time equivalent;

(3) Benefit costs for employees under this paragraph, calculated pursuant to section 15678, subsection 5, paragraph B; and

(4) Instructional technology, staff professional development, student assessment and program safety. The commissioner shall calculate a per-pupil allocation for this allocation based upon student enrollment, as determined pursuant to paragraph G, and the relationship of the most recent available career and technical education expenditures for these costs to total costs, adjusted to the year prior to the allocation year;

F. Equipment provided pursuant to subsection 6; and

G. Student enrollment, which is determined as follows.

(1) For each program or plan approved pursuant to chapter 313 that has 3 years of attending student counts on October 1st, student enrollment is a 3-year average of the attending student counts on October 1st for that program or plan.

(2) For each program or plan approved pursuant to chapter 313 that is not governed by subparagraph (1), including a new program or plan approved pursuant to chapter 313, student enrollment must be based on the estimated attending student count submitted in accordance with the application for the program or plan approval. This estimated attending student count must be used until the program or plan has 3 consecutive years of actual attending student counts on October 1st.

In fiscal year 2019-20, the total allocation for a career and technical education center or career and technical education region is the sum of the components in paragraphs A to E, except if the sum of the components in paragraphs A to E is less than the most recent expenditure data, as adjusted for inflation to the year prior to the allocation year, the career and technical education center or career and technical education region may not receive less than the adjusted expenditure, and if the sum of the components in paragraphs A to E is more than 5% greater than the most recent expenditure data, as adjusted for inflation to the year prior to the allocation year, then the career and technical education center or career and technical education region may not receive more than the adjusted expenditures plus 5%.

In fiscal year 2020-21, fiscal year 2021-22 and fiscal year 2022-23, the total allocation for a career and technical education center or career and technical education region is the sum of the components in paragraphs A to E, except if the sum of the components in paragraphs A to E is less than the most recent expenditure data, as adjusted for inflation to the year prior to the allocation year, the total allocation must be determined pursuant to subsection 1-A. If the sum of the components in paragraphs A to E is more than 15% greater than the most recent expenditure data, as adjusted for inflation to the year prior to the allocation year, the career and technical education center or career and technical education region may not receive more than the adjusted expenditures plus 15%.

Beginning in fiscal year 2023-24, the total allocation for a career and technical education center or career and technical education region is the sum of components in paragraphs A to E.

The commissioner shall authorize monthly payment of allocations to career and technical education centers and career and technical education regions in an amount equal to 1/12 of the total allocation. Payments for satellite programs as approved pursuant to chapter 313 must be made within this schedule to the responsible career and technical education center or career and technical education region; it is the responsibility of the career and technical education center or career and technical education region to provide the state support for the approved satellite program to the school administrative unit that operates the approved satellite program.

If a school administrative unit operating a career and technical education center or career and technical education region has any unexpended funds at the end of the fiscal year, these funds must be carried forward for the purposes of career and technical education.

1-A. Transition period for career and technical education program components. In fiscal year 2020-21, fiscal year 2021-22 and fiscal year 2022-23, referred to in this subsection as "the transition period," the total allocation for career and technical education centers and career

and technical education regions is subject to a transition period adjustment to align the total allocation for career and technical education centers and career and technical education regions with the career and technical education program components in subsection 1.

A. In each fiscal year of the transition period, the commissioner shall identify each career and technical education center and career and technical education region for which the sum of the components in subsection 1, paragraphs A to E is less than the most recent expenditure data, as adjusted for inflation to the year prior to the allocation year, or more than the most recent expenditure data, as adjusted for inflation to the year prior to the allocation year.

B. In each fiscal year of the transition period, the commissioner shall calculate an adjustment to the total allocation for each career and technical education center and career and technical education region identified pursuant to paragraph A. The calculation must be based on the amounts necessary to transition the career and technical education center or career and technical education region to a total allocation that is equal to the sum of the components in subsection 1, paragraphs A to E by fiscal year 2023-24. In making this calculation, the commissioner shall ensure that the annual adjustment calculated pursuant to this paragraph is reasonably similar over the course of the transition period.

C. During each fiscal year of the transition period, the commissioner shall adjust the total allocation for each career and technical education center and career and technical education region identified pursuant to paragraph A in accordance with the calculation under paragraph B.

2. College transitions programs. The commissioner may expend and disburse funds to provide for expanded access to programs designed to provide college transitions programs through the State's adult education system.

3. Transition to proficiency-based diplomas. (Repealed)

4. New or expanded public preschool programs for children 4 years of age. Beginning in fiscal year 2015-16 and for each subsequent fiscal year, the commissioner may expend and disburse one-time, start-up funds to provide grants for expanded access to public preschool programs for children 4 years of age pursuant to chapter 203, subchapter 3. The amounts of the grant funding provided to qualified school administrative units pursuant to chapter 203, subchapter 3 are limited to the amounts appropriated, allocated or authorized by the Legislature for the operation of public preschool programs. Any balance of funds appropriated, allocated or authorized by the Legislature remaining at the end of a fiscal year do not lapse and are carried forward to the next fiscal year to carry out the purposes of chapter 203, subchapter 3.

5. School improvement and support. The commissioner may expend and disburse funds to support school improvement activities to school administrative units whose eligibility and priority is established pursuant to section 6214 in accordance with chapter 222.

6. National industry standards for career and technical education. The commissioner may expend and disburse funds to support enhancements to career and technical education programs that align those programs with national industry standards, in accordance with chapter 313.

7. Educator effectiveness. (Repealed)

8. Pilot projects for middle school career and technical education exploration. Beginning in fiscal year 2018-19 and for the 2 subsequent fiscal years, the commissioner may expend and disburse funds to career and technical education centers and career and technical education regions for pilot projects for middle school level plans approved pursuant to chapter 313 to create career and technical education exploration programs for middle school level students. The commissioner, in collaboration with career and technical education directors, also may contract for services to implement pilot projects for middle school level plans. A middle school level plan must demonstrate to the commissioner a partnership between a school administrative unit and a career and technical education center or career and technical education region.

9. Regional school leadership academy. Beginning in fiscal year 2020-21, the commissioner may expend and disburse funds to support the establishment of regional school leadership academies pursuant to chapter 502-C.

§15689. Adjustments to state share of total allocation

Beginning July 1, 2005, adjustments to the state share of the total allocation must be made as set out in this section.

1. Minimum state allocation. Each school administrative unit must be guaranteed a minimum state share of its total allocation that is an amount equal to the greater of the following:

A. The sum of the following calculations:

(1) Multiplying 5% of each school administrative unit's essential programs and services per-pupil elementary rate by the average number of resident kindergarten to grade 8 pupils as determined under section 15674, subsection 1, paragraph C, subparagraph (1); and

(2) Multiplying 5% of each school administrative unit's essential programs and services per-pupil secondary rate by the average number of resident grade 9 to grade 12 pupils as determined under section 15674, subsection 1, paragraph C, subparagraph (1); and

B. The school administrative unit's special education costs as calculated pursuant to section 15681-A, subsection 2 multiplied by the following transition percentages:

(1) In fiscal year 2005-06, 84%;

(2) In fiscal year 2006-07, 84%;

(3) In fiscal year 2007-08, 84%;

(4) In fiscal year 2008-09, 45%;

(5) In fiscal year 2009-10, 40% including funds provided under Title XIV of the State Fiscal Stabilization Fund of the American Recovery and Reinvestment Act of 2009;

(6) In fiscal year 2010-11, 35% including funds provided under Title XIV of the State Fiscal Stabilization Fund of the American Recovery and Reinvestment Act of 2009;

(7) In fiscal year 2011-12, 30%;

(8) In fiscal year 2012-13, 30%;

(9) In fiscal year 2013-14, 35%;

(10) In fiscal year 2014-15, 30%;

(11) In fiscal year 2015-16, 30%;

(12) In fiscal year 2016-17, 30%;

(13) In fiscal year 2017-18, 33%;

(14) In fiscal year 2018-19, 40%;

(15) In fiscal year 2019-20, 45%; and

(16) In fiscal year 2020-21 and succeeding years, 50%.

These funds must be an adjustment to the school administrative unit's state and local allocation after the state and local allocation has been adjusted for debt service pursuant to subsection 2. Beginning July 1, 2007, these funds must be an adjustment to the school administrative unit's state and local allocation in addition to the state and local allocation that has been adjusted for debt service pursuant to subsection 2.

1-A. Adjustments to state contributions to member municipalities in certain school districts. (Repealed)

1-B. Adjustments to state contributions to member municipalities in regional school units or alternative organizational structure. The minimum state allocation provisions of subsection 1, paragraph B are applicable for each case in which the school administrative units in existence prior to the operational date of the new regional school unit or alternative organizational structure received an adjustment under subsection 1, paragraph B for fiscal year 2007-08 or fiscal year 2008-09. For each regional school unit or alternative organizational structure eligible under this subsection, the minimum state allocation provisions of subsection 1, paragraph B are applicable for each member municipality that was a member of the eligible school administrative units in existence prior to the operational date of the new regional school unit or alternative organizational structure.

2. Adjustment for debt service. Each school administrative unit may receive an adjustment for a debt service determined as follows.

A. A school administrative unit is eligible for this adjustment under the following conditions.

(1) The school administrative unit's local share results in a full-value education mill rate less than the local cost share expectation as described in section 15671-A through the 2009-10 fiscal year. Beginning in fiscal year 2010-11 and in subsequent fiscal years,

the school administrative unit's debt service allocation must include principal and interest payments as defined in section 15672, subsection 2-A, paragraph A.

(2) The school administrative unit has debt service costs defined under section 15672, subsection 2-A that have been placed on the state board's priority list by January 2005.

(3) Beginning in fiscal year 2010-11 and in subsequent years, the school administrative unit's total debt service costs less the local share amount in paragraph B, subparagraph (2), division (b) is greater than the current state share of the total allocation.

B. The amount of the adjustment is the difference, but not less than zero, between the state share of the total allocation under this chapter and the amount computed as follows.

(2) Beginning July 1, 2007, the school administrative unit's state share of the total allocation if the local share was the sum of the following:

(a) The local share amount for the school administrative unit calculated as the lesser of the total allocation excluding debt service costs and the school administrative unit's fiscal capacity multiplied by the mill rate expectation established in section 15671-A less the debt service adjustment mill rate defined in section 15672, subsection 2-B; and

(b) The local share amount for the school administrative unit calculated as the lesser of the debt service costs and the school administrative unit's fiscal capacity multiplied by the debt service adjustment mill rate defined in section 15672, subsection 2-B.

C. Beginning in fiscal year 2016-17, the debt service adjustment in this subsection must be applied to each member municipality of a school administrative district, community school district and regional school unit.

3. Adjustment limitations. The amounts of the adjustments paid to school administrative units or municipalities pursuant to this section are limited to the amounts appropriated by the Legislature for these adjustments.

4. Audit adjustments. The following provisions apply to audit adjustments.

A. If errors are revealed by audit and by the commissioner, the school administrative unit's state subsidy must be adjusted to include corrections.

B. If audit adjustments are discovered after the funding level is certified by the commissioner and the state board on December 15th pursuant to section 15689-C, the department may request the necessary additional funds, if any, to pay for these adjustments. These amounts, if any, are in addition to the audit adjustment amount certified by the commissioner and state board on the prior December 15th.

5. Adjustment for cost of educating eligible students in long-term drug treatment centers. A school administrative unit that operates an educational program approved pursuant to chapter 327 to serve eligible students in licensed drug treatment centers must be reimbursed in the year in which costs are incurred as follows.

A. Reimbursements must be limited to the state average tuition rate for the number of students in the approved program plan.

B. The rate of reimbursement per student may not exceed the state average tuition rates in effect during the year of placement as computed under sections 5804 and 5805. The tuition rates must be computed based on the state average secondary tuition rate and may be adjusted if the program is approved to operate beyond the 180-day school year.

6. Adjustment for uncertified personnel. The commissioner shall reduce the state share of the total allocation to a school administrative unit in the current year or following year by an amount that represents the state share of expenditures for salaries and benefits paid to uncertified personnel.

7. Adjustment for minimum teacher salary. (Repealed)

7-A. Adjustment for minimum teacher salary. Beginning in fiscal year 2020-21, the commissioner shall, in accordance with this subsection, increase the state share of the total allocation to a qualifying school administrative unit by an amount necessary to achieve the minimum salary for certified teachers established in section 13407.

A. As used in this subsection, unless the context otherwise indicates, "qualifying school administrative unit" means a school administrative unit that the commissioner determines to have a locally established salary schedule with a minimum teacher salary of less than $40,000 in school year 2019-2020. As used in this subsection, unless the context otherwise indicates, "incremental salary increases" means the incremental increases in the salaries of teachers employed by a qualifying school administrative unit in school year 2019-2020 necessary to meet the minimum salary requirements of section 13407 from fiscal year 2020-21 to fiscal year 2022-23.

B. The commissioner shall allocate the funds appropriated by the Legislature in accordance with the following.

(1) The amount of increased funds provided to qualifying school administrative units under this subsection must be the amount necessary to fund the incremental salary increases specified in this subsection.

(2) The number of teachers eligible for incremental salary increases in a qualifying school administrative unit for a fiscal year must be based on the information supplied to the department pursuant to section 13407 in that fiscal year.

(3) The increased funds provided under this subsection must be issued to qualifying school administrative units as an adjustment to the state school subsidy for distribution to the teachers. Qualifying school administrative units shall use the payments provided under this subsection to provide salary adjustments to those teachers eligible for incremental salary increases. The department shall collect the necessary data to allow the funds to be included in a qualifying school administrative unit's monthly subsidy payments beginning no later than February 1st of each fiscal year.

(4) Funding for incremental salary increases in fiscal year 2020-21 must be based on data submitted to the department and certified by school administrative units as of October 1, 2019.

8. Payments for minimum salary adjustments. (Repealed)

9. Regionalization, consolidation and efficiency assistance adjustment. The commissioner may expend and disburse funds limited to the amount appropriated by the Legislature to carry out the purposes of promoting regionalization, consolidation and efficiency. These funds may be an adjustment to the qualifying school administrative unit's state allocation. The commissioner may also expend and disburse these funds as follows:

A. For direct contractual agreements to provide legal services, facilitation services and other services to assist a school administrative unit with planning and implementing regionalization, consolidation and efficiencies;

B. For direct support to education service centers established pursuant to chapter 123 including those costs specified in section 3806; and

C. For department costs incurred for the review of applications and interlocal agreements for education service centers under chapter 123.

10. Innovative school construction project adjustment. For any fiscal year, if the appropriation for the state share of debt service exceeds the annual payments, the commissioner may expend and disburse the balance of funds to carry out the purposes of innovative school construction.

11. Minimum economically disadvantaged student adjustment. Beginning in fiscal year 2012-13, and for each subsequent fiscal year, each school administrative unit may receive an adjustment for economically disadvantaged students determined as follows.

A. A school administrative unit is eligible for the adjustment for economically disadvantaged students under the following conditions:

(1) The school administrative unit receives an adjustment for the minimum state allocation pursuant to subsection 1;

(2) The school administrative unit's percentage of economically disadvantaged students as determined pursuant to section 15675, subsection 2 is greater than the state average percentage of economically disadvantaged students; and

(3) The school administrative unit operates a school.

B. The amount of the adjustment for economically disadvantaged students is the amount computed as the school administrative unit's total allocation for economically disadvantaged students.

12. Adjustment of subsidy for statewide contract purchases. The commissioner may expend and disburse funds on behalf of school administrative units for purchases of items available on statewide contracts. The school administrative unit's available state subsidy must be reduced

based on the cost of the items purchased and upon prior agreement with the school administrative unit. If sufficient state subsidy funds are not available in the fiscal year in which the items were purchased, the reduction to the school administrative unit's available state subsidy may occur in the following fiscal year's state subsidy.

Revisor's Note: (Subsection 12 as enacted by PL 2011, c. 655, Pt. F, §1 is REALLOCATED TO TITLE 20-A, SECTION 15689, SUBSECTION 13)

13. Bus refurbishing program. Beginning in fiscal year 2012-13 and in each subsequent year, the commissioner may increase the state share of the total allocation to a qualifying school administrative unit for the approved refurbishing of a bus.

A. Approval of bus refurbishing must be based on eligibility requirements established by the commissioner, including, but not limited to, the age, mileage and expected useful life of the bus. Bus refurbishing includes safety upgrades and may include technology capability.

B. Adjustment to the state share of the total allocation under this subsection must occur in the fiscal year following the school administrative unit's expenditure and be based on the total amount approved by the commissioner, or the actual expenditure by a school administrative unit if less, for bus refurbishing, multiplied by the school administrative unit's state share percentage except that if a school administrative unit's state share percentage is less than 30% the multiplication factor is 30% and if a school administrative unit's state share percentage is greater than 70% the multiplication factor is 70%.

14. MaineCare seed for school administrative units. The commissioner may deduct from a school administrative unit's state subsidy and pay on behalf of the school administrative unit allowable school-based costs that represent the school administrative unit's portion of MaineCare payments. A transfer of payment by the department to the Department of Health and Human Services must be made pursuant to a schedule agreed upon by the Department of Health and Human Services and the department and in a manner that remains in compliance with federal intergovernmental transfer requirements. No later than 90 days after the incurrence of allowable school-based payments to schools, the Department of Health and Human Services shall provide the detailed payment information to the department. The department shall make this information available and apply the adjustment to the appropriate school administrative units within 30 days of receipt of the detailed payment information from the Department of Health and Human Services.

15. Special education budgetary hardship adjustment. Beginning in fiscal year 2018-19, the following provisions apply to adjustments for special education budgetary hardships.

A. If a school administrative unit determined eligible pursuant to paragraph B petitions the commissioner and demonstrates that the unexpected education costs of placement of a student in a special education program will cause a budgetary hardship, the commissioner may provide to the unit an amount not to exceed the allowable costs of the placement less 3 times the statewide special education EPS per-pupil rate for in-district placements or less 4 times the statewide special education EPS per-pupil rate for out-of-district placements. The allowable costs are those special education costs described in section 15672, subsection 30-A, paragraphs A and B.

B. The commissioner shall determine that a school administrative unit is eligible for an adjustment under paragraph A if:

(1) The student's placement is a result of an appeal approved by the commissioner pursuant to section 5205, subsection 6 or the student became the fiscal responsibility of the school administrative unit after the passage of that unit's budget for the current fiscal year; and

(2) The school administrative unit's unexpected allowable costs result in a 5% or more increase in the percentage of the unit's special education budget category to the unit's total budget excluding the debt service budget category.

C. The funds for adjustments under paragraph A are limited to the amount appropriated by the Legislature for that purpose, and any unexpended balance from another program's appropriated amounts under this chapter may be applied by the commissioner toward the adjustments.

D. A school administrative unit may expend the funds from the adjustment under paragraph A without seeking approval by the unit's legislative body.

§15689-A. Authorization of payment of targeted education funds

1. Payment of state agency client costs. State agency client costs are payable pursuant to this subsection. As used in this subsection, "state agency client" has the same meaning as defined in section 1, subsection 34-A.

A. The commissioner shall approve special education costs and supportive services, including transportation, for all state agency clients placed in residential placements by an authorized agent of a state agency.

B. Special education costs authorized by this subsection for state agency clients must be paid by the department in the allocation year at 100% of actual costs.

C. The commissioner shall pay only approved special education costs and supportive services, including transportation, authorized by this subsection for state agency clients and may not allocate for those special education costs and supportive services, including transportation, incurred by the school administrative unit for state agency clients in the base years starting July 1, 1985, and every base year thereafter.

D. Transportation costs for state agency clients, when provided in accordance with rules established by the commissioner under section 7204, must be paid by the department in the allocation year at 100% of actual costs.

E. The commissioner may pay tuition to school administrative units or private schools for the education of institutional residents within the limits of the allocation made under this section.

F. The commissioner may deduct from these funds and pay on behalf of the state agency clients allowable school-based costs that represent the State's portion of MaineCare payments. A transfer of payment by the department to the Department of Health and Human

Services must be made pursuant to a schedule agreed upon by the Department of Health and Human Services and the department and in a manner that remains in compliance with federal intergovernmental transfer requirements.

2. Education of institutional residents. (Repealed)

3. Essential programs and services components contract. The commissioner may contract for the updating of the essential programs and services component with a statewide education research institute.

4. Learning results implementation, assessment and accountability. (Repealed)

5. Regionalization, consolidation and efficiency assistance. (Repealed)

6. Education research contract. (Repealed)

7. Disbursement limitations. The funds disbursed in accordance with this section are limited to the amounts appropriated by the Legislature for these purposes.

8. Laptop program. (Repealed)

9. Emergency bus loan. The commissioner may pay annual payments for an emergency bus loan.

10. Data management and support services for essential programs and services. The commissioner may pay costs attributed to system maintenance and staff support positions that provide professional and administrative support to general purpose aid for local schools necessary to implement the requirements of the Essential Programs and Services Funding Act.

11. Courses for credit at eligible postsecondary institutions. The commissioner may pay costs for secondary students to take postsecondary courses at eligible institutions. For the purposes of this subsection, "secondary student" includes a student in a home instruction program pursuant to section 5001-A, subsection 3, paragraph A, subparagraph (4) but does not include a student that is not a resident of the State pursuant to section 5205, subsection 10.

12. National board certification salary supplement. The commissioner may pay annual salary supplement payments to school administrative units or a publicly supported secondary school for payment to school teachers who have attained certification from the National Board for Professional Teaching Standards or its successor organization pursuant to section 13013-A.

12-A. Learning through technology. The commissioner may pay costs attributed to professional and administrative staff support, professional development and training in the use of open educational resources and open-source textbooks and system maintenance for a program that promotes learning through technology. A transfer of All Other funds from the General Purpose Aid for Local Schools account to the All Other line category in the Learning Through Technology General Fund nonlapsing account sufficient to support the All Other costs and the agreement that provides one-to-one wireless computers for 7th grade, 8th grade and high school students and educators may occur annually by financial order upon recommendation of the State Budget Officer and approval of the Governor.

13. Jobs for Maine's Graduates. The commissioner may expend and disburse funds for the Jobs for Maine's Graduates in accordance with the provisions of chapter 226.

14. Maine School of Science and Mathematics. The commissioner may expend and disburse funds for the Maine School of Science and Mathematics in accordance with the provisions of chapter 312.

15. Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf. The commissioner may expend and disburse funds for the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf in accordance with provisions of chapter 304.

16. Transportation administration. The commissioner may pay costs attributed to professional and administrative staff support and system maintenance necessary to implement the transportation requirements of this chapter and chapter 215.

Revisor's Note: (Subsection 16 as enacted by PL 2007, c. 539, Pt. W, §2 is REALLOCATED TO TITLE 20-A, SECTION 15689-A, SUBSECTION 18)

17. Special education and coordination of services for juvenile offenders. The commissioner may pay certain costs attributed to staff support and associated operating costs for providing special education and providing coordination of education, treatment and other services to juvenile offenders at youth development centers in South Portland. A transfer of All Other funds from the General Purpose Aid for Local Schools account to the Personal Services and All Other line categories in the Long Creek Youth Development Center General Fund account within the Department of Corrections, sufficient to support 2 Teacher positions, one Education Specialist II position and one Office Associate II position, may occur annually by financial order upon recommendation of the State Budget Officer and approval of the Governor.

18. Coordination of services for juvenile offenders. (Repealed)

19. Miscellaneous costs limitations. The amounts of the miscellaneous costs pursuant to this section are limited to the amounts appropriated by the Legislature for these costs.

20. Center of Excellence for At-risk Students. (Repealed)

21. Fund for the Efficient Delivery of Educational Services. The commissioner may expend and disburse funds from the Fund for the Efficient Delivery of Educational Services in accordance with the provisions of chapter 114-A.

22. MaineCare seed for school administrative units. (Repealed)

23. Comprehensive early college programs. The commissioner may expend and disburse funds to support early college programs that:

A. Provide secondary students with the opportunity to graduate from high school in 4 years with a high school diploma and at least 30 regionally accredited transferable postsecondary credits allowing for completion of an associate degree within one additional year of postsecondary schooling;

B. Involve a high school, a career and technical education center or region and one or more institutions of higher education;

C. Organize students into cohort groups and provide them with extensive additional guidance and support throughout the program with the goals of raising aspirations, increasing employability and encouraging postsecondary degree attainment; and

D. Maintain a focus on serving students who might not otherwise pursue a postsecondary education.

24. Postsecondary education attainment in Androscoggin County. (Repealed)

25. Community schools. The commissioner may expend and disburse funds for the establishment of community schools in accordance with the provisions of chapter 333 and shall apply for available federal funds in support of community school implementation and expansion.

Revisor's Note: (Subsection 25 as enacted by PL 2015, c. 363, §5 is REALLOCATED TO TITLE 20-A, SECTION 15689-A, SUBSECTION 26)

26. Maine School for Marine Science, Technology, Transportation and Engineering. The commissioner may expend and disburse funds for the Maine School for Marine Science, Technology, Transportation and Engineering in accordance with the provisions of chapter 312-A.

28. Rural schools. The commissioner may pay costs to provide musical instruments and professional development in rural schools.

§15689-B. Authorization and schedules of payment of state subsidy; appeals

1. Schedules of payment of unit allocation. The commissioner shall authorize state subsidy payments to the school administrative units to be made in accordance with time schedules set forth in sections 15005, 15689-D and 15901 to 15910.

2. Notification of allocation; commissioner's duty; superintendent's duty. The following provisions apply to notification of allocation by the commissioner and each superintendent.

A. The commissioner shall annually, prior to February 1st, notify each school board of the estimated amount to be allocated to the school administrative unit.

B. Each superintendent shall report to the municipal officers whenever the school administrative unit is notified of the allocation or a change is made in the allocation resulting from an adjustment.

2-A. Notification of state contribution to public charter schools. The commissioner shall annually, prior to February 1st, notify the governing board of each public charter school of the estimated amount of state contribution to be allocated to the public charter school pursuant to section 15683-B and post these estimated contributions on the department's publicly accessible website. The posted state contributions must be itemized for each public charter school within a single table and include the complete totals allocated for each public charter school including the

amounts directed to the Maine Charter School Commission. These tabulations must be maintained as yearly records and updated whenever the department recalculates any allocations.

3. Payments of state subsidy to unit's treasurer; basis. State subsidy payments must be made directly to the treasurer of each school administrative unit. The payments must be based on audited financial reports submitted by school administrative units.

4. Appeals. A school board may appeal the computation of state subsidy for the school administrative unit to the state board in writing within 30 days of the date of the initial notification of the computed amount of the component that is the subject of this appeal. The state board shall review the appeal and make an adjustment if in its judgment an adjustment is justified. The state board's decision is final as to facts supported by the record of the appeal.

5. School purpose expense requirement. Notwithstanding any other law, money allocated for school purposes may be expended only for school purposes.

6. Balance of allocations. Notwithstanding any other law, general operating fund balances at the end of a school administrative unit's fiscal year must be carried forward to meet the unit's needs in the next year or over a period not to exceed 3 years. Unallocated balances in excess of 3% of the previous fiscal year's school budget must be used to reduce the state and local share of the total allocation for the purpose of computing state subsidy. School boards may carry forward unallocated balances in excess of 3% of the previous year's school budget and disburse these funds in the next year or over a period not to exceed 3 years. For fiscal years 2008-09, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14 and 2014-15 only, the carry-forward of a school administrative unit's unallocated balances is not limited to 3% of the previous fiscal year's school budget.

7. Required data; subsidy payments withheld. A school administrative unit shall provide the commissioner with information that the commissioner requests to carry out the purposes of this chapter, according to time schedules that the commissioner establishes. The commissioner may withhold monthly subsidy payments from a school administrative unit when information is not filed in the specified format and with specific content and within the specified time schedules. If the school administrative unit files the information in the specified format, the department shall include the payment of the withheld subsidy in the next regularly scheduled monthly subsidy payment.

7-A. Penalty for late submission of required data. Notwithstanding any other provision of this Title, the commissioner may implement the following subsidy penalty for a school administrative unit that is not in compliance with subsection 7. If a school administrative unit has not filed the required data pursuant to subsection 7 within 3 months of the due date, a penalty equal to 1% of that unit's monthly subsidy check times the number of months past due is assessed.

8. Unobligated balances. Unobligated balances from amounts appropriated for general purpose aid for local schools may not lapse but must be carried forward to the next fiscal year.

§15689-C. Commissioner's recommendation for funding levels; computations

1. Annual recommendations. Prior to January 20th of each fiscal year, the commissioner, with the approval of the state board, shall recommend to the Governor and the Department of Administrative and Financial Services, Bureau of the Budget the funding levels that the commissioner recommends for the purposes of this chapter on the basis of section 15671. Beginning

with the recommendations due in 2009, the commissioner's annual recommendations must be in the form and manner described in subsection 4.

2. Funding level computations. The following are the funding level computations that support the commissioner's funding level recommendations:

A. The requested funding levels for the operating allocation under sections 15683 and 15683-B;

B. The requested funding levels for debt service under section 15683-A, which are as follows:

(1) The known obligations and estimates of anticipated principal and interest costs for the allocation year;

(2) The expenditures for the insured value factor for the base year;

(3) The level of lease payments and lease-purchase payments pursuant to section 15672, subsection 2-A for the year prior to the allocation year; and

(4) Funds allocated by the state board for new school construction projects funded in the current fiscal year;

C. The requested funding levels for adjustments under section 15689, which must be computed by estimating costs for the allocation year;

D. The requested funding levels for miscellaneous costs under section 15689-A;

E. The requested funding levels for the costs of enhancing student performance and opportunity under section 15688-A; and

F. The normal costs of teacher retirement pursuant to Title 5, section 17154, subsection 6.

3. Guidelines for updating other subsidizable costs. The commissioner's recommendation for updating percentages to bring base year actual costs to the equivalent of one-year-old costs may not exceed the average of the 2 most recent percentages of annual increase in the Consumer Price Index.

4. Guidelines for updating adjustments and miscellaneous costs. The commissioner's recommendations regarding the adjustments and miscellaneous costs components as set forth in subsection 2 also must delineate each amount that is recommended for each subsection and paragraph under sections 15689 and 15689-A and the purposes for each cost in these sections. For each amount shown in the commissioner's recommendations, the commissioner's recommendation must also show the amount for the same component or purpose that is included in the most recently approved state budget, the differences between the amounts in the most recently approved state budget and the commissioner's recommendations and the reasons for the changes.

§15689-D. Governor's recommendation for funding levels

1. Annual recommendations. The Department of Administrative and Financial Services, Bureau of the Budget shall annually certify to the Legislature the funding levels that the Governor

recommends under sections 15671, 15671-A, 15683, 15683-A, 15683-B, 15688-A, 15689 and 15689-A and the amount for any other components of the total cost of funding public education from kindergarten to grade 12 pursuant to this chapter. The Governor's recommendations must be transmitted to the Legislature within the time schedules set forth in Title 5, section 1666 and in the form and manner described in subsection 2 and these recommendations must be posted on the department's publicly accessible website. The commissioner may adjust, consistent with the Governor's recommendation for funding levels, per-pupil amounts not related to staffing pursuant to section 15680 and targeted funds pursuant to section 15681.

2. Funding level computations. The Governor's recommendations under subsection 1 must specify the amounts that are recommended for the total operating allocations pursuant to section 15683 including the total allocation pursuant to section 15683-B, the total of other subsidizable costs pursuant to section 15681-A, the total debt service allocation pursuant to section 15683-A, the total costs of enhancing student performance and opportunity pursuant to section 15688-A, the total adjustments pursuant to section 15689, the total miscellaneous costs pursuant to section 15689-A, the amount for any other components of the total cost of funding public education from kindergarten to grade 12 and the total cost of funding public education from kindergarten to grade 12 pursuant to this chapter. The Governor's recommendations regarding the adjustments and miscellaneous costs components also must delineate each amount that is recommended for each subsection and paragraph under sections 15689 and 15689-A and the purposes for each cost in these sections. For each amount shown in the Governor's recommendations, the Governor's recommendations must also show the amount for the same component or purpose that is included in the most recently approved state budget, the differences between the amounts in the most recently approved state budget and the Governor's recommendations and the reasons for the changes. These computations must be posted on the department's publicly accessible website.

§15689-E. Actions by Legislature

The Legislature shall annually, prior to March 15th, enact legislation to:

1. Appropriation for state share of adjustments, debt service and operating; single account. Appropriate the necessary funds for the State's share for general purpose aid for local schools with a separate amount for each of the following components:

A. Adjustments and miscellaneous costs described in sections 15689 and 15689-A, including an appropriation for special education pupils placed directly by the State, for:

(1) Tuition and board for pupils placed directly by the State in accordance with rules adopted or amended by the commissioner; and

(2) Special education tuition and other tuition for residents of state-operated institutions attending programs in school administrative units or private schools in accordance with rules adopted or amended by the commissioner;

B. The state share of the total operating allocation and the total debt service allocation described in sections 15683, 15683-A and 15683-B;

C. The state share of the total costs of enhancing student performance and opportunity described in section 15688-A; and

D. The state share of the total normal cost of teacher retirement pursuant to Title 5, section 17154, subsection 6; and

2. Local cost share expectation. Establish the local cost share expectation described in section 15671-A.

Funds for appropriations under this section must be placed in a single account.

§15689-F. Actions by department

Within the annual appropriations, the department shall follow the procedures described in this section.

1. State's obligation. If the State's continued obligation for any program provided by one of the appropriated amounts under section 15689-E exceeds the appropriated amount, any unexpended balance from another of those appropriated amounts may be applied by the commissioner toward the obligation for that program.

2. Cash flow. For the purpose of cash flow, the commissioner may pay the full state and local share of the payment amounts due on bond issues for school construction from that school administrative unit's state subsidy, excluding payments on non-state-funded projects. This subsection does not apply if a school administrative unit has less subsidy than the total principal and interest payment on bonds.

3. Casino revenues. If the annual funding for public education for children in public preschool programs and for children in kindergarten and grades one to 12 is supported by casino revenues credited to the department pursuant to Title 8, section 1036, the department shall journal expenditures from the General Purpose Aid for Local Schools, General Fund account to the K-12 Essential Programs and Services, Other Special Revenue Funds account to meet financial obligations and for purposes of cash flow.

§15690. Local appropriations

Beginning with the budget for the 2005-2006 school year, the following provisions apply to local appropriations for school purposes.

1. School administrative unit contribution to total cost of funding public education from kindergarten to grade 12. The legislative body of each school administrative unit may vote to raise and appropriate an amount up to its required contribution to the total cost of education as described in section 15688, except that funds provided under Title XIV of the State Fiscal Stabilization Fund of the federal American Recovery and Reinvestment Act of 2009 as part of the amount restored to a school administrative unit's fiscal years 2008-09, 2009-10 and 2010-11 share of general purpose aid as determined under this chapter must be used to lower the school administrative unit's required contribution to the total cost of education.

A. For a municipal school unit, an article in substantially the following form must be used when a single municipal school administrative unit is considering the appropriation of an amount up to its required contribution to the total cost of education as described in section 15688.

(1) "Article.....: To see what sum the municipality will appropriate for the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act (Recommend $.....) and to see what sum the municipality will raise as the municipality's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act in accordance with the Maine Revised Statutes, Title 20-A, section 15688. (Recommend $.....)"

(2) The following statement must accompany the article in subparagraph (1). "Explanation: The school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act is the amount of money determined by state law to be the minimum amount that a municipality must raise in order to receive the full amount of state dollars."

B. For a school administrative district, a community school district or a regional school unit, an article in substantially the following form must be used when the school administrative district, community school district or regional school unit is considering the appropriation of an amount up to its required contribution to the total cost of education as described in section 15688.

(1) "Article ....: To see what sum the district will appropriate for the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and to see what sum the district will raise and assess as each municipality's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act in accordance with the Maine Revised Statutes, Title 20-A, section 15688 (Recommend amount set forth below):

Total Appropriated	Total raised
(by municipality)	(district assessments by municipality):
Town A ($amount)	Town A ($amount)
Town B ($amount)	Town B ($amount)
Town C ($amount)	Town C ($amount)
School District	School District
Total Appropriated	Total Raised
($sum of above)	($sum of above)"

(2) The following statement must accompany the article in subparagraph (1). "Explanation: The school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act is the amount of money determined by state law to be the minimum amount that the district must raise and assess in order to receive the full amount of state dollars."

C. The state share of the total cost of funding public education from kindergarten to grade 12 as described in section 15688, excluding state-funded debt service for each school administrative unit, is limited to the same proportion as the local school administrative unit

raises of its required contribution to the total cost of education as described in section 15688, excluding state-funded debt service costs.

2. Non-state-funded debt service. For a school administrative unit's indebtedness previously approved by its legislative body for non-state-funded major capital school construction projects or non-state-funded portions of major capital school construction projects, the legislative body of each school administrative unit may vote to raise and appropriate an amount up to the municipality's or district's annual payments for non-state-funded debt service.

A. An article in substantially the following form must be used when a school administrative unit is considering the appropriation for debt service allocation for non-state-funded school construction projects or non-state-funded portions of school construction projects.

(1) "Article ....: To see what sum the (municipality or district) will raise and appropriate for the annual payments on debt service previously approved by the legislative body for non-state-funded school construction projects or non-state-funded portions of school construction projects in addition to the funds appropriated as the local share of the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12. (Recommend $.....)"

(2) The following statement must accompany the article in subparagraph (1). "Explanation: Non-state-funded debt service is the amount of money needed for the annual payments on the (municipality's or district's) long-term debt for major capital school construction projects that are not approved for state subsidy. The bonding of this long-term debt was previously approved by the voters or other legislative body."

3. Additional local appropriation. A school administrative unit may raise and expend funds for educational purposes in addition to the funds under subsections 1 and 2.

A. If the amount of the additional funds does not result in the unit's exceeding its maximum state and local spending target established pursuant to section 15671-A, subsection 4, an article in substantially the following form must be used when a school administrative unit is considering the appropriation of additional local funds:

(1) "Article ....: To see what sum the (municipality or district) will raise and to appropriate the sum of (Recommend $.....) in additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690. (Recommend $.....)"

(2) The following statement must accompany the article in subparagraph (1). "Explanation: The additional local funds are those locally raised funds over and above the school administrative unit's local contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and local amounts raised for the annual payment on non-state-funded debt service that will help achieve the (municipality's or district's) budget for educational programs."

B. If the amount exceeds the unit's maximum state and local spending target established pursuant to section 15671-A, subsection 4, an article in substantially the following form must be used when a school administrative unit is considering an appropriation of additional local funds.

(1) "Article ....: Shall (name of municipality or district) raise and appropriate $..... in additional local funds, which exceeds the State's Essential Programs and Services allocation model by $..... as required to fund the budget recommended by the (school committee or board of directors)?"

The (school committee or board of directors) recommends $..... for additional local funds and gives the following reasons for exceeding the State's Essential Programs and Services funding model by $.....:

(2) The following statement must accompany the article in subparagraph (1). "Explanation: The additional local funds are those locally raised funds over and above the school administrative unit's local contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and local amounts raised for the annual payment on non-state-funded debt service that will help achieve the (municipality's or district's) budget for educational programs."

4. Total budget article. A school administrative unit must include a summary article indicating the total annual budget for funding public education from kindergarten to grade 12 in the school administrative unit. The amount recommended must be the gross budget of the school system. This article does not provide money unless the other articles are approved.

A. "Article ....: To see what sum the (municipality or district) will authorize the school committee to expend for the fiscal year beginning (July 1, ...) and ending (June 30, ...) from the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-state-funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690, unexpended balances, tuition receipts, state subsidy and other receipts for the support of schools. (Recommend $.....)"

5. Vote. Actions taken pursuant to subsections 1 to 4 must be taken by a recorded vote.

6. Administrative costs for units with no pupils. If a school administrative unit is required to pay administrative costs and has no allocation of state or local funds, that unit may raise and expend funds for administrative costs.

§15690-A. Local action on increase in state share percentage

Notwithstanding section 1485, subsection 5, this section applies to school budgets adopted for fiscal years 2017-18 and 2018-19.

1. Required reduction in local contribution. If the budget of a school administrative unit is based on assumptions that include an increase in state share, pursuant to section 15690, subsection 1, paragraph C, over the amount used in the most recent approved budget as the result of an increase in the state share of the school administrative unit's total cost of funding public education from kindergarten to grade 12 under this chapter, the increase in state share must be used as follows.

A. Fifty percent of the increase in state share pursuant to section 15690, subsection 1, paragraph C that is attributable to the increase in the state share over the state share amount used in the most recent approved budget must be used to lower the school administrative unit's local contribution to the total cost of funding public education from kindergarten to grade 12.

B. The remaining 50% may be used only to increase expenditures for school purposes in cost center categories approved by the local school board, increase the allocation of finances for a reserve fund or provide an additional amount to lower the required local contribution to the total cost of education.

2. Warrant. If the budget of the school administrative unit is based on assumptions that include an increase in state share, pursuant to section 15690, subsection 1, paragraph C, over the amount used in the most recent approved budget as the result of an increase in the state share of the school administrative unit's total cost of funding public education from kindergarten to grade 12 under this chapter, an article in substantially the form in paragraph A must be used to authorize the use of the increase in state share for the expenditures specified in subsection 1, paragraph B after the requirements of subsection 1, paragraph A are met.

A. "Article.....: To see what sums will be appropriated for the following purposes from the amount of the anticipated increase in state share of the school administrative unit's total cost of funding public education from kindergarten to grade 12 over the amount used in the most recent approved budget as the result of an increase in the state share of the school administrative unit's total cost of funding public education from kindergarten to grade 12 under this chapter:

(1) (Amount appropriated) To increase expenditures for school purposes in cost center categories approved by the board (list of amounts by category should be provided);

(2) (Amount appropriated) To increase the allocation of finances in a reserve fund for the purpose of (name of reserve fund); and

(3) (Amount appropriated) To provide a decrease in the local contribution, as defined in the Maine Revised Statutes, Title 20-A, section 15690, subsection 1, paragraph A or B, section 15690, subsection 2 or section 15690, subsection 3 for local property taxpayers for funding public education."

B. If as a result of a vote on the article specified in paragraph A, subparagraph (3) a school administrative unit does not raise 100% of the required local contribution pursuant to section 15690, subsection 1, the school administrative unit may petition the commissioner to waive the required proration of the state share pursuant to section 15690, subsection 1, paragraph C.

C. If the article is approved by the voters at the budget meeting, the board of the school administrative unit may increase expenditures for the purposes approved in the article without holding a special budget meeting and budget validation referendum.

§15691. Municipal assessment paid to district

1. Presentation of assessment schedule. The assessment schedule based on the budget approved at a community school district or school administrative district budget meeting must be presented to the treasurer of each municipality that is a member of the district.

The assessment schedule must include each member municipality's share of the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in section 15688, the school administrative unit's contribution to debt service for non-state-funded school construction projects and additional local funds for school purposes under section 15690.

2. Municipal treasurer's payment schedule. The treasurer of the member municipality, after being presented with the assessment schedule, shall forward 1/12 of that member municipality's share to the treasurer of the district on or before the 20th day of each month of the fiscal year beginning in July.

§15691-A. Municipal assessment paid to a regional school unit

Beginning with the 2008-2009 school year, this section applies to municipal assessments paid to a regional school unit.

1. Presentation of assessment schedule. The assessment schedule based on the budget approved at a regional school unit budget meeting must be presented to the treasurer of each municipality that is a member of the regional school unit. The assessment schedule must include each member municipality's share of the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in section 15688 and the school administrative unit's contribution to debt service for non-state-funded school construction projects and additional local funds for school purposes under section 15690.

2. Municipal treasurer's payment schedule. The treasurer of the member municipality, after being presented with the assessment schedule under subsection 1, shall forward 1/12 of that member municipality's share to the treasurer of the regional school unit on or before the 20th day of each month of the fiscal year.

§15692. Special school districts

1. School administrative unit. For the purposes of section 15695, a special school district is deemed to be a school administrative unit.

2. Debt service. Debt service on bonds or notes issued by a special school district must be included in the school budget of the school administrative unit that operates the schools constructed by that district. The school board for the school administrative unit that operates the special district's schools shall pay to the special school district all sums necessary to meet the payments of principal and interest on bonds or notes when due and to cover maintenance or other costs for which the special school district is responsible.

§15693. School budget; budget formats

1. Content. A school administrative unit shall include in its school budget document:

A. The school administrative unit's total cost of funding public education from kindergarten to grade 12, its non-state-funded debt service, if any, and any additional expenditures authorized by law;

B. A summary of anticipated revenues and estimated school expenditures for the fiscal year; and

C. The following statement, including the estimated dollar amount of state retirement payments: "This budget does not include the estimated amount of $..... in employer share of teacher retirement costs that is paid directly by the State."

2. Budget deadlines. The following time limitations apply to adoption of a school budget under this section.

A. At least 7 days before the initial meeting of the legislative body responsible for adopting a budget, the school administrative unit shall provide a detailed budget document to that legislative body and to any person who requests one and resides within the geographic area served by the school administrative unit.

B. Notwithstanding a provision of law or charter to the contrary, school administrative units may adopt an annual budget prior to June 30th. The school budgets for career and technical education regions must be adopted on or before August 1st.

C. Notwithstanding any municipal charter provision, ordinance or other law to the contrary, if the level of state subsidy for the next school year is not finalized in accordance with this chapter before June 1st, the school board may delay a school budget meeting otherwise required to be held before July 1st to a date after July 1st. If a school board elects to delay a school budget meeting under this paragraph, the meeting must be held and the budget approved within 30 days of the date the commissioner notifies the school board of the amount allocated to the school administrative unit under section 15689-B. When a school budget meeting is delayed under this paragraph, the school administrative unit may continue operation of the unit at the same budget levels as were approved for the previous year. Continued operation under the budget for the previous year is limited to the time between July 1st and the date the new budget goes into effect.

3. Budget format. The following provisions apply to a budget format.

A. Except as provided in subsection 4, the budget format is that prescribed by a majority of the school board until an article prescribing the school budget format is approved by a majority of voters in an election in which the total vote is at least 20% of the number of votes cast in the municipality in the last gubernatorial election, or 200, whichever is less.

B. The format of the school budget may be determined in accordance with section 1485.

C. It is the intent of the Legislature that a school board shall attempt to obtain public participation in the development of the school budget format.

4. Budget format; town or city charter. In a municipality where the responsibility for final adoption of the school budget is vested by municipal charter in a council, the school budget

format may be changed through amendment of the charter under the home rule procedures of Title 30-A, chapter 111, except that the amendment must be approved by a majority of voters in an election in which the total vote is at least 20% of the number of votes cast in the municipality in the last gubernatorial election.

5. Budget format; town meeting. When the final budget authority is vested in a town meeting operating under the general enabling procedures of Title 30-A, the format of the school budget may be determined by the town meeting or under the procedures of Title 30-A, section 2522 or 2528.

6. Budget format; community school district. The following provisions apply to the budget format of a community school district.

A. An article containing the district's proposed budget format must be placed on the next warrant issued or ballot printed if:

(1) A majority of the district school committee votes to place it on the warrant or ballot; or

(2) A written petition signed by at least 10% of the number of voters voting in the last gubernatorial election in each municipality within the community school district requests it to be on the warrant or ballot.

B. The article containing the budget format may be voted on by secret ballot at an election conducted in accordance with Title 30-A, sections 2528 to 2532.

C. The district school committee shall:

(1) Issue a warrant specifying that the municipal officers of the municipalities within the community school district shall place the budget format article on the secret ballot; and

(2) Prepare and furnish the required number of ballots for carrying out the election, including absentee ballots.

7. Budget format; articles. The articles prescribed in this chapter must be included in the budget format and be voted on in the adoption of the budget in order to determine state and local cost sharing.

8. Change in budget format. Any change in the budget format must be voted on at least 90 days prior to the budget year for which that change is to be effective.

§15694. Actions on budget

The following provisions apply to approving a school budget under this chapter.

1. Checklist required. Prior to a vote on articles dealing with school appropriations, the clerk or secretary shall make a checklist of the registered voters. The number of voters listed on the checklist is conclusive evidence of the number participating in the vote.

2. Reconsideration. Notwithstanding any law to the contrary, in school administrative units where the school budget is finally approved by the voters, a special budget vote to reconsider action taken on the budget may be called only as follows.

A. The reconsideration vote must be held within 30 days of the regular budget vote at which the budget was finally approved in accordance with section 2307 or chapter 103-A.

B. In a regional school unit, school administrative district or community school district, the reconsideration vote must be called by the school board or as follows.

(1) A petition containing a number of signatures of legal voters in the member municipalities of the school administrative unit equalling at least 10% of the number of voters who voted in the last gubernatorial election in member municipalities of the school administrative unit, or 100 voters, whichever is less, and specifying the article or articles to be reconsidered must be presented to the school board within 15 days of the regular budget vote at which the budget was finally approved in accordance with chapter 103-A.

(2) On receiving the petition, the school board shall call the special budget reconsideration vote, which must be held within 15 days of the date the petition was received.

C. In a municipality, the meeting to reconsider the vote must be called by the municipal officers:

(1) Within 15 days after receipt of a request from the school board, if the request is received within 15 days of the budget vote at which the budget was finally approved in accordance with section 2307 and it specifies the article or articles to be reconsidered; or

(2) Within 15 days after receipt of a written application presented in accordance with Title 30-A, section 2532, if the application is received within 15 days of the budget vote at which the budget was finally approved in accordance with section 2307 and it specifies the article or articles to be reconsidered.

3. Invalidation of action of special budget meeting to reconsider the vote. If a special budget vote is called to reconsider action taken at a regular budget vote, the vote is invalid if the number of voters at the special budget vote is less than the number of voters at the regular budget vote.

4. Line-item transfers. Votes requested by a school board for the purpose of transferring funds from one category or line item to another must be posted for voter or council action within 15 days of the date of the request.

§15695. Bonds; notes; other

All bonds, notes or other evidences of indebtedness issued for school purposes by a school administrative unit for major capital expenses, bus purchases or current operating expenses, including tax or other revenue anticipation notes, are general obligations of the unit.

1. Tax assessments. The municipal officers or school board shall require the sums that are necessary to meet in full the principal of and interest on the bonds, notes or other evidences of indebtedness issued pursuant to this section payable in each year to be assessed and collected in the manner provided by law for the assessment and collection of taxes.

2. Reduction. The sums to be assessed and collected under subsection 1 must be reduced by the amount of an allocation of funds appropriated by the Legislature to pay the principal and interest owed by the school administrative unit in a given year as certified to the unit by the commissioner. The commissioner shall certify the amount due to the unit within 30 days of its appropriation by the Legislature.

3. Collection. After assessment and reduction under subsection 2, the remaining sum must be paid from ad valorem taxes, which may be levied without limit as to rate or amount upon all the taxable property within the school administrative unit.

§15695-A. Bondholders of school administrative units

1. Rights of bondholders of school administrative units. If legislation, including a ballot measure approved at referendum, becomes effective that dissolves a school administrative unit that has issued outstanding general obligation bonds or notes or repeals the laws pursuant to which such a school administrative unit is organized and exists, the rights of the holders of the outstanding bonds and notes issued by that school administrative unit are not impaired and the underlying indebtedness of any such outstanding general obligation bonds or notes is deemed to survive, whether or not replacement or successor school administrative units are organized or established, and any state subsidy with respect to those outstanding obligations or the relative portion of those outstanding obligations to be paid or reimbursed by the State is not affected.

2. Power to tax. Until one or more school administrative units are organized or established to replace or succeed a former school administrative unit as described in subsection 1 and assume the outstanding bonds or notes issued by such former school administrative unit, all taxable property located in the municipalities that were members of that former school administrative unit is subject to ad valorem taxation to pay the underlying indebtedness of the bonds or notes issued by the former school administrative unit to the same extent as that taxable property was subject to ad valorem taxation in the former school administrative unit and as if such bonds or notes remained outstanding. Taxes to pay the underlying indebtedness of the outstanding bonds or notes of the former school administrative unit as described in subsection 1 must be levied and collected by the municipalities located in the former school administrative unit in the same manner as the taxes of the municipalities. If one or more school administrative units are organized or established to replace or succeed a former school administrative unit as described in subsection 1, all taxable property located in the municipalities that were members of the former school administrative unit and that are located within the replacement or successor school administrative unit or school administrative units is subject to ad valorem taxation to pay the underlying indebtedness of the bonds or notes of the former school administrative unit to the same extent as that taxable property was subject to ad valorem taxation in the former school administrative unit. Taxes to pay the underlying indebtedness of the outstanding bonds or notes of the former school administrative unit as described in subsection 1 must be levied and collected by the replacement or successor school administrative unit in the same manner as the taxes of the replacement or successor school administrative unit.

3. Power to levy. The holders of bonds and notes as described in subsection 1 retain the right to levy on taxable property located in the former school administrative unit and that taxable property is subject to Title 30-A, section 5701.

4. Payment responsibility. Until one or more school administrative units are organized or established to replace or succeed a former school administrative unit as described in subsection 1, the municipalities that were members of the former school administrative unit shall pay the underlying indebtedness of the bonds or notes of the former school administrative unit in accordance with their terms. As between the municipalities that were members of the former school administrative unit, payment responsibility for the underlying indebtedness of the bonds or notes of the former school administrative unit must be allocated in proportion to the most recent state valuations of those municipalities.

A school administrative unit or school administrative units organized or established to replace or succeed a former school administrative unit as described in subsection 1 shall pay the underlying indebtedness of the bonds and notes of the former school administrative unit in accordance with their terms. As between replacement or successor school administrative units of a former school administrative unit, payment responsibility for the underlying indebtedness of the bonds or notes must be allocated based upon the most recent state valuations of the municipalities that are located in each of the replacement or successor school administrative units and that were members of the former school administrative unit.

Nothing contained in this subsection may be construed to prohibit the organization or establishment of a school administrative unit or school administrative units that replace or succeed a former school administrative unit from employing a different method of allocating payment responsibility for the underlying indebtedness of the bonds or notes described in subsection 1.

§15696. Penalties for nonconforming school administrative units (REPEALED)

§15697. Fund to Advance Public Kindergarten to Grade 12 Education (REPEALED)

TITLE 22
HEALTH AND WELFARE

CHAPTER 413
HEALTH FACILITIES AUTHORITY

§2067. Exemption from taxation

The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the State, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and will constitute the performance of an essential governmental function, and neither the authority nor its agent shall or may be required to pay any taxes or assessments upon or in respect of a project or projects or any property acquired, used by the authority or its agent or under the jurisdiction, control, possession or supervision of the same or upon the activities of the authority or its agent in the operation or maintenance of a project or projects under this chapter, or upon income or other revenues received therefrom, and any bonds, notes and other obligations issued under this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, as well as the income and property of the authority, are at all times exempt from taxation of every kind by the State and by the municipalities and all other political subdivisions of the State.

TITLE 23
TRANSPORTATION

CHAPTER 24
MAINE TURNPIKE

§1967. Property of the authority; eminent domain

The authority shall hold and acquire property as follows.

1. Property of the authority. All property of the authority and all property held in the name of the State pursuant to the provisions of this chapter are exempt from levy and sale by virtue of any execution, and an execution or other judicial process is not a valid lien upon property of the authority held pursuant to the provisions of this chapter.

A. The authority may not lease, sell or otherwise convey, or allow to be used, any of its real or personal property or easements in that property, franchises, buildings or structures, with access to any part of the turnpike or its approaches, for commercial purposes, except for the following:

(1) Intermodal transportation facilities, kiosks at rest areas, gasoline filling stations, service and repair stations, safety patrol vehicles sponsored or operated by 3rd parties, tourist-oriented retail facilities, state and tri-state lottery ticket agencies, automatic teller machines and restaurants that the authority determines are necessary to service the needs of the traveling public while using the turnpike. The leasehold interests in such intermodal transportation facilities, kiosks, gasoline filling stations, service and repair stations, tourist-oriented retail facilities, state and tri-state lottery ticket agencies, automatic teller machines and restaurants are subject to taxation as provided in section 1971;

(2) Electrical power, telegraph, telephone, communications, water, sewer or pipeline facilities installed or erected by the authority, or permitted to be installed or erected by the authority; and

(3) Signs erected and maintained by the authority, or allowed by the authority to be erected and maintained, in accordance with rules adopted pursuant to section 1965, subsection 1, paragraph U, that contain names, symbols, trademarks, logos or other identifiers of specific commercial enterprises.

As used in this subsection, "tourist-oriented retail facilities" means facilities that promote tourism in this State by selling products that are made or primarily made in this State or to which value is added in this State.

2. Use of eminent domain. Whenever a reasonable price cannot be agreed upon for the purchase or lease of real property found necessary for the purposes of the authority or whenever the owner is legally incapacitated or is absent or is unable to convey valid title or is unknown, the authority may acquire by eminent domain any such real property whether wholly or partly constructed or interest or interests therein and any land, rights, easements, franchises and other

property deemed necessary or convenient for the construction or reconstruction or the efficient operation of the turnpike, its connecting tunnels, or bridges, overpasses, underpasses or interchanges, or both, in the manner provided by chapter 3, subchapter III. Title to any property taken by eminent domain shall be in the name of the authority.

3. Entry upon lands. The authority and its authorized agents and employees may enter upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations as it deems necessary or convenient for the purpose of this chapter and the entry shall not be deemed a trespass.

4. Authority for transfers of interest in land to the authority. All counties, cities, towns and other political subdivisions or municipalities and all public agencies and commissions of the State, and all public service corporations and districts, notwithstanding any contrary provisions of law, may lease, lend, grant or convey to the authority, upon its request, upon such terms and conditions as the proper authorities of the counties, cities, towns, political subdivisions, other municipalities, agencies, commissions, public service corporations and districts deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality other than the regular and formal action of the authorities concerned, any real or personal property or rights therein that may be necessary or convenient to the effectuation of the authorized purposes of the authority, including real and personal property or rights therein already devoted to public use. As used in this subsection, the term "public service corporation" includes every public utility as defined in Title 35-A, section 102, subsection 13, and every corporation referred to in Title 13-C.

5. Access. Notwithstanding subsection 1, the authority may permit the City of Saco, or its successors or assigns, to use the interchange in Saco formerly known as exit 5 of the turnpike and land located adjacent to this former interchange for access, utility lines and appurtenances, parking and related accessory rights for the benefit of any or any combination of the following facilities:

A. A liquor store or retail facility;

B. A regional information center;

C. A restaurant;

D. A hotel; or

E. A banquet and conference center.

The facilities must be located on property adjacent to the access way that connected the former exit 5 interchange with North Street in Saco. The terms of locating a facility must be mutually agreed upon by the authority and the City of Saco, its successors or its assigns. Access to and from the turnpike by means of the interchange at former exit 5 is restricted to facilities permitted under this subsection.

§1971. Exemption from taxes

The accomplishment by the authority of the authorized purpose stated in this chapter being for the benefit of the people of the State and for the improvement of their commerce and prosperity

in which accomplishment the authority will be performing essential governmental functions, the authority shall not be required to pay any taxes or assessment on any property acquired or used by it for the purposes provided in this chapter, except that restaurants, kiosks, fuel and service facilities, leased or rented by the authority to business entities, shall be subject to taxation, and assessments shall be made against the tenant in possession based upon the value of the leasehold interest, both real and personal, nor may the authority be required to pay any tax upon its income except as may be required by the laws of the United States, and the bonds or other securities and obligations issued from the authority, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation within the State.

CHAPTER 311
FISCAL MATTERS

§3601. Apportionment of damages or benefits

Whenever the city government lays out any new street or public way, or widens or otherwise alters or discontinues any street or way in a city, and decides that any persons or corporations are entitled to damage therefor, and estimates the amount thereof to each in the manner provided by law, it may apportion the damages so estimated and allowed, or such part thereof as to it seems just, upon the lots adjacent to and bounded on such street or way, other than those for which damages are allowed, in such proportions as in its opinion such lots are benefited or made more valuable by such laying out or widening, alteration or discontinuance, not exceeding in case of any lot the amount of such benefit, but the whole assessment shall not exceed the damages so allowed. Before such assessment is made, notice shall be given to all persons interested of a hearing before said city government, at a time and place specified, which notice shall be published in some newspaper in said city at least one week before said hearing.

§3602. Notification to owners

After said assessment provided for in section 3601 has been made upon such lots or parcels and the amount fixed on each, the same shall be recorded by the city clerk, and notice shall be given within 10 days after the assessment by delivering to each owner of said assessed lots resident in said city a certified copy of such recorded assessment, or by leaving it at his last and usual place of abode and by publishing the same 3 weeks successively in some newspaper published in said city, the first publication to be within said 10 days. Said clerk within 10 days shall deposit in the post office of said city, postage paid, a certified copy of such assessment directed to each owner or proprietor residing out of said city whose place of residence is known to said clerk, and the certificate of said clerk shall be sufficient evidence of these facts, and in the registry of deeds shall be the evidence of title in allowing or assessing damages and improvements, so far as notice is concerned.

§3603. Board of arbitration

Any person not satisfied with the amount for which he is assessed under section 3601 may, within 10 days after service of the notice provided for by section 3602 in either manner therein provided, by request in writing given to the city clerk, have the assessment upon his lot or parcel of land determined by arbitration. The municipal officers shall nominate 6 persons who are residents of said city, 2 of whom selected by the applicant with a 3rd resident person selected by said 2 persons shall fix the sum to be paid by him, and the report of such referees, made to the

clerk of said city and recorded by him, shall be final and binding upon all parties. Said reference shall be had and their report made to said city clerk within 30 days from the time of hearing before the municipal officers as provided in section 3601.

§3604. Collection procedure

All assessments and charges made under sections 3601 to 3603, shall be certified by the municipal officers and filed with the tax collector for collection. If the person assessed, within 30 days after written notice of the amount of such assessments and charges, fails, neglects or refuses to pay said municipality the expense thereby incurred, a special tax in the amount of such assessment and charges may be assessed by the municipal assessors upon each and every lot or parcel of land so assessed and buildings upon the same, and such assessment shall be included in the next annual warrant to the tax collector for collection, and shall be collected in the same manner as state, county and municipal taxes are collected.

§3605. Action for collection; amount recovered

If said assessments under section 3601 are not paid and said city does not proceed to collect said assessments by a sale of the lots or parcels of land upon which such assessments are made, or does not collect, or is in any manner delayed or defeated in collecting such assessments by a sale of the real estate so assessed, then the said city, in the name of said city, may maintain an action against the party so assessed for the amount of said assessment, as for money paid, laid out and expended, in any court competent to try the same, and in such action may recover the amount of such assessment with 12% interest on the same from the date of said assessment and costs.

§3606. Assessment for improvements

Whenever a majority of the abutters in number and value upon any street or road in the thickly settled portion of any city or town shall in writing petition the city government or municipal officers of the town to improve said street or road by grading, parking, curbing, graveling, macadamizing, paving or in any other way making a permanent street of the same, or any part thereof, and to provide for the making and reconstructing of such street improvements, and such improvements are made, 2/3 of the cost thereof may be assessed on the property adjacent to and bounded on said street or road in the manner and with the same right of appeal provided in sections 3601 to 3605, which are made applicable to such assessments.

§3607. Damages for raising or lowering streets

When a way or street is raised or lowered by a road commissioner or person authorized to the injury of an owner of adjoining land, he may within a year apply in writing to the municipal officers, and they shall view such way or street and assess the damages, if any have been occasioned thereby, to be paid by the town. Any person aggrieved by said assessment may have them determined, on complaint to the Superior Court, in the manner prescribed in section 3005. Said complaint shall be filed in the Superior Court in the county where the land is situated within 60 days from the date of assessment.

TITLE 24
INSURANCE

CHAPTER 19
NONPROFIT HOSPITAL OR MEDICAL SERVICE ORGANIZATIONS

§2311. Taxation

Every corporation subject to this chapter is declared to be a charitable and benevolent institution and its funds and property shall be exempt from taxation.

TITLE 29-A
MOTOR VEHICLES AND TRAFFIC

CHAPTER 3
SECRETARY OF STATE

§201. Municipal officials as agents

1. Appointment of agents by Secretary of State; scope of authority. With the approval of the municipal officers, the Secretary of State may appoint a municipal tax collector, or other persons designated by a municipality, to collect excise taxes on vehicles and to receive applications for noncommercial driver's license renewals and duplicates, nondriver identification card renewals and duplicates and new registrations and renewals of registrations of motor vehicles, trailers and semitrailers. The Secretary of State may authorize a municipal agent to issue renewals and duplicates of noncommercial driver's licenses, nondriver identification cards, new registrations and renewals of registrations or may limit the agent's authority to the issuance of renewals only.

2. Issuance of registrations or renewals. An agent appointed in accordance with subsection 1 may:

A. Issue renewals of registration for school buses operated by school administrative units or private contractors;

B. Issue registration renewals for all motor vehicles and trailers, except for those required to be registered directly through the Bureau of Motor Vehicles as designated by the Secretary of State; and

C. If authorized to issue registrations and renewals of registrations, issue:

(1) Registrations for pickup trucks registered for 10,000 pounds or less gross vehicular weight, automobiles, trailers, semitrailers and farm tractors; and

(2) Registrations for trucks of greater gross weight than provided in subparagraph (1), after the agent has satisfactorily participated in special training as prescribed by the Secretary of State.

3. Service fees. Municipal agents appointed in accordance with subsection 1 may charge service fees for registrations and renewals of licenses and registrations as follows.

A. A municipal agent may charge an applicant a fee not to exceed $3 over the required fee for each renewal of a noncommercial driver's license or nondriver identification card issued and a fee not to exceed $5 over the required fee for each renewal of a registration issued and a fee not to exceed $6 over the required fee for each new registration issued.

B. In a municipality in which agents are authorized to issue registrations or renewals of noncommercial driver's licenses, nondriver identification cards or registrations for applicants from another municipality or from an unorganized territory, the agent may charge those

applicants $1 in addition to the fees authorized by this subsection for each registration or renewal.

C. A municipal agent authorized to issue temporary registration permits may charge an applicant a fee not to exceed $1 over the required permit fee.

D. A municipal agent authorized to process permits and decals for vehicles with gross vehicle weight in excess of 6,000 pounds may charge a fee not to exceed $1 over the required fee for each permit or decal issued.

E. A municipal agent may charge a fee not to exceed $1 over the required fee for the issuance of a duplicate registration, duplicate noncommercial driver's license or duplicate nondriver identification card.

F. (Repealed)

G. A municipal agent may charge an applicant a fee not to exceed $1 over the required fee when an applicant is requesting issuance of a set of plates designated as specialty plates by the Secretary of State to replace previously issued plates.

H. The Secretary of State may authorize municipal agents to charge a fee not to exceed $1 over the required fee for other transactions that the municipal agent carries out on behalf of the Secretary of State and that are not listed in this subsection.

The municipality may retain all service fees authorized in this subsection.

4. Training. The Secretary of State shall provide necessary training for municipal agents. A municipal agent may not be appointed for specific duties unless the agent has successfully completed the appropriate training program.

5. Duration of appointment; revocation of appointment. Unless revoked, the appointment of an agent continues as long as the agent holds that office or employment. An appointment may be revoked:

A. If the municipal officers that approved the appointment request that it be revoked; or

B. For cause by the Secretary of State.

CHAPTER 5
VEHICLE REGISTRATION

§405. Expiration dates

1. Automobile, truck, truck tractor, motor home, moped, semitrailers not exceeding a gross vehicle weight of 2,000 pounds, special mobile equipment, tractor and camp trailer registration. Registration for an automobile, truck, truck tractor, motor home, moped, semitrailer not exceeding a gross vehicle weight of 2,000 pounds, special mobile equipment, tractor and camp trailer is as follows.

A. A registration expires on the last day of the month one year from the month of issuance.

B. When an application is made after the registration for the previous year has expired, the term of the renewal begins on the month of the issuance of the previous registration.

C. A person who has a fleet of 5 or more motor vehicles may petition the Secretary of State for a common expiration date of all vehicle registrations.

2. Other vehicles. All vehicles not governed by subsection 1 have registration periods from March 1st to the last day of February of the next calendar year.

3. Early display of plates. A number plate or suitable device furnished for the next registration period may be displayed on the first day of the month in which the current registration expires.

4. Emergency. The Secretary of State may extend the expiration date of a registration under emergency conditions.

§409. Collection of taxes

1. Collection of tax. The Secretary of State shall act at the time and place of registration on behalf of the State Tax Assessor to collect the sales or use tax due under Title 36, Part 3 for a vehicle for which an original registration is required.

2. Documentation; payment of tax. Registration may not be issued, unless in addition to meeting the other registration requirements of this Title, the applicant has:

A. Submitted a properly completed bill of sale, showing either that:

(1) The sales tax due has been collected by the dealer; or

(2) The sale of the vehicle is not subject to tax; or

B. Properly signed a use tax certificate in a form prescribed by the State Tax Assessor and:

(1) Paid the amount of tax due; or

(2) Shown that the sale or use of the vehicle is not subject to tax.

3. Collection fee. The Secretary of State must be reimbursed by the State Tax Assessor $1.25 per use tax certificate processed, even if a certificate indicates that no use tax is due.

Retained fees must be transmitted to the Treasurer of State and credited to the Highway Fund. Taxes collected must be transmitted to the Treasurer of State and credited to the General Fund.

4. Forwarding certificates. Certificates submitted pursuant to this section must be sent promptly to the State Tax Assessor.

5. Other taxes. A motor vehicle, mobile home or camp trailer may not be registered until the excise tax or personal property tax or real estate tax has been paid in accordance with Title 36,

sections 551, 602, 1482 and 1484. The Secretary of State may provide municipal excise tax collectors with a standard vehicle registration form for the collection of excise tax.

6. Remedies cumulative. The provisions of this section are in addition to other methods for the collection of the sales or use tax.

§501. Fees for registration; motor vehicles

The annual fees for the registration of motor vehicles must accompany the application for registration and are as follows.

1. Automobiles; pickup trucks. The fee for an automobile, a pickup truck registered for 6,000 pounds or less or a sport utility vehicle used for the conveyance of passengers or interchangeably for passengers or property is $35. The fee for a pickup truck registered for more than 6,000 pounds but no more than 10,000 pounds is $37.

An automobile or sport utility vehicle used for the conveyance of passengers or property is a "combination" vehicle and may be issued a special plate with the word "combination" instead of "Vacationland." A passenger vehicle used under contract with the State, a municipality or a school district to transport students must be designated as "combination." A vehicle owned or operated by parents or legal guardians is exempt from this subsection.

Commercial plates may not be issued for or displayed on an automobile.

A sport utility vehicle may be registered either as an automobile or a truck. A sport utility vehicle with a gross vehicle weight or combined gross vehicle weight in excess of 10,000 pounds and used in the furtherance of a commercial enterprise must be registered as a truck according to its actual gross weight as provided in section 504.

The gross weight of a pickup truck registered as provided by this subsection may not exceed 10,000 pounds. An owner of a pickup truck who operates the pickup truck with a gross weight in excess of 10,000 pounds or the pickup truck drawing a semitrailer with a combined gross weight in excess of 10,000 pounds must register the truck as provided in section 504.

A combination of vehicles consisting of a motor vehicle and a camp trailer is not required to be registered for the gross weight of the combination.

Beginning July 1, 2009, $10 of the fee must be transferred on a quarterly basis by the Treasurer of State to the TransCap Trust Fund established by Title 30-A, section 6006-G.

2. Island vehicles. (Repealed)

2-A. Island vehicles, golf carts and low-speed vehicles. The following provisions apply to vehicles operating on islands that have no public ways maintained or supported by the State.

A. Notwithstanding subsection 1, an automobile may be registered for an annual fee of $4. A low-speed vehicle or golf cart may be registered for an annual fee of $4. The registrant must show evidence of payment of the excise tax required by Title 36, section 1482. The municipality may collect an additional $4 fee annually to defray the cost of removing abandoned vehicles or golf carts.

B. A low-speed vehicle or golf cart may be operated on an island if the governing body of the municipality allows. A low-speed vehicle or golf cart may be operated only on a road or street where the posted speed limit is 35 miles per hour or less. A low-speed vehicle or golf cart may cross, at an intersection, a road or street with a posted speed limit of more than 35 miles per hour.

C. Any person operating a low-speed vehicle or a golf cart on an island must possess a valid driving license in any class.

3. Passenger vehicles for hire. The fee for a passenger vehicle used for hire is double the fee provided in subsection 1, except that for a passenger vehicle used for hire that is equipped with adaptive equipment to make that vehicle accessible by a person with a disability the fee is the same fee provided in subsection 1. The Secretary of State may issue a 2nd registration for the same vehicle at no additional fee.

4. Funeral coaches. The fee for a private automobile, funeral coach or funeral hearse, used by a licensed practitioner of funeral services under Title 32, chapter 21, is the fee provided in subsection 1. The fee for a funeral coach or funeral hearse used for hire for any other purpose is the same as the fee provided in subsection 3.

5. School vehicles. The fee for a motor vehicle used only to transport school children to and from school is the same as the fee in subsection 1.

6. Buses. (Repealed)

7. Temporary registration permit. The Secretary of State may issue a temporary registration permit for the purpose of moving certain vehicles otherwise required to be registered as follows.

A. A temporary registration permit is for one trip only:

(1) Between the points of origin and destination and intermediate points, as set forth in the permit; or

(2) From the point of origin to the destination and back to the point of origin, including any intermediate points, as set forth in the permit.

B. A temporary registration permit is for the transit of the vehicle only. The vehicle may not be used for the transportation of passengers or property, for compensation or otherwise, unless specifically authorized on the temporary registration permit. If the vehicle is a chartered bus that is not covered by a reciprocity agreement with the state or country of registration, the Secretary of State may authorize transportation of passengers.

C. The Secretary of State may not issue a temporary registration permit that is valid for longer than 10 days from the effective date of the registration.

D. The fee for a temporary registration permit issued under paragraph A, subparagraph (1) is $12. The fee for a temporary registration permit issued under paragraph A, subparagraph (2) is $25.

E. The temporary registration permit must be carried in the vehicle at all times.

F. A person who operates or moves a vehicle outside the routes specified in the temporary registration permit commits a traffic infraction and may not be fined less than $25 nor more than $200.

G. The Secretary of State may issue unassigned temporary registration permits to a vehicle auction business licensed under section 1051 to allow the movement of a vehicle sold to a dealer.

8. Special permit. The Secretary of State may issue, on application and the payment of a fee of $4, a special registration permit authorizing the limited operation on the highway of self-propelled golf carts, lawn mowers, ATV's and other similar vehicles with restrictions and limitations of use that minimize the danger to the operator. The following provisions apply to special registration permits.

A. A special registration permit is valid until March 1st of the next calendar year.

B. A driver's license is not required for operation under this subsection.

C. Vehicles registered under this subsection are exempt from the laws regulating the inspection of motor vehicles.

D. A person under the age of 15 years may not operate a vehicle under this subsection on a public way.

E. Operation of an ATV is limited to agricultural purposes in connection with a farm and to operation from or to the premises where kept, from or to a farm lot or between farm lots used for farm purposes by the ATV owner.

9. Attached vehicles. A deputy sheriff with a writ of attachment may move the attached motor vehicle to a place of storage without registration or registration permit as long as the county has insurance as required by chapter 13.

10. Off-highway vehicles. The Secretary of State may issue, on application and the payment of a fee of $27, a special registration permit authorizing the limited operation on a way of trucks, truck tractors, Class B special mobile equipment, trailers and semitrailers that are otherwise used exclusively for off-highway purposes. The following provisions apply to registration permits issued pursuant to this subsection.

A. A registration permit may not be granted unless the applicant presents a written certificate from the tax collector of the municipality from which the vehicle is being moved identifying the vehicle and stating that all personal property taxes applicable to the vehicle, including those for the current year, have been paid or that the vehicle is exempt from those taxes.

B. Highway use is limited to travel to and from garages for the purpose of obtaining repairs or maintenance or travel from one job site to another job site.

C. The registration permit may not authorize transporting property or passengers, except that a truck or truck tractor may draw an empty trailer or semitrailer.

D. A registration permit is valid until March 1st of the next calendar year.

E. A vehicle issued a registration permit pursuant to this subsection is exempt from inspection requirements.

F. The registration permit must be in the vehicle when the vehicle is operated on the highway.

G. Trailers and semitrailers must be moved during daytime hours.

11. Low-speed vehicles. The Secretary of State may issue a registration for a low-speed vehicle upon application and payment of an annual fee of $25. The registrant must provide a certificate of title required by section 651, proof of financial responsibility required by section 1601 and evidence of payment of the excise tax required by Title 36, section 1482. A low-speed vehicle registered under this section is issued a registration plate with the word "low-speed" instead of "Vacationland." The Secretary of State may issue a facsimile plate for a 60-day period.

12. Autocycles. (Repealed)

12-A. Autocycles. (Repealed)

13. Autocycles. The Secretary of State may issue a registration for an autocycle upon application and payment of an annual fee of $21. The registrant must provide a certificate of title required by section 651, proof of financial responsibility required by section 1601 and evidence of payment of the excise tax as required by Title 36, section 1482, subsection 1, paragraph C. An autocycle registered under this section is issued a registration plate with the word "autocycle" instead of "Vacationland." The Secretary of State may issue a facsimile plate for a 60-day period.

A person possessing or applying for a registration certificate and a set of gold star family registration plates pursuant to section 524-B is exempt from registration fees under this section for the motor vehicle registered or to be registered.

§502. Transfer and return of registration; prorated registration fees

1. Transferring registration. A person who transfers the ownership or discontinues the use of a registered motor vehicle, trailer or semitrailer and applies for registration of another motor vehicle, trailer or semitrailer in the same registration year may use the same number plates on payment of a transfer fee of $8, as long as the registration fee is the same as that of the former vehicle. If the fee for the vehicle to be registered is greater than the fee for the vehicle first registered, that person must also pay the difference.

2. Return of registration. (Repealed)

3. Refunds; credits. No portion of a fee is refundable, but credits toward the registration of another vehicle may be given. On registration by an owner or owner's surviving spouse, a credit is allowed as follows.

A. For the first 8 months of a registration year, the full fee may be credited toward the registration of another vehicle.

B. For the last 4 months of a registration year, an amount not to exceed 1/2 of the original fee may be credited toward the registration of another vehicle.

4. Prorated fee. On any application for registration made during the last 4 months of a registration year, the registration fee is 1/2 the annual registration fee.

§514. Evasion of registration fees and excise taxes

A person required to register a vehicle in this State who instead registers the vehicle in another state or province or who fails to register a vehicle in this State is guilty of evasion of registration fees and excise taxes. Violation of this section is a traffic infraction punishable by a fine of not less than $500 nor more than $1,000.

The Secretary of State shall notify the State Tax Assessor upon receipt of the court abstract so that the State Tax Assessor may determine whether further investigation is necessary.

For purposes of this section, a person is presumed to be a resident of the State if that person has:

1. Enrolled child in public school. Enrolled a minor child of whom that person has sole or primary custody in a public school within the State; or

2. Declared or indicated primary residence in State. Declared, indicated or stated that that person's primary residence is in the State on any form, document or application used by public and private entities or persons.

An oral statement by a person stating a Maine address as that person's primary residence is prima facie evidence of primary residence under this section.

§523. Certain veterans

1. Amputee or blind veterans. On application to the Secretary of State for registration of any motor vehicle of any amputee or blind veteran who has received an automobile from the United States Government under authority of 38 United States Code, Sections 3901, et seq. or any amputee or blind veteran receiving compensation from the Veterans Administration or any branch of the United States Armed Forces for service-connected disability who has a specially designed motor vehicle, that veteran is entitled to have that automobile duly registered and a registration certificate delivered to the veteran without the requirement of the payment of any fee.

Any veteran who has lost both legs or the use of both legs and who has registered a motor vehicle without the payment of a fee as provided in this section upon certification by the Veterans Administration or appropriate branch of the United States Armed Forces must be issued special designating plates. Those designating plates must be issued by the Secretary of State and must bear the words "Disabled Veteran."

2. Disabled veterans; special free license plates. The Secretary of State, on application and upon evidence of payment of the excise tax required by Title 36, section 1482, shall issue a

registration certificate and set of special designating plates to be used in lieu of regular registration plates for a vehicle with a registered gross weight of not more than 26,000 pounds to any 100% disabled veteran when that application is accompanied by certification from the United States Veterans Administration or any branch of the United States Armed Forces as to the veteran's permanent disability and receipt of 100% service-connected benefits. A disability placard is issued in addition to the disabled veteran registration plate at no fee.

These special designating plates must bear the words "Disabled Veteran," which indicate that the vehicle is owned by a disabled veteran.

2-A. Disabled veterans motorcycle license plates. The Secretary of State shall issue a registration certificate and special designating plate for a motorcycle to be used in lieu of a registration plate issued in subsection 2 to any 100% disabled veteran if an applicant submits the following together with an application:

A. Evidence of payment of the excise tax required by Title 36, section 1482; and

B. Certification from the United States Veterans Administration or any branch of the United States Armed Forces as to the veteran's permanent disability and receipt of 100% service-connected benefits.

Notwithstanding section 468, the Secretary of State may issue fewer than 2,000 of the plates authorized by this subsection, and this plate does not require a sponsor. These special designating plates must bear the word "Veteran."

3. Special veterans registration plates. The Secretary of State, on application and evidence of payment of the excise tax required by Title 36, section 1482 and the registration fee required by section 501 or by section 504, subsection 1 for a vehicle with a registered gross weight over 10,000 pounds, shall issue a registration certificate and a set of special veterans registration plates to be used in lieu of regular registration plates for a vehicle with a registered gross weight of not more than 26,000 pounds to any person who has served in the United States Armed Forces and who has been honorably discharged or to a person who has served in the United States Armed Forces for at least 3 years and continues to serve. If a person who qualifies for a special veterans registration plate under this subsection is the primary driver of 3 vehicles, the Secretary of State may issue in accordance with this section a set of special veterans registration plates for each vehicle.

Each application must be accompanied by the applicant's Armed Forces Report of Transfer or Discharge, DD Form 214, certification from the United States Veterans Administration or the appropriate branch of the United States Armed Forces verifying the applicant's military service and honorable discharge, or a letter from the Department of Defense, Veterans and Emergency Management, Maine Bureau of Veterans' Services verifying active duty military service and length of service.

The Secretary of State shall recall a special veterans registration plate of a recipient who has been less than honorably discharged from the United States Armed Forces.

All surplus revenue collected for issuance of the special registration plates is retained by the Secretary of State to maintain and support this program.

The surviving spouse of a special veteran plate recipient issued plates in accordance with this subsection may retain and display the special veteran plates as long as the surviving spouse remains unmarried. Upon remarriage, the surviving spouse may not use the special veteran plates on a motor vehicle, but may retain them as a keepsake. Upon the death of the surviving spouse, the family may retain the special veteran plates, but may not use them on a motor vehicle.

The Secretary of State may issue a special disability registration plate for veterans in accordance with section 521, subsections 1, 5, 7 and 9. The special disability registration plate for veterans must bear the International Symbol of Access.

The Secretary of State may issue a set of special veterans registration plates when the qualifying veteran is the primary driver of a company-owned vehicle if:

A. The company is owned solely by a veteran who qualifies for a veteran plate under this section;

B. The vehicle is leased by a veteran who qualifies for the veteran plate under this subsection; or

C. The vehicle is leased by the employer of a veteran who qualifies for the veteran plate and the employer has assigned the vehicle exclusively to the veteran. The employer must attest in writing that the veteran will have exclusive use of the vehicle and agrees to the display of the special veteran plate.

3-A. Motorcycle plates; veterans. In addition to any plate issued pursuant to subsection 3, the Secretary of State, on application and evidence of payment of the excise tax required by Title 36, section 1482 and the registration fee required by section 515, subsection 1, shall issue a registration certificate and a special veterans registration plate for up to 3 designated motorcycles owned or controlled by a person who has served in the United States Armed Forces and who has been honorably discharged or to a person who has served in the United States Armed Forces for at least 3 years and continues to serve.

Each application must be accompanied by the applicant's Armed Forces Report of Transfer or Discharge, DD Form 214, certification from the United States Department of Veterans Affairs or the appropriate branch of the United States Armed Forces verifying the applicant's military service and honorable discharge, or a letter from the Department of Defense, Veterans and Emergency Management, Maine Bureau of Veterans' Services verifying active duty military service and length of service.

The Secretary of State shall recall a special veterans registration plate of a recipient who has been less than honorably discharged from the United States Armed Forces.

All surplus revenue collected for issuance of the special veterans registration plates is retained by the Secretary of State to maintain and support this program.

Upon request the Secretary of State shall issue special veterans registration plates for a motorcycle that are also vanity plates. These plates are issued in accordance with this section and section 453. Vanity plates issued under this subsection may not duplicate vanity plates issued in another class of plate.

The surviving spouse of a recipient of a special veterans registration plate issued in accordance with this subsection may retain and use the plate or plates as long as the surviving spouse remains unmarried. Upon remarriage, the surviving spouse may not use the plate or plates, but may retain them. Upon the death of the surviving spouse, the family may retain the plate or plates, but may not use them.

The Secretary of State may not issue special commemorative decals under subsection 5 or 6 for use on special veterans registration plates for a motorcycle.

4. Veterans vanity plates. Upon request and as provided by section 453, the Secretary of State shall issue veterans registration plates that are also vanity plates. Veterans registration vanity plates are issued in accordance with this section and section 453.

5. Special commemorative decals for medals, badges or ribbons awarded. The Secretary of State may issue special commemorative decals for use with special veterans registration plates to any person who served in the United States Armed Forces, was honorably discharged and was awarded a medal, badge or ribbon described in paragraphs A to BB when that person's application is accompanied by the appropriate military certification verifying that the medal, badge or ribbon was awarded to the applicant. One set of commemorative decals may be issued for each set of special veterans registration plates issued under this section. One set of 2 commemorative decals must be displayed on the front and back plates. The fee for a set of commemorative decals may not exceed $5.

Special commemorative decals may be issued to applicants awarded the following medals, badges or ribbons:

A. Distinguished Service Cross;

B. Navy Cross;

C. Air Force Cross;

D. Silver Star;

E. Distinguished Flying Cross;

F. Bronze Star;

G. Soldier's Medal;

H. Navy or Marine Corps Medal;

I. Airman's Medal;

J. Coast Guard Medal;

K. Asiatic-Pacific Campaign Medal;

L. European-African-Middle Eastern Campaign Medal;

M. Korean Service Medal;

N. Vietnam Service Medal;

O. Southwest Asia Service Medal;

P. Armed Forces Expeditionary Medal;

Q. Kosovo Service Medal;

R. Korea Defense Service Medal;

S. Global War on Terrorism Medal;

T. Iraq Campaign Medal;

U. Afghanistan Campaign Medal;

V. United States Army Combat Infantry Badge;

W. United States Army Combat Medic Badge;

X. United States Army Combat Action Badge;

Y. United States Navy, Marine Corps or Coast Guard Combat Action Ribbon;

Z. United States Air Force Combat Action Medal;

AA. National Emergency Service Medal; and

BB. Air Medal.

6. Special commemorative decals for branches of armed forces. The Secretary of State may issue special commemorative decals for use with special veterans registration plates to any person who served in the United States Armed Forces and was honorably discharged when that person's application is accompanied by the appropriate military certification verifying the applicant's service. One set of commemorative decals may be issued for each set of special veterans registration plates issued under this section. One set of 2 commemorative decals must be displayed on the front and back plate. The fee for a set of commemorative decals may not exceed $5. Special commemorative decals may be issued to applicants who served in the:

A. United States Army;

B. United States Air Force;

C. United States Navy;

D. United States Marine Corps; or

E. United States Coast Guard.

7. Moratorium on decals for use with special veterans registration plates. (Repealed)

8. Wabanaki decal. The Secretary of State may issue a set of 2 Wabanaki decals to a person who has or receives a special veterans registration plate if the Secretary of State receives an application and a statement signed by a tribal official from a federally recognized tribe within the Wabanaki Confederacy proving the applicant's membership in the tribe. One set of 2 Wabanaki decals must be displayed on the front and back plates. The fee for a set of Wabanaki decals may not exceed $5.

CHAPTER 9
DEALERS

§1002. Vehicle and equipment dealer plates

1. Limitations on use. A person using a dealer plate may not operate a vehicle owned or controlled by a manufacturer or dealer except for:

A. Purposes directly connected with the business of buying, selling, testing, adjusting, servicing, demonstrating or exchanging the vehicle, including use of that vehicle by a full-time employee to attend schools and seminars designed to assist the employee in the testing, adjusting or servicing of vehicles;

B. Personal use by a manufacturer or dealer. There may be no more than one dealer plate for the personal use of the manufacturer or dealer and one dealer plate for the personal use of the immediate family of the dealer;

C. Use of the vehicle in a funeral or public parade when no charge is made for that use;

D. Use by a full-time sales representative, general manager, sales manager or service manager who is on the dealer's payroll but not in the dealer's immediate family or members of that person's household;

E. Use by customers for not more than 7 days to demonstrate the vehicle; or

F. Use by the manufacturer or dealer when the combined weight of the vehicle and the load does not exceed 10,000 pounds unless the vehicle, by design, exceeds 10,000 pounds without a load.

1-A. Limitation on use. A person using a dealer plate may not permit a vehicle owned or controlled by a manufacturer or dealer to be operated except for the purposes authorized under subsection 1.

2. Term. Dealer plates expire on the last day of the month, one year from issuance. The Secretary of State may determine the number and conditions of use of dealer plates.

3. Penalty. A violation of subsection 1 or subsection 1-A is a traffic infraction for which a minimum penalty of $200 must be adjudged for each infraction. That penalty may not be suspended.

4. Service vehicle. A dealer may attach to that dealer's service vehicles specially designed service vehicle plates. These plates may be used only in direct connection with the licensee's business. A dealer may attach a service vehicle plate only to a vehicle used for the service or repair of vehicles sold or being repaired by the dealer. A dealer may not attach a service vehicle plate to a vehicle that delivers parts to individuals or to businesses that are not owned by the licensee.

A. A dealer is not entitled to more than 3 service vehicle plates at each established place of business.

B. The weight limit for a service vehicle, including the combined weight of vehicle and load, may not exceed 24,000 pounds. This weight limit does not apply to service vehicles of equipment dealers.

C. The fee for a service vehicle plate is $50 annually per plate.

D. A vehicle to which a service vehicle plate is attached must have the name of the licensed dealership on the sides of the vehicle in letters at least 3 inches in height and clearly visible. The name of any other business may not be displayed on the sides of the vehicle to which the service vehicle plate is attached.

5. Equipment dealers. Unless otherwise prohibited, equipment dealer plates may be attached only for demonstration, emergency and service purposes to the following:

A. Motorized graders;

B. Power shovels;

C. Front-end loaders;

D. Backhoes;

E. Rubber-tired bulldozers;

F. Large 4-wheel drive trucks and snowplows;

G. Motor cranes;

H. Road sweepers;

I. Sidewalk cleaners;

J. Log skidders;

K. Other related heavy equipment;

L. Farm tractors;

M. Self-propelled combines;

N. Harvesters;

O. Other related farm machinery; or

P. Equipment or a motor vehicle taken in trade.

A specially designed equipment dealer plate may be attached to a motor truck used for service in direct connection with the equipment dealer business. Any motor truck to which a specially designed equipment dealer plate has been attached may not be used for any purpose except in the service of equipment directly connected with the business of the equipment dealer. An equipment dealer business may not be provided with more than 3 specially designed equipment dealer plates.

6. Wreckers. The following provisions apply to the operation of wreckers and to dealer wrecker plates.

A. A vehicle dealer or equipment dealer may operate a wrecker with a dealer wrecker plate if the wrecker is used only in direct connection with the buying, selling, service or repair business of the dealer to which it is issued.

B. A wrecker on which a dealer wrecker plate is attached may not be used in commercial towing.

C. The annual fee for a dealer wrecker plate is $50 per plate for attachment to a wrecker that does not exceed 26,000 pounds gross vehicle weight and $200 for attachment to a wrecker that does not exceed 80,000 pounds gross vehicle weight.

D. (Repealed)

E. The certificate of registration for the dealer wrecker plate must be displayed at the dealer's established place of business.

F. The Secretary of State shall determine the number of dealer wrecker plates that may be issued to a dealer.

7. Demonstrating a loaded truck. A dealer must obtain a written permit from the Secretary of State to demonstrate a loaded truck, truck tractor, trailer, semitrailer or combination of vehicles bearing dealer plates.

A permit may be issued to a nonresident dealer when reciprocity has been established.

A permit may not be issued to allow demonstration for a period longer than 7 days. A permit to demonstrate can not be issued to the same individual or company more than once to cause use for a period of more than 7 days.

A permit may not be issued to a vehicle or combination of vehicles that is being rented or leased.

The processing fee for a permit to demonstrate is $1.

8. Vehicle weighing more than 10,000 pounds. The following provisions apply to the use of dealer plates on vehicles weighing more than 10,000 pounds.

A. Except as provided in paragraph B, a truck tractor and trailer or semitrailer combination may be operated with dealer plates if the dealer is licensed as a new vehicle dealer or used vehicle dealer and heavy trailer dealer and if the trailer or semitrailer does not contain a load. [PL 2003, c. 652, Pt. B, §5 (NEW); PL 2003, c. 652, Pt. B, §8 (AFF).]

B. A dealer must obtain a written permit from the Secretary of State to operate a vehicle or combination of vehicles carrying a load. The permit must be issued in accordance with the following provisions.

(1) The operation of the vehicle or combination of vehicles and load must be in conjunction with the sale or purchase of a motor vehicle, vehicle or equipment by the dealer.

(2) The load must consist of a motor vehicle, trailer or equipment that the dealer is licensed to sell.

(3) The load may not consist of more than one automobile, truck or truck tractor at any time.

(4) The initial fee and renewal fee for a permit issued under this paragraph are $200 each.

(5) A permit expires 90 days from the date of issuance and may be renewed.

(6) A permit must contain the name and address of the licensed dealer, an effective date, an expiration date and any other information required by the Secretary of State.

9. Mobile homes. A mobile home may not be moved over a public way unless the operator of the vehicle hauling it has in possession a permit issued pursuant to section 2382 or a written certificate from the tax collector of the municipality in which the mobile home is situated on the day of the move, identifying the mobile home and stating that all applicable property taxes, including those for the current tax year, have been paid or that the mobile home is exempt from taxes. The tax year is the period from April 1st to March 31st. For the purposes of this subsection, taxes for the current tax year include taxes not yet committed. If the amount of these taxes can not then be determined, the amount must be presumed to be the same as the previous year's taxes until the current year's taxes are assessed. Notwithstanding Title 36, section 506, the tax collector may accept prepayment of these taxes and shall repay any amount paid in excess of that finally assessed, with interest on that amount as provided in Title 36, section 506-A. If a mobile home was moved into the municipality after April 1st so that no tax was assessed in the previous year and will be moved from the municipality before the commitment of the current year's taxes but after April 1st, the term "previous year's taxes" means taxes estimated by using the prior year's tax rate.

10. Loss of dealer plate. Upon the loss of a dealer plate, the dealer immediately shall notify the Secretary of State.

11. Temporary dealer plate. If a dealer has written authorization from the Secretary of State, a dealer may use a temporary number plate bearing the registration number issued to that dealer.

CHAPTER 21
WEIGHT, DIMENSION AND PROTECTION OF WAYS

§2382. Overlimit movement permits

1. Overlimit movement permits issued by State. The Secretary of State, acting under guidelines and advice of the Commissioner of Transportation, may grant permits to move nondivisible objects having a length, width, height or weight greater than specified in this Title over a way or bridge maintained by the Department of Transportation.

2. Permit fee. The Secretary of State, with the advice of the Commissioner of Transportation, may set the fee for single trip permits, at not less than $6, nor more than $30, based on weight, height, length and width. The Secretary of State may, by rule, implement fees that have been set by the Commissioner of Transportation for multiple trip, long-term overweight movement permits. Rules established pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

3. County and municipal permits. A county commissioner or municipal officer may grant a permit, for a reasonable fee, for travel over a way or bridge maintained by that county or municipality.

4. Permits for weight. A vehicle granted a permit for excess weight must first be registered for the maximum gross vehicle weight allowed for that vehicle.

5. Long-term permits. The Secretary of State may grant permits for up to one year for trucks, truck tractors, semitrailers, heavy duty recovery vehicles and Class A special mobile equipment. Notwithstanding Title 5, section 8071, subsection 2, paragraph A, the Secretary of State, in consultation with the Commissioner of Transportation, shall establish the fee schedule by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

6. Scope of permit. A permit is limited to the particular vehicle or object to be moved, the trailer or semitrailer hauling the overlimit object and particular ways and bridges.

7. Construction permits. A permit for a stated period of time may be issued for loads and equipment employed on public way construction projects, United States Government projects or construction of private ways, when within construction areas established by the Department of Transportation. The permit:

A. Must be procured from the municipal officers for a construction area within that municipality;

B. May require the contractor to be responsible for damage to ways used in the construction areas and may provide for:

(1) Withholding by the agency contracting the work of final payment under contract; or

(2) The furnishing of a bond by the contractor to guarantee suitable repair or payment of damages.

The suitability of repairs or the amount of damage is to be determined by the Department of Transportation on state-maintained ways and bridges, otherwise by the municipal officers;

C. May be granted by the Department of Transportation or by the state engineer in charge of the construction contract; and

D. For construction areas, carries no fee and does not come within the scope of this section.

8. Gross vehicle weight permits. The following may grant permits to operate a vehicle having a gross vehicle weight exceeding the prescribed limit:

A. The Secretary of State, with the consent of the Department of Transportation, for state and state aid highways and bridges within city or compact village limits;

B. Municipal officers, for all other ways and bridges within that city and compact village limits; and

C. The county commissioners, for county roads and bridges located in unorganized territory.

9. Pilot vehicles. The following restrictions apply to pilot vehicles.

A. Pilot vehicles required by a permit must be equipped with warning lights and signs as required by the Secretary of State with the advice of the Department of Transportation.

B. Warning lights may be operated and lettering on the signs may be visible on a pilot vehicle only while it is escorting a vehicle with a permit on a public way.

With the advice of the Commissioner of Transportation and the Chief of the State Police, the Secretary of State shall establish rules for the operation of pilot vehicles.

9-A. Police escort. A person may not operate a single vehicle or a combination of vehicles of 125 feet or more in length or 16 feet or more in width on a public way unless the vehicle or combination of vehicles is accompanied by a police escort. The Secretary of State, with the advice of the Commissioner of Transportation, may require a police escort for vehicles of lesser dimensions.

A. The Bureau of State Police shall establish a fee for state police escorts to defray the costs of providing a police escort. A county sheriff or municipal police department may establish a fee to defray the costs of providing police escorts.

B. The Bureau of State Police shall provide a police escort if a request is made by a permittee. A county sheriff or municipal police department may refuse a permittee's request for a police escort.

C. A vehicle or combination of vehicles for which a police escort is required must be accompanied by a state police escort when operating on the interstate highway system.

10. Taxes paid. A permit for a mobile home may not be granted unless the applicant provides reasonable assurance that all property taxes, sewage disposal charges and drain and sewer assessments applicable to the mobile home, including those for the current tax year, have been paid or that the mobile home is exempt from those taxes. A municipality may waive the requirement that those taxes be paid before the issuance of a permit if the mobile home is to be moved from one location in the municipality to another location in the same municipality for purposes not related to the sale of the mobile home.

11. Violation. A person who moves an object over the public way in violation of this section commits a traffic infraction.

TITLE 30-A
MUNICIPALITIES AND COUNTIES

CHAPTER 1
COUNTY OFFICERS

§52. Incompatible offices

1. Municipal offices. No person holding the office of county commissioner may at the same time hold either the office of mayor or assessor of a city or the office of selectman or assessor of a town.

2. County offices. No county commissioner, during the term for which that commissioner has been elected and for one year thereafter may be appointed to any office of profit or employment position of the county, which was created or the compensation of which was increased by the action of the county commissioners during the county commissioner's term.

CHAPTER 3
COUNTY BUDGET AND FINANCES

§701. Annual estimates for county taxes

Except as otherwise provided, the county commissioners shall make the county estimates and cause the taxes to be assessed as follows.

1. Forms. The county estimates must be made in the manner approved by the Office of the State Auditor.

2. Preparation of estimates. In order to assess a county tax, the county commissioners, in accordance with the schedule established in the county charter or, if the county does not have a charter, by the end of the state fiscal year, shall prepare estimates of the sums necessary to pay the expenses that have accrued or may probably accrue for the coming year for correctional services. The estimates must be drawn so as to authorize the appropriations to be made for correctional services.

2-A. Tax assessment for correctional services. (Repealed)

2-B. Retirement of fiscal year 2007-08 county jail debt. (Repealed)

2-C. Tax assessment for correctional services beginning July 1, 2015. Beginning July 1, 2015, the counties shall annually collect no less than $62,172,371 from municipalities for the provision of correctional services in accordance with this subsection. The counties may collect an amount that is more than the base assessment limit established in this subsection, except that the additional amount each year may not exceed the base assessment limit as adjusted by the growth limitation factor established in section 706-A, subsection 3 or 4%, whichever is less. If a county collects in a year an amount that is more than the base assessment limit established for that county pursuant to this subsection, the base assessment limit in the succeeding year is the amount

collected in the prior year. For the purposes of this subsection, "correctional services" includes management services, personal services, contractual services, commodity purchases, capital expenditures and all other costs, or portions thereof, necessary to maintain and operate correctional services. "Correctional services" does not include county jail debt unless there is a surplus in the account that pays for correctional services at the end of the state fiscal year.
The assessment to municipalities within each county may not be less than the base assessment limit, which is:

A. A sum of $4,287,340 in Androscoggin County;

B. A sum of $2,316,666 in Aroostook County;

C. A sum of $11,575,602 in Cumberland County;

D. A sum of $1,621,201 in Franklin County;

E. A sum of $1,670,136 in Hancock County;

F. A sum of $5,588,343 in Kennebec County;

G. A sum of $3,188,700 in Knox County;

H. A sum of $2,657,105 in Lincoln County;

I. A sum of $1,228,757 in Oxford County;

J. A sum of $5,919,118 in Penobscot County;

K. A sum of $878,940 in Piscataquis County;

L. A sum of $2,657,105 in Sagadahoc County;

M. A sum of $5,363,665 in Somerset County;

N. A sum of $2,832,353 in Waldo County;

O. A sum of $2,000,525 in Washington County; and

P. A sum of $8,386,815 in York County.

3. Public hearing. The county commissioners shall hold a public hearing in the county on these estimates before the end of the county's fiscal year. They shall publish a notice of the hearing at least 10 days before the hearing in a newspaper of general circulation within the county. Written notice and a copy of the estimates must be sent by mail or delivered in person to the clerk of each municipality in the county at least 10 days before the hearing. The municipal clerk shall notify the municipal officers of the receipt of the estimates.

4. Meeting with legislative delegation. (Repealed)

§702. Estimates recorded and sent to State Auditor

The county clerk shall record the estimates made under section 701. A copy of the estimates must be signed by the chair of the county commissioners and attested to by the county commissioners' clerk. On or before the first day of the fiscal year, the clerk shall transmit that copy to the State Auditor, who shall retain the copy for 3 years. These records are a public record at the office of the county commissioners in the county that submitted those records.

§703. Acceptance of state and federal grants

A county may accept and expend grants.

1. Federal. Counties may apply for and accept and expend Federal Government grants for any purpose for which Federal Government grants are available to counties, either directly or through the State.

2. State. Counties may apply for and accept and expend state grants for any purpose for which state grants are available to counties, either directly or through a state agency.

3. Application. This section is not intended to increase, expand or broaden the powers of the counties or to apply to the general revenue sharing funds of the counties.

§704. Federal funds received by counties

1. Anticipated federal funds. Any county which receives federal funds shall provide for the expenditure of those funds in accordance with the laws and procedures governing the expenditure of its own revenue and shall record estimates of the expenditure as provided in section 702.

2. Procedure if federal funds could not be anticipated. If federal funds become available to the county for expenditure by the county, and if the availability of those funds could not reasonably have been anticipated and included in the estimate adopted for the fiscal year in question, the county may accept and spend these funds in compliance with federal and state law. Upon application for those funds and upon receipt of those funds, the chair of the county commissioners shall submit to the clerk of each municipality in the county a statement:

A. Describing the proposed federal expenditure in the same manner as it would be described in the estimate; and

B. Containing a statement as to why the availability of these federal funds and the necessity of their expenditure could not have been anticipated in time for that expenditure to be adopted as part of the estimates for that particular fiscal year.

§705. Grants to agencies outside of county government

Any grants placed in the county budget by the Legislature to any agency outside of the regular county departments shall be paid to those agencies on a quarterly basis. The commissioners may withhold funds from an agency if there is evidence that funds have been misappropriated or misapplied by the agency.

§706. Apportionment of county tax; warrants

When a county tax is authorized, the county commissioners shall apportion it upon the municipalities, unorganized territory and other places in that county according to the most recent state valuation. They may add to the sum authorized an amount not exceeding 2% of that sum, if a fractional division necessitates that addition and if they demonstrate that necessity in the record of that apportionment. The county commissioners shall establish the date for the payment of the tax. The date may not be earlier than the first day of the following September.

No later than the 15th of July preceding the date established for payment of the tax, the county commissioners shall issue their warrant to the assessors of the municipalities and other places and to the State Tax Assessor for the unorganized territory within that county. Those officers shall assess the sum apportioned to their tax jurisdiction and commit their assessment for collection in the same manner as other amounts to be raised by the property tax during the tax year to which the county tax warrant applies.

If a municipality or place or the State Tax Assessor must make a supplemental assessment due to failure by the county commissioners to issue their warrant by July 15th, the county must bear the costs of that supplemental assessment. Those costs may be recovered by the tax jurisdiction through an offset against the county tax that the tax jurisdiction would otherwise be required to pay over to the county.

The county may collect delinquent county taxes and charge interest on delinquent county taxes as provided under Title 36, sections 891 and 892-A.

§706-A. Limitation on county assessments

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

A. "Average personal income growth" has the same meaning as under Title 5, section 1531, subsection 2.

B. "County assessment" means total annual county appropriations reduced by all resources available to fund those appropriations other than the county tax.

C. (Repealed)

D. "Property growth factor" means the percentage equivalent to a fraction, established by a county, whose denominator is the total valuation of all municipalities, plantations and unorganized territory in the county, and whose numerator is the amount of increase in the assessed valuation of any real or personal property in those jurisdictions that became subject to taxation for the first time, or taxed as a separate parcel for the first time for the most recent property tax year for which information is available, or that has had an increase in its assessed valuation over the prior year's valuation as a result of improvements to or expansion of the property.

2. County assessment limit. Except as otherwise provided in this section, a county may not in any year adopt a county assessment that exceeds the county assessment limit established in this subsection.

A. The county assessment limit for the first fiscal year for which this section is effective is the county assessment for the county for the immediately preceding fiscal year multiplied by one plus the growth limitation factor pursuant to subsection 3.

B. The county assessment limit for subsequent fiscal years is the county assessment limit for the preceding year multiplied by one plus the growth limitation factor pursuant to subsection 3.

C. If a previous year's county assessment reflects the effect of extraordinary, nonrecurring events, the county may submit a written notice to the State Tax Assessor requesting an adjustment in its county assessment limit.

3. Growth limitation factor. The growth limitation factor is the average personal income growth plus the property growth factor.

4. Adjustment for new state funding. If the State provides net new funding to a county for existing services funded in whole or in part by the county assessment, other than required state mandate funds pursuant to section 5685 that do not displace current county assessment expenditures, the county shall lower its county assessment limit in that year in an amount equal to the net new funds. For purposes of this subsection, "net new funds" means the amount of funds received by the county from the State in that fiscal year, with respect to services funded in whole or in part by the county assessment, less the product of the following: the amount of such funds received in the prior fiscal year multiplied by one plus the growth limitation factor described in subsection 3. If a county receives net new funds in any fiscal year for which its county assessment limit has not been adjusted as provided in this subsection, the county shall adjust its county assessment limit in the following year in an amount equal to the net new funds.

5. Exceeding county assessment limit; extraordinary circumstances. The county assessment limit established in subsection 2 may be exceeded for extraordinary circumstances only under the following circumstances.

A. The extraordinary circumstances must be circumstances outside the control of the county budget authority, including:

(1) Catastrophic events such as natural disaster, terrorism, fire, war or riot;

(2) Unfunded or underfunded state or federal mandates;

(3) Citizens' initiatives or other referenda;

(4) Court orders or decrees; or

(5) Loss of state or federal funding.

Extraordinary circumstances do not include changes in economic conditions, revenue shortfalls, increases in salaries or benefits, new programs or program expansions that go beyond existing program criteria and operation.

B. The county assessment limit may be exceeded only as provided in subsection 7.

C. Exceeding the county assessment limit established in subsection 2 permits the county assessment to exceed the county assessment limit only for the year in which the extraordinary circumstance occurs and does not increase the base for purposes of calculating the county assessment limit for future years.

D. For fiscal years 2005-06 and 2006-07 in Sagadahoc County, and fiscal years 2006 and 2007 in Lincoln County, that portion of the county assessment that is attributable to the costs of construction, debt service, operation and maintenance of a new jail facility authorized under chapter 17 is not subject to paragraphs A, B and C or to subsections 2, 6 and 7. Notwithstanding subsection 2, paragraph A, the county assessment limit for fiscal year 2007-08 for Sagadahoc County and fiscal year 2008 in Lincoln County is the county assessment for each county for the previous fiscal year, multiplied by one plus the growth limitation factor pursuant to subsection 3. Notwithstanding subsection 2, paragraph C, the county assessments for Sagadahoc County in fiscal year 2008-09 and subsequent fiscal years and for Lincoln County in fiscal year 2009 and subsequent fiscal years are subject to subsection 2, paragraph B.

6. Increase in county assessment limit. The county assessment limit established in subsection 2 may be increased for other purposes only as provided in subsection 7.

7. Process for exceeding county assessment limit. A county may exceed or increase the county assessment limit only if approved by a vote of a majority of all the members of both the county budget committee or county budget advisory committee and the county commissioners.

Unless a county charter otherwise provides or prohibits a petition and referendum process, if a written petition, signed by at least 10% of the number of voters voting in the last gubernatorial election in the county, requesting a vote on the question of exceeding the county assessment limit is submitted to the county commissioners within 30 days of the commissioners' vote pursuant to this subsection, the article voted on by the commissioners must be submitted to the legal voters in the next regular election or a special election called for that purpose. The election must be held within 45 days of the submission of the petition. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters, the filing requirement contained in section 2528 does not apply and absentee ballots must be prepared and made available at least 14 days prior to the date of the referendum. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the election. The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the article. The results must be declared by the county commissioners and entered upon the county records.

8. Treatment of surplus; reserves. Any county tax revenues collected by a county in any fiscal year in excess of its county assessment limit, as determined by a final audited accounting, must be transferred to a county tax relief fund, which each county must establish, and used to reduce county assessments in subsequent fiscal years. Nothing in this subsection limits the ability of a county to maintain adequate reserves.

9. Enforcement. If a county adopts a county assessment in violation of this section, the State Tax Assessor may require the county to adjust its county assessment downward in an amount equal to the illegal county assessment and impose such other penalties as the Legislature may provide.

§707. Illegal assessments

All assessments under this Part made by the county commissioners which include sums assessed for an illegal object are not void, nor shall any error, mistake, omission or inclusion of illegal sums in the assessment by the county commissioners void any part of the assessment that is assessed for legal purposes.

Any person paying a tax assessed for an illegal object may bring a civil action against the county in the Superior Court for the same county and may recover as much of the sum paid as was assessed for an illegal object, with 25% interest and costs and any damages which that person has sustained because of the mistakes, errors or omissions of the commissioners.

§708. Alternative fiscal year

The county commissioners of a county may adopt a July 1st to June 30th fiscal year. A county may raise one or 2 taxes during a single valuation, if the taxes raised are based on appropriations made for one or more county fiscal years none of which exceeds 18 months. A county fiscal year may extend beyond the end of the current tax year. The county commissioners, when changing the county's fiscal year, may for transition purposes, adopt one or more fiscal years not longer than 18 months each.

§709. County correctional services budgets presented to State Board of Corrections (REPEALED)

§710. County correctional services budget procedure (REPEALED)

CHAPTER 101
GENERAL PROVISIONS

§2001. Definitions

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

1. Clerk or municipal clerk. "Clerk" or "municipal clerk" means the clerk of a municipality.

2. Cable television company. "Cable television company" means any person owning, controlling, operating, managing or leasing a cable television system within the State.

3. Cable television system. "Cable television system" means any facility that, in whole or in part, receives directly or indirectly over the air, amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes those signals by wire or cable to subscribing members of the public who pay for that service.

A. This term does not include:

(1) Any facility that serves fewer than 50 subscribers; or

(2) Any facility that serves only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of the apartment dwellings.

4. Federal Government. "Federal Government" means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

5. Funded debt. "Funded debt" means an obligation for the payment of which some fund is set aside.

6. General obligation security. "General obligation security" means a note, bond or other certificate of indebtedness to the payment of which is pledged the full faith and credit of the issuing body.

7. Home rule authority. "Home rule authority" means the powers granted to municipalities under chapter 111; section 3001; and the Constitution of Maine, Article VIII, Part Second.

8. Municipality. "Municipality" means a city or town, except as provided in chapter 225.

9. Municipal legislative body. "Municipal legislative body" means:

A. The town meeting in a town;

B. The city council in a city; or

C. That part of a municipal government that exercises legislative powers under a law or charter.

10. Municipal officers. "Municipal officers" means:

A. The selectmen or councillors of a town; or

B. The mayor and aldermen or councillors of a city.

11. Municipal official. "Municipal official" means any elected or appointed member of a municipal government.

12. Municipal year. "Municipal year" means a municipality's fiscal year as determined by the municipal officers under section 5651.

13. Open areas. "Open areas" means any space or area the preservation or restriction of the use of which would:

A. Maintain or enhance the conservation of natural or scenic resources;

B. Protect natural streams or water supplies;

C. Promote conservation of swamps, wetlands, beaches or tidal marshes;

D. Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open areas or open spaces;

E. Affect or enhance public recreation opportunities;

F. Preserve historic sites;

G. Implement the plan of development adopted by the planning commission of any municipality; or

H. Promote orderly urban or suburban development.

14. Person. "Person" means an individual, corporation, partnership, firm, organization or other legal entity.

14-A. Public sewer or public drain. "Public sewer" or "public drain" means any sewer or drain constructed or laid by a governmental entity for the use of the public and includes both gravity and pressure mains.

14-B. Public drinking water supplier. "Public drinking water supplier" means a public water supplier as defined by the federal Safe Drinking Water Act that provides drinking water from a source water protection area.

15. Real estate. "Real estate" means land and structures attached to it.

16. Resident. "Resident" and "residence" refer to an individual's place of domicile.

17. Sewage. "Sewage" means the water-carried wastes created in and carried or to be carried away from any structure together with any surface or ground water or household and industrial waste that is present.

18. Sewer system. "Sewer system" includes both sewers and sewage disposal systems and all property, rights, easements and franchises relating to those sewers and sewage disposal systems.

19. Sewers. "Sewers" means and includes mains, pipes and laterals for the reception of sewage and carrying that sewage to an outfall or some part of a sewage disposal system, including pumping stations.

20. Sinking fund. "Sinking fund" means a fund created for the purpose of paying a debt.

20-A. Source water protection area. "Source water protection area" means an area that contributes recharge water to a surface water intake or public water supply well for a public drinking water supply. In order to qualify as a "source water protection area," the area must be identified and mapped by the Department of Health and Human Services, and that information must be given to the municipality in which the source water protection area is located.

21. Voter. "Voter" means a person registered to vote.

CHAPTER 111
HOME RULE

§2101. Purpose

The purpose of this chapter is to implement the home rule powers granted to municipalities by the Constitution of Maine, Article VIII, Part Second.

§2102. Charter revisions, adoptions, procedure

1. Municipal officers. The municipal officers may determine that the revision of the municipal charter be considered or that adoption of a new municipal charter be considered and, by order, provide for the establishment of a charter commission to carry out that purpose as provided in this chapter.

2. Petition by voters. On the written petition of a number of voters equal to at least 20% of the number of votes cast in the municipality at the last gubernatorial election, but in no case less than 10, the municipal officers, by order, shall provide for the establishment of a charter commission for the revision of the municipal charter or the preparation of a new municipal charter as provided in this chapter.

3. Petition procedure. The following procedure shall be used in the alternative method set out in subsection 2.

A. Any 5 voters of the municipality may file an affidavit with the municipal clerk stating:

(1) That the 5 voters will constitute the petitioners' committee;

(2) The names and addresses of the 5 voters;

(3) The address to which all notices to the committee are to be sent; and

(4) That the 5 voters will circulate the petition and file it in proper form.

The petitioners' committee may designate additional voters of the municipality, who are not members of the committee, to circulate the petition.

Promptly after the affidavit is filed, the clerk shall issue petition blanks to the committee.

B. The municipal clerk shall prepare the petition forms at the municipality's expense. The petition forms must be printed on paper of uniform size and may consist of as many individual sheets as are reasonably necessary.

(1) Petition forms must carry the following legend in bold lettering at the top of the face of each form.
"Municipality of ...."

In the instance of preparing a new charter, the lettering at the top of the form must read: "Each of the undersigned voters respectfully requests the municipal officers to establish a Charter Commission for the purpose of preparing a New Municipal Charter."

In the instance of revising a charter, the lettering at the top of the form must read: "Each of the undersigned voters respectfully requests the municipal officers to establish a Charter Commission for the purpose of revising the Municipal Charter."

Each signature to a petition must be in ink or other indelible instrument and must be followed by the residence of the voter with street and number, if any. A petition may not contain any party or political designation.

(2) The clerk shall note the date of each petition form issued. All petitions must be filed within 120 days of the date of issue or they are void.

(3) Each petition form must have printed on its back an affidavit to be executed by the circulator, stating:

(a) That the circulator personally circulated the form;

(b) The number of signatures on the form;

(c) That all the signatures were signed in the circulator's presence;

(d) That the circulator believes them to be genuine signatures of the persons whose names they purport to be;

(e) That each signer has signed no more than one petition; and

(f) That each signer had an opportunity to read the petition before signing.

C. Petition forms shall be assembled as one instrument and filed at one time with the clerk. The clerk shall note the date of filing on the forms.

4. Procedure after filing. Within 20 days after the petition is filed, the clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars which render it defective. The clerk shall promptly send a copy of the certificate to the petitioners' committee by mail and shall file a copy with the municipal officers.

A. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within 2 days after receiving the copy of the clerk's certificate.

Within 10 days after this notice of intention is filed, the committee may file a supplementary petition to correct the deficiencies in the original. This supplementary petition, in form and content, must comply with the requirements for an original petition under subsection 3.

B. Within 5 days after a supplementary petition is filed, the clerk shall complete and file a certificate as to its sufficiency in the manner provided for an original petition.

C. When an original or supplementary petition has been certified insufficient, the committee, within 2 days after receiving the copy of the clerk's certificate, may file a request with the municipal officers for review.

The municipal officers shall inspect the petitions in substantially the same form and manner as a recount under section 2531-B and shall make due certificate of that inspection. The municipal officers shall file a copy of that certificate with the municipal clerk and mail a copy to the committee. The certificate of the municipal officers is a final determination of the sufficiency of the petitions.

D. Any petition finally determined to be insufficient is void. The clerk shall stamp the petition void and seal and retain it in the manner required for secret ballots.

5. Election procedure. Within 30 days after the adoption of an order under subsection 1 or the receipt of a certificate or final determination of sufficiency under subsection 4, the municipal officers shall by order submit the question for the establishment of a charter commission to the voters at the next regular or special municipal election held at least 90 days after this order.

A. The question to be submitted to the voters must be in substance as follows:

In the instance of establishing a new charter, the question must read: "Shall a Charter Commission be established for the purpose of revising the Municipal Charter or establishing a New Municipal Charter?"

In the instance of revising a charter, the question must read: "Shall a Charter Commission be established for the purpose of revising the Municipal Charter?"

§2103. Charter commission, membership, procedure

1. Membership. The charter commission shall consist of several voters in the municipality, elected under paragraph A, and 3 members appointed by the municipal officers under paragraph B.

A. Voter members must be elected by one of the following methods:

(1) Six voter members are elected in the same manner as the municipal officers, except that they must be elected at-large and without party designations;

(2) One voter member is elected from each voting district or ward in the same manner as municipal officers, except that the voter member must be elected without party designation; or

(3) Voter members are elected both at-large and by district or ward, as long as the number of voter members is the same as the number of municipal officers on the board or council of that municipality and the voter members are elected in the same manner as the municipal officers, except that they must be elected without party designation.

Election of voter members may be held either at the same municipal election as the referendum for the charter commission or at the next scheduled regular or special municipal or state election. The names of the candidates on the ballot must be arranged alphabetically

by last name. If the elections are held at the same time, the names of the candidates must appear immediately below the question relating to the charter commission. [

B. Appointive members need not be residents of the municipality, but only one may be a municipal officer. The municipal officers shall make the appointments in accordance with municipal custom or bylaws within 30 days after the election approving the establishment of the charter commission.

2. Organization. Immediately after receiving notice of the appointment of the members by the municipal officers, the municipal clerk shall notify the appointed and elected members of the charter commission of the date, time and place of the charter commission's organizational meeting. The clerk shall set the date, time and place of the meeting and give at least 7 days' notice of the meeting.

The charter commission shall organize by electing from its members a chairman, vice-chairman and a secretary and shall file notice of these elections with the municipal clerk. Vacancies occurring on the commission shall be filled by vote of the commission from the voters of the municipality, except that a vacancy among appointive members shall be promptly filled by the municipal officers. Members shall serve without compensation, but shall be reimbursed from the commission's account for expenses lawfully incurred by them in the performance of their duties.

3. Regulations, staff. The charter commission may adopt regulations governing the conduct of its meetings and proceedings and may employ any necessary legal, research, clerical or other employees and consultants within the limits of its budget.

4. Funding. A municipality shall provide its charter commission, free of charge, with suitable office space and with reasonable access to facilities for holding public hearings, may contribute clerical and other assistance to the commission and shall permit it to consult with and obtain advice and information from municipal officers, officials and employees during ordinary working hours. Within 20 days after the members of a charter commission are elected and appointed, the municipal officers shall credit $100 to the charter commission account. A municipality, from time to time, may appropriate additional funds to the charter commission account. These funds may be raised by taxation, borrowed or transferred from surplus.

A. In addition to funds made available by a municipality, the charter commission account may receive funds from any other source, public or private, except that no contribution of more than $5 may be accepted from any source other than the municipality, unless the name and address of the person or agency making the contribution and the amount of the contribution are disclosed in writing filed with the clerk.

B. Prior to its termination, the charter commission shall file with the clerk a complete account of all its receipts and expenditures for public inspection. Any balance remaining in its account shall be credited to the municipality's surplus account.

5. Hearings, reports, time limits. The following requirements regarding hearings, reports and time limits apply to a charter commission.

A. Within 30 days after its organizational meeting, the charter commission shall hold a public meeting to receive information, views, comments and other material relating to its functions.

B. The charter commission shall hold its public hearings within the municipality at the times and places set by the commission. At least 10 days before a hearing, the charter commission shall publish the date, time and place of the hearing in a notice in a newspaper having general circulation in the municipality. Hearings may be adjourned from time to time without further published notice.

C. Within 9 months after its election, the charter commission shall:

(1) Prepare a preliminary report including the text of the charter or charter revision which the commission intends to submit to the voters and any explanatory information the commission considers desirable;

(2) Have the report printed and circulated throughout the municipality; and

(3) Provide sufficient copies of the preliminary report to the municipal clerk to permit its distribution to each voter requesting a copy.

D. Within 12 months after its election, the charter commission shall submit its final report to the municipal officers. This report must include:

(1) The full text and an explanation of the proposed new charter or charter revision;

(2) Any comments that the commission considers desirable;

(3) An indication of the major differences between the current and proposed charters; and

(4) A written opinion by an attorney admitted to the bar of this State that the proposed charter or charter revision does not contain any provision prohibited by the United States Constitution, the Constitution of Maine or the general laws.

Minority reports if filed may not exceed 1,000 words.

E. The municipal officers may extend the time limits for the preparation and submission of preliminary and final reports of the charter commission for up to 24 months after the election of the commission if the extension is necessary to:

(1) Properly complete the reports;

(2) Have them printed or circulated; or

(3) Obtain the written opinion of an attorney.

6. Election. When the final report is filed, the municipal officers shall order the proposed new charter or charter revision to be submitted to the voters at the next regular or special municipal election held at least 35 days after the final report is filed.

7. Charter modification summaries. When a proposed charter revision is submitted to the voters in separate questions as charter modifications under section 2105, subsection 1, paragraph A, and the municipal officers, with the advice of an attorney, determine that it is not

practical to print the proposed charter modification on the ballot and that a summary would not misrepresent the subject matter of the proposed modification, a summary of the modification may be substituted for the text of the proposed modification in the same manner as a summary is substituted for a proposed amendment under section 2104, subsection 6.

8. Termination. Except as provided in paragraph A, the charter commission shall continue in existence for 30 days after submitting its final report to the municipal officers for the purpose of winding up its affairs.

A. If judicial review is sought under section 2108, the charter commission shall continue in existence until that review and any appeals are finally completed for the purpose of intervening in those proceedings.

§2104. Charter amendments; procedure

1. Municipal officers. The municipal officers may determine that amendments to the municipal charter should be considered and, by order, provide for notice and hearing on them in the same manner as provided in subsection 5, paragraph A. Within 7 days after the hearing, the municipal officers may order the proposed amendment to be placed on a ballot at the next regular municipal election held at least 30 days after the order is passed; or they may order a special election to be held at least 30 days from the date of the order for the purpose of voting on the proposed amendments.

A. Each amendment shall be limited to a single subject, but more than one section of the charter may be amended as long as it is germane to that subject.

B. Alternative statements of a single amendment are prohibited.

2. Petition by voters. On the written petition of a number of voters equal to at least 20% of the number of votes cast in a municipality at the last gubernatorial election, but in no case less than 10, the municipal officers, by order, shall provide that proposed amendments to the municipal charter be placed on a ballot in accordance with paragraphs A and B.

A. Each amendment shall be limited to a single subject, but more than one section of the charter may be amended as long as it is germane to that subject.

B. Alternative statements of a single amendment are prohibited.

3. Petition procedure. The petition forms shall carry the following legend in bold lettering at the top of the face of each form.

"Municipality of ...."

"Each of the undersigned voters respectfully requests the municipal officers to provide for the amendment of the municipal charter as set out below."

No more than one subject may be included in a petition.

In all other respects, the form, content and procedures governing amendment petitions shall be the same as provided for charter revision and adoption petitions under section 2102, including procedures relating to filing, sufficiency and amendments.

4. Amendment constituting revision. At the request of the petitioners' committee, the petition form shall also contain the following language:
"Each of the undersigned voters further requests that if the municipal officers determine that the amendment set out below would, if adopted, constitute a revision of the charter, then this petition shall be treated as a request for a charter commission."

Upon receipt of a petition containing this language, the municipal officers, if they determine with the advice of an attorney that the proposed amendment would constitute a revision of the charter, shall treat the petition as a request for a charter commission and follow the procedures applicable to such a request.

5. Action on petition. The following procedures shall be followed upon receipt of a petition certified to be sufficient.

A. Within 10 days after a petition is determined to be sufficient, the municipal officers, by order, shall provide for a public hearing on the proposed amendment. At least 7 days before the hearing, they shall publish a notice of the hearing in a newspaper having general circulation in the municipality. The notice must contain the text of the proposed amendment and a brief explanation. The hearing shall be conducted by the municipal officers or a committee appointed by them.

B. Within 7 days after the public hearing, the municipal officers or the committee appointed by them shall file with the municipal clerk a report containing the final draft of the proposed amendment and a written opinion by an attorney admitted to the bar of this State that the proposed amendment does not contain any provision prohibited by the general laws, the United States Constitution or the Constitution of Maine. In the case of a committee report, a copy shall also be filed with the municipal officers.

C. On all petitions filed more than 120 days before the end of the current municipal year, the municipal officers shall order the proposed amendment to be submitted to the voters at the next regular or special municipal election held within that year after the final report is filed. If no such election will be held before the end of the current municipal year, the municipal officers shall order a special election to be held before the end of the current municipal year for the purpose of voting on the proposed amendment. Unrelated charter amendments shall be submitted to the voters as separate questions.

6. Summary of amendment. When the municipal officers determine that it is not practical to print the proposed amendment on the ballot and that a summary would not misrepresent the subject matter of the proposed amendment, the municipal officers shall include in their order a summary of the proposed amendment, prepared subject to the requirements of section 2105, subsection 3, paragraph C, and instruction to the clerk to include the summary on the ballot instead of the text of the proposed amendment.

§2105. Submission to voters

The method of voting at municipal elections, when a question relating to a charter adoption, a charter revision, a charter modification or a charter amendment is involved, shall be in the manner prescribed for municipal elections under sections 2528 to 2532, even if the municipality has not accepted the provisions of section 2528.

1. Charter revision or adoption. Except as provided in paragraph A, in the case of a charter revision or a charter adoption, the question to be submitted to the voters shall be in substance as follows:

"Shall the municipality approve the (charter revision) (new charter) recommended by the charter commission?"

A. If the charter commission, in its final report under section 2103, subsection 5, recommends that the present charter continue in force with only minor modifications, those modifications may be submitted to the voters in as many separate questions as the commission finds practicable. The determination to submit the charter revision in separate questions under this paragraph and the number and content of these questions must be made by a majority of the charter commission.

(1) If a charter commission decides to submit the charter revision in separate questions under this paragraph, each question to be submitted to the voters shall be in substance as follows:

"Shall the municipality approve the charter modification recommended by the charter commission and reprinted (summarized) below?"

2. Charter amendment. In the case of a charter amendment the question to be submitted to the voters shall be in substance as follows:

"Shall the municipality approve the charter amendment reprinted (summarized) below?"

3. Voter information. Reports shall be made available and summaries prepared and made available as follows.

A. In the case of a charter revision or charter adoption, at least 2 weeks before the election, the municipal officers shall:

(1) Have the final report of the charter commission printed;

(2) Make copies of the report available to the voters in the clerk's office; and

(3) Post the report in the same manner that proposed ordinances are posted.

B. In the case of a charter amendment, at least 2 weeks before the election, the municipal officers shall:

(1) Have the proposed amendment and any summary of the amendment prepared under this section printed;

(2) Make copies available to the voters in the clerk's office; and

(3) Post the amendment and any summary of that amendment in the same manner that proposed ordinances are posted.

C. Any summary must fairly describe the content of the proposed amendment and may not contain information designed to promote or oppose the amendment.

4. Effective date. If a majority of the ballots cast on any question under subsection 1 or 2 favor acceptance, the new charter, charter revision, charter modification or charter amendment becomes effective as provided in this subsection, provided the total number of votes cast for and against the question equals or exceeds 30% of the total votes cast in the municipality at the last gubernatorial election.

A. Except as provided in subparagraph (1), new charters, charter revisions or charter modifications adopted by the voters take effect on the first day of the next succeeding municipal year.

(1) New charters, charter revisions or charter modifications take effect immediately for the purpose of conducting any elections required by the new provisions.

B. Charter amendments adopted by the voters take effect on the date determined by the municipal officers, but not later than the first day of the next municipal year.

§2106. Recording

Within 3 days after the results of the election have been declared, the municipal clerk shall prepare and sign 3 identical certificates setting forth any charter that has been adopted or revised and any charter modification or amendment approved. The clerk shall send one certificate to each of the following:

1. Secretary of State. The office of the Secretary of State, to be recorded;

2. Law library. The Law and Legislative Reference Library; and

3. Clerk's office. The office of the municipal clerk.

§2107. Effect of private and special laws

Private and special laws applying to a municipality remain in effect until repealed or amended by a charter revision, adoption, modification or amendment under this chapter.

§2108. Judicial review

1. Petition. The Superior Court, upon petition of 10 voters of the municipality or on petition of the Attorney General, may enforce this chapter. The charter commission may intervene as a party in any such proceeding.

2. Declaratory judgment. A petition for declaratory relief under Title 14, chapter 707, may be brought on behalf of the public by the Attorney General or, by leave of the court, by 10 voters of the municipality. The charter commission shall be served with notice of the petition for declaratory judgment.

A. If 10 voters petition for declaratory relief, they shall serve the Attorney General and the charter commission with notice of the preliminary petition for leave.

B. The Attorney General or the charter commission may intervene as a party at any stage of the proceedings.

C. The petitioners are liable for costs. However, the court has discretion to award costs and reasonable attorney fees to the petitioners.

3. Judicial review. Any 10 voters of the municipality, by petition, may obtain judicial review to determine the validity of the procedures under which a charter was adopted, revised, modified or amended. The petition must be brought within 30 days after the election at which the charter, revision, modification or amendment is approved. If no such petition is filed within this period, compliance with all the procedures required by this chapter and the validity of the manner in which the charter adoption, revision, modification or amendment was approved is conclusively presumed. No charter adoption, revision, modification or amendment may be found invalid because of any procedural error or omission unless it is shown that the error or omission materially and substantially affected the adoption, revision, modification or amendment.

4. Resubmission upon judicial invalidation for procedural error. If the court finds that the procedures under which any charter was adopted, revised, modified or amended are invalid, the Superior Court, on its own motion or the motion of any party, may order the resubmission of the charter adoption, revision, modification or amendment to the voters. This order shall require only the minimum procedures on resubmission to the voters that are necessary to cure the material and substantial errors or omissions. The Superior Court may also recommend or order other curative procedures to provide for valid charter adoption, revision, modification or amendment.

§2109. Liberal construction

This chapter, being necessary for the welfare of the municipalities and their inhabitants, shall be liberally construed to accomplish its purposes.

CHAPTER 120
QUASI-MUNICIPAL CORPORATIONS OR DISTRICTS

§2351. Definitions

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

1. Affected municipalities. "Affected municipalities" means all those municipalities which, in whole or in part, lie within the boundaries of the quasi-municipal corporation or district.

2. Charter amendment. "Charter amendment" means a change in the charter of a quasi-municipal corporation or district which is not a charter revision.

3. Charter revision. "Charter revision" means a change in the charter of a quasi-municipal corporation or district which has an effect on:

A. The number of or method of selecting trustees;

B. The powers of trustees;

C. The powers of the corporation or district;

D. Election procedures, other than election dates;

E. The boundaries of the corporation or district;

F. Methods of establishing rates;

G. Any debt limitation;

H. Methods of land acquisition, including eminent domain;

I. Amount of spending without voter approval; or

J. Liens.

4. Quasi-municipal corporation or district. "Quasi-municipal corporation or district" means any governmental unit that includes a portion of a municipality, a single municipality or several municipalities and which is created by law to deliver public services but which is not a general purpose governmental unit. Quasi-municipal corporation or district does not include School Administrative Districts or hospital districts.

5. Quasi-municipal corporation or district voters. "Quasi-municipal corporation or district voters" means the voters who reside within the boundaries of the quasi-municipal corporation or district.

CHAPTER 121
MEETINGS AND ELECTIONS

§2521. Call of town meeting

Each town meeting shall be called by a warrant. The warrant must be signed by a majority of the selectmen, except as follows.

1. First town meeting. The first town meeting shall be called in the manner provided in the act of incorporation.

2. Majority of selectmen. If, for any reason, a majority of the selectmen do not remain in office, a majority of those remaining may call a town meeting.

3. Petition of 3 voters, if no selectmen. When a town, once organized, is without selectmen, a notary public may call a meeting on the written petition of any 3 voters.

4. Petition by voters, if selectmen refuse. If the selectmen unreasonably refuse to call a town meeting, a notary public may call the meeting on the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10.

§2522. Petition for article in warrant

On the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10, the municipal officers shall either insert a particular article in the next warrant issued or shall within 60 days call a special town meeting for its consideration.

§2523. Warrant

The warrant for calling any town meeting must meet the following requirements.

1. Time and place. It shall specify the time and place of the meeting.

2. Business to be acted upon. It shall state in distinct articles the business to be acted upon at the meeting. No other business may be acted upon.

3. Notification. It shall be directed to a town constable, or to any resident by name, ordering that person to notify all voters to assemble at the time and place appointed.

4. Attested copy posted. The person to whom it is directed shall post an attested copy in some conspicuous, public place in the town at least 7 days before the meeting, unless the town has adopted a different method of notification.

5. Return on warrant. The person who notifies the voters of the meeting shall make a return on the warrant stating the manner of notice and the time when it was given.
A. If an original town meeting warrant is lost or destroyed, the return may be made or amended on a copy of the original warrant.

§2524. General town meeting provisions

The following provisions apply to all town meetings.

1. Qualified voter. Every voter in the town may vote in the election of all town officials and in all town affairs.

2. Moderator elected and sworn. The clerk, or in the clerk's absence a selectman or constable, shall open the meeting by:

A. Calling for the election of a moderator by written ballot;

B. Receiving and counting the votes for moderator; and

C. Swearing in the moderator.

3. Moderator presides. As soon as the moderator has been elected and sworn, the moderator shall preside over and supervise the voting at the meeting and may appoint a deputy moderator to assist the moderator. If the moderator is absent or is unable to carry out the duties, the clerk, or in the clerk's absence a selectman or constable, may call for the election of a deputy moderator to act in the absence of the moderator.

A. All persons shall be silent at the moderator's command. A person may not speak before that person is recognized by the moderator. A person who is not a voter in the town may speak at the meeting only with the consent of 2/3 of the voters present.

(1) If any person, after a command for order by the moderator, continues to act in a disorderly manner, the moderator may direct that person to leave the meeting. If the person refuses to leave, the moderator may have that person removed by a constable and confined until the meeting is adjourned.

B. When a vote declared by the moderator is immediately questioned by at least 7 voters, the moderator shall make it certain by polling the voters or by a method directed by the municipal legislative body.

C. The moderator shall serve until the meeting is adjourned. The moderator is subject to the same penalties for neglect of official duty as other town officials.

4. Votes recorded by clerk. The clerk shall accurately record the votes of the meeting.

A. If the clerk is absent, the moderator shall appoint and swear in a temporary clerk.

5. Written ballots. The clerk shall prepare the ballots. Ballots shall be of uniform size and color, and must be blank except that 2 squares with "yes" by one and "no" by the other may be printed on them.

The moderator shall ensure that each voter receives only one ballot for each vote taken.

6. Location of meetings. Town meetings may be held outside the corporate limits of the municipality if the municipal officers determine that there is no adequate facility for the meeting within the municipality. The proposed location must be:

A. Within an adjoining or nearby municipality;

B. Not more than 25 miles from the corporate limits of the municipality holding the meetings; and

C. Reasonably accessible to all voters of the town.

§2525. Annual meeting

1. Officials required to be elected. Each town shall hold an annual meeting at which the following town officials shall be elected by ballot:

A. Moderator;

B. Selectmen; and

C. School committee.

2. Other officials. A town, at a meeting held at least 90 days before the annual meeting, may designate other town officials to be elected by ballot. The election of officials at the last annual town meeting is deemed to be such a designation until the town acts otherwise at a meeting held at least 90 days before the annual meeting at which the election will be held.

3. Limitation. A town official may not be elected on a motion to cast one ballot.

§2526. Choice and qualifications of town officials

Unless otherwise provided by charter, the following provisions apply to the choice and qualifications of town officials.

1. Manner of election. In a town with a population greater than 4,000, according to the last Federal Decennial Census, election shall be by plurality. Except as provided in section 2528, subsection 10, in a town with a population of 4,000 or under, election shall be by majority.

2. Appointment in writing. The appointment of any town official or deputy must be in writing and shall be signed by the appointing party.

3. Qualifications. In order to hold a municipal office, a person must be a resident of the State, at least 18 years of age and a citizen of the United States.

A. In order to hold the office of selectman, a person must be a voter in the town in which that person is elected.

4. Selectmen and overseers. The following provisions apply to selectmen and overseers.

A. A town may determine at a meeting held at least 90 days before the annual meeting whether 3, 5 or 7 will be elected to each board and their terms of office.

(1) Once the determination has been made, it stands until revoked at a meeting held at least 90 days before the annual meeting.

(2) If a town fails to fix the number, 3 shall be elected. If a town fails to fix the term, it is for one year.

B. When others have not been elected, the selectmen shall serve as overseers of the poor.

C. A selectman may also serve as a member of the board of assessors.

D. A town, in electing selectmen and overseers, may designate one of them as chairman of the board.

(1) If no person is designated as chairman, the board shall elect by ballot a chairman from its own membership, before assuming the duties of office. When no member receives a majority vote, the clerk shall determine the chairman by lot.

E. If the town fails to fix the compensation of these officials at its annual meeting, they shall be paid $10 each per day for every day actually and necessarily employed in the service of the town.

5. Assessors. The following provisions apply to assessors.

A. A town may determine at a meeting of its legislative body held at least 90 days before the annual meeting whether a single assessor will be appointed under subparagraph (3) or a board of 3, 5 or 7 will be elected and the term of office of the assessor or assessors. In towns where the municipal legislative body is the town meeting, the determination is effective only if the total number of votes cast for and against the determination equals or exceeds 10% of the number of votes cast in the town at the last gubernatorial election.

(1) Once a determination has been made, it stands until revoked at a meeting held at least 90 days before the annual meeting.

(2) If a town fails to fix the number, 3 shall be elected. If a town fails to fix the term, it is for one year.

(3) When a town has chosen a single assessor under this paragraph, the selectmen shall appoint the assessor for a term not exceeding 5 years.

B. In addition to the method provided by paragraph A and notwithstanding the provision of any town charter to the contrary, the municipal officers of any town, or the municipal officers of 2 or more towns acting jointly, may enact an ordinance providing for a single assessor. The municipal officers shall appoint the assessor for a term not exceeding 5 years.

(1) Seven days' notice of the meeting at which the ordinance is to be proposed shall be given in the manner provided for town meetings.

(2) In towns where the municipal legislative body is the town meeting, the ordinance is effective immediately after the next regular town meeting if enacted at least 90 days before the meeting. The ordinance stands until revoked by the municipal legislative body or the municipal officers at a meeting held at least 90 days before the annual town meeting.

C. When a town has not elected a full board of assessors, the selectmen shall serve as assessors as provided in Title 36, section 703. A selectman who is an assessor pursuant to this paragraph and Title 36, section 703 or any person who serves as both a selectman and a tax assessor may resign the position of assessor without resigning the office of selectman. The position of assessor must then be filled by appointment pursuant to section 2602, subsection 2. A person elected to the State Legislature who resigns the position of assessor pursuant to this paragraph may continue to serve concurrently as selectman and member of the State Legislature. If a person who is serving in the State Legislature or in another office incompatible with the position of assessor resigns the position of assessor pursuant to this paragraph before that person has performed any duties as tax assessor, that person may not

be deemed to have vacated the previously held position of State Legislator or other office that is incompatible with the office of assessor.

D. A town, if it elects a board of assessors, may designate one member as chairman of the board.

(1) If no person is designated as chairman, the board shall elect by ballot a chairman from its own membership, before assuming the duties of office. When no member receives a majority vote, the clerk shall determine the chairman by lot.

E. If the town fails to fix the compensation of assessors at its annual meeting, they shall be paid $10 each per day for every day actually and necessarily employed in the service of the town.

F. This subsection does not apply to any municipality which is incorporated into a primary assessing area.

G. Notwithstanding any other law when a vacancy occurs on an elected board of assessors, the municipal officers shall fill that vacancy as provided in section 2602, subsection 2.

6. Board of assessment review. The following provisions apply to a board of assessment review.

A. Any municipality may adopt a board of assessment review at a meeting of its legislative body held at least 90 days before the annual meeting.

B. The board of assessment review consists of 3 members and 2 alternates appointed by the selectmen. The municipality, when adopting such a board, may fix the compensation of the members. Initially, one member must be appointed for one year, one member for 2 years and one member for 3 years, and one of the alternates must be appointed for one year and one alternate for 2 years. Thereafter, the term of each new member or alternate is 3 years.

C. Any town adopting a board of assessment review may discontinue the board by vote in the same manner and under the same conditions as in adopting the board.

D. Municipalities may provide by ordinance for a board of assessment review consisting of 5 or 7 members and up to 3 alternates. The terms of office of members and alternates may not exceed 5 years and initial appointments must be such that the terms of office of no more than 2 members or alternates will expire in any single year.

E. Any town, by ordinance, may designate a board of appeals appointed under section 2691 as the board of assessment review.

F. A board of assessment review shall annually elect from its membership a chairman and a secretary.

G. The procedure of a board of assessment review is governed by section 2691, subsection 3.

H. This subsection does not apply to any municipality which is incorporated into a primary assessing area.

7. Road commissioners. The following provisions apply to road commissioners.

A. A town may determine at a meeting held at least 90 days before the annual meeting whether one or more road commissioners will be chosen and the term of office which may not exceed 3 years.

(1) Once the determination has been made, it stands until revoked at a meeting held at least 90 days before the annual meeting.

(2) If a town fails to fix the number, one shall be chosen. If a town fails to fix the term, it is one year.

B. A road commissioner appointed by the selectmen may be removed from office for cause by the selectmen.

C. The board of selectmen may act as a board of road commissioners.

8. Treasurers and tax collectors. Treasurers and tax collectors of towns may not simultaneously serve as municipal officers or as elected or appointed assessors until they have completed their duties and had a final settlement with the town.

A. The same person may serve as treasurer and tax collector of a municipality.

9. Sworn in. Before assuming the duties of office, a town official or deputy shall be sworn by the moderator in open town meeting, by the clerk, or by any other person authorized by law to administer an oath, including a notary public or dedimus justice.

A. Unless the oath is administered in the clerk's presence, the person who administers it shall give the official or deputy sworn a certificate, which must be returned to the clerk for filing. The certificate must state:

(1) The name of the official or deputy sworn;

(2) The official's or deputy's office;

(3) The name of the person who administered the oath; and

(4) The date when the oath was taken.

B. The clerk shall be sworn to accurately record the votes of town meetings and to discharge faithfully all the other duties of that office, until another clerk is elected and sworn.

C. After the town meeting, the clerk shall immediately issue a warrant directed to a constable containing the names of persons chosen for office who have not been sworn.

(1) The constable shall immediately summon the named persons to appear before the clerk within 7 days from the time of notice to take the oath of office.

(2) The constable shall make a return immediately to the clerk.

(3) The town shall pay the constable a reasonable compensation for these services.

D. The clerk shall record the election or appointment of each official or deputy, including the clerk's own, and the other information specified in paragraph A.

E. A record by the clerk that a person was sworn for a stated town office is sufficient evidence that the person was legally sworn for the office. The entire oath need not be recorded.

§2527. Alternative nomination procedure

When any town accepts this section at a meeting held at least 90 days before the annual meeting, the following provisions apply to the nomination of all town officials required by section 2525 to be elected by ballot, except for the moderator, and to the nomination of any other officials which the town designates by a separate article in the warrant at the time of acceptance. No change may be made thereafter in the nomination of town officials, except at a meeting held at least 90 days before the annual meeting.

1. Nomination papers; certificate of political caucus. The nomination of candidates for any office shall be by nomination papers or certificate of political caucus as provided in section 2528, subsection 4.

2. Attestation and posting. The names of candidates nominated and the office for which they are nominated shall be attested by the clerk and posted at least 7 days before town meeting.

§2528. Secret ballot

The following provisions govern a town's use of a secret ballot for the election of town officials or for municipal referenda elections. A vote by secret ballot takes precedence over a vote by any other means at the same meeting.

1. Acceptance by town. When any town accepts this section at a meeting held at least 90 days before the annual meeting, the provisions of this section apply to the election of all town officials required by section 2525 to be elected by ballot, except the moderator, who shall be elected as provided in section 2524, subsection 2.

A. The provisions of this section relating to the nomination of town officials by political caucus apply only when a town separately accepts those provisions at a meeting held at least 90 days before the annual meeting. If any town accepts those provisions, they remain effective until the town votes otherwise.

B. A town may accept only the provisions of subsection 4, relating to the nomination of town officials, as provided in section 2527.

2. Designation, number and terms of officials. At the time of acceptance, the town shall determine, by a separate article in the warrant, which other officials are to be elected according to this section, and may determine the number and terms of selectmen, assessors and overseers according to section 2526.

A. After the determination under this subsection, a town may not change the designation, number or terms of town officials, except at a meeting held at least 90 days before the annual meeting.

3. Voting place specified; polls. The warrant for a town meeting for the election of officials must specify the voting place, which must be in the same building or a building nearby where the meeting is to be held. The warrant for a town meeting for the election of officials that occurs at the same time as voting in federal, state or county elections, but not at the same time as a town meeting held for other purposes, may specify the same voting places as those used by the town for federal, state or county elections. The warrant must specify the time of opening and closing the polls, which must be kept open at least 4 consecutive hours.

A. In the warrant for a town meeting under this section, the municipal officers may designate the date of the election and designate another date within 14 days of the date set for elections as the time for considering the other articles of business in the warrant.

4. Nomination papers; caucuses. The nomination for any office shall be made by nomination papers or by political caucus as provided in this subsection.

A. The municipal clerk shall make nomination papers available to prospective candidates during the 40 days before the filing deadline. Before issuing nomination papers, the clerk must complete each sheet by writing in the name of the candidate and the title and term of office being sought.

(1) Nomination papers must be signed by the following number of voters based on the population of the town according to the last Federal Decennial Census of the United States:

(a) Not less than 3 nor more than 10 in towns with a population of 200 or less;

(b) Not less than 10 nor more than 25 in towns with a population of 201 to 500; and

(c) Not less than 25 nor more than 100 in towns with a population of more than 500.

(2) Each voter who signs a nomination paper shall add the voter's residence with the street and number, if any. The voter may sign as many nomination papers for each office as the voter chooses, regardless of the number of vacancies to be filled.

B. At the end of the list of candidates for each office, there must be left as many blank spaces as there are vacancies to be filled in which a voter may write in the name and, if residence in the municipality is not a requirement to hold office, municipality of residence of any person for whom the voter desires to vote. A sticker may not be used to vote for a write-in candidate in any municipal election other than a primary election.

C. Completed nomination papers or certificates of political caucus nomination must be filed with the clerk during business hours by the 60th day prior to election day. They must be accompanied by the written consent of the person proposed as a candidate agreeing:

(1) To accept the nomination if nominated;

(2) Not to withdraw; and

(3) If elected at the municipal election, to qualify as such municipal officer.

When these papers and certificates are filed, the clerk shall make them available to public inspection under proper protective regulations. The clerk shall keep them in the office for 6 months.

D. A nomination paper or a certificate of political caucus nomination that complies with this section is valid unless a written objection to it is made to the municipal officers by the 58th day prior to election day.

(1) If an objection is made, the clerk shall immediately notify the candidate affected by it.

(2) The municipal officers shall determine objections arising in the case of nominations. Their decision is final.

E. Notwithstanding this subsection, when the municipal officers determine to fill a vacancy under section 2602, which must be filled by election, the municipal officers may designate a shorter time period for the availability of nomination papers, but not less than 10 days before the filing deadline, and may designate a shorter time period for the final date for filing nomination papers, but not less than the 14th day before election day. Notice of the designation shall be posted in the same place or places as town meeting warrants are posted and local representatives of the media shall be notified of the designation.

5. Referendum questions. By order of the municipal officers or on the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10, the municipal officers shall have a particular article placed on the next ballot printed or shall call a special town meeting for its consideration. A petition or order under this subsection is subject to the filing provisions governing nomination papers under subsection 4.

The municipal officers shall hold a public hearing on the subject of the article at least 10 days before the day for voting on the article. At least 7 days before the date set for the hearing, the municipal officers shall give notice of the public hearing by having a copy of the proposed article, together with the time and place of hearing, posted in the same manner required for posting a warrant for a town meeting under section 2523. The municipal officers shall make a return on the original notice stating the manner of notice and the time it was given.

A. The requirement for public hearing is not a prerequisite to the valid issuance of any bond, note or other obligation of a municipality authorized to borrow money by vote under any such particular article.

B. If a particular article to be voted on by secret ballot requests an appropriation of money by the municipality, the article, when printed in the warrant and on the ballot, must be accompanied by a recommendation of the municipal officers.

(1) If by town meeting vote or charter provision, a budget committee has been established to review proposed town expenditures, the recommendations of the budget committee shall be printed in addition to those of the municipal officers.

(2) If the action affects the school budget, a recommendation by the school board shall be printed in addition to those of the municipal officers and the budget committee, if any.

C. If the warrant for a town meeting contains only articles for the election of the moderator and one or more referendum questions to be voted on by secret ballot, the municipal officers may specify the same voting places as those used by the town for federal, state or county elections.

6. Ballots, specimen ballots and instruction cards. The clerk shall prepare ballots, specimen ballots and instruction cards according to the following provisions.

A. The ballot shall contain the names of properly nominated candidates arranged under the proper office designation in alphabetical order by last name. It may contain no other names.

B. At the end of the list of candidates for each office, there must be left as many blank spaces as there are vacancies to be filled in which a voter may write in the name and, if residence in the municipality is not a requirement to hold office, municipality of residence of any person for whom the voter desires to vote. A sticker may not be used to vote for a write-in candidate in any municipal election other than a primary election.

C. Any question or questions required by law to be submitted to a vote must be printed either below the list of candidates or on a separate ballot from the ballot listing candidates. Notwithstanding the provision of Title 21-A, section 906, subsection 7 requiring sequential numbering of ballot questions, the questions may be listed on the ballot using sequential capital letters of the alphabet instead of sequential numbers in accordance with section 2501, subsection 4. All other provisions of Title 21-A, section 906, subsection 7 apply. If a separate ballot is used, this ballot must be a different color than the ballot listing candidates.

D. A square shall be printed at the left of the name of each candidate, and 2 squares shall be printed at the left of any question submitted with "yes" above one and "no" above the other, so that a voter may designate the voter's choice clearly by a cross mark (X) or a check mark (√).

E. Words of explanation such as "Vote for one" and "Vote yes or no" may be printed on the ballot.

F. Ballots must be uniform in size. On the ballot must appear "Official Ballot for the Town of ...," the date of election and a facsimile of the signature of the clerk.

G. A sufficient number of ballots shall be printed, photocopied or otherwise mechanically reproduced and furnished, and a record of the number shall be kept by the clerk. The printed ballots shall be packaged in convenient blocks so that they may be removed separately.

H. Ten or more specimen ballots printed on paper of a distinctive color without the endorsement of the clerk shall be provided.

I. Instruction cards containing the substance of Title 21-A, sections 671 to 674, 681, 682, 692 and 693, to guide voters in obtaining and marking ballots and to inform them of penalties for improper conduct shall be printed.

J. The ballots and specimen ballots shall be packed in sealed packages with marks on the outside specifying the number of each enclosed.

K. When voting machines are used, the clerk shall prepare and furnish ballot labels that comply, as nearly as practicable, with the provisions of this section which apply to ballots.

6-A. Candidate withdrawal; new ballots. The following provisions govern the withdrawal of a candidate from an elective race.

A. A candidate may withdraw from an elective race by notifying the municipal clerk in writing of the candidate's intent to withdraw and the reason for withdrawal at least 60 days before the election. This notice must be signed by the candidate and must be notarized.

B. Within the 60-day period before an election, the municipal clerk may allow a candidate to withdraw from an elective race. A candidate who requests to withdraw within the 60-day period before an election shall notify the municipal clerk in writing of the candidate's intent to withdraw and the reason for withdrawal. This notice must be signed by the candidate and must be notarized.

C. The municipal clerk shall ensure that new ballots are produced, if necessary, to reflect the withdrawal of a candidate from an elective race.

6-B. Inspection of ballots in an election. Upon receipt of a package or box containing absentee ballots for an election, the municipal clerk may open the sealed package or box of ballots and verify that the ballots do not contain any errors and that the correct number of ballots has been received. The clerk may then proceed to issue absentee ballots in response to pending requests. Upon receipt of a package or box containing regular ballots for an election, the clerk may open, in the presence of one or more witnesses, the sealed package or box of ballots and verify that the ballots do not contain any errors and that the correct number of ballots has been received. Ballots to be used for testing electronic tabulating devices may be removed at this time and immediately marked with the word "TEST" across the front side of the ballot in black or blue indelible ink. The clerk shall keep a record of the number of ballots used for testing purposes and seal the record with the test ballots in a container labeled "TEST BALLOTS" at the conclusion of the testing. The clerk shall then reseal the package or box of regular ballots and secure the package or box of ballots until election day, when it is delivered to the warden at the polling place.

7. Specimen ballot posted. At least 4 days before the election, the clerk shall have posted in one or more conspicuous, public places a specimen ballot or a list, substantially in the form of a ballot, containing the name and office designation of each candidate.

8. Ballot clerks. Before the polls are opened, the municipal officers shall appoint the necessary number of ballot clerks as provided in Title 21-A, section 503-A. When there are vacancies after the polls are opened, the moderator shall appoint replacement clerks. The ballot clerks must be sworn before assuming their duties.

A. On election day, before the polls are opened, the clerk shall deliver the ballots to the ballot clerks and shall post an instruction card at each voting compartment and at least 3 instruction cards and 5 specimen ballots in the voting room outside the guardrail enclosure.

B. The ballot clerks shall give a receipt to the clerk for the ballots received by them. The clerk shall keep the receipt in the clerk's office for 6 months.

C. Ballots may not be delivered to the voters until the moderator has been elected. The moderator may appoint a qualified person to act as temporary moderator during a temporary absence from the polling place.

D. The municipal officers shall prepare a duplicate incoming voting list for the use of the ballot clerks. The law pertaining to incoming voting lists applies equally to duplicate incoming voting lists.

9. After votes counted, ballots delivered to clerk. After the ballot clerks have counted and tabulated the votes cast, the moderator shall deliver the ballots to the clerk who shall seal them in a suitable package and keep them in the clerk's office for 2 months.

10. Election by plurality vote; tie vote. Election must be by plurality vote. In the case of a tie vote, the meeting must be adjourned to a day certain, when ballots are again cast for the candidates tied for the office in question, unless all but one tied candidate withdraw from a subsequent election by delivering written notice of withdrawal signed by the candidate and notarized to the municipal offices within the 7-day period following the election. After the 7-day period has expired, the municipal officers shall call a run-off election between the remaining candidates by posting a warrant in the manner required for calling a town meeting. If only one candidate remains, that candidate is declared the winner and sworn into office.

If the meeting is adjourned sine die before a tie vote is resolved or the tie vote is discovered after the meeting adjourns sine die and more than one candidate remains, a new meeting must be called to conduct a run-off election by the method described in this subsection.

§2529. Absentee ballots

If a town has accepted section 2528, absentee ballots may be cast at all regular and special elections to which section 2528 applies, including elections for town meeting members where the representative town meeting form of government is used.

1. Procedure. The absentee voting procedure outlined in Title 21-A shall be used, except that the clerk shall perform the duties of the Secretary of State.

2. Absentee ballot. The absentee ballot requirements of Title 21-A, section 752 apply.

§2530. Ballot inspection (REPEALED)

§2530-A. Candidate's inspection of ballots and incoming voting lists

This section provides for the preliminary inspection of ballots and incoming voting lists cast in any election for municipal office. Inspection procedures for other offices do not apply to elections for municipal office.

If a candidate other than a declared winner in an election applies in writing to the municipal clerk within 5 days after the result of a city election or an election under section 2528 has been declared, the municipal clerk shall permit the candidate or the candidate's agent, after payment of any fee required under subsection 9, to inspect the ballots and incoming voting lists under proper protective regulations for the purpose of determining whether or not to request a recount under section 2531-B. The final day of the 5-day period ends at the close of regular business hours in the office of the municipal clerk. The candidate requesting the inspection may request a random or complete inspection of the ballots and incoming voting lists.

Any inspection of ballots and incoming voting lists is subject to the following provisions.

1. Notice. The inspection may be permitted only after written notice by the municipal clerk to:

A. The ward officers who signed the election returns in a city or the moderator in a town; and

B. All candidates for the office specified in the application.

This notice must state the time and place of the inspection and provide the persons listed in paragraphs A and B with a reasonable opportunity to be present and heard in person or to be represented by counsel.

2. When deposit is required. (Repealed)

3. Amount of deposit. (Repealed)

4. Forfeiture or refund of deposit. (Repealed)

5. Time of inspection. The inspection must be held within 5 days after the municipal clerk receives the written application requesting an inspection.

6. Packages resealed. After each inspection, the municipal clerk shall reseal the packages of ballots and the incoming voting lists and shall note the fact and date of inspection on them.

7. Candidate defined. As used in this section and section 2531-A, "candidate" means any person who has received at least one vote for the municipal office in question.

8. Calculation of time. The periods established in this section must be calculated according to the Maine Rules of Civil Procedure, Rule 6(a). The final day of any period calculated pursuant to this section ends at the close of regular business hours in the office of the municipal clerk. Actions required to be taken by the end of a day certain that are taken after the close of regular business hours in the office of the municipal clerk on the day certain are not timely.

9. Municipal clerk may assess fee. The municipal clerk may assess a fee for the inspection of ballots as provided in this section. The fee may not exceed the actual costs to administer the inspection of ballots conducted in accordance with this section.

§2531. Recount hearing (REPEALED)

§2531-A. Recount hearing (REPEALED)

§2531-B. Recount of an election for office

This section governs all recounts in any election for municipal office.

1. When deposit is required. (Repealed)

2. Amount of deposit. (Repealed)

3. Forfeiture or refund of deposit. (Repealed)

4. Recount request and procedure. A candidate, including a write-in candidate, other than the declared winner in an election may apply to the municipal clerk in writing for a recount. Written recount requests must be received by the clerk within 5 business days after the day of the contested election or within 5 business days after an inspection pursuant to section 2530-A in order to be valid.

5. Public proceeding. A recount is a public proceeding open to public attendance, subject to reasonable restrictions necessary to protect recount integrity or resulting from space limitations.

6. Recount security. The municipal clerk shall maintain control over the ballots and other recount materials. No recount personnel other than the clerk may have access to the areas where ballots are stored unless accompanied by the clerk or the clerk's designee. A person who causes a disruption of the recount process may be removed from the area at the discretion of the clerk.

7. Amount of deposit. A candidate requesting a recount shall pay a deposit to the municipal clerk when the recount is requested in an amount determined by the municipal clerk, which must be at least 50% of the reasonable estimate of the cost to the municipality performing the recount.

8. Deposit not required. Notwithstanding subsection 7, a deposit is not required for a recount if the percentage difference of the total votes of the official tabulation is equal to or less than:

A. Two and one-half percent, if the combined vote for the candidates is 1,000 or less;

B. Two percent, if the combined vote for the candidates is 1,001 to 5,000; or

C. One and one-half percent, if the combined vote for the candidates is 5,001 or over.

For purposes of this subsection, "percentage difference" means the difference between the percentage of the total votes for an office received by the candidate requesting a recount and the percentage of the total votes for that office received by the nearest winning candidate.

9. Forfeiture or refund of deposit. If a recount changes the result of an election, a deposit under subsection 7 must be returned to the candidate who paid the deposit. If the recount does not change the result of the election, the municipality shall calculate the actual cost to the municipality of performing the recount. If the deposit was greater than the actual cost, the overpayment must be refunded to the candidate who paid the deposit. If the actual cost was greater than the deposit, the candidate who requested the recount shall pay the remainder of the actual

cost to the municipality. A candidate who is not required to pay a deposit pursuant to subsection 8 may not be charged for the recount regardless of whether the recount changes the result of the election.

10. Date of recount and notice. When a recount request has been filed pursuant to subsection 4, along with a deposit if a deposit is required pursuant to subsection 7, the municipal clerk immediately shall set a date for the recount, which must be held as soon as reasonably possible at a date and time that affords the candidate who requested the recount a reasonable opportunity to be present. The municipal clerk shall notify the public, the municipal officers, the candidate who filed the recount request and all other candidates on that election ballot of the recount date and location. Notice must be posted pursuant to Title 1, section 406.

11. Procedure at recount. A recount in an election of a municipal officer must be conducted according to the procedures in this subsection unless the municipal legislative body adopts the recount procedures of Title 21-A, section 737-A and the rules adopted pursuant to that section, except that Title 21-A, section 737-A, subsections 1, 5 and 12 and the duties of the State Police do not apply.

A. The municipal clerk shall publicly explain the recount procedure at the start of the recount and shall supervise the sorting and hand counting of the votes in public with assistance from counters appointed by the clerk.

B. A candidate may provide counters to conduct the recount under the supervision of the municipal clerk. If an insufficient number of counters is provided, the clerk shall supply counters. Municipal officers and candidates on that election ballot may not serve as counters.

C. The municipal clerk and counters shall follow all applicable laws and the rules for determining voter intent adopted by the Secretary of State pursuant to Title 21-A, section 696, subsection 6.

D. If any ballots are disputed as to voter intent, the candidates may resolve the dispute by consensus in accordance with rules for determining voter intent adopted by the Secretary of State pursuant to Title 21-A, section 696, subsection 6. If consensus cannot be reached, those disputed ballots must be set aside. If the number of disputed ballots potentially affects the outcome of the recount, the municipal clerk shall forward the disputed ballots to the clerk of the nearest Superior Court in the county in which the election was held.

E. Upon written request, the municipal clerk shall make the incoming voting list and absentee ballot materials, along with all records required by law to be kept in connection with the election, available for inspection, unless those materials have been requested as part of a state recount.

F. After the recount, the municipal clerk shall reseal the package of ballots and incoming voting list and shall note on the package the fact that the recount was held and the date of the recount.

G. In order to withdraw from a recount, a candidate must notify the municipal clerk of the intent to withdraw and the reason for withdrawal. The notice must be signed by the candidate, notarized and delivered to the municipal clerk prior to or during the scheduled

recount. In the event of a withdrawal, the final election day tabulation is considered the final result.

12. Results of recount. Within 24 hours after the results of the recount are determined, the municipal clerk shall prepare, sign and issue a final recount tabulation.

§2532. Referendum recount procedure

In the case of a referendum, a recount must be granted upon written application of 10% or 100, whichever is less, of the registered voters in the municipality. The application must designate a person to be the official representative of the registered voters requesting the recount including the person's legal name, mailing address, residence address and telephone number. An official representative for the registered voters opposing the recount may be established by submission of an affidavit signed by 10 registered voters of the municipality. The time limits, rules and all other matters applying to candidates under section 2531-B apply equally to a referendum recount, except that provisions in section 2531-B applicable to the candidate requesting the recount and candidates not requesting the recount apply, for purposes of this section, to the official representative of the referendum recount and the official representative, if any, of the voters opposed to the recount, respectively.

§2533. Title to municipal office

Within 30 days after election day, a person who claims to have been elected to any municipal office may proceed against another who claims title to the office by the following procedure.

1. Procedure. The person must bring a complaint in the Superior Court alleging the facts upon which the person relies in maintaining the action. The action must be brought in the county in which the defendant resides. The court shall hear and decide the case as soon as reasonably possible.

2. Appeal procedure. The party against whom the judgment is rendered may appeal to the Supreme Judicial Court within 10 days after entry of the judgment. The appellant must file the required number of copies of the record with the clerk of courts within 20 days after filing the notice of appeal. Within 30 days after the notice of appeal is filed, the parties must file briefs with the clerk of courts. As soon as the records and briefs have been filed, the court shall immediately consider the case and shall issue its decision as soon as reasonably possible. Final judgment must be entered accordingly.

3. Court to issue order. As soon as final judgment has been rendered, the Superior Court, on request of the prevailing party, shall issue an order to the party unlawfully claiming or holding the office, commanding that party to immediately surrender it to the person who has been adjudged lawfully entitled to it, together with all the records and property connected with it. The prevailing party may assume the duties of the office as soon as the term begins.

4. Costs. The court shall allow costs to the prevailing party as the court determines reasonable and just.

§2551. Warrant or notice for city election

Except as otherwise required by municipal charter, each city election must be called by a warrant or by a notice of election posted in compliance with Title 21-A, section 621-A. The warrant must meet the requirements listed in Title 21-A, section 622-A.

§2552. Designation of officials

1. Assessors and assistant assessors. The following provisions apply to assessors and their assistants.

A. Assessors and their assistants shall be chosen annually on the 2nd Monday of March to serve for one year and until others are chosen and qualified in their places, unless the city charter provides otherwise.

B. In addition to the assistant assessors chosen under a city charter, the municipal officers may authorize the assessors to appoint any necessary assistants to serve during the municipal year in which they are appointed.

C. Notwithstanding the provisions of any city charter to the contrary, the city council, by ordinance, may provide for a single assessor whose powers and duties are the same as for towns, and who is appointed for a term not exceeding 5 years.

2. Board of assessment review. The following provisions apply to a board of assessment review.

A. Any city choosing a single assessor may adopt a board of assessment review by vote of the city council at least 90 days before the annual city election.

B. The board of assessment review shall consist of 3 members appointed by the city council.

C. The city council, when adopting a board of assessment review, may fix the compensation of the board's members. One member shall be appointed for one year, one member for 2 years and one member for 3 years. Thereafter, the term of each new member is 3 years.

D. Any city adopting a board of assessment review may discontinue the board by vote of the city council at least 90 days before the annual city election, in which case the board ceases to exist at the end of the municipal year.

E. Cities with a population of 5,000 or more may provide by ordinance for a board of assessment review consisting of 5 or 7 members. The terms of office of members must not exceed 5 years and initial appointments must be such that the terms of office of no more than 2 members will expire in any single year.

F. This subsection does not apply in any city which is incorporated into a primary assessing area.

3. Constable. When a vacancy occurs in the office of constable, the municipal officers may appoint a qualified person to fill the vacancy for the remainder of the term.

4. Warden and clerk. A warden and clerk for each ward shall be elected by secret ballot at the regular election of municipal officers.

A. They shall assume the duties of office on the Monday following election.

B. They shall hold office for one year and until others are chosen and qualified in their places.

5. Officials elected by aldermen and common council. In the election of any official by the board of aldermen or jointly by the aldermen and common council in which the mayor has a right to give a deciding vote, if the candidates have an equal number of votes, the mayor shall determine which of them is elected.

6. Officials appointed by the municipal officers. Whenever appointments to office are made by the municipal officers, they shall be made by the mayor with the consent of the aldermen and may be removed by the mayor.

§2553. Nomination to city office by petition

A person may be nominated to any city office by nomination petition following the procedure prescribed by Title 21-A, chapter 5, subchapter II. A person seeking nomination under this section may use a political designation only if permitted by the city charter. The petition and consent must be filed with the clerk at least 14 days before election day.

CHAPTER 123
MUNICIPAL OFFICIALS

§2602. Vacancy in municipal office

1. When vacancy exists. A vacancy in a municipal office may occur by the following means:

A. Nonacceptance;

B. Resignation;

C. Death;

D. Removal from the municipality;

E. Permanent disability or incompetency;

F. Failure to qualify for the office within 10 days after written demand by the municipal officers;

G. Failure of the municipality to elect a person to office; or

H. Recall pursuant to section 2505.

2. Vacancy in office other than selectman or school committee. When there is a vacancy in a town office other than that of selectman or school committee, the selectmen may appoint a qualified person to fill the vacancy.

3. Vacancy in office of selectman. When there is a vacancy in the office of selectman, the selectmen may call a town meeting to elect a qualified person to fill the vacancy.

4. Vacancy in school committee. A vacancy in a municipality's school committee shall be filled as provided in Title 20-A, section 2305, subsection 4.

5. Person appointed qualifies. The person appointed to fill a vacant office must qualify in the same manner as one chosen in the regular course of municipal activity.

6. Home rule authority. Under its home rule authority, a municipality may apply different provisions governing the existence of vacancies in municipal offices and the method of filling those vacancies as follows:

A. Any change in the provisions of this section relating to a school committee must be accomplished by charter; and

B. Any change in the provisions of this section relating to any other municipal office may be accomplished by charter or ordinance.

7. Authority to act. Words in any statute, charter or ordinance giving authority to 3 or more persons authorize a majority to act when the statute, charter or ordinance does not otherwise specify. Notwithstanding any law to the contrary, a vacancy on an elected or appointed municipal or quasi-municipal body does not in itself impair the authority of the remaining members to act unless a statute, charter or ordinance expressly prohibits the municipal or quasi-municipal body from acting during the period of any vacancy and does not in itself affect the validity of any action no matter when taken.

§2603. Deputy officials

The clerk, treasurer and collector of a municipality may each appoint in writing one or more qualified persons as deputies.

1. Sworn and oath recorded. Before assuming the duties of office, the deputy must be sworn and the fact of the oath recorded as provided in section 2526, subsection 9.

2. Term; duties. The deputy serves at the will of the appointing official. The deputy may perform any of the duties of office prescribed by the appointing official.

3. Bond liability. The appointing official and the surety on the official's bond are liable for all acts and omissions of the official's deputy.

4. Absence. If the clerk, treasurer or tax collector fails to do so, the municipal officers may appoint a deputy to act during any absence.

§2691. Board of appeals

This section governs all boards of appeals established after September 23, 1971.

1. Establishment. A municipality may establish a board of appeals under its home rule authority. Unless provided otherwise by charter or ordinance, the municipal officers shall appoint the members of the board and determine their compensation.

2. Organization. A board of appeals shall be organized as follows.

A. The board shall consist of 5 or 7 members, serving staggered terms of at least 3 and not more than 5 years, except that municipalities with a population of less than 1,000 residents may form a board consisting of at least 3 members. The board shall elect annually a chairman and secretary from its membership.

B. Neither a municipal officer nor a spouse of a municipal officer may be a member or associate member of the board.

C. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting on that issue shall be decided by a majority vote of the members, excluding the member who is being challenged.

D. The municipal officers may dismiss a member of the board for cause before the member's term expires.

E. Municipalities may provide under their home rule authority for a board of appeals with associate members not to exceed 3. If there are 2 or 3 associate members, the chairman shall designate which will serve in the place of an absent member.

3. Procedure. The following provisions govern the procedure of the board.

A. The chairman shall call meetings of the board as required. The chairman shall also call meetings of the board when requested to do so by a majority of the members or by the municipal officers. A quorum of the board necessary to conduct an official board meeting must consist of at least a majority of the board's members. The chairman shall preside at all meetings of the board and be the official spokesman of the board.

B. The secretary shall maintain a permanent record of all board meetings and all correspondence of the board. The secretary is responsible for maintaining those records which are required as part of the various proceedings which may be brought before the board. All records to be maintained or prepared by the secretary are public records. They shall be filed in the municipal clerk's office and may be inspected at reasonable times.

C. The board may provide, by regulation that must be recorded by the secretary, for any matter relating to the conduct of any hearing, except that the chair may waive any regulation upon good cause shown. Unless otherwise established by charter or ordinance, the board shall conduct a de novo review of any matter before the board subject to the requirements of paragraph D. If a charter or ordinance establishes an appellate review process for the board, the board shall limit its review on appeal to the record established by the board or official

whose decision is the subject of the appeal and to the arguments of the parties. The board may not accept new evidence as part of an appellate review.

D. The board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party has the right to present the party's case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct any cross-examination that is required for a full and true disclosure of the facts.

E. The transcript or tape recording of testimony, if such a transcript or tape recording has been prepared by the board, and the exhibits, together with all papers and requests filed in the proceeding, constitute the public record. All decisions become a part of the record and must include a statement of findings and conclusions, as well as the reasons or basis for the findings and conclusions, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief. Notice of any decision must be mailed or hand delivered to the petitioner, the petitioner's representative or agent, the planning board, agency or office and the municipal officers within 7 days of the board's decision.

F. The board may reconsider any decision reached under this section within 45 days of its prior decision. A request to the board to reconsider a decision must be filed within 10 days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within 45 days of the date of the vote on the original decision. The board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.

Notwithstanding paragraph G, appeal of a reconsidered decision must be made within 15 days after the decision on reconsideration or within the applicable time period under section 4482-A if the final municipal review of the project is by a municipal administrative review board other than a board of appeals.

G. Any party may take an appeal, within 45 days of the date of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before the Superior Court must be without a jury. [PL 1991, c. 234 (AMD).]

H. For purposes of this section, a decision of the board is a final decision when the project for which the approval of the board is requested has received all required municipal administrative approvals by the board, the planning board or municipal reviewing authority, a site plan or design review board, a historic preservation review board and any other review board created by municipal charter or ordinance. If the final municipal administrative review of the project is by a municipal administrative review board other than a board of appeals, the time for appeal is governed by section 4482-A. Any denial of the request for approval by the board of appeals is considered a final decision even if other municipal administrative approvals are required for the project and remain pending. A denial of the request for approval by the board of appeals must be appealed within 45 days of the date of the board's vote to deny or within 15 days of final action by the board on a reconsideration that results in a denial of the request.

4. Jurisdiction. Any municipality establishing a board of appeals may give the board the power to hear any appeal by any person, affected directly or indirectly, from any decision, order, regulation or failure to act of any officer, board, agency or other body when an appeal is necessary, proper or required. No board may assert jurisdiction over any matter unless the municipality has by charter or ordinance specified the precise subject matter that may be appealed to the board and the official or officials whose action or nonaction may be appealed to the board. Absent an express provision in a charter or ordinance that certain decisions of its code enforcement officer or board of appeals are only advisory or may not be appealed, a notice of violation or an enforcement order by a code enforcement officer under a land use ordinance is reviewable on appeal by the board of appeals and in turn by the Superior Court under the Maine Rules of Civil Procedure, Rule 80B. Any such decision that is not timely appealed is subject to the same preclusive effect as otherwise provided by law. Any board of appeals shall hear any appeal submitted to the board in accordance with Title 28-A, section 1054.

§2702. Personnel records

1. Confidential records. The following records are confidential and not open to public inspection. They are not "public records" as defined in Title 1, section 402, subsection 3. These records include:

A. Except as provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the municipality for use in the examination or evaluation of applicants for positions as municipal employees.

(1) Notwithstanding any confidentiality provision other than this paragraph, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired.

(2) Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference.

(3) This paragraph does not preclude union representatives from access to personnel records that may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this subsection must remain confidential and are not open to public inspection;

B. Municipal records pertaining to an identifiable employee and containing the following:

(1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family;

(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

(a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or

(b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

(6) Personal information, including that which pertains to the employee's:

(a) Age;

(b) Ancestry, ethnicity, genetic information, national origin, race or skin color;

(c) Marital status;

(d) Mental or physical disabilities;

(e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;

(f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;

(g) Religion;

(h) Sex, gender identity or sexual orientation as defined in Title 5, section 4553, subsection 9-C; or

(i) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee; and

C. Other information to which access by the general public is prohibited by law.

1-A. Investigations of deadly force or physical force by law enforcement officer. The name of a law enforcement officer is not confidential under subsection 1, paragraph B, subparagraph (5) in cases involving:

A. The use of deadly force by a law enforcement officer; or

B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury.

In cases specified in paragraphs A and B, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case.

2. Employee right to review. On written request from an employee or former employee, the municipal official with custody of the records shall provide the employee, former employee or the employee's authorized representative with an opportunity to review the employee's personnel file, if the municipal official has a personnel file for that employee. These reviews shall take place during normal office hours at the location where the personnel files are maintained. For the purposes of this subsection, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits which the municipal official may possess. The records described in subsection 1, paragraph B, may also be examined by the employee to whom they relate, as provided in this subsection.

3. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

CHAPTER 161
SEWERS AND DRAINS

§3406. Service charges for sewage or storm water disposal

The municipal officers may establish a schedule of service charges from time to time upon improved real estate connected with a municipal sewer or sewer system or storm water disposal system for the use of the system. These service charges must include reserve fund contributions. For purposes of this section, "storm water disposal system" means storm water and flood control devices, structures, conveyances, facilities or systems, including natural streams and rivers and other water bodies used wholly or partly to convey or control storm water or floodwater.

1. Interest. The municipal officers may charge interest on delinquent accounts at a rate not to exceed the highest lawful rate set by the Treasurer of State for municipal taxes.

2. Lien. There is a lien on real estate served or benefited by a municipal sewer or sewer system or storm water disposal system to secure the payment of service charges and interest on delinquent accounts established under this chapter. This lien arises and is perfected as services are provided and takes precedence over all other claims on the real estate, excepting only claims for taxes.

3. Collection. The treasurer of the municipality may collect the service charges and interest on delinquent accounts in the same manner as granted by Title 38, section 1208, to treasurers of sanitary sewer districts with reference to rates established and due under Title 38, section 1202.

§3428. Malfunctioning domestic waste water disposal units; abatement of nuisance

Malfunctioning waste water disposal units, including septic tanks, cesspools, cisterns, dry wells, drainage beds, drains, sewer lines and pipes and the like, have become a menace to the health and general welfare of the citizens of this State and are declared to be a nuisance.

1. Abatement procedure. Upon complaint of any person resulting in documentation of a malfunctioning waste water disposal unit or on their own information, the municipal officers shall serve an order to remedy a malfunctioning waste water disposal unit upon the owner of any premises within that municipality that has such a malfunctioning unit.

2. Content of order. The order must be addressed to the owner of the premises and must contain:

A. The date;

B. The fact of the malfunctioning waste water disposal unit;

C. A notice to remedy the nuisance within 10 days of service of the order; and

D. The signatures of the municipal officers.

The municipal officers may allow the owner of the premises to request an extension of the 10-day period for no longer than an additional 20 days and may explain how to request an extension in

the order. The municipal officers or their agents may approve an extension if it is reasonably necessary for and likely to result in remediation of the nuisance.

3. Service and return of service. One of the municipal officers or a law enforcement officer shall serve the order personally upon the owner, tenant or occupant in possession. The server shall make and file a return of service indicating the method used and the person served.

4. Abatement. If the nuisance is not abated within the 10-day period or such period up to but not exceeding the additional 20 days as allowed by the municipal officers under subsection 2, the municipal officers or their agents may enter the premises and have the malfunction adequately remedied. To recover any actual and direct expenses, including reasonable attorney's fees if the municipality is the prevailing party, incurred by the municipality in the abatement of such nuisances, the municipality shall:

A. File a civil action against the owner. The costs, including reasonable attorney fees, to create and prosecute an action to collect expenses following such a civil complaint, shall also be recovered from the owners; or

B. Assess a special tax against the land on which the waste water disposal unit is located for the amount of the expenses. This amount shall be included in the next annual warrant to the tax collector of the municipality for collection in the same manner as other state, county and municipal taxes are collected. Interest as determined by the municipality pursuant to Title 36, section 505, in the year in which the special tax is assessed, shall accrue on all unpaid balances of any special tax beginning on the 60th day after the day of commitment of the special tax to the collector. The interest shall be added to and become part of the tax.

§3444. Collection of assessments

Except for service charges established under section 3406 which shall be collected as provided in that section, all assessments and charges made under this chapter shall be certified by the municipal officers and filed with the tax collector for collection. A facsimile of the signatures of the municipal officers imprinted at their direction upon any certification of an assessment or charge under this chapter has the same validity as their signatures.

1. Payment over time. The municipal officers of a municipality may adopt an order generally authorizing the assessors and the tax collector to assess and collect those assessments and charges over a period of time not exceeding 10 years, including expenses involved in the municipality's abatement of malfunctioning domestic waste water disposal units under section 3428, subsection 4.

A. The assessors and collector may exercise this authority only when the person assessed has agreed to that method of assessment and collection in writing and notice of that fact has been recorded in the appropriate registry of deeds.

B. The municipal officers shall annually file with the collector a list of installment payments due the municipality, which must be collected with interest at a rate determined by the municipal officers. If, within 30 days after written notice of the total amount of the assessments and charges, or annual installment payment and interest, the person assessed fails, neglects or refuses to pay the municipality the expense incurred, the municipal

assessors may assess a special tax, equal to the amount of the total unpaid assessment and charges, upon each lot or parcel of land so assessed and buildings upon the lot or parcel of land. This assessment must be included in the next annual warrant to the tax collector for collection and must be collected in the same manner as state, county and municipal taxes are collected.

(1) Interest at the same rate used for delinquent property taxes as established by Title 36, section 505, subsection 4 on the unpaid portion of assessments and charges due the municipality accrues from the 30th day after written notice to the person assessed and must be added to and becomes part of the special tax when committed to the tax collector.

2. Action to recover unpaid assessments. If assessments under this section are not paid, and the municipality does not proceed to collect the assessments by a sale of the lots or parcels of land upon which the assessments are made, or does not collect or is in any manner delayed or defeated in collecting the assessments by a sale of the real estate so assessed, then the municipality may maintain a civil action in its name against the party so assessed for the amount of the assessment in any court competent to try the action. In this action, the municipality may recover the amount of the assessment with 12% interest on the assessment from the date of the assessment and costs.

§3445. Lien for payment on lot and building; enforcement

When any assessment made under section 3442 is paid by any person against whom the assessment has been made, who is not the owner of the lot or parcel of land, then the person paying the assessment has a lien upon the lot or parcel of land with the buildings on the land for the amount of the assessment paid by that person, and incidental charges. The lien may be enforced in a civil action, and by attachment in the way and manner provided for the enforcement of liens upon buildings and lots under Title 10. The lien shall continue one year after the assessment is paid.

CHAPTER 163
TRANSPORTATION

§3511. Exempt from taxation; fuel tax refund

The property, both real and personal, of a district, whether held and operated by itself or leased to a private operator, for the purpose of providing mass transportation as provided in this chapter, is exempt from all registration fees, real, personal, excise, sales and use, and any other taxes which are assessed by the State or any political subdivision of the State. A district, or its lessee, or any person contracting with the district for the purpose of furnishing mass transportation, is entitled to be reimbursed and paid to the extent of the full amount of the tax paid for fuel used in motor vehicles owned and operated by them for that purpose. That district, lessee or person shall present its claim to the State Tax Assessor in the form and with any information that the State Tax Assessor requires, accompanied by original invoices showing the purchases. Applications for refunds as provided must be filed with the State Tax Assessor within 9 months from the date of purchase.

CHAPTER 187
PLANNING AND LAND USE REGULATION

§4401. Definitions

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

1. Densely developed area. "Densely developed area" means any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres.

2. Dwelling unit. "Dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, apartments and time-share units.

2-A. Freshwater wetland. "Freshwater wetland" means freshwater swamps, marshes, bogs and similar areas which are:

A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and

B. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

2-B. Farmland. "Farmland" means a parcel consisting of 5 or more acres of land that is:

A. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or

B. Used for the production of agricultural products as defined in Title 7, section 152, subsection 2.

3. Principal structure. "Principal structure" means any building or structure in which the main use of the premises takes place.

4. Subdivision. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres must be counted as a lot, except:

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance.

D. (Repealed)

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate.

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

G. (Repealed)

H. (Repealed)

H-1. (Repealed)

H-2. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2021. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2020 for the definition to remain valid for the grace period ending January 1, 2021. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located.

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

5. New structure or structures. "New structure or structures" includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this subchapter.

6. Tract or parcel of land. "Tract or parcel of land" means all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered

each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

7. Outstanding river segments. In accordance with Title 12, section 402, "outstanding river segments" means:

A. The Aroostook River from the Canadian border to the Masardis and T.10, R.6, W.E.L.S. town line, excluding the segment in T.9, R.5, W.E.L.S.;

B. The Carrabassett River from the Kennebec River to the Carrabassett Valley and Mt. Abram Township town line;

C. The Crooked River from its inlet into Sebago Lake to the Waterford and Albany Township town line;

D. The Damariscotta River from the Route 1 bridge in Damariscotta to the dam at Damariscotta Mills;

E. The Dennys River from the Route 1 bridge to the outlet of Meddybemps Lake, excluding the western shore in Edmunds Township and No. 14 Plantation;

F. The East Machias River, including the Maine River, from 1/4 of a mile above the Route 1 bridge to the East Machias and T.18, E.D., B.P.P. town line, from the T.19, E.D., B.P.P. and Wesley town line to the outlet of Crawford Lake, and from the No. 21 Plantation and Alexander town line to the outlet of Pocomoonshine Lake, excluding Hadley Lake, Lower Mud Pond and Upper Mud Pond;

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

H. The Kennebago River from its inlet into Cupsuptic Lake to the Rangeley and Lower Cupsuptic Township town line;

I. The Kennebec River from Thorns Head Narrows in North Bath to the Edwards Dam in Augusta, excluding Perkins Township, and from the Route 148 bridge in Madison to the Caratunk and The Forks Plantation town line, excluding the western shore in Concord Township, Pleasant Ridge Plantation and Carrying Place Township and excluding Wyman Lake;

J. The Machias River from the Route 1 bridge to the Northfield and T.19, M.D., B.P.P. town line;

K. The Mattawamkeag River from the Penobscot River to the Mattawamkeag and Kingman Township town line, and from the Reed Plantation and Bancroft town line to the East Branch in Haynesville;

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

M. The Penobscot River, including the Eastern Channel, from Sandy Point in Stockton Springs to the Veazie Dam and its tributary the East Branch of the Penobscot from the Penobscot River to the East Millinocket and Grindstone Township town line;

N. The Piscataquis River from the Penobscot River to the Monson and Blanchard Plantation town line;

O. The Pleasant River from the bridge in Addison to the Columbia and T.18, M.D., B.P.P. town line, and from the T.24, M.D., B.P.P. and Beddington town line to the outlet of Pleasant River Lake;

P. The Rapid River from the Magalloway Plantation and Upton town line to the outlet of Pond in the River;

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

R. The St. Croix River from the Route 1 bridge in Calais to the Calais and Baring Plantation town line, from the Baring Plantation and Baileyville town line to the Baileyville and Fowler Township town line, and from the Lambert Lake Township and Vanceboro town line to the outlet of Spednik Lake, excluding Woodland Lake and Grand Falls Flowage;

S. The St. George River from the Route 1 bridge in Thomaston 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;

T. The St. John River from the Van Buren and Hamlin Plantation town line to the Fort Kent and St. John Plantation town line, and from the St. John Plantation and St. Francis town line to the Allagash and St. Francis town line;

U. The Sandy River from the Kennebec River to the Madrid and Township E town line;

V. The Sheepscot River from the railroad bridge in Wiscasset 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;

W. The West Branch of the Pleasant River from the East Branch in Brownville to the Brownville and Williamsburg Township town line; and

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

CHAPTER 201
HOUSING AUTHORITY

§4706. Records confidential

1. Confidential information. Records containing the following information are deemed confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. Any information acquired by an authority or a member, officer, employee or agent of an authority from applicants for residential tenancy in housing owned, financed, assisted or managed by an authority or from any residential tenants of such housing or from any 3rd person pertaining to any applicant for tenancy or to any tenant of such housing;

B. Any written or recorded financial statement, as determined by an authority, of an individual submitted to an authority or a member, officer, employee or agent of an authority, in connection with an application for, or receipt of, a grant, mortgage or mortgage insurance;

C. Any information acquired by the Maine State Housing Authority or a state public body, private corporation, copartnership, association, fuel vendor, private contractor or individual, or an employee, officer or agent of any of those persons or entities, providing services related to weatherization, energy conservation, homeless assistance or fuel assistance programs of the Maine State Housing Authority, when that information was provided by the applicant for, or recipient of, those services or by a 3rd person;

D. Any statements of financial condition or information pertaining to financial condition submitted to any of the persons or entities set forth in paragraph C in connection with an application for services related to weatherization, energy conservation, homeless assistance or fuel assistance programs of the Maine State Housing Authority; and

E. The address of a shelter or other living accommodations for victims of domestic violence.

2. Wrongful disclosure prohibited. No member, officer, employee or agent of an authority may knowingly divulge or disclose information declared confidential by this section, except that:

A. An authority may make such full and complete reports concerning administration of its programs as required by the Federal Government, any agency or department of the Federal Government, or the Legislature;

B. An authority may publish statistics or other information of a general nature drawn from information declared confidential by this section, provided that the publication is accomplished in a manner which preserves confidentiality;

C. An authority may comply with a subpoena, request for production of documents, warrant or court order that appears on its face to have been issued or made upon lawful authority;

D. In any litigation or proceeding in which an authority is a party, the authority may introduce evidence based on any information that is deemed confidential and is within the control or custody of the authority;

E. Any person or agency directly involved in the administration or auditing of weatherization, energy conservation or fuel assistance programs of the Maine State Housing Authority and any agency of the State with a legitimate reason to know must be given access to those records described in subsection 1, paragraphs C and D; and

F. The Maine State Housing Authority may provide records to the Efficiency Maine Trust pursuant to Title 35-A, section 10104, subsection 4, paragraph A, subparagraph (2).

3. Waiver. This section shall not be construed to limit in any way the right of any person whose interest is protected by this section to waive, in writing or otherwise, the benefits of that protection.

4. Penalty. A member, officer, employee or agent of an authority who violates subsection 2 commits a civil violation for which a forfeiture of not more than $200 may be adjudged against the member, officer, employee or agent of an authority for each violation. For the purpose of applying penalties under this subsection, a separate violation is deemed to have occurred with respect to each separate act of disclosure.

5. Confidentiality of personnel records. The following records are confidential and not open to public inspection:

A. Except as otherwise provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the authority for use in the examination or evaluation of applicants for employment by the authority.

(1) Applications, resumes and letters and notes of reference pertaining to the applicant hired, other than those letters and notes of reference expressly submitted in confidence, are public records after the applicant is hired.

(2) Telephone numbers are not public records if they are designated as unlisted or unpublished in an application, resume or letter or note of reference;

B. Authority records pertaining to an identifiable employee and containing the following:

(1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of the employee's immediate family;

(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or

upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action; and

(6) Personal information, including that which pertains to the employee's:

(a) Age;

(b) Ancestry, ethnicity, genetic information, national origin, race or skin color;

(c) Marital status;

(d) Mental or physical disabilities;

(e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;

(f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, saving plans, pension plans, health insurance and life insurance;

(g) Religion;

(h) Sex or sexual orientation as defined in Title 5, section 4553, subsection 9-C; or

(i) Social security number; and

C. Other information to which access by the general public is prohibited by law.

6. Employee right to review. On written request from an employee or former employee, the authority shall provide the employee, former employee or the employee's authorized representative with an opportunity to review the employee's personnel file, if the authority has a personnel file for that employee. The review must take place during normal office hours at the location where the personnel files are maintained. For the purposes of this subsection, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits that the authority may possess. The records described in subsection 5, paragraph B may also be examined by the employee to whom the records relate, as provided in this subsection.

7. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, subsection 5 does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

CHAPTER 203
URBAN RENEWAL

§5114. Exemption from taxes and execution

1. Property exempt from execution. All property, including funds of the authority, is exempt from levy and sale by virtue of an execution, and no execution or other judicial process may issue against the authority's property nor may judgment against the authority be a charge or lien upon its property.

2. Property exempt from taxation. The property of the authority is declared to be public property used for essential public and governmental purposes and that property and the authority are exempt from all taxes of the municipality, the State or any political subdivision of the State, provided that, with respect to any property in a renewal project, the tax exemption provided in this section shall terminate when the authority sells, leases or otherwise disposes of the property to a redeveloper for redevelopment.

3. Construction; limitation of application. Nothing in this section may be construed to:

A. Prohibit the authority from making payments in lieu of taxes to the municipality; or

B. Apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of the authority or the right of any obligee to pursue any remedies for the enforcement of any pledge or lien given by the authority on its rents, fees, grant or revenue.

CHAPTER 205-A
MUNICIPAL CAPITAL IMPROVEMENT DISTRICTS

§5211. Definitions

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

1. Assessed share. "Assessed share" means a special assessment that represents that portion of the total projected cost of an improvement undertaken by a municipality in a capital improvement district that is the obligation of an owner of property within the capital improvement district. The assessed share must be calculated by the municipal officers in the same manner and according to the same standards as the capital costs of sewer improvements are assessed pursuant to sections 3442 and 3444, except the total assessment must be calculated on the basis of the projected cost of the entire improvement rather than any percentage of the projected costs of the improvement, and no type of property within the capital improvement district is exempt from the assessment.

2. Capital improvement district. "Capital improvement district" means a defined area within a municipality that is initially privately owned and that has been designated by the municipality as a capital improvement district according to the provisions of this chapter for the interrelated purposes of fairly apportioning the costs of making necessary capital improvements among the owners of property in the capital improvement district and establishing the public elements of the capital improvement district as municipally owned.

3. Improvement. "Improvement" means road construction, drainage system development or the installation of sewer or drinking water infrastructure.

4. Public elements. "Public elements" of a capital improvement district means legal interests in defined properties located within a capital improvement district. "Public elements" may include public easements or fee simple titles in specifically defined property or properties.

§5212. Capital improvement districts authorized

A municipality may create one or more capital improvement districts within the municipal boundaries.

§5213. Capital improvement districts; public hearing; notice; referendum votes

In order to establish a capital improvement district, a municipality shall adhere to the following procedures.

1. Initial determinations. In order to establish a capital improvement district, the municipal officers shall establish all the public elements of the proposed capital improvement district for presentation to the residents of the municipality at a public hearing held pursuant to subsection 3. The municipal officers shall:

A. Determine the proposed boundaries of the capital improvement district;

B. Identify each separate parcel of property within the proposed capital improvement district and the parcel's owner of record;

C. Describe all improvements to the proposed capital improvement district that need to be made;

D. Calculate an estimate of the costs of the proposed improvements;

E. Calculate the assessed shares and the contingency fee of no more than 25% of that assessment to the property owners in the proposed capital improvement district;

F. Establish the proposed duration of the payment period for the assessed shares;

G. Describe specifically the public elements of the capital improvement district that may be accepted by the voters of the municipality; and

H. Schedule the public hearing pursuant to subsection 3 and the referendum pursuant to subsection 4.

2. Public notice. The municipal officers shall provide posted notice of the public hearing held pursuant to subsection 3 in the same place and manner as the posting of a town meeting warrant and publish notice of the public hearing in a newspaper of general circulation within the municipality at least 14 days in advance of the public hearing. The published notice must include:

A. A description of the proposed boundaries of the capital improvement district;

B. The proposed improvements to the capital improvement district;

C. The estimated costs of the proposed improvements;

D. The public elements of the capital improvement district; and

E. A brief narrative description and schedule of the referendum conducted pursuant to subsection 4.

At least 14 days in advance of the date of the initial public hearing, the same information provided in the published notice must also be sent by certified mail to all owners of property within the proposed capital improvement district according to the municipality's assessing records. Notice for any additional public hearings must be posted and published in the same manner as notice for the initial public hearing, but mailed notice of the subsequent public hearings is not required.

3. Public hearing. Prior to any referendum held pursuant to subsection 4 or 5, the municipal officers shall hold an initial public hearing on the proposed capital improvement district to solicit comments from the residents of the municipality and the owners of property located in the proposed district concerning the:

A. Proposed boundaries of the capital improvement district;

B. Type of improvements to the proposed capital improvement district being considered;

C. Need for the proposed improvements;

D. Costs of the proposed improvements;

E. Projected assessed shares and the contingency fee of no more than 25% of that assessment to the owners of property located in the proposed capital improvement district to pay for the improvements being considered;

F. Proposed duration of the payment period for those special assessments;

G. Proposed public elements of the capital improvement district; and

H. Scheduled dates of referenda conducted pursuant to subsection 4 or 5.

The municipal officers may hold additional public hearings as necessary.

4. Referendum of owners of property in proposed capital improvement district. The municipal officers shall call and conduct a referendum among the owners of property within the proposed capital improvement district to determine the property owners' willingness to undertake the costs of the proposed improvements to the capital improvement district.

A. The method of calling and voting on the referendum question is as provided in section 2528 except as otherwise provided in this subsection.

B. The registered voters of the municipality who own property within the proposed capital improvement district and the owner or owners of record for each parcel of property located in the proposed capital improvement district reflected on the deed for the property recorded in the registry of deeds within the county as of the preceding April 1st, if the owner or owners are of legal voting age and citizens of the United States, are eligible to vote in the referendum. A person may not cast more than one vote. The municipal officers shall determine who are the legal voters of the proposed capital improvement district and shall prepare or cause to be prepared a list of voters at least 24 hours before the referendum is conducted.

C. The referendum must be scheduled to occur no sooner than 45 days after the date of the initial public hearing held pursuant to subsection 3.

D. A public hearing must be held pursuant to section 2528, subsection 5, only if any of the information presented to the voters at the most recent public hearing called pursuant to subsection 3 is changed prior to inclusion on the ballot.

E. The referendum to be voted on must be worded substantially as follows: "As an owner of property in the proposed capital improvement district described on the reverse side of this ballot or in the attachment to this ballot, are you in favor of authorizing the municipality of to apply a special assessment against the property you own in the proposed capital improvement district for a period of years, for the purpose of (description of improvements), with the total assessment to all property owners within the capital improvement district not to exceed $, plus a contingency of no more than 25% of that assessment, all of which are subject to the property tax collection and lien procedures established by state law, and with said authorization contingent on the voters of the municipality of accepting the public costs for the capital improvement district improvements before any work is done, specifically described as (description of public elements)?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.

The municipal officers may proceed with conducting the municipal referendum in accordance with subsection 5 only if 2/3 of those casting ballots pursuant to this subsection vote to approve creating the capital improvement district.

5. Referendum of municipal voters. The referendum of the municipal voters may not be called and conducted for the purposes of this chapter unless the referendum held pursuant to subsection 4 resulted in a 2/3 majority vote supporting the ballot question. If the referendum held pursuant to subsection 4 received a 2/3 majority vote, the municipal officers shall call and conduct a referendum for the voters of the municipality to determine if the public elements of the proposed capital improvement district authorized pursuant to subsection 4 are authorized by the voters of the municipality.

A. The method of calling and voting on the referendum question is as provided in section 2528 except as otherwise provided in this subsection.

B. The referendum of the municipal voters must be scheduled to occur within 45 to 90 days after the date of the referendum held pursuant to subsection 4.

C. The referendum to be voted on must be worded substantially as follows: "Are you in favor of establishing a capital improvement district described on the reverse side of this ballot or in the attachment to this ballot and authorizing a special assessment against the several properties in the capital improvement district, with the special assessment running for a period of years, for the purpose of (describe improvements), with the total assessment to all owners of property within the capital improvement district not to exceed $, plus a contingency of no more than 25% of that assessment, all of which are subject to the property tax collection and lien procedures established by state law, and are you also in favor of the municipality of accepting the public costs for the capital improvement district improvements, specifically described as (describe the public elements), with all associated and ongoing rights, privileges and responsibilities of public ownership?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.

D. If a majority of those voting approve of the ballot question, the capital improvement district is created. Upon the creation of a capital improvement district, the municipality is authorized to raise revenues pursuant to chapter 223 and expend those revenues for the improvements authorized at referendum.

E. If the owners of property within the proposed capital improvement district or the voters of the municipality fail to establish the capital improvement district, the municipal officers may not act upon a proposal to create the same capital improvement district for a period of 3 years from the date that capital improvement district was rejected by voters.

§5214. Implementation of improvements to capital improvement district

1. Advisory committee. The municipal officers are responsible for implementing improvements to the capital improvement district. For the purposes of overseeing the authorized improvements to the capital improvement district, the municipal officers shall appoint an advisory committee consisting of no fewer than 3 and no more than 7 owners of property within the capital improvement district for the purposes of receiving comments and recommendations on the proposed improvement or improvements within the capital improvement district. Advisory committee members serve at the pleasure of the municipal officers.

2. Cost of improvement. The initial cost of an authorized improvement in a capital improvement district is borne by the municipality until the improvement is complete, as determined by the municipal officers. Commencing with the first tax year that begins after the determination by the municipal officers that the improvement is complete, the municipality shall levy a special assessment against each property in the capital improvement district representing that property's annual share of the cost of the improvement as determined by the municipal officers and projected in the referenda ballots that created the capital improvement district, unless the actual total cost of the improvement is determined to be less than projected during the referenda, in which case the special assessments are reduced proportionally to reflect the actual cost.

3. Method of assessment. The special assessments must be included in the next annual warrant to the tax collector of the municipality for collection and must be collected in the same manner as state, county and municipal taxes are collected.

4. Annual report. The municipality's annual report must record the progress of implementing the improvements to the capital improvement district. At a minimum, the annual report must include:

A. The boundaries of the capital improvement district;

B. The public elements of the capital improvement district;

C. The improvements to the capital improvement district made by the municipality; and

D. The total cost of those improvements, the schedule of the assessed shares and contingency fees against the property located within the district to pay for the improvements and the degree to which those assessed shares and contingency fees have been collected.

§5215. Dissolution of capital improvement district

A capital improvement district created under this chapter may not be dissolved until the debt created by the improvements is finally discharged and the special assessments levied for the purpose of providing for those improvements have been paid or otherwise satisfied. The municipal officers shall dissolve a capital improvement district upon certification of the discharge of debt. The certification of the discharge of debt must be presented to the municipal officers by the municipal treasurer. At a minimum, the certification must include an attestation by the municipal treasurer that all assessed shares levied for the improvements in a capital improvement district have been paid in full or a property tax lien has been recorded in the registry of deeds.

CHAPTER 206
DEVELOPMENT DISTRICTS

SUBCHAPTER 1
DEVELOPMENT DISTRICTS FOR MUNICIPALITIES AND PLANTATIONS

§5221. Findings and declaration of necessity

1. Legislative finding. The Legislature finds that there is a need for new development in areas of municipalities and plantations to:

A. Provide new employment opportunities;

B. Improve and broaden the tax base; and

C. Improve the general economy of the State.

2. Authorization. For the reasons set out in subsection 1, municipalities and plantations may develop a program for improving a district of the municipality or plantation:

A. To provide impetus for industrial, commercial, transit-oriented or arts district development, or any combination;

B. To increase employment; and

C. To provide the facilities outlined in the development program adopted by the legislative body of the municipality or plantation.

3. Declaration of public purpose. It is declared that the actions required to assist the implementation of development programs are a public purpose and that the execution and financing of these programs are a public purpose.

§5222. Definitions

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

1. Amenities. "Amenities" means items of street furniture, signs and landscaping, including, but not limited to, plantings, benches, trash receptacles, street signs, sidewalks and pedestrian malls.

1-A. Arts district. "Arts district" means a specified area within the corporate limits of a municipality or plantation that has been designated by the municipality or plantation for the purpose of providing employment and cultural opportunities through the development of arts opportunities, including, but not limited to, museums, galleries, arts education, art studios, performing arts venues and associated businesses.

1-B. Adult care facilities. "Adult care facilities" means facilities that are licensed by the Department of Health and Human Services and that offer programs for adults who need assistance or supervision and that are operated out of nonresidential commercial buildings. The programs offered at adult care facilities include the provision of:

A. Services that allow family members or caregivers to be active in the workforce;

B. Professional and compassionate services for adults in a community and program-based setting; and

C. Social and health services to adults who need supervised care in a safe place outside the home.

2. Captured assessed value. "Captured assessed value" means the amount, as a percentage or stated sum, of increased assessed value that is utilized from year to year to finance the project costs contained within the development program.

2-A. Child care facilities. "Child care facilities" means facilities that are licensed by the Department of Health and Human Services that provide care for at least 6 children who are less than 18 years of age by persons who are not family members, legal guardians or other custodians of the children and that are operated out of nonresidential commercial buildings. To meet this definition, a child care facility must have a director and a sufficient number of staff members whose sole function is to provide necessary child care services. The services offered at child care facilities include the provision of services that allow the children's family members, legal guardians or other custodians the ability to be active in the workforce.

3. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development.

4. Current assessed value. "Current assessed value" means the assessed value of the district certified by the municipal or plantation assessor as of April 1st of each year that the development district remains in effect.

5. Department. "Department" means the Department of Economic and Community Development.

6. Development district. "Development district" means a specified area within the corporate limits of a municipality or plantation that has been designated as provided under sections 5223 and 5226 and that is to be developed under a development program.

7. Development program. "Development program" means a statement of means and objectives designed to provide new employment opportunities, retain existing employment, improve or broaden the tax base, construct or improve the physical facilities and structures or improve the quality of pedestrian and vehicular transportation, as described in section 5224, subsection 2.

8. Downtown. "Downtown" means the traditional central business district of a community that has served as the center of socioeconomic interaction in the community, characterized by a cohesive core of commercial and mixed-use buildings, often interspersed with civic, religious and residential buildings and public spaces, that are typically arranged along a main street and intersecting side streets and served by public infrastructure.

9. Downtown tax increment financing district. "Downtown tax increment financing district" means a tax increment financing district described in a downtown redevelopment plan that is consistent with the downtown criteria established pursuant to rules of the department.

10. Financial plan. "Financial plan" means a statement of the project costs and sources of revenue required to accomplish the development program.

10-A. Fisheries and wildlife or marine resources project. "Fisheries and wildlife or marine resources project" means a project approved by the Department of Inland Fisheries and Wildlife or the Department of Marine Resources undertaken for the purpose of improving public access to freshwater or saltwater fisheries and wildlife resources of the State for fishing, hunting, research or observation or for conservation or improvement of the freshwater or saltwater fisheries and wildlife resources of the State.

11. Increased assessed value. "Increased assessed value" means the valuation amount by which the current assessed value of a tax increment financing district exceeds the original assessed value of the district. If the current assessed value is equal to or less than the original, there is no increased assessed value.

12. Maintenance and operation. "Maintenance and operation" means all activities necessary to maintain facilities after they have been developed and all activities necessary to operate the facilities, including, but not limited to, informational, promotional and educational programs and safety and surveillance activities.

13. Original assessed value. "Original assessed value" means the assessed value of a development district as of March 31st of the tax year preceding the year in which it was designated and, for development districts designated on or after April 1, 2014, "original assessed value" means the taxable assessed value of a development district as of March 31st of the tax year preceding the year in which it was designated by the legislative body of a municipality or a plantation.

14. Project costs. "Project costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5225, subsection 1 and included in a development program.

14-A. Public safety facility. "Public safety facility" means a facility used primarily for the functions of municipal or plantation government that ensure the protection of residents, organizations and institutions in the municipality or plantation, including the provision of law enforcement, fire and emergency services.

15. Tax increment. "Tax increment" means real and personal property taxes assessed by a municipality or plantation, in excess of any state, county or special district tax, upon the increased assessed value of property in the development district.

16. Tax increment financing district. "Tax increment financing district" means a type of development district, or portion of a district, that uses tax increment financing under section 5227.

17. Tax shifts. "Tax shifts" means the effect on a municipality's or plantation's state revenue sharing, education subsidies and county tax obligations that results from the designation of a tax increment financing district and the capture of increased assessed value.

18. Tax year. "Tax year" means the period of time beginning on April 1st and ending on the succeeding March 31st.

19. Transit. "Transit" means transportation systems in which people are conveyed by means other than their own vehicles, including, but not limited to, bus systems, street cars, light rail and other rail systems.

20. Transit facility. "Transit facility" means a place providing access to transit services, including, but not limited to, bus stops, bus stations, interchanges on a highway used by one or more transit providers, ferry landings, train stations, shuttle terminals and bus rapid transit stops.

21. Transit-oriented development. "Transit-oriented development" means a type of development that links land use with transit facilities to support and be supported by a transit system. It combines housing with complementary public uses such as jobs, retail or services establishments that are located in transit-served nodes or corridors. Transit-oriented development is intended through location and design to rely on transit as one of the means of meeting the transportation needs of residents, customers and occupants as demonstrated through such factors as transit facility proximity, mixed uses, off-street parking space ratio less than industry standards, architectural accommodation for transit and marketing that highlights transit.

22. Transit-oriented development area. "Transit-oriented development area" means an area of any shape such that no part of the perimeter is more than 1/4 mile from an existing or planned transit facility.

23. Transit-oriented development corridor. "Transit-oriented development corridor" means a strip of land of any length and up to 500 feet on either side of a roadway serving as a principal transit route.

24. Transit-oriented development district. "Transit-oriented development district" means a tax increment financing district consisting of a transit-oriented development area or a transit-oriented development corridor.

§5223. Development districts

1. Creation. A municipal or plantation legislative body may designate a development district within the boundaries of the municipality or plantation in accordance with the requirements of this chapter. If the municipality has a charter, the designation of a development district may not be in conflict with the provisions of the municipal charter.

2. Considerations for approval. Before designating a development district within the boundaries of a municipality or plantation, or before establishing a development program for a designated development district, the legislative body of a municipality or plantation must consider whether the proposed district or program will contribute to the economic growth or well-being of the municipality or plantation or to the betterment of the health, welfare or safety of the inhabitants of the municipality or plantation. Interested parties must be given a reasonable opportunity to present testimony concerning the proposed district or program at the hearing provided for in section 5226, subsection 1. If an interested party claims at the public hearing that the proposed district or program will result in a substantial detriment to that party's existing business in the municipality or plantation and produces substantial evidence to that effect, the legislative body must consider that evidence. When considering that evidence, the legislative body also shall consider whether any adverse economic effect of the proposed district or program on that interested party's existing business in the municipality or plantation is outweighed by the contribution made by the district or program to the economic growth or well-being of the municipality or plantation or to the betterment of the health, welfare or safety of the inhabitants of the municipality or plantation.

3. Conditions for approval. Designation of a development district is subject to the following conditions.

A. At least 25%, by area, of the real property within a development district must meet at least one of the following criteria:

(1) Must be a blighted area;

(2) Must be in need of rehabilitation, redevelopment or conservation work including a fisheries and wildlife or marine resources project; or

(3) Must be suitable for commercial or arts district uses.

B. The total area of a single development district may not exceed 2% of the total acreage of the municipality or plantation. The total area of all development districts may not exceed 5% of the total acreage of the municipality or plantation.

C. The original assessed value of a proposed tax increment financing district plus the original assessed value of all existing tax increment financing districts within the municipality or plantation may not exceed 5% of the total value of taxable property within the municipality or plantation as of April 1st preceding the date of the commissioner's approval of the designation of the proposed tax increment financing district.

Excluded from the calculation in this paragraph is any district excluded from the calculation under former section 5253, subsection 1, paragraph C and any district designated on or after the effective date of this chapter that meets the following criteria:

(1) The development program contains project costs, authorized by section 5225, subsection 1, paragraph A, that exceed $10,000,000;

(2) The geographic area consists entirely of contiguous property owned by a single taxpayer;

(3) The assessed value exceeds 10% of the total value of taxable property within the municipality or plantation; and

(4) The development program does not contain project costs authorized by section 5225, subsection 1, paragraph C.

For the purpose of this paragraph, "contiguous property" includes a parcel or parcels of land divided by a road, power line or right-of-way.

D. (Repealed)

The conditions in paragraphs A to C do not apply to approved downtown tax increment financing districts, tax increment financing districts that consist solely of one or more community wind power generation facilities owned by a community wind power generator that has been certified by the Public Utilities Commission pursuant to Title 35-A, section 3403, subsection 3 or transit-oriented development districts.

4. Powers of municipality or plantation. Within development districts and consistent with the development program, the municipality or plantation may acquire, construct, reconstruct, improve, preserve, alter, extend, operate or maintain property or promote development intended to meet the objectives of the development program. Pursuant to the development program, the municipality or plantation may acquire property, land or easements through negotiation or by using eminent domain powers in the manner authorized for community development programs under section 5204. The municipality's or plantation's legislative body may adopt ordinances regulating traffic in and access to any facilities constructed within the development district. The municipality or plantation may install public improvements.

§5224. Development programs

1. Adoption. The legislative body of a municipality or plantation shall adopt a development program for each development district. The development program must be adopted at the same time as is the district, as part of the district adoption proceedings or, if at a different time, in the same manner as adoption of the district, with the same notice and hearing requirements of section

5226. Before adopting a development program, the municipal or plantation legislative body shall consider the factors and evidence specified in section 5223, subsection 2.

2. Requirements. The development program must include:

A. A financial plan in accordance with subsections 3 and 4;

B. A description of public facilities, improvements or programs to be financed in whole or in part by the development program;

C. A description of commercial facilities, arts districts, transit expansion, improvements or projects to be financed in whole or in part by the development program;

D. Plans for the relocation of persons displaced by the development activities;

E. The proposed regulations and facilities to improve transportation;

F. The environmental controls to be applied;

G. The proposed operation of the development district after the planned capital improvements are completed;

H. The duration of the development district, subject to the following conditions:

(1) A development district that is a tax increment financing district may not exceed a total of 30 tax years beginning with the tax year in which the designation of the development district is effective pursuant to section 5226, subsection 3 or, if specified in the development program, the subsequent tax year; and

(2) A development district that is funded by assessments under section 5228 and that is not a tax increment financing district is not limited in duration unless a limitation on duration is established by the legislative body of the municipality or plantation adopting the development program. Any limitation in the duration of a development district that is not a tax increment financing district and that is established by the legislative body of the municipality or plantation may later be extended by the legislative body; and

I. All documentation submitted to or prepared by the municipality or plantation under section 5223, subsection 2.

3. Financial plan for development program. The financial plan for a development program must include:

A. Cost estimates for the development program;

B. The amount of public indebtedness to be incurred;

C. Sources of anticipated revenues; and

D. A description of the terms and conditions of any agreements, contracts or other obligations related to the development program.

4. Financial plan for tax increment financing districts. In addition to the items required by subsection 3, the financial plan for a development program for a tax increment financing district must include the following for each year of the program:

A. Estimates of increased assessed values of the district;

B. The portion of the increased assessed values to be applied to the development program as captured assessed values and resulting tax increments in each year of the program; and

C. A calculation of the tax shifts resulting from designation of the tax increment financing district.

5. Limitation. For tax increment financing districts, the municipality or plantation may expend the tax increments received for any development program only in accordance with the financial plan.

§5225. Project costs

1. Authorized project costs. The commissioner shall review proposed project costs to ensure compliance with this subsection. Authorized project costs are:

A. Costs of improvements made within the tax increment financing district, including, but not limited to:

(1) Capital costs, including, but not limited to:

(a) The acquisition or construction of land, improvements, public ways, buildings, structures, fixtures and equipment for public, arts district, new or existing recreational trail, commercial or transit-oriented development district use.

(i) Eligible transit-oriented development district capital costs include but are not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; benches, signs and other transit-related infrastructure; bicycle lane construction and other bicycle-related improvements; pedestrian improvements such as crosswalks, crosswalk signals and warning systems and crosswalk curb treatments; and the nonresidential commercial portions of transit-oriented development projects.

(ii) Eligible recreational trail-related development district capital costs include but are not limited to new or existing trails, including bridges that are part of the trail corridor, used all or in part for all-terrain vehicles, snowmobiles, hiking, bicycling, cross-country skiing or other related multiple uses, signs, crosswalks, signals and warning systems and other related improvements.

(iii) Eligible development district capital costs for public ways include but are not limited to scenic turnouts, signs, railing and other related improvements;

(b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;

(c) Site preparation and finishing work; and

(d) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expenses and planning, engineering, architectural, testing, legal and accounting expenses;

(2) Financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(3) Real property assembly costs;

(4) Professional service costs, including, but not limited to, licensing, architectural, planning, engineering and legal expenses;

(5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal or plantation employees in connection with the implementation of a development program;

(6) Relocation costs, including, but not limited to, relocation payments made following condemnation;

(7) Organizational costs relating to the establishment of the district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of development districts and the implementation of project plans; and

(8) In the case of transit-oriented development districts, ongoing costs of adding to an existing transit system or creating a new transit service and limited strictly to transit operator salaries, transit vehicle fuel and transit vehicle parts replacements;

B. Costs of improvements that are made outside the tax increment financing district but are directly related to or are made necessary by the establishment or operation of the district, including, but not limited to:

(1) Costs related to the construction, alteration or expansion of any facilities not located within the district that are required due to improvements or activities within the district, including, but not limited to, sewage treatment plants, water treatment plants or other environmental protection devices; storm or sanitary sewer lines; water lines; electrical lines; improvements to public safety facilities; and amenities on streets;

(2) Costs of public safety improvements related to the establishment of the district; and

(3) Costs of funding to mitigate any adverse impact of the district upon the municipality or plantation and its constituents. This funding may be used for public facilities and improvements if:

(a) The public facilities or improvements are located in a downtown tax increment financing district; and

(b) The entire tax increment from the downtown tax increment financing district is committed to the development program of the tax increment financing district;

C. Costs related to economic development, environmental improvements, fisheries and wildlife or marine resources projects, recreational trails, broadband service development, expansion or improvement, including connecting to broadband service outside the tax increment financing district, employment training or the promotion of workforce development and retention within the municipality or plantation, including, but not limited to:

(1) Costs of funding economic development programs or events developed by the municipality or plantation or funding the marketing of the municipality or plantation as a business or arts location;

(2) Costs of funding environmental improvement projects developed by the municipality or plantation for commercial or arts district use or related to such activities;

(3) Funding to establish permanent economic development revolving loan funds, investment funds and grants;

(4) Costs of services and equipment to provide skills development and training, including scholarships to in-state educational institutions or to online learning entities when in-state options are not available, for jobs created or retained in the municipality or plantation. These costs must be designated as training funds in the development program;

(5) Costs associated with quality child care facilities and adult care facilities, including finance costs and construction, staffing, training, certification and accreditation costs related to child care;

(6) Costs associated with new or existing recreational trails determined by the department to have significant potential to promote economic development, including, but not limited to, costs for multiple projects and project phases that may include planning, design, construction, maintenance, grooming and improvements with respect to new or existing recreational trails, which may include bridges that are part of the trail corridor, used all or in part for all-terrain vehicles, snowmobiles, hiking, bicycling, cross-country skiing or other related multiple uses;

(7) Costs associated with a new or expanded transit service, limited to:

(a) Transit service capital costs, including but not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; and benches, signs and other transit-related infrastructure; and

(b) In the case of transit-oriented development districts, ongoing costs of adding to an existing transit system or creating a new transit service and limited strictly to transit operator salaries, transit vehicle fuel and transit vehicle parts replacements;

(8) Costs associated with the development of fisheries and wildlife or marine resources projects; and

(9) **(CONFLICT: Text as enacted by PL 2019, c. 148, §3)** Costs related to the construction or operation of municipal or plantation public safety facilities, the need for which is related to general economic development within the municipality or plantation, not to exceed 15% of the captured assessed value of the development district; and

(9) **(CONFLICT: Text as enacted by PL 2019, c. 260, §1)** Costs associated with broadband and fiber optics expansion projects, including preparation, planning, engineering and other related costs in addition to the construction costs of those projects. If an area within a municipality or plantation is unserved with respect to broadband service, as defined by the ConnectME Authority as provided in Title 35-A, section 9204-A, subsection 1, broadband and fiber optics expansion projects may serve residential or other nonbusiness or noncommercial areas in addition to business or commercial areas within the municipality or plantation; and

D. Costs of constructing or improving facilities or buildings leased by State Government or a municipal or plantation government that are located in approved downtown tax increment financing districts.

2. Unauthorized project costs. Except as provided in subsection 1, paragraph C, subparagraph (9) and subsection 1, paragraph D, the commissioner may not approve as a project cost the cost of facilities, buildings or portions of buildings used predominantly for the general conduct of government or for public recreational purposes, including, but not limited to, city halls and other headquarters of government where the governing body meets regularly, courthouses, jails and other state and local government office buildings, recreation centers, athletic fields and swimming pools.

3. Limitation. Tax increments received from any development program may not be used to circumvent other tax laws.

§5226. Procedure

1. Notice and hearing. Before designating a development district or adopting a development program, the municipal or plantation legislative body or the municipal or plantation legislative body's designee must hold at least one public hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality or plantation.

2. Review by commissioner. Before final designation of a tax increment financing district, the commissioner shall review the proposal to ensure that the proposal complies with statutory requirements. In the case of a downtown tax increment financing district, the Department of

Agriculture, Conservation and Forestry and the Department of Transportation shall review the proposal and provide advice to assist the commissioner in making a decision under this subsection.

3. Effective date. A designation of a tax increment financing district or a development program for a tax increment financing district is effective upon approval by the commissioner. A designation of a development district other than a tax increment financing district is effective upon approval by the municipal or plantation legislative body. A development program other than a development program for a tax increment financing district is effective upon adoption by the municipal or plantation legislative body.

4. Administration of district. The legislative body of a municipality or plantation may create a department, designate an existing department, office, agency, municipal housing or redevelopment authority or enter into a contractual arrangement with a private entity to administer activities authorized under this chapter.

5. Amendments. A municipality or plantation may amend a designated development district or an adopted development program only after meeting the requirements of this section for designation of a development district or adoption of a development program. A municipality or plantation may not amend the designation of a development district if the amendment would result in the district's being out of compliance with any of the conditions in section 5223, subsection 3.

§5227. Tax increment financing

1. Designation of captured assessed value. A municipality or plantation may retain all or part of the tax increment revenues generated from the increased assessed value of a tax increment financing district for the purpose of financing the development program. The amount of tax increment revenues to be retained is determined by designating the captured assessed value. When a development program for a tax increment financing district is adopted, the municipal or plantation legislative body shall adopt a statement of the percentage of increased assessed value to be retained as captured assessed value in accordance with the development program. The statement of percentage may establish a specific percentage or percentages or may describe a method or formula for determination of the percentage. The municipal assessor or plantation assessor shall certify the amount of the captured assessed value to the municipality or plantation each year.

2. Certification of assessed value. On or after formation of a tax increment financing district, the assessor of the municipality or plantation in which it is located shall certify the original assessed value of the taxable property within the boundaries of the tax increment financing district. Each year after the designation of a tax increment financing district, the municipal assessor or plantation assessor shall certify the amount by which the assessed value has increased or decreased from the original value.

Nothing in this subsection allows or sanctions unequal apportionment or assessment of the taxes to be paid on real property in the State. An owner of real property within the tax increment financing district shall pay real property taxes apportioned equally with property taxes paid elsewhere in the municipality or plantation.

3. Development program fund; tax increment revenues. If a municipality or plantation has designated captured assessed value under subsection 1, the municipality or plantation shall:

A. Establish a development program fund that consists of the following:

(1) A project cost account that is pledged to and charged with the payment of project costs that are outlined in the financial plan and are paid in a manner other than as described in subparagraph (2); and

(2) In instances of municipal or plantation indebtedness, a development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the cost of the development program fund;

B. Annually set aside all tax increment revenues on captured assessed values and deposit all such revenues to the appropriate development program fund account established under paragraph A in the following order of priority:

(1) To the development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 5231 and the financial plan; and

(2) To the project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual project costs to be paid from the account;

C. Make transfers between development program fund accounts established under paragraph A as required, provided that the transfers do not result in a balance in the development sinking fund account that is insufficient to cover the annual obligations of that account; and

D. Annually return to the municipal or plantation general fund any tax increment revenues remaining in the development sinking fund account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development sinking fund account after taking into account any transfers made under paragraph C. The municipality or plantation, at any time, by vote of the municipal or plantation officers, may return to the municipal or plantation general fund any tax increment revenues remaining in the project cost account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development project cost account after taking into account any transfer made under paragraph C. In either case, the corresponding amount of local valuation may not be included as part of the captured assessed value as specified by the municipality or plantation.

§5228. Assessments

1. Assessments. A municipality or plantation may estimate and make the following assessments:

A. A development assessment upon lots or property within the development district. The assessment must be made upon lots or property that have been benefited by improvements constructed or created under the development program and may not exceed a just and

equitable proportionate share of the cost of the improvement. All revenues from assessments under this paragraph are paid into the appropriate development fund program account established under section 5227, subsection 3;

B. A maintenance assessment upon all lots or property within the development district. The assessment must be assessed equally and uniformly on all lots or property receiving benefits from the development program and the continued operation of the public facilities. The total maintenance assessments may not exceed the cost of maintenance and operation of the public facilities within the district. The cost of maintenance and operation must be in addition to the cost of maintenance and operation already being performed by the municipality or plantation within the district when the development district was adopted; and

C. An implementation assessment upon all lots or property within the development district. The assessment must be assessed equally and uniformly on all lots or property receiving benefits from the development program. The implementation assessments may be used to fund activities that, in the opinion of the municipal or plantation legislative body, are reasonably necessary to achieve the purposes of the development program. The activities funded by implementation assessments must be in addition to those already conducted within the district by the municipality or plantation when the development district was adopted.

2. Notice and hearing. Before estimating and making an assessment under subsection 1, the municipality or plantation must give notice and hold a hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality or plantation. The notice must include:

A. The date, time and place of hearing;

B. The boundaries of the development district by legal description;

C. A statement that all interested persons owning real estate or taxable property located within the district will be given an opportunity to be heard at the hearing and an opportunity to file objections to the amount of the assessment;

D. The maximum rate of assessments to be extended in any one year; and

E. A statement indicating that a proposed list of properties to be assessed and the estimated assessments against those properties is available at the city or town office or at the office of the assessor.

The notice may include a maximum number of years the assessments will be levied.

3. Apportionment formula. A municipality or plantation may adopt ordinances apportioning the value of improvements within a development district according to a formula that reflects actual benefits that accrue to the various properties because of the development and maintenance.

4. Increase of assessments and extension of time limits. A municipality or plantation may increase assessments or extend the specified period after notice and hearing as required under subsection 2.

5. Collection. Assessments made under this section must be collected in the same manner as municipal or plantation taxes. The constable or municipal tax collector or plantation assessor has all the authority and powers by law to collect the assessments. If any property owner fails to pay any assessment or part of an assessment on or before the dates required, the municipality or plantation has all the authority and powers to collect the delinquent assessments vested in the municipality or plantation by law to collect delinquent municipal or plantation taxes.

§5229. Rules

The commissioner may adopt rules necessary to carry out the duties imposed by this chapter and to ensure municipal or plantation compliance with this subchapter following designation of a tax increment financing district. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§5230. Grants

A municipality or plantation may receive grants or gifts for any of the purposes of this chapter. The tax increment revenues within a development district may be used as the local match for certain grant programs.

§5231. Bond financing

The legislative body of a municipality or plantation may authorize, issue and sell bonds, including, but not limited to, general obligation or revenue bonds or notes, that mature within 30 years from the date of issue to finance all project costs needed to carry out the development program within the development district. The plantation or municipal officers authorized to issue the bonds or notes may borrow money in anticipation of the sale of the bonds for a period of up to 3 years by issuing temporary notes and notes in renewal of the bonds. All revenues derived under section 5227 or under section 5228, subsection 1 received by the municipality or plantation are pledged for the payment of the activities described in the development program and used to reduce or cancel the taxes that may otherwise be required to be expended for that purpose. The notes, bonds or other forms of financing may not be included when computing the municipality's or plantation's net debt. Nothing in this section restricts the ability of the municipality or plantation to raise revenue for the payment of project costs in any manner otherwise authorized by law.

§5232. Tax exemption

All publicly owned parking structures and pedestrian skyway systems are exempt from taxation by the municipality or plantation, county and State. This section does not exempt any lessee or person in possession from taxes or assessments payable under Title 36, section 551.

§5233. Advisory board

The legislative body of a municipality or plantation may create an advisory board, a majority of whose members must be owners or occupants of real property located in or adjacent to the development district they serve. The advisory board shall advise the legislative body and the designated administrative entity on the planning, construction and implementation of the development program and maintenance and operation of the district after the program has been completed.

§5234. Special provisions

Notwithstanding the provisions of section 5223, subsection 1 and any other provision of law, in the case of investments exceeding $100,000,000 in shipyard facilities in districts authorized prior to June 30, 1999, revenues must be set aside and deposited by the municipality or plantation to the appropriate development program fund account established under section 5227, subsection 3 and expended to satisfy the obligations of the accounts without the need for further action by the municipality or plantation by appropriation or otherwise. Unless otherwise provided by the municipality or plantation in connection with its approval of the district, tax increment revenues on all captured assessed value may not be taken into account for purposes of calculating any limitation on the municipality's or plantation's annual expenditures or appropriations, and the payment of tax increment revenues on captured assessed value is not subject to any limitation or restriction on the municipality's or plantation's authority or power to enter into contracts with respect to making payments for a term equal to the term of the district.

§5235. Unorganized territory

For the purposes of this chapter, a county may act as a municipality for the unorganized territory within the county and may designate development districts within the unorganized territory. When a county acts under this section, the county commissioners act as the municipality and as the municipal legislative body, the State Tax Assessor acts as the municipal assessor and the unorganized territory fund receives the funds designated for the municipal general fund. For purposes of section 5228, the State acts as the municipal assessing authority.

SUBCHAPTER 2
STATE TAX INCREMENT FINANCING DISTRICTS

§5241. Definitions

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

1. Base period. "Base period" means the 3 calendar years preceding the calendar year in which an application for approval of a state tax increment financing district is submitted to the commissioner by a municipality.

2. Affiliated business. "Affiliated business" means 2 businesses exhibiting either of the following relationships:

A. One business owns 50% or more of the stock of the other business or owns a controlling interest in the other; or

B. Fifty percent of the stock or a controlling interest is directly or indirectly owned by a common owner or owners.

3. Affiliated group. "Affiliated group" means a designated business and its corresponding affiliated businesses.

4. Captured assessed value. "Captured assessed value" means the amount, as a percentage or stated sum, of increased assessed value that is utilized from year to year to finance the project costs contained within the development program.

5. Commission. (Repealed)

6. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development.

7. Committee. "Committee" means the Revenue Forecasting Committee established in Title 5, section 1710-E.

8. Designated business. "Designated business" means a business located within the boundaries of a development district and designated by the municipality as a "designated business" for purposes of state tax increment financing.

9. Development district. "Development district" means a specified area within the corporate limits of a municipality that has been designated as provided under section 5226 and that is to be developed by the municipality under a development program.

10. Development program. "Development program" means a statement of means and objectives designed to provide new employment opportunities, retain existing employment, improve or broaden the tax base and improve the physical facilities and structures or the quality of pedestrian and vehicular transportation, as described in section 5224.

11. Financial plan. "Financial plan" means a statement of the project costs and sources of revenue required to accomplish the development program.

12. Gross state tax increment. "Gross state tax increment" means the difference, if any, between the sales and income tax revenues attributable to the state tax increment financing district for the current period and the sales and income tax revenues attributable to the state tax increment financing district for the base period.

13. Market area. "Market area" means a geographic region exclusive of a state tax increment financing district that will be affected by the operation of the district.

14. Project costs. "Project costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5225, subsection 1 and included in a development program.

15. State tax increment. "State tax increment" means the net annual gain, if any, in sales tax paid as a result of taxable events occurring within a state tax increment financing district and the net annual gain, if any, in state income taxes withheld as a result of wages paid for labor performed within the district.

16. State tax increment financing district. "State tax increment financing district" means a type of tax increment financing district, or portion of a district, that uses state tax increment financing under section 5242.

17. Tax increment financing district. "Tax increment financing district" means a type of development district, or portion of a district, that uses tax increment financing under section 5227.

§5242. State tax increment financing

1. Eligibility. Any tax increment financing district designated by a municipality and approved by the commissioner under section 5226, subsection 2 is eligible to be approved as a state tax increment financing district if captured assessed value within the district is created after July 30, 1991, except that, in accordance with subsection 12, no new state tax increment financing district may be created after June 30, 1996.

2. Procedure for establishing state tax increment financing district. A municipality desiring to establish a state tax increment financing district must apply to the commissioner for approval of the proposed state tax increment financing district. The procedure for application is as follows.

A. The proposed state tax increment financing district must be approved locally by vote of the municipal officers of the municipality within which the proposed district will be located. Before approving a state tax increment financing district, the municipal officers must hold at least one public hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the county in which the municipality is located.

B. The municipal officers shall adopt for the proposed state tax increment financing district a development program that identifies all designated businesses within the district and sets forth the amount of sales tax paid by designated businesses in connection with operations within the proposed district, the number of employees at designated businesses and the total state income taxes withheld by designated businesses for the base period. The development program may be combined with or integrated into the development program for the underlying municipal development district pursuant to subchapter I or may be separately stated, maintained and implemented. The development program may specify the allocable shares of the municipality and each designated business for liability for refund of the state tax increment revenues resulting from an audit. That allocation may be made by any means determined by the municipal officers to reasonably reflect the economic benefit derived from operation of the district.

C. Prior to approval of the proposed state tax increment financing district, the committee shall estimate the annual amount to be deposited in the state tax increment contingent account pursuant to subsection 6 for all existing state tax increment financing districts, including the proposed district, and that estimate may be used only in determining compliance with the limitations imposed under subsection 8, paragraphs C and D.

D. The municipality, acting through its municipal officers or their designee, shall submit an application to the commissioner on such form or forms and with such supporting data as the commissioner requires for approval of the proposed state tax increment financing district, including without limitation certifications by the designated businesses as to the average annual number of persons employed by each designated business within the boundaries of the proposed district, the average total state income taxes withheld by designated businesses during the base period and the average annual amount of sales tax remittances paid by each

designated business from operations within the boundaries of the proposed district during the base period.

3. Approval. Prior to issuing a certificate of approval for any state tax increment financing district, the commissioner must determine that:

A. The economic development described in the development program will not go forward without the approval of the state tax increment financing district. This requirement does not apply to the addition of state tax increment financing provisions to municipal development districts that are created prior to June 30, 1992;

B. The proposed district will make a contribution to the economic growth of the State, the control of pollution in the State or the betterment of the health, welfare or safety of the inhabitants of the State; and

C. The economic development described in the development program will not result in a substantial detriment to existing businesses in the State. In order to make this determination, the commissioner shall consider, pursuant to Title 5, chapter 375, subchapter 2, those factors the commissioner determines necessary to measure and evaluate the effect of the proposed district on existing businesses, including:

(1) Whether a proposed district should be approved if, as a result of the benefits to designated businesses, there will not be sufficient demand within the market area of the State to be served by the project to employ the efficient capacity of existing businesses; and

(2) Whether any adverse economic effect of the proposed district on existing businesses is outweighed by the contribution described in paragraph B.

The municipality has the burden of demonstrating that the proposed district will not result in a substantial detriment to existing businesses in accordance with the requirements of this paragraph, including rules adopted pursuant to this paragraph, except that, when no interested parties object to the proposed district, the requirements of this paragraph are deemed satisfied. Interested parties must be given an opportunity, with or without a hearing at the discretion of the commissioner, to present their objections to the proposed district on grounds that the proposed district will result in a substantial detriment to existing businesses. If any interested party presents objections with reasonable specificity and persuasiveness, the commissioner may divulge any information concerning the economic development described in the development program that the commissioner considers necessary for a fair presentation by the objecting party and an evaluation of those objections. If the commissioner finds that the municipality has failed to meet its burden as specified in this paragraph, the application must be denied.

Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Upon approval of the state tax increment financing district, the commissioner shall issue a certificate of approval.

4. Retained state tax revenues. The following provisions govern retained state tax revenues.

A. On or before April 15th of each year, designated businesses located within a state tax increment financing district shall report the amount of sales tax paid in connection with operations within the district, the number of employees within the district, the state income taxes withheld from employees within the district for the immediately preceding calendar year and any further information the State Tax Assessor may reasonably require.

On or before June 30th of each year, the State Tax Assessor shall determine the state tax increment of a district for the preceding calendar year.

B. A municipality may receive up to 25% of the state tax increment revenues generated by or at designated businesses within a state tax increment financing district as determined by the State Tax Assessor subject to the further limitations in subsection 8, and that amount is referred to in this section as "retained state tax increment revenues."

5. Calculation of state tax increment. The State Tax Assessor shall calculate a state tax increment for a particular state tax increment financing district by:

A. Determining the gross state tax increment as applicable to the particular district; [PL 2001, c. 669, §1 (NEW).]

B. Determining the state tax increment as applicable to the particular district by removing from the gross state tax increment:

(1) Revenues attributed to business activity shifted from affiliated businesses to the state tax increment financing district. This adjustment is calculated by comparing the current year's sales and income tax revenues for each designated business that is a member of an affiliated group with revenues for the group as a whole. If the growth in sales and income tax revenue for the entire group exceeds the growth of sales and income tax revenue generated by the designated business, the gross state tax increment does not have to be adjusted to remove business activity shifted from affiliated businesses. If the growth in sales and income tax revenue for the affiliated group is less than the growth in sales and income tax revenue for the designated business, the difference is presumed to have been shifted from affiliated businesses to the designated business and the gross state tax increment for the district is reduced by the difference; and

(2) Revenues attributed to normal growth. This adjustment is calculated by subtracting from the gross state tax increment a figure obtained by multiplying the previous year's total amount of sales taxes reported and income taxes withheld by designated businesses within the district by the percentage change in sales tax receipts and withholding taxes for all businesses within the State as a whole;

C. Offsetting designated businesses with negative tax increments with those with positive increments in determining the state tax increment for the district as a whole; and

D. Excluding all income tax revenue in calculating the state tax increment attributable to retail business operations.

6. State tax increment contingent account created. The Commissioner of Administrative and Financial Services shall establish, maintain and administer the state tax increment contingent account. On or before June 30th of each year, the Commissioner of Administrative and Financial Services shall deposit an amount equal to the total retained state tax increment revenues for the preceding calendar year for approved state tax increment financing districts in the state tax increment contingent account. On or before July 31st of each year, the Commissioner of Administrative and Financial Services shall pay to each municipality an amount equal to the retained state tax increment revenues for the preceding calendar year from all state tax increment financing districts located within that municipality.

7. Application of payment to municipalities. All retained state tax increment revenues paid to a municipality must be deposited in the appropriate development program fund established in section 5227, subsection 3 and invested, used and applied in the manner described in the development program, except that:

A. The amount of retained state tax increment revenues paid to a municipality may not exceed the amount of tax increment revenues generated by the municipality pursuant to section 5227, subsection 3 and required to be deposited in a development program fund account; and

B. All retained state tax increment revenues not required to satisfy the estimated obligations of the development program fund account revert to the State.

8. Limitations. The following limitations apply.

A. A state tax increment financing district may apply only to designated businesses involved in nonretail commercial activities, including, but not limited to, manufacturing, wholesaling, warehousing, distribution, office, administration and other service-related commercial activities. Notwithstanding this paragraph, a state tax increment financing district may apply to designated businesses involved in retail commercial activities pursuant to subsection 9. The state tax increment must be calculated pursuant to this section.

B. A development program for a state tax increment financing district must identify all designated businesses within the district and specify the direct financial benefits to be provided to the designated businesses, if any. A municipality may designate a business relocating from another location in this State, when that relocation involves moving the locus of employment and sales, only if the municipal officers find that the relocation will result in an increase in the amount of sales or the number of employees of the business above the average annual sales and employment levels at the prior location during the base period. When such a relocating business is designated, the sales tax, the number of employees and the state income taxes withheld for the base period must be those reported in the development program for that business at its prior location.

C. The retained state tax increment revenues attributable to an individual state tax increment financing district may not exceed 10% of the aggregated total allowed within the state tax increment contingent account.

D. At no time may the aggregate annual retained state tax increment revenues for all state tax increment financing districts exceed $20,000,000.

E. A transfer of ownership interest in or any of the assets of an existing business may not be construed as creating newly generated state tax revenues except to the extent of actual increase in the amount of sales or the number of employees above the average annual sales and employment levels during the base period.

F. State tax increment revenues received by a municipality pursuant to subsection 4 may be used by the municipality to offset up to 1/2 of existing tax increment financing obligations arising under section 5227.

G. State tax increment revenues received by a municipality with respect to a particular state tax increment financing district pursuant to subsection 4 may not exceed the amount of estimated state tax increment revenues contained in the district's development program approved by the commissioner pursuant to subsection 2.

9. Districts containing retail business operations. The commissioner shall approve a state tax increment financing district in which a retail business operation is a designated business upon making a factual determination that the following conditions are satisfied:

A. The district will result in total annual sales tax revenues equal to or greater than $3,000,000 or the district involves, aids or otherwise relates to downtown redevelopment. For purposes of this subsection, "downtown redevelopment" means any rehabilitation or improvement of an area described in the development program that has been used primarily for retail trade and related purposes for at least 25 years, is identified in the municipality's comprehensive plan or zoning ordinance as an area designated for retail trade and related uses and is a blighted area or an area in need of rehabilitation or redevelopment; and

B. A state tax increment is likely to result from the district and that increment will not include sales tax revenues derived from a transferring or shifting of retail sales from another geographic area within the State to the district.

The municipality making the application bears the burden of proving to the commissioner by a preponderance of the evidence that the district satisfies the criteria under paragraphs A and B. For purposes of this subsection, "retail business operation" means a business location engaged in making retail sales of consumer goods for household use to consumers who personally visit the location to purchase the goods.

10. Duration of state designation. State tax increment financing districts have a maximum duration of 10 years.

11. Program; administration. The commissioner shall administer this subchapter. The commissioner shall adopt rules pursuant to the Maine Administrative Procedure Act for implementation of the program, including, but not limited to, rules for determining and certifying eligibility and, in consultation with the State Tax Assessor, the amount of the tax increment attributable to particular districts. The commissioner may also establish by rule fees for administration of the program, including fees payable to the State Tax Assessor for obligations under this Part. All fees collected pursuant to this subsection must be deposited into the General Fund. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

12. Designation of new state tax increment financing districts prohibited. The designation of new state tax increment financing districts is prohibited, subject to review by the joint standing committees of the Legislature having jurisdiction over economic development and taxation matters. Designation of new state tax increment financing districts may be resumed only by act of the Legislature.

13. Confidential information. The following records are confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. Any record obtained or developed by a municipality, the commissioner or the State Tax Assessor for designation or approval of a state tax increment financing district. After receipt by the municipality, the commissioner or the State Tax Assessor of the application or proposal, a record pertaining to the application or proposal is not considered confidential unless it meets the requirements of paragraphs B to F;

B. Any record obtained or developed by a municipality, the commissioner or the State Tax Assessor when:

(1) A person, which may include a municipality, to whom the record belongs or pertains has requested that the record be designated confidential; or

(2) The municipality has determined that information in the record gives the owner or a user of that information an opportunity to obtain business or competitive advantage over another person who does not have access to the information or that access to the information by others would result in a business or competitive disadvantage, loss of business or other significant detriment to any person to whom the record belongs or pertains;

C. Any record, including any financial statement or tax return, obtained or developed by the municipality, the commissioner or the State Tax Assessor, the disclosure of which would constitute an invasion of personal privacy, as determined by the governmental entity in possession of that record or information;

D. Any record, including any financial statement or tax return, obtained or developed by the municipality, the commissioner or the State Tax Assessor in connection with any monitoring or servicing activity by the municipality, the commissioner or the State Tax Assessor that pertains to a state tax increment financing district;

E. Any record obtained or developed by the municipality, the commissioner or the State Tax Assessor that contains an assessment by a person who is not employed by that municipality or the State of the creditworthiness or financial condition of any person or project; and

F. Any financial statement if a person to whom the statement belongs or pertains has requested that the record be designated confidential.

A person may not knowingly divulge or disclose records determined confidential by this subsection.

14. Audit process. Nothing in this section may be construed to limit the State Tax Assessor's authority to conduct an audit of any taxpayer included as a designated business in a development program pursuant to subsection 2, paragraph B. If distributions are made to a

municipality with respect to a state tax increment financing district, the designated businesses within that district are subject to audit. When it is determined by the State Tax Assessor upon audit that a municipality has received a distribution larger than that to which it is entitled under this section, the overpayment must be applied against subsequent distributions. When there is not a subsequent distribution, the designated business or businesses to which overpayments were made are liable for the amount of the overpayments and may be assessed pursuant to Title 36.

§5243. Development program fund; state tax increment revenues

If a municipality has designated captured assessed value under section 5227, subsection 1, the municipality shall annually set aside all state tax increment revenues payable to the municipality for public purposes and deposit all such revenues to the appropriate development program fund account in the following priority:

1. Development sinking fund account. To the development sinking fund account established pursuant to section 5227, subsection 3, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 5231 and the financial plan; and

2. Project cost account. To the project cost account established pursuant to section 5227, subsection 3, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual project costs to be paid from the account.

§5244. Previously designated districts

Development districts and development programs designated before the effective date of this chapter remain in effect as authorized by law at the time of their designation and are governed by former chapter 207 as it existed immediately before its repeal except to the extent of any amendments to such development districts and development programs that are made in accordance with this chapter.

SUBCHAPTER 3
MUNICIPAL AFFORDABLE HOUSING DEVELOPMENT DISTRICTS

§5245. Findings and declaration of necessity

1. Legislative finding. The Legislature finds that there is a need for the development of affordable, livable housing and the containment of the costs of unplanned growth in Maine municipalities.

2. Authorization. For the reasons set out in subsection 1, a municipality may develop a program to provide impetus for affordable housing development within a district of the municipality, as provided in the comprehensive plan adopted by the legislative body of the municipality.

3. Declaration of public purpose. It is declared that the actions required to assist the implementation of affordable housing development programs are a public purpose and that the execution and financing of these programs are a public purpose.

§5246. Definitions

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

1. Affordable housing. "Affordable housing" means a decent, safe and sanitary dwelling, apartment or other living accommodation for a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended.

2. Affordable housing development district. "Affordable housing development district" or "district" means a specified area within the corporate limits of a municipality that has been designated as provided under sections 5247 and 5250 to be developed under an affordable housing development program and financed under section 5250-A.

3. Affordable housing development program. "Affordable housing development program" or "program" means a statement of means and objectives designed to encourage the development and maintenance of affordable housing within an affordable housing development district.

4. Amenities. "Amenities" means items of street furniture, signs and landscaping, including, but not limited to, plantings, benches, trash receptacles, street signs, sidewalks and pedestrian malls.

5. Authority. "Authority" means the Maine State Housing Authority.

6. Captured assessed value. "Captured assessed value" means the amount, as a percentage or stated sum, of increased assessed value that is utilized from year to year to finance the project costs contained within the affordable housing development program.

7. Current assessed value. "Current assessed value" means the assessed value of the district certified by the municipal assessor as of April 1st of each year that the affordable housing development district remains in effect.

8. Director. "Director" means the Director of the Maine State Housing Authority.

9. Financial plan. "Financial plan" means a statement of the project costs and sources of revenue required to accomplish the affordable housing development program.

10. Increased assessed value. "Increased assessed value" means the valuation amount by which the current assessed value of an affordable housing development district exceeds the original assessed value of the district. If the current assessed value is equal to or less than the original, there is no increased assessed value.

11. Maintenance and operation. "Maintenance and operation" means all activities necessary to maintain affordable housing after development and all activities necessary to operate the affordable housing, including, but not limited to, informational, promotional, safety and surveillance activities.

12. Original assessed value. "Original assessed value" means the assessed value of an affordable housing development district as of March 31st of the tax year preceding the year in which it was designated, and, for affordable housing development districts designated on or after April 1, 2014, "original assessed value" means the taxable assessed value of an affordable housing development district as of March 31st of the tax year preceding the year in which it was designated by the municipality or plantation.

13. Project costs. "Project costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5249, subsection 1 and included in an affordable housing development program.

14. Tax increment. "Tax increment" means real property taxes assessed by a municipality, in excess of any state, county or special district tax, upon the increased assessed value of property in the affordable housing development district.

15. Tax shifts. "Tax shifts" means the effect on a municipality's state revenue sharing, education subsidies and county tax obligations that results from the designation of an affordable housing development district and the capture of increased assessed value.

16. Tax year. "Tax year" means the period of time beginning on April 1st and ending on the succeeding March 31st.

§5247. Affordable housing development districts

1. Creation. A municipal legislative body may designate an affordable housing development district within the boundaries of the municipality in accordance with the requirements of this subchapter. If the municipality has a charter, the designation of an affordable housing development district may not be in conflict with the provisions of the municipal charter.

2. Considerations for approval. Before designating an affordable housing development district within the boundaries of a municipality, or before establishing an affordable housing development program for a designated affordable housing development district, the legislative body of a municipality must consider whether the proposed district or program will contribute to the expansion of affordable housing opportunities within the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality. Interested parties must be given a reasonable opportunity to present testimony concerning the proposed district or program at the hearing provided for in section 5250, subsection 1. If an interested party claims at the public hearing that the proposed district or program will result in a substantial detriment to that party's existing property interests in the municipality and produces substantial evidence to that effect, the legislative body shall consider that evidence. When considering that evidence, the legislative body also shall consider whether any adverse economic effect of the proposed district or program on that interested party's existing property interests in the municipality is outweighed by the contribution made by the district or program to the availability of affordable housing within the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality.

3. Conditions for approval. Designation of an affordable housing development district is subject to the following conditions.

A. At least 25%, by area, of the real property within an affordable housing development district must:

(1) Be suitable for residential use;

(2) Be a blighted area; or

(3) Be in need of rehabilitation or redevelopment.

B. The affordable housing development district is subject to the area cap established in section 5223, subsection 3, paragraph B.

C. The original assessed value of a proposed affordable housing development district plus the original assessed value of all existing affordable housing development districts within the municipality may not exceed 5% of the total value of taxable property within the municipality as of April 1st preceding the date of the director's approval of the designation of the proposed affordable housing development district.

D. (Repealed)

E. The affordable housing development program must show that the development meets an identified community housing need. The affordable housing development program must provide a mechanism to ensure the ongoing affordability for a period of at least 10 years for single-family, owner-occupied units and 30 years for rental units.

F. (Repealed)

G. The district must be primarily a residential development on which at least 33% of the dwelling units are affordable housing and that may be designed to be compact and walkable and to include internal open space, other common open space and one or more small-scale nonresidential uses of service to the residents of the development.

4. Powers of municipality. Within an affordable housing development district and consistent with an affordable housing development program, a municipality may acquire, construct, reconstruct, improve, preserve, alter, extend, operate or maintain property or promote development intended to meet the objectives of the affordable housing development program. Pursuant to the affordable housing development program, the municipality may acquire property, land or easements through negotiation or by using eminent domain powers in the manner authorized for community development programs under section 5204. The municipality's legislative body may adopt ordinances regulating traffic in and access to any facilities constructed within the affordable housing development district. The municipality may install public improvements.

§5248. Affordable housing development programs

1. Adoption. The legislative body of a municipality shall adopt an affordable housing development program for each affordable housing development district. The affordable housing development program must be adopted at the same time as the district as part of the district adoption proceedings or, if at a different time, in the same manner as adoption of the district, with the same notice and hearing requirements of section 5250. Before adopting an affordable housing development program, the municipal legislative body shall consider the factors and evidence specified in section 5247.

2. Requirements. The affordable housing development program must include:

A. A financial plan in accordance with subsection 3;

B. A description of facilities, improvements or programs to be financed in whole or in part by the affordable housing development program;

C. Plans for the relocation of persons displaced by the development activities;

D. The environmental controls to be applied;

E. The proposed operation of the affordable housing development district after the planned improvements are completed;

F. An assurance that the program complies with section 4349-A;

G. The duration of the program, which may start during any tax year specified in the approval of the affordable housing development program by a municipal legislative body, except that the program may not exceed 30 years after the tax year in which the designation of the district is approved by the director as provided in section 5250, subsection 3; and

H. All documentation submitted to or prepared by the municipality under section 5247, subsection 2.

3. Financial plan for affordable housing development district. The financial plan for an affordable housing development district must include:

A. Cost estimates for the affordable housing development program;

B. The amount of public indebtedness to be incurred;

C. Sources of anticipated revenues;

D. A description of the terms and conditions of any agreements, contracts or other obligations related to the affordable housing development program; and

E. For each year of the affordable housing development program:

(1) Estimates of increased assessed values of the district;

(2) The portion of the increased assessed values to be applied to the affordable housing development program as captured assessed values and resulting tax increments in each year of the program; and

(3) A calculation of the tax shifts resulting from designation of the affordable housing development district.

4. Limitation. For affordable housing development districts, a municipality may expend the tax increments received for any affordable housing development program only in accordance with the financial plan.

§5249. Project costs

1. Authorized project costs. The director shall review proposed project costs to ensure compliance with this subsection. Authorized project costs are:

A. Costs of improvements made within the affordable housing development district, including, but not limited to:

(1) Capital costs, including, but not limited to:

(a) The acquisition of land or construction of public infrastructure improvements for affordable housing development;

(b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;

(c) Site preparation and finishing work; and

(d) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expenses and planning, engineering, architectural, testing, legal and accounting expenses;

(2) Financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(3) Real property assembly costs;

(4) Professional service costs, including, but not limited to, licensing, architectural, planning, engineering and legal expenses;

(5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of an affordable housing development program;

(6) Relocation costs, including, but not limited to, relocation payments made following condemnation;

(7) Organizational costs relating to the establishment of the affordable housing district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of affordable housing development districts and the implementation of project plans;

(8) Costs of facilities used predominantly for recreational purposes, including, but not limited to, recreation centers, athletic fields and swimming pools;

(9) Costs for child care, including finance costs and construction, staffing, training, certification and accreditation costs related to child care located in the affordable housing development district;

(10) Costs of case management and support services; and

(11) Operating costs, including but not limited to property management and administration, utilities, routine repairs and maintenance, insurance, real estate taxes and funding of a projects capital reserve account; and

B. Costs of improvements that are made outside the affordable housing development district but are directly related to or are made necessary by the establishment or operation of the district, including, but not limited to:

(1) That portion of the costs reasonably related to the construction, alteration or expansion of any facilities not located within the district that are required due to improvements or activities within the district, including, but not limited to, sewage treatment plants, water treatment plants or other environmental protection devices; storm or sanitary sewer lines; water lines; electrical lines; improvements to fire stations; and amenities on streets;

(2) Costs of public safety improvements made necessary by the establishment of the district;

(3) Costs of funding to mitigate any adverse impact of the district upon the municipality and its constituents. This funding may be used for funding public kindergarten to grade 12 costs and public facilities and improvements; and

(4) Costs to establish permanent housing development revolving loan funds or investment funds.

2. Limitation. Tax increments received from any affordable housing development program may not be used to circumvent other tax laws.

§5250. Procedure

1. Notice and hearing. Before designating an affordable housing development district or adopting an affordable housing development program, the municipal legislative body or the municipal legislative body's designee must hold at least one public hearing on the proposed district. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality.

2. Review by director. Before final designation of an affordable housing development district, the director shall review the proposal for the district to ensure that the proposal complies with statutory requirements.

3. Effective date. A designation of an affordable housing development district is effective upon approval by the director.

4. Administration of district. The legislative body of a municipality may create a department, designate an existing department, office, agency, municipal housing or redevelopment authority or enter into a contractual arrangement with a private entity to administer activities authorized under this subchapter.

5. Amendments. A municipality may amend a designated affordable housing development district or an adopted affordable housing development program only after meeting the requirements of this section for designation of an affordable housing development district or adoption of an affordable housing development program. A municipality may not amend the designation of an affordable housing development district if the amendment would result in the district's being out of compliance with any of the conditions in section 5247, subsection 3.

§5250-A. Affordable housing tax increment financing

1. Designation of captured assessed value. A municipality may retain all or part of the tax increment revenues generated from the increased assessed value of an affordable housing development district for the purpose of financing the affordable housing development program. The amount of tax increment revenues to be retained is determined by designating the captured assessed value. When an affordable housing development program for an affordable housing development district is adopted, the municipal legislative body shall adopt a statement of the percentage of increased assessed value to be retained as captured assessed value in accordance with the affordable housing development program. The statement of percentage may establish a specific percentage or percentages or may describe a method or formula for determination of the percentage. The municipal assessor shall certify the amount of the captured assessed value to the municipality each year.

2. Certification of assessed value. Upon or after the formation of an affordable housing development district, the assessor of the municipality in which the district is located shall certify the original assessed value of the taxable property within the boundaries of the affordable housing development district. Each year after the designation of an affordable housing development district, the municipal assessor shall certify the amount by which the assessed value has increased or decreased from the original value.

Nothing in this subsection allows or sanctions unequal apportionment or assessment of the taxes to be paid on real property in the State. An owner of real property within the affordable housing development district pays real property taxes apportioned equally with property taxes paid elsewhere in the municipality.

3. Affordable housing development program fund; affordable housing tax increment revenues. If a municipality has designated captured assessed value under subsection 1, the municipality shall:

A. Establish an affordable housing development program fund that consists of the following:

(1) A project cost account that is pledged to and charged with the payment of project costs that are outlined in the financial plan and are paid in a manner other than as described in subparagraph (2); and

(2) In instances of municipal indebtedness, a development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest

and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the cost of the affordable housing development program fund;

B. Annually set aside all affordable housing tax increment revenues on captured assessed values and deposit all such revenues to the appropriate affordable housing development program fund account established under paragraph A in the following order of priority:

(1) To the affordable housing development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 5250-D and the financial plan; and

(2) To the affordable housing project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual affordable housing project costs to be paid from the account;

C. Make transfers between affordable housing development program fund accounts established under paragraph A as required, provided that the transfers do not result in a balance in the affordable housing development sinking fund account that is insufficient to cover the annual obligations of that account; and

D. Annually return to the municipal general fund any tax increment revenues remaining in the affordable housing development sinking fund account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development sinking fund account after taking into account any transfers made under paragraph C. The municipality, at any time, by vote of the municipal officers, may return to the municipal general fund any tax increment revenues remaining in the project cost account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development project cost account after taking into account any transfer made under paragraph C. In either case, the corresponding amount of local valuation may not be included as part of the captured assessed value as specified by the municipality.

§5250-B. Rules

The director may adopt rules necessary to carry out the duties imposed by this subchapter and to ensure municipal compliance with this subchapter following designation of an affordable housing development district. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§5250-C. Grants

A municipality may receive grants or gifts for any of the purposes of this subchapter. The tax increment revenues within an affordable housing development district may be used as the local match for certain grant programs.

§5250-D. Bond financing

The legislative body of a municipality may authorize, issue and sell bonds, including but not limited to general obligation or revenue bonds or notes, that mature within 30 years from the date

of issue to finance all project costs needed to carry out the affordable housing development program within the affordable housing development district. The municipal officers authorized to issue the bonds or notes may borrow money in anticipation of the sale of the bonds for a period of up to 3 years by issuing temporary notes and notes in renewal of the bonds. All revenues derived under section 5250-A received by the municipality are pledged for the payment of the activities described in the affordable housing development program and used to reduce or cancel the taxes that may otherwise be required to be expended for that purpose. The notes, bonds or other forms of financing may not be included when computing the municipality's net debt. Nothing in this section restricts the ability of the municipality to raise revenue for the payment of project costs in any manner otherwise authorized by law.

§5250-E. Administration

1. Reports. The legislative body of a municipality must report annually to the director regarding the status of an affordable housing development district. The report must:

A. Certify that the public purpose of the affordable housing district, as outlined in this subchapter, is being met;

B. Account for any sales of property within the district; and

C. Certify that rental units within the affordable housing development district have remained affordable.

2. Recovery of public funds. The authority shall develop by rule provisions for recovery of public revenue if conditions for approval of an affordable housing development district are not maintained for the duration of the district. Rules adopted by the authority pursuant to this subsection must be submitted to the Legislature in accordance with Title 5, chapter 375, subchapter 2-A.

§5250-F. Advisory board

The legislative body of a municipality may create an advisory board, a majority of whose members must be owners or occupants of real property located in or adjacent to the affordable housing development district they serve. The advisory board shall advise the legislative body on the planning and implementation of the affordable housing development program, the construction of the district and the maintenance and operation of the district after the program has been completed.

§5250-G. Unorganized territory

For the purposes of this subchapter, a county may act as a municipality for the unorganized territory within the county and may designate affordable housing development districts within the unorganized territory. When a county acts under this section, the county commissioners act as the municipality and as the municipal legislative body, the State Tax Assessor acts as the municipal assessor and the unorganized territory fund receives the funds designated for the municipal general fund.

SUBCHAPTER 4
PINE TREE DEVELOPMENT ZONES

§5250-H. Findings and declaration of necessity

1. Legislative finding. The Legislature finds that there is a need to encourage development in economically distressed areas of the State in order to:

A. Provide new employment opportunities;

B. Improve existing employment opportunities;

C. Improve and broaden the tax base; and

D. Improve the general economy of the State.

2. Authorization. For the reasons set out in subsection 1, a unit of local government, or 2 or more cooperating units of local government, may develop a program for improving a district within its collective boundaries:

A. To provide impetus for targeted business development;

B. To increase employment; and

C. To provide the facilities outlined in the development program adopted by the participating units of local government.

3. Declaration of public purpose. The Legislature declares that the actions required to assist the implementation of these development programs are a public purpose and that the execution and financing of these programs are a public purpose.

§5250-I. Definitions

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

1. Affiliated business. "Affiliated business" means a member of a group of 2 or more businesses in which more than 50% of the voting stock of each member corporation or more than 50% of the ownership interest in a business other than a corporation is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member businesses.

2. Applicant. (Repealed)

3. Average employment during base period. "Average employment during the base period" for a business means the total number of employees of that business as of each March 31st, June 30th, September 30th and December 31st of the base period, divided by 12.

4. Base level of employment. "Base level of employment" means the greater of either the total employment in the State of a business as of March 31st, June 30th, September 30th and

December 31st of the calendar year immediately preceding the year of the business's application to become a certified Pine Tree Development Zone business divided by 4 or its average employment during the base period. Pursuant to section 5250-J, subsection 4-A, "base level of employment" may be adjusted to mean 25% of the average number of employees of that business over the 3 months immediately preceding the catastrophic occurrence.

Pursuant to section 5250-J, subsection 4-C, "base level of employment" must be adjusted for a qualified business that has more than one location in the State and creates 250 or more jobs at one of these locations, so that the base level of employment is calculated from the location of the significant employment expansion of 250 jobs or more on the basis of that specific location.

5. Base period. "Base period" means the 3 calendar years prior to the year in which a business applies to be certified as a qualified Pine Tree Development Zone business.

5-A. Catastrophic occurrence. "Catastrophic occurrence" means accidental fire, flood, hurricane, windstorm, earthquake or other similar event.

5-B. Call center. "Call center" means a business enterprise that employs 50 or more full-time employees for the purpose of customer service.

6. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development.

7. Department. "Department" means the Department of Economic and Community Development.

7-A. Experiential tourism. "Experiential tourism" means tourism that allows individuals to be active participants in outdoor recreational activities including but not limited to: hiking, camping, birding and other wildlife viewing, nature photography, visits to historical and cultural sites and museums, nature tourism, adventure tourism and ecotourism.

8. Financial services. "Financial services" means services provided by an insurance company subject to taxation under Title 36, chapter 357; a captive insurance company formed or licensed under Title 24-A, chapter 83; a financial institution subject to taxation under Title 36, chapter 819; or a mutual fund service provider.

9. Labor market average weekly wage. "Labor market average weekly wage" means the average weekly wage as published by the Department of Labor for the labor market or markets in which potential qualified Pine Tree Development Zone employees are located for the 12 most recently reported months preceding the date of application.

10. Labor market unemployment rate. "Labor market unemployment rate" means the average unemployment rate as published by the Department of Labor for the labor market or markets in which potential qualified Pine Tree Development Zone employees are located for the 12 most recently reported months preceding the date of application.

11. Manufacturing. "Manufacturing" means:

A. The production of tangible personal property intended to be sold or leased ultimately for final use or consumption;

B. The production of tangible personal property pursuant to a contract with the Federal Government or any agency thereof; or

C. To make, process, convert or transform raw materials, components or parts into finished goods or products for final use or consumption to meet customer expectations or specifications.

11-A. Military redevelopment zone. "Military redevelopment zone" means a specified area within a municipality that is contained within a labor market that includes a military facility that sustained a loss of 400 or more employed workers, if the loss was caused by a federal military facility closure or downsizing, during the 5-year period immediately preceding the time of application for designation as a military redevelopment zone, or is projected to sustain a loss of 400 or more employed workers during the 5-year period immediately following the time of application, and has been designated by the commissioner as a military redevelopment zone under section 5250-J, subsection 3-A.

11-B. Mutual fund service provider. "Mutual fund service provider" means a taxpayer, as defined in Title 36, section 111, subsection 7, subject to tax under Title 36, Part 8 other than a financial institution as defined in Title 36, section 5206-D, subsection 8, that derives more than 50% of its gross income from the direct or indirect provision of management, distribution or administration services to or on behalf of a regulated investment company or from trustees, sponsors and participants of employee benefit plans that have accounts in a regulated investment company.

12. Person. (Repealed)

13. Pine Tree Development Zone. "Pine Tree Development Zone" or "zone" means a specified area within the boundaries of the State that has been designated by the commissioner as a Pine Tree Development Zone in accordance with section 5250-J, subsection 3-A or 3-B.

14. Pine Tree Development Zone benefits. "Pine Tree Development Zone benefits" means:

A. The exclusion from the limitations established under section 5223, subsection 3 of tax increment financing districts included within a Pine Tree Development Zone;

B. Expanded employment tax increment financing benefits under Title 36, chapter 917;

C. The sales tax exemption under Title 36, section 1760, subsection 87 and the sales tax reimbursement under Title 36, section 2016;

D. The Pine Tree Development Zone tax credits provided by Title 36, sections 2529 and 5219-W;

E. Discounted rates approved by the Public Utilities Commission, if applicable, and offered by transmission and distribution utilities as authorized under Title 35-A, section 3210-E, subsection 1; and

F. Line extensions and conservation programs approved or authorized under Title 35-A, section 3210-E.

15. Production. (Repealed)

16. Qualified business activity. "Qualified business activity" means a business activity that is conducted within a Pine Tree Development Zone and is directly related to financial services, manufacturing or a targeted technology business for which the business receives a letter of certification from the commissioner pursuant to section 5250-O.

17. Qualified Pine Tree Development Zone business. "Qualified Pine Tree Development Zone business" or "qualified business" means any for-profit business in this State engaged in or that will engage in financial services, manufacturing or a targeted technology business that has added or will add at least one qualified Pine Tree Development Zone employee above its base level of employment in this State and that meets the following criteria:

A. It demonstrates that the establishment or expansion of operations within the Pine Tree Development Zone would not occur within the State absent the availability of the Pine Tree Development Zone benefits and provides, at a minimum, a signed and notarized statement to this effect. The department shall determine whether the business has met the requirements of this paragraph; and

B. It has received a letter of certification as a qualified business pursuant to section 5250-O.

18. Qualified Pine Tree Development Zone employees. Except for employees in call centers in Aroostook and Washington counties, "qualified Pine Tree Development Zone employees" means new, full-time employees hired in this State by a qualified Pine Tree Development Zone business for work directly in one or more qualified business activities for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461, as amended, and group health insurance are provided and whose income derived from employment within the Pine Tree Development Zone, calculated on a calendar year basis, is greater than the most recent annual per capita personal income in the county in which the qualified employee is employed. "Qualified Pine Tree Development Zone employees" does not include employees shifted to a qualified business activity from a nonqualified activity of the qualified Pine Tree Development Zone business or an affiliated business. The commissioner shall determine whether a shifting of employees has occurred.

For employees in call centers in Aroostook and Washington counties, "qualified Pine Tree Development Zone employees" means new, full-time employees hired in this State by a qualified Pine Tree Development Zone business for work directly in one or more qualified business activities for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461, as amended, and group health insurance are provided and whose income derived from employment within the Pine Tree Development Zone, calculated on a weekly basis, is greater than the average weekly wage for the most recent available calendar year as derived from the quarterly census of employment and wages and provided annually by the Department of Labor. The calculation of the average weekly wage must include data from the counties of Androscoggin, Aroostook, Franklin, Hancock, Kennebec, Knox, Lincoln, Oxford, Penobscot, Piscataquis, Sagadahoc, Somerset, Waldo and Washington. Notwithstanding this subsection, with respect to employees in call centers in Aroostook and Washington counties, in a county in which the average annual unemployment rate at the time of certification for the most recent calendar year is greater than the state average for the same year, the wage threshold is 90% of the average weekly wage as derived from the quarterly census of employment and wages.

Notwithstanding this subsection, with respect to a call center in Aroostook or Washington county and upon approval of the commissioner, a qualified business located in a county in which the average annual unemployment rate at the time of certification for the most recent calendar year is greater than the state average for that same year qualifies for a phase-in of salary threshold requirements. A qualified business under this provision must meet 70% of the average weekly wage as derived from the quarterly census of employment and wages in the first year of certification, 80% of the average weekly wage as derived from the quarterly census of employment and wages in the 2nd year of certification and 90% of the average weekly wage as derived from the quarterly census of employment and wages in all following years of certification. Failure to meet any of these requirements results in automatic revocation of certification. "Qualified Pine Tree Development Zone employees" does not include employees shifted to a qualified business activity from a nonqualified activity of the qualified Pine Tree Development Zone business or an affiliated business. The commissioner shall determine whether a shifting of employees has occurred.

18-A. Quarterly census of employment and wages. "Quarterly census of employment and wages" means the comprehensive tabulation of employment and wage information for workers produced by the quarterly census of employment and wages program, a cooperative program involving the federal Department of Labor, Bureau of Labor Statistics and the state employment security agencies.

19. State average weekly wage. "State average weekly wage" means the average weekly wage as published by the Department of Labor for the State as a whole for the 12 most recently reported months preceding the date of application.

20. State unemployment rate. "State unemployment rate" means the average unemployment rate published by the Department of Labor for the State as a whole for the 12 most recently reported months preceding the date of application.

21. Targeted technology business. "Targeted technology business" means a business primarily involved in a targeted technology as defined in Title 5, section 15301.

21-A. Tier 1 location. "Tier 1 location" means a location designated by the department to be eligible for Pine Tree Development Zone benefits for a period of 10 years.

21-B. Tier 2 location. "Tier 2 location" means a location designated by the department to be eligible for Pine Tree Development Zone benefits for a period of 5 years. After the 5 years, all Pine Tree Development Zone benefits expire, except for the expanded employment tax increment financing benefits under Title 36, chapter 917, which must be recalculated at that time to reflect the standard rates under that chapter.

22. Unit of local government. "Unit of local government" means a municipality, county, plantation, unorganized territory or Indian tribe.

23. Working waterfront. "Working waterfront" means a parcel of land abutting water subject to tidal influence or land located in the intertidal zone that is used primarily or predominantly to provide access to or support the conduct of commercial fishing and marine activities. For purposes of this subsection, "parcel" includes an entire unit of real estate notwithstanding the fact that it is divided by a road, way, railroad or pipeline.

24. Working waterfront industry. "Working waterfront industry" means an industry primarily involved in supporting commercial fishing, marine and boat building activities.

§5250-J. Pine Tree Development Zones

1. Creation. (Repealed)

2. Requirements for designation. The commissioner shall adopt rules establishing the minimum requirements for the designation of Pine Tree Development Zones pursuant to subsections 3-A and 3-B.

2-A. Application for designation as military redevelopment zone. (Repealed)

3. Limitations. The designation of Pine Tree Development Zones is subject to the following limitations:

A. (Repealed)

B. (Repealed)

C. Pine Tree Development Zone benefits may not be used to encourage or facilitate the transfer of existing positions or property of a qualified business or affiliated businesses to a qualified business activity from a nonqualified activity elsewhere in the State;

D. Pine Tree Development Zone benefits may not be provided based upon any property, employees or positions transferred by the business or affiliated businesses to a qualified business activity from a nonqualified activity; and

E. (Repealed)

F. One or more qualified Pine Tree Development Zone business activities must be a permissible activity in the Pine Tree Development Zone.

G. (Repealed)

H. (Repealed)

3-A. Pine Tree Development Zone classification; tier 1 locations. Beginning January 1, 2009, the department shall classify the following on an annual basis as tier 1 locations:

A. From January 1, 2009 to December 31, 2009, all units of local government;

B. Beginning January 1, 2010, a unit of local government that is contained in a county other than Cumberland County or York County, as well as a unit of local government that is contained in Cumberland County or York County with a municipal unemployment rate that is 15% higher than its labor market unemployment rate, based upon data published by the Department of Labor from the last completed calendar year;

C. A unit of local government that has been designated by the department as a participating municipality in the Pine Tree Development Zone program as of December 31, 2008;

D. Property within a military redevelopment zone as long as the property is classified by the department no later than December 31, 2018;

E. Washington County, the Downeast region and the City of Sanford, including 3 pilot projects to be established by the commissioner:

(1) A pilot project for the property of the former Cutler naval computer and telecommunications station and a pilot project for the City of Sanford, which may be excluded from the qualified business definitions established under section 5250-I, subsections 16 and 17 if a for-profit business is engaged in, or will engage in, tourism development including recreational tourism, experiential tourism, hotel development and theme park resort facility development; and

(2) A pilot project that allows seasonal employees in seasonal industries based on natural resources to be considered qualified Pine Tree Development Zone employees for the purposes of section 5250-I, subsection 18; and

F. Beginning January 1, 2016, the Town of Berwick in York County.

3-B. Pine Tree Development Zone classification; tier 2 locations. Beginning January 1, 2010, the department shall classify the following units of local government on an annual basis as tier 2 locations:

A. All units of local government contained in Cumberland County or York County that are not classified as tier 1 locations pursuant to subsection 3-A.

4. Application. (Repealed)

4-A. Catastrophic occurrence; benefits. A qualified Pine Tree Development Zone business whose primary purpose is to support the State's working waterfront industry may apply for an adjustment of the base level of employment as described in this section, if it meets the following criteria:

A. It is located on a working waterfront in a Pine Tree Development Zone;

B. It has sustained at least a 5% loss of employed workers due to a catastrophic occurrence; and

C. It has appropriate infrastructure and zoning or other land use regulations in place.

For the purposes of this section and calculation of Pine Tree Development Zone benefits in section 5250-I, subsection 14, the base level of employment may be adjusted to mean 25% of the average number of employees of that business over the 3 months immediately preceding the catastrophic occurrence. A qualified business must apply for an adjustment of the base level of employment within 16 months of the catastrophic occurrence. Applications pursuant to this subsection must be received by August 1, 2011.

4-B. Pine Tree Development Zone Reserve Fund established. (Repealed)

4-C. Significant employment expansion; Pine Tree Development Zone benefits. A qualified Pine Tree Development Zone business that expands its employment at one of its locations in the State may apply for an adjustment of the base level of employment if it:

A. Has more than one location in the State;

B. Creates 250 or more jobs at one location;

C. Maintains its total employment in the State above 50% of its growth at the location of the employment expansion; and

D. Has appropriate infrastructure and zoning or other land use regulations in place.

For purposes of this section and calculation of Pine Tree Development Zone benefits in section 5250-I, subsection 14, the base level of employment must be calculated from the location where the business produces significant employment expansion of 250 jobs or more. The department shall determine on an annual basis if the business has produced significant employment expansion. If the department determines that the business does not meet the requirements of this section and its total employment in the State falls below 50% of its growth at this location of expansion, the business may not receive the adjustment pursuant to this section and the department shall calculate the base level of employment pursuant to section 5250-I, subsection 4.

5. Termination. A qualified Pine Tree Development Zone business located in a tier 1 location may not be certified under this subchapter after December 31, 2021, and a qualified Pine Tree Development Zone business located in a tier 2 location may not be certified under this subchapter after December 31, 2013. All Pine Tree Development Zone benefits provided under this subchapter are terminated on December 31, 2031.

§5250-K. Procedure (REPEALED)

§5250-L. Selection criteria (REPEALED)

§5250-M. Program administration; rules

The commissioner shall administer this subchapter. The commissioner shall adopt rules pursuant to the Maine Administrative Procedure Act for implementation of Pine Tree Development Zones, including, but not limited to, rules for determining and certifying eligibility, selecting zones for designation and evaluating on a periodic basis the progress and success of each zone in achieving its goals. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§5250-N. Unorganized territory

For the purposes of this subchapter, a county may act as a municipality for the unorganized territory within the county and may designate development districts within the unorganized territory. When a county acts under this section, the county commissioners act as the municipality and as the municipal legislative body, the State Tax Assessor acts as the municipal assessor and the unorganized territory education and services fund receives the funds designated for the municipal general fund.

§5250-O. Certification of qualified business

A business may apply to the commissioner for certification as a qualified Pine Tree Development Zone business. Upon review and determination by the commissioner that a business is a qualified Pine Tree Development Zone business, the commissioner shall issue a letter of certification to the business that includes a description of the qualified business activity for which the letter is being issued. Prior to issuing a letter of certification, the commissioner must find that the business activity will not result in a substantial detriment to existing businesses in the State. In order to make this determination, the commissioner shall consider those factors the commissioner determines necessary to measure and evaluate the effect of the proposed business activity on existing businesses, including whether any adverse economic effect of the proposed business activity on existing businesses is outweighed by the contribution to the economic well-being of the State. The commissioner shall provide a copy of the letter of certification to the State Tax Assessor.

The commissioner shall issue a certificate of qualification to a qualified Pine Tree Development Zone business after the commissioner has verified that the business has added at least one qualified Pine Tree Development Zone employee above its base level of employment. This verification may be obtained in such manner as the commissioner may prescribe. The commissioner shall provide a copy of the certificate of qualification to the State Tax Assessor.

§5250-P. Annual reporting; evaluation

1. Annual reports. A qualified Pine Tree Development Zone business and the commissioner each shall report annually in accordance with this subsection.

A. On or before March 15th of each year, a qualified Pine Tree Development Zone business shall file a report with the commissioner for the immediately preceding calendar year, referred to in this subsection as "the report year," that contains the following information with such additional information and on forms as the commissioner may require:

(1) The total number of Maine employees and total salary and wages for those employees for the report year;

(2) The total number of qualified Pine Tree Development Zone employees and total salary and wages for those employees for the report year;

(3) The number of qualified Pine Tree Development Zone employees hired within the report year;

(4) The amount of investments made during the report year at the qualified Pine Tree Development Zone business location or directly related to the qualified business activity; and

(5) In aggregate, the estimated or total value of Pine Tree Development Zone benefits received or claimed in the report year.

B. (Repealed)

C. On or before June 1st annually, beginning in 2019, the commissioner shall report to the joint standing committees of the Legislature having jurisdiction over taxation and economic development matters information on qualified Pine Tree Development Zone businesses, including, but not limited to:

(1) The names of qualified Pine Tree Development Zone businesses for the report year;

(2) The estimated or total aggregate amount of Pine Tree Development Zone benefits received by qualified Pine Tree Development Zone businesses in the report year; and

(3) Aggregate information for each of the most recent 3 report years on:

(a) Employment levels for all Maine employees and for qualified Pine Tree Development Zone employees and associated salary and wages for both groups of employees;

(b) Average annual salary and wages and access to health insurance and retirement benefits for all Maine employees and for qualified Pine Tree Development Zone employees; and

(c) Amount of investment associated with the qualified Pine Tree Development Zone business locations or directly related to the qualified business activities.

2. Evaluation; specific public policy objective; performance measures. The Pine Tree Development Zone program established by this subchapter is subject to ongoing legislative review in accordance with Title 3, chapter 37. In developing evaluation parameters to perform the review, the Office of Program Evaluation and Government Accountability, the Legislature's government oversight committee and the joint standing committee of the Legislature having jurisdiction over taxation matters shall consider:

A. That the specific public policy objective of the Pine Tree Development Zone program established by this subchapter is to create and retain quality jobs in this State by reducing the tax burden experienced by businesses and thereby making this State's business tax burden more comparable to other states, encouraging location and expansion of businesses in this State and improving the competitiveness of this State's businesses; and

B. Performance measures, including:

(1) Change in employment levels of qualified Pine Tree Development Zone employees;

(2) Amount of investment directly related to a qualified business activity;

(3) Comparison of business tax burden in this State to other states;

(4) Comparison of other cost burdens in this State to other states;

(5) Comparison of the amount of public incentives received from the Pine Tree Development Zone program to the amount of public incentives received from other incentive programs in the State;

(6) Measures of industry competitiveness for businesses receiving Pine Tree Development Zone benefits;

(7) Measures of fiscal impact and overall economic impact to the State; and

(8) Other measures as may be relevant to the evaluation of program outcomes.

The Office of Program Evaluation and Government Accountability shall provide a report of its evaluation of the Pine Tree Development Zone program established by this subchapter in accordance with Title 3, section 999 and shall also provide this report to the joint standing committee of the Legislature having jurisdiction over economic development matters, which may report out a bill to the Legislature in response to the report's recommendations.

SUBCHAPTER 5
PINE TREE RECREATION ZONE

§5250-Q. Pine Tree Recreation Zone

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

A. "Qualified project" means a business project that meets the criteria set forth in subsection 4 conducted by a qualified industry.

B. "Qualified industry" means a for-profit corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust or any other entity, inside or outside the State, that is engaged in or will engage in a qualified project.

2. Establishment. The Pine Tree Recreation Zone is established to expand recreational opportunities and encourage tourism and economic development in areas adjacent to and located within the State's natural resources in the central and northern regions of the State.

3. Designation of zone. The Pine Tree Recreation Zone is that area of the State that is north and east of the Androscoggin River.

4. Project eligibility. A business project is eligible to qualify for Pine Tree Recreation Zone benefits if the project:

A. Is located within the Pine Tree Recreation Zone and is in a labor market area with a population density of less than 30 people per square mile according to the last Federal Decennial Census; and

B. Derives at least 50% of its business from sustainable recreational or agricultural tourism activities that involve the use of available natural resources and provides at least one of the following services:

(1) Accommodations;

(2) Guiding or instructional services; and

(3) The sale or rental of equipment for use in canoeing, kayaking, hunting, fishing, sailing, whitewater rafting, hiking, wildlife photography, snowmobiling, dog sledding, snowshoeing, downhill or cross-country skiing, camping activities or other similar nature-based tourism activities.

5. Administration; rules. The Commissioner of Economic and Community Development shall administer this subchapter and shall adopt rules for the implementation of this subchapter. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The commissioner is authorized to adopt rules setting forth the process by which qualified projects may apply for funding from grants and loans, including loans administered by the Finance Authority of Maine through its economic recovery loan program.

SUBCHAPTER 6
PINE TREE DEVELOPMENT ZONE EXCEPTIONS

§5250-R. Definitions

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

1. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development.

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

3. Manufacturing. "Manufacturing" has the same meaning as in section 5250-I, subsection 11.

4. Pine Tree Development Zone. "Pine Tree Development Zone" has the same meaning as in section 5250-I, subsection 13.

5. Pine Tree Development Zone benefits. "Pine Tree Development Zone benefits" has the same meaning as in section 5250-I, subsection 14.

§5250-S. Exceptions for manufacturing businesses

1. Expansion by manufacturing business. The commissioner may certify a business that does not otherwise qualify as a qualified Pine Tree Development Zone business pursuant to section 5250-I, subsection 17 or that does not locate in a Pine Tree Development Zone as qualified to receive Pine Tree Development Zone benefits if the business:

A. Is a for-profit business that has been engaged in the business of manufacturing in the State for at least 3 years;

B. Makes a written commitment to expand its business at one of its current locations in the State by adding at the location of expansion a minimum of 4 net new, full-time employees for whom a retirement program subject to the federal Employee Retirement Income Security Act

of 1974, 29 United States Code, Sections 1001 to 1461, as amended, and group health coverage are provided and whose income derived from employment at the business's location of expansion, calculated on a calendar-year basis, is greater than the most recent annual per capita personal income in the county in which the employee is employed; and

C. Makes a written commitment to invest a minimum of $225,000 in its expansion at one of its current locations.

2. Application for tax benefits. A manufacturing business may apply to the commissioner for certification to receive Pine Tree Development Zone benefits pursuant to subsection 1. An application must include, but is not limited to, a detailed narrative description of the manufacturing business's plans for expansion and goals for achieving the requirements listed under subsection 1 and a description of resources to be committed at the location of expansion, including a related timeline for achieving these goals. Upon review and determination by the commissioner that the business satisfies the criteria under subsection 1, the commissioner shall issue a certificate to the manufacturing business for qualification for Pine Tree Development Zone benefits.

3. Sunset. Applications for Pine Tree Development Zone benefits under this subchapter must be received by the commissioner by December 1, 2009.

§5250-T. Rules

The department shall adopt rules to implement this subchapter. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

CHAPTER 213
REVENUE PRODUCING MUNICIPAL FACILITIES ACT

§5401. Definitions

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

1. Airport. "Airport" means:

A. Any area of land or interest in land, structures or portions and improvements of structures, or water which is used, intended for use or useful in connection with any public airport, heliport or other location for the landing or taking off of aircraft;

B. Facilities incident to the operation of such properties including, but not limited to, runways, hangars, parking areas for aircraft or vehicles, access roads, wharfs, control towers, communication equipment, weather stations, safety equipment, terminal facilities for aircraft and land vehicles, facilities for servicing aircraft and for the sale of oil, gasoline, other fuels and other accessories, waiting rooms, lockers, space for concessions, offices; and

C. All facilities appurtenant to and all property rights, air rights, easements and interests relating thereto considered necessary for the construction or operation of the airport.

2. Cost. "Cost," as applied to a revenue-producing municipal facility, includes:

A. The purchase price of any such facility;

B. The cost of construction;

C. The cost of all labor, materials, machinery and equipment;

D. The cost of improvements;

E. The cost of all lands, property, rights, easements and franchises acquired;

F. Financing charges;

G. Interest before and during construction and, if the municipal officers consider it desirable, for one year after construction is completed;

H. The cost of plans and specifications, surveys and estimates of cost and of revenues;

I. The cost of engineering and legal services; and

J. All other expenses necessary or incident to determining the feasibility or practicability of construction, administrative expense and any other expenses necessary or incident to the financing authorized in this chapter.

Any obligation or expenses incurred by the municipality in connection with any of the items of cost, including the payment in whole or in part of indebtedness incurred to pay such obligations or expenses and interest on those obligations or expenses, may be regarded as a part of that cost and reimbursed to the municipality out of the proceeds of revenue bonds issued under this chapter and Title 10, chapter 110, subchapter IV.

3. Energy facility. "Energy facility" means:

A. An "energy distribution system project," as defined in Title 10, section 963-A, subsection 12;

B. An "energy generating system project," as defined in Title 10, section 963-A, subsection 13;

C. A hydroelectric power facility; or

D. A "qualified project" as defined in the United States Internal Revenue Code, 26 United States Code, Section 54(d)(2)(A) (2007).

This term also includes any combination or part of these facilities or any equipment and structures designed to distribute or transmit energy either from or to these facilities.

4. Improvements. "Improvements" means those repairs, replacements, additions, extensions and betterments of and to a revenue-producing municipal facility that the municipal officers consider necessary to place or maintain the revenue-producing municipal facility in proper

condition for its safe, efficient and economic operation or to meet requirements for service in areas which may be served by the municipality and for which no existing service is being provided.

5. Parking facility. "Parking facility" means any land or any interest in land, structure or portions of structures, and improvements on land or structures intended for the off-street parking of motor vehicles by the public for a fee. Any such structure may be either single or multi-level and either at, above or below the surface. This term also includes:

A. Facilities incident to the operation of those properties for the parking of motor vehicles, including, without limitation, ancillary waiting rooms, lockers, space for concessions, stores and offices, terminal facilities for trucks and buses, facilities for servicing motor vehicles and for the sale of gasoline, oil and other accessories, and all facilities appurtenant to these incident operations; and

B. All property, rights, easements and interests relating to the facility that are considered necessary for the construction or operation of the facility.

6. Parking system. "Parking system" means any parking facility, together with any public way or public parking area designated by the municipal officers as constituting part of that system on which parking meters have been or may be installed or from which fees or charges have been or may be collected for the parking of vehicles.

7. Revenue-producing municipal facility. "Revenue-producing municipal facility" means:

A. A parking facility within the corporate limits of the municipality; or

B. Any of the following within or outside or partly within and partly outside the corporate limits of the municipality:

(1) A water system or part of that system;

(2) A sewer system or part of that system;

(3) An airport or part of an airport;

(4) A telecommunications system or part of that system;

(5) An energy facility or part of that facility; or

(6) A community broadband system or part of that system.

8. Sewage disposal system. "Sewage disposal system" means any plant, system, facility or property used or useful or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage, including industrial wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resources. This term also includes:

A. Any integral part of such a facility, including, but not limited to, treatment plants, pumping stations, intercepting sewers, trunk sewers, pressure lines, mains and all necessary appurtenances and equipment; and

B. All property, rights, easements and franchises relating to the facility that the municipal officers consider necessary or convenient for the operation of the system.

9. Water system. "Water system" means all plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply or distribution of water. This term also includes:

A. Any integral part of such a facility, including, but not limited to, water supply systems, water distribution systems, reservoirs, wells, intakes, mains, laterals, aqueducts, pumping stations, standpipes, filtration plants, purification plants, hydrants, meters, valves and all necessary appurtenances and equipment; and

B. All property, rights, easements and franchises relating to the facility that the municipal officers consider necessary or convenient for the operation of the system.

§5402. Declaration of public necessity

The Legislature finds that:

1. Need for water and sewer systems. The maintenance of safe and pure water supplies and the control of water pollution are necessary to the health, safety and general welfare of the public, and the people of the State require new and improved water and sewer systems in order to avoid the menace to public health and damage to the economy created by impure water and untreated sewage;

1-A. Need for broadband systems. Access to affordable, reliable, high-speed broadband Internet is necessary to the general welfare of the public, and the people of the State and its economy require connection to existing publicly built infrastructure as a means of cultivating entrepreneurial activity, attracting business, improving access to modernized methods of education and health care and encouraging people to move to this State;

2. Need for free traffic circulation. The free circulation of traffic of all kinds through the streets of the municipalities of the State is necessary for the rapid and effective fighting of fires and disposition of police forces in those municipalities for the health, safety and general welfare of the public, whether residing in those municipalities or traveling to, through or from the municipalities;

3. Need for parking facilities. In recent years, the parking of motor vehicles of all kinds has so substantially impeded the free circulation of traffic as to constitute a public nuisance endangering the health, safety and welfare of the general public, as well as endangering the economic life of the municipalities; and this traffic congestion cannot be adequately abated except by provisions for sufficient off-street parking facilities;

4. Need for airports. The establishment and improvement of municipal airports are necessary for the health, safety and general welfare of the public; and the people of the State require new and improved public airports and related facilities in order to avoid and reduce the

hazards of air transportation and damage to the economy created by inadequate, unsafe and obsolete airports and airport facilities; and

5. Public necessity. The enactment of laws to carry out the intent and purpose of this section is therefore a public necessity.

§5413. Exemption from taxation

As proper revenue-producing municipal facilities are essential for the health and safety of the inhabitants of the municipalities, and as the exercise of the powers conferred to effect these purposes constitutes the performance of essential governmental functions, and as municipal facilities acquired or constructed under this chapter constitute public property and are used for municipal purposes, no municipality may be required to pay any taxes or assessments upon any parking facility or system, water or sewer system, community broadband system or telecommunications system revenue-producing municipal facility, or any part of such a system, whether located within or outside the corporate limits of the municipality, or upon the income from those facilities. Any bonds issued under this chapter, and their transfer and the income from the bonds, including any profit made on the sale of the bonds, are free from taxation within the State, except that nothing in this section exempts any lessee or person in possession of a parking facility or part of a parking facility or the property so leased or possessed from taxes or assessments payable under Title 36, section 551.

CHAPTER 223
MUNICIPAL FINANCES

§5651. Determination of municipal year; change

The municipal officers shall determine the municipal fiscal year.

A municipality or plantation may raise one or 2 taxes during a single valuation if the taxes raised are based on appropriations made for a municipal fiscal year that does not exceed 18 months. A municipal or plantation fiscal year may extend beyond the end of the current tax year and the municipal officers or assessors of a plantation, when changing the municipality's or plantation's fiscal year, may, for transition purposes, adopt one or more fiscal years not longer than 18 months each.

§5681. State-municipal revenue sharing

1. Findings and purpose. The Legislature finds that:

A. The principal problem of financing municipal services is the burden on the property tax; and

B. To stabilize the municipal property tax burden and to aid in financing all municipal services, it is necessary to provide funds from the broad-based taxes of State Government.

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

A. "Population" means the population as determined by the latest Federal Decennial Census or the population as determined and certified by the Department of Health and Human Services, whichever is later. For the purposes of this section, the Department of Health and Human Services shall determine the population of each municipality at least once every 2 years. For the purposes of the distributions required by this section, beginning July 1, 2009, "population" means the most current population data available as of the January 1st prior to the fiscal year of distribution.

B. "Property tax burden" means the total real and personal property taxes assessed in the municipal fiscal year pertaining to the latest state valuation, except the taxes assessed on captured value within a tax increment financing district, divided by the latest state valuation certified to the Secretary of State.

C. (Repealed)

D. (Repealed)

E. "Disproportionate tax burden" means the total real and personal property taxes assessed in the municipal fiscal year pertaining to the latest state valuation, except the taxes assessed on captured value within a tax increment financing district, divided by the latest state valuation certified to the Secretary of State and reduced by .01. Beginning on July 1, 2013 and each July 1st thereafter, if the total revenue-sharing distribution as calculated by subsection 5 is distributed to the municipalities without transfer or reduction, the reduction factor must be increased by either .0005 or the percentage increase necessary to equal the statewide average property tax rate, whichever increase is smaller, until the fiscal year when the percentage reduction factor reaches the statewide average property tax rate.

F. "Statewide average property tax rate" means the total real and personal property taxes assessed in all municipalities in the municipal fiscal year pertaining to the latest state valuation, except the taxes assessed on captured value within a tax increment financing district, divided by the total latest state valuation certified to the Secretary of State.

3. Revenue-sharing funds. To strengthen the state-municipal fiscal relationship pursuant to the findings and objectives of subsection 1, there is established the Local Government Fund. To provide additional support for municipalities experiencing a higher-than-average property tax burden, there is established the Disproportionate Tax Burden Fund.

4. Sharing the Local Government Fund. (Repealed)

4-A. Distribution of Local Government Fund. The Treasurer of State shall transfer the balance in the Local Government Fund on the 20th day of each month. Money in the Local Government Fund must be distributed to each municipality in proportion to the product of the population of the municipality multiplied by the property tax burden of the municipality.

4-B. Distribution of Disproportionate Tax Burden Fund. The Treasurer of State shall transfer the balance in the Disproportionate Tax Burden Fund on the 20th day of each month. Money in the Disproportionate Tax Burden Fund must be distributed to each municipality in proportion to the product of the population of the municipality multiplied by the disproportionate tax burden of the municipality.

5. Transfers to funds. No later than the 10th day of each month, the State Controller shall transfer to the Local Government Fund 5% of the receipts during the previous month from the taxes imposed under Title 36, Parts 3 and 8, and Title 36, section 2552, subsection 1, paragraphs A to F and L, and credited to the General Fund without any reduction, except that for fiscal years 2015-16, 2016-17, 2017-18 and 2018-19 the amount transferred is 2%, for fiscal year 2019-20 the amount transferred is 3% and for fiscal year 2020-21 the amount transferred is 3.75% of the receipts during the previous month from the taxes imposed under Title 36, Parts 3 and 8, and Title 36, section 2552, subsection 1, paragraphs A to F and L, and credited to the General Fund without any reduction, and except that the postage, state cost allocation program and programming costs of administering state-municipal revenue sharing may be paid by the Local Government Fund. A percentage share of the amounts transferred to the Local Government Fund each month must be transferred to the Disproportionate Tax Burden Fund and distributed pursuant to subsection 4-B as follows:

A. (Repealed)

B. (Repealed)

C. For months beginning on or after July 1, 2009 but before July 1, 2010, 15%;

D. For months beginning on or after July 1, 2010 but before July 1, 2011, 16%;

E. For months beginning on or after July 1, 2011 but before July 1, 2012, 17%;

F. For months beginning on or after July 1, 2012 but before July 1, 2013, 18%;

G. For months beginning on or after July 1, 2013 but before July 1, 2014, 19%; and

H. For months beginning on or after July 1, 2014, 20%.

5-A. Temporary exception. (Repealed)

5-B. Fund for the Efficient Delivery of Local and Regional Services. (Repealed)

5-C. Transfers to General Fund. For the months beginning on or after July 1, 2009, $25,383,491 in fiscal year 2009-10, $38,145,323 in fiscal year 2010-11, $40,350,638 in fiscal year 2011-12, $44,267,343 in fiscal year 2012-13, $73,306,246 in fiscal year 2013-14 and $85,949,391 in fiscal year 2014-15 from the total transfers pursuant to subsection 5 must be transferred to General Fund undedicated revenue. The amounts transferred to General Fund undedicated revenue each fiscal year pursuant to this subsection must be deducted from the distributions required by subsections 4-A and 4-B based on the percentage share of the transfers to the Local Government Fund pursuant to subsection 5. The reductions in this subsection must be allocated to each month proportionately based on the budgeted monthly transfers to the Local Government Fund as determined at the beginning of the fiscal year.

6. Plantations and unorganized territory. For purposes of state-municipal revenue sharing, plantations and the unorganized territory shall be treated as if they were municipalities.

7. Indian territory. For purposes of state-municipal revenue sharing, the Passamaquoddy Tribe and the Penobscot Nation Indian Territories shall be treated as if they were municipalities.

In the absence of a levy of real and personal property taxes in either or both Indian territories, the property tax assessment is computed by multiplying the state valuation for the Indian territory for the period for which revenue sharing is being determined by the most current average equalized property tax rate of all municipalities in the State at that time as determined by the State Tax Assessor.

8. Posting of revenue sharing projections. For the purpose of assisting municipalities in a timely manner in their budget development process and in the determination of their property tax levy limits as required by section 5721-A, the Treasurer of State shall post no later than April 15th of each year on the Treasurer of State's website the projected revenue sharing distributions as required by this section according to the most recently issued state revenue forecasts issued by the Revenue Forecasting Committee pursuant to Title 5, chapter 151-B for the subsequent fiscal year beginning on July 1st.

§5683. Property tax relief

1. Scope. This section establishes a revenue-sharing program that distributes surplus funds from the General Fund during times of prosperity to municipalities experiencing an inordinate amount of growth. The revenue-sharing funds are specifically dedicated to assisting these municipalities in meeting the unusually high costs associated with the capital construction and infrastructure necessary to accommodate growth and development.

2. Definitions. For the purposes of computing the revenue distributions from the Property Tax Relief Fund, the following terms have the following meanings.

A. "Population" means the population as determined by the latest federal decennial census or the population as determined and certified by the Department of Health and Human Services, whichever is more recent. For the purposes of this section, the department is authorized and required to determine the population of each municipality at least once every year.

3. Property Tax Relief Fund established. There is established the Property Tax Relief Fund for the purpose of distributing unanticipated surplus revenues accruing in the General Fund to municipalities experiencing high rates of population growth. The purpose of the fund is to assist municipalities in meeting their infrastructure needs.

After the close of each fiscal year, the Governor may request a General Fund appropriation to the Property Tax Relief Fund from the next session of the Legislature in an amount not to exceed 1/2 of the balance remaining after all other required transfers or appropriations from the excess of total General Fund revenues received over accepted estimates in that fiscal year and all required deductions of appropriations, financial commitments, designated funds, transfers from the unappropriated surplus of the General Fund or transfers from the available balance remaining in the General Fund have been made.

General Fund revenue estimates may be made once during the First Regular Session of the Legislature and adjustments to these accepted revenue estimates may be made once during the Second Regular Session of the Legislature without mandatory transfer of funds to the Property Tax Relief Fund. If adjustments are made to those initial estimates presented to each regular session of the Legislature, an amount not to exceed 1/2 of the excess of the estimated revenue over

the amounts required by law to be set aside for other purposes must be appropriated to the Property Tax Relief Fund.

The appropriation may not exceed $25,000,000 and may not lapse, but must remain a continuing carrying account to carry out the purpose of this section.

4. Distributions from Property Tax Relief Fund. Money credited to the Property Tax Relief Fund shall be distributed to each municipality in an amount equal to the ratio of the population in each municipality to the population in the State as a whole.

5. Restrictions on use of funds. Funds distributed to municipalities pursuant to this section shall be expended only after the municipal legislative body has authorized the expenditure in the annual municipal budget. Funds shall be expended only for the following purposes:

A. For capital construction and improvements, land acquisitions, capital equipment acquisitions or other nonrecurring purposes;

B. For purposes for which bonds have been previously authorized but not yet issued, in order to eliminate the need to incur the indebtedness; and

C. For the local share of state, federal or privately financed capital construction and improvement projects.

6. Treasurer of State. The Treasurer of State shall distribute the appropriation balance in the Property Tax Relief Fund no later than 30 days after the legislation appropriating funds for this purpose has been enacted by the Legislature and signed into law by the Governor.

§5685. Funding for required activities

1. Definitions. As used in this section and in the Constitution of Maine, Article IX, Section 21, unless the context otherwise indicates, the following terms have the following meanings.

A. "Local revenues" means revenues generated by local units of government, including property taxes, other locally levied taxes and user fees and other revenues, such as excise taxes collected and retained by local units of government pursuant to statutory authority.

B. "Local unit of government" or "local unit" means a municipality, as defined in this Title; a plantation, as governed by chapter 301; a county; a school administrative unit, as defined in Title 20-A, section 1; or a governmental entity that is:

(1) Created or authorized by special act of the Legislature or authorized to be created by a general purpose unit of government under a general act of the Legislature;

(2) Established to provide public services;

(3) Funded by local revenues;

(4) Governed by a locally elected body or a body appointed by a municipality or county; and

(5) Not an agency of State Government or other entity having statewide authority, jurisdiction or purpose.

C. "Mandate" means any law, rule or executive order of this State enacted, adopted or issued after November 23, 1992 that requires a local unit of government to expand or modify that unit's activity so as to necessitate additional expenditures from that unit's local revenues. "Mandate" includes laws, rules or executive orders that primarily affect the performance of a local unit's governmental activities.

D. "Mandate payment distribution schedule" means a schedule for distribution of state payments required by the Constitution of Maine, Article IX, Section 21, to be made to local units of government during the state fiscal year.

E. "Required state mandate funds" means those state funds required to be paid to local units of government under the Constitution of Maine, Article IX, Section 21.

2. Requirement for state funding. The State may not impose a mandate on a local unit of government unless the State provides annually at least 90% of the funding for those expenditures from state funds not previously appropriated, allocated or otherwise designated for payment to that local unit of government. The Legislature may impose a mandate on a local unit of government without providing 90% funding as an exception to the provisions of the Constitution of Maine, Article IX, Section 21 if enacted upon the votes of 2/3 of all members elected to the Senate and the House of Representatives.

3. Implementation. In implementing this section and the provisions of the Constitution of Maine, Article IX, Section 21, the following provisions apply.

A. The State may not meet its obligation to provide required state mandate funds by authorizing a local unit of government to levy fees or taxes not previously levied by that local unit of government.

B. The State may not meet its obligation to provide required state mandate funds by requiring a local unit of government to spend funds previously appropriated to that local unit of government.

C. Reduction of state funds that are the State's share of the cost of mandates that have been suspended or reduced does not preclude imposition of a new mandate if the required state mandate funds are provided for that new mandate.

D. Required state mandate funds do not include the costs incurred by local units of government to comply with a federal law or regulation or to become eligible for the receipt of federal funds, except to the extent that the State imposes requirements or conditions that exceed the federal requirements.

E. Required state mandate funds do not include for the costs to local units of government of implementing laws, rules, executive orders or judicial decisions or orders that are required to comply with the following provisions of the Constitution of Maine:

(1) The reapportionment requirements of Article IV, Part First, Section 2 and Article IV, Part Second, Section 2;

(2) The constitutional referenda provisions of Article X, Section 4;

(3) The people's veto of legislation provisions of Article IV, Part Third, Section 17; and

(4) The direct initiative of legislation provisions of Article IV, Part Third, Section 18.

F. Legislation, even though enacted by a 2/3 vote of each House of the Legislature, may not be construed to override the funding requirements of the Constitution of Maine, Article IX, Section 21, unless the legislation contains specific language indicating that it is the intent of the Legislature to create an exception to the Constitution of Maine.

4. Local units of government not bound. A local unit of government is not bound by any mandate unless funded or exempted from state funding in accordance with this section and the Constitution of Maine, Article IX, Section 21.

5. Appropriation and payment of state funds. The State must appropriate, allocate or otherwise designate for payment in each state fiscal year a sum sufficient to meet at least 90% of the cost of each mandate imposed on local units of government.

A. The state agency to which state funds are appropriated, allocated or otherwise designated for payment to fund a mandate, referred to in this subsection as the "agency," shall pay to each local unit of government in each state fiscal year the required state mandate funds. The agency need not pay to local units of government the entire amount at the beginning of each fiscal year. However, the agency must make payments to local units of government in accordance with the mandate payment distribution schedule.

B. A mandate payment distribution schedule describes the number of annual payments, the time of each payment and the amount of each payment to be made during the state fiscal year to ensure that the State pays local units of government the required state mandate funds prior to the local units of government having to make expenditures required by a mandate.

C. A mandate payment distribution schedule must be established for each mandate that requires state funding under this section. The agency shall establish a mandate payment distribution schedule for a mandate by consulting with the affected local unit or units of government or with a representative sample of affected local units of government. If necessary, different mandate payment distribution schedules may be established for a single mandate.

D. Following public hearing and in accordance with the Maine Administrative Procedure Act, the State Controller shall adopt rules necessary to implement this subsection. At a minimum, those rules must include a process for establishing mandate payment distribution schedules for distribution of payments under this subsection, including the provision of public notice and an opportunity for comment on the schedules by local units of government and other affected persons.

E. (Repealed)

F. In accordance with the Maine Administrative Procedure Act, a local unit of government may appeal the number, amount and timing of payments under this section to the agency

making payments. Decisions on appeals from the number, amount and timing of payments awarded under the schedule constitute final agency action.

6. Collection of data; report. A state agency making payments to local units of government under this section shall submit a report to the Department of Administrative and Financial Services by September 1st each year. The report must identify specific mandates administered by the agency during the previous fiscal year, describe the payment schedule developed by the agency for each mandate and contain any other information requested by the department. The Department of Administrative and Financial Services shall compile that information and shall issue a report annually not later than January 15th to the Governor and the Legislature summarizing state agency activities under this section.

§5721. General authority

A municipality may raise or appropriate money for any public purpose, including, but not limited to, the purposes specified in sections 5722 to 5728.

§5721-A. Limitation on municipal property tax levy

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

A. "Average personal income growth" has the same meaning as in Title 5, section 1531, subsection 2.

B. (Repealed)

C. "Property growth factor" means the percentage equivalent to a fraction established by a municipality, whose denominator is the total valuation of the municipality, and whose numerator is the amount of increase in the assessed valuation of any real or personal property in the municipality that became subject to taxation for the first time, or taxed as a separate parcel for the first time for the most recent property tax year for which information is available, or that has had an increase in its assessed valuation over the prior year's valuation as a result of improvements to or expansion of the property. A municipality identified as having a personal property factor that exceeds 5%, as determined pursuant to Title 36, section 694, subsection 2, paragraph B, may calculate its property growth factor by including in the numerator and the denominator the value of personal and otherwise qualifying property introduced into the municipality notwithstanding the exempt status of that property pursuant to Title 36, chapter 105, subchapter 4-C.

D. "Property tax levy" means the total annual municipal appropriations, excluding assessments properly issued by a county of which the municipality is a member and amounts governed by and appropriated in accordance with Title 20-A, chapter 606-B, and amounts appropriated to pay assessments properly issued by a school administrative unit or tuition for students or amounts attributable to a tax increment financing district agreement or similar special tax district, reduced by all resources available to fund those appropriations other than the property tax.

E. (Repealed)

2. Property tax levy limit. Except as otherwise provided in this section, a municipality may not in any year adopt a property tax levy that exceeds the property tax levy limit established in this subsection.

A. The property tax levy limit for the first fiscal year for which this section is effective is the property tax levy for the municipality for the immediately preceding fiscal year multiplied by one plus the growth limitation factor pursuant to subsection 3.

B. The property tax levy limit for subsequent fiscal years is the property tax levy limit for the preceding year multiplied by one plus the growth limitation factor pursuant to subsection 3.

C. If a previous year's property tax levy reflects the effect of extraordinary, nonrecurring events, the municipality may submit a written notice to the State Tax Assessor requesting an adjustment in its property tax levy limit.

3. Growth limitation factor. The growth limitation factor is the average personal income growth plus the property growth factor.

4. Adjustment for new state funding. If the State provides net new funding to a municipality for existing services funded in whole or in part by the property tax levy, other than required state mandate funds pursuant to section 5685 that do not displace current property tax expenditures, the municipality shall lower its property tax levy limit in that year in an amount equal to the net new funds. For purposes of this subsection, "net new funds" means the amount of funds received by the municipality from the State during the most recently completed calendar year, with respect to services funded in whole or in part by the property tax levy, less the product of the following: the amount of such funds received in the prior calendar year multiplied by one plus the growth limitation factor described in subsection 3. "Net new funds" refers to state-municipal revenue sharing and does not include changes in state funding for general assistance under Title 22, section 4311 or in state funding under the Local Road Assistance Program under Title 23, section 1803-B if those changes are the result of the operation of the formula for calculation of state funding under that section but does include changes in funding that are the result of a statutory change in the formula for calculation of state funding under that section. If the calculation required by this subsection reveals that the municipality received or will receive a net reduction in funding, the municipality is authorized to adjust its property tax levy limit in an amount equal to the net reduction of funds. For the purpose of determining if there was or will be a net reduction in funding, the municipality may consider only those funds that are net new funds. For purposes of this subsection, with respect to the development of any municipal budget that was finally adopted on or before July 1, 2013, "net reduction in funding" means the amount of funds received by the municipality from the State during the calendar year immediately preceding the most recently completed calendar year less the amount of such funds received in the most recently completed calendar year. For the purposes of this subsection, with respect to the development of a municipal budget that is finally adopted after July 1, 2013, a municipality may calculate net reduction in funding as the amount of funds received by the municipality from the State during the municipal fiscal year immediately preceding the fiscal year for which the budget is being developed less the amount of such funds that will be received during the fiscal year for which the budget is being prepared, as reasonably calculated on the basis of all available information. If the calculation required by this subsection yields a positive value, that value may be added to the municipality's property tax levy limit. If a municipality receives net new funds in any fiscal year for which its property tax levy limit has not been adjusted as provided in this subsection, the

municipality shall adjust its property tax levy limit in the following year in an amount equal to the net new funds.

5. Exceeding property tax levy limit; extraordinary circumstances. The property tax levy limit established in subsection 2 may be exceeded for extraordinary circumstances only under the following circumstances.

A. The extraordinary circumstances must be circumstances outside the control of the municipal legislative body, including:

(1) Catastrophic events such as natural disaster, terrorism, fire, war or riot;

(2) Unfunded or underfunded state or federal mandates;

(3) Citizens' initiatives or other referenda;

(4) Court orders or decrees; or

(5) Loss of state or federal funding.

Extraordinary circumstances do not include changes in economic conditions, revenue shortfalls, increases in salaries or benefits, new programs or program expansions that go beyond existing program criteria and operation.

B. The property tax levy limit may be exceeded only as provided in subsection 7.

C. Exceeding the property tax levy limit established in subsection 2 permits the property tax levy to exceed the property tax levy limit only for the year in which the extraordinary circumstance occurs and does not increase the base for purposes of calculating the property tax levy limit for future years.

6. Increase in property tax levy limit. The property tax levy limit established in subsection 2 may be increased for other purposes only as provided in subsection 7.

7. Process for exceeding property tax levy limit. A municipality may exceed or increase the property tax levy limit only by the following means.

A. If the municipal budget is adopted by town meeting or by referendum, the property tax levy limit may be exceeded by the same process that applies to adoption of the municipal budget except that the vote must be by written ballot on a separate article that specifically identifies the intent to exceed the property tax levy limit.

B. If the municipal budget is adopted by a town council or city council, the property tax levy limit may be exceeded only by a majority vote of all the elected members of the town council or city council on a separate article that specifically identifies the intent to exceed the property tax levy limit. Unless a municipal charter otherwise provides or prohibits a petition and referendum process, if a written petition, signed by at least 10% of the number of voters voting in the last gubernatorial election in the municipality, requesting a vote on the question of exceeding the property tax levy limit is submitted to the municipal officers within 30 days of the council's vote pursuant to this paragraph, the article voted on by the council must be

submitted to the legal voters in the next regular election or a special election called for that purpose. The election must be held within 45 days of the submission of the petition. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters and absentee ballots must be prepared and made available at least 14 days prior to the date of the referendum. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the election. The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the article. The results must be declared by the municipal officers and entered upon the municipal records.

8. Treatment of surplus; reserves. Any property tax revenues collected by a municipality in any fiscal year in excess of its property tax levy limit, as determined by a final audited accounting, must be transferred to a property tax relief fund, which each municipality must establish, and used to reduce property tax levies in subsequent fiscal years. Nothing in this subsection limits the ability of a municipality to maintain adequate reserves pursuant to section 5801.

9. Fractional divisions. A municipality may, consistent with Title 36, section 710, exceed its property tax levy limit in such reasonable amount as necessary to avoid fractional divisions.

10. Enforcement. If a municipality adopts a property tax levy in violation of this section, the State Tax Assessor may require the municipality to adjust its property tax levy downward in an amount equal to the illegal property tax levy and impose such other penalties as the Legislature may provide.

§5722. Operating expenses

A municipality may raise or appropriate money to:

1. Operation. Provide for the operation of its municipal government;

2. Pensions. Establish a contributory pension system for its officials and employees, or participate in an existing system;

3. Fire and police protection. Provide for fire and police protection;

4. Volunteer fire department. Support an incorporated volunteer fire department, as long as the purposes for which an appropriation is made to a volunteer fire department are itemized;

5. Insurance for use of vehicles. Insure its officials, employees and volunteer workers against public liability and property damage resulting from their negligent operation of any vehicle owned or leased by the municipality while being used for municipal business;

6. Insurance for performance of duties. Insure its officers, officials and employees against any personal liability which they may incur out of and in the course of their acting by, for or on behalf of the municipality while performing their duties as public officers, officials and employees;

7. Revaluation. Provide for the revaluation of taxable property.

A. Any revaluation is under the jurisdiction of the municipal assessors whose judgment, as opposed to that of any hired appraiser, is final;

8. Municipal services. Provide for a supply of water, gas and electricity for municipal use for a period of years or for an energy facility, as defined in section 5401, subsection 3;

9. Advisory organizations. Obtain the services of municipal advisory organizations. The Legislature recognizes the Maine Municipal Association as a nonprofit advisory organization and declares it to be an instrumentality of its member municipal and quasi-municipal corporations with its assets upon its dissolution to be delivered to the Treasurer of State to be held in custody for the municipalities of the State. A municipal advisory organization may receive federal grants or contributions for its activities with respect to the solution of local problems; and

10. Water system. Provide for the acquisition, construction, reconstruction, improvement, extension, enlargement, equipment, repair, maintenance and operation of a water or sewer system or part of such a system, within or outside, or partly within and partly outside, the corporate limits of the municipality.

§5723. Public works

A municipality may raise or appropriate money to:

1. Parks and construction projects. Provide for public buildings, ways, bridges, parks, parking places, sewers and drains;

2. Dumps. Provide for public dumps either within or outside its boundaries;

3. Cemeteries. Provide for public cemeteries; maintain private cemeteries established before 1880; care for graves of veterans and maintain fences around cemeteries in which veterans are buried;

4. Flood control. Provide for projects which have been approved by the Governor for improving navigation or preventing property damage by erosion or flood;

5. Fuel yard. Provide a fuel yard for the purpose of selling fuel to its residents without financial profit to itself; and

6. Water or sewer districts. Provide financial assistance to a water or sewer district which is a quasi-municipal corporation, within or outside, or partly within or outside, the corporate limits of the municipality to the extent that the assisted district serves the municipality providing assistance.

§5724. Schools and libraries

A municipality may raise or appropriate money to:

1. Public schools and libraries. Provide for public schools and libraries;

2. School activities. Provide for school bands and other organized activities conducted under the supervision of the school committee;

3. Physical education. Provide for physical fitness programs in the schools;

4. Construction and maintenance. Provide for the construction, repairs and maintenance of buildings and equipment for educational institutions with which a municipality has a contract as provided in Title 20-A, section 2703;

5. Transportation. Provide for the transportation of school children to and from schools other than public schools, except those schools that are operated for profit in whole or in part;

6. Textbooks. Provide for the purchase of those secular textbooks which have been approved by the school committee or board of directors for use in public schools in the municipality or district and to loan those textbooks to pupils or to the parents of pupils attending nonpublic elementary and secondary schools. The loans shall be based upon individual requests submitted by the nonpublic school pupils or parents. The requests shall be submitted to the school committee or board of directors of the administrative district in which the student resides. The request for the loan of textbooks shall, for administrative convenience, be submitted by the nonpublic school student or parent to the nonpublic school which shall prepare and submit collective summaries of the individual requests to the school committee or board of directors. As used in this section, "textbook" means any book or book substitute which a pupil uses as a text or text substitute in a particular class or program in the school the pupil regularly attends;

7. Physician, nursing, dental and optometric services. Provide physician, nursing, dental and optometric services to pupils attending nonpublic elementary and secondary schools within a district or municipality. These services may be provided in the school attended by the nonpublic school pupil receiving the services;

8. Tests and scoring services. Provide for the use by pupils attending nonpublic elementary and secondary schools within the municipality or a district the standardized tests and scoring services which are in use in the public schools serving that municipality or district; and

9. Advisory organizations. Obtain the services of educational advisory organizations. The Legislature recognizes the Maine School Management Association and the Maine School Boards Association as nonprofit advisory organizations and declares these associations to be instrumentalities of their member school administrative units, municipal and quasi-municipal corporations with their assets upon their dissolution to be delivered to the Treasurer of State to be held in custody for the municipalities of the State. An educational advisory organization may receive federal grants or contributions for their activities with respect to the solution of local problems.

A municipality may provide health or remedial services to nonpublic school pupils as authorized by this section only if those services are available to pupils attending the public school serving the municipality.

Health and remedial services and instructional materials and equipment provided for the benefit of nonpublic school pupils under this section and the admission of pupils to the nonpublic schools must be provided without distinction as to race, creed, color, the national origin of the pupils or of their teachers. No instructional materials or instructional equipment may be loaned to pupils in nonpublic schools or their parents unless similar instructional material or instructional equipment is available for pupils in a public school served by a municipality.

10. Municipal education foundations. A municipal education foundation is established with the assistance of the Department of Administrative and Financial Services and must contain the following provisions.

A. The endowment of a municipal education foundation is funded by contributions by citizens, estates, municipalities and bond money if the foundation meets standards pursuant to section 5652, subsection 2.

B. Trustees of a municipal education foundation must be citizens of the municipality and contain at least one member who is a teacher or administrator in the municipality's education system to be a liaison between the school system and the municipal education foundation.

A municipality may not provide services, materials or equipment for use in religious courses, devotional exercises, religious training or any other religious activity.

§5725. Health and welfare

A municipality may raise or appropriate money to:

1. Poor. Support the poor;

2. Hospital. Construct, maintain, operate and support a hospital serving its residents;

3. Community health facility. Construct, maintain, operate and support a community health facility which may be used in any manner that will improve health services in the community, including the leasing of space at fair market rates to physicians and other medical personnel;

4. Public health. Employ a public health nurse and conduct a public health program;

5. Blood service. Support a blood service program;

6. Dental hygienist. Employ a dental hygienist;

7. Physician. Subsidize physicians to induce them to settle in the municipality;

8. Pest control. Provide for the extermination and control of insect pests;

9. Ambulance. Provide for public ambulances and garages for them, or support an ambulance service serving its residents;

10. Veteran rehabilitation. Provide for a local program with or without state coordination for rehabilitating veterans honorably discharged from the Armed Forces of the United States;

11. Dutch elm disease. Determine the presence of the Dutch elm disease and carry out measures for the prevention or control of that disease on public or private grounds;

12. Youth commission. Provide for a local youth commission; and

13. Anti-poverty community action program. Assist and contribute to a community action program organized under the Federal Anti-Poverty Program.

§5726. Development

A municipality may raise or appropriate money to:

1. Board of trade. Support and guarantee obligations of a chamber of commerce or board of trade or a local development corporation, or a chamber of commerce and a local development corporation, or a board of trade and a local development corporation;

2. Advertising. Advertise its resources and attractions or those of the State;

3. Real estate. Purchase real estate and personal property from the Federal Government for municipal purposes;

4. Athletic facilities and recreation. Provide real estate and personal property for recreational purposes and supporting a recreational program or for building, maintaining and operating an athletic facility;

5. Fish. Propagate and protect fish in public waters located wholly or partially within its boundaries.

A. The money appropriated shall be spent by the municipal officers or a person appointed by them; and

B. The person authorized to spend the money shall submit a written report of the expenditure to the municipal legislative body within one year of the date of appropriation;

6. Historical society. Assist a local historical society;

7. History. Write and publish its history;

8. Conventions. Assist conventions;

9. Lands. Provide for and acquire open areas, including marshlands, swamps or wetlands;

10. Mass bus transportation. Aid private companies or public agencies furnishing mass bus transportation services within the municipality;

11. Relocation assistance. Provide funds for relocation assistance services and payments to individuals, families and businesses displaced as a result of the acquisition of real property for a public purpose;

12. District Court. Construct, equip and furnish a district courthouse within the municipality. The municipality may negotiate a lease with the Chief Judge of the District Court for the use of such a courthouse;

13. Elderly housing. Provide municipally owned rental housing for the elderly;

14. Affordable housing. Facilitate affordable housing; and

15. Job creation and retention. Establish revolving loan fund programs to assist in job creation and retention for local for-profit and nonprofit enterprises if approved by a municipal referendum election pursuant to sections 2528, 2529 and 2532, even if the municipality or plantation has not accepted the provisions of section 2528.

§5727. Celebrations and commemorations

A municipality may raise or appropriate money to:

1. Anniversary. Celebrate any anniversary of its settlement or incorporation and publish the proceedings of the celebration;

2. Holidays. Observe Memorial Day, Veterans Day and any other day set apart for commemoration;

3. Christmas. Decorate for Christmas;

4. Music. Support an organization to provide music for municipal functions and public celebrations; and

5. Memorials for veterans. Provide for monuments and memorials, and real estate suitable for their erection, to honor the veterans of the Armed Forces of the United States who sacrificed their lives in defense of their country.

§5728. General duties and operations

A municipality may raise or appropriate money to:

1. Duties. Perform any of the duties required of it by law; and

2. Authorized by law. Provide for any operations authorized by law which, by their nature, require the expenditure of money.

§5729. Federal and state grants

A municipality's acceptance of grants is governed by this section.

1. Federal. Municipalities may apply for, accept and appropriate federal grants for any purpose for which federal grants are made available to municipalities either directly or through the State.

2. State. Municipalities may apply for, accept and appropriate state grants for any purpose for which state grants are made available to municipalities either directly or through a state agency.

§5730. Historic and scenic preservation

Pursuant to the Constitution of Maine, Article IX, Section 8, Subsection 5, a municipality may raise or appropriate money to reimburse taxpayers for a portion of taxes paid under Title 36, Part 2 on real property if the property owner agrees to maintain the property in accordance with criteria that are adopted by ordinance by the governing legislative body of the municipality and that provide for maintaining the historic integrity of important structures or providing a scenic view. The Maine Historic Preservation Commission shall provide guidance, if requested by a municipality, in implementing this section.

§5751. Purpose

It is the purpose of this subchapter to increase the likelihood of orderly development and to provide an incentive for coordinated multi-community economic development by permitting 2 or more communities to share their tax base.

§5752. Tax base sharing agreement

1. Agreement. Any 2 or more municipalities may, by a vote of their legislative bodies, enter into an agreement to share all or a specific part of the commercial, industrial or residential assessed valuation located within their respective communities. Municipalities that vote to enter into an agreement pursuant to this section are not required to have borders that are contiguous.

2. Specifications. Any such agreement must specify:

A. A duration which must be at least 5 years;

B. A description of the tax base that is to be shared, expressed in terms of type of property or location of property;

C. The formula for sharing the property taxes generated through taxation of the valuation that is to be shared; and

D. Any other necessary and proper matters.

3. Administration. The shared valuation must be assessed in the municipality in which the property is located. It must be taxed at the rate applicable in that municipality. The tax so assessed must be collected by the municipality in which the property is located and the share of that tax, as specified in the tax base sharing agreement, must be remitted within 15 days after collection or within such other period of time as the parties to the tax base sharing agreement specify to the other municipality or municipalities on the basis of the terms of the agreement to which they are parties. The municipality in which the property is located may be authorized by the tax base sharing agreement to make payments due to the other municipality or municipalities that are parties to the agreement to another party or entity. Payments to another party or entity must be for purposes that have a general public benefit.

§5753. Filing of agreement

Before becoming effective, any agreement made under this subchapter must be filed with the clerk of each municipality and with the Secretary of State.

CHAPTER 301
PLANTATIONS

§7001. Organization of unincorporated townships

1. Census. Any unincorporated township may, by petition of 20% or more of the voters of the township, require the county commissioners to determine from the Federal Decennial Census or by actual enumeration whether the township has 200 inhabitants or more. The county commissioners shall report the result of the census to the Secretary of State who shall record it.

2. Organization of township with population of 200 or more. If the report made under subsection 1 indicates that the township has a population of 200 or more, the county commissioners shall, with the consent of a majority of the petitioners under subsection 1, issue their warrant to an inhabitant of the unincorporated township, commanding that inhabitant to notify the voters of the unincorporated township, to assemble on a day and at a place named in the warrant, to choose a moderator, clerk, 3 assessors, treasurer, collector of taxes, constable, school committee and other necessary plantation officers.

A. The person selected by the commissioners shall give notice of the meeting by posting an attested copy of the warrant for the meeting in 2 public and conspicuous places in the township at least 14 days before the day of meeting. The warrant, with the inhabitant's return on it, shall be returned to the meeting and the officers shall be chosen and sworn.

3. Alternative method. Any unincorporated or unorganized place containing any number of inhabitants may be organized under this subsection. One or more of the county commissioners, on written application signed by at least 3 voters of any unincorporated or unorganized place in their county, may issue a warrant to one of the 3 voters, requiring that voter to announce a meeting of the voters of the unincorporated or unorganized place residing within the limits described in the warrant. When a state or county tax is assessed to the unincorporated or unorganized place, the Treasurer of State or the county commissioners, without application by the voters, may issue their warrant to an inhabitant of the unincorporated or unorganized place. In either case the warrant, notice of meeting and proceedings shall be the same as provided in subsection 2.

4. Organization meeting. At the time and place appointed for meetings for the organization of plantations under subsections 2 and 3, a moderator shall be chosen by ballot by the voters present to preside at the meeting. The person to whom the warrant was directed shall preside until the moderator is chosen and sworn by that person. A clerk, 3 assessors, treasurer and school committee shall be chosen by ballot and sworn by the moderator or a dedimus justice. Other plantation officers may be chosen by ballot or other method agreed on by vote of the meeting and shall be sworn by the moderator or a dedimus justice.

5. Documents recorded with Secretary of State. When a plantation is organized, the clerk and assessors shall send to the Secretary of State:

A. A certified copy of all proceedings performed in organizing the plantation, including:

(1) The petition, if any;

(2) The warrant issued for the organizational meeting and the return on the warrant; and

(3) The record of the organizational meeting; and

B. A written description of the limits of the plantation.

The Secretary of State shall record these documents. Upon recording, all laws applicable to organized plantations apply to plantations organized under this chapter.

§7002. Organized plantations to consist of one township

Organized plantations may not be composed of more than one township, and when organized under section 7001, former organizations cease.

§7003. Plantations reorganized

Plantations organized upon application of 3 or more inhabitants may be reorganized at any time under this chapter.

§7004. Annual meeting

Organized plantations shall hold an annual meeting and choose a clerk, 3 assessors, treasurer, collector of taxes and a school committee.

1. Term of office and election of assessors. The provisions of section 2526, subsection 5, relating to the terms of office and election of assessors, apply to the terms of office and election of assessors of organized plantations.

2. Road commissioners. When money is raised for the repair of ways and bridges, the assessors of the plantation shall appoint one or more road commissioners.

§7005. Officers' names sent to Secretary of State

The Secretary of State shall furnish blanks to the clerks of organized plantations who shall return them to the Secretary of State on or before the first day of September, annually, with the names of the assessors and clerks of their respective plantations, and a statement that the assessors and clerk have been sworn.

1. Failure to return blanks. When any plantation fails to return the blanks, the Secretary of State shall not furnish it with blanks for election returns, and no votes purporting to be cast by voters of that plantation may be counted or allowed by the Governor.

2. During the first year of organization. When a plantation is organized after the first day of July, the clerk of that plantation is not required to return the blanks during that year, but the votes from those plantations shall not be counted or allowed by the Governor for any purpose, during the calendar year of its organization, unless it is organized at least 60 days before the Tuesday following the first Monday of November.

§7006. Town law applies to officials and employees

1. Plantation meetings, officials and employees. The following provisions apply to plantations and their officials and employees, as far as applicable, except when specifically provided otherwise:

A. Laws relating to calling, notifying and conducting town meetings; and

B. Laws relating to the election, appointment, hiring, qualification, filling of vacancies, duties, powers, compensation, liabilities and penalties for official neglect and misconduct of town officials and employees.

2. Unlawful voting. Voters in plantations are liable to the same penalties for unlawful voting as voters in towns.

§7007. Duties of officials

Assessors of plantations shall be considered the selectmen of the plantation for the purpose of performing the duties performed by the selectmen of towns. Treasurers, collectors and constables of plantations must give the same bond as similar officials of towns are required to give, to be approved in the same manner. The valuation of property for the assessment of taxes in plantations, as well as the assessment, collection and disposal of taxes, shall be the same as in towns.

§7008. Inventory of estates; basis of taxation; money for ways

The assessors first chosen in plantations organized under section 7001 shall immediately ascertain and list the value of the property in the plantation, in the same manner as done in towns. They shall return this list to the county commissioners of their county on or before the 15th day of May following the election of the assessors. The county commissioners may examine and correct the list so as to make it conform to the last state valuation, and return a copy of this corrected valuation to the Treasurer of State. When this copy is returned to the Treasurer of State, the plantation's ratable proportion according to the corrected valuation of all state and county taxes shall be assessed on the plantations in the same manner as on towns.

1. Money for ways. Such plantations, and any other plantations that are required by special order of the Legislature to pay state or county taxes, may raise money by taxation for making and repairing ways in compliance with Title 23, sections 2001 and 3302.

2. When valuation is taken. The valuation of property in any plantation shall be taken as required under this section, corrected and returned to the Treasurer of State, whenever required.

§7009. Incorporation into town; first valuation

When towns are incorporated, the assessors of the town shall return to the county commissioners of their county the original valuation first taken in their towns, on or before the 15th day of May following the town's incorporation. The county commissioners shall examine and correct this valuation and return a copy of the valuation to the Treasurer of State. This corrected valuation shall be the basis of state and county taxes in the same manner as the valuations of plantations under section 7008.

§7010. Failure to make and return valuation

If the valuation required by section 7008 or 7009 is not made and returned by any town or plantation, which is not within a primary assessing district or is not itself a primary assessing district, within the time specified, the county commissioners shall appoint 3 suitable persons of the county to be assessors in that town or plantation. These persons shall be sworn and make and return the valuation required within the time fixed by the commissioners. The county commissioners shall examine and correct this valuation and return a copy of the valuation to the Treasurer of State. This corrected valuation shall be the basis for the assessment of state and county taxes, in the same manner as if the valuation had been taken by the assessors chosen by the town or plantation.

1. Assessors paid by county commissioners. Assessors appointed under this section shall be paid from the county treasury a reasonable compensation, to be determined by the county commissioners, for their services. Any sum paid to the assessors for compensation under this section shall be added to the county tax apportioned to the town or plantation and shall be collected and paid into the treasury in the same manner as county taxes.

CHAPTER 303
DEORGANIZED PLACES

§7301. Applicability to deorganization by Legislature

This chapter applies to any municipalities or plantations that are or have been deorganized by Act of the Legislature.

§7302. Records surrendered

Whenever any municipality is deorganized, the municipality shall surrender all its records to the State Archivist.

§7303. Debts of municipalities and school districts therein

When municipalities are deorganized by a repeal of their charters, and their liabilities are excepted and reserved by the repealing act, legal service of process to collect those liabilities may be made on any inhabitant of lawful age residing in the territory included in the municipality, provided that there are no legal officers in that territory on whom service can be made. This section extends to school districts in deorganized municipalities so far as applicable.

§7304. Power and authority of State Tax Assessor

Whenever the organization of any municipality or plantation has been terminated by Act of the Legislature, the powers, duties and obligations relating to the affairs of that municipality or plantation are vested in the State Tax Assessor for not more than 5 years. The real and personal property of the municipality or plantation shall be held by the State Tax Assessor and used as described in this chapter.

1. Powers of State Tax Assessor. The State Tax Assessor may:

A. Subject to the restriction in subparagraph (1), sell or otherwise dispose of any property which the municipality or plantation holds title to at the time of deorganization or may receive title to after deorganization. When disposing of property, the State Tax Assessor shall ensure that the interests of the residents of the unorganized territory are the most important consideration.

(1) In the case of school property, the State Tax Assessor shall consult with the Commissioner of Education; and

B. Assess taxes any time after the act terminating the organization of the municipality or plantation takes effect by making assessment once a year under the laws relating to the assessment of property taxes in unorganized territory.

(1) The State Tax Assessor may make additional assessments in the same manner against the property owners in the deorganized municipality or plantation to provide funds to pay the debts of the municipality or plantation.

2. Use of money. All money received under this section shall be applied:

A. To pay the necessary expenses of the State Tax Assessor in making assessments under subsection 1;

B. To pay any obligation of the municipality or plantation outstanding at the time its organization is terminated;

C. To pay taxes assessed against the municipality or plantation; and

D. To complete any public works of the municipality or plantation already begun.

3. Surplus funds and property. At the end of the 5-year period, or when in the judgment of the State Tax Assessor final payment of all known accounts against the municipality or plantation has been made, any funds which have not been expended shall be deposited with the county commissioners as undedicated revenue for the unorganized territory fund of that county. Any property of the municipality or plantation which has not been sold shall be held by the State in trust for the unorganized territory or transferred to the county to be held in trust for the unorganized territory. Income from the sale or use of the property shall be used as described in Title 36, section 1604.

§7305. Cemetery trust funds

The State Tax Assessor may transfer any cemetery trust funds held by a municipality at the time of deorganization to a cemetery association, provided that association is formed under the laws of the State. If no such association exists, the State Tax Assessor may transfer the funds to the county commissioners. These funds are to be retained for the purpose of allowing the interest only to be used in the same manner and for the same purposes for which the fund was originally accepted by the deorganized municipality. If the funds are in the care and custody of the county commissioners and a cemetery association is subsequently formed, the county commissioners may transfer the funds to the cemetery association.

TITLE 33
PROPERTY

CHAPTER 7
CONVEYANCE OF REAL ESTATE

§454. Church pews

Pews and rights in houses of public worship are real estate. Deeds of them, and levies by execution upon them may be recorded by the clerk of the town where the houses are situated, with the same effect as if recorded in the registry of deeds.

§455. Agreements to treat building as personal property

No agreement, that a building erected with the consent of the landowner by one not the owner of the land upon which it is erected shall be and remain personal property, shall be effectual against any person, except the owner of such land, his heirs, devisees and persons having actual notice thereof, unless such agreement is in writing and signed by such landowner or by someone duly authorized for that purpose, and acknowledged and recorded as deeds are required to be acknowledged and recorded under this chapter. This section shall not apply to agreements entered into prior to the 28th day of April, 1903, and then outstanding.

§456. Address of buyer

All deeds and other instruments for the conveyance of real property shall contain, in addition to the name of the grantee, his address, including street and number, municipality and state.

§457. Error or omission of mailing address

Any error in or omission of mailing address of grantee or mortgagee in the deed, mortgage or other conveyance, required by any provision of this Title, shall not affect in any way the validity, effectiveness or recordability of such deed, mortgage or other conveyance of real estate.

§460. Conveyance of land abutting a road or way

A conveyance of land which abuts a town or private way, county road, highway or proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds shall be deemed to convey all of the grantor's interest in the portion of the road or way which abuts the land, except:

1. Proposed, unaccepted ways. With respect to a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds, those rights provided to owners of other lots in the subdivision by Title 23, section 3031; and

2. All roads and ways. With respect to a town or private way, county road or highway, an easement of access necessary to provide ingress and egress to property adjoining the town or private way, county road or highway which shall be preserved, unless the grantor expressly reserves his title to the road or way by a specific reference to the road or way contained in the conveyance.

§461. Prior conveyances

Any conveyance made prior to October 3, 1973 which conveyed land abutting upon a town or private way, county road or highway shall be deemed to have conveyed all of the grantor's interest in the portion of such road or way, which abutted said land unless the grantor shall have expressly reserved his title to such road or way by a specific reference thereto contained in said conveyance. This section shall not apply to any conveyance of a lot or lots by reference to a recorded plan.

§465. Abutters own the centerline of road or way

Any person owning land in this State abutting a town or private way, county road or highway, whose predecessors in title have not reserved any title in such road or way as provided in sections 460 and 461, or filed the notice provided in section 462 within the time specified therein, shall be deemed to own to the centerline of such road or way except as provided in sections 466 to 469.

§466. -- State and municipal owned roads

This subchapter shall not apply to any road or way, title to which is owned by the State or any municipality or other governmental body.

§467. -- public easement acquired over opposite sides of road or way in unequal proportion

Where a town or private way, county road or highway shall be, or shall have been, laid out, widened or altered in such a manner that the public easement is located over land taken from the land on opposite sides of such road or way in unequal proportions, then the persons owning the land abutting the road or way on opposite sides thereof, shall each be deemed to own that portion of such road or way which shall have been acquired from their respective sides of such road or way. If it cannot be determined from which side of the road or way the land was so acquired, the owners of the abutting land on opposite sides of such road or way shall each be deemed to own to the centerline thereof.

§476. Definitions

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

1. Conservation easement. "Conservation easement" means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining or enhancing air or water quality of real property.

2. Holder. "Holder" means:

A. A governmental body empowered to hold an interest in real property under the laws of this State or the United States; or

B. A nonprofit corporation or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property; assuring the availability of real property for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining or enhancing air or water quality or preserving the historical, architectural, archaeological or cultural aspects of real property.

3. Real property. "Real property" includes without limitation surface waters.

4. Third-party right of enforcement. "Third-party right of enforcement" means a right provided in a conservation easement to enforce any of its terms granted to a governmental body, nonprofit corporation or charitable trust, which, although eligible to be a holder, is not a holder.

§477. Creation, conveyance, acceptance and duration

1. Conservation easement. Except as otherwise provided in this subchapter, a conservation easement may be created, conveyed, recorded, assigned or partially released in the same manner as other easements created by written instrument. A conservation easement may be terminated or amended by the parties only as provided in section 477-A, subsection 2.

2. Right or duty. No right or duty in favor of or against a holder arises under a conservation easement unless it is accepted by the holder and no right in favor of a person having a 3rd-party right of enforcement arises under a conservation easement unless it is accepted by any person having a 3rd-party right of enforcement.

3. Limitation. Except as provided in this subchapter, a conservation easement is unlimited in duration unless:

A. The instrument creating it otherwise provides; or

B. Change of circumstances renders the easement no longer in the public interest as determined by the court as provided in section 477-A, subsection 2, paragraph B in an action under section 478.

4. Interest. An interest in real property in existence at the time a conservation easement is created shall not be impaired by it unless the owner of the interest is a party to the conservation easement or consents to it.

5. Entitled to enter land. The instrument creating a conservation easement must provide in what manner and at what times representatives of the holder of a conservation easement or of any person having a 3rd-party right of enforcement shall be entitled to enter the land to assure compliance.

CHAPTER 10
UNIT OWNERSHIP

§561. Definitions

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

1. Association of unit owners. "Association of unit owners" means all of the unit owners acting as a group in accordance with the bylaws and declaration.

2. Building. "Building" means a building or buildings containing one or more units and comprising a part of the property, and designated with a name.

3. Common areas and facilities. "Common areas and facilities", unless otherwise provided in the declaration, means and includes:

A. The land on which the building is located;

B. The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building;

C. The basements, yards, gardens, parking areas and storage spaces;

D. The premises for the lodging of janitors or persons in charge of the property;

E. Installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating;

F. The elevators, tanks, pumps, motors, fans, compressors, ducts and, in general, all apparatus and installations existing for common use;

G. Such community and commercial facilities as may be provided for in the declaration; and

H. All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

4. Common expenses. "Common expenses" means and includes:

A. Expenses of administration, maintenance, repair or replacement of the common areas and facilities;

B. Expenses declared common expenses by provisions of this chapter, or by the declaration or the bylaws;

C. Expenses agreed upon as common expenses by the association of unit owners and lawfully assessed against the unit owners in accordance with the bylaws.

5. Common profits. "Common profits" means the balance of all income, rents, profits and revenues from the common areas and facilities remaining after the deduction of the common expenses.

6. Declaration. "Declaration" means the instrument by which the property is recorded, in the manner provided for the recording of deeds.

7. Limited common areas and facilities. "Limited common areas and facilities" means and includes those common areas and facilities designated in the declaration as reserved for use of a certain unit or certain units to the exclusion of the other units.

8. Majority or majority of unit owners. "Majority or majority of unit owners" means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common areas and facilities as specified in the declaration. Any specified percentage of unit owners means such percentage in the aggregate of such undivided ownership, and for all voting purposes, as provided, each unit owner shall have a vote equal to such percentage.

9. Person. "Person" means individual, corporation, partnership, association, trustee or other legal entity.

10. Property. "Property" means and includes the land, the building, all improvements and structures thereon, all owned in fee simple absolute, or leased as provided in section 579 and all easements, rights and appurtenances belonging thereto, which have been or are intended to be submitted to the provisions of this chapter.

11. Unit. "Unit" means a part of the property including one or more rooms or enclosed spaces located on one or more floors or a part or parts thereof in a building, intended for any type of independent use, and with a direct exit to a public street or highway or to a common area leading to such street or highway.

12. Unit number. "Unit number" means the number, letter, or combination thereof, designating the unit in the declaration.

13. Unit owner. "Unit owner" means the person or persons owning a unit in fee simple absolute, or leasing a unit as provided, and an undivided interest in the fee simple, or leased estate, of the common areas and facilities in the percentage specified and established in the declaration.

§563. Status of units

Each unit, together with its undivided interest in the common areas and facilities, shall for all purposes constitute real property.

§579. Separate taxation

Taxes, assessments, including special assessments, and other charges of this State or of any political subdivision, or of any special improvement district, or any other taxing or assessing authority shall be assessed against and collected on each individual unit, each of which shall be carried on the tax books as a separate and distinct entity for that purpose and not on the building or property as a whole. Neither the building, the property nor any of the common areas and facilities shall be deemed to be a parcel, but each unit shall be deemed to have an undivided interest therein and assessments against any such unit shall include such proportionate undivided interest. In the event the land or the building, including common areas and facilities, is separately owned, and leased to the unit owner for a period of not less than 50 years, and such lease, duly recorded, provides that the lessee shall pay all such taxes, such unit and its percentages of undivided interest in the common areas and facilities shall be deemed to be a parcel and shall be separately assessed and taxed as aforesaid.

§580. Lien for common changes

1. Liens. Subsequent to recording the declaration as provided in this chapter, and while the property remains subject to this chapter, liens or encumbrances shall arise or be created only against each unit and the percentage of undivided interest in the common areas and facilities appurtenant to such unit, in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership, provided no labor performed or materials furnished with the consent or at the request of a unit owner or his agent shall be the basis for the filing of a mechanics lien against the unit or any other property of any other unit owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any unit in the case of emergency repairs thereto. Labor performed or materials furnished for the common areas and facilities, if authorized by the association of unit owners, the manager or board of directors, the declaration or bylaws, shall be deemed to be performed or furnished with the express consent of each unit owner and shall be the basis for the filing of a mechanics lien against each of the units and shall be subject to subsection 2.

2. Individual payments. If a lien against 2 or more units becomes effective, the owner of any such unit may remove his unit and his percentage of undivided interest in the common areas and facilities appurtenant to his unit from the lien by payment of the fractional or proportional amount attributable to his unit. Such individual payment shall be computed by reference to the percentages appearing in the declaration. Subsequent to any such payment, discharge or other satisfaction, such unit and the percentage of undivided interest in the common areas and facilities appurtenant thereto shall thereafter be free and clear of the lien so paid, satisfied or discharged. Such payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce his rights against any unit and the percentage of undivided interest in the common areas and facilities appurtenant thereto not so paid, satisfied or discharged.

CHAPTER 10-A
TIME SHARES

§591. Definitions

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

1. Manager. "Manager" means any person, other than all time-share owners or the association, designated in or employed pursuant to the time-share instrument or project instrument to manage the time-share units.

2. Managing entity. "Managing entity" means the manager or, if there is no manager, the association of unit owners.

3. Project. "Project" means real property subject to a project instrument containing more than one unit. A project may include units that are not time-share units.

4. Project instrument. "Project instrument" means one or more recordable documents by whatever name denominated, applying to the whole of a project and containing restrictions or

covenants regulating the use, occupancy or disposition of units in a project, including any amendments to the document, but excluding any law, ordinance or governmental regulation.

5. Purchaser. "Purchaser" means any person, other than a developer, who by means of a voluntary transfer acquires a legal or equitable interest in a time share other than as security for an obligation.

6. Time share. "Time share" means a time-share estate or a time-share license.

7. Time-share estate. "Time-share estate" means any interest in a unit or any of several units under which the exclusive right of use, possession or occupancy of the unit circulates among the various time-share owners in the unit in accordance with a fixed time schedule on a periodically recurring basis for periods of time established by the schedule coupled with a freehold estate or an estate for years in a time-share property or a specified portion thereof.

8. Time-share instrument. "Time-share instrument" means one or more documents, by whatever name denominated, creating or regulating time shares.

9. Time-share license. "Time-share license" means a right to occupy a unit or any of several units during 3 or more separated time periods over a period of at least 3 years, including renewal options, not coupled with a freehold estate or an estate for years.

10. Time-share owner. "Time-share owner" means a person who is an owner or co-owner of a time share other than as security for an obligation.

11. Time-share property. "Time-share property" means one or more time-share units subject to the same time-share instrument, together with any other real estate or rights appurtenant to those units.

12. Time-share unit. "Time-share unit" means a unit in which time shares exist.

13. Unit. "Unit" means real property or a portion thereof designated for separate use.

§592. Requirements of time shares

1. Specific disclosures. No time share may be conveyed by a developer or conveyed for the first time unless, prior to that conveyance or the execution of an agreement for the purchase, whichever is earlier, the purchaser is provided, at no cost to the purchaser, with a written statement containing the following information, all of which shall be current to a point not more than 60 days prior to the date of delivery to the purchaser.

A. The front cover or first page must contain only:

(1) The name and principal address of the developer and of the project and the location of the time-share property; and

(2) The following statements in conspicuous type.

(a) THIS CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A TIME SHARE. STATE OF MAINE LAW REQUIRES THAT

THESE DISCLOSURES BE MADE BUT NO STATE AGENCY OR OFFICIAL HAS REVIEWED THE INFORMATION CONTAINED IN THIS BOOKLET.

(b) YOU MAY CANCEL THE PURCHASE TRANSACTION WITHIN TEN CALENDAR DAYS FOLLOWING THE DATE OF EXECUTION OF THE CONTRACT OR THE RECEIPT OF A CURRENT WRITTEN STATEMENT, WHICHEVER IS LATER.

(c) THE STATEMENTS CONTAINED INSIDE ARE ONLY SUMMARY IN NATURE. IF YOU ARE THINKING OF BUYING A UNIT, YOU SHOULD TALK TO YOUR ATTORNEY AND LOOK AT ALL EXHIBITS, INCLUDING THE DECLARATION, PROJECT INSTRUMENT FLOOR PLAN, PLOT PLAN, BYLAWS AND CONTRACTS.

(d) YOU SHOULD ASK YOUR ATTORNEY AND THE DEVELOPER TO TELL YOU WHAT WILL HAPPEN TO YOUR DEPOSIT, INTEREST IN THE UNIT, OR COSTS AND EXPENSES IF THE DEVELOPER OR OWNER IS DECLARED BANKRUPT. OBTAIN THE ANSWER FROM THE DEVELOPER IN WRITING.

B. The following pages shall contain, in the following order:

(1) A general description of the time-share property and the time-share units, including, without limitation, the number and types of units in the time-share property and in any project of which it is a part and the schedule of commencement and completion of construction of all buildings, units, amenities and improvements;

(2) The maximum number of units that may become part of the time-share property, a statement of the maximum number of time shares that may be created or that there is no maximum, and the proportion of units the developer intends to rent or market in blocks of units to investors;

(3) Copies and a brief narrative description of the significant features of the project instrument and time-share instrument and any documents referred to therein, other than the survey and floor plans; the bylaws; rules; copies of any contracts and leases to be signed by purchasers at closing; and a brief narrative description of any contracts or leases, the term of which will or may extend beyond the period of developer control of the association;

(4) Any current balance sheet and a projected budget for the association, if there is an association, for one year after the date of the first transfer to a purchaser, and thereafter the current budget, a statement of who prepared the budget and a statement of the budgetary assumptions concerning occupancy and inflation factors. The budget shall include, without limitation:

(a) A statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement;

(b) A statement of any other reserves;

(c) The projected common expense assessment by category of expenditures for the association; and

(d) The projected monthly common expense assessment for each type of unit;

(5) Any services not reflected in the budget that the developer provides, or expenses that he pays, and that he expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit and each time-share estate;

(6) Any initial or special fee due from the purchaser at or before closing, together with a description of the purpose of the fee and method of its calculation;

(7) A description and a statement of the effect on the time-share owners of any liens, defects or encumbrances on or affecting the title to the project and each time-share unit;

(8) A description of any financing offered by the developer;

(9) The terms and significant limitations of any warranties provided by the developer, including statutory warranties and limitations on the enforcement thereof or on damages;

(10) A statement that:

(a) Within 10 calendar days after receipt of the current written statement or execution of a contract, whichever is later, a purchaser may cancel any conveyance or contract for purchase of a unit from the developer; and

(b) If the purchaser elects to cancel, the purchaser may do so by hand delivering a notice of cancellation or by mailing the notice by prepaid United States mail to the developer. The cancellation must be without penalty and any deposit made by the purchaser must be promptly refunded in its entirety;

(11) A statement of any unsatisfied judgments against the association, developer or managing entity, the status of any pending suits to which the association, developer or managing entity is a party and the status of any pending suits material to the property of which the developer has actual knowledge;

(12) A statement that any deposit made in connection with the purchase of a unit will be returned to the purchaser if the purchaser cancels the contract within 10 calendar days after receipt of the written statement or contract;

(13) Any restraints on transfer of time shares or portions thereof;

(14) A description of the insurance coverage provided for the benefit of the time-share owners;

(15) Any current or expected fees or charges to be paid by time-share owners for the use of the common elements and other facilities related to the project;

(16) All unusual and material circumstances, features and characteristics of the project and the units;

(17) The projected common expense assessment for each time share and whether those assessments may vary seasonally;

(18) The extent to which the time-share owners of a unit are jointly and severally liable for the payment of real estate taxes and all assessments and other charges levied against that unit; and

(19) The extent to which a time-share unit may become subject to a tax or other lien arising out of claims against other time-share owners of the same time-share unit.

2. Restraint upon partition of time-share units. No action for partition of any unit in which time shares are created may lie.

3. Cancellation of contract. Any purchaser or prospective purchaser of a time share may cancel a contract or conveyance of a time share by delivering or mailing a postage prepaid written notice of the purchaser's intention to cancel within 10 calendar days after the date of any contract or conveyance or within 10 calendar days after delivery of the current written statement required by subsection 1, whichever is later.

4. Time share located outside State. This section shall apply to offers or sales within this State of time shares in property, even if the project is located outside of this State.

5. Application with respect to foreclosures of mortgages. This section shall not apply to offers or sales by financial institutions as defined in Title 9-B of time shares in property with respect to foreclosure of any mortgage or the delivery of any deed in lieu of that foreclosure.

6. Violation. Any violation of this section shall be a violation of Title 5, chapter 10.

7. Completion of construction; escrow requirement. Notwithstanding chapter 31, a developer of a time-share project may convey a time-share to a purchaser prior to the time-share unit containing the time-share being substantially completed, as long as the developer deposits all funds or other consideration received from or on behalf of the purchaser into an escrow account subject to an escrow agreement with an independent escrow agent.

A. The escrow agreement must provide that the funds or other consideration may be released only as provided in this paragraph.

(1) If the purchaser gives a valid notice of cancellation pursuant to this section or is otherwise entitled to cancel the sale, the funds or other consideration received from or on behalf of the purchaser must be returned to the purchaser.

(2) If the purchaser defaults in the performance of any obligation relating to the purchase or ownership of the time-share following the expiration of the cancellation period set out in subsection 1, the developer shall provide an affidavit to the escrow agent requesting release of the escrowed funds or other consideration and shall provide a copy of the affidavit to the purchaser who has defaulted. If, within 7 calendar days of

mailing the affidavit, the developer has not received from the purchaser a written notice of a dispute between the purchaser and the developer or a claim to the escrowed funds or other consideration, the funds or other consideration received from or on behalf of the purchaser must be immediately released to the developer.

(3) If no cancellation or default has occurred, the escrow agent may release the funds or other consideration upon presentation of an affidavit by the developer that:

(a) The cancellation period has expired; and

(b) A certificate or statement of substantial completion has been executed by an engineer or architect or a certificate of occupancy has been issued by the municipal building official for the time-share unit containing the time-share. [

B. In lieu of any escrow required by this section, the escrow agent may accept a surety bond issued by a company authorized and licensed to do business in this State in an amount equal to or in excess of the funds that would otherwise be placed in the escrow account pursuant to this section.

C. As used in this subsection, "independent escrow agent" means a financial institution whose accounts are insured by a governmental agency or instrumentality; an attorney; or a licensed title insurance company, in which:

(1) The escrow agent is not a relative or an employee of the developer or managing entity or of any officer, director, affiliate or subsidiary of the developer or managing entity;

(2) There is no financial relationship, other than the payment of fiduciary fees or as otherwise provided in this section, between the escrow agent and the developer or managing entity or any officer, director, affiliate or subsidiary of the developer or managing entity; and

(3) Compensation paid by the developer to the escrow agent for services rendered is not paid from funds in the escrow account.

D. For purposes of paragraph C, an independent escrow agent may not be disqualified to serve as escrow agent solely because:

(1) The escrow agent provides the developer or managing entity with routine banking services that do not include construction or receivables financing or any other lending activities;

(2) A nonemployee, attorney-client relationship exists between the developer or managing entity and the escrow agent; or

(3) The escrow agent performs closings for the developer or issues owner's or lender's title insurance commitments or policies in connection with such closings.

§593. Taxation of time-share estates

Notwithstanding the provisions of sections 579 and 580, taxation of time-share estates shall be determined according to this section.

1. Creation of estates. Notwithstanding any contrary rule of common law, a grant of an estate in a unit conferring the right of possession during a potentially infinite number of separated time periods creates an estate in fee simple having the character and incidents of such an estate at common law, and a grant of an estate in a unit conferring the right of possession during 3 or more separated time periods over a finite number of years equal to 3 or more, including renewal options, creates an estate for years having the character and incidents of such an estate at common law.

2. Time-share estates as separate estates. Each time-share estate constitutes for all purposes a separate estate in real property. Each time-share estate must be separately assessed and taxed. In addition to other factors relevant to the valuation of a time-share estate considered by the assessor, the assessor may consider the real property value of the time-share estate declared in the declaration of value, if any, submitted under Title 36, section 4641-D. The filing and discharge of tax liens on more than one time-share estate owned by the same person are governed by Title 36, section 942-A.

3. Recordation. A document transferring or encumbering a time-share estate may not be rejected for recordation because of the nature or duration of that estate.

4. Collection and receipt of money for taxes; tax bills. The managing entity may collect and receive money from time-share estate owners for the purpose of paying taxes assessed on time-share estates.

If required by an ordinance enacted by the municipal officers, the managing entity shall collect and receive money from time-share estate owners for the purpose of paying taxes assessed on time-share estates. The ordinance must also require that the municipality send the managing entity a tax bill and information necessary to identify the assessed value of each time-share unit. Nothing in this subsection prevents a municipality from sending separate tax bills to each time-share owner.

Any managing entity that collects taxes shall maintain an escrow account and pay the taxes as provided in subsection 5.

5. Escrow account. If the managing entity collects money for taxes, it shall maintain an escrow account with a financial institution licensed by the State, and deposit any money collected or received for taxes in the escrow account within 10 days after collection or receipt. The escrow account must be established in the names of both the managing entity and the municipality in which the time-share estates are located. No withdrawal may be made from the escrow account without the written agreement of the municipality.

Prior to the delinquency date established by the municipality in which the time-share estates are located, the managing entity shall pay to the municipal tax collector all money deposited in the escrow account for the purpose of tax payment. If the amount paid from the escrow account is not sufficient to discharge all taxes and tax-related costs, due and owing, the managing entity shall place a lien on those time-share estates whose owners have not contributed to the escrow account

as provided in section 594, and pay the outstanding amount no later than 30 days after the date it has collected the taxes and costs from the delinquent owner or has foreclosed the lien and sold the time-share estate to a new owner or 10 months from the date of commitment, whichever is earlier. If requested by the municipality, the managing entity shall provide a list identifying those owners and their interests, including the periods of ownership, to the municipal tax collector, who may then proceed to collect the taxes on those interests as allowed by law.

If the tax collector and treasurer use the lien procedure described in Title 36, sections 942, 942-A and 943 to collect delinquent taxes on time-share estates, whenever a notice called for by Title 36, section 942, 942-A or 943 is sent to a time-share estate owner, the tax collector and treasurer shall give to the managing entity or leave at the managing entity's last and usual place of abode or send to the managing entity by certified mail, return receipt requested, either a copy of the notice sent to the time-share estate owner or a notice that lists all time-share estate owners to whom notices have been delivered. For sending the notice or notices to the managing entity, the tax collector or treasurer is entitled to receive $5 plus all certified mail, return receipt requested fees, plus the cost of any photocopying.

6. Unorganized territory. Time-share estates in the unorganized territory must be taxed according to the provisions of this section, and the State Tax Assessor has all the rights and obligations applicable to a municipality or municipal officers.

7. Effect of foreclosure. A governmental entity that acquires ownership of a time-share estate for reasons of tax delinquency, including, but not limited to, the automatic foreclosure of a tax lien, may not be required to pay for the share of common expenses attributable to the time-share estate during the period the governmental entity owns the time-share estate if the governmental entity does not use the time-share estate. Use by a governmental entity includes, without limitation, leasing or renting the time-share estate. Any unpaid common expenses attributable to the time-share estate accruing during the period of ownership of the time-share estate by the governmental entity may be charged by the owners' association or managing entity to the purchaser of a foreclosed time-share estate when the purchaser acquires title to the unit from the governmental entity. The governmental entity shall disclose in writing to a prospective purchaser of the time-share estate that the purchaser may be charged for the common expenses attributable to the time-share estate accruing during the period of the governmental entity's ownership.

§593-A. Utility billing for time-share estates

1. Definitions. As used in this section, the following terms have the following meanings.

A. "Assessment" means any rate, fee or charge assessed or imposed by a utility for the provision of its service to time-share units, other than service that is metered or otherwise measured and billed on an individual time-share owner basis.

B. "Utility" means a public utility as defined in Title 35-A, section 102, sanitary district established under Title 38, chapter 11 or sewer district as defined in Title 38, section 1032, subsection 3 or 4.

2. Authority of managing entities. Notwithstanding section 593, subsection 2, when a utility provides services to time-share units, the managing entity may collect and receive money from the time-share owners for the purpose of paying the assessment.

3. Authority of utility to require assessment collection. Notwithstanding section 593, subsection 2, on written request of a utility, a managing entity shall collect and receive money from the time-share owners in accordance with this subsection for the purpose of paying assessments.

A. The utility shall provide the managing entity a combined or total utility bill and any additional information that may be reasonably useful for the managing entity to allocate the cost of utility service to the time-share owners.

B. The managing entity shall maintain an escrow account with a financial institution licensed by the State and deposit any money collected or received for the utility's assessments in the escrow account within 10 days after collection or receipt. The escrow account must be established in the names of both the managing entity and the utility. A withdrawal may not be made from the escrow account without the written agreement of the utility.

C. Prior to the delinquency date established by the utility, the managing entity shall pay to the utility all money deposited in the escrow account under paragraph B for the purpose of paying the assessment. If the amount paid from the escrow account is not sufficient to discharge all assessments due and owing:

(1) The managing entity shall pay the difference and, in accordance with section 594, place a lien on those time-share estates whose owners have not contributed their apportioned share to the escrow account; or

(2) At the request of the utility, the managing entity shall provide a list identifying the delinquent owners and their interests, including periods of ownership, and the utility may proceed to collect the assessments from those interests as allowed by law. If the utility uses any lien procedure available to it under law to collect delinquent assessments on time-share estates, any required notice of the lien that the utility sends to a time-share estate owner must also be given to the managing entity or left at the managing entity's last and usual place of abode or the utility must send to the managing entity by certified mail, return receipt requested, either a copy of the notice sent to the time-share estate owner or a notice that lists all time-share estate owners to whom notices have been delivered. For sending the notice or notices to the managing entity, the utility may receive $5 plus all certified mail, return receipt requested fees and the cost of any photocopying.

4. Exercise of other utility authority not precluded. Nothing in this section limits the authority of a utility and a managing entity to make other mutually acceptable arrangements for collection of assessments. Nothing in this section limits the authority of a utility to take any other action available under law to collect and recover assessments.

§594. Liens for assessment

1. Lien created. A managing entity has a lien on a time share for any assessment for expenses of the time share or taxes or fines levied against that time share in accordance with the project instrument or municipal or state law from the time the assessment, tax or fine becomes due. A lien against a time-share estate may be foreclosed as provided in section 595, subsection 1, and a lien against a time-share license may be foreclosed as provided in section 595, subsection 2. Unless the project instrument otherwise provides, fees, charges, late charges, fines and interest

charged in accordance with the project instrument are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. The managing entity shall record notice of a lien on a time-share estate in the registry of deeds in the county in which the time-share estate is located. A notice of a lien on a time-share license must be recorded in the public records for the filing of security interests governed by the Uniform Commercial Code. If there is more than one lien, they may be listed in one filing. A copy of the notice of a lien on a time-share estate or time-share license must be sent by first class mail to the last known address of the time-share owner. A notice of a lien on a time-share estate or time-share license must include a statement that the federal Servicemembers' Civil Relief Act of 2003 applies to enforcement of liens when the owner of the time-share estate or time-share license is or was recently in military service.

2. Priority. A lien under this section is prior to all other liens and encumbrances on a time share, except:

A. Liens and encumbrances recorded before the recordation of the time-share instrument;

B. Mortgages and deeds of trust on the time share securing first mortgage holders and recorded before the due date of the assessment or the due date of the first installment payable on the assessment;

C. Liens for real estate taxes and other governmental assessments or charges against the time share; and

D. Liens securing assessments or charges made by a person managing a project of which the time-share property is a part. This subsection does not affect the priority or mechanics or materialmen's liens.

3. Perfection. The lien is perfected upon recording of a notice of lien in the registry of deeds of the county in which the time-share unit is situated.

4. Extinguishing lien. A lien for unpaid assessments is extinguished, unless proceedings to enforce the lien are instituted within 3 years after the assessments become payable.

5. Other remedies. This section does not prohibit actions or suits to recover sums for which subsection 1 creates a lien or preclude resort to any contractual or other remedy permitted by law.

6. Statement furnished. A person who has a duty to make assessments for time-share expenses shall furnish to a time-share owner upon written request a recordable statement setting forth the amount of unpaid assessments currently levied against his time share. The statement shall be furnished within 10 business days after receipt of the request and is binding in favor of persons reasonably relying thereon.

§595. Foreclosure or commercial sale of timeshare

1. Nonjudicial foreclosure of time-share estate. A time-share owner may grant to a financial institution or other person a mortgage with a power of sale on that owner's time-share estate that is governed by the terms of this section. The foreclosure of a mortgage with a power of sale or a lien from an assessment created pursuant to section 594 must be conducted pursuant to this section. The provisions of Title 14, chapter 713 do not apply to any such foreclosure.

In the event of a breach of the conditions of the power of sale mortgage or the failure of the time-share owner to pay the assessments as and when due and owing the following procedure must be followed.

A. Upon default, and after all applicable cure periods have expired, the person seeking to foreclose shall provide written notice of the default to the time-share owner at the owner's last known address by certified mail, return receipt requested, and by first class mail and provide a reasonable opportunity to cure of not less than 30 days from the date of the mailing of the notice letter.

B. If, after expiration of the 30-day period under paragraph A, the time-share owner has not cured the default in the manner prescribed, the person seeking to foreclose shall conduct a public auction under the conditions described in this paragraph.

(1) Notice under this paragraph must be given as follows.

(a) Notice of the sale must be published once in each of 3 successive weeks in a newspaper with a general circulation in the town in which the time-share property is situated. The first publication must be not later than 30 days before the date of the sale, calculated by excluding the date of publication of the first notice and the date of sale.

(b) A written notice of the time, date and place of the auction must be mailed to the last known address of the time-share owner of record by certified mail, return receipt requested, and by first class mail at least 30 days prior to the date of sale. The notice to the time-share owner must include the following language: "You are hereby notified that you have a right to petition the Superior Court or District Court for the county or district in which the time-share estate is located, with service on the foreclosing person, and upon such bond as the court may require, to enjoin the scheduled foreclosure sale." The notice of sale also must be sent by certified mail, return receipt requested, to all persons having a lien on the time-share estate at least 30 days prior to the date of the foreclosure sale.

(c) The notice must contain:

(i) The name of the time-share owner;

(ii) The date, time and place of the foreclosure sale;

(iii) A general description of the time-share estate; and

(iv) The terms of the sale.

If more than one time-share estate is to be included in the foreclosure sale, all such time-share estates may be combined into one notice of sale, with one property description, as described in division (d) or (e).

(d) The notice of foreclosure for foreclosing on the lien of a time-share estate must be printed in substantially the following form:

NOTICE OF SALE OF TIME-SHARE ESTATE OR ESTATES UNDER TITLE 33, SECTION 595 OF THE MAINE REVISED STATUTES ANNOTATED

By virtue of the project instrument of the .....(name and address of time-share property) and Title 33, section 594 establishing a lien for failure to pay assessments on the time-share estate (or estates, if more than one) held by the time-share owner (or owners, if more than one) listed below, the time-share estate (or estates, if more than one) will be sold at Public Auction commencing at ..... on ..... , 20.. at ....., Maine. (For each time-share estate, list the name and address of the time-share owner, a general description of the time-share estate and the book and page number of the deed.)

TERMS OF SALE: (State the deposit amount to be paid by the purchaser at the time and place of the sale and the times for payment of the balance or the whole, as the case may be. The time-share estates, if more than one, must be sold in individual lots unless there are no individual bidders, in which case they may be sold as a group.)

Other terms to be announced at the sale.

Signed.....

Lienholder or authorized agent.

(e) For foreclosure of a mortgage lien containing a power of sale on a time-share estate, a notice of sale must be printed in substantially the following form:

NOTICE OF SALE OF TIME-SHARE ESTATE OR ESTATES UNDER TITLE 33, SECTION 595 OF THE MAINE REVISED STATUTES ANNOTATED

By virtue of Title 33, section 595 and in execution of the power of sale contained in a certain mortgage (or mortgages, if more than one) on the time-share estate (or estates, if more than one) given by the time-share owner (or owners, if more than one) set forth below for breach of the conditions of said mortgage (or mortgages, if more than one) and for the purpose of foreclosing, the same will be sold at Public Auction commencing at ..... on ....., 20.. at ....., Maine, being all and singular the premises described in said mortgage (or mortgages, if more than one). (For each mortgage, list the name and address of the time-share owner, a general description of the time-share estate and the book and page number of the mortgage.)

TERMS OF SALE: (State the deposit amount to be paid by the purchaser at the time and place of the sale and the times for payment of the balance or the whole, as the case may be. The time-share estates, if more than one, must be sold in individual lots unless there are no individual bidders, in which case they may be sold as a group.)

Other terms to be announced at the sale.

Signed .....

Holder of Mortgage or authorized agent.

(f) The notice of sale in the forms described in divisions (d) and (e), published in accordance with the provisions of this section, together with such other or further notice, if any, constitutes sufficient notice of the sale.

(2) The foreclosure sale must be conducted pursuant to this subparagraph.

(a) The foreclosure sale must take place on the time-share property or some other location within the same town as the time-share property.

(b) The foreclosure sale must be by public auction, conducted by an auctioneer or attorney licensed to practice in the State. At the discretion of the auctioneer or attorney, the reading of the names of the time-share owners, if more than one, the description of time-share estates, if more than one, and the recording information, if more than one instrument, may be dispensed with.

(c) All rights of redemption of the time-share owner are extinguished upon sale of a time-share estate.

(d) The managing entity, the foreclosing person or any time-share owner may bid at the foreclosure sale. The successful buyer at the foreclosure sale takes title to the time-share estate free and clear of any outstanding assessments owed by the prior time-share owner to the managing entity. A purchaser at a sale is not required to complete the purchase if there are liens and encumbrances, other than those included in the notice of sale, that are not stated at the sale and included in the foreclosing person's contract with the purchaser.

(e) Upon closing, the foreclosing person shall provide the buyer with a foreclosure deed or other appropriate instrument transferring the rights to the time-share estate and an affidavit attesting that all requirements of the foreclosure pursuant to this section have been met. The time-share estate is deemed to have been sold, and the instrument conveying the time-share estate must transfer the time-share estate, subject to municipal or other public taxes and to any liens and encumbrances recorded prior to the recording of the mortgage or the lien for assessments.

(f) The buyer shall record the foreclosure deed or other instrument with the appropriate registry of deeds no more than 30 days after the foreclosure sale date.

(g) Within 30 days after the closing and transfer of the foreclosure deed or other instrument and affidavit, the foreclosing person shall mail a notice detailing the results of the foreclosure sale to the last known address of the former time-share owner and all parties that held a junior interest to that of the foreclosing person.

2. Foreclosure of lien or security interest on time-share license. In the case of a time-share license, the following must be conducted by public or private sale in accordance with the provisions of Title 11, section 9-1610:

A. The foreclosure of a lien on a time-share estate pursuant to section 594 for failure to pay assessments when due; or

B. The exercise of the rights of a holder of a security interest in a time-share license for breach of the terms of the instrument granting the security interest.

All rights of redemption of a time-share owner are extinguished upon the consummation of the sale proceedings. The managing entity, the foreclosing person or any time-share owner may bid at the sale or may enter into agreements for the purchase of one or more time-share licenses following the completion of sale proceedings. The successful buyer takes title to the time-share license free and clear of any outstanding assessments owed by the prior time-share owner to the managing entity.

3. Foreclosure of mortgage not containing power of sale. In the event of a breach of the conditions of a mortgage on a time-share estate that does not contain a power of sale, the holder of the mortgage may conduct a nonjudicial foreclosure of the interest of the time-share owner in the time-share estate pursuant to subsection 1 if, at the same time the holder gives written notice of default to the time-share owner as provided in subsection 1, paragraph A, the holder also gives written notice to the time-share owner stating that unless the time-share owner objects in writing to the nonjudicial foreclosure within the 30-day period required by subsection 1, paragraph A, the holder will proceed to conduct the foreclosure pursuant to subsection 1. The holder must explain in the notice that the time-share owner has the right to a judicial foreclosure conducted pursuant to Title 14, chapter 713 if the owner asserts the objection within the specified time period and must include with the notice an objection form together with an envelope addressed to the holder. Failure of a time-share owner to object as required by this subsection in a timely manner is deemed a waiver of the owner's right to a judicial foreclosure pursuant to Title 14, chapter 713, which may include judicial foreclosure by way of court action.

4. Forfeiture of deficiency claim. If the holder of the mortgage conducts a nonjudicial foreclosure pursuant to this section, the holder forfeits the holder's right to pursue a claim for any deficiency in the payment of the time-share owner's obligations resulting from the application of the proceeds of the sale to such obligations.

If the holder of a security interest in a time-share license conducts a nonjudicial foreclosure pursuant to this section, the holder forfeits the holder's right to pursue a claim for any deficiency in the payment of the time-share owner's obligations resulting from the application of the proceeds of the sale to such obligations.

CHAPTER 11
REGISTER OF DEEDS

§653. Time of recording; verification

A register shall, at the time of receiving a deed or instrument for record, certify on the deed or instrument the day and the hour and minute when it was received and the book number and page number where the document is located. If the deed or instrument does not have sufficient room on the page or pages for the location of the recording information so that the register is required to add an additional page for the placement of the recording information, the register may charge in addition to any other fees allowed by law a fee of $2 for each page the register is required

to add. An instrument is considered recorded at the time when it was received and that time must be entered on the record. The register shall enter that time, the names of the grantor and grantee and the name of the town or unincorporated place as shown by the instrument in which the property affected is located in a record kept for that purpose and open to inspection in business hours. The register may not permit a deed or instrument for the conveyance of real estate to be altered, amended or withdrawn until it is fully recorded and examined. The record must be verified as a true record of the original document by comparing the indexing record and the copy kept for public inspection, as described in section 651, to the original document before the original document is allowed to leave the registry office.

§662. Plans showing allotment of lands in cities and towns

The municipal officers of a city or town may, and upon the written request of 3 or more taxpayers of the city or town shall, cause any plans in the possession of the city or town or otherwise available, showing the allotment of lands in the city or town, to be recorded in the registry of deeds in the county or registry district in which any such city or town is situated. The plans must be recorded and kept in accordance with the provisions of section 652.

§663. Copies of transfers of lands in unorganized territory sent to State Tax Assessor

In each county containing lands in unorganized territory, so called, the register of deeds shall transmit to the State Tax Assessor certified copies of the record of all transfers of lands in unorganized territory made after the 20th day of March, 1907, within 10 days after such record is made. Such copies shall be placed on file and retained for future reference by the State Tax Assessor.

§751. Schedule

Except as provided in any other provision of law, registers of deeds shall receive the following fees for:

1. Instruments generally. Receiving, recording and indexing any instrument that may be recorded and for which a specific fee is not set forth in this section or in any other section, the sum of $19 for the first record page and $2 for each additional record page or portion of an additional record page. In addition, if more than 4 names are to be indexed, a fee of $1 must be paid for each additional name, counting all grantors and grantees;

1-A. Divorce decrees or abstracts. (Repealed)

2. Discharge. (Repealed)

3. Municipal quitclaim deed. (Repealed)

4. Copy of writ of attachment in unincorporated place. (Repealed)

5. Certain corporation certificates. (Repealed)

6. Copy of process against domestic corporation. (Repealed)

7. Organization of nonprofit corporation. (Repealed)

8. Federal liens. (Repealed)

9. Plans. Recording, indexing and preserving plans, the sum of $21;

10. Municipal and unorganized territory tax liens. (Repealed)

11. Mortgage foreclosure. (Repealed)

12. District liens. (Repealed)

13. Secured transactions. (Repealed)

13-A. Previously recorded instrument. An instrument satisfying, releasing, discharging, assigning, subordinating, continuing, amending or extending an instrument previously recorded in the county in which recording is requested must make reference to only one previously recorded instrument, or a fee of $13 for each additional previously recorded instrument referred to must be paid.

14. Abstracts and copies. (Repealed)

14-A. Bail liens. (Repealed)

14-B. Paper copies. Making paper copies of records at the office of the register of deeds as follows:

A. Five dollars per page for paper copies of plans; and

B. One dollar per page for other paper copies;

14-C. Abstracts and copies. (Repealed)

14-D. Downloads of 1,000 or more consecutive electronic images or electronic abstracts from a county registry of deeds. Acquiring downloads of 1,000 or more consecutive electronic images or electronic abstracts from a county registry of deeds equipped to provide downloads of images or electronic abstracts, 5¢ per image or electronic abstract;

14-E. Electronic images, printed images or electronic abstracts from a county registry of deeds website. Acquiring electronic images, printed images or electronic abstracts from a county registry of deeds website as follows:

A. No charge for the first 500 images or electronic abstracts, or a combination of the first 500 images and electronic abstracts, acquired by a person in a calendar year; and

B. Fifty cents per image or electronic abstract for each subsequent image or electronic abstract after 500 acquired in the same calendar year; and

15. When payable. Fees provided by this section shall be paid when the instrument is offered for record, except that fees payable by the State shall be paid monthly by the department

or agencies requesting the recording, upon rendition of bills by the register of deeds. Said bills shall be paid within 10 days of receipt of same by the department or agencies.

TITLE 35-A
PUBLIC UTILITIES

CHAPTER 1
ORGANIZATION, GENERAL POWERS AND DUTIES

§102. Definitions

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

1. Commission. "Commission" means the Public Utilities Commission.

1-A. Abutting property. "Abutting property" means, with respect to a parcel of land, another parcel of land that shares a common property boundary, except that "abutting property" does not include a parcel of land separated from another parcel by a public road or highway.

2. Commissioner. "Commissioner" means one of the members of the Public Utilities Commission.

2-A. Competitive service provider. "Competitive service provider" means a competitive electricity provider as defined in section 3201, subsection 5.

3. Corporation. "Corporation" includes municipal and quasi-municipal corporations.

4. Customer. "Customer" includes any person, government or governmental division which has applied for, been accepted and is currently receiving service from a public utility.

4-A. Dark fiber provider. "Dark fiber provider" means a person, its lessees, trustees, receivers or trustees appointed by any court, owning, controlling, operating or managing federally supported dark fiber that:

A. Offers its federally supported dark fiber on an open-access basis without unreasonable discrimination as confirmed in a schedule of rates, terms and conditions filed for informational purposes with the commission;

B. Is required to conduct its business subject to restrictions established and enforced by the Federal Government pursuant to Title VI of the federal American Recovery and Reinvestment Act of 2009, Public Law 111-5, 123 Stat. 115 (2009) and to grant security interests to the Federal Government under that Act; and

C. Does not transmit communications for compensation inside this State.

4-B. Federally supported dark fiber. "Federally supported dark fiber" means one or more strands within a bundle of fiber-optic cable through which an associated light signal or light communication transmission must be provided to provide communications service, but excluding the electronic equipment required in order to render the fiber capable of transmitting communications, the construction of which is financed in whole or in part with funds provided by

a grant awarded before January 1, 2010 by the United States Department of Commerce, National Telecommunications and Information Administration pursuant to the federal American Recovery and Reinvestment Act of 2009, Public Law 111-5, 123 Stat. 115 (2009).

5. Electric utility. (Repealed)

6. Electric plant. (Repealed)

6-A. Excluded electric plant. (Repealed)

6-B. Federal interconnection rights and obligations. "Federal interconnection rights and obligations" means the rights and obligations of a telecommunications entity under 47 United States Code, Sections 251 and 252 or any other provision of federal law or regulation governing telecommunications network facility interconnection or wholesale access rights and obligations to the extent the rights and obligations under the federal law or regulation may be regulated or overseen by the commission.

7. Ferry. "Ferry" includes every person, its lessees, trustees, receivers or trustees appointed by any court owning, controlling, operating or managing any vessel and which is subject to commission's jurisdiction under chapter 51.

7-A. Gas marketer. "Gas marketer" means an entity that sells natural gas to retail consumers in the State.

8. Gas utility. "Gas utility" includes every person, that person's lessees, trustees, receivers or trustees appointed by any court owning, controlling, operating or managing any gas plant for compensation within this State, except when gas is made or produced on and distributed by the maker or producer through private property alone solely for its own tenants and not for sale to others, or when the gas is sold solely for use in vehicles fueled by natural gas or to a liquid gas system that serves fewer than 10 customers as long as no portion of the liquid gas system is located in a public place or that serves a single customer if the liquid gas system is located entirely on the customer's premises. "Gas utility" does not include a gas marketer whose business in the State is restricted to selling natural gas to retail consumers and who does not provide natural gas transmission or distribution service.

9. Gas plant. "Gas plant" includes all real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the production, generation, transmission, delivery or furnishing of gas for light, heat or power.

9-A. Mobile telecommunications services. "Mobile telecommunications services" means telecommunications services licensed by the Federal Communications Commission for mobile use.

9-B. Incumbent local exchange carrier. "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that on February 8, 1996 provided telephone exchange service in the area and:

A. On February 8, 1996 was deemed to be a member of the exchange carrier association pursuant to 47 Code of Federal Regulations, Section 69.601(b); or

B. Is a person or entity that, on or after February 8, 1996, became a successor or assign of a member described in paragraph A.

9-C. Interconnected voice over Internet protocol service. "Interconnected voice over Internet protocol service" means a service that enables real-time, 2-way voice communications; requires a broadband connection from the user's location; and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

9-D. Interexchange carrier. "Interexchange carrier" means any person, association, corporation or other entity that provides intrastate interexchange telecommunications services, including a local exchange carrier that provides interexchange service.

9-E. Local exchange carrier. "Local exchange carrier" means any person that is engaged in the provision of telephone exchange service or exchange access. "Local exchange carrier" does not include a person insofar as that person is engaged in the provision of a commercial mobile service under 47 United States Code, Section 332(c), unless the commission by rule determines that the Federal Communications Commission includes such service in the definition of the term. "Local exchange carrier" does not include a person insofar as that person is engaged in the provision of interconnected voice over Internet protocol service unless the person is providing provider of last resort service. "Local exchange carrier" does not include a person insofar as the person is a dark fiber provider.

10. Natural gas pipeline utility. "Natural gas pipeline utility" includes every person, its lessees, trustees, receivers or trustees appointed by any court owning or operating for compensation within this State any pipeline, including pumping stations, storage depots and other facilities, for the transportation, distribution or sale of natural gas, or any person or corporation which has applied to the Federal Energy Regulatory Commission for a certificate of public convenience and necessity or to the Public Utilities Commission for a certificate of authorization to operate a natural gas pipeline within the State.

11. Person. "Person" includes a corporation, partnership, limited partnership, limited liability company, limited liability partnership, association, trust, estate, any other legal entity or natural person.

11-A. Provider of last resort service. "Provider of last resort service" has the same meaning as in section 7201.

12. Public heating utility. (Repealed)

12-A. Public switched telephone network. "Public switched telephone network" means the network of equipment, lines and controls assembled to establish communication paths between calling and called parties in North America.

13. Public utility. "Public utility" includes every gas utility, natural gas pipeline utility, transmission and distribution utility, telephone utility, water utility and ferry, as those terms are defined in this section, and each of those utilities is declared to be a public utility. "Public utility" does not include the operation of a radio paging service, as that term is defined in this section, or mobile telecommunications services unless only one entity or an affiliated interest of that entity, as defined in section 707, subsection 1, paragraph A, exclusively controls the use of the radio

frequency spectrum assigned by the Federal Communications Commission to provide mobile service to the service area.

Nothing in this subsection precludes:

A. The jurisdiction, control and regulation by the commission pursuant to private and special act of the Legislature;

B. The commission's jurisdiction and control over and regulation of a public utility that provides, in addition to other services, radio paging service or mobile telecommunications services;

C. The commission's jurisdiction and control over and regulation of basic exchange telephone service offered by a provider of mobile telecommunications services if, after investigation and hearing, the commission determines that the provider is engaged in the provision of basic exchange telephone service; and

D. Negotiations for, or negates agreements or arrangements existing on the effective date of this paragraph relating to, rates, terms and conditions for interconnection provided by a telephone utility to a company providing radio paging or mobile telecommunications services.

14. Radio common carrier. "Radio common carrier" means an entity that provides communications services primarily by use of radio or other wireless means.

15. Radio paging service. "Radio paging service" is a service provided by a communication common carrier engaged in rendering signaling communication. Signaling communication is one-way communication from a base station to a mobile or fixed receiver, or to multipoint mobile or fixed receivers by audible or subaudible means, for the purpose of activating a signaling device in the receiver or communicating information to the receiver, whether or not the information is to be retained in record form. It is limited to the following types of communications.

A. An optical readout paging service is one which communicates a message to a receiver which displays the message on an optical or tactile readout, either in a permanent form or a temporary form.

B. A tone only paging service is one which activates an aural, visual or tactile signaling device when received.

C. A tone-voice paging service is one which transmits tone to activate a signaling device and audio circuit in the addressed receiver, following which a voice-grade signal is transmitted, to be amplified by the audio circuit.

16. Rate design stability. "Rate design stability" means the implementation of interclass cost allocation or intraclass rate design changes to any existing customer class, of the magnitude or on such a schedule as to not be seriously adverse to the existing class of customers.

16-A. Self generation. "Self generation" means the generation of electricity for the use of an entity that owns, leases, operates, controls or manages, in whole or in part, generation assets, as defined in section 3201, subsection 10, provided that the electricity is not transmitted over transmission and distribution plant, as defined in subsection 20-A.

17. Telegraph utility. (Repealed)

18. Telegraph line. (Repealed)

18-A. Telephone service. "Telephone service" is the offering of a service that transmits communications by telephone, whether the communications are accomplished with or without the use of transmission wires.

18-B. Telephone exchange service. "Telephone exchange service" means service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and that is covered by an exchange service charge, or comparable service provided through a system of switches, transmission equipment or other facilities, or combination thereof, by which a subscriber can originate and terminate a telecommunications service.

19. Telephone utility. "Telephone utility" includes every person, its lessees, trustees, receivers or trustees appointed by any court, that provides telephone service for compensation inside this State. "Telephone utility" also includes a dark fiber provider. "Telephone utility" does not include any person or entity that is excluded from the definition of "public utility" as defined in subsection 13, subject to the provisions of subsection 13, paragraphs A to C.

20. Telephone line. (Repealed)

20-A. Transmission and distribution plant. "Transmission and distribution plant" means all real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the transmission, distribution or delivery of electricity for light, heat or power for public use and includes all conduits, ducts and other devices, materials, apparatus and property for containing, holding or carrying conductors used, or to be used, for the transmission or distribution of electricity for light, heat or power for public use.

20-B. Transmission and distribution utility. "Transmission and distribution utility" means a person, its lessees, trustees or receivers or trustees appointed by a court, owning, controlling, operating or managing a transmission and distribution plant for compensation within the State, except where the electricity is distributed by the entity that generates the electricity through private property alone solely for the use of:

A. The entity;

B. The entity's tenants; or

C. Commercial or industrial consumers located on:

(1) The property where the entity is located or on abutting property; or

(2) A commercial or industrial site that was served by the entity or its predecessor without using the transmission and distribution plant of a public utility prior to December 31, 2018.

21. Vessel. "Vessel" includes every boat which is owned, controlled, operated or managed for public use in the transportation of persons or property for compensation within this State.

21-A. Voice service provider. "Voice service provider" means any person providing, directly or indirectly, 2-way voice communications service for compensation in this State. "Voice service provider" does not include a dark fiber provider.

22. Water utility. "Water utility" includes every person, its lessees, trustees, receivers or trustees appointed by any court, owning, controlling, operating or managing any water works for compensation within this State, including any aqueduct organized under former Title 35, chapter 261 and any of its predecessors.

23. Water works. "Water works" includes all reservoirs, tunnels, shafts, dams, dikes, head gates, pipes, flumes, canals, structures and appliances, and all real estate, fixtures and personal property, owned, controlled, operated or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, apportionment or measurement of water for municipal and domestic use.

24. Wholesale competitive local exchange carrier. "Wholesale competitive local exchange carrier" means a local exchange carrier, other than an incumbent local exchange carrier, that provides a wholesale telecommunications service but does not provide telephone exchange service to a retail subscriber.

Revisor's Note: Subsection 24 as enacted by PL 2011, c. 590, §1 is REALLOCATED TO TITLE 35-A, SECTION 102, SUBSECTION 25)

25. (REALLOCATED FROM T. 35-A, §102, sub-§24) Zero-based budgeting. "Zero-based budgeting" means a method of budgeting in which programs and activities are justified for a budgetary period using cost-benefit analysis without regard to the amount that was budgeted for those programs and activities in a prior budgetary period.

CHAPTER 21
ORGANIZATION, POWERS, SERVICE TERRITORY

§2101. Organization of certain public utilities

A provider of provider of last resort service, a local exchange carrier and a public utility for the purpose of making, selling, distributing and supplying gas or electric transmission and distribution service or for the operation of water utilities, ferries or public heating utilities in any municipality, or 2 or more adjoining municipalities, within the State, may be organized as a legal entity authorized under the laws of the State, including Title 13-C.

§2102. Approval to furnish service

The following provisions apply to furnishing service.

1. Approval required. Except as provided in subsection 2 and in section 4507, a public utility may not furnish any of the services set out in section 2101 in or to any municipality in or to which another public utility is furnishing or is authorized to furnish a similar service without the

approval of the commission. The commission may condition approval upon the submission of a bond or other financial security if the commission determines that such a requirement is necessary to ensure that a public utility has the financial ability to meet its obligations under this Title.

2. Approval not required. Except as provided in section 2104, the commission's approval is not required for a public utility to furnish service in any municipality in which that public utility is furnishing service on October 8, 1967. Approval is not required for a transmission and distribution utility to distribute electricity to any other transmission and distribution utility.

2-A. Northern Maine Transmission Corporation. (Repealed)

3. Exemption for certain telephone utilities. The provisions of this section do not apply to any telephone utility except a provider of provider of last resort service with respect to the provision of provider of last resort service and a local exchange carrier.

4. Dark fiber provider. (Repealed)

5. Exemption for certain private electric facilities. The provisions of this section do not apply to the construction of a transmission line, together with all associated equipment and facilities, that is constructed, owned and operated by a generator of electricity for the purpose of electrically and physically interconnecting that generator to a commercial or industrial consumer of the electricity that is located on:

A. The property where the entity that generates the electricity is located or on abutting property; or

B. A commercial or industrial site that was served by the entity that generates the electricity or its predecessor without using the transmission and distribution plant of a public utility prior to December 31, 2018.

§2103. Transmission and distribution utility and cooperative authorized to serve same area

After September 1, 1967, where a cooperative organized under chapter 37 and any other transmission and distribution utility are serving or authorized to serve the same municipality, neither the cooperative nor the other utility may bring electrical service to a new location except as provided in this section.

1. Notice. The cooperative or utility must notify the other cooperative or utility and the commission, in writing, of the request by the party for electrical service, where bringing the service requires the extension of existing distribution facilities.

2. Filing objections. If, after notice, the other cooperative or utility opposes the bringing of electrical service to the new service location, within 7 days of receipt of the notice of proposed service, it shall:

A. File objections to the bringing of the electrical service with the commission; and

B. Send a copy of its objections to the utility or cooperative and to the party requesting electrical service.

3. Decision. If objections are filed, the commission shall immediately set a hearing date, and shall determine whether the cooperative or the other utility shall serve. If, after notice, either the cooperative or the utility fails to file its objections pursuant to subsection 2, it will be conclusively presumed that the cooperative or the utility, as the case may be, has consented to the furnishing of the service.

4. Temporary service pending a decision. Pending the final determination of the right to serve, the commission may order temporary service brought to the prospective new service location without prejudice to the rights of any party.

§2104. Commission approval for gas companies to furnish service

1. Approval of commission required; generally. Except as provided in subsection 2, a gas utility may not furnish its service in or to any municipality within the State without the approval of the commission.

2. Approval not required; no other utility serving. Notwithstanding section 2102 or 2105, a gas utility authorized to furnish service and serving customers within the State is not required to obtain the approval of the commission to serve in any municipality in which no other gas utility is furnishing similar service unless the commission, in an order issued pursuant to subsection 3, specifically provides otherwise.

3. Limited grant of authority. The commission, in an order granting authorization to a person to operate, manage or control a gas utility in any municipality in this State, may expressly limit the area in which the gas utility may provide service without further approval of the commission only if:

A. The commission finds that the financial and technical capacity of the gas utility is limited in a manner that public convenience and necessity require such limited authorization; or

B. The person seeking authorization requests that the authorization be limited to a particular area.

§2105. Approval only after hearing

1. Approval only after hearing. Except as provided in subsection 2, no approval required by section 2102, 2103 or 2104 and no license, permit or franchise may be granted to any person to operate, manage or control a public utility named in section 2101 in a municipality where there is in operation a public utility engaged in similar service or authorized to provide similar service, until the commission has made a declaration, after public hearing of all parties interested, that public convenience and necessity require a 2nd public utility.

2. Declaration without hearing. The commission may make a declaration without public hearing, if it appears that the utility serving or authorized to serve, the utility seeking approval from the commission to provide service and any customer or customers to receive service agree that the utility seeking approval to serve should provide service.

§2106. Transfer of approval for a radio common carrier

Consent granted by the commission under section 2102, or under section 2105, held by a radio common carrier may be assigned and transferred with the approval of the commission by holder of the approval. The commission may impose reasonable conditions upon granting its approval.

§2107. Approval only to Maine corporations

No approval required in section 2102, 2103 or 2104 to operate, manage or control a public utility may be granted after October 1, 1975, to a corporation unless it is duly organized under the laws of this State or authorized by those laws to do business in this State.

§2108. Corporations may hold real estate

Corporations organized under section 2101 and former section 2109 may purchase, hold and convey real estate and personal property that are necessary for the purposes for which they are created.

§2109. Organization of electric corporations in areas not adequately served (REPEALED)

§2110. Extension of service

A public utility organized by Private and Special Act of the Legislature may extend its service as follows.

1. Commission authorization. The commission may authorize a public utility organized by private and special act of Legislature to furnish or extend its service in, to or through a city or town notwithstanding any territorial limitations, express or implied, in the private and special act of the Legislature by which it was organized or under which it is enfranchised. Within 20 days after the commission's final authorization, the public utility shall file a certificate that shows the authorization with and pay $20 to the Secretary of State. When the certificate is filed, the public utility's power to extend its service becomes effective.

2. The commission's powers and limitations. The commission's powers and limitations, made applicable under this section, are those applicable by law in like cases concerning public utilities organized under Title 13-C or any prior general corporation law.

CHAPTER 32
ELECTRIC INDUSTRY RESTRUCTURING

§3209-A. Net energy billing

The commission may adopt or amend rules governing net energy billing. Rules adopted or amended under this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

1. Definitions. As used in this section, the following terms have the following meanings.

A. "Customer" means a customer of a transmission and distribution utility in the State.

B. "Distributed generation resource" means an electric generating facility that uses a renewable fuel or technology under section 3210, subsection 2, paragraph B-3 and is located in the service territory of a transmission and distribution utility in the State.

C. "Net energy billing" means a billing and metering practice under which a customer is billed on the basis of the difference between the kilowatt-hours delivered by a transmission and distribution utility to the customer over a billing period and the kilowatt-hours delivered by the customer to the transmission and distribution utility over the billing period, taking into account accumulated unused kilowatt-hour credits from the previous billing period.

2. Financial interest required. The commission shall allow a customer to participate in net energy billing if the customer has a financial interest in a distributed generation resource or in a generation resource that has a net energy billing arrangement on the effective date of this section, including facility ownership, a lease agreement or a power purchase agreement.

3. Shared financial interest for investor-owned utility customers; limitation. Multiple customers of an investor-owned transmission and distribution utility that have distinct billing accounts with that utility may share a financial interest in a distributed generation resource under subsection 2. Any number of customers of an investor-owned transmission and distribution utility with a shared financial interest in a distributed generation resource may participate in net energy billing, except that the number of eligible customers or meters is limited to 10 for a shared financial interest in a distributed generation resource located in the service territory of an investor-owned transmission and distribution utility located in an area administered by the independent system administrator for northern Maine or any successor of the independent system administrator for northern Maine unless the commission determines that the utility's billing system can accommodate more than 10 accounts or meters for the purpose of net energy billing.

4. System size. The nameplate capacity of a distributed generation resource that may be used for net energy billing must be less than 5 megawatts, except that, if a municipality is the customer participating in net energy billing, the nameplate capacity of a distributed generation resource located in that municipality that may be used for the net energy billing may be 5 megawatts or more, as long as less than 5 megawatts of metered electricity from the resource is used for net energy billing.

CHAPTER 41
MAINE MUNICIPAL AND RURAL ELECTRIFICATION COOPERATIVE AGENCY ACT

§4135. Tax exemption

1. Bonds or notes. All bonds, notes or other evidences of indebtedness issued under this chapter are issued by a political subdivision or a body corporate and politic of the State, and for an essential public and governmental purpose. Those bonds, notes or other evidences of indebtedness and the interest on them and the income from them, including any profit on their sale, and all activities of the agency and fees, charges, funds, revenues, incomes and other money of the agency, whether or not pledged or available to pay or secure the payment of those bonds, notes or other

evidences of indebtedness or interest on them, are exempt from all taxation, franchise fees or special assessments of whatever kind, except for transfer, inheritance and estate taxes.

2. Property taxes. All real and personal property acquired by the agency is subject to taxes to the same extent as real and personal property owned by other transmission and distribution utilities.

TITLE 37-B
DEFENSE, VETERANS AND EMERGENCY MANAGEMENT

CHAPTER 3
MILITARY BUREAU

§306. Tax exemption

All real estate and personal property owned or leased by the State, by any municipality, or by any organization of the state military forces and used for military purposes is exempt from all taxation during the period of that ownership or lease and use.

TITLE 38
WATERS AND NAVIGATION

CHAPTER 17
MAINE REFUSE DISPOSAL DISTRICT ENABLING ACT

§1704. Exemption from taxation

1. Exemption. As formerly provided in section 1554, the property, both real and personal, rights and franchises, of any district formed under this chapter shall be exempt from taxation.

2. Limitation. Notwithstanding subsection 1, the land of any district formed under this chapter shall be subject to property taxation in the jurisdiction where the property is located.

3. Payments in lieu of taxes. A district may elect to make payments in lieu of taxes to communities in which its property is located or utilized.

4. Service charges permitted. A district shall be subject to service charges when these charges are calculated according to the actual cost of providing municipal services to the real property of the district and to the persons who use that property. These services shall include, but are not limited to:

A. Fire protection;

B. Police protection;

C. Road maintenance and construction, traffic control, snow and ice removal;

D. Water and sewer service;

E. Sanitation services; and

F. Any services other than education and welfare.

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