LAWS RELATING

TO

PROPERTY TAXATION

Maine Constitutional Provisions and Extracts 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, 36, 37-B, 38, and Title 42 of the US Code

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FOREWORD

This notebook contains laws relating to property taxation affecting municipal assessors, municipal officials and the work of the Property Tax Division of Maine Revenue Services.

The laws shown in this notebook are extracts of the State's statutory database current through the Second Regular Session of the 127th Legislature as provided to us by the Office of Revisor of Statutes. The text also includes miscellaneous extracts of statutes that, though not included in taxation statutes, have an effect on taxation.

In transferring and reformatting of the laws from the state's statutory database and recently enacted Public Laws, errors and inconsistencies may have inadvertently escaped our review. Please feel free to contact us with any corrections or omissions as you may discover.

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THE PUBLIC HEALTH AND WELFARE

CHAPTER 21
CIVIL RIGHTS

§ 1983 CIVIL ACTION FOR DEPRIVATION OF RIGHTS

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

CONSTITUTION OF THE STATE OF MAINE

ARTICLE I.
DECLARATION OF RIGHTS

Section 22. Taxes. No tax or duty shall be imposed without the consent of the people or of their representatives in the Legislature.

ARTICLE III.
DISTRIBUTION OF POWERS

Section 1. Powers distributed. The powers of this government shall be divided into 3 distinct departments, the legislative, executive and judicial.

Section 2. To be kept separate. No person or persons, belonging to one of these departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted.

ARTICLE IV.
PART THIRD
LEGISLATIVE POWER

Section 1. To meet annually; power of Legislature to convene itself at other times; extent of legislative power. The Legislature shall convene on the first Wednesday of December following the general election in what shall be designated the first regular session of the Legislature; and shall further convene on the first Wednesday after the first Tuesday of January in the subsequent even-numbered year in what shall be designated the second regular session of the Legislature; provided, however, that the business of the second regular session of the Legislature shall be limited to budgetary matters; legislation in the Governor's call; legislation of an emergency nature admitted by the Legislature; legislation referred to committees for study and report by the Legislature in the first regular session; and legislation presented to the Legislature by written petition of the electors under the provisions of Article IV, Part Third, Section 18. The Legislature shall enact appropriate statutory limits on the length of the first regular session and of the second regular session. The Legislature may convene at such other times on the call of the President of the Senate and Speaker of the House, with the consent of a majority of the Members of the Legislature of each political party, all Members of the Legislature having been first polled. The Legislature, with the exceptions hereinafter stated, shall have full power to make and establish all reasonable laws and regulations for the defense and benefit of the people of this State, not repugnant to this Constitution, nor to that of the United States.

Section 9. Either House may originate bills; revenue bills. Bills, orders or resolutions, may originate in either House, and may be altered, amended or rejected in the other; but all bills for raising a revenue shall originate in the House of Representatives, but the Senate may propose amendments as in other cases; provided, that they shall not, under color of amendment, introduce any new matter, which does not relate to raising a revenue.

Section 23. Municipalities reimbursed annually. The Legislature shall annually reimburse each municipality from state tax sources for not less than 50% of the property tax revenue loss suffered by that municipality during the previous calendar year because of the statutory property tax exemptions or credits enacted after April 1, 1978. The Legislature shall enact appropriate legislation to carry out the intent of this section.

This section shall allow, but not require, reimbursement for statutory property tax exemptions or credits for unextracted minerals.

ARTICLE VI.
JUDICIAL POWER

Section 1. Courts. The judicial power of this State shall be vested in a Supreme Judicial Court, and such other courts as the Legislature shall from time to time establish.

Section 3. To give opinion when required by Governor or either Branch of the Legislature. The Justices of the Supreme Judicial Court shall be obliged to give their opinion upon important questions of law, and upon solemn occasions, when required by the Governor, Senate or House of Representatives.

ARTICLE VIII.
PART SECOND
MUNICIPAL HOME RULE

Section 1. Power of municipalities to amend their charters. The inhabitants of any municipality shall have the power to alter and amend their charters on all matters, not prohibited by Constitution or general law, which are local and municipal in character. The Legislature shall prescribe the procedure by which the municipality may so act.

Section 2. Construction of buildings for industrial use. For the purposes of fostering, encouraging and assisting the physical location, settlement and resettlement of industrial and manufacturing enterprises within the physical boundaries of any municipality, the registered voters of that municipality may, by majority vote, authorize the issuance of notes or bonds in the name of the municipality for the purpose of purchasing land and interests therein or constructing buildings for industrial use, to be leased or sold by the municipality to any responsible industrial firm or corporation.

ARTICLE IX.
GENERAL PROVISIONS

Section 7. Valuation. While the public expenses shall be assessed on estates, a general valuation shall be taken at least once in 10 years.

Section 8. Taxation. All taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally according to the just value thereof.

1. Intangible property. The Legislature shall have power to levy a tax upon intangible personal property at such rate as it deems wise and equitable without regard to the rate applied to other classes of property.

2. Assessment of certain lands based on current use; penalty on change to higher use. The Legislature shall have power to provide for the assessment of the following types of real estate whenever situated in accordance with a valuation based upon the current use thereof and in accordance with such conditions as the Legislature may enact:

A. Farms and agricultural lands, timberlands and woodlands;

B. Open space lands which are used for recreation or the enjoyment of scenic natural beauty;

C. Lands used for game management or wildlife sanctuaries; and

D. Waterfront land that is used for or that supports commercial fishing activities.

In implementing paragraphs A, B, C and D, the Legislature shall provide that any change of use higher than those set forth in paragraphs A, B, C and D, except when the change is occasioned by a transfer resulting from the exercise or threatened exercise of the power of eminent domain, shall result in the imposition of a minimum penalty equal to the tax which would have been imposed over the 5 years preceding that change of use had that real estate been assessed at its highest and best use, less all taxes paid on that real estate over the preceding 5 years, and interest, upon such reasonable and equitable basis as the Legislature shall determine. Any statutory or constitutional penalty imposed as a result of a change of use, whether imposed before or after the approval of this subsection, shall be determined without regard to the presence of minerals, provided that, when payment of the penalty is made or demanded, whichever occurs first, there is in effect a state excise tax which applies or would apply to the mining of those minerals.

3. School districts. The Legislature shall have power to provide that taxes, which it may authorize a School Administrative District or a community school district to levy, may be assessed on real, personal and intangible property in accordance with any cost-sharing formula which it may authorize.

4. Watercraft. Beginning with the property tax year 1984, all watercraft as defined by the Legislature shall be exempt from taxation as personal property, provided that certain watercraft as defined by the Legislature shall be subject to an excise tax to be collected and retained by the municipalities.

5. Historic and scenic preservation. The Legislature shall have the power to provide that municipalities may reduce taxes on real property if the property owner agrees to maintain the property in accordance with criteria adopted by the governing legislative body of the municipality to maintain the historic integrity of important structures or to provide scenic view easements of significant vistas.

Section 9. Power of taxation. The Legislature shall never, in any manner, suspend or surrender the power of taxation.

Section 21. State mandates. For the purpose of more fairly apportioning the cost of government and providing local property tax relief, the State may not require a local unit of government to expand or modify that unit's activities so as to necessitate additional expenditures from local revenues unless the State provides annually 90% of the funding for these expenditures from State funds not previously appropriated to that local unit of government. Legislation implementing this section or requiring a specific expenditure as an exception to this requirement may be enacted upon the vote of 2/3 of all members elected to each House. This section must be liberally construed.

TITLE 1
GENERAL PROVISIONS

CHAPTER 1
SOVEREIGNTY AND JURISDICTION

§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 which 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 shall be 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 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. [1969, c. 433, §1 (RPR).]

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;

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

Q. (REALLOCATED FROM T. 1, §402, sub-§3, ¶P) 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, the Department of Corrections or members of the State Board of Corrections under conditions that protect the information from further disclosure;

R. Social security numbers in the possession of the Secretary of State;

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; and

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.

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.

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 written notice of the denial, stating the reason for the denial, within 5 working days of the receipt of the request for inspection or copying. Failure to comply with this subsection is considered failure to allow inspection or copying and is subject to appeal as provided in section 409.

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.

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 [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 any Superior Court within the State as a trial de novo. The agency or official shall file an answer within 14 calendar days. If a court, after a trial de novo, 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

For every willful violation of this subchapter, the state government agency or local government entity whose officer or employee committed the violation shall be liable for a civil violation for which a forfeiture of not more than $500 may be adjudged.

§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; and

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

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 ELECTED OFFICIALS AND PUBLIC ACCESS OFFICERS

1. Training required. A public access officer and an elected 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 elected official takes the oath of office to assume the person's duties as an elected 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 elected 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 elected 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 elected official shall keep the record or file it with the public entity to which the official was elected. 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 elected 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 and 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 a reasonable period of time 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 or proceedings regarding claims for other retirement benefits.

2. **Group life insurance information.** Information in the possession of the retirement system regarding a participant's designated beneficiary or amount of insurance coverage or group life insurance is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3.

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. [2003, c. 632, §1 (NEW).]

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. [2011, c. 449, §1 (NEW).]

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. [2011, c. 449, §2 (NEW).]

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 7: AGRICULTURE AND ANIMALS

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. **Mobile home.** "Mobile home" means a structure, transportable in one or more sections which is 8 body feet or more in width and is 32 body feet or more in length and which 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. **Mobile home park.** "Mobile home park" means a parcel or adjoining parcel of land, under single ownership, that has been planned and improved for the placement of 3 or more mobile homes, but does not include a construction camp.

3. **Sanitarian.** [Repealed]

§9090. MUNICIPAL FORECLOSURE; UNLICENSED MOBILE HOME PARKS

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 mobile home park may, if the municipality determines the park poses a risk to public health, welfare or safety, close the park and, with at least 30 days' prior written notice, evict the inhabitants of the park. A municipality that takes possession of real estate on which is located an unlicensed mobile home park does not enter a landlord and tenant relationship with any inhabitant of the park 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 mobile home park.

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: [1965, c. 190, §4 (AMD).]

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 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.** A person may not obtain a trail-grooming equipment registration through fraud, misstatement or misrepresentation.

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. MUNICIPAL OFFICERS MAY ORDER NUISANCE ABATED

If no appeal is filed, the municipal officers of such municipality shall cause said nuisance to be abated or removed in compliance with their order, and all expenses thereof shall be repaid to the municipality by the owner or co-owner within 30 days after demand or a special tax may be assessed by the assessors against the land on which said building was located for the amount of such expenses and such amount shall be included in the next annual warrant to the tax collector of said town for collection, and shall 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 which extends beyond the low water mark, the special tax authorized by this section shall apply to the land from which such wharf, pier or pilings extended or to which they were adjacent, provided the owner of the land is also the owner of the said wharf, pier, pilings or portion thereof.

Expenses shall include, but not by way of limitation, the costs of title searches, location reports, service or process, costs of removal of the structure, any costs incurred in securing the structure, pending its removal, and all other costs incurred by the municipality which are reasonably related to the removal of the structure. In addition to levying a special tax, the municipality 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.

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"

G. [Repealed]

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.

G. [Repealed]

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 for all students to meet the standards in the 8 content standard subject areas 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 including federal funds that are currently provided or could be adapted to implement a system of learning results, as well as additional resources 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. Except as otherwise provided in this subsection, for each fiscal year, the total cost of the components of essential programs and services may not exceed the prior fiscal year's costs multiplied by one plus the average personal income growth rate as defined in Title 5, section 1665, subsection 1. The Legislature, by an affirmative vote of each House, may exceed the limitations on increases in the total cost of the components of essential programs and services provided in this subsection, as long as that vote is taken upon legislation stating that it is the Legislature's intent to override the limitation for that fiscal year. The state contribution to the cost of the components of essential programs and services, exclusive of federal funds that

are provided and accounted for in 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 2016-17 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 until the end of fiscal year 2014-15 as general purpose aid for local schools, and each school administrative unit shall make its own determination as to how to allocate these resources. Beginning in fiscal year 2017-18, $4,000,000 in revenues must be distributed by the department to provide start-up funds for approved public preschool programs for children 4 years of age in accordance with chapter 203, subchapter 3. 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.

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 year 2013-14 and succeeding years, the target is 97%.

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%.

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 teacher retirement, 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 and succeeding 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 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. The commissioner shall annually by February 1st notify each school administrative unit of its local cost share expectation. 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. For property tax years beginning on or after April 1, 2005, 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 decline over the period from fiscal year 2005-06 to fiscal year 2008-09 and may not exceed 9.0 mills in fiscal year 2005-06 and may not exceed 8.0 mills in fiscal year 2008-09. 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. Full-value education mill rates must be derived according to the following schedule.

(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 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 2016-17 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 state funds resulting from a transition adjustment pursuant to section 15686, 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 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; and

(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.

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 .

D. [Repealed]

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.

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 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]

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.** "Limited English proficiency student" means a student who was not born in the United States or whose native language is a language other than English and who satisfies the definition of a limited English proficient student under the federal No Child Left Behind Act of 2001, 20 United States Code, Chapter 70.

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; and

C. For fiscal year 2015-16 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.

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 abuse programs within hospital settings or in residential rehabilitation facilities licensed by the Department of Health and Human Services, Office of Alcoholism and Drug Abuse Prevention 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 B 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. The greater of:

(1) The average of the 2 pupil counts for April 1st and October 1st of the most recent calendar year 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; and

(2) The average of the 6 pupil counts for April 1st and October 1st of the 3 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 and counted 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. **Limited English proficiency students.** The additional weights for school administrative units with limited English proficiency students are as follows:

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

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

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

Eligibility for state funds under this subsection is limited to school administrative units that are providing services to limited English proficiency students through programs approved by the department.

2. **Economically disadvantaged students.** For each economically disadvantaged student, a school administrative unit receives an additional weight of .15. The number of economically disadvantaged students for each 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.

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.** The salary and benefit costs for school level teaching staff that are necessary to carry out this Act, calculated in accordance with section 15678, adjusted by the regional adjustment under section 15682 and reduced by the amount of funds received by the school administrative unit during the most recent fiscal year under Title I of the federal Elementary and Secondary Education Act of 1965, 20 United States Code, Section 6301 et seq.;

2. **Other staff costs.** 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, adjusted by the regional adjustment under section 15682 and reduced by the amount of funds received by the school administrative unit during the most recent fiscal year under Title I of the federal Elementary and Secondary Education Act of 1965, 20 United States Code, Section 6301 et seq.; 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, the student-to-teacher ratio is 16:1.

C. For the high school level, 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 [2003, c. 504, Pt. A, §6 (NEW).]

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) The student-to-education technician ratio is 100:1;

(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) The student-to-education technician ratio is 250:1;

(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. System administration. The per-pupil amount for "system administration" is the actual system administration 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, less revenues to system administration for services to other governments and refunds from a statewide school management association, 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. Beginning in school year 2008-2009, this per-pupil amount must be based on school year 2005-2006 system administration expenditures then reduced by 50% and inflated to an estimated allocation year level by a 10-year average increase in the Consumer Price Index or other comparable index;

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]

§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.

5. **Review; approval.** [Repealed]

6. **Targeted funds for educator evaluation.** For educator evaluation funds beginning with the 2013-2014 school year, the commissioner shall calculate the amount available to assist school administrative units in developing and implementing performance evaluation and professional growth systems pursuant to chapter 508.

§15681-A. OTHER SUBSIDIZABLE COSTS

The following are other subsidizable costs:

1. **Bus purchases.** Bus purchase costs;

2. **Special education costs.** Beginning in fiscal year 2005-06, a school administrative unit receives an additional weight of at least 1.20 but not greater than 1.40 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 funds:

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. For high-cost out-of-district special education 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; and

D. To ensure the school administrative unit meets the federal maintenance of effort requirement for receiving federal Individuals with Disabilities Education Act funds.

The commissioner shall develop an appeals procedure for calculated special education costs for school administrative units;

2-A. **Reduction for fiscal year 2008-09.** For fiscal year 2008-09, the commissioner shall reduce by 5% the allocation for special education costs as described in subsection 2. These calculated special education costs for school administrative units for fiscal year 2008-09 are subject to the appeals procedure described in subsection 2.

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.** For fiscal year 2008-09, the commissioner shall reduce by 5% the allocation for transportation costs as described in subsection 3. These calculated transportation costs for school administrative units for fiscal year 2008-09 are subject to the appeals procedure described in subsection 3.

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 2017-18 funding year and thereafter; 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 limited English proficiency students 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 limited English proficiency students 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 of 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; 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.

A. [Repealed]

B. [Repealed]

C. [Repealed]

§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 limited English proficiency students for each public charter school is the number of limited English proficiency students 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 limited English proficiency student allocation, which is the pupil count pursuant to subsection 2, paragraph C multiplied by the additional weight for each limited English proficiency student 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.

§15684. SCHOOL ADMINISTRATIVE UNIT CONTRIBUTIONS TO TOTAL OPERATING ALLOCATION *(REPEALED)*

§15685. WEIGHTED RELATIVE PROPERTY FISCAL CAPACITY *(REPEALED)*

§15686. TRANSITION ADJUSTMENT

For each of the fiscal years described in section 15671, subsection 7, the commissioner shall establish a transition adjustment calculated to minimize the adverse fiscal impact that may be experienced by some municipalities as a result of the phase-in of this Act. The transition adjustment for a municipality must be directly related to the phase-in of essential programs and services and the local cost share expectation method under section 15671-A of determining the local contribution to the cost of funding essential programs and services. The amount of this adjustment must decline with each successive fiscal year, and the adjustments must end no later than fiscal year 2008-09.

1. **Adjustment in fiscal year 2005-06.** A school administrative unit is eligible for a transition adjustment in fiscal year 2005-06 according to the provisions of this subsection.

A. A school administrative unit is eligible to receive a transition adjustment in fiscal year 2005-06 if the school administrative unit's state share of the total allocation, including the debt service adjustment pursuant to section 15689, subsection 2, and the minimum state share of its total allocation pursuant to section 15689, subsection 1 is less than the fiscal year 2004-05 state share of its total allocation, including the minimum state share of its total allocation pursuant to former section 15689, subsection 1 and the adjustment for geographic isolation pursuant to section 15612, subsection 2. The state share adjustment is an amount equal to that difference less the losses due to reduced expenditures for buses, debt service, special education, gifted and talented education and career and technical education.

(1) A school administrative unit that meets the criteria under this paragraph is eligible to receive no less than a 5% transition adjustment in fiscal year 2005-06 if the school administrative unit operates an elementary or secondary school and also has a student count of less than 1,000.

(2) A school administrative unit that meets the criteria under this paragraph is eligible to receive no less than a 2.5% transition adjustment in fiscal year 2005-06 if the school administrative unit operates an elementary or secondary school and also has a student count of 1,000 or more.

B. A small school administrative unit is eligible to receive a transition adjustment in fiscal year 2005-06 if the school administrative unit operates an elementary or secondary school, raises the maximum local cost share expectation pursuant to section 15671-A and also has a student count of less than 500. A school administrative unit that meets these criteria is eligible to receive 86% instead of 84% of the base total calculated pursuant to section 15683, subsection 2 in fiscal year 2005-06.

2. **Adjustment in fiscal year 2006-07.** A school administrative unit is eligible for a transition adjustment in fiscal year 2006-07 to mitigate a significant increase in state-certified property valuation according to the provisions of this subsection.

A. A school administrative unit is eligible under this subsection if it meets the following tier 1 criteria:

(1) The school administrative unit's state subsidy for fiscal year 2006-07, including the transition adjustment under this section, is less than the state subsidy the school administrative unit received in fiscal year 2005-06, including transition adjustments and adjustments for the decline in debt service; and

(2) The school administrative unit's state-certified valuation's increase from 2004 to 2005 is greater than the increase in statewide state-certified valuation during the same period.

School administrative units meeting the criteria in subparagraphs (1) and (2) are eligible to receive a transition adjustment amount equal to the result of the unit's valuation over the state average increase in valuation up to 4% multiplied by the statewide mill expectation established for fiscal year 2006-07 that may not result in a state share greater than the unit received in fiscal year 2005-06, including transition adjustments and adjustments for the decline in debt service.

B. A school administrative unit is eligible under this subsection if it meets the following tier 2 criteria:

(1) The school administrative unit's state subsidy in fiscal year 2006-07, including the transition adjustment under this section, is less than the state subsidy the school administrative unit received in fiscal year 2005-06, including transition adjustments and adjustments for the decline in debt service;

(2) The school administrative unit's adjusted mill expectation is below the statewide mill expectation established for fiscal year 2006-07;

(3) The school administrative unit's state subsidy in fiscal year 2006-07, including the transition adjustment under this section, is less than the school administrative unit's fiscal year 2004-05 state share of its total allocation, including the minimum state share of its total allocation pursuant to section 15689, subsection 1 and the adjustment for geographic isolation pursuant to former section 15612, subsection 2 and including the adjustment due to reduced expenditures for buses, debt service, special education, gifted and talented education and career and technical education;

(4) The school administrative unit's state subsidy in fiscal year 2005-06 did not include a transition adjustment; and

(5) The school administrative unit operates an elementary or secondary school.

School administrative units meeting all the criteria in this paragraph are eligible to receive a transition adjustment in an amount equal to the difference between the following: the school administrative unit's state subsidy in fiscal year 2006-07, including the transition adjustment under this section; and the fiscal year 2004-05 state share of the school administrative unit's total allocation, including the minimum state share of its total allocation pursuant to section 15689, subsection 1 and the adjustment for geographic isolation pursuant to former section 15612, subsection 2 and including the adjustment due to reduced expenditures for buses, debt service, special education, gifted and talented education and career and technical education plus 5%.

§15686-A. REVIEW OF ESSENTIAL PROGRAMS AND SERVICES COMPONENTS

1. **Components to be reviewed beginning in fiscal year 2006-07.** Beginning in fiscal year 2006-07, 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, transportation, small schools adjustments, labor markets and gifted and talented 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.

2. **Components to be reviewed beginning in fiscal year 2007-08.** Beginning in fiscal year 2007-08, 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 2008-09.** Beginning in fiscal year 2008-09, 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, leadership support, cocurricular and extra-curricular activities and supplies and equipment 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.

§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. Except as provided in paragraph B-1, 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 costs.** Beginning in fiscal year 2017-18, the allocation for career and technical education must be based upon a program-driven model that considers components for direct instruction, central administration, supplies, operation and maintenance of plant, other student and staff support and equipment. Monthly payments must be made directly to school administrative units with career and technical education centers and directly to career and technical education regions. If a school administrative unit with a career and technical education center or a 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.

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.** The commissioner may expend and disburse funds to support the transition to proficiency-based diplomas pursuant to section 4722-A, subsection 4.

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 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.** The commissioner may expend and disburse funds to support the implementation of performance evaluation and professional growth systems in accordance with chapter 508.

§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).

The 5% factor in subparagraphs (1) and (2) must be replaced by: 4% for the 2009-10 funding year including funds provided under Title XIV of the State Fiscal Stabilization Fund of the American Recovery and Reinvestment Act of 2009; 3% for the 2010-11 funding year including funds provided under Title XIV of the State Fiscal Stabilization Fund of the American Recovery and Reinvestment Act of 2009; 3% for the 2011-12 funding year; and 3% for the 2012-13 funding year and subsequent years; 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%; and

(10) In fiscal year 2014-15 and succeeding years, 30%.

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.

(1) [Repealed]

(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]

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 must be an adjustment to the qualifying school administrative unit's state allocation.

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 difference, but not less than zero, between the state share of the total allocation under this chapter and the amount computed as the school administrative unit's total allocation for economically disadvantaged students, multiplied by the relevant percentage in subsection 1, paragraph B. For the 2012-13 funding year, this adjustment is reduced to 98% of the amount otherwise calculated under this paragraph.

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.
(Subsection 12 as enacted by PL 2011, c. 655, Pt. F, §1 is REALLOCATED TO TITLE 20-A, SECTION 15689, SUBSECTION 13)

13. (REALLOCATED FROM T. 20-A, §15689, sub-§12) **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.

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%.

§15689-A. AUTHORIZATION OF PAYMENT OF MISCELLANEOUS COSTS

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.

2. **Education of institutional residents.** The commissioner may pay tuition to school administrative units or private schools for institutional residents within the limits of the allocation made under this section.

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.** The commissioner may expend and disburse funds limited to the amount appropriated by the Legislature to carry out the purposes of Public Law 1995, chapter 649, sections 5 and 8.

5. **Regionalization, consolidation and efficiency assistance.** [Repeal]

6. **Education research contract.** The commissioner may contract for the compilation and analysis of education data with a statewide education research institute.

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.** The commissioner may pay costs attributed to the contracted support services and annual payments for a program that provides laptop computers to middle school students.

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 consisting of 11 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 staff support consisting of one Education Team and Policy Director position, 2 Education Specialist III positions, one Planning and Research Associate I position, one Director of Special Projects position and 2 Education Specialist II positions, 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 one Education Specialist III position and system maintenance necessary to implement the transportation requirements of this chapter and chapter 215. *(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 for juvenile offenders.** The commissioner may pay certain costs attributed to staff support and associated operating costs for providing special education to juvenile offenders at youth development centers in Charleston and 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, and to the Mountain View Youth Development Center General Fund account within the Department of Corrections, sufficient to support one Teacher position, may occur annually by financial order upon recommendation of the State Budget Officer and approval of the Governor.

18. (REALLOCATED FROM T. 20-A, §15689-A, sub-§16) **Coordination of services for juvenile offenders.** The commissioner may pay certain costs attributed to staff support and associated operating costs for providing coordination of education, treatment and other services for juvenile offenders at youth development centers in Charleston and 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 one Education Specialist II position and one Office Associate II position and to the Mountain View Youth Development Center, General Fund account within the Department of Corrections sufficient to support 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.

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.** The commissioner may expend and disburse funds for the Center of Excellence for At-risk Students in accordance with the provisions of chapter 227.

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.** 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.

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.** The commissioner shall expend and disburse $75,000 in fiscal year 2015-16 and $75,000 in fiscal year 2016-17 to support postsecondary education attainment in Androscoggin County.

25. **Community schools.** The commissioner may expend and disburse funds for the establishment of community schools in accordance with the provisions of chapter 333. *(Subsection 25 as enacted by PL 2015, c. 363, §5 is REALLOCATED TO TITLE 20-A, SECTION 15689-A, SUBSECTION 26)*

26. (REALLOCATED FROM T. 20-A, §15689-A, sub-§25) **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.

§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.

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 recommendation.** Prior to December 15th of each 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. 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 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.

§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
(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

Beginning with the budget for the 2005-2006 school year, the following provisions apply to local appropriations for school purposes. [2005, c. 2, Pt. D, §62 (NEW); 2005, c. 2, Pt. D, §§72, 74 (AFF); 2005, c. 12, Pt. WW, §18 (AFF).]

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 (by municipality):	Total raised (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. For school administrative units that annually demonstrate savings by purchasing supplies using an electronic bidding forum, the commissioner may suspend all or a portion of any adjustment to the unit's state contribution pursuant to this paragraph.

D. (TEXT EFFECTIVE UNTIL 6/30/16) (TEXT REPEALED 6/30/16) In any fiscal year in which the sum of the State's contribution toward the cost of the components of essential programs and services, exclusive of federal funds that are provided and accounted for in the cost of the components of essential programs and services, falls below the State's target of 55% of the cost of the components of essential programs and services, the commissioner shall calculate the percentage of the State's 55% share that is funded by state appropriations and, notwithstanding any other provision of this paragraph, a school administrative unit may not have the amount of its state subsidy limited or reduced under paragraph C if the school administrative unit:

(1) In fiscal year 2013-14, raises at least the same percentage of its required local contribution to the total cost of funding public education from kindergarten to grade 12, including state-funded debt service, as the State's contribution toward its 55% share of the cost of the components of essential programs and services;

(2) In fiscal year 2014-15, raises the same percentage of its required local contribution to the total cost of funding public education from kindergarten to grade 12, including state-funded debt service, as the State's contribution toward its 55% share of the cost of the components of essential programs and services plus 33% of the difference between that percentage and 100% of its required local contribution; and

(3) In fiscal year 2015-16, raises the same percentage of its required local contribution to the total cost of funding public education from kindergarten to grade 12, including state-funded debt service, as the State's contribution toward its 55% share of the cost of the components of essential programs and services plus 66% of the difference between that percentage and 100% of its required local contribution.

This paragraph is repealed June 30, 2016.

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.

§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 and Title 20, sections 3457 to 3460, 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)*

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

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 licenses, license renewals, registrations and renewals of registrations of motor vehicles, trailers and semitrailers. The Secretary of State may authorize a municipal agent to issue licenses, registrations and renewals of licenses and 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 9,000 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 licenses, 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 license or registration issued and a fee not to exceed $4 over the required fee for each new license or registration issued.

B. In a municipality in which agents are authorized to issue licenses, registrations or renewals of licenses 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 license, 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 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.

F. A municipal agent may charge any applicant a fee not to exceed $2 over and above the required operator's license fee for each renewal issued.

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 or truck camper 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 dealer's certificate in a form prescribed by the State Tax Assessor, showing either that:

(1) The sales tax due has been collected by the dealer; or

(2) The sale of the vehicle or truck camper 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 or truck camper is not subject to tax.

3. **Collection fee.** Each official shall retain from the use taxes collected a fee of $1.25 for each vehicle or truck camper, 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, camp trailer or truck camper 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]

§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. If application is made for a truck camper or a trailer with a gross weight of 2,000 pounds or less, the transfer fee is $5.

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 than10,000 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, 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 10,000 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, Bureau of Maine 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, Bureau of Maine 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 AA 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; and

AA. National Emergency Service 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.** During the period beginning October 1, 2009 and ending October 1, 2014, the Secretary of State may not issue any decal not authorized by subsection 5, paragraphs A to AA, subsection 6, paragraphs A to E or subsection 8 for use with special veterans registration plates.

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.

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 one year from the date of issuance and may be renewed annually.

(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 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.
[2015, c. 335, §8 (RPR) .]

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 3%, whichever is less. 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 greater or 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.

1. Estimates sent to Legislature for approval; amendments. [Repealed]

2. Records. [Repealed]

§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.

E. [Repealed]

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.

A. [Repealed]

B. [Repealed]

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.

CHAPTER 101
GENERAL PROVISIONS

§2001. DEFINITIONS

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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 shall be printed on paper of uniform size and may consist of as many individual sheets as are reasonably necessary.

(1) 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 establish a Charter Commission for the purpose of revising the Municipal Charter or preparing a New 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. No petition may 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 shall 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 shall be in substance as follows:

"Shall a Charter Commission be established for the purpose of revising the Municipal Charter or establishing a New 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.

§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 45th 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 43rd 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 shall be printed either below the list of candidates or on a separate ballot from the ballot listing candidates. 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 45 days before the election. This notice must be signed by the candidate and must be notarized.

B. Within the 45-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 45-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 selectmen shall appoint the necessary number of ballot clerks as provided in Title 21-A, section 503. When there are vacancies after the polls are opened, the moderator shall appoint replacement clerks. The ballot clerks shall 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 selectmen 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.

§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 which shall be recorded by the secretary, for any matter relating to the conduct of any hearing, provided that the chair may waive any regulation upon good cause shown.

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.

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.

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 which may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives which are otherwise covered by this subsection shall 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; and

(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

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.

§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. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.

H. [Repealed]

H-1. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that:

(1) Expands the definition of "subdivision" to include the division of a structure for commercial or industrial use; or

(2) 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, 2006. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003 for the definition to remain valid for the grace period ending January 1, 2006. 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; and

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.

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.

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. [2003, c. 510, Pt. A, §29 (NEW).]

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 MUNICIPALITITES 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.

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.

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.

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, which 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 or, if specified in the development program, the subsequent tax year; 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) 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; 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 or employment training 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) Quality child care costs, 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; and

(8) Costs associated with the development of fisheries and wildlife or marine resources projects; 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 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, police stations 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 during the term of the district, 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 [2001, c. 669, §1 (NEW).]

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;

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 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 during the term of the district, 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 as defined in Title 36, section 5212, subsection 1, paragraph E.

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.

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 certificate 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. The department shall determine whether the business has met the requirements of this paragraph; and

B. It has received a certificate 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, 2018, 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, 2028.

§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 certificate of qualification to the business that includes a description of the qualified business activity for which the certificate is being issued. Prior to issuing a certificate of qualification, 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 State Economist must review applications under this section and provide an advisory opinion to assist the commissioner in making findings under this section.

§5250-P. Report

By January 15, 2004, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over economic development matters regarding rulemaking and progress in implementing Pine Tree Development Zones. Not later than April 1, 2005 and April 1st of each odd-numbered year thereafter, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over economic development matters on the status of the Pine Tree Development Zones.

SUBCHAPTER 5
PINE TREE RECREATIONAL 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; or

(5) An energy facility or part of that facility.

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;

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 constitute 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 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, shall at all times be free from taxation within the State, provided 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 SERVICES

§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% 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.

A. [Repealed]

B. [Repealed]

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.

A. If the amount appropriated for an incorporated volunteer fire department is $1,000 or less, the municipal officers may issue their warrant to the municipal treasurer, without itemizing the purposes for which the appropriation will be spent, requiring the municipal treasurer to pay the amount of the appropriation to the treasurer of the volunteer fire department;

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, 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.

§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. [1977, c. 696, §258 (RPR).]

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.

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: [1993, c. 560, §3 (AMD).]

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;

C. [Repealed]

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.

CHAPTER 41
UNIFORM UNCLAIMED PROPERTY ACT

§1971. REQUESTS FOR REPORTS AND EXAMINATION OF RECORDS

1. Report. The administrator may require a person who has not filed a report or a person who the administrator believes has filed an inaccurate, incomplete or false report to file a verified report in a form specified by the administrator. The report must state whether the person is holding property reportable under this Act, describe property not previously reported or as to which the administrator has made inquiry, and specifically identify and state the amounts of property that may be in issue.

2. Examination of records. The administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with this Act. The administrator may conduct the examination even if the person believes it is not in possession of any property that must be reported, paid or delivered under this Act. The administrator may contract with any other person to conduct the examination on behalf of the administrator.

3. Examination of business association records. The administrator at reasonable times may examine the records of an agent, including a dividend disbursing agent or transfer agent, of a business association or financial association that is the holder of property presumed abandoned if the administrator has given the notice required by subsection 2 to both the association or organization and the agent at least 90 days before the examination.

4. Confidentiality and use of documents and working papers. Information derived from annual reports from holders or otherwise communicated to the administrator or the administrator's agents concerning unclaimed property is confidential and not available for public inspection to the extent the administrator finds necessary to protect the interests of the holder, the owner, this State and the public welfare. Documents and working papers obtained or compiled by the administrator or the administrator's agents, employees or designated representatives in the course of conducting an examination are confidential and are not public records, but the documents and papers may be:

A. Used by the administrator in the course of an action to collect unclaimed property or otherwise enforce this Act;

B. Used in joint examinations conducted with or pursuant to an agreement with another state, the Federal Government or any other governmental subdivision, agency, or instrumentality;

C. Produced pursuant to subpoena or court order; or

D. Disclosed to the abandoned or unclaimed property office of another state for that state's use in circumstances equivalent to those described in this subsection, if the other state is bound to keep the documents and papers confidential.

5. Cost. If an examination of the records of a person results in the disclosure of property reportable under this Act, the administrator may assess the cost of the examination against the holder at the rate of $200 a day for each examiner, or a greater amount that is reasonable and was incurred, but the assessment may not exceed the value of the property found to be reportable. The cost of an examination made pursuant to subsection 3 may be assessed only against the business association or financial organization.

6. Insufficient records. If, after January 1, 1998, a holder does not maintain the records required by section 1972 and the records of the holder available for the periods subject to this Act are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay to the administrator the amount the administrator reasonably estimates, on the basis of any available records of the holder or by any other reasonable method of estimation, should have been but was not reported.

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.

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. "Public utility" includes a smart grid coordinator as defined in section 3143, subsection 1, paragraph B.

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 that entity's own use or the use of the entity's tenants and not for sale to others.

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.
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.

A. [Repealed]

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.

A. [Repealed]

B. [Repealed]

C. [Repealed]

4. **Dark fiber provider.** [Repealed]

§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 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 36
TAXATION

PART 1
GENERAL PROVISIONS

CHAPTER 7
UNIFORM ADMINISTRATIVE PROVISIONS

§111. Definitions

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

1. Assessor. "Assessor" means the State Tax Assessor, except that, in Part 2, Property Taxes, it means the State Tax Assessor with respect to the unorganized territory and the respective municipal assessors or chief assessors of primary assessing areas with respect to the organized areas.

1-A. Code. "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, 2015.

1-B. Bureau. "Bureau" means the Bureau of Revenue Services, which may be referred to as "Maine Revenue Services."

1-C. Board. For purposes of sections 151 and 151-D and section 191, subsection 2, paragraphs C, XX and YY, "board" means the Maine Board of Tax Appeals as established in Title 5, section 12004-B, subsection 10.

2. Notice. "Notice" means written notification served personally, sent by certified mail or sent by first-class mail to the last known address of the person for whom the notification is intended. A person's last known address is the person's address as reported on the person's most recently filed Maine tax return or as otherwise specified by the person in written correspondence on file with the bureau, unless the bureau determines that a different address is the most current address for the person, in which case the bureau must use that address. Notice by first-class mail is deemed to be received 3 days after the mailing, excluding Sundays and legal holidays. If the State Tax Assessor is required by a provision of this Title to give notice by certified mail and attempts to do so but the mailing is returned with the notation "unclaimed" or "refused" or a similar notation, the assessor may then give notice by sending the notification by first-class mail. In the case of a joint income tax return, notice may be a single joint notice except that, if the assessor is notified by either spouse that separate residences have been established, the assessor must mail a joint notice to each spouse. If the person for whom notification is intended is deceased or under a legal disability, and the assessor knows of the existence of a fiduciary relationship with respect to that person, notice must be sent by first-class mail to the last known address of the fiduciary.

3. Person. "Person" means an individual, firm, partnership, association, society, club, corporation, financial institution, estate, trust, business trust, receiver, assignee or any other group or combination acting as a unit, the State or Federal Government or any political subdivision or agency of either government.

4. Return. "Return" means any document, digital file or electronic data transmission containing information required by this Title to be reported to the State Tax Assessor.

5. Tax. "Tax" means the total amount required to be paid, withheld and paid over or collected and paid over with respect to estimated or actual tax liability under this Title, any credit or reimbursement allowed or paid pursuant to this Title that is recoverable by the assessor and any amount assessed by the assessor pursuant to this Title, including any interest or penalties provided by law. For purposes of this chapter, "tax" also means any fee, fine, penalty or other debt owed to the State provided for by law if that fee, fine, penalty or other debt is subject to collection by the assessor pursuant to statute or transferred to the bureau for collection pursuant to section 112-A.

6. Tax Assessor. [Repealed]

7. Taxpayer. "Taxpayer" means any person required to file a return under this Title or to pay, withhold and pay over or collect and pay over any tax imposed by this Title. For the purposes of sections 171, 175-A and 176-A, "taxpayer" also means any person obligated to the State for the payment of a fee, fine, penalty or other obligation to the State provided for by law, if this obligation is subject to collection by the assessor pursuant to an agreement entered into by the bureau and another agency of the State. "Taxpayer" also means any pass-through entity doing business in the State or having a Maine resident member, including an S corporation, general partnership, limited partnership, limited liability partnership, limited liability company or similar entity, that is not taxed as a C corporation for federal tax purposes.

§112. State Tax Assessor

1. General powers and duties. The assessor shall administer and enforce the tax laws enacted under this Title and under Title 29-A, and may adopt rules and require such information to be reported as necessary. The assessor may investigate, enforce and prosecute activities defined as crimes in this Title and in Title 17-A, sections 358, 751 and 903. The assessor shall provide, at the time of issuance, to one or more entities that publish a monthly state tax service all rules, bulletins, taxpayer notices or alerts, notices of rulemaking, any other taxpayer information issued by the assessor, and all substantive amendments or modifications of the same, for publication by that entity or entities. When a significant change has occurred in bureau policy or practice or in the interpretation by the bureau of any law, rule or instruction bulletin, the assessor shall, within 60 days of the change, provide to the same publishing entity or entities written notice, suitable for publication, of the change.

2. Organization. The assessor may employ deputies, assistants and employees as necessary, subject to the Civil Service Law unless otherwise provided, and distribute the duties given to the assessor or to the bureau among those persons or divisions in that bureau the assessor considers necessary for economy and efficiency in administration. An officer within each division of the bureau must be designated by the assessor as director of that division. The assessor, for enforcement and administrative purposes, may divide the State into a reasonable number of districts in which branch offices may be maintained.

The Office of Tax Policy, referred to in this paragraph as "the office," is established within the bureau. The head of the office is the Associate Commissioner for Tax Policy, who reports directly to, and serves at the pleasure of, the Commissioner of Administrative and Financial Services and who must have an advanced degree in economics, statistics, accounting, business, law or public policy. The office is responsible for: providing economic and legal policy analysis on tax issues; oversight of tax legislation review; providing revenue forecasting analysis to the Revenue Forecasting Committee under Title 5, section 1710-E; the preparation of tax expenditure reports; the establishment of policy criteria reflected in bureau rules and advisory rulings; and related public relations.

3. Examination of witnesses. The assessor may summon and examine under oath any person whose testimony is considered necessary to the proper discharge of the assessor's duties and may require the production of all books or other documents in the custody or control of that person that relate to any matter that the assessor has authority to investigate or determine. This examination may be conducted by an agent designated by the assessor and is considered an "official proceeding" within the meaning of that term in Title 17-A, section 451. The assessor or that agent may administer all oaths required under this Title and may, in the assessor's discretion, reduce any examination under oath to writing. Any person summoned under this section is entitled to receive at the same time a copy of the Taxpayer Bill of Rights statement required to be prepared under subsection 7-A.

Any justice of the Superior Court and, with respect to the taxes imposed under Part 6, any judge of probate, upon application of the assessor, may compel the attendance of witnesses and the giving of testimony before the assessor in the same manner, to the same extent and subject to the same penalties as if before the court over which that justice or judge presides.

4. Examination of records and premises. Whenever necessary to the administration of this Title, the assessor may make, or cause to be made by an employee, an examination or investigation of the place of business, books and other documents and any other relevant personal property of any person who the assessor has reason to believe is liable for any tax imposed by this Title.

At the conclusion of an audit, the assessor or an agent shall conduct an audit conference with the taxpayer and shall give the taxpayer a written summary of the audit findings, including the legal basis for the audit findings and adjustments, along with copies of relevant bureau audit workpapers.

5. Contract authority. The assessor is authorized to contract with persons on an independent contract basis for the furnishing of technical services to assist the assessor in the administration of this Title.

5-A. Agreements with other governments. The assessor may enter into agreements with other governments for assistance in the administration and enforcement of this Title if the disclosure of information to duly authorized officers of those governments is permitted by section 191, subsection 2, paragraph D.

6. Agent for collection. The assessor is authorized to name any of the assessor's employees as agents to collect any tax imposed under this Title.

7. Evaluation of tax systems. The assessor and the Office of Tax Policy shall investigate and examine the systems and methods of taxation of other states and make careful and constant inquiry into the practical operation and effect of the laws of this State, in comparison with the laws of other states, with the view of ascertaining wherein the tax laws of this State are defective, inefficient, inoperative or inequitable.

7-A. Taxpayer Bill of Rights. The assessor shall prepare a statement describing in simple and nontechnical terms the rights of a taxpayer and the obligations of the bureau during an audit. The statement must also explain the procedures by which a taxpayer may appeal any adverse decision of the assessor, including reconsideration under section 151, appeals to the Maine Board of Tax Appeals and judicial appeals. This statement must be distributed by the bureau to any taxpayer contacted with respect to the determination or

collection of any tax, excluding the normal mailing of tax forms. This paragraph does not apply to criminal tax investigations conducted by the assessor or by the Attorney General.

8. Additional duties. In addition to the duties specified in this Title, the assessor has the following duties:

A. Collection of the tax on fire insurance companies imposed by Title 25, section 2399;

B. [Repealed]

C. [Repealed]

D. Administration of the premium imposed on motor vehicle oil under Title 10, section 1020; and

E. Administration of reports and payments required under Title 38, section 3108.

9. Services provided to another agency of State. The assessor may undertake, by written agreement with another agency of the State, to provide or assist with revenue collection services for that agency.

9-A. Review of telecommunications taxation. [Repealed]

10. Title. The State Tax Assessor may be referred to as the "executive director" or the "director."

11. Report to the Legislature. [Repealed]

12. State Tax Assessor to calculate conformity factor. [Repealed]

13. Set-off agreements. The assessor may enter into agreements with other taxing jurisdictions to provide for collection of tax debts by means of setoffs as provided in this subsection.

A. The assessor may enter into an agreement with the Federal Government pursuant to the Code, Section 6402(e) to set off against tax refunds payable by the Federal Government and pay to this State taxes owed to this State.

B. The assessor may enter into an agreement with another state or an agency of another state to set off against tax refunds payable by the other state and pay to this State taxes owed to this State.

C. In conjunction with an agreement authorized under paragraph B, the assessor may enter into an agreement that allows the other state to set off against tax refunds payable by this State taxes owed to the other state. The assessor may enter into an agreement authorized by this paragraph only if the other state allows this State to set off against tax refunds owed by the other state taxes owed to this State on substantially similar terms.

D. The assessor may enter into an agreement authorized by paragraph C only if the agreement provides that the other state may not set off against tax refunds payable by this State unless the other state has notified the taxpayer of the taxes due and has given the taxpayer an opportunity for review or appeal of the tax debt. The other state must certify to the assessor that it has notified the taxpayer of the taxes due and has given the taxpayer an opportunity for review or appeal of the tax debt before the setoff is exercised.

E. For purposes of this subsection, "tax" includes monetary restitution ordered to be paid to the bureau as part of a sentence imposed for a violation of this Title or Title 17-A.

§112-A. Agreements for transfer from another state agency of debt for collection

1. Generally. Any agency of the State may transfer to the bureau solely for the purposes of collection any fee, fine, penalty or other debt owed to the State provided for by law if the debt is final without further right of administrative or judicial review and if the transfer of the debt is made pursuant to a written agreement entered into by the bureau and that agency.

2. Transfer of collected proceeds. After the deduction of the assessor's collection fee authorized by subsection 3, the assessor shall remit collections of the transferred debt to the creditor agency.

3. Collection fee. A collection fee calculated pursuant to section 114 for service costs of the assessor in undertaking the collection of transferred debt may be charged to the creditor agency. The fee may be deducted from collected amounts transferred to the creditor agency and deposited in the Bureau of Revenue Services Fund, Internal Services Fund account authorized by section 114. If a creditor agency is either entitled to federal matching funds against all debts collected or required by federal regulations to specially handle debts collected, the assessor shall transfer to that creditor agency the gross proceeds from collections of the transferred debt, and

that agency shall promptly reimburse the collection fee to the assessor for deposit in the Bureau of Revenue Services Fund, Internal Services Fund account.

4. Accounting. The creditor agency shall credit the account of the debtor with the full amount of the collected debt, including the collection fee retained by, or reimbursed to, the assessor, except that the collection fee may not be credited to the account of an individual required to make restitution as provided in Title 17-A, section 1152, subsection 2-A.

5. Priority. The assessor may proceed with collection of any tax, including transferred debt deemed a tax debt pursuant to section 111, subsection 5, in any order of priority among such tax obligations.

§113. Audit and collection expenses

1. Contract audit and collection programs. The State Controller may transfer from the General Fund and the Highway Fund amounts authorized by the State Tax Assessor equal to the expenses of those contract audit and collection programs for which the fees are contingent on the amount collected. These amounts transferred must be deposited into a dedicated, nonlapsing account to be used solely for the purpose of paying these expenses. Interest earned on balances in the account accrue to the account. The assessor shall notify the State Controller of the amounts to be transferred pursuant to this section. The assessor shall annually report to the joint standing committees of the Legislature having jurisdiction over taxation matters and appropriations and financial affairs the amounts collected and the costs incurred of programs administered pursuant to this section.

2. Credit card fees. The State Tax Assessor may subtract from revenues received credit card fees incurred by the assessor in connection with the following:

A. The collection of delinquent taxes imposed by this Title; and

B. The collection of property taxes in the unorganized territory.

C. [Repealed]

3. Federal offset fees. The State Tax Assessor may subtract from revenues received fees imposed upon the State by the United States Department of the Treasury for offsetting state income tax obligations against federal income tax refunds pursuant to Section 6402(e) of the Code.

4. Recording fees. The State Controller may transfer from the General Fund amounts authorized by the State Tax Assessor equal to the fees imposed upon the State by a register of deeds pursuant to Title 33, section 751. These amounts transferred must be deposited into a dedicated, nonlapsing account to be used solely for the purpose of paying those fees. Interest earned on balances in the account accrue to the account. The assessor shall notify the State Controller of the amounts to be transferred pursuant to this subsection.

5. Financial institution computer data match costs. The State Tax Assessor may subtract from revenues received fees authorized under section 176-B for payment to financial institutions for the actual costs incurred in matching taxpayer information against account records, the cost of holding financial institutions harmless for good faith actions under section 176-B and for costs related to the implementation and operation of the financial institution computer data match program provided in section 176-B.

§114. Internal services provided by the bureau

1. Internal Services Fund account established. The bureau shall establish, through the Office of the State Controller, the Bureau of Revenue Services Fund, Internal Services Fund account. The funds deposited in this account include, but are not limited to, appropriations transferred to the account, funds transferred to the account from within the Department of Administrative and Financial Services, funds received from state departments and agencies using the collection services and imaging and scanning services provided by the bureau and earnings by the fund from the Treasurer of State's investment cash pool.

2. Rate schedule. The bureau may levy charges according to a rate schedule recommended by the assessor and approved by the Commissioner of Administrative and Financial Services against all departments using the services of the bureau.

3. Calculation of charges. Service charges for collections and imaging and scanning services must be calculated to provide for equipment replacement costs, operating costs, necessary capital investment, personal services and necessary working capital for the Bureau of Revenue Services Fund, Internal Services Fund account.

4. Staff. The assessor shall appoint staff, as approved by the Legislature and subject to the Civil Service Law, necessary to carry out the purposes of this section.

5. Departments and agencies to budget funds. Each department or agency using the services of the bureau must budget adequate funds to pay for the collection services and imaging and scanning services provided by the bureau.

§115. Payment by credit card

The State Tax Assessor may establish procedures permitting payment of taxes by the use of credit cards. The assessor may contract with one or more entities for the purpose of enabling the assessor to accept and process credit card transactions only if under any such contract the State does not incur any charges or fees from accepting payment by credit card, the State does not have any liability to the credit card company or processor from nonpayment of credit card charges by the taxpayer, any fee associated with payment of taxes by credit card is disclosed to the taxpayer prior to commencement of the transaction and directly charged to the taxpayer and collected by the processor, all credit card payments are electronically transmitted to the State by the processor immediately upon approval of the credit transaction and the processor retains all responsibility for approving or rejecting all proposed credit card payments.

§135. Record-keeping requirements

1. Taxpayers. Persons subject to tax under this Title shall maintain such records as the State Tax Assessor determines necessary for the reasonable administration of this Title. Records pertaining to taxes imposed by chapters 371, 575 and 577 and by Part 8 must be retained as long as is required by applicable federal law and regulation. Records pertaining to the special fuel tax user returns filed pursuant to section 3209, subsection 2 and the International Fuel Tax Agreement pursuant to section 3209, subsection 1-B must be retained for 4 years. Records pertaining to all other taxes imposed by this Title must be retained for a period of at least 6 years. The records must be kept in such a manner as to ensure their security and accessibility for inspection by the assessor or any designated agent engaged in the administration of this Title.

2. Bureau of Revenue Services. Returns filed under this Title or microfilm reproductions or digital images of those returns must be preserved for 3 years and thereafter until the State Tax Assessor orders their destruction.

§141. Assessment

1. General provisions. Except as otherwise provided by this Title, an amount of tax that a person declares on a return filed with the State Tax Assessor to be due to the State is deemed to be assessed at the time the return is filed and is payable on or before the date prescribed for filing the return, determined without regard to an extension of time granted for filing the return. When a return is filed, the assessor shall examine it and may conduct audits or investigations to determine the correct tax liability. If the assessor determines that the amount of tax shown on the return is less than the correct amount, the assessor shall assess the tax due the State and provide notice to the taxpayer of the assessment. Except as provided in subsection 2, an assessment may not be made after 3 years from the date the return was filed or 3 years from the date the return was required to be filed, whichever is later. The assessor may make a supplemental assessment within the assessment period prescribed by this section for the same period, periods or partial periods previously assessed if the assessor determines that a previous assessment understates the tax due or otherwise is imperfect or incomplete in any material respect.

2. Exceptions. The following are exceptions to the 3-year time limit specified in subsection 1.

A. An assessment may be made within 6 years from the date the return was filed if the tax liability shown on the return, after adjustments necessary to correct any mathematical errors apparent on the face of the return, is less than 1/2 of the tax liability determined by the assessor. In determining whether the 50% threshold provided by this paragraph is satisfied, the assessor may not consider any portion of the understated tax liability for which the taxpayer has substantial authority supporting its position.

B. An assessment may be made at any time with respect to a time period for which a fraudulent return has been filed.

C. An assessment may be made at any time with respect to a period for which a return has become due but has not been filed. If a person who has failed to file a return does not provide to the assessor, within 60 days of receipt of notice, information that the assessor considers necessary to determine the person's tax liability for that period, the assessor may assess an estimated tax liability based upon the best information otherwise available. In any proceeding for the collection of tax for that period, that estimate is prima facie evidence of the tax liability. The 60-day period provided by this paragraph must be extended for an additional 60 days if the taxpayer requests an extension in writing prior to the expiration of the original 60-day period.

D. [Repealed]

E. The time limitations for assessment specified in this section may be extended to any later date to which the assessor and taxpayer agree in writing.

3. Abatement. [Repealed]

§142. Cancellation and abatement

The State Tax Assessor may, within 3 years from the date of assessment or whenever a written request has been submitted by a taxpayer within 3 years of the date of assessment, cancel any tax that has been levied illegally. In addition, if justice requires, the assessor may, with the approval of the Governor or the Governor's designee, abate, within 3 years from the date of assessment or whenever a written request has been submitted by a taxpayer within 3 years of the date of assessment, all or any part of any tax assessed

by the assessor. The decision of the assessor pursuant to this section not to abate all or any part of any tax assessed under this Title is not subject to review under section 151.

§143. Compromise of tax liability

The State Tax Assessor may compromise a tax liability arising under this Title upon the grounds of doubt as to liability or doubt as to collectibility, or both. Upon acceptance by the assessor of an offer in compromise, the liability of the taxpayer in question is conclusively settled and neither the taxpayer nor the assessor may reopen the case except by reason of falsification or concealment of assets by the taxpayer, fraud or mutual mistake of a material fact. The decision of the assessor to reject an offer in compromise is not subject to review under section 151. The assessor's authority to compromise a tax liability pursuant to this section is separate from and in addition to the assessor's authority to cancel or abate a tax liability pursuant to section 142.

The submission of an offer in compromise does not automatically operate to stay the collection of a tax liability, but the assessor may stay collection action if the interests of the State are not jeopardized by that action.

The assessor may adopt rules regarding the procedures to be followed for the submission and consideration of offers in compromise.

§144. Application for refund

1. Generally. A taxpayer may request a credit or refund of any tax that is imposed by this Title or administered by the State Tax Assessor within 3 years from the date the return was filed or 3 years from the date the tax was paid, whichever period expires later. Every claim for refund must be submitted to the assessor in writing and must state the specific grounds upon which the claim is founded and the tax period for which the refund is claimed. A claim for refund is deemed to be a request for reconsideration of an assessment under section 151.

2. Exceptions.

A. Subsection 1 does not apply in the case of premiums imposed pursuant to Title 10, section 1020, subsection 6-A, sales and use taxes imposed by Part 3, estate taxes imposed by chapter 575 or 577, income taxes imposed by Part 8 and any other tax imposed by this Title for which a specific statutory refund provision exists.

B. For any claim by an individual for credit or a refund of any tax imposed under this Title, the assessor may toll the applicable statute of limitations for a period of up to 3 years on the grounds of mental incapacity of the claimant. The period may be tolled only if the mental incapacity existed at a time when the claim could have been timely filed. The limitations period resumes running when the mental incapacity no longer exists. For the purposes of this paragraph, the term "mental incapacity" means the overall inability to function in society that prevents an individual from protecting the individual's legal rights.

§145. Declaration of jeopardy

If the State Tax Assessor determines that the collection of any tax will be jeopardized by delay, the assessor, upon giving notice of this determination to the person liable for the tax by personal service or certified mail, may demand an immediate return with respect to any period or immediate payment of any tax declared to be in jeopardy, or both, and may terminate the current reporting period and demand an immediate return and payment with respect to that period. Notwithstanding any other provision of law, taxes declared to be in jeopardy are payable immediately, and the assessor may proceed immediately to collect those taxes by any collection method authorized by this Title. The person liable for the tax may stay collection by requesting reconsideration of the declaration of jeopardy in accordance with section 151 and depositing with the assessor within 30 days from receipt of notice of the determination of jeopardy a bond or other security in the amount of the liability with respect to which the stay of collection is sought. A determination of jeopardy by the assessor is presumed to be correct, and the burden of showing otherwise is on the taxpayer.

§151. Review of decisions of State Tax Assessor

1. Petition for reconsideration. A person who is subject to an assessment by the State Tax Assessor or entitled by law to receive notice of a determination of the assessor and who is aggrieved as a result of that action may request in writing, within 60 days after receipt of notice of the assessment or the determination, reconsideration by the assessor of the assessment or the determination. If a person receives notice of an assessment and does not file a petition for reconsideration within the specified time period, a review is not available in Superior Court or before the board regardless of whether the taxpayer subsequently makes payment and requests a refund.

2. Reconsideration by division. If a petition for reconsideration is filed within the specified time period, the assessor shall reconsider the assessment or the determination as provided in this subsection.

A. Upon receipt by the assessor, all petitions for reconsideration must be forwarded for review and response to the division in the bureau from which the determination issued.

B. Within 90 days of receipt of the petition for reconsideration by the responding division, the division shall approve or deny, in whole or in part, the relief requested. Prior to rendering its decision and during the 90 days, the division may attempt to resolve issues with the petitioner through informal discussion and settlement negotiations with the objective of narrowing the issues for an appeals conference or court review, and may concede or settle individual issues based on the facts and the law, including the hazards of litigation. By mutual consent of the division and the petitioner, the 90 days may be extended for good cause, such as to allow further factual investigation or litigation of an issue by that or another taxpayer pending in court.

C. If the matter between the division and the petitioner is not resolved within the 90-day period, and any extension thereof, the petitioner may consider the petition for reconsideration denied. The petitioner may not consider the petition for reconsideration denied after either the reconsidered decision has been received by the petitioner or the expiration of 9 years following the filing of the petition for reconsideration, whichever occurs first. A petition for reconsideration considered denied pursuant to this paragraph constitutes final agency action. A petitioner elects to consider the petition for reconsideration denied pursuant to this paragraph by:

(1) For a small claim request, filing a petition for review in Superior Court. For purposes of this subparagraph, "small claim request" has the same meaning as in paragraph E; or

(2) For all other requests:

(a) Filing a statement of appeal with the board; or

(b) Filing a petition for review in Superior Court.

D. A reconsideration by the division is not an adjudicatory proceeding within the meaning of that term in the Maine Administrative Procedure Act.

E. A reconsidered decision rendered on any request other than a small claim request constitutes the assessor's final determination, subject to review either by the board or directly by the Superior Court. A reconsidered decision rendered on a small claim request constitutes the assessor's final determination and final agency action and is subject to de novo review by the Superior Court. For purposes of this paragraph, "small claim request" means a petition for reconsideration when the amount of tax or refund request in controversy is less than $1,000.

F. A person who wishes to appeal a reconsidered decision under this section:

(1) To the board must file a written statement of appeal with the board within 60 days after receipt of the reconsidered decision; or

(2) Directly to the Superior Court must file a petition for review in the Superior Court within 60 days after receipt of the reconsidered decision.

If a person does not file a request for review with the board or the Superior Court within the time period specified in this paragraph, the reconsidered decision becomes final and no further review is available.

G. Upon receipt of a statement of appeal or petition for review filed by a person pursuant to paragraph F, the board or Superior Court shall conduct a de novo hearing and make a de novo determination of the merits of the case. The board or Superior Court shall enter those orders and decrees as the case may require. The burden of proof is on the person, except as otherwise provided by law.

§151-A. Additional safeguards

1. Recording of interviews. The State Tax Assessor, upon advance request, shall allow a taxpayer to make an audio recording of any in-person interview concerning the determination and collection of any tax. The recording must be made at the taxpayer's own expense and with that person's own equipment.

The State Tax Assessor may record the interview if the State Tax Assessor:

A. Informs the taxpayer of the recording prior to the interview; and

B. Upon request of the taxpayer, provides the taxpayer with a transcript or copy of the recording, but only if the taxpayer provides reimbursement for the cost of the transcription and reproduction of the transcript or copy.

2. Representative of taxpayer. The taxpayer may bring to any interview with the State Tax Assessor or to any proceeding pursuant to section 151-D any attorney, certified public accountant, enrolled agent, enrolled actuary or any other person permitted to represent the taxpayer. If the taxpayer does not bring anyone to the interview or proceeding but clearly states at any time during the

interview or proceeding that the taxpayer wishes to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary or any other person permitted to represent the taxpayer, the State Tax Assessor shall suspend the interview or the board shall suspend the proceeding. The suspension must occur even if the taxpayer has answered one or more questions before that point in the interview or proceeding. The interview must be rescheduled to be held within 10 working days.

§151-B. Independent Appeals Office [Repealed]

§151-C. Taxpayer advocate

1. Appointment. The Commissioner of Administrative and Financial Services shall hire the taxpayer advocate as an employee of the bureau. The taxpayer advocate need not be an attorney.

2. Duties and responsibilities. The duties and responsibilities of the taxpayer advocate are to:

A. Assist taxpayers in resolving problems with the bureau;

B. Identify areas in which taxpayers have problems in dealings with the bureau;

C. Propose changes in the administrative practices of the bureau to mitigate problems identified under paragraph B; and

D. Identify legislative changes that may be appropriate to mitigate problems identified under paragraph B.

3. Annual report. Beginning in 2012, the taxpayer advocate shall prepare and submit by August 1st an annual report of activities of the taxpayer advocate to the Governor, the assessor and the joint standing committee of the Legislature having jurisdiction over taxation matters.

4. Investigation. The taxpayer advocate may investigate complaints affecting taxpayers generally or any particular taxpayer or group of taxpayers and, when appropriate, make recommendations to the assessor with respect to these complaints. The assessor shall provide a formal response to all recommendations submitted to the assessor by the taxpayer advocate within 3 months after submission to the assessor.

5. Response. The assessor shall establish procedures to provide for a formal response to all recommendations submitted to the assessor by the taxpayer advocate.

§151-D. Maine Board of Tax Appeals

1. Board established. The Maine Board of Tax Appeals, established in Title 5, section 12004-B, subsection 10, is established as an independent board within the Department of Administrative and Financial Services and is not subject to the supervision or control of the bureau. The purpose of the board is to provide taxpayers with a fair system of resolving controversies with the bureau and to ensure due process.

2. Members; appointment. The board consists of 3 members appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over taxation matters and confirmation by the Legislature. No more than 2 members of the board may be members of the same political party. The Governor shall designate one board member to serve as chair. The Governor may remove any member of the board for cause.

3. Qualifications. The members of the board must be residents of this State and must be selected on the basis of their knowledge of and experience in taxation. A member of the board may not hold any elective office or any public office involving assessment of taxes or administration of any of the tax laws of this State. At least one member must be an attorney. No more than 2 members may be attorneys.

4. Terms. Members of the board are appointed for terms of 3 years. A member may not serve more than 2 consecutive terms, plus any initial term of less than 3 years. A vacancy must be filled by the Governor for the unexpired term subject to review by the joint standing committee of the Legislature having jurisdiction over taxation matters and confirmation by the Legislature during the next legislative session.

5. Quorum. Two members of the board constitute a quorum. A vacancy in the board does not impair the power of the remaining members to exercise all the powers of the board.

6. Compensation. A member of the board is entitled to a per diem of $100. Board members receive reimbursement for their actual, necessary cash expenses while on official business of the board.

7. Powers and duties. The board has all powers as are necessary to carry out its functions. The board may be represented by legal counsel. The board may delegate any duties as necessary.

8. Appeals office. The board shall establish and maintain an office, referred to in this section as "the appeals office," in the City of Augusta to assist the board in carrying out the purposes of this section. The board may meet and conduct business at any place within the State.

9. Chief Appeals Officer; appeals office. The Commissioner of Administrative and Financial Services shall appoint the Chief Appeals Officer to assist the board and manage the appeals office. The Chief Appeals Officer must be a citizen of the United States and have substantial knowledge of tax law. The Chief Appeals Officer is an unclassified employee at salary range 33. The Chief Appeals Officer serves at the pleasure of the commissioner. The Chief Appeals Officer shall:

A. Subject to policies and procedures established by the board, manage the work of the appeals office and hire personnel, including subordinate appeals officers and other professional, technical and support personnel;

B. Assist the board in the development and implementation of rules, policies and procedures to carry out the provisions of this section and section 151 and comply with all applicable laws;

C. Prepare a proposed biennial budget for the board, including supplemental budget requests as necessary, for submission to and approval by the Commissioner of Administrative and Financial Services;

D. Attend all board meetings and maintain proper records of all transactions of the board; and

E. Perform other duties as the board and the Commissioner of Administrative and Financial Services may assign.

10. Appeals procedures. Appeals of tax matters arising under this chapter are conducted in accordance with this subsection.

A. If requested by a petitioner within 20 days of filing a statement of appeal, the appeals office shall hold an appeals conference to receive additional information and to hear arguments regarding the protested assessment or determination. The board shall set a rate of no more than $150 as a processing fee for each petition that proceeds to an appeals conference. These fees must be credited to a special revenue account to be used to defray expenses in carrying out this section. Any balance of these fees in the special revenue account does not lapse but is carried forward as a continuing account to be expended for the same purposes in the following years.

B. The appeals office shall provide a petitioner with at least 10 working days' notice of the date, time and place of an appeals conference. The appeals conference may be held with fewer than 10 working days' notice if a mutually convenient date, time and place can be arranged.

C. An appeals officer shall preside over an appeals conference. The appeals officer has the authority to administer oaths, take testimony, hold hearings, summon witnesses and subpoena records, files and documents the appeals officer considers necessary for carrying out the responsibilities of the board.

D. If a petitioner does not timely request an appeals conference, the appeals officer shall determine the matter based on written submissions by the petitioner and the division within the bureau making the original determination.

E. Both a petitioner and the assessor may submit to the appeals officer, whether or not an appeals conference has been requested, written testimony in the form of an affidavit, documentary evidence and written legal argument and written factual argument. In addition, if an appeals conference is held, both the petitioner and the assessor may present oral testimony and oral legal argument. The appeals officer need not observe the rules of evidence observed by courts, but shall observe the rules of privilege recognized by law. If the appeals officer considers it appropriate, the appeals officer may encourage the petitioner and the assessor to resolve disputed issues through settlement or stipulation. The appeals officer may limit the issues to be heard or vary any procedure adopted for the conduct of the appeals conference if the parties agree to that limitation.

F. Except when otherwise provided by law, a petitioner has the burden of proving, by a preponderance of the evidence, that the assessor has erred in applying or interpreting the relevant law.

G. The appeals officer shall exercise independent judgment. The appeals officer may not have any ex parte communications with or on behalf of any party, including the petitioner, the assessor or any other employee of the Department of Administrative and Financial Services except those employees in the appeals office; however, the appeals officer may have ex parte communication limited to questions that involve ministerial or administrative matters that do not address the substance of the issues or position taken by the petitioner or the assessor.

H. The appeals officer shall prepare a recommended final decision on the appeal for consideration by the board based upon the evidence and argument presented to the appeals officer by parties to the proceeding. The decision must be in written form and must state findings of fact and conclusions of law. The appeals officer shall deliver copies of the recommended final decision to the board.

I. The board shall consider the recommended final decision on a timely basis. The board may not have any ex parte communication with or on behalf of any party, including the petitioner, the assessor or any other employee of the Department of Administrative and Financial Services except those employees in the appeals office; however, the board may have ex parte communication limited to questions that involve ministerial or administrative matters that do not address the substance of the issue or position taken by the petitioner or assessor. After considering the recommended final decision, the board may:

(1) Adopt the recommended final decision as delivered by the appeals officer;

(2) Modify the recommended final decision;

(3) Send the recommended final decision back to the same appeals officer, if possible, for the taking of further evidence, for additional consideration of issues, for reconsideration of the application of law or rules or for such other proceedings or considerations as the board may specify; or

(4) Reject the recommended final decision in whole or in part and decide the appeal itself on the basis of the existing record.

A determination by the board is not an adjudicatory proceeding within the meaning of that term in the Maine Administrative Procedure Act. The decision, as adopted, modified or rejected by the board or appeals officer pursuant to this paragraph is the final administrative decision on the appeal and is subject to de novo review by the Superior Court. Either the taxpayer or the assessor may appeal the decision to the Superior Court and may raise on appeal in the Superior Court any facts, arguments or issues that relate to the final administrative decision, regardless of whether the facts, arguments or issues were raised during the proceeding being appealed, if the facts, arguments or issues are not barred by any other provision of law. The court shall make its own determination as to all questions of fact or law, regardless of whether the questions of fact or law were raised before the division within the bureau making the original determination or before the board. The burden of proof is on the taxpayer.

A person who wishes to appeal a decision adopted under this paragraph to the Superior Court must file a petition for review within 60 days after receipt of the board's decision. If a person does not file a request for review with the Superior Court within the time period specified in this paragraph, the decision becomes final and no further review is available.

Subject to any applicable requirements of the Maine Administrative Procedure Act, the board shall adopt rules to accomplish the purposes of this section. Those rules may define terms, prescribe forms and make suitable order of procedure to ensure the speedy, efficient, just and inexpensive disposition of all proceedings under this section. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Beginning in 2014 and annually thereafter, the board shall prepare and submit a report by January 1st on the activities of the board to the Governor, the assessor and the joint standing committee of the Legislature having jurisdiction over taxation matters.

§152. Payment of contested taxes

A taxpayer may pay any tax, make any deposit or file any bond at any time without forfeiting any right to apply for a refund or an abatement or to seek review of the validity of the tax. No such tax, bond or deposit need be paid, filed or made under protest or under duress to entitle the taxpayer to apply for a refund or an abatement or to seek review of the validity of the tax.

§153. Time of filing or paying

1. Mail. If any document or payment required or permitted by this Title to be filed or paid is transmitted by the United States Postal Service to the person with whom or to whom the filing or payment is to be made, the date of the United States Postal Service postmark stamped on the envelope is deemed to be the date of filing or payment if that document or payment was deposited in the mail, postage prepaid and properly addressed to the person with whom or to whom the filing or payment is to be made. If the document or payment is not received by that person or if the postmark date is illegible, omitted or claimed to be erroneous, the document or payment is deemed to have been filed or paid on the mailing date if the sender establishes by competent evidence that the document or payment was deposited with the United States Postal Service, postage prepaid and properly addressed, and, in the case of nonreceipt, files a duplicate document or makes payment, as the case may be, within 15 days after receipt of written notification by the addressee of the addressee's nonreceipt of the document or payment. A record authenticated by the United States Postal Service of mailing by registered mail, certified mail or certificate of mailing constitutes competent evidence of such mailing. Any reference in this section to the United States Postal Service is deemed to include a reference to any delivery service designated by the United States Secretary of the Treasury pursuant to section 7502(f)(2) of the Code, and any reference in this section to a postmark of the United States Postal Service is deemed to include a reference to any date recorded or marked as described in section 7502(f)(2)(C) of the Code by any such designated delivery service.

2. Weekends and holidays. When the last day, including any extension of time, prescribed under this Title for the performance of an act falls on Saturday, Sunday or a legal holiday in this State, the performance of that act is timely if it occurs on the next succeeding day which is not a Saturday, Sunday or legal holiday in this State.

§171. Demand letter

1. Taxes imposed by this Title. If any tax imposed by this Title is not paid on or before its due date and no further administrative or judicial review of the assessment is available under section 151, the assessor, within 3 years after administrative and judicial review have been exhausted, may give the taxpayer notice of the amount to be paid, specifically designating the tax, interest and penalty due, and demand payment of that amount within 10 days of that taxpayer's receipt of notice. The notice must be given by personal service or sent by certified mail. The notice must include a warning that, upon failure of that taxpayer to pay as demanded, the assessor may proceed to collect the amount due by any collection method authorized by this Title. The notice must also describe the procedures applicable to the levy and sale of property under section 176-A, the alternatives available to the taxpayer that could forestall levy on property, including installment agreements, and the provisions of this Title relating to redemption of property and the release of the lien on property created by virtue of the levy. If the taxpayer has filed a petition for relief under the United States Bankruptcy Code, the running of the 3-year period of limitation imposed by this section is stayed until the bankruptcy case is closed or a discharge is granted, whichever occurs first.

2. Other debts owed to State. In the case of a fee, fine, penalty or other obligation first owed to the State on or after January 1, 1988 and authorized to be collected by the bureau, the assessor, within 3 years after the obligation is first placed with the bureau for collection, may give the taxpayer notice of the amount to be paid, including any interest and penalties provided by law, and demand payment of that amount within 10 days of that taxpayer's receipt of notice. The notice must be given by personal service or sent by certified mail. The notice must include a warning that, upon failure of that taxpayer to pay as demanded, the assessor may proceed to collect the amount due by any collection method authorized by section 175-A or 176-A. The notice must describe the procedures applicable to the levy and sale of property under section 176-A, the alternatives available to the taxpayer that could forestall levy on property, including installment agreements, and the provisions of this Title relating to redemption of property and the release of the lien on property created by virtue of the levy.

§172. Denial, suspension or revocation of license

If any tax liability imposed under this Title that has become final, other than a liability for a tax imposed under Part 2, remains unpaid in an amount exceeding $1,000 for a period greater than 60 days after the taxpayer has received notice of that finality by personal service or certified mail, and the taxpayer fails to cooperate with the bureau in establishing and remaining in compliance with a reasonable plan for liquidating that liability, the State Tax Assessor shall certify the liability and lack of cooperation:

1. Liquor licensee. If the taxpayer is a liquor licensee, to the Department of Administrative and Financial Services, which shall construe that liability and lack of cooperation to be a ground for denying, suspending or revoking the taxpayer's liquor license in accordance with Title 28-A, section 707 and chapter 33; or

2. Motor vehicle dealer. If the taxpayer is a licensed motor vehicle dealer, to the Secretary of State, who shall construe that liability and lack of cooperation to be a ground for denying, suspending or revoking the taxpayer's motor vehicle dealer license in accordance with Title 29-A, section 903.

§173. Collection by warrant

1. Request and issuance of warrant. If the taxpayer does not make payment as demanded pursuant to section 171, the State Tax Assessor may file in the office of the clerk of the Superior Court of any county a certificate addressed to the clerk of that court specifying the amount of tax, interest and penalty which was demanded, the name and address of the taxpayer as it appears on the records of the State Tax Assessor, the facts whereby the amount has become due, and the notice given and requesting that a warrant be issued against the taxpayer in the amount of the tax, penalty and interest set forth in the certificate and with costs. If the State Tax Assessor reasonably believes that the taxpayer may abscond within the 10-day period provided by section 171, he may, without giving notice to or making demand upon the taxpayer, request immediate issuance of a warrant. Immediately upon the filing of the certificate, the clerk of the Superior Court shall issue a warrant in favor of the State against the taxpayer in the amount of tax, interest and penalty set forth in the certificate and with costs.

2. Effect of warrant. The warrant shall have the force and effect of an execution issued upon a judgment in a civil action for taxes and may be served in the county where the taxpayer may be found by the sheriff of that county or his deputies or by any agent of the State Tax Assessor authorized under section 112, subsection 6 to collect any tax imposed by this Title. In the execution of the warrant and collection of taxes pursuant to this Title, including supplementary disclosure proceedings for that purpose under Title 14, chapter 502, an agent of the State Tax Assessor shall have the powers of a sheriff and shall be entitled to collect from the debtor the same fees and charges permitted to a sheriff. Any such fees and charges collected by that agent shall be remitted promptly to the State.

Warrants are returnable within 5 years of issuance. New warrants may be issued for collection of sums remaining unsatisfied, upon the filing of the certificate described in subsection 1, within 2 years from the return day of the last preceding warrant.

§174. Collection by civil action

1. Generally. If a taxpayer fails to pay a tax imposed by this Title on or before the due date of that tax, the State Tax Assessor, through the Attorney General, may commence a civil action within 6 years after receipt by the taxpayer of the demand notice required by section 171 in a court of competent jurisdiction in this State in the name of the State for the recovery of that tax. In this action, the certificate of the assessor showing the amount of the delinquency is prima facie evidence of the levy of the tax, of the delinquency and of the compliance by the assessor with this Title in relation to the assessment of the tax.

2. Other jurisdictions. The Attorney General may bring civil actions in the courts of other states in the name of this State or any of its tax-collecting agencies to collect taxes legally due this State or those agencies.

3. Comity. The courts of this State shall recognize and enforce liabilities for taxes lawfully imposed by another state to the same extent that the laws of that other state permit the enforcement in its courts of tax liabilities arising under this Title. The duly authorized officer of any such state may sue for the collection of such a tax in the courts of this State. A certificate by the Secretary of State of such other state that an officer suing for the collection of such a tax is duly authorized to collect the tax shall be conclusive proof of that authority.

4. Stay of running of period of limitation. The running of the period of limitation for commencement of a civil action for the recovery of any tax pursuant to this section is stayed for the period of time, plus 120 days, during which the tax collection action is stayed by the bankruptcy proceeding under the United States Bankruptcy Code.

§175. Applicants for license or renewal of license

1. Information provided to State Tax Assessor. Every department, board, commission, division, authority, district or other agency of the State issuing or renewing a license or other certificate of authority to conduct a profession, trade or business shall annually, on or before April 1st, provide to the State Tax Assessor, in such form as the assessor may prescribe, a list of all licenses or certificates of authority issued or renewed by that agency during the preceding calendar year. The list provided to the State Tax Assessor must contain the name, address, Social Security or federal identification number of the licensees and such other identifying information as the State Tax Assessor may adopt by rule. Notwithstanding other provisions of law, all persons seeking a license or certificate of authority or a renewal shall provide and the responsible agency shall collect the information required by the State Tax Assessor under this section. Failure by persons to provide a licensing or certifying agency that information results in an automatic denial of any request for a license or certificate of authority or a renewal.

2. Failure to file or pay taxes; determination to prevent renewal, reissuance or other extension of license or certificate. If the assessor determines that a person who holds a license or certificate of authority issued by this State to conduct a profession, trade or business has failed to file a return at the time required under this Title or to pay a tax liability due under this Title that has been demanded, other than taxes due pursuant to Part 2, and the person continues to fail to file or pay after at least 2 specific written notices, each giving 30 days to respond, have been sent by first-class mail, then the assessor shall notify the person by certified mail or personal service that continued failure to file the required tax return or to pay the overdue tax liability may result in loss of the person's license or certificate of authority. If the person continues for a period in excess of 30 days from notice of possible denial of renewal or reissuance of a license or certificate of authority to fail to file or show reason why the person is not required to file or if the person continues not to pay, the assessor shall notify the person by certified mail or personal service of the assessor's determination to prevent renewal, reissuance or extension of the license or certificate of authority by the issuing agency. A review of this determination is available by requesting reconsideration as provided in section 151. Either by failure to proceed to the next step of appeal or by exhaustion of the steps of appeal, the determination to prevent renewal or reissuance of the license or certificate of authority becomes final unless otherwise determined on appeal. In any event, the license or certificate of authority remains in effect until all appeals have been taken to their final conclusion.

3. Refusal to renew, reissue or otherwise extend license or certificate. Notwithstanding any other provision of law, any issuing agency that is notified by the State Tax Assessor of the assessor's final determination to prevent renewal or reissuance of a license or certificate of authority under subsection 2 shall refuse to reissue, renew or otherwise extend the license or certificate of authority. Notwithstanding Title 5, sections 10003 and 10005, an action by an issuing agency pursuant to this subsection is not subject to the requirements of Title 5, chapter 375, subchapters IV and VI, and no hearing by the issuing agency or in District Court is required. A refusal by an agency to reissue, renew or otherwise extend the license or certificate of authority is deemed a final determination within the meaning of Title 5, section 10002.

4. Subsequent reissuance, renewal or other extension of license or certificate. The agency may reissue, renew or otherwise extend the license or certificate of authority in accordance with the agency's statutes and rules after the agency receives a certificate issued by the State Tax Assessor that the person is in good standing with respect to all returns due or with respect to any tax due as of the date of issuance of the certificate. An agency may waive any applicable requirement for reissuance, renewal or other extension if it determines that the imposition of that requirement places an undue burden on the person and that a waiver of the requirement is consistent with the public interest.

5. Financial institutions excluded. This section does not apply to any registration, permit, order or approval issued pursuant to Title 9-B.

6. Certificate of good standing. The assessor must issue a certificate of good standing to the person conditioned upon the person's agreement to complete obligations under this Title. If the person fails to complete obligations under this Title in accordance with that agreement, the assessor may notify the person and the issuing agency of the assessor's determination to revoke the license or certificate of authority. A review of this determination is available by requesting reconsideration as provided in section 151. Either by failure to proceed to the next step of appeal or by exhaustion of the steps of appeal, the determination to revoke the license or certificate of authority becomes final unless otherwise determined on appeal. The issuing agency, on receipt of notice that the determination to revoke the license or certificate of authority has become final, shall revoke the license or certificate of authority within 30 days. The assessor and the licensee may agree to nonbinding mediation for an agreement to complete obligations under this Title.

§175-A. Tax lien

1. Filing. If any tax imposed by this Title or imposed by any other provision of law and authorized to be collected by the bureau is not paid when due and no further administrative or judicial review of the assessment is available pursuant to law, the assessor may file in the registry of deeds of any county, with respect to real property, or in the office of the Secretary of State, with respect to property of a type a security interest in which may be perfected by a filing in such office under Title 11, Article 9-A, a notice of lien specifying the amount of the tax, interest, penalty and costs due, the name and last known address of the person liable for the amount and, in the case of a tax imposed by this Title, the fact that the assessor has complied with all the provisions of this Title in the assessment of the tax. The lien arises at the time the assessment becomes final and constitutes a lien upon all property, whether real or personal, then owned or thereafter acquired by that person in the period before the expiration of the lien. The lien imposed by this section is not valid against any mortgagee, pledgee, purchaser, judgment creditor or holder of a properly recorded security interest until notice of the lien has been filed by the assessor, with respect to real property, in the registry of deeds of the county where such property is located and, with respect to personal property, in the office in which a financing statement for such personal property is normally filed. Notwithstanding this subsection, a tax lien upon personal property does not extend to those types of personal property not subject to perfection of a security interest by means of the filing in the office of the Secretary of State. The lien is prior to any mortgage or security interest recorded, filed or otherwise perfected after the notice, other than a purchase money security interest perfected in accordance with Title 11, Article 9-A. In the case of any mortgage or security interest properly recorded or filed prior to the notice of lien that secures future advances by the mortgagee or secured party, the lien is junior to all advances made within 45 days after filing of the notice of lien, or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien. Subject to the limitations in this section, the lien provided in this section has the same force, effect and priority as a judgment lien and continues for 10 years from the date of recording unless sooner released or otherwise discharged. The lien may, within the 10-year period, or within 10 years from the date of the last extension of the lien in the manner provided in this subsection, be extended by filing for record in the appropriate office a copy of the notice and, from the time of filing, that lien must be extended for 10 years unless sooner released or otherwise discharged.

2. Release. The assessor shall issue to the taxpayer a certificate of release of the lien or release all or any portion of the property subject to any lien provided for in this Part or subordinate the lien to other liens if:

A. The assessor finds that the liability for the amount demanded, together with costs, has been satisfied or has become unenforceable by reason of lapse of time;

B. A bond is furnished to the assessor with surety approved by the assessor in a sum sufficient to equal the amount demanded, together with costs, and conditioned upon payment of any judgment rendered in proceedings regularly instituted by the assessor to enforce collection of the bond at law or of any amount agreed upon in writing by the assessor to constitute the full amount of the liability;

C. The assessor determines at any time that the interest of this State in the property has no value; or

D. The assessor determines that the taxes are sufficiently secured by a lien on other property of the taxpayer or that the release or subordination of the lien will not endanger or jeopardize the collection of the taxes.

3. Enforcement. The lien provided for by subsection 1 may be enforced at any time after the tax liability with respect to which the lien arose becomes collectible under section 173, subsection 1 by a civil action brought by the Attorney General in the name of the State in the Superior Court of the county in which the property is located to subject any property, of whatever nature, in which the taxpayer has any right, title or interest, to the payment of such tax or liability. The court shall, after the parties have been duly notified of the action, proceed to adjudicate all matters involved in the action and finally determine the merits of all claims to and liens upon the property and, in all cases where a claim or interest of the State therein is established, may decree a sale of the property by the proper officer of the court and a distribution of the proceeds of such sale according to the findings of the court. If the property is sold to satisfy a lien held by the State, the State may bid at the sale such sum, not exceeding the amount of that lien plus expenses of sale, as the assessor directs.

4. Recording fees part of tax liability. Fees paid by the assessor to registrars of deeds for recording notices of lien pursuant to subsection 1 and notices of release of a lien pursuant to subsection 2 may be added to the tax liability that gave rise to the lien and, in the

case of a tax imposed by this Title, may be collected by all the methods provided for in chapter 7. In the case of other obligations owed to the State and authorized to be collected by the bureau, the fees may be collected by any collection method authorized by this section or section 176-A.

§176. Levy [Repealed]

§176-A. Levy upon property

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

A. "Delinquent," when used to refer to a tax imposed by this Title, means a tax liability reported by a taxpayer or a tax assessed by the assessor that is not paid by its due date and to which no further administrative or judicial review is available pursuant to section 151. "Delinquent" may also refer to any other obligation owed to the State and authorized to be collected by the bureau or to a taxpayer liable for delinquent taxes.

B. "Levy" means an administrative power to collect delinquent taxes through the means prescribed by this section, or the exercise of that power. The power to levy includes the power of distraint by any lawful means, the power to sell the property and the power to release the levy when it is no longer necessary or appropriate to further the process of collecting delinquent taxes. Exercise of the levy power creates a lien and makes the assessor a judgment creditor.

Except with respect to intangible personal property, a levy extends only to property possessed and obligations existing at the time the levy is made. A levy with respect to intangible personal property has the effect set forth in subsection 2, paragraph E.

B-1. "Notice" means written notification served personally or sent by certified mail, except with respect to notice to a person who has consented in writing to some other means of notification.

C. "Property" means any right, title and interest held in property by a delinquent taxpayer, whether real or personal, tangible or intangible, located within this State.

D. [Repealed]

2. Levy upon property for payment of delinquent tax. The procedure for the levy upon property for payment of delinquent tax is as follows.

A. [Repealed]

B. If a person liable to pay any delinquent tax neglects or refuses to pay that tax within 10 days after receipt of notice pursuant to section 171, the State Tax Assessor may collect the tax and an additional amount sufficient to cover the expenses of the levy, by levy upon all property belonging to that person except as provided in subsection 5. If the assessor makes a determination of jeopardy pursuant to section 145, having given notice of that determination and made demand for immediate payment of that tax, the assessor may proceed immediately without regard to the 10-day period provided in section 171 to collect by levy the tax and an additional amount sufficient to cover the expenses of the levy.

C. If any property upon which levy has been made is not sufficient to satisfy the claim of the State, the assessor may, thereafter and as often as necessary, proceed to levy upon any other property of the person against whom the claim exists liable to levy until the amount due together with all expenses is fully paid.

D. The assessor shall promptly release a levy made pursuant to this section when the liability giving rise to the levy is satisfied or becomes unenforceable due to lapse of time and shall then promptly notify the person upon whom the levy is made that the levy has been released.

E. The effect of a levy on salary or wages payable to or received by a taxpayer is continuous from the date the levy is first made until the liability giving rise to the levy is satisfied. Except as otherwise provided by this paragraph, a levy on any other intangible personal property or rights to intangible personal property remains in effect until one year after the date that notice of levy under subsection 3, paragraph A is received by the person in possession of or liable to the taxpayer with respect to intangible personal property, including property that is first possessed or liabilities that arise after the date of receipt of the notice of levy. In the case of a levy upon property held by a financial institution described in subsection 3, paragraph A, the levy extends only to accounts in existence on the date the notice of levy is received by the financial institution, but includes deposits made or collected in those accounts after the notice of levy is received. A levy on intangible personal property or rights to intangible personal property, ownership of which is disputed on the date that notice the levy is received, remains in effect until one year after the dispute is resolved.

3. Surrender of property or discharge of obligation; exceptions; personal liability; penalty. A surrender of property or discharge of obligation is governed by this subsection.

A. Except as otherwise provided in paragraph B, any person who is in possession of, or obligated with respect to, property or rights to property subject to levy upon which a levy has been made shall, upon demand of the assessor, surrender the property or rights or discharge the obligation to the assessor within 21 days after receipt of the notice of levy, except that part of the property or rights that is, at the time of the demand, subject to an attachment or execution under judicial process. It is a defense to the liability imposed by this subsection that the person who fails to comply with the terms of a notice of levy or that person's bailor has a valid claim against the delinquent taxpayer that accrued prior to receipt of the notice of levy or a valid security interest or lien upon the property of the taxpayer that was perfected prior to receipt of the notice of levy; but this defense is available only to the extent of that claim, security interest or lien.

Any financial institution chartered under state or federal law, including, but not limited to, trust companies, savings banks, savings and loan associations, national banks and credit unions, shall surrender to the assessor any deposits, including any interest in the financial institution that would otherwise be required to be surrendered under this subsection only after 21 days after receipt of the notice of levy, but not later than 30 days after receipt of the notice of levy. Except as provided in subsection 5, paragraph D, with respect to a levy on salary or wages, any person in possession of, or obligated with respect to, property subject to a continuing levy against intangible personal property, which property is first possessed or which obligation first arises subsequent to receipt of a notice of levy by that person, shall, upon demand of the assessor, surrender the property or rights, or discharge the obligation to the assessor within 30 days after the property is first possessed or the obligation first arises.

B. A levy with respect to a life insurance or endowment contract is governed by this paragraph.

(1) A levy on an organization with respect to a life insurance or endowment contract issued by that organization, without necessity for the surrender of the contract document, constitutes a demand by the assessor for payment of the amount described in subparagraph (2) and the exercise of the right of the person against whom the tax is assessed to the advance of that amount. The organization shall pay over the amount no later than 90 days after receipt of the notice of levy. Notice must include a certification by the assessor that a copy of the notice has been mailed to the person against whom the tax is assessed at that person's last known address.

(2) A levy under this paragraph is deemed to be satisfied if the organization pays over to the assessor the amount that the organization could have advanced to the person against whom the tax is assessed on the date prescribed in subparagraph (1) for the satisfaction of the levy, increased by the amount of any advance, including contractual interest, made to the person on or after the date the organization received notice or otherwise had knowledge of the existence of the lien with respect to which the levy is made, other than an advance, including contractual interest, made automatically to maintain the contract in force under an agreement entered into before the organization received such notice or had such knowledge.

(3) The satisfaction of a levy under subparagraph (2) is without prejudice to any civil action for the enforcement of any lien imposed by section 175-A with respect to the contract.

C. Any person who fails or refuses to surrender any property or rights to property, subject to levy, upon demand by the assessor:

(1) Is liable in person and estate to the State in a sum equal to the value of the property not so surrendered, but not exceeding the amount of taxes for the collection of which the levy has been made, together with costs and interest at the rate determined pursuant to section 186 on the sum from the date of the levy. Any amount, other than costs, recovered under this paragraph must be credited against the tax liability for the collection of which the levy was made; and

(2) Without reasonable cause, is liable for a penalty equal to 50% of the amount recoverable under subparagraph (1). A part of the penalty may not be credited against the tax liability for the collection of which the levy was made.

The assessor may collect the liability established by this paragraph by assessment and collection in the manner described in this Part.

D. Any person in possession of, or obligated with respect to, property subject to levy upon which a levy has been made, who, upon demand by the assessor, surrenders that property or rights to that property, or discharges the obligation to the assessor, or who pays a liability under paragraph C, subparagraph (1) is discharged from any obligation or liability to the delinquent taxpayer with respect to the property arising from the surrender or payment. In the case of a levy satisfied pursuant to paragraph B, the organization is discharged from any obligation or liability to any beneficiary arising from the surrender or payment.

4. Books or records relating to property subject to levy. If a levy has been made or is about to be made on any property, any person having custody or control of any books or records containing evidence or statements relating to the property subject to levy shall, upon demand of the assessor, exhibit those books and records to the assessor. Failure to comply with such an order is a Class E crime.

5. Exempt property. This subsection governs property exempt from levy.

A. The following property is exempt from levy:

(1) Items of wearing apparel and school books necessary for the taxpayer or the members of the taxpayer's family;

(2) If the taxpayer is the head of a family, the fuel, provisions, furniture and personal effects in the taxpayer's household, arms for personal use, livestock and poultry of the taxpayer, the total value of which does not exceed $1,500;

(3) Books and tools necessary for the trade, business or profession of the taxpayer, the value of which, in the aggregate, does not exceed $1,000;

(4) Any amount payable to the taxpayer with respect to the taxpayer's unemployment, including any portion payable with respect to dependents, under an unemployment compensation law of the United States or any state;

(5) Mail, addressed to any person, that has not been delivered to the addressee;

(6) Annuity or pension payments under the federal Railroad Retirement Act of 1974, 45 United States Code, Chapter 9, Subchapter IV, benefits under the federal Railroad Unemployment Insurance Act, 45 United States Code, Chapter 11, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force and Coast Guard Medal of Honor Roll, 38 United States Code, Chapter 15, Subchapter IV and annuities based on retired or retainer pay under 10 United States Code, Chapter 73 (1982);

(7) If the taxpayer is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of minor children, as much of the taxpayer's salary, wages or other income as is necessary to comply with that judgment;

(8) Any amount payable to or received by a taxpayer as wages or salary for personal services, during any period, to the extent that the total of the amounts payable to or received by the taxpayer during that period does not exceed the applicable exempt amount determined under paragraph D; and

(9) The principal residence of the taxpayer, unless the assessor has made a determination of jeopardy pursuant to section 145 or the assessor personally approves in writing the levy of that property.

B. The officer seizing property of the type described in paragraph A shall appraise and set aside to the owner the amount of the property declared to be exempt. If the taxpayer objects at the time of the seizure to the valuation fixed by the officer making the seizure, the assessor shall summon 3 disinterested individuals who shall make the valuation.

C. Notwithstanding any other law, no property or rights to property are exempt from levy other than the property specifically made exempt by paragraph A.

D. A levy upon salary and wages must specify the amount of percentage to be surrendered and delivered to the assessor by the taxpayer's employer for each pay period, consistent with the provisions of this paragraph. Salaries and wages are exempt from levy to the extent of 75% of the taxpayer's disposable earnings for any pay period, or an amount equal to the federal minimum hourly wage multiplied by 30, multiplied by the number of weeks in the pay period, whichever is less. A levy on salaries and wages is continuous from the date on which the notice of levy is received until the delinquency is discharged and applies to all pay periods commencing after that date. The assessor shall notify the taxpayer's employer as soon as practicable upon discharge of the delinquency that the levy has been discontinued.

6. Seizure of property; notice; sale. Seizure, notice of seizure and sale of seized property are governed by this subsection.

A. As soon as practicable after seizure of property, the assessor shall give notice to the owner of the property, or, in the case of personal property, the possessor of the property, or leave notice at the owner's or possessor's usual place of abode or business, if any, within the State. If the owner or possessor cannot be readily located, or has no dwelling or place of business within the State, the notice may be sent by first-class mail. In the case of real property, the notice must be filed in the registry of deeds in the county where the property is located. The notice must specify the sum demanded and contain:

(1) In the case of personal property, an account of the property seized; and

(2) In the case of real property, a description with reasonable certainty of the property seized.

In the case of levy on a motor vehicle that is the subject of a Certificate of Title issued by the Secretary of State, a copy of the notice must be filed with the Secretary of State, who shall note the levy in the records of ownership of the motor vehicle in question. In the case of levy on that type of personal property, a security interest in which may be perfected by filing in the office of the Secretary of State, a copy of the notice must be filed in the office of the Secretary of State, who shall file the notice of levy as a financing statement.

B. The assessor, as soon as practicable after the seizure of property, shall cause a notice to be published in a newspaper of general circulation within the county where the seizure is made, or, if there is no such newspaper, post the notice at the city or town hall nearest the place where the seizure is made and in at least 2 other public places. In the case of real property, the notice must be sent by certified mail to all persons holding an interest of record, including, without limitation, recorded leases and security interest of all types, in the property as reflected at the time the notice of levy is recorded by the indices of the registry of deeds in the county where the property is located. In the case of a motor vehicle subject to a certificate of title issued by the Secretary of State, notice must be sent by certified mail to all persons holding a security interest of record in the motor vehicle as set forth in the records of the Secretary of State. In the case of personal property that is the subject of a security interest perfected by filing in the office of the Secretary of State, notice must be sent by certified mail to all secured parties claiming an interest in the property seized as reflected at the time the notice of levy is recorded in the records maintained by the Secretary of State pursuant to Title 11. The notice must specify the property to be sold, subject to the liabilities of prior encumbrances, if any, and the time, place, manner and conditions of the sale. If levy is made without regard to the 10-day period provided in section 171, public notice of sale of the property seized may not be made within the 10-day period unless subsection 7 applies. It is a Class E crime to intentionally remove or deface the posted notice of sale prior to the scheduled sale date, unless the property has been redeemed or the sale is for some other reason canceled. The assessor or any law enforcement officer may enter onto the land if necessary to carry out the purposes of this section.

C. If any property liable to levy is not divisible to enable the assessor by sale of a part of the property to raise the whole amount of the tax and expenses, the whole property must be sold.

D. The time of sale may be not less than 10 days nor more than 40 days from the time of giving notice under paragraph B. The sale may be adjourned from time to time but adjournments may not be for a period to exceed a total of 30 days. Notice of any adjournments of the sale must be posted in the public places within the county where the notice prescribed in paragraph B was posted.

E. Before the sale, the assessor shall determine a minimum price for which the property must be sold. If no person offers the amount of the minimum price for the property, the property is declared to be purchased at that price for the State; otherwise the property is declared to be sold to the highest bidder. In determining the minimum price, the assessor shall take into account the expense of making the levy and sale.

(1) The assessor may by rule prescribe the manner and other conditions of the sale of property seized by levy or purchased by the sale.

(2) If payment in full is required at the time of acceptance of a bid and is not paid at that time, the assessor shall forthwith proceed to again sell the property in the manner provided in this subsection. If the conditions of the sale permit part of the payment to be deferred, and if a deferred part is not paid within the prescribed period:

(a) Suit may be instituted against the purchaser for the purchase price or the part of the price that has not been paid, together with interest from the date of the sale; or

(b) In the discretion of the assessor, the sale may be declared by the assessor to be void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in this subsection. In the event of a readvertisement and sale, any new purchaser receives the property, or rights to the property, free and clear of any claim or right to the former defaulting purchaser, of any nature whatsoever, and the amount paid on the bid price by the defaulting purchaser is forfeited.

(3) Only the right, title and interest of the delinquent taxpayer in and to the property seized may be offered for sale, and the interest must be offered subject to any prior outstanding mortgage, encumbrances, or other liens in favor of 3rd parties that are valid as against the delinquent taxpayer and are superior to the lien of the State. All seized properties must be offered for sale "as is" and "where is" and without recourse against the State. No guarantee or warranty, express or implied, may be made by the officer offering the property for sale, as to the validity of title, quality, quantity, weight, size or condition of any of the property or its fitness for any use or purpose. No claim may be considered for allowance or adjustment or for recision of the sale based upon failure of the property to conform with any representation, express or implied.

7. Disposition of hard to keep property; notice to owner; public sale. If the assessor determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that the property cannot be kept without great expense, the assessor shall appraise the value of the property and, if the owner of the property can be readily found, shall give the owner notice of determination of the appraised value of the property. The property must be returned to the owner if within such time as may be specified in the notice the owner either pays to the assessor an amount equal to the appraised value, or gives bond in such form with such sureties, and in such amount as the assessor prescribes, to pay the appraised amount at such time as the assessor determines to be appropriate in the circumstances.

If the owner does not pay the amount or furnish bond in accordance with this section, the assessor shall, as soon as practicable, make public sale of the property in accordance with any rules prescribed by the assessor.

8. Junior encumbrances; priority of encumbrances. Priority of encumbrances is governed by this subsection.

A. A deed to real property executed pursuant to subsection 11 discharges the property from all liens and encumbrances over which the levy had priority.

B. The filing of the notice of levy provided in subsection 6, paragraph A perfects the lien of the State created under subsection 1, paragraph B with respect to the types of property covered by such a filing under subsection 6, paragraph A. A levy and lien not covered by the filing provisions of subsection 6, paragraph A is perfected by possession by the assessor or by demand upon a 3rd party holding the property under subsection 3, paragraphs A or B, whichever occurs first. The priority of the lien perfected by a filing under subsection 6, paragraph A is determined pursuant to section 175-A as if the notice of levy had been filed as a notice of lien. The lien of any other levy has priority over any interest that is perfected after the lien of the State is perfected by possession or demand.

9. Redemption of property. A right of redemption exists according to this subsection.

A. Any person whose property has been levied upon and any person having a valid lien upon such property has the right to pay the amount due, together with the expenses of the proceeding, if any, to the assessor at any time prior to the sale of the property. Upon payment, the assessor shall restore the property to the taxpayer, and all further proceedings in connection with the levy must cease from the time of that payment.

B. The owners of any property sold as provided in subsection 6, their heirs, executors or administrators, or any person having any interest in or lien on the sold property, or any person in their behalf, are permitted to redeem the property sold at any time within 90 days after the sale of the property. The property may be redeemed upon payment to the assessor, for the use of the purchaser, or the heirs or assigns of the purchaser, of the amount paid by the purchaser and interest on that amount at the rate of interest established pursuant to section 186, together with the expenses of the proceeding.

10. Certificates of sale; execution of deeds. The assessor shall give the purchaser of property, sold as provided in subsection 6, a certificate of sale upon payment in full of the purchase price. In the case of real property, the certificate must set forth the real property purchased, for whose taxes the property was sold, the name of the purchaser and the price paid for the property.

A. In the case of any real property sold as provided in subsection 6 and not redeemed in the manner and within the time provided in subsection 9, the assessor shall execute to the purchaser of the real property, upon surrender of the certificate of sale by the purchaser, a deed of the real property stating the facts set forth in the certificate.

B. If real property is declared purchased by the State at a sale pursuant to subsection 6, the assessor shall, at the proper time, execute a deed for the property, and without delay cause the deed to be duly recorded in the proper registry of deeds.

11. Effect of certificates of sale and deeds. Certificates of sale and deeds have the following effects.

A. In cases of sale of property, other than real property, pursuant to subsections 6 and 7, the certificate of sale:

(1) Is prima facie evidence of the right of the assessor to make the sale and conclusive evidence of the regularity of proceedings in making the sale;

(2) Transfers to the purchaser of all right, title and interest of the delinquent party in and to the property sold subject to the applicable redemption period and subject to all senior liens determined under subsection 8, paragraph B. In the case of personal property, the assessor shall provide a final validation stamp following the expiration of the redemption period if the property is not redeemed;

(3) If the property consists of stocks, constitutes notice, when received, to any corporation, company or association of the transfer, and gives authority to the corporation, company or association to record the transfer in the same manner as if the stocks were transferred or assigned by the party holding them in lieu of any original or prior certificate, which is void, whether or not the certificate is canceled;

(4) If the subject of sale is securities or other evidences of debt, constitutes a valid receipt to the person holding the securities or evidences of debt, against any person holding or claiming to hold possession of the securities or other evidences of debt; and

(5) If the property consists of a motor vehicle, constitutes notice, when received, to the Secretary of State, or to any public official charged with the registration of title to motor vehicles in any other state, of the transfer and gives authority to the Secretary of State or other official to record the transfer in the same manner as if the certificate of title to the motor vehicle

were transferred or assigned by the party holding the certificate in lieu of any original or prior certificate, which is void, whether or not the certificate is canceled.

B. In the case of the sale of real property pursuant to subsection 6, the deed of sale given pursuant to subsection 10, paragraph A, is prima facie evidence of the facts stated in the deed. If the proceedings of the assessor are substantially in accordance with the law, the deed operates as a conveyance of all the right, title and interest the delinquent party had in the real property sold at the time the lien of the State attached to the property, subject to all senior liens determined under subsection 8, paragraph B.

C. A certificate of sale of personal property given or a deed to real property executed pursuant to this section discharges the property from all liens, encumbrances and title over which the lien of the State, with respect to which the levy was made, had priority.

12. Records of sales and redemption of real property. The assessor shall keep records of all sales of property under subsections 6 and 7 and of all redemptions of that property. Each record must include the tax for which the sale was made, the dates of seizure and sale, the name of the party assessed and all proceedings in making the sale, the amount of expenses, the names of the purchasers and the date of the deed. A copy of a record, or any part of a record, certified by the assessor is evidence in any court of the truth of the facts stated in that record.

13. Expenses of levy and sale. The assessor shall determine the expenses to be allowed in all cases of levy and sale. The assessor may pay the expenses from the revenue account intended to benefit by the receipts of the levy.

14. Disposition of money realized under this section. Any money realized by proceedings under this section by seizure, surrender under subsection 3, except pursuant to subsection 3, paragraph C, subparagraph (2), or sale of seized property, or by sale of property redeemed by the State must be applied in the following order of priority:

A. Against the expenses of the proceedings under this section;

B. The amount, if any, remaining after payment of senior claims and expenses is then applied against the liability for which the levy was made or the sale was conducted; and

C. Upon application and satisfactory proof in support of the application, credited or refunded by the assessor to the person or persons legally entitled to any remaining surplus proceeds.

15. Actions permitted. Any person, other than the taxpayer whose delinquency occasioned the levy:

A. Who claims an interest in property that has wrongfully been levied upon may apply to the assessor for a stay of proceedings under this section at any time before the property has been sold but within 5 days after receiving notice of levy. An action for a stay is governed by Title 5, section 11004; or

B. Who claims pecuniary loss because property was wrongfully levied upon and sold, may bring a civil action against the assessor in the Superior Court. A recovery in such an action may not exceed the proceeds of the sale.

Except as provided in this subsection, a suit contesting or restraining the collection of taxes pursuant to this section may not be maintained in any court of this State by any person. Any award must be paid from the revenue account to which the money was originally credited.

16. Time for collection of taxes. Taxes imposed by this Title must be collected by levy within 10 years after the assessment of the tax becomes final or before the expiration of the period of collection agreed upon in writing by the assessor and the taxpayer. Other obligations owed to the State and authorized to be collected by the bureau must be collected by levy within 10 years from the time the obligation arises. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. A levy action ordered by the assessor before the expiration of the 10-year period continues beyond the expiration of the 10-year period for a period of 6 months from the date the levy is first made or until the liability out of which the levy arose is satisfied or becomes unenforceable, whichever occurs first. The running of the 10-year period is stayed during the time that a consensual payment plan between the taxpayer and the assessor is in effect. When a taxpayer files for protection under the United States Bankruptcy Code, the assessor's right to collect the tax due by levy continues until 6 years after the date of discharge or dismissal of the bankruptcy proceeding or until 10 years after the assessment of the tax becomes final, whichever occurs later.

§176-B. Access to financial records of individuals who owe Maine taxes

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

A. "Customer" means any person who has an account, including, but not limited to, a deposit, loan, mortgage or credit card account, with any financial institution and for which the financial institution is obligated to maintain records.

B. "Financial institution" means a trust company, savings bank, industrial bank, commercial bank, savings and loan association or credit union organized under the laws of this State or otherwise authorized to do business in this State.

C. "Match" means an automated comparison by name and social security number or federal employer identification number of a list of taxpayers provided to a financial institution by the bureau and a list of customers of any financial institution.

2. Computer data match. Upon written request from the State Tax Assessor to a financial institution in this State with the technological capacity to perform a match, the financial institution shall perform a match using the list of taxpayer social security numbers or federal employer identification numbers provided by the bureau. The bureau is responsible for making its computer data compatible with the data of the financial institution with which a match is sought. The bureau's data, at a minimum, must include the name and social security number or federal employer identification number of and, when known, the amount of taxes owed by each taxpayer. The bureau may not request a financial institution to perform a match under this section more often than once every calendar quarter.

3. Compilation of match list. After completing a match requested by the bureau under subsection 2, a financial institution shall compile for the bureau a list of those customers whose social security numbers or federal employer identification numbers match the list of social security numbers or federal employer identification numbers of taxpayers provided by the bureau. The list must contain the following information, if available to the financial institution through its matching procedure, for each account identified:

A. The taxpayer's name;

B. The taxpayer's social security number or federal employer identification number;

C. The financial institution account number; and

D. The account type, account balance and any known encumbrances.

4. Notice to bureau. A financial institution that has compiled a match list under subsection 3 shall send the list to the bureau at the address designated by the bureau.

5. Notice to customer. The financial institution may not provide notice in any form to a customer contained in a match list submitted to the bureau under subsection 4. Notwithstanding any other provision of law, failure to provide notice to a customer does not constitute a violation of the financial institution's duty of good faith to its customers.

6. Reasonable fee. To cover the costs of carrying out the requirements of this section, a financial institution may assess a reasonable fee to the bureau not to exceed the actual costs incurred by the financial institution.

7. Confidentiality. The list of taxpayers under subsection 3, with their social security numbers or federal employer identification numbers and the amount of the tax debt provided by the bureau to a financial institution, is confidential. The information may be used only for the purpose of carrying out the requirements of this section. Any person who willfully violates this subsection commits a Class E crime.

8. Immunity from liability; hold harmless. A financial institution is immune from any liability for its good faith actions to comply with this section. The bureau shall defend and hold harmless, including compensation for attorney's fees, a financial institution that acts in good faith to carry out the requirements of this section.

§177. Trust fund status of certain collections

1. Generally. All sales and use taxes collected by a person pursuant to Part 3, all taxes collected by a person under color of Part 3 that have not been properly returned or credited to the persons from whom they were collected, all taxes collected by or imposed on a person pursuant to chapter 451 or 459, all fees collected pursuant to chapter 719 and all taxes collected by a person pursuant to chapter 827 constitute a special fund in trust for the State Tax Assessor. The liability for the taxes or fees and the interest or penalty on taxes or fees is enforceable by assessment and collection, in the manner prescribed in this Part, against the person and against any officer, director, member, agent or employee of that person who, in that capacity, is responsible for the control or management of the funds or finances of that person or is responsible for the payment of that person's taxes. An assessment against a responsible individual pursuant to this section must be made within 6 years from the date on which the return on which the taxes were required to be reported was filed. An assessment pursuant to this section may be made at any time with respect to a time period for which a return has become due but has not been filed.

2. Responsible individual. Each person required to collect taxes that are designated by subsection 1 as trust funds shall inform the State Tax Assessor, at the time an audit of that person's trust fund obligation is performed by the assessor, of the name and position of the individual who generally is responsible for the control or management of that person's funds or finances and, if different, the individual who is specifically responsible for the collection and paying over of those trust funds.

3. Notice to segregate. Whenever the State Tax Assessor finds that the payment of the trust funds established under subsection 1 will be jeopardized by delay, neglect or misappropriation or whenever any person fails to make payment of taxes or file returns as required by Part 3, or by chapter 451, 459 or 827, the assessor may direct that person to segregate the trust funds from and not to commingle them with any other funds or assets of that person. All taxes that are collected after receipt of the notice of the segregation requirement must be paid on account to the assessor until the taxes are due. The assessor shall establish in the segregation notice the manner in which the taxes are to be paid. The segregation requirement remains in effect until a notice of cancellation is given by the assessor.

4. Revocation for nonsegregation. If any person who is a retailer under Part 3 or a fuel supplier, retailer, distributor or importer subject to Part 5 fails to make the required payments on account to the State Tax Assessor, the assessor may revoke any registration certificate that has been issued to that person. The revocation is reviewable in accordance with section 151.

5. Stay of running of period of limitation. The running of the period of limitation for assessment of trust fund taxes against a responsible officer, director, member, agent or employee of a person that has collected those taxes is stayed for the period of time, plus 120 days, during which an assessment against that person is subject to administrative or judicial review.

6. Sale or cessation of business; purchaser liable for tax. If a person liable for any trust fund taxes incurred in the course of operating a business sells the business or stock of goods or quits the business, the person shall make a final return and payment within 15 days after the date of selling or quitting the business. The successor, successors or assignees, if any, shall withhold a sufficient amount of the purchase money to cover the amount of those taxes, along with applicable interest and penalties, until such time as the former owner produces a receipt from the State Tax Assessor showing that the taxes have been paid, or a certificate from the assessor stating that no trust fund taxes, interest or penalties are due. The liability of a purchaser is limited to the amount of the purchase price. A purchaser who fails to withhold a sufficient amount of the purchase price is jointly and severally liable for the payment of the taxes, penalties and interest accrued and unpaid on account of the operation of the business by the former owner, owners or assignors and the assessor may make an assessment against the purchaser at any time within 6 years from the date of the sale, transfer or assignment.

§178. Priority of tax

Whenever the estate of a deceased person liable for any tax is insufficient to pay all the debts owed by the decedent or whenever the estate and effects of an absconding, concealed or absent person liable for any tax are levied upon by process of law, the tax, together with interest attaching thereto, must be first settled. This section may not be construed to give the State a preference over any recorded lien that attached prior to the date when the tax became due.

§182. Injunctions

1. Generally. The State Tax Assessor may, through the Attorney General, file an action in Superior Court applying for an order to enjoin from doing business any person who has:

A. Failed to register with the assessor when the person is required to register by any provision of Part 3, chapter 358 or Part 5 or by any rule adopted pursuant to this Title, as long as the assessor has provided written notice and the person continues to fail to register 15 days after receiving notice from the assessor of such failure;

B. Failed to file with the assessor any overdue return required by Part 3, chapter 358 or Part 5 within 15 days after receiving notice from the assessor of such failure;

C. Failed to pay any tax required by Part 3, chapter 358 or Part 5 when the tax is shown to be due on a return filed by that person, or that is otherwise conceded by that person to be due, or has been determined by the assessor to be due and that determination has become final;

D. Knowingly filed a false return required by Part 3, chapter 358 or Part 5; or

E. Failed to deduct and withhold, or truthfully account for or pay over or make returns of, income taxes in violation of the provisions of chapter 827.

2. Payroll processors. [Repealed]

3. Venue; form and content of complaint. The complaint may be filed in the Superior Court in any county where the defendant has a regular place of business or in Kennebec County if the defendant has no regular place of business. The complaint must set forth the name and the address of the defendant as stated in the defendant's last return filed with the assessor or, if no such return was filed, the defendant's last known address; the breach of the law or rule committed by the defendant; and the assessor's prayer for relief. The complaint need not be verified.

4. Procedure. The Superior Court shall fix a time and place for hearing and cause notice of the time and place of the hearing to be given to the defendant. The defendant shall serve upon the assessor a copy of any answer to the complaint at least 3 days before the day of the hearing. The Superior Court may enter and change such orders and decrees from time to time as the nature of the case may require and, if necessary, may appoint a receiver.

5. Other remedies no defense. The existence of other civil or criminal remedies is not a defense to a proceeding brought pursuant to this section.

§183. Criminal offenses; statute of limitations

Notwithstanding Title 17-A, section 8, prosecution of any crime defined in this Title must be commenced within 6 years after it has been committed.

§183-A. Subsequent offenses

1. Prior conviction; Class D crimes. A person who commits a Class D crime under this Title who has a prior conviction for a Class B, Class C or Class D crime under this Title commits a Class C crime.

2. Prior conviction; Class C crimes. A person who commits a Class C crime under this Title who has a prior conviction for a Class B, Class C or Class D crime under this Title commits a Class B crime.

3. Allegation of prior conviction when sentence enhanced. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence under this section.

§184. Criminal offenses

1. Failure to collect, account for or pay over tax. A person who is required under this Title to collect, truthfully account for and pay over any tax imposed by this Title and who intentionally fails to collect or truthfully account for or pay over that tax at the time required by law or rule, in addition to any other penalties provided by law, commits a Class D crime.

2. Subsequent offense. [Repealed]

3. "Person" defined. For purposes of this section, the word "person" includes, in addition to its defined meaning in section 111, subsection 3, an officer, director, member, agent or employee of another person who, in that capacity, is responsible for the control or management of the funds and finances of that person or is responsible for either the collection or payment of that retailer's taxes.

§184-A. Intentional evasion of tax

1. Tax amount of $2,000 or less. A person who intentionally attempts in any manner to evade or defeat any tax in an amount of $2,000 or less imposed by this Title or the payment of the assessed tax, in addition to any other penalties provided by law, commits a Class D crime.

1-A. Tax amount of $2000 or less, subsequent offense. [Repealed]

2. Tax amount over $2,000. A person who intentionally attempts in any manner to evade or defeat any tax in an amount over $2,000 imposed by this Title or the payment of the assessed tax, in addition to any other penalties provided by law, commits a Class C crime.

2-A. Tax amount over $2,000, subsequent offense. [Repealed]

3. Date of prior conviction. [Repealed]

§185. Set-off

1. Obligation owed to taxpayer. The State or a department, agency or official acting in an official capacity may assign to the State Tax Assessor, in payment of any liquidated tax liability of a taxpayer under this Title, an obligation owed to that taxpayer by the State or that department, agency or official.

2. Liquidated tax liability. Payments to a person pursuant to a contract with agencies and departments of the legislative, executive and judicial branches of State Government are automatically assigned to the State Tax Assessor if that person has a liquidated tax liability to the State under this Title, but only to the extent of the liquidated tax liability.

3. Setoff of lottery winnings against debts. The State Tax Assessor shall periodically notify the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, referred to in this subsection as "the bureau," of all

persons who have a liquidated tax liability to the State under this Title. Prior to paying any lottery winnings that must be paid directly by the bureau, the bureau shall determine whether the lottery winner is on the list of persons who have a liquidated tax liability to the State under this Title. If the winner is on the list of persons who have a liquidated tax liability to the State under this Title, the bureau shall suspend payment of the winnings and provide notice to the winner of its intention to set off the winnings against the tax debt. The bureau may assign the winnings due to the winner to the State Tax Assessor in payment of any liquidated tax liability of the winner under this Title. Any remaining winnings must be paid to the winner by the bureau.

4. Restitution. For purposes of this section, "liquidated tax liability" includes monetary restitution ordered to be paid to the bureau as part of a sentence imposed for a violation of this Title or Title 17-A.

§186. Interest

A person who fails to pay any tax, other than a tax imposed pursuant to chapter 105, on or before the last date prescribed for payment is liable for interest on the tax, calculated from that date and compounded monthly. The rate of interest for any calendar year equals the highest prime rate as published in the Wall Street Journal on the first day of September of the preceding calendar year or, if the first day of September falls on a weekend or holiday, on the next succeeding business day, rounded up to the next whole percent plus 3 percentage points. For purposes of this section, the last date prescribed for payment of tax must be determined without regard to any extension of time permitted for filing a return. A tax that is upheld on administrative or judicial review bears interest from the date on which payment would have been due in the absence of review. Any amount that has been erroneously refunded and is recoverable by the assessor bears interest at the rate determined pursuant to this section from the date of payment of the refund. A credit or reimbursement that has been allowed or paid pursuant to this Title and is recoverable by the assessor bears interest at the rate determined pursuant to this section from the date it was allowed or paid. Interest accrues automatically, without being assessed by the assessor, and is recoverable by the assessor in the same manner as if it were a tax assessed under this Title. If the failure to pay a tax when required is explained to the satisfaction of the assessor, the assessor may abate or waive the payment of all or any part of that interest.

Except as otherwise provided in this Title, and except for taxes imposed pursuant to chapter 105, interest at the rate determined pursuant to this section must be paid on overpayments of tax from the date the return listing the overpayment was filed or the date payment was made, whichever is later.

§186-A. Additional interest

Notwithstanding section 186, for the period from July 1, 2004 to December 31, 2004, the interest rate calculated pursuant to section 186 for calendar year 2004 is increased by one percentage point.

§187. Penalties [Repealed]

§187-A. Preparer penalty

If any part of any understatement of liability with respect to any return or claim for refund is due to a willful attempt in any manner to understate the liability for a tax by a person who prepares those returns or claims for compensation, or whose employees do so, that person shall pay a penalty of $500 with respect to each return or claim.

§187-B. Penalties

1. Failure to file return. A person who fails to make and file any return required under this Title at or before the time the return becomes due is liable for one of the following penalties if the person's tax liability shown on that return or otherwise determined to be due is greater than $25.

A. If the return is filed before or within 60 days after the taxpayer receives from the assessor a formal demand that the return be filed, or if the return is not filed but the tax due is assessed by the assessor before the taxpayer receives from the assessor a formal demand that the return be filed, the penalty is $25 or 10% of the tax due, whichever is greater.

B. If the return is not filed within 60 days after the taxpayer receives from the assessor a formal demand that the return be filed, the penalty is $25 or 25% of the tax due, whichever is greater. The period provided by this paragraph must be extended for up to 90 days if the taxpayer requests an extension in writing prior to the expiration of the original 60-day period.

C. If the return is not filed and the assessor makes a determination of jeopardy pursuant to section 145, the penalty is 25% of the tax due.

This subsection does not apply to a return required pursuant to chapter 459 that is administered pursuant to the International Fuel Tax Agreement.

1-A. Failure to file information return. [Repealed]

2. Failure to pay. The following penalties apply.

A. Any person who fails to pay, on or before the due date, any amount shown as tax on any return required under this Title is liable for a penalty of 1% of the unpaid tax for each month or fraction of a month during which the failure continues, to a maximum in the aggregate of 25% of the unpaid tax.

A-1. Any person who fails to make and file any return required under this Title at or before the time the return becomes due against whom the assessor has made an assessment of tax pursuant to section 141 and who has not paid the tax on or before the date specified in that assessment is liable for a penalty of 1% of the unpaid tax for each month or fraction of a month during which the tax remains unpaid, calculated retroactively from the original due date of the unfiled return, to a maximum in the aggregate of 25% of the unpaid tax.

B. Any person who fails to pay a tax assessment for which no further administrative or judicial review is available pursuant to section 151 and the Maine Administrative Procedure Act is liable for a penalty in the amount of 25% of the amount of the tax due if the payment of the tax is not made within 10 days of the person's receipt of notice of demand for payment as provided by this Title. This penalty must be explained in the notice of demand and is final when levied.

This subsection does not apply to taxes due pursuant to chapter 459 and administered pursuant to the terms of the International Fuel Tax Agreement.

3. Negligence; fraud. [Repealed]

3-A. Negligence; fraud. A person who files a return under this Title that results in an underpayment of tax, any portion of which is attributable to negligence or intentional disregard of this Title or rules adopted pursuant to this Title, but is not attributable to fraud with intent to evade the tax, is liable for a penalty in the amount of $25 or 25% of that portion of the underpayment, whichever is greater. A person who files a return under this Title that results in an underpayment of tax, any portion of which is attributable to fraud with intent to evade the tax, is liable for a penalty in the amount of $75 or 75% of that portion of the underpayment, whichever is greater. For the purposes of this section, "negligence" means any failure to make a reasonable attempt to comply with the provisions of this Title.

4. Substantial understatement. [Repealed]

4-A. Substantial understatement. A person who files a return under this Title that results in an underpayment of tax, any portion of which is attributable to a substantial understatement of tax, without negligence or intentional disregard of this Title or rules adopted pursuant to this Title and without fraud with intent to evade the tax, is liable for a penalty of $5 or 1% of that portion of the underpayment, whichever is greater, for each month or fraction of a month during which the failure to pay that portion of the underpayment continues, up to a maximum in the aggregate of $25 or 25% of the underpayment, whichever is greater.

There is a substantial understatement of tax if the amount of the understatement on the return or returns for the period covered by the assessment exceeds 10% of the total tax required to be shown on the return or returns for that period or $1,000, whichever is greater. For purposes of determining whether an understatement is substantial and calculating the amount of a substantial understatement that is subject to penalty under this subsection, the amount of an understatement is reduced by that portion of the understatement that is attributable to the tax treatment of any item by the taxpayer if there is or was substantial authority for that treatment.

4-B. Excessive refund. A person who files a claim for refund or reimbursement under Part 5 that is the basis for the receipt of a refund or reimbursement that substantially exceeds the amount to which the person is legally entitled is liable for a penalty of $5 or 1% of the excess amount, whichever is greater, for each month or fraction of a month during which the failure to repay that portion of the refund or reimbursement continues, to a maximum in the aggregate of $25 or 25% of the overpayment, whichever is greater. For purposes of this subsection, a refund or reimbursement substantially exceeds the amount to which the person is legally entitled if the amount of the refund or reimbursement exceeds the amount to which the person is legally entitled by more than 10% of the corrected amount or $1,000, whichever is greater. For purposes of this subsection, the amount by which a refund or reimbursement exceeds the amount to which the person is legally entitled and the excess amount that is subject to penalty under this subsection must be reduced by any portion of the excessive claim for which the person has substantial authority supporting its position.

5. Insufficient funds. Any person who makes payment of an amount due under this Title by means of a check or electronic funds transfer that is returned unpaid by the bank on which it is drawn because of insufficient funds or the closing or nonexistence of the account on which it is drawn is liable for a penalty of $20 or 1% of the payment amount, whichever is greater.

5-A. Electronic funds transfers. Any person required by the assessor to remit taxes by electronic funds transfer that fails to remit electronically is liable for a penalty of the lesser of 5% of the tax due or $5,000. For purposes of this section, a person fails to remit electronically when:

A. Two or more required payments in any consecutive 6-month period are either not made or are made by the person by means other than electronic funds transfer and the person has been notified in writing by the assessor of that person's noncompliance and of the fact that the penalty imposed by this section may be imposed; or

B. The person makes 2 or more required electronic payments in any consecutive 6-month period that do not comply with the specifications set forth in a rule issued by the assessor pursuant to section 193.

5-B. Electronic data submission. Any person required by the State Tax Assessor to file returns by electronic data submission that fails to file electronically is liable for a penalty of $50. For purposes of this subsection, a person fails to file electronically when:

A. Two or more required returns in any consecutive 6-month period either are not filed or are filed by the person by means other than electronic data submission and the person has been notified in writing by the State Tax Assessor of that person's noncompliance and of the fact that the penalty authorized by this subsection may be imposed; or

B. The person files 2 or more required electronic returns in any consecutive 6-month period that do not comply with the specifications set forth in rules adopted by the State Tax Assessor pursuant to section 193.

6. Penalties not exclusive. Each penalty provided under this section is in addition to any interest and other penalties provided under this section and other law, except as otherwise provided in this section. Interest may not accrue on the penalty. This section does not apply to any filing or payment responsibility pursuant to Part 2 except that this section does apply to a filing or payment responsibility pursuant to the state telecommunications excise tax imposed under section 457. The penalties imposed under subsections 1 and 2 accrue automatically, without being assessed by the State Tax Assessor. Each penalty imposed under this section is recoverable by the assessor in the same manner as if it were a tax assessed under this Title.

7. Reasonable cause. The assessor shall waive or abate or, in the case of those penalties that do not accrue automatically under subsection 6, refrain from imposing any penalty imposed by subsection 1, 2, 4-A, 4-B, 5-A or 5-B or by the terms of the International Fuel Tax Agreement if grounds constituting reasonable cause are established by the taxpayer or if the assessor determines that grounds constituting reasonable cause are otherwise apparent. Reasonable cause includes, but is not limited to, the following circumstances:

A. The failure to file or pay resulted directly from erroneous information provided by the Bureau of Revenue Services;

B. The failure to file or pay resulted directly from the death or serious illness of the taxpayer or a member of the taxpayer's immediate family;

C. The failure to file or pay resulted directly from a natural disaster;

D. A return that was due monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 12 months were timely;

E. A return that was due other than monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 3 years were timely;

F. The taxpayer has supplied substantial authority justifying the failure to file or pay; or

G. The amount subject to a penalty imposed by subsection 1, 2, 4-A or 5-A is de minimis when considered in relation to the amount otherwise properly paid, the reason for the failure to file or pay and the taxpayer's compliance history.

Absent a determination by the assessor that grounds constituting reasonable cause are otherwise apparent, the burden of establishing grounds for waiver or abatement is on the taxpayer.

For purposes of this section, the term "person" includes an individual, corporation or partnership or any officer or employee of a corporation, including a dissolved corporation, or a member or employee of a partnership who, as the officer, employee or member, is under a duty to perform the act in respect of which a violation occurs.

§188. Remedies not exclusive

Each remedy provided in this Title is not exclusive and is in addition to all other remedies prescribed in this Title for the enforcement and collection of any tax imposed by this Title.

§189. Taxes as additional

Unless otherwise specifically provided, any tax imposed under this Title shall be in addition to all other taxes legally imposed upon the subject of the tax by any other law of the State now or hereafter in force.

§190. Effect of repeal

The repeal of an Act or resolve, or part thereof, imposing a tax or taxes shall have no effect upon the reporting, collecting or refunding of taxes accrued to the date of that repeal. The procedures relating to the reporting, collecting or refunding of taxes in effect at the date of the repeal shall remain in full force and effect until the liabilities incurred pursuant to the Act or resolve, or part thereof, are satisfied.

§191. Confidentiality of tax records (CONFLICT)

1. Basic prohibition. It is unlawful for any public official or any employee or agent of the bureau to inspect willfully any return or examine information contained on any return, for any purpose other than the conduct of official duties. Except as otherwise provided by law, it is unlawful for any person who, pursuant to this Title, has been permitted to receive or view any portion of the original or a copy of any report, return or other information provided pursuant to this Title to divulge or make known in any manner any information set forth in any of those documents or obtained from examination or inspection under this Title of the premises or property of any taxpayer. This prohibition applies to both state tax information and federal tax information filed as part of a state tax return.

2. Exemptions. This section shall not be construed to prohibit:

A. The delivery to a taxpayer or his duly authorized representative of a certified copy of any return, report or other information filed by the taxpayer pursuant to this Title;

A-1. The disclosure to an authorized representative of the Maine Potato Board of information obtained by the assessor in the administration of chapter 710;

B. The publication of statistics so classified to prevent the identification of particular reports or returns and the items thereof;

C. The inspection by the Attorney General of information filed by any taxpayer who has requested review of any tax under this Title or against whom an action or proceeding for collection of tax has been instituted; or the production in court or to the board on behalf of the State Tax Assessor or any other party to an action or proceeding under this Title of so much and no more of the information as is pertinent to the action or proceeding;

D. The disclosure of information to duly authorized officers of the United States and of other states, districts and territories of the United States and of Canada and its provinces for use in administration and enforcement of this Title or of the tax laws of those jurisdictions. With respect to enforcement of the tax laws of other jurisdictions, the information may not be given to the duly authorized officer unless the officer's government permits a substantially similar disclosure of information to the taxing officials of this State and provides for the confidentiality of information in a manner substantially similar to the manner provided in this section;

E. The provision of information, pursuant to a contract for administrative services, to a person retained on an independent contract basis or the authorized employees of that person or the provision of information to state employees outside the Bureau of Revenue Services for the purpose of acquiring assistance in the administration of this Title and the return to employees of the Bureau of Revenue Services of the information provided and additional information generated as a product of the administrative services provided;

F. The transmission of information among employees of the Bureau of Revenue Services for the purposes of enforcing and administering the tax laws of this State and the delivery by a register of deeds to the State Tax Assessor or delivery by the State Tax Assessor to the appropriate municipal assessor or to the Maine Land Use Planning Commission or the Department of Health and Human Services of "declarations of value" in accordance with section 4641-D. The State Tax Assessor may require entities requesting information pursuant to this paragraph other than municipal assessors to provide resources sufficient to cover the cost of providing the forms;

G. The disclosure to the Attorney General of information related to a person who is the subject of a criminal investigation or prosecution, and the subsequent disclosure of that information by the Attorney General to a district attorney, an assistant district attorney or a state, county or local law enforcement agency that is participating in the criminal investigation or prosecution of that person. A request from the Attorney General for information related to a person who is the subject of a criminal investigation or prosecution must be submitted to the State Tax Assessor in writing and must include:

(1) The name and address of the person to whom the requested information relates;

(2) The taxable period or periods to which the requested information relates;

(3) The statutory authority under which the criminal investigation or prosecution is being conducted; and

(4) The specific reason the requested information is, or may be, relevant to the criminal investigation or prosecution.

The Attorney General or a district attorney, assistant district attorney or law enforcement agency to which the Attorney General has disclosed tax information related to a person who is the subject of a criminal investigation or prosecution shall retain physical control of that information until the conclusion of the criminal investigation or prosecution for which the information was requested, after which the information must be returned immediately to the assessor;

H. The disclosure by the State Tax Assessor of the fact that a person is or is not registered under this Title or disclosure of both the fact that a registration under this Title has been revoked and the reasons for revocation;

I. The disclosure of information acquired pursuant to Part 2;

J. The disclosure to a state agency seeking setoff of a liquidated debt against a tax refund pursuant to section 5276-A of information necessary to effectuate the intent of that section;

K. The disclosure by a municipal assessor, or by the State Tax Assessor with regard to the unorganized territory, of information contained on a declaration of value filed pursuant to section 4641-D or the Internet publication by the State Tax Assessor of information, other than taxpayer identification numbers, obtained from declarations of value filed pursuant to section 4641-D, except that, upon request by an individual who is certified by the Secretary of State as a participant in the Address Confidentiality Program pursuant to Title 5, section 90-B, the municipal assessor shall redact the name of that individual on the declaration of value form prior to disclosure;

L. The listing of gasoline distributors possessing a certificate under section 2904 and the number of taxable gallons sold by each gasoline distributor in this State each month;

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

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

O. The disclosure to an authorized representative of the Department of Health and Human Services of an individual's residence, employer, income and assets for child support enforcement purposes as required by the Social Security Act, 42 United States Code, Chapter 7, subchapter IV, Part D (1966), when a request containing the payor's social security number is made by the department;

P. The public disclosure by the State Tax Assessor of the name, last known business address and title of the professional license or certificate of any person whose license or certificate of authority to conduct a profession, trade or business in this State has not been renewed, reissued or otherwise extended by order of the assessor pursuant to section 175. This disclosure may be made only after no further administrative or judicial review of the order is available under section 151 or the Maine Administrative Procedure Act;

Q. The listing of persons possessing certificates under section 3204 and the number of taxable gallons sold by each person possessing a certificate in this State each month;

R. The disclosure to the Department of Health and Human Services of information relating to the administration and collection of the taxes imposed by chapter 358, chapter 373, chapter 375 and chapter 377;

S. The disclosure to an authorized representative of the Department of Health and Human Services of the names and social security numbers of applicants for the Maine Residents Property Tax Relief Program for the purpose of identifying those who are not eligible for that program pursuant to section 6207, subsection 3. The Department of Health and Human Services may not disclose names or social security numbers to any person, agency or organization, other than the Bureau of Revenue Services, nor may those names and social security numbers be used for any purpose other than the purpose stated in this paragraph;

T. The disclosure to an authorized representative of the Department of Health and Human Services of information in the possession of the bureau identifying the location of an interest-bearing account in the name and social security number of a delinquent payor of child support as requested by the Department of Health and Human Services;

U. The disclosure by employees of the Bureau of Revenue Services to designated representatives of the Secretary of State of information required by the Secretary of State for the administration of the special fuel tax imposed by chapter 459;

V. The disclosure by employees of the Bureau of Revenue Services, to designated representatives of the Department of Labor, of all information required by the State Tax Assessor and the Commissioner of Labor for the administration of the taxes imposed by

Part 8 and by Title 26, chapter 13 and the Competitive Skills Scholarship Fund contribution imposed by Title 26, section 1166 and of all information required by the Director of the Bureau of Labor Standards within the Department of Labor for the enforcement of Title 26, section 872;

W. The disclosure by the State Tax Assessor to the State Auditor when necessary to the performance of the State Auditor's official duties;

X. [Repealed]

Y. The disclosure by the State Tax Assessor, upon request in writing of any individual against whom an assessment has been made pursuant to section 177, subsection 1, of the following information:

(1) Information regarding the underlying tax liability to the extent necessary to apprise the individual of the basis of the assessment;

(2) The name of any other individual against whom an assessment has been made for the same underlying tax debt; and

(3) The general nature of any steps taken by the assessor to collect the underlying tax debt from any other individuals and the amount collected;

Z. The disclosure to the Treasurer of State when necessary for the performance of the Treasurer of State's official duties as administrator under Title 33, chapter 41 of the following information:

(1) The current mailing address for a taxpayer for purposes of returning unclaimed or abandoned property to the rightful owner or heir; and

(2) The names and mailing addresses of all Maine corporate income tax filers in an electronic medium prescribed by the State Tax Assessor;

AA. The disclosure by employees of the bureau to designated representatives of the Finance Authority of Maine necessary for the administration of section 6656, subsection 3 and section 6758, subsection 4 and of information required to ensure that recipients of certain benefits under Title 20-A, chapter 417-E are eligible to receive such benefits;

BB. The disclosure to an authorized representative of the Department of Health and Human Services, Office of Child Care and Head Start of taxpayer information directly relating to the certification of investments eligible for or the eligibility of a taxpayer for the quality child care investment credit provided by section 5219-Q;

CC. The disclosure to an authorized representative of the Department of Professional and Financial Regulation of information necessary for the administration of Title 10, chapter 222;

DD. The delivery of a certified copy of any return, report or other information provided or filed pursuant to this Title by a partnership, corporation, trust or estate or any report of any examination of a return filed by a partnership, corporation, trust or estate to any person:

(1) Who signed the return;

(2) Who is the personal representative or executor of the estate filing the return;

(3) Who was a member of the partnership filing the return during any part of the period covered by the return;

(4) Who is a trustee of the trust filing the return;

(5) Who was a shareholder during any part of the period covered by the return filed by an S corporation;

(6) Who is an officer, or a bona fide shareholder of record owning 1% or more of the outstanding stock, of the corporation filing the return;

(7) Who is the person authorized to act for the corporation if the corporation has been dissolved; or

(8) Who is the duly authorized representative of any of the persons described in subparagraphs (1) to (7).

The exception under this paragraph does not include the disclosure of confidential information of a particular partner, shareholder, beneficiary or trustee or other person receiving income from one of the entities described in subparagraphs (1) to (8) unless otherwise authorized;

DD. (REALLOCATED TO T. 36, §191, sub-§2, ¶HH)

DD. (REALLOCATED TO T. 36, §191, sub-§2, ¶II)

EE. The disclosure by the State Tax Assessor of the fact that a person has or has not been issued a certificate of exemption pursuant to section 1760, 2013 or 2557, a provisional resale certificate pursuant to section 1754-B, subsection 2-B or a resale certificate pursuant to section 1754-B, subsection 2-C;

FF. The disclosure to the Department of the Secretary of State, Bureau of Motor Vehicles of whether the person seeking registration of a vehicle has paid the tax imposed by Part 3 with respect to that vehicle;

GG. The disclosure to the Department of Inland Fisheries and Wildlife, Division of Licensing and Registration of whether the person seeking registration of a snowmobile, all-terrain vehicle or watercraft has paid the tax imposed by Part 3 with respect to that snowmobile, all-terrain vehicle or watercraft;

HH. (REALLOCATED FROM T. 36, §191, sub-§2, ¶DD) [Repealed]

II. (REALLOCATED FROM T. 36, §191, sub-§2, ¶DD) The disclosure to an authorized representative of the Maine Milk Commission of information on the quantity of packaged milk handled in the State and subject to the milk handling fee established in section 4902 and other information obtained by the assessor in the administration of chapter 721;

JJ. The disclosure to the State Purchasing Agent of a person's sales tax standing as necessary to enforce Title 5, section 1825-B, subsection 14;

KK. The disclosure of information necessary to administer the setoff of liquidated tax debts pursuant to section 185, subsection 3;

(Paragraph KK as enacted by PL 2007, c. 539, Pt. OO, §7 is REALLOCATED TO TITLE 36, SECTION 191, SUBSECTION 2, PARAGRAPH LL)

(Paragraph KK as enacted by PL 2007, c. 693, §9 is REALLOCATED TO TITLE 36, SECTION 191, SUBSECTION 2, PARAGRAPH MM)

(Paragraph KK as enacted by PL 2007, c. 694, §3 is REALLOCATED TO TITLE 36, SECTION 191, SUBSECTION 2, PARAGRAPH NN) [PL 2009, c. 361, §13 (AMD).]

LL. (REALLOCATED FROM T. 36, §191, sub-§2, ¶KK) The disclosure to any state agency of information relating to the administration and collection of any debt transferred to the bureau for collection pursuant to section 112-A;

MM. (REALLOCATED FROM T. 36, §191, sub-§2, ¶KK) The disclosure to an authorized representative of the Department of Economic and Community Development of information required for the administration of the visual media production credit under section 5219-Y, the employment tax increment financing program under chapter 917, the visual media production reimbursement program under chapter 919-A or the Pine Tree Development Zone program under Title 30-A, chapter 206, subchapter 4;

NN. (REALLOCATED FROM T. 36, §191, sub-§2, ¶KK) The disclosure to an authorized representative of the Wild Blueberry Commission of Maine of information required for or submitted to the assessor in connection with the administration of the tax imposed under chapter 701;

OO. The disclosure to duly authorized officers of the Federal Government and of other state governments of information necessary to administer a set-off agreement pursuant to section 112, subsection 13. The information may not be disclosed unless the officer's government permits a substantially similar disclosure of information to the taxing officials of this State and protects the confidentiality of the information in a manner substantially similar to that provided by this section;

PP. The disclosure to the Department of Agriculture, Conservation and Forestry of information contained on the commercial forestry excise tax return filed pursuant to section 2726, such as the landowner name, address and acreage, to facilitate the administration of chapter 367;

(Paragraph PP as enacted by PL 2009, c. 592, §2 is REALLOCATED TO TITLE 36, SECTION 191, SUBSECTION 2, PARAGRAPH QQ)

QQ. (REALLOCATED FROM T. 36, §191, sub-§2, ¶PP) The disclosure of registration, reporting and payment information to the Department of Environmental Protection necessary for the administration of Title 38, chapter 33;

RR. The disclosure to the Finance Authority of Maine of the cumulative value of eligible premiums submitted for reimbursement pursuant to Title 10, section 1020-C;

(Paragraph RR as enacted by PL 2011, c. 331, §11 and affected by §§16 and 17 is REALLOCATED TO TITLE 36, SECTION 191, SUBSECTION 2, PARAGRAPH TT)

(Paragraph RR as enacted by PL 2011, c. 439, §7 and affected by §12 is REALLOCATED TO TITLE 36, SECTION 191, SUBSECTION 2, PARAGRAPH UU)

SS. The disclosure of information to the Finance Authority of Maine necessary for the administration of the new markets capital investment credit in sections 2533 and 5219-HH and to the Commissioner of Administrative and Financial Services as necessary for the execution of the memorandum of agreement pursuant to section 5219-HH, subsection 3;

(Paragraph SS as enacted by PL 2011, c. 439, §8 and affected by §12 is REALLOCATED TO TITLE 36, SECTION 191, SUBSECTION 2, PARAGRAPH VV)

TT. (REALLOCATED FROM T. 36, §191, sub-§2, ¶RR) The disclosure to tax officials of other states, and to clearinghouses and other administrative entities acting on behalf of participating states, of information necessary for the administration of a multistate agreement entered into pursuant to section 2532;

UU. (REALLOCATED FROM T. 36, §191, sub-§2, ¶RR) The production in court on behalf of the assessor or any other party to an action or proceeding under this Title, or the production pursuant to a discovery request under the Maine Rules of Civil Procedure or a request under the freedom of access laws, of any reconsideration decision or advisory ruling issued on or after July 1, 2012, in redacted format so as not to reveal information from which the taxpayer may be identified, except that federal returns and federal return information provided to the State by the Internal Revenue Service may not be disclosed except as permitted by federal law. A person requesting the production of any such document shall pay, at the time the request is made, all direct and indirect costs associated with the redacting of information from which the taxpayer or other interested party may be identified, plus an additional fee of $100 per request;

VV. The disclosure by the assessor to the taxpayer advocate under section 151-C of information related to a petition for reconsideration filed by a taxpayer pursuant to section 151. The taxpayer advocate is prohibited from disclosing information obtained pursuant to this paragraph other than to the particular taxpayer to whom the information pertains;

WW. The disclosure of information to the Department of Inland Fisheries and Wildlife necessary for the administration of the credit for Maine fishery infrastructure investment under section 5216-D;

XX. The disclosure of information by the assessor to the board, except that such disclosure is limited to information that is pertinent to an appeal or other action or proceeding before the board;

YY. The inspection and disclosure of information by the board to the extent necessary to conduct appeals procedures pursuant to this Title and issue a decision on an appeal to the parties. The board may make available to the public redacted decisions that do not disclose the identity of a taxpayer or any information made confidential by state or federal statute;

ZZ. The disclosure by the State Tax Assessor to a qualified Pine Tree Development Zone business that has filed a claim for reimbursement under section 2016 of information related to any insufficiency of the claim, including records of a contractor or subcontractor that assigned the claim for reimbursement to the qualified Pine Tree Development Zone business and records of the vendors of the contractor or subcontractor; and

AAA. The disclosure of information by the State Tax Assessor or the Associate Commissioner for Tax Policy to the Office of Program Evaluation and Government Accountability under Title 3, section 991 for the review and evaluation of tax expenditures pursuant to Title 3, chapter 37.

3. Additional restrictions for information provided by Internal Revenue Service. Federal returns and federal return information provided to the State by the Internal Revenue Service may not be disclosed to other states, districts and territories of the United States or provinces of Canada, to legislative committees or the agents of the committees or to the Attorney General for the purpose of criminal investigations and prosecutions unrelated to this Title. These restrictions are in addition to those imposed by subsection 1.

3-A. Additional restrictions for proprietary information provided to assessor. Information and materials provided in confidence to the assessor and used by the bureau for the purpose of preparing legislation or legislative analysis, including the preparation of fiscal estimates for the Office of Fiscal and Program Review, are to be accorded the same confidentiality as established by this section for tax information.

3-B. Additional restrictions for certain information provided by the Department of Health and Human Services. Information provided to the assessor by the Department of Health and Human Services pursuant to section 175 and Title 22, section 2425, subsection 8, paragraph L may be used by the bureau only for the administration and enforcement of taxes imposed under this Title. These restrictions are in addition to those imposed by subsection 1.

4. Penalties. A person who willfully violates this section commits a Class E crime. An offender who is an officer or employee of the State must be dismissed from office.

§192. Miscellaneous

1. Expenses. The reasonable and necessary traveling expenses of the State Tax Assessor and of his employees while actually engaged in the performance of their duties, certified upon vouchers approved by the State Tax Assessor, shall be paid by the Treasurer of State upon warrant of the State Controller.

2. Facsimile signature. A facsimile of the signature of the State Tax Assessor imprinted by or at his direction upon any license, registration certificate, notice of assessment or statutory demand notice issued by him under authority of this Title shall have the same validity as his written signature.

3. Small payments. No payment of less than $1 may be made pursuant to this Title, except in the case of an overpayment of tax when a specific written request is made by the taxpayer.

§193. Returns; declaration covering perjury; submission of returns and funds by electronic means

1. Declaration required. Any return, report or other document required to be filed pursuant to this Title must contain a declaration, in a form prescribed by the State Tax Assessor, that the statements contained in the return, report or other document are true and are made under the penalties of perjury. When a tax return is filed electronically by a taxpayer or with the taxpayer's permission, the filing of that return constitutes a sworn statement by the taxpayer, made under the penalties of perjury, that the tax liability shown on the return is correct.

2. Electronic filing. The State Tax Assessor, with the approval of the Commissioner of Administrative and Financial Services may adopt a rule allowing or requiring the filing of a return or document by electronic data submission. The rule must establish thresholds or phase-in periods to assist taxpayers and preparers in complying with any electronic data submission requirement.

A. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of an employer that submits returns in accordance with section 5253 with respect to 100 or more employees, whether the returns are submitted directly by the employer or by a 3rd party on behalf of the employer, the assessor may require that the returns be filed by electronic data submission.

B. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a payroll processor as defined in Title 10, chapter 222 that submits returns pursuant to section 5253 or Title 26, chapter 13, subchapter 5 or 7 for 100 or more employers, the assessor may require that the returns be filed by electronic data submission.

C. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of an employer that submits returns pursuant to Title 26, chapter 13, subchapter 5 or 7, the assessor may require that the returns be filed by electronic data submission.

3. Payment by electronic funds transfer. The State Tax Assessor, with the approval of the Commissioner of Administrative and Financial Services, may adopt a rule allowing or requiring the payment of a tax or the refund of a tax by electronic funds transfer. An electronic funds transfer allowed or required by the assessor pursuant to this subsection in payment of a tax obligation to the State is considered a return. For the purposes of this subsection, "tax" includes Competitive Skills Scholarship Fund contributions and unemployment insurance contributions required to be paid to the State pursuant to Title 26.

A. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a person that is liable for $200,000 or more per year pursuant to section 5253 or for $400,000 or more per year in payments of any other single tax type, the assessor may require payment or refund of that tax by electronic funds transfer.

B. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a payroll processor as defined in Title 10, chapter 222, the assessor may require payment or refund of taxes pursuant to section 5253 and payment or refund of Competitive Skills Scholarship Fund contributions and unemployment insurance contributions pursuant to Title 26, chapter 13, subchapters 5 and 7, respectively, by electronic funds transfer.

4. Adoption of rules. Rules adopted pursuant to this section are routine technical rules for the purposes of Title 5, chapter 375, subchapter 2-A.

§194. Data warehouse

1. Information provided to State Tax Assessor; use and confidentiality of data. Notwithstanding any other provision of law, the Secretary of State and all executive branch departments, boards, commissions, divisions, authorities, districts or other executive branch agencies of the State shall annually provide to the State Tax Assessor, within 3 months of the request of the assessor, and in such form as the assessor may prescribe, electronic data that those entities possess unless such release is prohibited by federal law. Information provided to the assessor pursuant to this section must be treated as though it is tax return information that is subject to the confidentiality and disclosure provisions of section 191 and its disclosure is further restricted as requested by the agency providing the information and as agreed to by the Commissioner of Administrative and Financial Services.

2. Expense of creating and maintaining data warehouse; transfer of funds. The State Controller shall transfer from the General Fund an amount authorized by the assessor equal to the expenses incurred in creating and maintaining the data warehouse authorized by this section and in collecting the debts arising from the operation of the data warehouse. These expenses are limited to those resulting from 3rd-party contingency fee contracts for the services referenced in this section and include any associated expense charged by the Department of Administrative and Financial Services, Office of Information Technology for directly related services. The amount transferred must be deposited into a dedicated, nonlapsing account to be used solely for the purpose of creating and maintaining the data warehouse. Interest earned on balances in the account accrue to the account.

3. Report to Legislature. The assessor shall annually report to the joint standing committees of the Legislature having jurisdiction over taxation matters and appropriations and financial affairs the costs incurred in creating and maintaining, and the tax revenues collected by using, the data warehouse authorized by this section.

§194-A. Review of certain changes in the application of sales and use tax law

1. Consultation. Before implementing a significant change in policy, practice or interpretation of the sales and use tax law that would result in additional revenue, the bureau shall consult with the Office of the Attorney General to determine if the change should be reviewed by the appropriate legislative committee of oversight. If the consultation results in an agreement that a proposed change in policy, practice or interpretation of the sales and use tax law is a significant change that would result in additional revenue and should be reviewed by the appropriate legislative committee of oversight, the bureau shall notify the appropriate legislative committee of oversight pursuant to subsection 2.

2. Notification and review. If, pursuant to subsection 1, the Office of the Attorney General and the bureau agree that a proposed change in policy, practice or interpretation of the sales and use tax law is a significant change that would result in additional revenue and should be reviewed by the appropriate legislative committee of oversight, the bureau shall notify the chairs of the appropriate legislative committee of oversight of the results of the consultation at least 45 days prior to implementation of the change in policy, practice or interpretation of the sales and use tax law, if reasonably practicable. The chairs of the legislative committee of oversight shall notify all committee members in writing of the proposed change in policy, practice or interpretation of the sales and use tax law and may schedule a time for committee review and discussion.

3. Report. The bureau shall report annually by January 15th to the joint standing committee of the Legislature having jurisdiction over taxation matters regarding the consultation process and, consistent with attorney-client privilege and any other legal privilege and legal confidentiality requirements, provide a brief summary of the issues for which a consultation was sought and the results of each consultation.

4. Assessment validity. The provisions of this section establish a procedural consultation and reporting requirement to assist routine legislative oversight. It does not affect the validity of any assessment or tax liability under this Title.

§194-B. National criminal history record information

As part of the process of evaluating an applicant for employment with the bureau, the assessor shall perform a national criminal history record check in accordance with this section, except the Associate Commissioner for Tax Policy shall perform a national criminal history record check for an applicant for employment with the Office of Tax Policy.

1. Criminal history record information obtained from the Federal Bureau of Investigation. The assessor shall obtain national criminal history record information from the Federal Bureau of Investigation for any person not then employed with the Bureau of Revenue Services who has applied for and may be offered employment, except that for a person who has applied for and may be offered employment with the bureau's Office of Tax Policy, the Associate Commissioner for Tax Policy shall obtain the national criminal history record information.

2. Fingerprinting. An individual not then employed with the Bureau of Revenue Services applying for employment with the bureau must consent to having fingerprints taken for use in accordance with this section before the individual may be employed by the bureau. The State Police shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the Department of Public Safety, State Bureau of Identification so that the State Bureau of Identification can conduct state and national criminal history record checks for the Bureau of Revenue Services. The State Police may charge the Bureau of Revenue Services for the expenses

incurred in processing state and national criminal history record checks. The full fee charged under this subsection must be deposited in a dedicated revenue account for the State Bureau of Identification with the purpose of paying costs associated with the maintenance and replacement of the criminal history record systems.

3. Confidentiality. All information obtained by the assessor or the Associate Commissioner for Tax Policy pursuant to this section is confidential and not a public record pursuant to Title 1, chapter 13.

4. Applicant's access to criminal history record information. The Bureau of Revenue Services shall provide an applicant with access to information obtained pursuant to this section, if requested, by providing a paper copy of the criminal history record information directly to the applicant, but only after the Bureau of Revenue Services confirms that the applicant is the subject of the record. In addition, the Bureau of Revenue Services shall publish guidance on requesting such information from the Federal Bureau of Investigation.

§194-C. National criminal history record information of providers of contract services (CONTAINS TEXT WITH VARYING EFFECTIVE DATES) (WHOLE SECTION TEXT EFFECTIVE 3/1/16)

The assessor shall perform a national criminal history record check of all the bureau's contractors and their respective employees, subcontractors and subcontractors' employees who provide services to the bureau under an identified contract. For purposes of this section, "identified contract" means a contract that the assessor determines involves access or the substantial possibility of access to the bureau's information technology systems or to confidential taxpayer information.

1. Criminal history record information obtained from the Federal Bureau of Investigation. The assessor shall obtain national criminal history record information from the Federal Bureau of Investigation for any individual who provides or is assigned to provide services to the Bureau of Revenue Services pursuant to an identified contract.

2. Fingerprinting. An individual who is assigned to provide services to the Bureau of Revenue Services pursuant to an identified contract must consent to having fingerprints taken for use in accordance with this section before the individual may provide these services. The State Police shall take or cause to be taken the individual's fingerprints and shall forward the fingerprints to the Department of Public Safety, State Bureau of Identification so that the State Bureau of Identification can conduct the state and national criminal history record checks. The State Police may charge the Bureau of Revenue Services for the expenses incurred in processing state and national criminal history record checks. The full fee charged under this subsection must be deposited in a dedicated revenue account for the State Bureau of Identification with the purpose of paying costs associated with the maintenance and replacement of its criminal history record systems.

3. Confidentiality. All information obtained by the assessor pursuant to this section is confidential and not a public record pursuant to Title 1, chapter 13.

4. Individual's access to criminal history record information. The Bureau of Revenue Services shall provide an individual who provides fingerprints pursuant to subsection 2 with access to information obtained pursuant to this section, if requested, by providing a paper copy of the criminal history record information directly to the individual, but only after the Bureau of Revenue Services confirms that the individual is the subject of the record. In addition, the Bureau of Revenue Services shall publish guidance on requesting such information from the Federal Bureau of Investigation.

5. Application to other state agencies. This section does not apply to services provided by another agency of this State.

CHAPTER 10
TAX EXPENDITURE REVIEW

§199-A. Definitions

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

1. Committee. "Committee" means the joint standing committee of the Legislature having jurisdiction over taxation matters.

2. Tax expenditure. "Tax expenditure" means any provision of state law that results in the reduction of tax revenue due to special exclusions, exemptions, deductions, credits, preferential rates or deferral of tax liability.

§199-B. Report

1. Report. The bureau shall submit a report regarding tax expenditures to the committee by January 5th of each odd-numbered year. The report must contain:

A. A summary of each tax expenditure in the laws administered by the bureau;

B. A description of the purpose and background of the tax expenditure and the groups likely to benefit from the tax expenditure;

C. An estimate of the cost of the tax expenditure for the current biennium;

D. Any issues regarding tax expenditures that need to be considered by the Legislature; and

E. Any recommendation regarding the amendment, repeal or replacement of the tax expenditure.

§199-C. Review

The committee shall conduct the following reviews according to the following schedule.

1. Odd-numbered years. During each odd-numbered year the committee may review the report required under section 199-B.

2. Even-numbered years. During each even-numbered year the committee may review current issues of tax policy.

A. During each second regular session, the committee shall identify areas of tax policy for review during the period between the end of the second regular session and the first regular session of the next Legislature.

B. The committee may review:

(1) Issues of tax policy related to tax expenditures identified in its review under subsection 1;

(2) Issues related to the overall structure of the State's tax laws and the relative tax burdens on various classes of taxpayers;

(3) The impact of the State's tax structure on taxpayer behavior, including incentives and disincentives to reside or locate businesses in the State;

(4) Issues identified by the committee that require more detailed review than is possible during a regular session of the Legislature; or

(5) Any other tax policy issue identified by the committee as needing legislative review.

3. Specific tax expenditure review. By June 1, 2021, the committee shall review the income tax credit under section 5217-D to determine whether the credit should be retained, repealed or modified. The committee shall consider information provided by the Office of Tax Policy within the bureau and the Department of Education pursuant to Title 20-A, section 12545.

4. Review of aviation tax expenditure. The committee, by June 30, 2023, shall review the sales tax exemption under section 1760, subsection 88-A to determine whether the exemption provides an incentive for increasing investment in the aviation sector, attracting and retaining aviation business and basing aircraft in the State.

§199-D. Report

The committee shall notify the Legislature of the results of each review conducted under section 199-C and may issue a report of its findings and recommendations. The committee may report to the Legislature any legislation necessary to implement recommendations resulting from the review conducted under section 199-C.

CHAPTER 11
REVENUE IMPACT

§200. Bureau of Revenue Services report on revenue incidence

1. Impact of taxes on individuals. The bureau shall submit to the joint standing committee of the Legislature having jurisdiction over taxation matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report containing the information required by this subsection by July 1, 1999 and by January 1st of each odd-numbered year thereafter.

A. Part 1 of the report must describe the overall incidence of all state, local and county taxes. The report must present information on the distribution of the tax burden:

(1) For the overall income distribution, using a measure of system-wide incidence that appropriately measures equality and inequality;

(2) By income classes, including, at a minimum, deciles of the income distribution; and

(3) By other appropriate taxpayer characteristics.

B. Part 2 of the report must describe the impact of the tax system on business and industrial sectors. The report must:

(1) Describe the impact of taxes on major sectors of the business and industrial economy relative to other sectors; and

(2) Describe the relative impact of each tax on business and industrial sectors.

C. When determining the overall incidence of taxes under this subsection, the bureau shall reduce the amount of taxes collected by the amount of taxes that are returned directly to taxpayers through tax relief programs.

2. Legislation analysis. At the request of the joint standing committee of the Legislature having jurisdiction over taxation matters, the bureau shall prepare an incidence impact analysis of any legislation or proposal to change the tax laws that increases, decreases or redistributes taxes by more than $20,000,000. To the extent data is available on the changes in the distribution of the tax burden that are effected by that legislation or proposal, the analysis must report on the incidence effects that would result if the legislation were enacted. The report may present information, using system-wide measures, by income classes, taxpayer characteristics or other relevant categories. The report may include analyses of the effect of the legislation proposal on representative taxpayers. The analysis must include a statement of the incidence assumptions that were used in computing the tax burdens.

TITLE 36
TAXATION

PART 2
PROPERTY TAXES

CHAPTER 101
GENERAL PROVISIONS

SUBCHAPTER 1
POWERS AND DUTIES OF THE STATE TAX ASSESSOR

§201. Supervision and administration

The State Tax Assessor shall have and exercise general supervision over the administration of the assessment and taxation laws of the State, and over local assessors and all other assessing officers in the performance of their duties, to the end that all property shall be assessed at the just value thereof in compliance with the laws of the State.

§202. Training and certification of assessors [Repealed]

§203. Supervisors and assistants [Repealed]

§204. Daily payment to treasurer [Repealed]

§205. Forms, reports and records

The State Tax Assessor shall prescribe the form of blanks, reports, abstracts and other records relating to the assessment of property for taxation. Assessors and other officers shall use and follow the forms so prescribed and the State Tax Assessor shall have power to enforce their use.

§206. Compensation of assessors, collectors and treasurers

Primary assessing areas and municipalities shall pay to assessors a reasonable compensation and actual expenses incurred in complying with the requirement of this Title. Primary assessing areas and municipalities shall pay to collectors, treasurers and assessors a reasonable compensation and actual expenses incurred in attending meetings and schools called by the State Tax Assessor.

§207. -- conventions [Repealed]

§208. Equalization

The State Tax Assessor has the duty of equalizing the state and county taxes among the several towns and unorganized territory. The State Tax Assessor shall equalize and adjust the assessment list of each town, by adding to or deducting from it such amount as will make it equal to its just value as of April 1st. Notice of the proposed valuations of municipalities within each county must be sent annually by certified mail to the chair of the board of assessors, and chair of the board of selectmen in municipalities having selectmen, of each municipality within that county on or before the first day of October. The valuation so determined is subject to review by the State Board of Property Tax Review pursuant to subchapter II-A, but the valuation finally certified to the Secretary of State pursuant to section 381 must be used for all computations required by law to be based upon the state valuation with respect to municipalities.

§208-A. Adjustment for sudden and severe disruption of valuation

1. Request for adjustment. A municipality that has experienced a sudden and severe disruption in its municipal valuation may request an adjustment to the equalized valuation determined by the State Tax Assessor under section 208 for the purposes of calculating distributions of education funding under Title 20-A, chapter 606-B and state-municipal revenue sharing under Title 30-A, section 5681. A municipality requesting an adjustment under this section must file a petition, with supporting documentation, with the State Tax Assessor by March 31st of the year following the tax year in which the sudden and severe disruption occurred and indicate the time period for which adjustments to distributions are requested under subsection 5.

2. Sudden and severe disruption. A municipality experiences a sudden and severe disruption in its municipal valuation if:

A. The municipality experiences a net reduction in equalized municipal valuation of at least 2% from the equalized municipal valuation that would apply without adjustment under this section;

B. The net reduction in equalized municipal valuation is attributable to the cessation of business operations, removal, functional or economic obsolescence not due to short-term market volatility or destruction of or damage to property resulting from disaster attributable to a single taxpayer that occurred in or was not reasonably determinable until the prior tax year; and

C. The municipality's equalized tax rate of residential property following the sudden and severe disruption in municipal valuation exceeds the most recent state average of residential property for which data is available.

For purposes of this subsection, "removal" does not include property that was present in the municipality for less than 24 months. This subsection does not apply to property acquired by a municipality that otherwise could seek relief pursuant to this section.

3. Procedure. A municipality may request an adjustment under this section by filing a petition with the State Tax Assessor in accordance with this subsection.

A. The municipality, on forms prescribed by the State Tax Assessor, shall identify a net reduction in equalized municipal valuation of at least 2% of the municipality's equalized value attributable to the property of a single taxpayer, the date of the loss and the cause of the loss. The municipality must include an appraisal report prepared by a qualified professional appraiser with respect to the property responsible for the loss that shows the value of the property immediately prior to the loss and the value of the property following the loss. The appraisal report must include a summary of the appraiser's consideration of the cost, income capitalization and sales comparison approaches to the value of the property. The municipality is required to provide any other documentation to support its claim as determined by the State Tax Assessor, including, if requested, all records associated with the municipality's assessment of the property subject to the requested adjustment for the 3-year period prior to the date of the reduction in valuation.

For purposes of this paragraph, "qualified professional appraiser" means an individual who has at least 5 years' experience determining the just value of real and personal property of the commercial and industrial type using the 3 standard methods of valuation and who attests in writing to the State Tax Assessor that the individual has a current working knowledge of the application of the 3 standard methods of valuation to real and personal property of the commercial and industrial type and:

(1) Is a certified general real property appraiser licensed under Title 32, chapter 124; or

(2) Is an assessor certified under Title 36, section 310.

B. The State Tax Assessor shall examine the documentation provided by the municipality and determine whether the municipality qualifies for an adjustment under this section.

C. If the State Tax Assessor determines that a municipality qualifies for an adjustment under this section, the State Tax Assessor shall calculate the amount of the adjustment for the municipality by determining the amount by which the state valuation determined under section 208 would be reduced as a result of the net sudden and severe disruption of equalized municipal valuation for the state valuations to be used in the next fiscal year by the Commissioner of Education and the Treasurer of State. The State Tax Assessor shall adjust subsequent state valuations until such time as the state valuation recognizes the loss. The State Tax Assessor may limit the time period or amount of adjustment to reflect the circumstances of the sudden and severe loss of valuation.

4. Notifications. After review of the claim, the State Tax Assessor, in writing, shall approve or deny, in whole or in part, the adjustment requested.

A. The written decision must include the findings of fact upon which the decision is based. Notwithstanding section 151, the State Tax Assessor's written determination constitutes final agency action that is subject to review by the Superior Court in accordance with the Maine Administrative Procedure Act, except that Title 5, section 11006 does not apply.

B. Within 30 days of providing the municipality the written determination denying, in whole or in part, a claim for adjustment, the State Tax Assessor shall provide a copy of the denial letter to the joint standing committee of the Legislature having jurisdiction over taxation matters.

C. The State Tax Assessor shall notify the Commissioner of Education and the Treasurer of State of any adjustment to state valuation determined under this section and the time period to which the adjustment applies.

5. Effect of modified state valuation. The determination of an adjustment to state valuation has the following effect.

A. The Commissioner of Education shall use the adjusted state valuation amount instead of the valuation certified under section 305 in calculating education funding obligations for the following fiscal year.

B. The Treasurer of State shall use the adjusted state valuation amount instead of the valuation certified under section 305 in calculating distributions of state-municipal revenue sharing for the following fiscal year.

6. Report. By February 1st, annually, the State Tax Assessor shall submit a report to the joint standing committee of the Legislature having jurisdiction over taxation matters identifying all requests for adjustment of equalized valuation under this section during the previous calendar year, the assessor's determination regarding each request and the amount of any payments made by the Commissioner of Education under subsection 5, paragraph A.

SUBCHAPTER 2
POWERS AND DUTIES OF STATE TREASURER

§251. Warrants for town assessment of state tax

When a state tax is imposed and required to be assessed by the proper officers of towns, the Treasurer of State shall send such warrants as he is, from time to time, ordered to issue for the assessment thereof to the assessors, requiring them forthwith to assess the sum apportioned to their town or place, and to commit their assessment to the constable or collector for collection.

§252. Time for issuance

When a state tax is ordered by the Legislature, the Treasurer of State shall send his warrants directed to the assessors of each municipality, as soon after the first day of April as is practicable, requiring them to assess upon the estates of such municipality its proportion of the state tax for the current year; and shall in a like manner for the succeeding year, send like warrants for the state tax.

§253. -- requirements

The Treasurer of State in his warrant shall require the assessors of each municipality to make a fair list of their assessments, as required by this Title; to commit such list to the tax collector of such municipality in accordance with section 709; and to return a certificate thereof in accordance with section 712.

§254. Issuance of warrants or executions

The Treasurer of State shall issue warrants or executions against delinquent towns, assessors, constables and collectors to enforce the collection and payment of state taxes in cases prescribed in this Title.

SUBCHAPTER 2-A
PROPERTY TAX APPEALS

§271. State Board of Property Tax Review

1. Organization; meetings. The State Board of Property Tax Review, as established by Title 5, section 12004-B, subsection 6, shall consist of 15 members appointed by the Governor for terms of 3 years, except for initial appointments which shall be 1/3 of the membership for one year, 1/3 of the membership for 2 years and 1/3 of the membership for 3 years. Vacancies on the board shall be filled for the remainder of the unexpired term. The membership shall be equally divided among attorneys, real estate brokers, engineers, retired assessors and public members. The board shall annually elect a chair and secretary. The secretary need not be chosen from the members of the board.

2. Powers and duties. The board shall have the following powers and duties:

A. Hear and determine appeals according to the following provisions of law:

(1) The tree growth tax law, chapter 105, subchapter 2-A;

(2) The farm and open space law, chapter 105, subchapter 10;

(3) As provided in section 843;

(4) As provided in section 844;

(5) Section 272;

(6) Section 2865; and

(7) The current use valuation of certain working waterfront land law, chapter 105, subchapter 10-A;

B. Raise or lower assessments to conform to the law;

C. Promulgate rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, governing procedures before the board;

D. Administer oaths, take testimony, hold hearings, summon witnesses and subpoena records, files and documents it considers necessary for carrying out its responsibilities; and

E. Charge fees for filing a petition for appeal with the board pursuant to subsection 10.

3. Procedures. Appeals to the board must be commenced by filing a petition for appeal with the board and paying the appropriate filing fee if required pursuant to subsection 10. A copy of the petition must be mailed to the State Tax Assessor and to the assessor of the municipality where the property subject to appeal is located.

3-A. Filing. Petitions for appeal, filing fees and all other papers required or permitted to be filed with the board must be filed with the secretary of the board. Filing with the secretary may be accomplished by delivery to the office of the board or by mail addressed to the secretary of the board. All papers to be filed that are transmitted by the United States Postal Service are deemed filed on the day the papers are deposited in the mail as provided in section 153. The secretary of the board shall place a petition for appeal that is filed without payment of the filing fee on the docket and shall notify the petitioner that the appeal will not be processed further without payment. Municipal appeals under section 272 are specifically exempted from the filing fee requirement.

4. Services. The board may request the advice and services of any assessor or appraiser holding a valid certificate from the Bureau of Revenue Services and other persons as it deems advisable. No assessor or appraiser may sit with the board concerning any property which he has previously appraised or assessed.

5. Hearings. Upon receipt of an appeal, the chair of the board shall determine whether the appeal is within the jurisdiction of the board. If the board does not have jurisdictional authority to hear the appeal, the chair shall notify all parties in writing within 10 days of making the determination. Either party may appeal to the board a decision of the chair relating to jurisdictional issues within 30 days after receiving written notice of that decision by filing a request with the board to have that decision reviewed by the board. If the board does have jurisdiction over the appeal or if either party appeals the determination that the board lacks jurisdiction, the chair shall select from the list of board members 5 persons to hear the appeal or jurisdictional issue and shall notify all parties of the time and place of the hearing. The selection of members for an appeal hearing or appeal of a jurisdictional issue is based upon availability, geographic convenience and area of expertise. Three of the 5 members constitute a quorum.

6. Compensation. Board members serving on an appeal panel shall be compensated according to Title 5, chapter 379.

7. Appeal. Decisions of the board may be appealed pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.

8. Transition provision. [Repealed]

9. Property Tax Review Board Fund; funding. The Property Tax Review Board Fund is established to assist in funding the activities of the board pursuant to this subchapter. Any balance in the fund does not lapse but is carried forward to be expended for the same purposes in succeeding fiscal years. Filing fees collected pursuant to this section must be deposited in the fund, which is administered by the board. The funds must supplement and not supplant General Fund appropriations.

10. Filing fees. The following fees are required for filing petitions for appeal with the board.

A. The filing fee for a petition for an appeal of current use valuation under the tree growth tax law, chapter 105, subchapter 2-A, the farm and open space tax law, chapter 105, subchapter 10, the working waterfront land law, chapter 105, subchapter 10-A or a petition for an appeal relating to section 2865 is $75.

B. The filing fee for a petition for an appeal relating to nonresidential property or properties with an equalized municipal valuation of $1,000,000 or greater pursuant to sections 273, 843 and 844 is $150.

§272. Municipal valuation appeals

The State Board of Property Tax Review shall hear appeals by any municipality aggrieved by the Bureau of Revenue Services' determination of equalized valuation or failure to meet minimum assessing standards and render its decision based upon the recorded evidence.

1. Filing. Any municipality aggrieved shall file a written notice of appeal within 45 days of its receipt of notification of the decision of the Bureau of Revenue Services. The appeal to the board shall be in writing signed by a majority of the municipal officers, and shall be accompanied by an affidavit stating the grounds for appeal. A copy of the appeal and the affidavit shall be served on the Bureau of Revenue Services.

2. Hearing. The board shall hear the appeal within a reasonable time of the filing of the appeal by the municipality and shall render its decision no later than January 15th following the date on which the appeal is taken. The board shall order notice of hearing and give at least 5 days' notice prior to hearing thereof to the municipality and to the Bureau of Revenue Services.

3. Determination. The Bureau of Revenue Services shall have the burden of showing that its determination is reasonable and the municipality's claims are unreasonable. The board shall sustain the determination of the Bureau of Revenue Services only upon finding that the bureau's determination is reasonable and the claims of the municipality are unreasonable. If the board does not sustain the bureau's determination, it shall make its own reasonable determination giving due weight to the claims of the municipality and the Bureau of Revenue Services.

4. Powers. The board, after hearing, shall have the power to:

A. Raise, lower or sustain the state valuation as determined by the Bureau of Revenue Services with respect to the municipality which has filed the appeal; or

B. Raise, lower or sustain the bureau's determination of the municipality's achieved assessing standards and then, if the achieved standards were inadequate under the provisions of chapter 102, subchapter 5, and upon receiving from both the bureau and the municipality recommended solutions to the inadequate assessing practices, order the municipality to take the corrective steps the board considers necessary.

The board shall certify its decision to the Bureau of Revenue Services which shall, if necessary, incorporate the decision in the valuation certified pursuant to section 305, subsection 1.

5. Procedure following appeal. The valuation determined on appeal shall be certified to the State Tax Assessor, who shall, if necessary, incorporate the decision in the valuation certified pursuant to section 305, subsection 1. If an appeal to the Superior Court or Supreme Judicial Court results in a lowering of the municipality's state valuation, the Treasurer of State shall reimburse with funds appropriated from the General Fund, an amount equal to money lost by the municipality, due to the use by the State of an incorrect state valuation in any statutory formula used to distribute state funds to municipalities.

§273. Nonresidential property of $1,000,000 or greater

With regard to appeals relating to nonresidential property or properties with an equalized municipal valuation of $1,000,000 or greater either separately or in the aggregate, as provided in sections 843 and 844, the state board shall hold a hearing de novo. For the purposes of this section, "nonresidential property" means property that is used primarily for commercial, industrial or business purposes, excluding unimproved land that is not associated with a commercial, industrial or business use.

CHAPTER 102
PROPERTY TAX ADMINISTRATION

SUBCHAPTER 1
BUREAU OF REVENUE SERVICES

§301. State Tax Assessor

The responsibility for the direction, supervision and control of the administration of all property tax laws in the State is vested in the State Tax Assessor, except for such portion of those activities expressly delegated by this chapter to the primary assessing areas or municipal assessing units or those activities expressly prohibited by this chapter to the Bureau of Revenue Services. The State Tax Assessor shall take all necessary and legal means to ensure that the intent of this chapter is fulfilled.

§302. Unorganized territories

The Bureau of Revenue Services shall be responsible for the performance of the assessing function in the unorganized territory of the State and this territory shall constitute a single primary assessing unit.

§303. Organized territory

The organized territory of the State shall be divided into primary assessing areas and municipal assessing units on or before July 1, 1979. The foregoing division shall be made by the State Tax Assessor utilizing the following criteria as appropriate.

1. Primary assessing areas. Primary assessing areas, including both primary assessing units and multi-municipal primary assessing districts, shall be established by:

A. Giving consideration to existing municipal and School Administrative District lines without regard to existing county lines;

B. Utilizing such factors as geography, distance, number of parcels, urban characteristics, sales activity and other factors the State Tax Assessor believes important;

C. If the State Tax Assessor wishes, the appointment of an advisory committee to assist him in making the division and in establishing assessing standards; and

D. Determining the boundaries of such areas and, after appropriate hearing by interested parties, as conditions and personnel warrant.

Primary assessing areas, both single units and districts, shall be reviewed at least every 10 years by the State Tax Assessor. When conditions justify alteration of the boundaries of the primary assessing areas, the State Tax Assessor may so order after appropriate hearing. Any municipality may withdraw from designation as a primary assessing area upon proper notice.

2. Municipal assessing units. Any municipality may decide not to be designated as a primary assessing area and shall be designated a municipal assessing unit. If the municipal assessing unit hires a professional full-time assessor, he shall be subject to the certification requirements of sections 311 and 312.

§304. Establishment of primary assessing areas

The State Tax Assessor shall, by order, establish each primary assessing area. The order shall be directed to the municipal officers. The issuance of said order shall be conclusive evidence of the lawful organization of the primary assessing area and a copy of said order shall be filed in the office of the Secretary of State.

The governing body of the primary assessing area shall determine the initial budget for the primary assessing area and, if a primary assessing district, the warrant for each participating municipality's share of expenses. The sums due on said warrant shall be paid on demand to the primary assessing district. The warrant shall be enforced in the same manner as state or county tax warrants.

§305. Additional duties

In addition to any other duties of the Bureau of Revenue Services provided in this chapter, it shall:

1. Just value. Certify to the Secretary of State before the first day of February the equalized just value of all real and personal property in each municipality and unorganized place that is subject to taxation under the laws of this State, except that percentage of captured assessed value located within a tax increment financing district that is used to finance that district's development plan, the captured assessed value located within a municipal affordable housing development district and the valuation amount by which the current assessed value of commercial and industrial property within a municipal incentive development zone, as determined in Title 30-A, section 5284, exceeds the assessed value of commercial and industrial property within the zone as of the date the zone is approved by the Commissioner of Economic and Community Development, known in this subsection as the "sheltered value," up to the amount invested by a municipality in infrastructure improvements under an infrastructure improvement plan adopted pursuant to Title 30-A, section 5283. The equalized just value must be uniformly assessed in each municipality and unorganized place and be based on 100% of the current market value. It must separately show for each municipality and unorganized place the actual or estimated value of all real estate that is exempt from property taxation by law or is the captured value within a tax increment financing district that is used to finance that district's development plan, as reported on the municipal valuation return filed pursuant to section 383, or that is the sheltered value of a municipal incentive development zone. The valuation as filed remains in effect until the next valuation is filed and is the basis for the computation and apportionment of the state and county taxes;

2. Services. Assist the primary assessing areas by providing appropriate technical services which may include, but not be limited to, the following,

A. Preparation of information or manuals, or both, concerning construction values, prices, appraised guides, statistical tables and other appropriate materials;

B. Specialized assessing assistance in industrial, commercial and other difficult property assessments as determined by the State Tax Assessor;

C. Establishment of a coordinate grid system in connection with the Department of Agriculture, Conservation and Forestry for the purpose of uniform identification of property parcels;

D. Assistance in the preparation of tax maps and methods of updating such maps;

E. Devising necessary forms and procedures; and

F. Advice concerning data processing application to assessing.

3. Report. Provide a biennial statistical compilation and analysis of property tax assessment practices and pertinent property tax data on a state-wide basis;

4. Research. Provide a continuing program of property tax research to improve present laws and practices;

5. Rules and regulations. Promulgate, after appropriate notice and hearing, all rules and regulations necessary to carry into effect any of its duties and responsibilities; and

6. Report on changes in land ownership. On or before September 1st of each year, report to the Commissioner of Agriculture, Conservation and Forestry, the Commissioner of Inland Fisheries and Wildlife and the joint standing committee of the Legislature having jurisdiction over public lands on the transfer in ownership of parcels of land 10,000 acres or greater within the unorganized territory of the State. Using information maintained by the State Tax Assessor under section 1602 and section 4641-D, the bureau shall provide information for each transfer that includes:

A. Name of the seller;

B. Name of the buyer;

C. Number of acres transferred;

D. Classification of land;

E. Location by township and county;

F. Sale price; and

G. A brief description of the property.

§306. Definitions

For the purpose of this chapter, the following terms have the following meanings.

1. Chief assessor. "Chief assessor" means the person who is primarily responsible for the assessing function in a primary assessing unit or primary assessing district, designated as such by the State Tax Assessor.

2. Hours of classroom training. "Hours of classroom training" means clock hours, not credit hours.

3. Municipal assessing unit. "Municipal assessing unit" means a municipality that has chosen not to be designated by the State Tax Assessor as a primary assessing area.

4. Primary assessing area. "Primary assessing area" means the basic geographic division of the State's territory for the purpose of property tax assessment and administration. A primary assessing area may be either a primary assessing unit or a primary assessing district.

4-A. Primary assessing district. "Primary assessing district" means a multimunicipal area of the State that has been designated by the State Tax Assessor as a primary assessing area.

4-B. Primary assessing unit. "Primary assessing unit" means a single municipality that has been designated by the State Tax Assessor as a primary assessing area.

5. Professional assessor. "Professional assessor" means a person who is employed full time by one or more municipalities or by a primary assessing area, 75% or more of whose time is devoted to assessment administration.

6. State supervisory agency. [Repealed]

SUBCHAPTER 2
CERTIFICATION OF ASSESSORS

§310. Examination

The Bureau of Revenue Services shall hold qualifying examinations for assessors at least 4 times each year.

1. Additional examinations. Such additional examinations may be held as the State Tax Assessor deems necessary.

2. Content and type. The State Tax Assessor shall determine the content and type of examination and in so doing may consult with professional assessing organizations and others.

3. Test applicant's knowledge. The examination shall, among other things, test the applicant's knowledge of applicable law and techniques of assessing.

4. Level of attainment. The State Tax Assessor shall establish by rule the level of attainment on the examination required for certification. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§311. Certification

The State Tax Assessor shall issue a certificate of eligibility to any applicant who has demonstrated through appropriate examination that he or she is qualified to perform the assessing function. In addition, the State Tax Assessor shall establish classes of said certificate of eligibility that recognize the differing assessing skills needed for municipalities that vary in population and types of property.

Certificates of eligibility shall be renewed annually provided the assessor completes at least 16 hours of classroom training approved by the State Tax Assessor each year.

Any certificate issued by the State Tax Assessor may for cause be revoked after a hearing and findings of fact. In revoking a certificate, the State Tax Assessor shall give the certificate holder 30 days' written notice of the time and place of the hearing and the reasons therefor. An order of revocation shall be effective immediately.

§312. Violation

After July 1, 1980, no person shall be eligible to perform the duties of a chief assessor of a primary assessing area or the duties of a professional assessor of any municipality or primary assessing area unless he or she shall have been certified in the manner provided. Violation of this section shall be a civil violation for which a forfeiture of not less than $100 nor more than $250 shall be adjudged.

§313. Tenure

A chief assessor certified as provided shall serve a probationary period of 2 years. Thereafter he or she shall have tenure and may only be removed as provided.

A chief assessor having tenure in any primary assessing area, upon moving to another primary assessing area, shall serve a probationary period of no longer than one year, but such probationary period may be waived by agreement of the parties. Records as to tenure of chief assessors shall be kept by the Bureau of Revenue Services.

§314. Removal

The chief assessor holds office for an indefinite term unless otherwise specified by contract. A chief assessor may be removed from office as follows:

1. Probationary period. A chief assessor serving a probationary period may be removed by the executive committee upon 30 days' written notice stating the reason for the removal.

2. Tenure. A chief assessor who has tenure may be removed for cause by the executive committee in the manner provided for the removal of town managers in Title 30-A, section 2633.

3. Certification revoked. A chief assessor whose certification is revoked by the State Tax Assessor must be removed from office immediately.

4. Lapsed or expired certification. [Repealed]

SUBCHAPTER 4
TRAINING OF ASSESSORS

§318. Training of assessors

The State Tax Assessor may establish, either on the assessor's own initiative or in conjunction with professional or educational agencies, or both, a program of training to meet the needs of the State of Maine for a sufficient supply of competently trained assessors. Where possible, such training must be conducted by the Margaret Chase Smith Center for Public Policy of the University of Maine System or an institution of higher education. For such purposes, the State Tax Assessor may designate what programs either within or outside the State are acceptable for these training purposes.

Primary assessing units may expend funds for educational and training activities, including reimbursement for tuition, travel, meals, lodging, textbooks and miscellaneous instructional expenses. In addition, upon authorization of the executive committee of the primary assessing area, leaves of absence with pay may be approved for this purpose. The Bureau of Revenue Services may expend funds for training activities.

SUBCHAPTER 5
ASSESSING STANDARDS

§326. Purpose of minimum standards

The purpose of minimum assessing standards is to aid the municipalities of Maine in the realization of just assessing practices without mandating the different ways municipalities might choose to achieve such equitable assessments.

§327. Minimum assessing standards

All municipalities whether they choose to remain as single municipal assessing units or choose to be designated as a primary assessing area, either as a primary single unit or a member of a primary district, shall achieve the following minimum assessing standards:

1. Minimum assessment ratios. A 50% minimum assessment ratio by 1977; a 60% minimum assessment ratio by 1978; and a 70% minimum assessment ratio by 1979 and thereafter. Notwithstanding this subsection, a municipality should not have an assessment ratio at an amount greater than 110% of its just value;

2. Maximum rating of assessment. A maximum rating of assessment quality of 30 by 1977; a maximum rating of assessment quality of 25 by 1978; a maximum rating of assessment quality of 20 by 1979 and thereafter;

3. Employment of assessor. Any municipal assessing unit may employ a part-time, non-certified assessor or contract with a firm or organization that provides assessing services; when any municipal assessing unit or primary assessing area employs a full-time, professional assessor, this assessor must be certified by the Bureau of Revenue Services as a professionally trained assessor. The bureau shall publish, for the information of the municipalities, a listing of certified assessors and assessing firms or organizations.

§328. Administrative rules and regulations

Any rules and regulations established by the Bureau of Revenue Services shall recognize the freedom, invention and individual means of the municipalities by which said standards will be met. For municipalities, whether a municipal assessing unit or in a primary assessing area, such regulations shall recognize that:

1. Electronic data processing. Electronic data processing will be optional;

2. Time for office to be opened. The assessor's office need not be open full time;

3. Uniform accounting system. A uniform accounting system will not be mandated;

4. Budgets unnecessary. Budgets need not be submitted to the bureau;

5. Number of appraisers. The number of additional appraisers necessary will not be mandated;

6. Office records. The following office records do not necessarily have to be maintained:

A. Copies of deeds;

B. Aerial photographs;

C. Summary accounts or "tub" cards;

7. Physical inspection and inventory. Physical inspection and inventory of each real parcel and personal property account will take place at least every 4 years rather than every 3 years;

8. Annual sales ratio studies. Assessors will conduct annual sales ratio studies; and

9. Tax maps. Municipal assessing units do not necessarily have to maintain tax maps.

Upon a municipality's failure to achieve the minimum assessing standards of this subchapter, the bureau may choose at least one or more of the above administrative practices as necessary corrective steps to be undertaken by said municipality, in accordance with sections 271, 272 and 329.

§329. Inability to achieve standards

If the Bureau of Revenue Services determines that a municipality has not met the minimum standards set forth in this subchapter, the municipality has 2 options:

1. Acceptance. If the municipality accepts the bureau's determination, the bureau shall consult with the officers of the municipality and require steps by which the municipality is to achieve an acceptable level of just assessing practices. In requiring those steps, the bureau shall endeavor to accommodate the preferences of the municipal officers. The steps may include membership, where applicable, in a primary assessing district, joining with a companion municipality in the hiring of a professional assessor or an assessing firm or other arrangements approved by the bureau; and

2. Appeal. If the municipality is aggrieved by the bureau's determination, the municipality may file a written notice of appeal with the State Board of Property Tax Review in accordance with chapter 101, subchapter 2-A.

§330. Professional assessment firms

1. Guidelines for professional assessing firms. The State Tax Assessor shall establish by rule guidelines for professional assessing firms. The guidelines must include the following requirements:

A. Each professional assessing firm shall employ at least one certified Maine assessor; and

B. Each professional assessing firm performing revaluation services for a municipality shall provide the municipality with papers and information necessary to conduct future revaluations.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

2. Model contract. The State Tax Assessor shall develop a model contract for revaluation services. This model contract shall be made available to all municipalities.

3. Assistance to municipalities. The State Tax Assessor shall provide technical assistance to municipalities, when requested, in evaluating and selecting professional revaluation firms.

§331. Assessment manual

The State Tax Assessor shall maintain and periodically update a State assessment manual by rule, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, which shall identify accepted and preferred methods of assessing property.

Any municipality performing or contracting for the performance of a revaluation after January 1, 1987, shall use or require the use of the State assessment manual or another professionally accepted manual or procedure.

CHAPTER 103
ASSESSMENT AND COLLECTION OF TAXES

SUBCHAPTER 1
STATE VALUATION; ABATEMENTS

§341. Certification of treasurer and controller

Before commencing to collect the taxes which the State Tax Assessor is authorized by law to collect, he shall certify to the Treasurer of State and the State Controller the total amount of each type of tax. Copies of all supplemental assessments and abatements of taxes shall be sent to the Treasurer of State.

§342. Property taxes credited on assessments; quarterly payments [Repealed]

§381. State valuation; definition; to be filed with Bureau of Revenue Services annually

The term "state valuation" as used in reference to the unorganized territory in this Title, except in this chapter, means an annual valuation of all property subject to a Maine property tax but not taxable by a municipality. The annual valuation is to be completed by and on file in the office of the Bureau of Revenue Services prior to the assessment of the annual property tax in the unorganized territory. The annual valuation is to be based on the status of property on April 1st. In this chapter and outside of this Title, the term "state valuation" means the valuation filed with the Secretary of State pursuant to section 305, subsection 1.

§381-A. Interim state valuation of municipalities [Repealed]

§382. Failure of assessor to furnish information

If any municipal assessor or assessor of a primary assessing area fails to appear before the State Tax Assessor or his agent as provided in this Title, or to transmit to him the lists named within 10 days after the mailing or publication of notice or notices to them to so appear or transmit said lists, the State Tax Assessor may in his discretion report the valuation of the estates and property liable to taxation in the town so in default, as he shall deem just and equitable.

§383. Assessors' annual return to State Tax Assessor

1. Annual return. The municipal assessors and the assessors of primary assessing areas shall make and return lists, which must be seasonably furnished by the State Tax Assessor for that purpose, all such information as to the assessment of property and collection of taxes as may be needed in the work of the State Tax Assessor, including annually the land value, exclusive of buildings and all other improvements, and the valuation of each class of property assessed in their respective jurisdictions, with the total valuation and percentage of taxation, together with a statement to the best of their knowledge and belief of the ratio, or percentage of current just value, upon which the assessments are based and itemized lists of property upon which the towns have voted to affix values for taxation purposes.

2. Assessment ratio. The State Tax Assessor may establish procedures and adopt rules, in accordance with the Maine Administrative Procedure Act, designed to ensure that the ratio certified by the municipal assessors or the assessors of primary assessing areas is accurate within 20% of the state valuation ratio last determined, unless adequate evidence is presented to the State Tax Assessor by the municipalities to justify a different assessment ratio.

3. When due. The return and lists required by subsection 1 must be returned to the State Tax Assessor no later than November 1st, annually, or 30 days after commitment of taxes, whichever is later.

4. Penalty for late filing. If the complete return and lists required by this section are not filed on time, the State Tax Assessor shall impose a penalty to be deducted from state reimbursement due to the municipality or primary assessing area pursuant to the following programs in the following order of priority:

A. Maine Tree Growth Tax Law, section 578;

B. Veterans' property tax exemptions, section 653; and

C. Maine resident homestead property tax exemption, section 685.

For a municipality or primary assessing area with a population of 2,000 or less, the penalty is $50 for the first late day plus $10 for each late day thereafter. For a municipality or primary assessing area with a population of more than 2,000, the penalty is $100 for the first late day plus $20 for each late day thereafter.

§384. Investigation of valuation; actions and prosecutions; reassessment orders; appeals

The State Tax Assessor shall, at his own instance or on complaint made to him, diligently investigate all cases of concealment of property from taxation, of undervaluation, of overvaluation, and of failure to assess property liable to taxation. He shall bring to the attention of assessors all such cases in their respective jurisdictions. He shall direct proceedings, actions and prosecutions to be instituted to enforce all laws relating to the assessment and taxation of property and to the liability of individuals, public officers and officers and agents of corporations for failure or negligence to comply with the laws governing the assessment or taxation of property, and the Attorney General and district attorneys, upon the written request of the State Tax Assessor, shall institute such legal proceedings as may be necessary to carry out this Title. The State Tax Assessor shall have power to order the reassessment of any or all real and personal property, or either, in any jurisdiction where in his judgment such reassessment is advisable or necessary to the end that all classes of property in such jurisdiction shall be assessed in compliance with the law. Neglect or failure to comply with such orders on the part of any assessor or other official shall be deemed willful neglect of duty and he shall be subject to the penalties provided by law in such cases. Provided a satisfactory reassessment is not made by the assessors, then the State Tax Assessor may employ assistance from within or without the jurisdiction where such reassessment is to be made, and said jurisdiction shall bear all necessary expense incurred. Any person aggrieved because of such reassessment shall have the same right of petition and appeal as from the original assessment. The State shall be permitted to intervene in any action resulting from an order of the State Tax Assessor pursuant to this section.

SUBCHAPTER 2
ASSESSMENT OF STATE PROPERTY AND EXCISE TAXES

§451. Rate of tax [Repealed]

§451-A. Mill rate for fiscal year 1977-78 [Repealed]

§452. Assessment of state property tax [Repealed]

§453. Payment of state tax by municipalities [Repealed]

§453-A. Adjustments in appropriations [Repealed]

§454. Payment of tax in town where charters surrendered

When the charter of any municipality listed in the statement filed with the Secretary of State by the State Tax Assessor under section 381 is subsequently surrendered by Act of the Legislature, the tax assessed shall be an outstanding obligation of such municipality, and it shall be paid, and funds for payment thereof shall be raised by the State Tax Assessor in the same manner as provided by law in the case of other outstanding obligations of such municipality.

§455. Additional state property tax [Repealed]

§456. Additional state property tax exemption [Repealed]

§457. State telecommunications excise tax

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

A. "Telecommunications business" means a person engaged in the activity of providing interactive 2-way communication services for compensation.

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

C. "Distribution facilities" means facilities used primarily to transport communications between fixed locations, including but not limited to cables, wires, wireless transmitters and utility poles.

2. Tax imposed. [Repealed]

2-A. Excise tax levied. An excise tax is levied on a telecommunications business at the rate provided in this subsection times the just value of the qualified telecommunications equipment for the privilege of operating within the State as follows:

A. Just value of the qualified telecommunications equipment must be determined pursuant to section 701-A as of the April 1st preceding the assessment; and

B. The rate of tax is 19.2 mills for assessments made in 2012. For assessments made in 2013 and subsequent years, the State Tax Assessor shall apply the tax rate of the municipality or unorganized territory in which the qualified telecommunications equipment is located to the just value of the equipment as adjusted by the municipality's or unorganized territory's certified assessment ratio.

3. Determination of just value. [Repealed]

3-A. Returns to State Tax Assessor prior to July 1, 2012. Prior to July 1, 2012, each telecommunications business owning or leasing qualified telecommunications equipment that on the first day of April in any year is situated, whether permanently or temporarily, within this State shall, on or before the 20th day of April in that year, return to the State Tax Assessor a complete list of such equipment on a form to be furnished by the State Tax Assessor.

3-B. Returns to State Tax Assessor beginning July 1, 2012. Beginning July 1, 2012, each telecommunications business owning or leasing qualified telecommunications equipment on April 1, 2012 and annually thereafter shall, on or before December 31, 2012 and annually thereafter, return to the State Tax Assessor a complete list of such equipment and each municipality or unorganized territory where any such equipment is situated on the first day of April on a form to be furnished by the State Tax Assessor.

4. Assessment. The State Tax Assessor shall assess a tax on qualified telecommunications equipment owned or leased by a telecommunications business. Qualified telecommunications equipment owned or leased by a person that is not a telecommunications business must be assessed a tax by the municipal assessor in the municipality in which the equipment is located on April 1st of the taxable year. The date of assessment of qualified telecommunications equipment by municipalities must be consistent with property subject to property taxation by the municipalities.

5. Assessment procedure. [Repealed]

5-A. Procedure. [Repealed]

5-B. Procedure. The excise tax on qualified telecommunications equipment of a telecommunications business must be assessed and paid in accordance with this subsection.

A. Prior to July 2012, the State Tax Assessor shall make the assessment by May 30th of each year. After July 1, 2012, the State Tax Assessor shall make the assessment by March 30, 2013 and by March 30th annually thereafter.

B. **[Repealed]**

C. The tax assessment must be paid no later than the August 15th following the date of assessment.

D. **[Repealed]**

6. Amount of assessment. [Repealed]

7. Collection. Taxes assessed under this section by the State Tax Assessor must be enforced as generally provided by this Title. Taxes assessed under this section by municipal assessors must be enforced in the same way as locally assessed personal property taxes.

8. Penalty. [Repealed]

9. Appeal. A taxpayer receiving an assessment under this section may appeal a decision of the State Tax Assessor in the manner set forth in section 151.

§458. Continuation of exemption

Qualified telecommunications equipment subject to taxation under this chapter must be assessed through application of a state excise tax in lieu of a state property tax and continues to be exempt from ordinary local property taxation as formerly provided under section 2696. It is the intent of the Legislature that this section not be considered a new property tax exemption requiring state reimbursement under the Constitution of Maine, Article IV, Part Third, Section 23.

CHAPTER 104
PRIMARY ASSESSING AREAS

§471. Area, body politic

The primary assessing district shall be composed of those municipalities named in the order issued by the State Tax Assessor. The residents of a primary assessing district are a body corporate and politic which may sue or be sued, appoint attorneys and adopt a seal.

Where only one municipality is designated as a primary assessing unit, the municipality shall be the body corporate and the municipal officers the governing board, with the administration provisions of the assessing function to be enacted through municipal ordinance or charter provisions. Where a municipality is designated as a primary assessing unit, sections 472 to 474 shall not apply.

§471-A. Board of assessment review

The legislative body of a primary assessing area consisting of only one municipality may establish a primary assessing area board of assessment review. The executive committee of a primary assessing area consisting of more than one municipality may establish a primary assessing area board of assessment review. The primary assessing area board of assessment review has the powers and duties of a municipal board of assessment review, including those provided under section 844-N.

§472. Executive committee

The governing body of a primary assessing district shall be an executive committee composed of an equal number of municipal officers from each municipality and 2 nonvoting members. The nonvoting members shall be the chief assessor of a primary assessing area and the State Tax Assessor. It is not necessary that the State Tax Assessor attend all meetings of a primary assessing area and the State Tax Assessor may appoint a substitute to represent him.

1. Voting members. The voting members of the executive committee shall be appointed as follows:

The municipal officers of each municipality comprising the primary assessing districts shall elect from their number the municipal officer or officers to serve on the executive committee.

2. Terms. [Repealed]

§473. Powers and duties

The executive committee shall have the power to:

1. Rules and regulations. Make all necessary rules and regulations for the conduct of the business of the primary assessing area which do not conflict with these statutes or any rules and regulations of the Bureau of Revenue Services;

2. Appoint chief assessor. Appoint the chief assessor in accordance with this chapter;

3. Approve annual budget. Approve the annual budget for the primary assessing area;

4. Establish salaries. Establish salaries, authorize contracts and do all other things necessary and proper to carry out the intent of these statutes;

5. Funding. In addition to the funding provided under this chapter, accept funds from any other source in the furtherance of its responsibilities;

6. Contracts. Authorize contracts with individual municipalities to perform tax billing and other centralized services for the member communities, but nothing in this chapter shall be construed to allow the executive committee to establish tax rates;

7. Public report. Make a public report of its activities at the close of each fiscal year within 30 days of the close of such year;

8. Tax maps. [Repealed]

9. Cooperate with primary assessing areas. Cooperate with other primary assessing areas in any program not inconsistent with this chapter which will further the effectiveness of the assessing program;

10. Compensation scales for the personnel. Set the compensation scales for the personnel of the primary assessing area and the members of the committee shall be paid $25 per diem, plus necessary expenses while in the actual performance of their duties.

§474. Administrative provisions

The chief assessor shall be the treasurer and administrative officer of the primary assessing area and shall in addition perform the following duties:

1. Secretary. Serve as secretary of the executive committee and keep all committee minutes, except as to any meeting involving his removal;

2. Prepare budget. Prepare the annual budget;

3. Purchasing agent. Act as purchasing agent;

4. Appoint personnel. Appoint all personnel subject to approval of the executive committee;

5. Execute contracts. Execute, when approved by the executive committee, all contracts on behalf of the primary assessing area;

6. Other duties and functions. Perform such other duties and functions as are delegated by the executive committee.

§475. Abatement by chief assessor; procedure [Repealed]

§476. Notice of decision [Repealed]

§477. Appeals to board of assessment review [Repealed]

§478. -- to Forestry Appeal Board [Repealed]

§479. Hearing [Repealed]

§480. -- to Superior Court [Repealed]

§481. Hearing [Repealed]

§482. Commissioner's hearing and report [Repealed]

§483. Trial [Repealed]

§484. Judgment and execution [Repealed]

§485. Assessment ratio evidence [Repealed]

§486. State Board of Assessment Review [Repealed]

CHAPTER 105
CITIES AND TOWNS

SUBCHAPTER 1
GENERAL PROVISIONS

§501. Definitions

The following words and phrases as used in this chapter shall, unless a different meaning is plainly required by the context, have the following meaning:

1. Estates. "Estates" shall be construed to mean both real estate and personal property.

2. Mortgagee. "Mortgagee" shall be construed to include the heirs and assigns of the mortgagee.

3. Municipality. "Municipality" shall include cities, towns and plantations.

4. Municipal officers. "Municipal officers" shall mean the mayor and aldermen of cities, the selectmen of towns and the assessors of plantations.

5. Person. "Person" may include a body corporate or an association.

6. Place. "Place" shall include municipalities, townships and any other unorganized area.

7. Property. "Property" shall be construed to mean both real estate and personal property.

8. Registered mail. "Registered mail" shall be construed to include certified mail.

9. Reside or resident. "Reside" or "resident" shall have reference to place of domicile.

10. Tax collector. "Tax collector" shall mean any person chosen, appointed or designated by a municipality or the officers thereof to collect any tax due a municipality; or his successor in office.

§502. Property taxable; tax year

All real estate within the State, all personal property of residents of the State and all personal property within the State of persons not residents of the State is subject to taxation on the first day of each April as provided; and the status of all taxpayers and of such taxable property must be fixed as of that date. Upon receipt of a declaration of value under section 4641-D reflecting a change of ownership in real property, the assessor may change the records of the municipality to reflect the identity of the new owner, if notice of tax liabilities is sent both to the new owner and to the owner of record as of the April 1st when the liability accrued. The taxable year is from April 1st to April 1st. Notwithstanding this section, proration of taxes must be over the period specified in section 558.

§503. Town taxes; legality

The assessment of a tax by a town is illegal unless the sum assessed is raised by vote of the voters at a meeting legally called and notified.

§504. Illegal assessment; recovery of tax

If money not raised for a legal object is assessed with other moneys legally raised, the assessment is not void; nor shall any error, mistake or omission by the assessors, tax collector or treasurer render it void; but any person paying such tax may bring his action against the municipality in the Superior Court for the same county, and shall recover the sum not raised for a legal object, with 25% interest and costs, and any damages which he has sustained by reason of mistakes, errors or omissions of such officers.

§505. Taxes; payment; powers of municipalities

At any meeting at which it votes to raise a tax, or at any subsequent meeting prior to the commitment of that tax, a municipality may, with respect to the tax, by vote determine:

1. When lists committed. The date when the lists named in section 709 shall be committed.

2. When property taxes due and payable. The date or dates when property taxes shall become due and payable.

3. When poll tax due and payable. [Repealed]

4. When interest collected. The date or dates from and after which interest must accrue, which must also be the date or dates on which taxes become delinquent. The rate of interest must be specified in the vote and must apply to delinquent taxes committed during the taxable year until those taxes are paid in full. Except as provided in subsection 4-A, the maximum rate of interest must be established by the Treasurer of State and may not exceed the prime rate as published in the Wall Street Journal on the first business day of the calendar year, rounded up to the next whole percent plus 3 percentage points. The Treasurer of State shall post that rate of interest on the Treasurer of State's publicly accessible website on or before January 20th of each year. The interest must be added to and become part of the taxes.

4-A. Alternate calculation of interest. For any tax year for which the maximum interest rate established by the Treasurer of State under subsection 4 is 2 percentage points or more lower than the maximum rate established by the Treasurer of State for the previous tax year, the municipality may adopt an interest rate that is up to 2 percentage points over the rate established by the Treasurer of State for the tax year under subsection 4.

5. Abatement when taxes paid prior to time. That all taxpayers who pay their taxes prior to specified times shall be entitled to abatement thereon, which abatement shall not exceed 10%, and shall be specified in the vote. A notification of such vote shall be posted by the treasurer in one or more public places in the municipality within 7 days after the commitment of the taxes.

§506. Prepayment of taxes

Municipalities at any properly called meeting may authorize their tax collectors or treasurers to accept prepayment of taxes not yet committed and to pay interest on these prepayments, if any is authorized, at a rate not exceeding 8% per year; municipalities are not obligated to authorize the payment of interest on taxes prepaid under this section. Any excess paid in over the amount finally committed must be repaid, with the interest due on the whole transaction, at the date that the tax finally committed is due and payable.

§506-A. Overpayment of taxes

Except as provided in section 506, a taxpayer who pays an amount in excess of that finally assessed must be repaid the amount of the overpayment plus interest from the date of overpayment at a rate to be established by the municipality. The rate of interest may not exceed the interest rate established by the municipality for delinquent taxes nor may it be less than that rate reduced by 4%. If a municipality fails to establish a rate of interest for overpayments of taxes, it shall pay interest at the rate it has established for delinquent taxes.

§507. Taxpayer information

A municipality that issues a property tax bill to a taxpayer must issue the following information.

1. Reductions to tax. The property tax bill must contain a statement or calculation that demonstrates the amount or percentage by which the taxpayer's tax has been reduced by the distribution of state-municipal revenue sharing, state reimbursement for the Maine resident homestead property tax exemption and state aid for education. The State Tax Assessor shall annually provide each municipality with the amount of state-municipal revenue sharing and state aid for education subject to identification under this section.

2. Distribution to education and government. The property tax bill must indicate the percentage of property taxes distributed to education and local, county and state government.

3. Indebtedness. The property tax bill must indicate the outstanding bonded indebtedness of the issuing municipality as of the date the bill is issued.

4. Due date and interest. Each property tax bill issued by a municipality must clearly state the date interest will begin to accrue on delinquent taxes.

§508. Service charges

1. Imposition. A municipality may impose service charges on the owner of residential property, other than student housing or parsonages, that is totally exempt from taxation under section 652 and that is used to provide rental income. Such service charges must be calculated according to the actual cost of providing municipal services to that real property and to the persons who use that property, and revenues derived from the charges must be used to fund, to the extent possible, the costs of those services. The municipal legislative body shall identify those institutions and organizations upon which service charges are to be levied.

A municipality that imposes service charges on any institution or organization must impose those service charges on every similarly situated institution or organization. For the purposes of this section, "municipal services" means all services provided by a municipality other than education and welfare.

2. Limitation. The total service charges levied by a municipality on any institution or organization under this section may not exceed 2% of the gross annual revenues of the institution or organization. In order to qualify for this limitation, the institution or organization must file with the municipality an audit of the revenues of the institution or organization for the year immediately prior to the year in which the service charge is levied. The municipal officers shall abate the portion of the service charge that exceeds 2% of the gross annual revenues of the institution or organization.

3. Administration. Municipalities shall adopt any ordinances necessary to carry out the provisions of this section. Determinations of service charges may be appealed in accordance with an appeals process provided by municipal ordinance. Unpaid service charges may be collected in the manner provided in Title 38, section 1208.

SUBCHAPTER 2
REAL PROPERTY TAXES

§551. Real estate; defined

Real estate, for the purposes of taxation under this Part, includes all lands in the State and all buildings, mobile homes, camper trailers and other things that are affixed to land, together with any appurtenant water power, shore privileges and rights, forests and mineral deposits; interests and improvements in land, the fee of which is in the State; interests by contract or otherwise in real estate exempt from taxation; and lines of electric light and power companies. Buildings, mobile homes, camper trailers and other things that are affixed to leased land or land not owned by the owner of the buildings must be taxed as real estate in the place where that land is located. Mobile homes, except stock in trade, are considered real estate for purposes of taxation under this Part.

§552. -- tax lien

There shall be a lien to secure the payment of all taxes legally assessed on real estate as defined in section 551, provided in the inventory and valuation upon which the assessment is made there shall be a description of the real estate taxed sufficiently accurate to identify it. Such lien shall take precedence over all other claims on said real estate and shall continue in force until the taxes are paid or until said lien is otherwise terminated by law.

§553. -- where taxed

All real estate shall be taxed in the place where it is to the owner or person in possession, whether resident or nonresident.

§554. Mortgaged real estate; taxes; payment

In cases of mortgaged real estate, the mortgagor, for the purposes of taxation, shall be deemed the owner, until the mortgagee takes possession, after which the mortgagee shall be deemed the owner. Any mortgagee of real estate, on which any taxes remain unpaid for a period of 8 months after the taxes are assessed, may pay such taxes, and the amount so paid together with interest and costs thereon shall become a part of the mortgage debt and shall bear interest at the same rate as the lowest rate of interest provided for in any of the notes secured by any mortgage on that real estate held by such mortgagee.

§555. Tenants in common and joint tenants

A tenant in common or a joint tenant may be considered sole owner for the purposes of taxation, unless he notifies the assessors what his interest is; but when a tax is assessed on lands owned or claimed to be owned in common, or in severalty, any person may furnish the tax collector an accurate description of his interest in the land and pay his proportion of such tax; and thereafter his land or interest shall be free of all lien created by such tax.

§556. Landlord and tenant

When a tenant paying rent for real estate is taxed therefor, he may retain out of his rent half of the taxes paid by him. When a landlord is taxed for such real estate, he may recover half of the taxes paid by him and his rent in the same action against the tenant, unless there is an agreement to the contrary.

§557. Assessment; continued until notice of transfer

When assessors continue to assess real estate to the person to whom it was last assessed, such assessment is valid, although the ownership or occupancy has changed, unless previous written notice to the assessors has been given of such change and of the name of the person to whom it has been transferred or surrendered.

§557-A. Assessment; unknown owner

In the case of real property for which no owner is known to the assessors for at least the preceding 20 tax years and for which the assessor has, with reasonable diligence, attempted to determine ownership, the following assessment procedure must be used.

Property of an unknown owner is assessed as other property, except that the owner must be indicated as "unknown." Additionally, the assessing must be advertised once a week for 3 consecutive weeks in a newspaper of general circulation in the county in which the property is located. The notice must describe the real estate that is being assessed so that a reasonable person may know, with probable certainty, what premises are subject to tax, together with a statement that the property is assessed to an unknown owner as the result of the failure of a reasonable search to ascertain an owner of record. This newspaper publication is sufficient legal notice of that assessment. At the time of this publication, a copy of the same notice must be sent by certified mail, return receipt requested, to each abutting property owner.

If the owner of property is still unknown, after use of this notice procedure for assessment purposes, the tax collector and treasurer shall use the same procedure for those notices required under sections 942 and 943.

§558. Taxes prorated between seller and purchaser

A purchaser of real estate may agree with the previous owner or party to whom the real estate was formerly taxed to pay the pro rata or proportional share of taxes. Unless otherwise specified by the parties to the agreement, the taxes shall be prorated over the period of the fiscal year of the municipality in which the land is located.

§558-A. Liability for failure to pay prorated property taxes

1. Civil action authorized. If after a real estate closing in which the parties have prorated property taxes pursuant to section 558, any party knowingly fails to pay that party's share of the taxes, which results in a lien being filed, any other party to the transaction who pays the taxes that are owed by the delinquent party may recover in a civil action from the delinquent party the amount of unpaid taxes, costs incurred in releasing the lien and reasonable attorney's fees.

2. Effect on credit rating. If a party prevails in an action filed under subsection 1 and a record of a lien in that party's name has been placed in that party's file with a consumer reporting agency, that lien must be considered inaccurate information under 15 United States Code, Section 1681i if the party requesting relief submits a copy of the court judgment and proof of payment of the lien to the consumer reporting agency.

§559. Deceased persons

Until notice is given to the assessors of the division of the estate and the name of the several heirs or devisees, the undivided real estate of a deceased person may be taxed to his heirs or devisees, or may be taxed to his personal representative.

1. Heirs or devisees. A tax to the heirs or devisees may be made without designating any of them by name and each heir or devisee shall be liable for the whole of such tax. Any heir or devisee so taxed may recover of the other heirs or devisees their portions thereof when paid by him. In an action to recover the tax paid, the undivided shares of such heirs or devisees in the real estate, upon which such tax has been paid, may be attached on mesne process or taken on execution issued on a judgment recovered in an action therefor.

2. Personal representative. A tax to the personal representative shall be collected of him the same as a tax assessed against him in his private capacity. Such tax shall be a charge against the estate and shall be allowed by the judge of probate; but when the personal representative notifies the assessors that he has no funds of the estate to pay such tax and gives them the names of the heirs or devisees, and the proportions of their interests in the real estate to the best of his knowledge, the real estate shall no longer be taxed to him.

§560. Bank's real estate

All real estate, including vaults and safe deposit plants, in the State owned by any bank incorporated by this State, or by any national bank or banking association, or by any corporation organized under the laws of this State for the purpose of doing a loan, trust or banking business and having a capital divided into shares shall be taxed in the place where that property is situated to said bank, banking association or corporation. This section does not apply to loan and building associations.

§561. Railroad buildings

The buildings of every railroad corporation or association, whether within or without the located right-of-way, its lands and fixtures outside of its located right-of-way, and so much of its located right-of-way over which all railroad service has been abandoned, are subject to taxation in the places in which the same are situated, as other property is taxed therein, and shall be regarded as nonresident land.

§562. Standing wood, bark and timber; taxed to purchaser

Whenever the owner of real estate notifies the assessors that any part of the wood, bark and timber standing thereon has been sold by contract in writing, and exhibits to them proper evidence, they shall tax such wood, bark and timber to the purchaser. A lien is created on such wood, bark and timber for the payment of such taxes, and may be enforced by the collector by a sale thereof when cut, as provided in section 991.

§563. Forest land; policy

It is declared to be the public policy of the State, by which all officials of the State and of its municipal subdivisions are to be guided in the performance of their official duties, to encourage by the maintenance of adequate incentive the operation of all forest lands on a sustained yield basis by their owners, and to establish and maintain uniformity in methods of assessment for purposes of taxation

according to the productivity of the land, giving due weight in the determination of assessed value to location and public facilities as factors contributing to advantage in operation.

§564. -- assessment

An assessment of forest land for purposes of taxation shall be held to be in excess of just value by any court of competent jurisdiction, upon proof by the owner that the tax burden imposed by the assessment creates an incentive to abandon the land, or to strip the land, or otherwise to operate contrary to the public policy declared in section 563. In proof of his contention the owner shall show that by reason of the burden of the tax he is unable by efficient operation of the forest land on a sustained yield basis to obtain an adequate annual net return commensurate with the risk involved.

For the purposes of this section forest land shall be held to include any single tract of land exceeding 25 acres in area under one ownership which is devoted to the growing of trees for the purpose of cutting for commercial use.

§565. Forestry Appeal Board [Repealed]

SUBCHAPTER 2-A
TREE GROWTH TAX LAW

§571. Title

This subchapter may be cited as the "Maine Tree Growth Tax Law."

§572. Purpose

It has for many years been the declared public policy of the State of Maine, as stated in sections 563 and 564, to tax all forest lands according to their productivity and thereby to encourage their operation on a sustained yield basis. However, the present system of ad valorem taxation does not always accomplish that objective. It has caused inadequate taxation of some forest lands and excessive taxation and forfeiture of other forest lands.

It is declared to be the public policy of this State that the public interest would be best served by encouraging forest landowners to retain and improve their holdings of forest lands upon the tax rolls of the State and to promote better forest management by appropriate tax measures in order to protect this unique economic and recreational resource.

This subchapter implements the 1970 amendment of Section 8 of Article IX of the Maine Constitution providing for valuation of timberland and woodlands according to their current use by means of a classification and averaging system designed to provide efficient administration.

Therefore, this subchapter is enacted for the purpose of taxing forest lands generally suitable for the planting, culture and continuous growth of forest products on the basis of their potential for annual wood production in accordance with the following provisions.

§573. Definitions

As used in this subchapter, unless the context requires otherwise, the following words shall have the following meanings:

1. Assessor. [Repealed]

2. Average annual net wood production rate. "Average annual net wood production rate" means the estimated average net usable amount of wood one acre of land is growing in one year.

2-A. Commercial harvesting or harvesting for commercial use. "Commercial harvesting" or "harvesting for commercial use" means the harvesting of forest products that have commercial value, as defined in subsection 3-B.

3. Forest land. "Forest land" means land used primarily for growth of trees to be harvested for commercial use, but does not include ledge, marsh, open swamp, bog, water and similar areas, which are unsuitable for growing a forest product or for harvesting for commercial use even though these areas may exist within forest lands.

Land which would otherwise be included within this definition shall not be excluded because of:

A. Multiple use for public recreation;

B. Statutory or governmental restrictions which prevent commercial harvesting of trees or require a primary use of the land other than commercial harvesting;

C. Deed restrictions, restrictive covenants or organizational charters that prevent commercial harvesting of trees or require a primary use of land other than commercial harvesting and that were effective prior to January 1, 1982; or

D. [Repealed]

E. Past or present multiple use for mineral exploration.

3-A. Forest management and harvest plan. "Forest management and harvest plan" means a written document that outlines activities to regenerate, improve and harvest a standing crop of timber. The plan must include the location of water bodies and wildlife habitat identified by the Department of Inland Fisheries and Wildlife. A plan may include, but is not limited to, schedules and recommendations for timber stand improvement, harvesting plans and recommendations for regeneration activities. The plan must be prepared by a licensed professional forester or a landowner and be reviewed and certified by a licensed professional forester as consistent with this subsection and with sound silvicultural practices.

3-B. Forest products that have commercial value. "Forest products that have commercial value" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material or cones or other seed products.

4. Forest type. "Forest type" means a stand of trees characterized by the predominance of one or more groups of key species which make up 75% or more of the sawlog volume of sawlog stands, or cordwood in poletimber stands, or of the number of trees in seedling and sapling stands.

5. Hardwood type. "Hardwood type" means forests in which maple, beech, birch, oak, elm, basswood, poplar and ash, singly or in combination, comprise 75% or more of the stocking.

6. Mixed wood type. "Mixed wood type" means forests in which neither hardwoods nor softwood comprise 75% of the stand but are a combination of both.

6-A. Residential structure. "Residential structure" means a building used for human habitation as a seasonal or year-round residence. It does not include structures that are ancillary to the residential structure, such as a garage or storage shed.

7. Softwood type. "Softwood type" means forests in which pine, spruce, fir, hemlock, cedar and larch, singly or in combination, comprise 75% or more of the stocking.

8. Stumpage value. "Stumpage value" means the average value of standing timber before it is cut expressed in terms of dollars per unit of measure as determined by the State Tax Assessor.

9. Value of the annual net wood production. "Value of the annual net wood production" means the average annual net wood production rate per acre for a forest type multiplied by the weighted average of the stumpage values of all species in the type.

§574. Applicability [Repealed]

§574-A. Ineligibility

The Legislature finds that when the value of a recreational use lease of forest land exceeds the value of the tree growth that can be extracted from that land on a sustained basis per acre as determined pursuant to section 576, then the land is no longer primarily used for the continuous growth of forest products. This finding is sufficient cause to remove from taxation under this subchapter those parcels that are more valuable for recreational use and are being leased on that basis. Therefore, notwithstanding sections 573 and 574-B, a parcel of forest land that is leased for consideration to any person to use for recreational purposes does not qualify for taxation under this subchapter if that parcel of land exceeds 100 acres and if the consideration for that lease per acre exceeds the value of the growth that can be extracted on a sustained basis per acre as determined pursuant to section 576. The owner of the leased parcels shall submit a copy of the lease or leases on land subject to taxation under this subchapter to the State Tax Assessor for land in the unorganized territory and to the municipal assessors for land in municipalities. The State Tax Assessor or the municipal assessor shall determine whether the value of the lease exceeds the sustained growth value. If the value of the lease is determined to exceed the sustained growth value, the owner of the forest land has 60 days from the date of receipt of notice of that determination to either terminate the lease, amend the lease to comply with the requirements of this section or withdraw the land covered by the lease from taxation under this subchapter. A withdrawal pursuant to this section is subject to the provisions of section 581.

§574-B. Applicability

An owner of a parcel containing forest land may apply at the landowner's election by filing with the assessor the schedule provided for in section 579, except that this subchapter does not apply to any parcel containing less than 10 acres of forest land. For purposes of this subchapter, a parcel is deemed to include a unit of real estate, notwithstanding that it is divided by a road, way, railroad or pipeline, or by a municipal or county line. The election to apply requires the written consent of all owners of an interest in a parcel except for the State. For applications submitted on or after August 1, 2012, the size of the exclusion from classification under this subchapter for each structure located on the parcel and for each residential structure located on the parcel in shoreland areas is determined pursuant to section 574-C.

A parcel of land used primarily for growth of trees to be harvested for commercial use is taxed according to this subchapter, as long as the landowner complies with the following requirements:

1. Forest management and harvest plan. A forest management and harvest plan must be prepared for each parcel and updated every 10 years. The landowner shall file a sworn statement with the municipal assessor for a parcel in a municipality or with the State Tax Assessor for a parcel in the unorganized territory that a forest management and harvest plan has been prepared for the parcel;

A. [Repealed]

B. [Repealed]

C. [Repealed]

2. Evidence of compliance with plan. The landowner must comply with the plan developed under subsection 1, and must submit, every 10 years to the municipal assessor in a municipality or the State Tax Assessor for parcels in the unorganized territory, a statement from a licensed professional forester that the landowner is managing the parcel according to schedules in the plan required under subsection 1;

3. Transfer of ownership. When land taxed under this subchapter is transferred to a new owner, within one year of the date of transfer, the new landowner must file with the municipal assessor or the State Tax Assessor for land in the unorganized territory one of the following:

A. A sworn statement indicating that a new forest management and harvest plan has been prepared; or

B. A statement from a licensed professional forester that the land is being managed in accordance with the plan prepared for the previous landowner.

The new landowner may not harvest or authorize the harvest of forest products for commercial use until a statement described in paragraph A or B is filed with the assessor. A person owning timber rights on land taxed under this subchapter may not harvest or authorize the harvest of forest products for commercial use until a statement described in paragraph A or B is filed with the assessor.

Parcels of land subject to section 573, subsection 3, paragraph B or C are exempt from the requirements under this subsection.

For the purposes of this subsection, "transferred to a new owner" means the transfer of the controlling interest in the fee ownership of the land or the controlling interest in the timber rights on the land; and

4. Attestation. Beginning August 1, 2012, when a landowner is required to provide to the assessor evidence that a forest management and harvest plan has been prepared for the parcel or updated pursuant to subsection 1, or when a landowner is required to provide evidence of compliance pursuant to subsection 2, the landowner must provide an attestation that the landowner's primary use for the forest land classified pursuant to this subchapter is to grow trees to be harvested for commercial use or that the forest land is land described in section 573, subsection 3, paragraphs A, B, C or E. The existence of multiple uses on an enrolled parcel does not render it inapplicable for tax treatment under this subchapter, as long as the enrolled parcel remains primarily used for the growth of trees to be harvested for commercial use.

§574-C. Reduction of parcels with structures; shoreland areas

If a parcel of land for which an owner seeks classification under this subchapter on or after August 1, 2012 contains a structure for which a minimum lot size is required under state law or by municipal ordinance, the owner in the schedule under section 579 shall apply the following reduction to the land to be valued under this subchapter.

1. Structures. For each structure located on the parcel for which a minimum lot size is required under state law or by municipal ordinance, the owner in the schedule under section 579 shall exclude from the forest land subject to valuation under this subchapter the area of land in the parcel containing the structure or structures, which may not be less than 1/2 acre.

2. Shoreland areas. For each residential structure located within a shoreland area, as identified in Title 38, section 435, the owner in the schedule under section 579 shall exclude from the forest land subject to valuation under this subchapter the area of land in the parcel containing the structure or structures, which may not be less than 1/2 acre, and the excluded parcel must include 100 feet of shoreland frontage or the minimum shoreland frontage required by the applicable minimum requirements of the zoning ordinance for the area in which the land is located, whichever is larger. If the parcel has less than 100 feet of shoreland frontage, the entire shoreland frontage must be excluded. This subsection does not apply to a structure that is used principally for commercial activities related to forest products that have commercial value as long as any residential use of the structure is nonrecreational, temporary in duration and purely incidental to the commercial use.

§575. Administration; rules

The State Tax Assessor may adopt rules necessary to carry out this subchapter. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§575-A. Determining compliance with forest management and harvest plan

1. Assistance to assessor. Upon request of a municipal assessor or the State Tax Assessor and in accordance with section 579, the Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry may provide assistance in evaluating a forest management and harvest plan to determine whether the plan meets the definition of a forest management and harvest plan in section 573, subsection 3-A. Upon request of a municipal assessor or the State Tax Assessor, the Director of the Bureau of Forestry may provide assistance in determining whether a harvest or other silvicultural activity conducted on land enrolled under this subchapter complies with the forest management and harvest plan prepared for that parcel of land. When assistance is requested under this section and section 579, the Director of the Bureau of Forestry or the director's designee may enter and examine forest land for the purpose of determining compliance with the forest management and harvest plan.

2. Random sampling and report. The Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry is authorized to conduct periodic random sampling of land enrolled under this subchapter to identify any differences in compliance with forest management and harvest plans based on location or type of parcel and to assess overall compliance with the requirements of this subchapter. For the purposes of this subsection, the Director of the Bureau of Forestry or the director's designee may:

A. With appropriate notification to the landowner, enter and examine forest land for the purpose of determining compliance with the forest management and harvest plan pursuant to section 574-B;

B. Request and review a forest management and harvest plan required under section 574-B, which must be provided by a landowner or the landowner's agent upon request; and

C. Request and review an expired forest management and harvest plan, which must be provided by a landowner or the landowner's agent upon request, if the expired plan is in the possession of the landowner or the landowner's agent.

A forest management and harvest plan provided to the Director of the Bureau of Forestry or the director's designee under this subsection is confidential. Information collected pursuant to this subsection is confidential and is not a public record as defined in Title 1, section 402, subsection 3, except that the director shall publish at least one summary report, which may not reveal the activities of any person and that is available as a public record. This subsection is repealed on December 31, 2014. [

§576. Powers and duties

The State Tax Assessor shall determine the average annual net wood production rate for each forest type described in section 573, subsections 5 to 7, in each county or region to be used in determining valuations applicable to forest land under this subchapter, on the basis of the surveys of average annual growth rates applicable in the State made from time to time by the United States Forest Service or by the Maine Forestry Bureau. The growth rate surveys must be reduced by the percentage discount factor prescribed by section 576-B to reflect the growth that can be extracted on a sustained basis. The rates when determined remain in effect without change for each county through the property tax year ending March 31, 1975. In 1974 and in every 10th year thereafter, the State Tax Assessor shall review and set rates for the following 10-year period in the same manner.

The State Tax Assessor shall determine the average stumpage value for each forest type described in section 573, subsections 5 to 7, applicable in each county, or in alternative forest economic regions as the assessor designates, after passage of this subchapter and in each year thereafter, taking into consideration the prices upon sales of sound standing timber of that forest type in that area during the previous calendar year, and any other appropriate considerations.

The proportions of the various species making up the type are to be used in the computations of the average annual net wood production rates and average stumpage values for each forest type and the proportions of the various products are to be used in the computations of average stumpage values.

After the State Tax Assessor has made the foregoing determinations, the assessor shall apply the capitalization rate prescribed by section 576-B to the value of the annual net wood production to determine the 100% valuation per acre for each forest type for each area and shall state the wood production rates and values used to compute those rates and values.

The State Tax Assessor shall certify and transmit rules to the municipal assessors of each municipality with respect to forest land therein on or before April 1st of each year.

§576-A. Valuation of areas other than forest land

Areas other than forest land within any parcel of forest land shall be valued on the basis of fair market value.

§576-B. Discount factor and capitalization rate

The percentage factor by which the growth rates set by the State Tax Assessor pursuant to section 576 must be reduced to reflect the growth that can be extracted on a sustained basis is 10%. The capitalization rate applied to the value of the annual net wood production pursuant to section 576 is 8.5%.

§577. Reduced valuation under special circumstances

1. On January 1, 1972. [Repealed]

2. Destruction by natural disaster. In the case of forest land areas upon which the trees are destroyed by fire, disease, insect infestation or other natural disaster, so that the area contains not more than 3 cords per acre of wood that is merchantable for forest products, the valuation of that specific land area must be reduced by 75% for the first 10 property tax years following the loss.

3. Procedure to obtain reduced valuation. In order to obtain a reduced valuation, the landowner must submit a written request to the assessor on or before January 1st the preceding tax year, presenting facts in affidavit form that meet the requirements of subsection 2. The assessor may investigate the facts, utilizing the procedures set forth in section 579, and shall then determine whether the requirements of subsection 2 are met. If the requirements are met, the forest land areas must be valued as provided in subsection 2.

4. Report and recommendation from Director of the Bureau of Forestry. In determining the applicability of this section, the assessor may request a report and recommendation from the Director of the Bureau of Forestry.

§578. Assessment of tax

1. Organized areas. The municipal assessors or chief assessor of a primary assessing area shall adjust the State Tax Assessor's 100% valuation per acre for each forest type of their county by whatever ratio, or percentage of current just value, is applied to other property within the municipality to obtain the assessed values. Forest land in the organized areas, subject to taxation under this subchapter, must be taxed at the property tax rate applicable to other property in the municipality.

The State Tax Assessor shall determine annually the amount of acreage in each municipality that is classified and taxed in accordance with this subchapter. Each municipality is entitled to annual payments distributed in accordance with this section from money appropriated by the Legislature if it submits an annual return in accordance with section 383 and if it achieves the minimum assessment ratio established in section 327. The State Tax Assessor shall pay any municipal claim found to be in satisfactory form by August 1st of the year following the submission of the annual return. The municipal reimbursement appropriation is calculated on the basis of 90% of the per acre tax revenue lost as a result of this subchapter. For property tax years based on the status of property on April 1, 2008 and April 1, 2009, municipal reimbursement under this section is further limited to the amount appropriated by the Legislature and distributed on a pro rata basis by the State Tax Assessor for all timely filed claims. For purposes of this section, "classified forest lands" means forest lands classified pursuant to this subchapter as well as all areas identified as forested land within farmland parcels that are transferred from tree growth classification pursuant to section 1112 on or after October 1, 2011. For the purposes of this section, the tax lost is the tax that would have been assessed, but for this subchapter, on the classified forest lands if they were assessed according to the undeveloped acreage valuations used in the state valuation then in effect, or according to the current local valuation on undeveloped acreage, whichever is less, minus the tax that was actually assessed on the same lands in accordance with this subchapter, and adjusted for the aggregate municipal savings in required educational costs attributable to reduced state valuation. A municipality that fails to achieve the minimum assessment ratio established in section 327 loses 10% of the reimbursement provided by this section for each one percentage point the minimum assessment ratio falls below the ratio established in section 327.

The State Tax Assessor shall adopt rules necessary to implement the provisions of this section. Rules adopted pursuant to this subsection are routine technical rules for the purposes of Title 5, chapter 375, subchapter 2-A.

A. [Repealed]

B. [Repealed]

C. The State Tax Assessor shall distribute reimbursement under this section to each municipality in proportion to the product of the reduced tree growth valuation of the municipality multiplied by the property tax burden of the municipality. For purposes of this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Property tax burden" means the total real and personal property taxes assessed in the most recently completed municipal fiscal year, 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.

(2) "Undeveloped land" means rear acreage and unimproved nonwaterfront acreage that is not:

(a) Classified under the laws governing current use valuation set forth in chapter 105, subchapter 2-A, 10 or 10-A;

(b) A base lot; or

(c) Waste land.

(3) "Average value of undeveloped land" means the per acre undeveloped land valuations used in the state valuation then in effect, or according to the current local valuation on undeveloped land as determined for state valuation purposes, whichever is less.

(4) "Reduced tree growth valuation" means the difference between the average value of undeveloped land and the average value of tree growth land times the total number of acres classified as forest land under this subchapter plus the total number of acres of forest land that is transferred from tree growth classification to farmland classification pursuant to section 1112 on or after October 1, 2011.

2. Unorganized territory. The State Tax Assessor shall adjust the 100% valuation per acre for each type for each county by such ratio or percentage as is then being used to determine the state valuation applicable to other property in the unorganized territory to obtain the assessed values. Commencing April 1, 1973, forest land in the unorganized territory subject to taxation under this subchapter shall be taxed at the same property tax rate as is applicable to other property in the unorganized territory, which rate shall be applied to the assessed values so determined. Upon collection by the State Tax Assessor, such taxes shall be deposited in the Unorganized Territory Education and Services Fund in accordance with section 1605.

3. Divided ownership. In cases of divided ownership of land and the timber and grass rights thereon, the assessor shall apportion 10% of the valuation to the land and 90% of the valuation to the timber and grass rights.

§579. Schedule, investigation

The owner or owners of forest land subject to valuation under this subchapter shall submit a signed schedule, on or before April 1st of the year in which that land first becomes subject to valuation under this subchapter, to the assessor upon a form prescribed by the State Tax Assessor, identifying the land to be valued under this subchapter, listing the number of acres of each forest type, showing the location of each forest type and representing that the land is used primarily for the growth of trees to be harvested for commercial use. Those schedules may be required at such other times as the assessor may designate upon 120 days' written notice.

The assessor shall determine whether the land is subject to valuation and taxation under this subchapter and shall classify the land as to forest type.

The assessor or the assessor's duly authorized representative may enter and examine the forest lands under this subchapter and may examine any information submitted by the owner or owners. A copy of the forest management and harvest plan required under section 574-B must be available to the assessor to review upon request and to the Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry or the director's designee to review upon request when the assessor seeks assistance in accordance with section 575-A. For the purposes of this paragraph, "to review" means to see or possess a copy of a plan for a reasonable amount of time to verify that the plan exists or to facilitate an evaluation as to whether the plan is appropriate and is being followed. Upon completion of the review, the plan must be returned to the owner or an agent of the owner. A forest management and harvest plan provided in accordance with this section is confidential and is not a public record as defined in Title 1, section 402, subsection 3.

Upon notice in writing by certified mail, return receipt requested, or by another method that provides actual notice, any owner or owners shall appear before the assessor, at such reasonable time and place as the assessor may designate and answer questions or interrogatories the assessor considers necessary to obtain material information about those lands.

If the owner or owners of any parcel of forest land subject to valuation under this subchapter fails to submit the schedules as provided under this section or fails to provide information after notice duly received as provided under this section, such owner or owners are deemed to have waived all rights of appeal pursuant to section 583 for that property tax year, except for the determination that the land is subject to valuation under this subchapter.

It is the obligation of the owner or owners to report to the assessor any change of use or change of forest type of land subject to valuation under this subchapter.

If the owner or owners fail to report to the assessor a change of use as required by the foregoing paragraph, the assessor shall assess the taxes that should have been paid, shall assess the penalty provided in section 581 and shall assess an additional penalty equal to 25% of the penalty provided in section 581. The assessor may waive the additional penalty for cause.

For the purposes of this section, the acts of owners specified in this section may be taken by an authorized agent of an owner.

§580. Reclassification

Land subject to taxes under this subchapter may be reclassified as to forest type by the assessor upon application of the owner with a proper showing of the reasons justifying such reclassification or upon the initiative of the respective assessor where the facts justify same.

§581. Withdrawal

1. Assessor determination; owner request. If the assessor determines that land subject to this subchapter no longer meets the requirements of this subchapter, the assessor must withdraw the land from taxation under this subchapter. An owner of land subject to taxation under this subchapter may at any time request withdrawal of that land from taxation under this subchapter by certifying in writing to the assessor that the land is no longer to be classified under this subchapter.

1-A. Notice of compliance. No earlier than 185 days prior to a deadline established by section 574-B, if the landowner has not yet complied with the requirements of that section, the assessor must provide the landowner with written notice by certified mail informing the landowner of the statutory requirements that need to be met to comply with section 574-B and the date of the deadline for compliance or by which the parcel may be transferred to open space classification pursuant to subchapter 10. The notice must also state that if the owner fails to meet the deadline for complying with section 574-B or transferring the parcel to open space classification, a supplemental assessment of $500 will be assessed and that continued noncompliance will lead to a subsequent supplemental assessment of $500. If the notice is issued less than 120 days before the deadline, the owner has 120 days from the date of the notice to provide the assessor with the documentation to achieve compliance with section 574-B or transfer the parcel to open space classification, and the notice must specify the date by which the owner must comply.

If the landowner fails to provide the assessor with the documentation to achieve compliance with section 574-B or transfer the parcel to open space classification pursuant to subchapter 10 by the deadline specified in the notice, the assessor shall impose a $500 penalty to be assessed and collected as a supplemental assessment in accordance with section 713-B. The assessor shall send notification of the supplemental assessment by certified mail and notify the landowner that, no later than 6 months from the date of the 2nd notice, the landowner must comply with the requirements of section 574-B or transfer the parcel to open space classification pursuant to subchapter 10 and that failure to comply will result in an additional supplemental assessment of $500 and the landowner will have an additional 6-month period in which to comply with these requirements before the withdrawal of the parcel and the assessment of substantial financial penalties against the landowner.

At the expiration of 6 months, if the landowner has not complied with section 574-B or transferred the parcel to open space classification under subchapter 10, the assessor shall assess an additional $500 supplemental assessment. The assessor shall send notification of the 2nd supplemental assessment by certified mail and notify the landowner that, no later than 6 months from the date of the notice, the landowner must comply with the requirements of section 574-B or transfer the parcel to open space classification pursuant to subchapter 10 or the land will be withdrawn from the tree growth tax program.

If the landowner has not complied within 6 months from the date of the 2nd supplemental assessment, the assessor shall remove the parcel from taxation under this subchapter and assess a penalty for the parcel's withdrawal pursuant to subsection 3.

This subsection does not limit the assessor from issuing other notices or compliance reminders to property owners at any time in addition to the notice required by this subsection.

2. Withdrawal of portion. In the case of withdrawal of a portion of a parcel, the owner, as a condition of withdrawal, shall file with the assessor a plan showing the area withdrawn and the area remaining subject to taxation under this subchapter. In the case of withdrawal of a portion of a parcel, the resulting portions must be treated after the withdrawal as separate parcels under section 708.

3. Penalty. If land is withdrawn from taxation under this subchapter, the assessor shall impose a penalty upon the owner. The penalty is the greater of:

A. An amount equal to the taxes that would have been assessed on the first day of April for the 5 tax years, or any lesser number of tax years starting with the year in which the land was first classified, preceding the withdrawal had that land been assessed in each of those years at its just value on the date of withdrawal. That amount must be reduced by all taxes paid on that land over the preceding 5 years, or any lesser number of tax years starting with the year in which the land was first classified, and increased by interest at the prevailing municipal rate from the date or dates on which those amounts would have been payable; and

B. An amount computed by multiplying the amount, if any, by which the just value of the land on the date of withdrawal exceeds the 100% valuation of the land pursuant to this subchapter on the preceding April 1st by the following rates.

(1) If the land was subject to valuation under this subchapter for 10 years or less prior to the date of withdrawal, the rate is 30%.

(2) If the land was subject to valuation under this subchapter for more than 10 years prior to the date of withdrawal, the rate is that percentage obtained by subtracting 1% from 30% for each full year beyond 10 years that the land was subject to valuation under this subchapter prior to the date of withdrawal, except that the minimum rate is 20%.

For purposes of this subsection, just value at the time of withdrawal is the assessed just value of comparable property in the municipality adjusted by the municipality's certified assessment ratio.

4. Assessment and collection of penalties. The penalties for withdrawal under this section must be paid upon withdrawal to the tax collector as additional property taxes. Penalties may be assessed and collected as supplemental assessments in accordance with section 713-B.

5. Eminent domain. A penalty may not be assessed under this section for a withdrawal occasioned by a transfer to an entity holding the power of eminent domain if the transfer results from the exercise or threatened exercise of that power.

6. Relief from requirements. Upon withdrawal under this section, the land is relieved of the requirements of this subchapter immediately and is returned to taxation under chapter 105, subchapter 2 beginning the following April 1st.

7. Reclassification as farmland or open space land. A penalty may not be assessed upon the withdrawal of land from taxation under this subchapter if the owner applies for classification of that land as farmland or open space land under subchapter 10 and that application is accepted. If a penalty is later assessed under section 1112, the period of time that the land was taxed as forest land under this subchapter is included for purposes of establishing the amount of the penalty.

8. Report of penalty. A municipality that receives a penalty for the withdrawal of land from taxation under this subchapter must report the total amount received in that reporting year to the State Tax Assessor on the municipal valuation return form described in section 383.

§581-A. Sale of portion of parcel of forest land

Sale of a portion of a parcel of forest land subject to taxation under this subchapter does not affect the taxation under this subchapter of the resulting parcels, unless any is less than 10 forested acres in area. Each resulting parcel must be taxed to the owners under this subchapter until the parcel is withdrawn from taxation under this subchapter, in which case the penalties provided for in sections 579 and 581 apply only to the owner of that parcel. If a parcel resulting from that sale is less than 10 forested acres in area, that parcel must be considered withdrawn from taxation under this subchapter as a result of the sale and the penalty assessed against the transferor of the resulting parcel of less than 10 forested acres.

§581-B. Reclassification and withdrawal in unorganized territory

If forest land in the unorganized territory is reclassified or withdrawn from taxation under this subchapter, the State Tax Assessor shall make supplementary assessments or abatements as necessary to carry out the provisions of this subchapter.

§581-C. Mineral lands [Repealed]

§581-D. Mineral lands subject to an excise tax

Any statutory or constitutional penalty imposed as a result of withdrawal or a change of use, whether imposed before or after January 1, 1984, shall be determined without regard to the presence of minerals, provided that when payment of the penalty is made or demanded, whichever occurs first, there is in effect a state excise tax which applies or would apply to the mining of those minerals.

§581-E. Report to the Bureau of Forestry [Repealed]

§581-F. Report to the Bureau of Forestry on land in unorganized territory

On or before September 1st of each year, the State Tax Assessor shall provide to the Department of Agriculture, Conservation and Forestry, Bureau of Forestry information on land within the unorganized territory taxed according to this subchapter. The information must include the number of parcels enrolled, classified by parcel size categories. The State Tax Assessor shall consult with the Director of the Bureau of Forestry in determining the parcel size categories and shall provide the information in a consistent format to facilitate comparison from year to year.

§581-G. Report to Bureau of Forestry

1. Municipal report. The municipal assessor or chief assessor of a primary assessing area shall report annually to the Department of Agriculture, Conservation and Forestry, Bureau of Forestry by November 1st or 30 days following the tax commitment date, whichever is sooner, the following information relating to land taxed according to this subchapter:

A. The names and addresses of forest landowners;

B. The total number of acres taxed pursuant to this subchapter, including a breakdown of forest type, by softwood, mixed wood and hardwood;

C. The year each parcel was first accepted for taxation under this subchapter;

D. The year of the most recent recertification of each parcel; and

E. The tax map number, plan number and lot number for each parcel listed.

2. Forms. The Department of Agriculture, Conservation and Forestry, Bureau of Forestry shall annually provide municipalities with forms for submitting the information required under subsection 1. To the extent that the Bureau of Forestry has the required information, the Bureau of Forestry shall include that information on the forms.

3. Confidentiality. Addresses, telephone numbers and electronic mail addresses of forest landowners owning less than 1,000 acres statewide contained in reports filed under this section are confidential when in possession of the Department of Agriculture, Conservation and Forestry, Bureau of Forestry and may be disclosed only in accordance with Title 12, section 8005.

§582. Appeal from State Tax Assessor [Repealed]

§582-A. Payment for tax pending review [Repealed]

§583. Abatement

Assessments made under this subchapter and denials of applications for valuation under this subchapter are subject to the abatement procedures provided by section 841. Appeal from an abatement decision rendered under section 841 shall be to the State Board of Property Tax Review.

§584. Advisory Council [Repealed]

§584-A. Construction

This subchapter shall be broadly construed to achieve its purpose. The invalidity of any provision shall be deemed not to affect the validity of other provisions.

SUBCHAPTER 3
PERSONAL PROPERTY TAXES

§601. Personal property; defined

Personal property for the purposes of taxation includes all tangible goods and chattels wheresoever they are and all vessels, at home or abroad.

§602. -- where taxed

All personal property within or without the State, except in cases enumerated in section 603, shall be taxed to the owner in the place where he resides.

§603. Exceptions

The excepted cases referred to in section 602 are the following:

1. Personal property employed in trade. All personal property employed in trade, in the erection of buildings or vessels, or in the mechanic arts shall be taxed in the place where so employed, except as otherwise provided for in this subsection; provided the owner, his servant, subcontractor or agent occupies any store, storehouse, shop, mill, wharf, landing place or shipyard therein for the purpose of such employment.

A. For the purposes of this subsection, "personal property employed in trade" shall include both liquefied petroleum gas installations, and industrial and medical gas installations, together with tanks or other containers used in connection therewith.

B. [Repealed]

1-A. Cargo trailers. A cargo trailer shall be taxed in the place where it is primarily located on April 1st, even though the cargo trailer may not be present in that place on April 1st.

For purposes of this subsection, "primary location" means the place where the cargo trailer is usually based and where it regularly returns for repairs, supplies and activities related to its use.

2. Enumeration. [Repealed]

2-A. Enumeration. The following personal property must be taxed in the place where it is situated:

A. Portable mills;

B. All store fixtures, office furniture, furnishings, fixtures and equipment;

C. Professional libraries, apparatus, implements and supplies;

D. Coin-operated vending or amusement devices;

E. All camper trailers, as defined in section 1481; and

F. Television and radio transmitting equipment.

3. Nonresidents. Personal property which is within the State and owned by persons residing out of the State shall be taxed either to the owner, or to the person having the same in possession, or to the person owning or occupying any store, storehouse, shop, mill, wharf, landing, shipyard or other place therein where such property is.

A. A lien is created on said property for the payment of the tax, which may be enforced by the tax collector to whom the tax is committed, by a sale of the property as provided.

B. A lien is created on said property in behalf of the person in possession, which he may enforce, for the repayment of all sums by him lawfully paid in discharge of the tax. If such person pays more than his proportionate part of such tax, or if his own goods or property are applied to the payment and discharge of the whole tax, he may recover of the owner such owner's proper share thereof.

4. Domestic fowl raised for meat purposes or egg production. [Repealed]

5. Mules, horses, neat cattle and domestic fowl. [Repealed]

6. Belonging to minors under guardianship. Personal property belonging to minors under guardianship shall be taxed to the guardian in the place where the guardian resides. The personal property of all other persons under guardianship shall be taxed to the guardian in the place where the ward resides.

7. Partners in business. Personal property of partners in business, when subject to taxation under subsections 1 and 2, may be taxed to the partners jointly under their partnership name; and in such cases they shall be jointly and severally liable for the tax.

8. Owned by persons unknown. Personal property owned by persons unknown shall be taxed to the person having the same in possession. A lien is created on said property in behalf of the person in possession, which he may enforce for the repayment of all sums by him lawfully paid in discharge of the tax.

9. Certain corporations. The personal property of manufacturing, mining, smelting, agricultural and stock raising corporations, and corporations organized for the purpose of buying, selling and leasing real estate shall be taxed to the corporation or to the persons having possession of such property in the place where situated, except as provided in subsections 1 and 10.

10. Tax situs. The tax situs of tangible personal property shall be at the mine site if that property is:

A. Owned, leased or otherwise subject to possessory control of a mining company; and

B. On route to or from, being transported to or from or destined to or from a mine site.

Except as otherwise provided in this subsection, the tax situs of tangible personal property leased to a mining company shall be in the place where the property is situated.

For the purposes of this subsection, the definitions of section 2855 shall apply.

§604. Mortgaged personal property; taxes

When personal property is mortgaged, pledged or conveyed with the seller retaining title for security purposes, it shall, for the purposes of taxation, be deemed the property of the person who has it in possession, and it may be distrained for the tax thereon.

§605. Deceased persons

The personal property of a deceased person shall be assessed to the personal representative in the place where the deceased last resided, and such assessment shall continue until the personal representative gives notice to the assessors that such property has been distributed. If the deceased at the time of his death did not reside in the State, such personal property shall be assessed to the personal representative in the place where such property is situated. Before the appointment of a personal representative, the personal property of a deceased person shall be assessed to the estate of the deceased in the place where he last resided, if in the State, otherwise in the place where such property is situated, and the personal representative subsequently appointed shall be liable for the tax.

§606. Tax priority; deceased's personal property

If a personal property tax has been assessed upon the estate of a deceased person, or if a person assessed for a personal property tax has died, the personal representative, after he has satisfied the first 4 priorities set forth in Title 18-A, section 3-805, shall, from any estate which has come to his hands in such capacity, if such estate is sufficient therefor, pay the personal property tax so assessed to him under Title 18-A, section 3-709. In default of such payment the personal representative shall be personally liable for the tax to the extent of the estate that passed through his hands which was not used to satisfy claims or expenses with a higher priority. To the extent that the personal representative is not assessed, the successors to the decendent's taxed property shall pay the tax assessed.

§607. Insolvent person's personal property

If a person assessed for a personal property tax has made an assignment for the benefit of creditors, or has gone into receivership before the payment thereof, the assignee or receiver shall, from any money which has come to his hands in such capacity, over and above the reasonable expense of administration, pay the personal property tax so assessed to the extent of such money. In default of such payment the assignee or receiver shall be personally liable for the tax to the extent of the money which passed through his hands.

§608. Blooded animals [Repealed]

§609. Sailing vessels and barges; tax rate [Repealed]

§610. Rebuilt vessels and barges; tax rate [Repealed]

§610-A. Watercraft assessed as personal property [Repealed]

§611. Equipment tax

Machinery and other personal property brought into this State, after April 1st and prior to December 31st by any person upon whom no personal property tax was assessed on April 1st in the State of Maine, shall be taxed as other personal property in the town in which it is used for the first time in this State.

When the assessors are informed by the owner or otherwise of the presence within the town of such personal property, the assessors shall give notice in writing to the owner to furnish to the assessors a true and perfect list of such property within 15 days from the receipt of such notice and, except as otherwise provided in this section, section 706 shall be applicable to this section.

The assessors shall assess a tax upon any such property in accordance with other property assessed for the same tax year, except that, if the tax is paid within 2 months of assessment, interest from the due date of taxes for the tax year involved does not apply.

Except as otherwise provided in this section, the collection of such taxes shall be in accordance with this chapter.

§612. Tax lien on personal property

1. Lien. The legal assessment of taxes upon personal property as defined in section 601 against a particular taxpayer creates and constitutes a lien upon all of the property assessed to secure payment of the resulting taxes, provided that the inventory and valuation upon which the assessment is made contains a description of the personal property taxed that meets the requirements of Title 11, section 9-1504. Except as otherwise provided in this section, the lien takes precedence over all other claims on the personal property and continues in force until the taxes are paid or until the lien is otherwise terminated by law.

2. Definitions. As used in this section, unless the context otherwise indicates, the terms used in this section have the same meanings as in Title 11.

3. Perfection of lien. The lien established by subsection 1 attaches on the date of assessment and must be perfected as against all lien creditors, as defined in Title 11, section 9-1102, subsection (52), without the necessity of further action by the municipality or any other party. The lien becomes perfected as against parties other than lien creditors at the time when a notice of the lien is communicated, pursuant to the provisions of Title 11, section 9-1516, to the office identified in Title 11, section 9-1501, subsection (1), paragraph (b). Any filing is ineffective to perfect a lien as against parties that are not lien creditors to the extent that the filing covers taxes upon property whose status for those taxes was fixed pursuant to section 502 or 611 more than 2 years prior to the filing date. The lien does not have priority against any interest as to which it is unperfected during the period in which it is not so perfected. If the lien is perfected as to some interests in the property subject to the tax, but not as to other interests, and the interests as to which it is perfected are superior in priority to the interests against which the lien is unperfected, then the lien has priority over the interests against which it has not been perfected to the extent of the superior interests against which it has been perfected.

4. Notice of lien. Each notice of lien, which may be in the form of a financing statement, must:

A. Name the owner of the property upon which the lien is claimed, if the owner is not the taxpayer and is known to the municipality;

B. Provide the residence or business address of the owner, if known to the municipality;

C. Provide the taxpayer's name and the taxpayer's residence or business address, if known to the municipality, and if not otherwise known, the address where the property that is being taxed was located on the date the status of such taxable property was fixed pursuant to section 502 or 611;

D. Describe the property claimed to be subject to the lien in a manner that meets the requirements of Title 11, section 9-1504;

E. State the amount of tax, accrued interest and costs, as of the date on which the municipality sends the notice for filing, claimed due the municipality and secured by the lien;

F. State the tax year or years for which the lien is claimed;

G. Name the municipality claiming the lien;

H. Set forth the phrase "NOTICE OF PERSONAL PROPERTY TAX LIEN" in that part of the financing statement otherwise used to describe the collateral;

I. Indicate that the notice is filed as a non-UCC filing; and

J. Indicate that the taxpayer or owner, if an organization, has no organizational identification number, regardless of whether such a number may exist for that entity.

Except as provided in this subsection, the notice of lien need not contain the information required by Title 11, section 9-1516, subsection (2), paragraph (e), subparagraph (iii) and must be accepted for filing without that information notwithstanding the provisions of Title 11, section 9-1520, subsection (1). A copy of the notice of lien must be given by certified mail, return receipt requested, at the last known address, to the taxpayer, to the owner, if the owner is not the taxpayer, and to any party who has asserted that it holds an interest in any of the property that is subject to the lien in an authenticated notification received by the municipality within 5 years prior to the date on which the municipality sends the notice of lien for filing, or who has filed a financing statement with the office identified in Title 11, section 9-1501, subsection (1), paragraph (b) that remains effective as of the date on which the municipality sends the notice of lien for filing. Failure to give notice to any secured party who has a perfected security interest prevents the lien from taking priority over that security interest, but does not otherwise affect the validity of the lien.

5. Effective period of lien; limitation period. Perfection of any lien by the filing of a notice of lien is effective for a period of 5 years from the date of filing, unless discharged as provided in this section or unless a continuation statement is filed prior to the lapse. A continuation statement may be filed on behalf of the municipality within 6 months prior to the expiration of the 5-year period provided in this section in the same manner and to the same effect as provided in Title 11, section 9-1515.

6. Rights and remedies of municipality and taxpayer. A municipality that has filed a notice of tax lien has the rights and remedies of a secured party, the taxpayer and the owner of the property against whom the lien has been filed have the rights and remedies of a debtor, all parties to whom the municipality is required to provide a copy of the lien notice pursuant to subsection 4 have the rights and remedies of a junior secured party and all lien creditors have the rights of lien creditors, as provided for in Title 11, Article 9-A, Part 6, except that:

A. The municipality does not have the rights provided to a secured party in Title 11, sections 9-1620, 9-1621 and 9-1622;

B. The municipality has no obligations to lien creditors or to secured parties except to the extent that it has received notice from such secured parties as set forth in subsection 4 or they have effective financing statements on file as provided in subsection 4;

C. The municipality has no obligations under Title 11, section 9-1616; and

D. The municipality is not subject to Title 11, section 9-1625, subsection (3), paragraph (b) and section 9-1625, subsections (5) to (7).

7. Personal property liens; discharge. If any lien created under this section is discharged, then a certificate of discharge must promptly be filed by the tax collector of the municipality which originally filed the notice of lien, or by that tax collector's successor, in the same manner as termination statements are filed under Title 11, section 9-1513. The municipal officer who has filed the notice of lien shall file a notice of discharge of the lien in the manner provided in this section, if:

A. The taxes for which the lien has been filed are fully paid, together with all interest and costs due thereon;

B. A cash bond or surety company bond is furnished to the municipality conditioned upon the payment of the amount liened, together with interest and cost due, within the effective period of the lien as provided in this section; or

C. A final judgment is rendered in favor of the taxpayer or others claiming an interest in the liened personal property which determines either that the tax is not owed or that the lien is not valid. If the judgment determines that the tax is partially owed, then the officer who filed the notice of lien or that officer's successor shall, within 10 days of the rendition of the final judgment, file an amendment to the notice of lien reducing the amount claimed to the actual amount of tax found to be due, which amended lien is effective as to the revised amount of the lien as of the date of the filing of the original notice of tax lien.

8. Consumer goods. In the case of consumer goods, a buyer in the ordinary course of business takes free of the lien created by this section, even though the lien is perfected and even though the buyer knows of its existence.

9. Liens subordinate to security interests. The lien authorized by subsection 1 is subordinated to security interests that were perfected before September 23, 1983 and that have remained perfected thereafter, except to the extent that such perfected security interests would be subordinate to the rights of the municipality if the municipality were considered, whether or not such is actually the case, to be a lien creditor under Title 11, section 9-1323 by virtue of its rights pursuant to the lien authorized by subsection 1.

10. Collection procedure. The collection procedure authorized by this section is optional and does not affect in any way alternate collection procedures authorized by law.

11. Limitation of this section. The lien authorized by this section applies to taxes assessed on or after April 1, 1984. The procedures of this section as amended effective July 1, 2001 or October 1, 2003 apply only to liens authorized in this section that are perfected by a filing made on or after July 1, 2001, or for which a continuation statement is filed on or after that date.

12. Location of filing. A tax lien filed on or after July 1, 2001 with the office identified in Title 11, section 9-1501, subsection (1), paragraph (b) is not invalid or otherwise ineffectual by reason of filing with that office.

13. Application of state law. The law of this State governs the following without recourse to this State's choice of law provisions, including those provisions found in Title 11, sections 9-1301 to 9-1307:

A. Perfection of a personal property tax lien, as provided in this section;

B. The effect of perfection or nonperfection of a personal property tax lien as provided in this section;

C. The priority of a personal property tax lien as provided in this section; and

D. All other rights and obligations of the parties with respect to personal property tax liens held by municipalities in this State.

§613. Watercraft decal [Repealed]

SUBCHAPTER 4
EXEMPTIONS

§651. Public property

The following public property is exempt from taxation:

1. Public property.

A. The property of the United States so far as the taxation of such property is prohibited under the Constitution and laws of the United States;

B. The property of the State of Maine;

B-1. Real estate owned by the Water Resources Board of the State of New Hampshire and used for the preservation of recreational facilities in this State;

C. All property which by the Articles of Separation is exempt from taxation;

D. The property of any public municipal corporation of this State appropriated to public uses, if located within the corporate limits and confines of such public municipal corporation;

E. The pipes, fixtures, hydrants, conduits, gatehouses, pumping stations, reservoirs and dams, used only for reservoir purposes, of public municipal corporations engaged in supplying water, power or light, if located outside of the limits of such public municipal corporation;

F. All airports and landing fields and the structures erected thereon or contained therein of public municipal corporations whether located within or without the limits of such public municipal corporations. Any structures or land contained within such airport not used for airport or aeronautical purposes shall not be entitled to this exemption. Any public municipal corporation which is required to pay taxes to another such corporation under this paragraph with respect to any airport or landing field shall be reimbursed by the county wherein the airport is situated; and

G. The pipes, fixtures, conduits, buildings, pumping stations and other facilities of a public municipal corporation used for sewage disposal, if located outside the limits of such public municipal corporation.

§652. Property of institutions and organizations

1. Property of institutions and organizations. The property of institutions and organizations is exempt from taxation as provided in this subsection.

A. The real estate and personal property owned and occupied or used solely for their own purposes by benevolent and charitable institutions incorporated by this State are exempt from taxation. Such an institution may not be deprived of the right of exemption by reason of the source from which its funds are derived or by reason of limitation in the classes of persons for whose benefit the funds are applied.

For the purposes of this paragraph, "benevolent and charitable institutions" includes, but is not limited to, nonprofit nursing homes licensed by the Department of Health and Human Services pursuant to Title 22, chapter 405, nonprofit residential care facilities licensed by the Department of Health and Human Services pursuant to Title 22, chapter 1663, nonprofit community mental health service facilities licensed by the Commissioner of Health and Human Services pursuant to Title 34-B, chapter 3 and nonprofit child care centers incorporated by this State as benevolent and charitable institutions. For the purposes of this paragraph, "nonprofit" refers to an institution that has been determined by the United States Internal Revenue Service to be exempt from taxation under Section 501(c)(3) of the Code.

B. The real estate and personal property owned and occupied or used solely for their own purposes by literary and scientific institutions are exempt from taxation. If any building or part of a building is used primarily for employee housing, that building, or that part of the building used for employee housing, is not exempt from taxation.

C. Further conditions to the right of exemption under paragraphs A and B are that:

(1) Any corporation claiming exemption under paragraph A must be organized and conducted exclusively for benevolent and charitable purposes;

(2) A director, trustee, officer or employee of an organization claiming exemption may not receive directly or indirectly any pecuniary profit from the operation of that organization, except as reasonable compensation for services in effecting its purposes or as a proper beneficiary of its strictly benevolent or charitable purposes;

(3) All profits derived from the operation of an organization claiming exemption and the proceeds from the sale of its property must be devoted exclusively to the purposes for which it is organized;

(4) The institution, organization or corporation claiming exemption under this section must file with the assessors upon their request a report for its preceding fiscal year in such detail as the assessors may reasonably require;

(5) An exemption may not be allowed under this section in favor of an agricultural fair association holding pari-mutuel racing meets unless it has qualified the next preceding year as a recipient of a stipend from the Stipend Fund provided in Title 7, section 86;

(6) An exemption allowed under paragraph A or B for real or personal property owned and occupied or used to provide federally subsidized residential rental housing is limited as follows: Federally subsidized residential rental housing placed in service prior to September 1, 1993 by other than a nonprofit housing corporation that is acquired on or after September 1, 1993 by a nonprofit housing corporation and the operation of which is not an unrelated trade or business to that nonprofit housing corporation is eligible for an exemption limited to 50% of the municipal assessed value of that property.

An exemption granted under this subparagraph must be revoked for any year in which the owner of the property is no longer a nonprofit housing corporation or the operation of the residential rental housing is an unrelated trade or business to that nonprofit housing corporation.

(a) For the purposes of this subparagraph, the following terms have the following meanings.

(i) "Federally subsidized residential rental housing" means residential rental housing that is subsidized through project-based rental assistance, operating assistance or interest rate subsidies paid or provided by or on behalf of an agency or department of the Federal Government.

(ii) "Nonprofit housing corporation" means a nonprofit corporation organized in the State that is exempt from tax under Section 501(c)(3) of the Code and has among its corporate purposes the provision of services to people of low income or the construction, rehabilitation, ownership or operation of housing.

(iii) "Residential rental housing" means one or more buildings, together with any facilities functionally related and subordinate to the building or buildings, located on one parcel of land and held in common ownership prior to the conversion to nonprofit status and containing 9 or more similarly constructed residential units offered for rental to the general public for use on other than a transient basis, each of which contains separate and complete facilities for living, sleeping, eating, cooking and sanitation.

(iv) "Unrelated trade or business" means any trade or business whose conduct is not substantially related to the exercise or performance by a nonprofit corporation of the purposes or functions constituting the basis for exemption under Section 501(c)(3) of the Code.

(b) Eligibility of the following property for exemption is not affected by the provisions of this subparagraph:

(i) Property used as a nonprofit nursing home, residential care facility licensed by the Department of Health and Human Services pursuant to Title 22, chapter 1663 or a community living arrangement as defined in Title 30-A, section 4357-A or any property owned by a nonprofit organization licensed or funded by the Department of Health and Human Services to provide services to or for the benefit of persons with mental illness or mental retardation;

(ii) Property used for student housing;

(iii) Property used for parsonages;

(iv) Property that was owned and occupied or used to provide residential rental housing that qualified for exemption under paragraph A or B prior to September 1, 1993; or

(v) Property exempt from taxation under other provisions of law; and

(7) In addition to the requirements of subparagraphs (1) to (4), an exemption is not allowed under paragraph A or B for real or personal property owned and occupied or used to provide residential rental housing that is transferred or placed in service on or after September 1, 1993, unless the property is owned by a nonprofit housing corporation and the operation of the residential rental housing is not an unrelated trade or business to the nonprofit housing corporation.

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

(a) "Nonprofit housing corporation" means a nonprofit corporation organized in the State that is exempt from tax under Section 501(c)(3) of the Code and has among its corporate purposes the provision of services to people of low income or the construction, rehabilitation, ownership or operation of housing.

(b) "Residential rental housing" means one or more buildings, together with any facilities functionally related and subordinate to the building or buildings, containing one or more similarly constructed residential units offered for rental to the general public for use on other than a transient basis, each of which contains separate and complete facilities for living, sleeping, eating, cooking and sanitation.

(c) "Unrelated trade or business" means any trade or business whose conduct is not substantially related to the exercise or performance by a nonprofit organization of the purposes constituting the basis for exemption under Section 501(c)(3) of the Code.

D. [Repealed]

E. The real estate and personal property owned, occupied and used for their own purposes by posts of the American Legion, Veterans of Foreign Wars, American Veterans, Sons of Union Veterans of the Civil War, Disabled American Veterans and Navy Clubs of the U.S.A. that are used solely by those organizations for meetings, ceremonials or instruction or to further the charitable activities of the organization, including all facilities that are appurtenant to that property and used in connection with those purposes, are exempt from taxation. If an organization is not the sole occupant of the property, the exemption granted under this paragraph applies only to that portion of the property owned, occupied and used by the organization for its purposes.

Further conditions to the right of exemption are that:

(1) A director, trustee, officer or employee of any organization claiming exemption may not receive directly or indirectly any pecuniary profit from the operation of that organization, except as reasonable compensation for services in effecting its purposes or as a proper beneficiary of its purposes;

(2) All profits derived from the operation of the organization and the proceeds from the sale of its property must be devoted exclusively to the purposes for which it is organized; and

(3) The institution, organization or corporation claiming exemption under this paragraph must file with the assessors upon their request a report for its preceding fiscal year in such detail as the assessors may reasonably require.

F. The real estate and personal property owned and occupied or used solely for their own purposes by chambers of commerce or boards of trade in this State are exempt from taxation.

Further conditions to the right of exemption are that:

(1) A director, trustee, officer or employee of any organization claiming exemption may not receive directly or indirectly any pecuniary profit from the operation of that organization, except as reasonable compensation for services in effecting its purposes or as a proper beneficiary of its purposes;

(2) All profits derived from the operation of the organization and the proceeds from the sale of its property must be devoted exclusively to the purposes for which it is organized; and

(3) The institution, organization or corporation claiming exemption under this paragraph must file with the assessors upon their request a report for its preceding fiscal year in such detail as the assessors may reasonably require.

G. Houses of religious worship, including vestries, and the pews and furniture within them; tombs and rights of burial; and property owned and used by a religious society as a parsonage up to the value of $20,000, and personal property not exceeding $6,000 in value are exempt from taxation, except that any portion of a parsonage that is rented is subject to taxation. For purposes of this paragraph, "parsonage" means the principal residence provided by a religious society for its cleric whether or not the principal residence is located within the same municipality as the house of religious worship where the cleric regularly conducts religious services.

H. Real estate and personal property owned by or held in trust for fraternal organizations, except college fraternities, operating under the lodge system that are used solely by those fraternal organizations for meetings, ceremonials or religious or moral instruction, including all facilities that are appurtenant to that property and used in connection with those purposes are exempt from taxation. If a building is used in part for those purposes and in part for any other purpose, only the part used for those purposes is exempt.

Further conditions to the right of exemption under this paragraph are that:

(1) A director, trustee, officer or employee of any organization claiming exemption may not receive directly or indirectly any pecuniary profit from the operation of that organization, except as reasonable compensation for services in effecting its purposes or as a proper beneficiary of its purposes;

(2) All profits derived from the operation of the organization and the proceeds from the sale of its property must be devoted exclusively to the purposes for which it is organized; and

(3) The institution, organization or corporation claiming exemption under this paragraph must file with the assessors upon their request a report for its preceding fiscal year in such detail as the assessors may reasonably require.

I. [Repealed]

J. The real and personal property owned by one or more of the organizations in paragraphs A and B and E to H and occupied or used solely for their own purposes by one or more other such organizations are exempt from taxation.

K. Except as otherwise provided in this subsection, the real and personal property leased by and occupied or used solely for its own purposes by an incorporated benevolent and charitable organization that is exempt from taxation under section 501 of the Code and the primary purpose of which is the operation of a hospital licensed by the Department of Health and Human Services, a health maintenance organization or a blood bank are exempt from taxation. For property tax years beginning on or after April 1, 2012, the exemption provided by this paragraph does not include real property.

L. [Repealed]

An organization or institution that desires exemption under this section must file a written application accompanied by written proof of entitlement for each parcel on or before the first day of April in the year in which the exemption is first requested with the assessors of the municipality in which the property would otherwise be taxable. If granted, the exemption continues in effect until the assessors determine that the organization or institution is no longer qualified. Proof of entitlement must indicate the specific basis upon which exemption is claimed.

§653. Estates of veterans

The following estates of veterans are exempt from taxation:

1. Estates of veterans and servicemen.

A. [Repealed]

B. [Repealed]

C. The estates up to the just value of $6,000, having a taxable situs in the place of residence, of veterans who served in the Armed Forces of the United States:

(1) During any federally recognized war period, including the Korean Campaign, the Vietnam War, the Persian Gulf War, the periods from August 24, 1982 to July 31, 1984 and December 20, 1989 to January 31, 1990, Operation Enduring Freedom, Operation Iraqi Freedom and Operation New Dawn, or who were awarded the Armed Forces Expeditionary Medal, when they have reached the age of 62 years or when they are receiving any form of pension or compensation from the United States Government for total disability, service-connected or nonservice-connected, as a veteran. A veteran of the Vietnam War must have served on active duty after February 27, 1961 and before May 8, 1975. "Persian Gulf War" means service on active duty on or after August 2, 1990 and before or on the date that the United States Government recognizes as the end of that war period; or

(2) Who are disabled by injury or disease incurred or aggravated during active military service in the line of duty and are receiving any form of pension or compensation from the United States Government for total, service-connected disability.

The exemptions provided in this paragraph apply to the property of that veteran, including property held in joint tenancy with that veteran's spouse or held in a revocable living trust for the benefit of that veteran.

C-1. The estates up to the just value of $7,000, having a taxable situs in the place of residence of veterans who served in the Armed Forces of the United States during any federally recognized war period during or before World War I and who would be eligible for an exemption under paragraph C.
The exemption provided in this paragraph is in lieu of any exemption under paragraph C to which the veteran may be eligible and applies to the property of that veteran, including property held in joint tenancy with that veteran's spouse or held in a revocable living trust for the benefit of that veteran.

D. The estates up to the just value of $6,000, having a taxable situs in the place of residence, of the unremarried widow or widower or minor child of any veteran who would be entitled to the exemption if living, or who is in receipt of a pension or compensation from the Federal Government as the widow or widower or minor child of a veteran.

The estates up to the just value of $6,000, having a taxable situs in the place of residence, of the parent of a deceased veteran who is 62 years of age or older and is an unremarried widow or widower who is in receipt of a pension or compensation from the Federal Government based upon the service-connected death of that parent's child.

The exemptions provided in this paragraph apply to the property of an unremarried widow or widower or minor child or parent of a deceased veteran, including property held in a revocable living trust for the benefit of that unremarried widow or widower or minor child or parent of a deceased veteran.

D-1. The estates up to the just value of $50,000, having a taxable situs in the place of residence, for specially adapted housing units, of veterans who served in the Armed Forces of the United States during any federally recognized war period, including the Korean Campaign, the Vietnam War, the Persian Gulf War, the periods from August 24, 1982 to July 31, 1984 and December 20, 1989 to January 31, 1990, Operation Enduring Freedom, Operation Iraqi Freedom and Operation New Dawn, or who were awarded the Armed Forces Expeditionary Medal, and who are paraplegic veterans within the meaning of 38 United States Code, Chapter 21, Section 2101, and who received a grant from the United States Government for any such housing, or of the unremarried widows or widowers of those veterans. A veteran of the Vietnam War must have served on active duty after February 27, 1961 and before May 8, 1975. "Persian Gulf War" means service on active duty on or after August 2, 1990 and before or on the date that the United States Government recognizes as the end of that war period. The exemption provided in this paragraph applies to the property of the veteran including property held in joint tenancy with a spouse or held in a revocable living trust for the benefit of that veteran.

D-2. The estates up to the just value of $7,000, having a taxable situs in the place of residence of the unremarried widow or widower or minor child of any veteran who would be entitled to an exemption under paragraph C-1, if living, or who is in receipt of a pension or compensation from the Federal Government as the widow or widower or minor child of a veteran, and who is the unremarried widow or widower or minor child of a veteran who served during any federally recognized war period during or before World War I.

The exemption provided in this paragraph is in lieu of any exemption under paragraph D to which the person may be eligible and applies to the property of that person, including property held in a revocable living trust for the benefit of that person.

D-3. The estates up to the just value of $7,000, having a taxable situs in the place of residence of the parent of a deceased veteran who is 62 years of age or older and is an unremarried widow or widower who is in receipt of a pension or compensation from the Federal Government based upon the service-connected death of that parent's child and who is receiving the pension or compensation from the Federal Government based upon the service-connected death of the parent's child during any federally recognized war period during or before World War I.

The exemption provided in this paragraph is in lieu of any exemption under paragraph D to which the person may be eligible and applies to the property of that person, including property held in a revocable living trust for the benefit of that person.

E. The word "veteran" as used in this subsection means any person, male or female, who was in active service in the Armed Forces of the United States and who, if discharged, retired or separated from the Armed Forces, was discharged, retired or separated under other than dishonorable conditions.

F. An exemption may not be granted to any person under this subsection unless the person is a resident of this State.

G. Any person who desires to secure exemption under this subsection shall make written application and file written proof of entitlement on or before the first day of April, in the year in which the exemption is first requested, with the assessors of the place in which the person resides. Notwithstanding Title 1, chapter 13, an application and proof of entitlement filed pursuant to this paragraph is confidential and may not be made available for public inspection. The application and proof of entitlement must be made available to the State Tax Assessor upon request. The assessors shall thereafter grant the exemption to any person who is so qualified and remains a resident of that place or until they are notified of reason or desire for discontinuance.

H. A municipality granting exemptions under this subsection is entitled to reimbursement from the State of 90% of that portion of the property tax revenue lost as a result of the exemptions that exceeds 3% of the total municipal property tax levy, upon submission of proof in a form satisfactory to the State Tax Assessor. Exemptions granted under this subsection that are reimbursable pursuant to section 661 are not eligible for reimbursement under this paragraph.

I. No property conveyed to any person for the purpose of obtaining exemption from taxation under this subsection may be so exempt, except property conveyed between husband and wife, and the obtaining of exemption by means of fraudulent conveyance shall be punished by a fine of not less than $100 and not more than 2 times the amount of the taxes evaded by the fraudulent conveyance, whichever amount is greater.

J. No person may be entitled to property tax exemption under more than one paragraph of this subsection.

K. In determining the local assessed value of the exemption, the assessor shall multiply the amount of the exemption by the ratio of current just value upon which the assessment is based as furnished in the assessor's annual return to the State Tax Assessor.

2. Cooperative housing corporations. A cooperative housing corporation is entitled to an exemption to be applied against the valuation of property of the corporation that is occupied by qualifying shareholders. An application for exemption must include a list of all qualifying shareholders and any information required by the municipality to verify eligibility of qualifying shareholders and the applicable exemption amount. The application must be updated annually to reflect changes in eligibility. The exemption is equal to the total amount calculated under subsection 1 as if the qualifying shareholders were owners of the property. A cooperative housing corporation that receives an exemption pursuant to this section shall apportion the property tax reduction resulting from the exemption among the qualifying shareholders according to the proportion of the total exemption that each qualifying shareholder would be entitled to if the qualifying shareholder were the owner of property. Any supplemental assessment resulting from disqualification for exemption must be applied in the same manner against the qualifying shareholders for whom the disqualification applies. For the purposes of this subsection, the following terms have the following meanings.

A. "Cooperative housing corporation" means an entity organized for the purpose of owning residential real estate in which residents own shares that entitle them to inhabit a designated space within a residential dwelling.

B. "Qualifying shareholder" means a person who is a shareholder in a cooperative housing corporation who would qualify for an exemption under subsection 1 if the person were the owner of the property.

§654. Estates of certain persons (Repealed)

§654-A. Estates of legally blind persons

1. Exemption. The residential real estate up to the just value of $4,000 of inhabitants of the State who are legally blind as determined by a properly licensed Doctor of Medicine, Doctor of Osteopathy or Doctor of Optometry is exempt from taxation.

2. Revocable living trust. The exemption provided by subsection 1 also applies to residential real estate held in a revocable living trust for the benefit of and occupied as a permanent residence by a person who is legally blind.

3. Cooperative housing. A cooperative housing corporation is also entitled to an exemption under subsection 1 to be applied against the valuation of property of the corporation that is occupied by qualifying shareholders. An application for exemption must include a list of all qualifying shareholders and any information required by the municipality to verify eligibility of qualifying shareholders and the applicable exemption amount. The application must be updated annually to reflect changes in eligibility. The exemption is equal to the total amount calculated under subsection 1 as if the qualifying shareholders were owners of the property. A cooperative housing corporation that receives an exemption pursuant to this subsection shall apportion the property tax reduction resulting from the exemption among the qualifying shareholders according to the proportion of the total exemption that each qualifying shareholder would be entitled to if the qualifying shareholder were the owner of the property. Any supplemental assessment resulting from disqualification for exemption must be applied in the same manner against the qualifying shareholders for whom the disqualification applies. For the purposes of this subsection, the following terms have the following meanings.

A. "Cooperative housing corporation" means an entity organized for the purpose of owning residential real estate in which residents own shares that entitle them to inhabit a designated space within a residential dwelling.

B. "Qualifying shareholder" means a person who is a shareholder in a cooperative housing corporation who would qualify for an exemption under subsection 1 if the person were the owner of the property.

4. Multiple properties. If a person entitled to the exemption under this section has property taxable in more than one place in this State, the proportion of the total exemption must be made in each place as the value of the property taxable in that place bears to the value of the whole of the property of that person taxable in the State.

5. Fraudulent transfer. Property conveyed to a person for the purpose of obtaining exemption from taxation under this section is not exempt. A person who makes a conveyance for the purpose of obtaining the exemption commits fraud and is subject to a fine of not less than $100 and not more than 2 times the amount of the taxes evaded by such fraudulent conveyance, whichever amount is greater.

§655. Personal property

The following personal property is exempt from taxation:

1. Personal property.

A. Industrial inventories including raw materials, goods in process and finished work on hand;

B. Stock-in-trade, including inventory held for resale by a distributor, wholesaler, retail merchant or service establishment. "Stock-in-trade" also includes an unoccupied manufactured home, as defined in Title 10, section 9002, subsection 7, paragraph A or C, that was not previously occupied at its present location, that is not connected to water or sewer and that is owned and offered for sale by a person licensed for the retail sale of manufactured homes pursuant to Title 10, chapter 951, subchapter 2;

C. Agricultural produce and forest products, including logs, pulpwood, woodchips and lumber;

D. Livestock, including farm animals, neat, cattle and fowl;

E. The household furniture, including television sets and musical instruments of each person in any one household; and his wearing apparel, farming utensils and mechanical tools necessary for his business;

F. All radium used in the practice of medicine;

G. Property in the possession of a common carrier while in interstate transportation or held en route awaiting further transportation to the destination named in a through bill of lading;

H. Vessels built, in the process of construction, or undergoing repairs, which are within the State on the first day of each April and are owned by persons residing out of the State. "Vessels" as used in this paragraph shall not be construed to include pleasure vessels and boats;

I. Pleasure vessels and boats in the State on the first day of each April whose owners reside out of the State, and which are left in this State by the owners for the purpose of repair or storage, except those regularly kept in the State during the preceding year;

J. Personal property in another state or country and legally taxed there;

K. Vehicles exempt from excise tax in accordance with section 1483;

L. Registered snowmobiles as defined in Title 12, section 13001, subsection 25;

M. All farm machinery used exclusively in production of hay and field crops to the aggregate actual market value not exceeding $10,000, excluding motor vehicles. Motor vehicle shall mean any self-propelled vehicle;

N. Water pollution control facilities and air pollution control facilities as defined in section 656, subsection 1, paragraph E;

O. All beehives;

P. All items of individually owned personal property with a just value of less than $1,000, except:

(1) Items used for industrial or commercial purposes; and

(2) Vehicles as defined in section 1481 that are not subject to an excise tax;

Q. [Repealed]

R. [Repealed]

S. Mining property as provided in section 2854; and

T. Trail-grooming equipment registered under Title 12, section 13113.

§656. Real estate

The following real estate is exempt from taxation:

1. Real estate.

A. The aqueducts, pipes and conduits of any corporation supplying a municipality with water are exempt from taxation, when such municipality takes water therefrom for the extinguishment of fires without charge.

B. Mines of gold, silver or baser metals, when opened and in the process of development, are exempt from taxation for 10 years from the time of such opening. This exemption does not apply to the taxation of the lands or the surface improvements of such mines;

C. The landing area of a privately owned airport, the use of which is approved by the Department of Transportation, is exempt from taxation when the owner grants free use of that landing area to the public.

D. [Repealed]

E. Pollution control facilities.

(1) Water pollution control facilities having a capacity to handle at least 4,000 gallons of waste per day, certified as such by the Commissioner of Environmental Protection, and all parts and accessories thereof.

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

(a) "Facility" means any disposal system or any treatment works, appliance, equipment, machinery, installation or structures installed, acquired or placed in operation primarily for the purpose of reducing, controlling or eliminating water pollution caused by industrial, commercial or domestic waste.

(b) "Disposal system" means any system used primarily for disposing of or isolating industrial, commercial or domestic waste and includes thickeners, incinerators, pipelines or conduits, pumping stations, force mains and all other constructions, devices, appurtenances and facilities used for collecting or conducting water borne industrial, commercial or domestic waste to a point of disposal, treatment or isolation, except that which is necessary to the manufacture of products.

(c) "Industrial waste" means any liquid, gaseous or solid waste substance capable of polluting the waters of the State and resulting from any process, or the development of any process, of industry or manufacture.

(d) "Treatment works" means any plant, pumping station, reservoir or other works used primarily for the purpose of treating, stabilizing, isolating or holding industrial, commercial or domestic waste.

(e) "Commercial waste" means any liquid, gaseous or solid waste substance capable of polluting the waters of the State and resulting from any activity which is primarily commercial in nature.

(f) "Domestic waste" means any liquid, gaseous or solid waste substance capable of polluting the waters of the State and resulting from any activity which is primarily domestic in nature.

(2) Air pollution control facilities, certified as such by the Commissioner of Environmental Protection, and all parts and accessories thereof.

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

(a) "Facility" means any appliance, equipment, machinery, installation or structures installed, acquired or placed in operation primarily for the purpose of reducing, controlling, eliminating or disposing of industrial air pollutants.

Facilities such as air conditioners, dust collectors, fans and similar facilities designed, constructed or installed solely for the benefit of the person for whom installed or the personnel of that person may not be deemed air pollution control facilities.

(3) The Commissioner of Environmental Protection shall issue a determination regarding certification on or before April 1st for any air or water pollution control facility for which the commissioner has received a complete application on or before December 15th of the preceding year.

F. [Repealed]

G. [Repealed]

H. [Repealed]

I. Mining property as provided in section 2854.

J. An animal waste storage facility. For the purposes of this section, "animal waste storage facility" means a structure or pit constructed and used solely for storing manure, animal bedding waste or other wastes generated by animal production. For a facility to be eligible for this exemption, the Commissioner of Agriculture, Conservation and Forestry must certify that a nutrient management plan has been prepared in accordance with Title 7, section 4204 for the farm utilizing that animal waste storage facility.

§657. Purpose [Repealed]

§658. Application [Repealed]

§659. Recovery by a municipality [Repealed]

§660. Legislative review of exemptions [Repealed]

§661. Reimbursement for exemptions

As required by the Constitution of Maine, Article IV, Part 3, Section 23, the Treasurer of State shall reimburse each municipality 50% of the property tax revenue loss suffered by that municipality during the previous calendar year as a result of statutory property tax exemptions or credits enacted after April 1, 1978. The property tax revenue loss shall be determined pursuant to the following procedure.

1. Filing claim. If a municipality suffers property tax revenue loss as a result of exemptions and credits enacted after April 1, 1978, it may file a claim for reimbursement by November 1st of the following year with the State Tax Assessor on the form prescribed by the State Tax Assessor in section 383. The form shall contain the following information:

A. The total amount of property taxes levied by the municipality in the previous calendar year;

B. The valuation of the property taxed by the municipality which resulted in paragraph A; and

C. The valuation of the property which is exempt as a result of exemptions and credits enacted after April 1, 1978.

2. Valuation. The State Tax Assessor shall add the valuation as determined in subsection 1, paragraph B, to the valuation as determined in subsection 1, paragraph C, and divide the sum into the figure determined in subsection 1, paragraph A.

3. Amount of tax revenue loss. The State Tax Assessor shall apply the rate in subsection 2 to the valuation of the exempt property to determine the amount of tax revenue loss.

4. Payment. The Treasurer of State shall pay to the municipality 50% of the property tax revenue loss by December 15th of the year following the year in which property tax revenue was lost by the municipality.

5. Unorganized territory. The unorganized territory shall be entitled to reimbursement under this section in the same manner provided by this section for municipalities. The amount of reimbursement due shall be paid into the Unorganized Territory Education and Services Fund established in chapter 115.

SUBCHAPTER 4-B
MAINE RESIDENT HOMESTEAD PROPERTY TAX EXEMPTION

§681. Definitions

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

1. Applicant. "Applicant" means an individual who has applied for a homestead property tax exemption pursuant to this subchapter.

1-A. Cooperative housing corporation. "Cooperative housing corporation" means an entity organized for the purpose of owning residential real estate in which residents own shares that entitle the shareholder to inhabit a certain space within a residential dwelling.

1-B. Cooperative property. "Cooperative property" means the real property, including mobile and manufactured homes, owned by a cooperative housing corporation for the primary purpose of residential use.

2. Homestead. "Homestead" means any residential property, including cooperative property, in this State assessed as real property owned by an applicant or held in a revocable living trust for the benefit of the applicant and occupied by the applicant as the applicant's permanent residence or owned by a cooperative housing corporation and occupied as a permanent residence by a resident who is a qualifying shareholder. A "homestead" does not include any real property used solely for commercial purposes.

3. Permanent residence. "Permanent residence" means that place where an individual has a true, fixed and permanent home and principal establishment to which the individual, whenever absent, has the intention of returning. An individual may have only one permanent residence at a time and, once a permanent residence is established, that residence is presumed to continue until circumstances indicate otherwise.

4. Permanent resident. "Permanent resident" means an individual who has established a permanent residence. For purposes of this subchapter, a person on active duty serving in the Armed Forces of the United States who is permanently stationed at a military or naval post, station or base in this State is deemed to be a permanent resident. A member of the Armed Forces of the United States stationed in the State who applies for an exemption shall present certification from the commander of the member's post, station or base or from the commander's designated agent that the member is permanently stationed at that post, station or base. For purposes of this subsection, "a person on active duty serving in the Armed Forces of the United States" does not include a member of the National Guard or the Reserves of the United States Armed Forces.

5. Qualifying shareholder. "Qualifying shareholder" means a person who is a:

A. Shareholder in a cooperative housing corporation that owns a homestead in this State;

B. Shareholder for the preceding 12 months in the cooperative housing corporation specified in paragraph A; and

C. Permanent resident of this State.

§682. Permanent residency; factual determination by assessor

The assessor shall determine whether an applicant has a permanent residence in this State. In making a determination as to the intent of an individual to establish a permanent residence in this State, the assessor may consider the following:

1. Formal declarations. Formal declarations of the applicant or any other individual;

2. Informal statements. Informal statements of the applicant or any other individual;

3. Place of employment. The place of employment of the applicant;

4. Previous permanent residence. The previous permanent residence of the applicant and the date the previous permanent residency was terminated;

5. Voter registration. The place where the applicant is registered to vote;

6. Driver's license. The place of issuance to the applicant of a driver's license and the address listed on the license;

7. Certificate of motor vehicle registration. The place of issuance of a certificate of registration of a motor vehicle owned by the applicant and the address listed on the certificate;

8. Income tax returns. The residence claimed on any income tax return filed by the applicant;

9. Motor vehicle excise tax. The place of payment of a motor vehicle excise tax by the applicant; or

10. Military residence. A declaration by the applicant of permanent residence registered with any branch of the Armed Forces of the United States.

§683. Exemption of homesteads

1. Exemption amount. Except for assessments for special benefits, the just value of $10,000 of the homestead of a permanent resident of this State who has owned a homestead in this State for the preceding 12 months is exempt from taxation. In determining the local assessed value of the exemption, the assessor shall multiply the amount of the exemption by the ratio of current just value upon which the assessment is based as furnished in the assessor's annual return pursuant to section 383. If the title to the homestead is held by the applicant jointly or in common with others, the exemption may not exceed $10,000 of the just value of the homestead, but may be apportioned among the owners who reside on the property to the extent of their respective interests. A municipality responsible for administering the homestead exemption has no obligation to create separate accounts for each partial interest in a homestead owned jointly or in common.

A. [Repealed]

B. [Repealed]

C. [Repealed]

1-A. Local assessed value of the exemption. [Repealed]

1-B. Additional exemption. A homestead eligible for an exemption under subsection 1 is eligible for an additional exemption of $5,000 of the just value of the homestead for property tax years beginning on April 1, 2016 and of $10,000 of the just value of the homestead for property tax years beginning on or after April 1, 2017.

2. Exemption in addition to other exemptions. The exemption provided in this subchapter is in addition to the exemptions provided in sections 653 and 654-A.

3. Effect on state valuation. For property tax years beginning before April 1, 2017, 50% of the just value of all the homestead exemptions under this subchapter must be included in the annual determination of state valuation under sections 208 and 305. For property tax years beginning on or after April 1, 2017, 62.5% of the just value of all the homestead exemptions under this subchapter must be included in the annual determination of state valuation under sections 208 and 305.

4. Property tax rate. For property tax years beginning before April 1, 2017, 50% of the just value of all the homestead exemptions under this subchapter must be included in the total municipal valuation used to determine the municipal tax rate. For property tax years beginning on or after April 1, 2017, 62.5% of the just value of all the homestead exemptions under this subchapter must be included in the total municipal valuation used to determine the municipal tax rate. The municipal tax rate as finally determined may be applied to only the taxable portion of each homestead qualified for that tax year.

5. Determination of exemption for cooperative housing corporation. A cooperative housing corporation may apply for an exemption under this subchapter to be applied against the valuation of property of the corporation that is occupied by qualifying shareholders. The application must include a list of all qualifying shareholders and must be updated annually to reflect changes in the ownership and residency of qualifying shareholders. The exemption is equal to the amounts specified in subsections 1 and 1-B multiplied by the number of units in the cooperative property occupied by qualifying shareholders. A cooperative housing corporation that receives an exemption pursuant to this section shall apportion the property tax reduction resulting from the exemption among the qualifying shareholders on a per unit basis. Any supplemental assessment resulting from disqualification for exemption must be applied in the same manner against the qualifying shareholders for whom the disqualification applies.

§684. Forms; application

1. Generally. The bureau shall furnish to the assessor of each municipality a sufficient number of printed forms to be filed by applicants for an exemption under this subchapter and shall determine the content of the forms. A municipality shall provide to its inhabitants reasonable notice of the availability of application forms. An individual claiming an exemption under this subchapter for the first time shall file the application form with the assessor or the assessor's representative. The application must be filed on or before April 1st of the year on which the taxes are based.

2. False filing. An individual who knowingly gives false information for the purpose of claiming a homestead exemption under this subchapter commits a Class E crime. Except for a person on active duty serving in the Armed Forces of the United States who is permanently stationed at a military or naval post, station or base in the State, an individual who claims to be a permanent resident of this State under this subchapter who also claims to be a permanent resident of another state for the tax year for which an application for a homestead exemption is made commits a Class E crime.

3. Continuation of eligibility. The assessor shall evaluate annually the ongoing eligibility of property for which a homestead exemption has been approved under this subchapter. The evaluation must be based on the status of the property on April 1st of the year on which the homestead exemption is based. The evaluation must include, but is not limited to, a review of whether the ownership of the property has changed in any manner that would disqualify the property for an exemption under this subchapter or whether the owner has ceased to use the property as a homestead. Unless the assessor determines that the property is no longer entitled to an exemption under this subchapter, the owner is entitled to receive the exemption without having to reapply. If the assessor determines that the property is

no longer entitled to an exemption under this subchapter, the assessor shall notify the owner as provided in section 686 that the property is no longer entitled to an exemption under this subchapter.

4. Owner notification. An owner of property receiving an exemption under this subchapter shall notify the assessor promptly when the ownership or use of the property changes so as to change the qualification of the property for an exemption under this subchapter.

§685. Duty of assessor; reimbursement by State

1. Examination and identification. The assessor shall examine each application for homestead exemption that is timely filed with the assessor, determine whether the property is entitled to an exemption under this subchapter and identify the exemption in the municipal valuation.

2. Entitlement to reimbursement by the State; calculation. A municipality that has approved homestead exemptions under this subchapter may recover from the State:

A. For property tax years beginning before April 1, 2017, 50% of the taxes lost by reason of the exemptions under section 683, subsections 1 and 1-B; and

B. For property tax years beginning on or after April 1, 2017, 62.5% of the taxes lost by reason of the exemptions under section 683, subsections 1 and 1-B.

The municipality must provide proof in a form satisfactory to the bureau. The bureau shall reimburse the Unorganized Territory Education and Services Fund in the same manner for taxes lost by reason of the exemptions.

3. Information provided to State; deviations in assessment ratio. The assessor shall provide by June 1st, annually, any relevant information requested by the bureau for the purpose of determining the actual assessment ratio for developed parcels in use in a municipality. The certified ratio declared by the municipality must be considered accurate by the bureau if it is within 10% of the assessment ratio last determined by the bureau in its annual report of ratio studies involving developed parcels of property. The assessor may submit additional information on the relevant assessment ratio to the bureau in order to prove that a different ratio should apply. The bureau may accept a certified ratio that deviates more than 10% from the last reported developed parcel ratio only if the information submitted by the municipality clearly indicates that the certified ratio is more accurate than the assessment ratio contained in the bureau's most recent annual report.

4. Estimated and final payments by the State. Reimbursement to municipalities must be made in the following manner.

A. The bureau shall estimate the amount of reimbursement required under this section for each municipality and certify 75% of the estimated amount to the Treasurer of State by August 1st, annually. The Treasurer of State shall pay by August 15th, annually, the amount certified to each municipality entitled to reimbursement.

B. A municipality claiming reimbursement under this section shall submit a claim to the bureau by November 1st of the year in which the exemption applies or within 30 days of commitment of taxes, whichever occurs later. The bureau shall review the claims and determine the total amount to be paid. The bureau shall certify and the Treasurer of State shall pay by July 15th of the year following the year in which the exemption applies the difference between the estimated payment issued and the amount that the bureau finally determines for the year in which the exemption applies. If the total amount of reimbursement to which a municipality is entitled is less than the amount received under paragraph A, the municipality shall repay the excess to the State by December 30th of that year, or the amount may be offset against the amount of state-municipal revenue sharing due the municipality under Title 30-A, section 5681.

5. Reimbursement for state mandated costs. The bureau shall reimburse municipalities and the Unorganized Territory Education and Services Fund for state mandated costs in the manner provided in Title 30-A, section 5685.

§686. Denial of homestead exemption; appeals

If the assessor determines that a property is not entitled to a homestead exemption under this subchapter, the assessor shall promptly provide a notice of denial, including the reasons for the denial, to the applicant by either personal delivery or regular mail. An applicant may appeal a denial of an exemption under this subchapter using the procedures provided in subchapter VIII. If the assessor determines that a property receiving an exemption under this subchapter any year within the 10 preceding years was not eligible for the exemption, the assessor shall immediately notify the bureau in writing.

§687. Supplemental assessment

If the assessor notifies the bureau under section 686, or the bureau otherwise determines that a property improperly received an exemption under this subchapter for any of the 10 years immediately preceding the determination, the assessor shall supplementally assess the property for which the exemption was improperly received, plus costs and interest. The supplemental assessment must be assessed and collected pursuant to section 713-B. The bureau shall deduct the value of the portion of the supplemental assessment that pertains to any funds previously reimbursed to the municipality under section 685 from the next reimbursement issued to the municipality.

§688. Effect of determination of residence

A determination of permanent residence made for purposes of this subchapter is not binding on the bureau with respect to the administration of Part 8 and has no effect on determination of domicile for purposes of the Maine individual income tax.

§689. Audits; determinations of bureau

The bureau has the authority to audit the records of a municipality to ensure compliance with this subchapter. The bureau may independently review the records of a municipality to determine if homestead exemptions have been properly approved. If the bureau determines that a homestead exemption was improperly approved, the bureau shall ensure, either by setoff against other payments due the municipality or otherwise, that the municipality is not reimbursed for the exemption. A municipality that is aggrieved by a determination of the bureau under this subchapter may appeal pursuant to section 151.

SUBCHAPTER 4-C
BUSINESS EQUIPMENT TAX EXEMPTION

§691. Definitions; exemption limitations

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

A. "Eligible business equipment" means qualified property that, in the absence of this subchapter, would first be subject to assessment under this Part on or after April 1, 2008. "Eligible business equipment" includes, without limitation, repair parts, replacement parts, replacement equipment, additions, accessions and accessories to other qualified business property that first became subject to assessment under this Part before April 1, 2008 if the part, addition, equipment, accession or accessory would, in the absence of this subchapter, first be subject to assessment under this Part on or after April 1, 2008. "Eligible business equipment" also includes inventory parts.

"Eligible business equipment" does not include:

(1) Office furniture, including, without limitation, tables, chairs, desks, bookcases, filing cabinets and modular office partitions;

(2) Lamps and lighting fixtures used primarily for the purpose of providing general purpose office or worker lighting;

(3) Property owned or used by an excluded person;

(4) Telecommunications personal property subject to the tax imposed by section 457;

(5) Gambling machines or devices, including any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity as that term is defined in Title 8, section 1001, subsection 15, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. "Gambling machines or devices" includes, without limitation:

(a) Associated equipment as defined in Title 8, section 1001, subsection 2;

(b) Computer equipment used directly and primarily in the operation of a slot machine as defined in Title 8, section 1001, subsection 39;

(c) An electronic video machine as defined in Title 17, section 1831, subsection 4;

(d) Equipment used in the playing phases of lottery schemes; and

(e) Repair and replacement parts of a gambling machine or device;

(6) Property located at a retail sales facility and used primarily in a retail sales activity unless the property is owned by a business that operates a retail sales facility in the State exceeding 100,000 square feet of interior customer selling space that is used primarily for retail sales and whose Maine-based operations derive less than 30% of their total annual revenue on a calendar year basis from sales that are made at a retail sales facility located in the State. For purposes of this subparagraph, the following terms have the following meanings:

(a) "Primarily" means more than 50% of the time;

(b) "Retail sales activity" means an activity associated with the selection and purchase of goods or services or the rental of tangible personal property. "Retail sales activity" does not include production as defined in section 1752, subsection 9-B; and

(c) "Retail sales facility" means a structure used to serve customers who are physically present at the facility for the purpose of selecting and purchasing goods or services at retail or for renting tangible personal property. "Retail sales facility" does not include a separate structure that is used as a warehouse or call center facility;

(7) Property that is not entitled to an exemption by reason of the additional limitations imposed by subsection 2; or

(8) Personal property that would otherwise be entitled to exemption under this subchapter used primarily to support a telecommunications antenna used by a telecommunications business subject to the tax imposed by section 457.

B. "Excluded person" means:

(1) A public utility as defined in Title 35-A, section 102, subsection 13;

(2) A person that provides radio paging service as defined in Title 35-A, section 102, subsection 15;

(3) A person that provides mobile telecommunications services as defined in Title 35-A, section 102, subsection 9-A;

(4) A cable television company as defined in Title 30-A, section 2001, subsection 2;

(5) A person that provides satellite-based direct television broadcast services; or

(6) A person that provides multichannel, multipoint television distribution services.

C. "Exempt business equipment" means eligible business equipment that is exempt under this subchapter.

D. "Inventory parts" includes repair parts, replacement parts, replacement equipment, additions, accessions and accessories on hand but not in service and stocks or inventories of repair parts, replacement parts, replacement equipment, additions, accessions and accessories on hand but not in service and other machinery and equipment on hand for future use but not in service if acquired after April 1, 2007, regardless of when placed in service.

E. "Municipal tax increment percentage" means, with respect to tax increment financing districts, the specified percentage of captured assessed value retained as provided in Title 30-A, section 5227 and allocated to the municipality for the municipality's own authorized project costs as provided in Title 30-A, section 5225. With respect to tax increment financing districts authorized pursuant to Title 30-A, former chapter 207, "municipal tax increment percentage" means the specified percentage of captured assessed value retained as provided in Title 30-A, former section 5254, subsection 1 and allocated to the municipality for the municipality's own authorized project costs as provided in Title 30-A, former section 5252, subsection 8.

F. "Qualified property" means tangible personal property that:

(1) Is used or held for use exclusively for a business purpose by the person in possession of it or, in the case of construction in progress or inventory parts, is intended to be used exclusively for a business purpose by the person who will possess that property; and

(2) Either:

(a) Was subject to an allowance for depreciation under the Code on April 1st of the property tax year for which a claim for exemption under this subchapter is filed or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated; or

(b) In the case of construction in progress or inventory parts, would be subject under the Code to an allowance for depreciation when placed in service or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated.

"Qualified property" also includes all property that is affixed or attached to a building or other real estate if the property is used primarily to further a particular trade or business activity taking place in that building or on that real estate.

"Qualified property" does not include a building or components or attachments to a building if they are used primarily to serve the building as a building, regardless of the particular trade or activity taking place in or on the building. "Qualified property" also does not include land improvements if they are used primarily to further the use of the land as land, regardless of the particular trade or business activity taking place in or on the land. In the case of construction in progress or inventory parts, the term "used" means "intended to be used." "Qualified property" also does not include any vehicle registered for on-road use on which a tax assessed pursuant to chapter 111 has been paid or any watercraft registered for use on state waters on which a tax assessed pursuant to chapter 112 has been paid.

G. "TIF exempt business equipment" means exempt business equipment that is located within a tax increment financing district.

2. Additional limitations. The exemptions provided pursuant to this subchapter are limited pursuant to this subsection.

A. Exemption for certain energy facilities under this subchapter is limited as follows.

(1) The exemption provided by this subchapter does not apply to a natural gas pipeline, including pumping or compression stations, storage depots and appurtenant facilities used in the transportation, delivery or sale of natural gas, but not including a pipeline that is less than a mile in length and is owned by a consumer of natural gas delivered through the pipeline.

(2) The exemption provided in this subchapter does not apply to property used to produce or transmit energy primarily for sale. Energy is primarily for sale if during the immediately preceding property tax year 2/3 or more of the useful energy is directly or indirectly sold and transmitted through the facilities of a transmission and distribution utility.

(3) For purposes of this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

(a) "Transmission and distribution utility" has the same meaning as in Title 35-A, section 102, subsection 20-B.

(b) "Useful energy" is energy in any form that does not include waste heat, efficiency losses, line losses or other energy dissipation.

B. Pollution control facilities that are entitled to exemption pursuant to section 656, subsection 1, paragraph E are not entitled to an exemption under this subchapter, except if:

(1) The property is entitled to an exemption under section 656, subsection 1, paragraph E but has not yet been certified for exemption under that paragraph;

(2) The property has been placed in service after the December 1st immediately preceding April 1st of the tax year for which the exemption is sought but prior to April 1st of the property tax year for which the exemption is sought; and

(3) The taxpayer has submitted the required application for certification to the Commissioner of Environmental Protection prior to April 1st.

The exemption under this subchapter continues for property that meets the requirements of subparagraphs (1), (2) and (3) only until the certification for exemption under section 656, subsection 1, paragraph E has been granted. If the State Tax Assessor or an assessor denies an exemption on the ground that the property in question is entitled to exemption under section 656, subsection 1, paragraph E and the taxpayer appeals the denial, the State Tax Assessor or assessor shall, at the taxpayer's request, allow the taxpayer up to one year to obtain a statement from the Commissioner of Environmental Protection that the property at issue is not exempt under section 656, subsection 1, paragraph E. If the taxpayer timely produces such a statement or otherwise demonstrates that the property is not exempt under section 656, subsection 1, paragraph E, the State Tax Assessor or an assessor shall allow the exemption under this subchapter, but only for the year in question.

§692. Exemption of business equipment

1. Eligible business equipment exempt. Eligible business equipment is exempt from all taxation under this Part, except chapters 111 and 112.

2. Just value of exemption. In determining the just value of exempt business equipment, the assessor shall determine the just value of the property in the same manner as prescribed in section 701-A as if the property were subject to taxation.

3. Effect on state valuation. The exemption has the following effect on state valuation.

A. Except as provided in paragraph B, the percentage of just value of exempt business equipment to be included in the annual determination of state valuation under sections 208 and 305 for tax year 2008 and subsequent tax years is as follows:

(1) The applicable percentage specified in section 694, subsection 2, paragraph A for exempt business equipment for which the municipality receives reimbursement under section 694, subsection 2, paragraph A;

(2) The applicable percentage calculated under section 694, subsection 2, paragraph B for exempt business equipment for which the municipality receives reimbursement under section 694, subsection 2, paragraph B; and

(3) Zero for exempt business equipment for which the municipality receives reimbursement under section 694, subsection 2, paragraph C.

B. In the case of a municipality that has one or more tax increment financing districts authorized pursuant to Title 30-A, chapter 206, subchapter 1 and effective under Title 30-A, section 5226, subsection 3 prior to April 1, 2008 or authorized pursuant to Title 30-A, former chapter 207 and effective under Title 30-A, former section 5253, subsection 1, paragraph F prior to April 1, 2008, for the 2008 tax year and subsequent tax years, the percentage of just value of TIF exempt business equipment located in such a tax increment financing district that must be included in the annual determination of state valuation pursuant to paragraph A, subparagraph (1) or (2) is decreased, but not below zero, by a percentage amount equal to the municipal tax increment percentage for the tax increment financing district in which the TIF exempt business equipment is located.

4. Property tax rate. The following percentages of the value of exempt business equipment must be included in the total municipal valuation used to determine the municipal tax rate for 2008 and subsequent tax years:

A. The applicable percentage specified in section 694, subsection 2, paragraph A for exempt business equipment for which the municipality is entitled to receive reimbursement under section 694, subsection 2, paragraph A;

B. The applicable percentage calculated under section 694, subsection 2, paragraph B for exempt business equipment for which the municipality receives reimbursement under section 694, subsection 2, paragraph B; and

C. The applicable percentage calculated under section 694, subsection 2, paragraph C for exempt business equipment for which the municipality receives reimbursement under section 694, subsection 2, paragraph C.

For purposes of this subsection, the value of exempt business equipment must be adjusted by the percentage of just value upon which the assessment of the total value of all assessed property in the municipality is based, as certified pursuant to section 383.

§693. Forms; reporting

1. Reporting. On or before May 1st of each year, a taxpayer claiming an exemption under this section shall file a report with the assessor of the taxing jurisdiction in which the property would otherwise be subject to taxation on April 1st of that year. The report must identify the property for which exemption is claimed that would otherwise be subject to taxation on April 1st of that year and must be made on a form prescribed by the State Tax Assessor or substitute form approved by the State Tax Assessor. The State Tax Assessor shall furnish copies of the form to each municipality in the State and the form must be made available to taxpayers prior to April 1st annually. The assessor of the taxing jurisdiction may require the taxpayer to sign the form and make oath to its truth. If the report is not filed by April 1st, the filing deadline is automatically extended to May 1st without the need for the taxpayer to request or the assessor to grant that extension. Upon written request, the assessor may at any time grant further extensions of time to file the report. If a taxpayer fails to file the report in a timely manner, including any extensions of time, the taxpayer may not obtain an exemption for that property under this subchapter for that tax year. The assessor of the taxing jurisdiction may require in writing that a taxpayer answer in writing all reasonable inquiries as to the property for which exemption is requested. A taxpayer has 30 days from receipt of such an inquiry to respond. Upon written request, a taxpayer is entitled to a 30-day extension to respond to the inquiry and the assessor may at any time grant additional extensions upon written request. The answer to any such inquiry is not binding on the assessor.

All notices and requests provided pursuant to this subsection must be made by personal delivery or certified mail and must conspicuously state the consequences of the taxpayer's failure to respond to the notice or request in a timely manner.

If an exemption has already been accepted and the State Tax Assessor subsequently determines that the property is not entitled to exemption, a supplemental assessment must be made within 3 years of the original assessment date with respect to the property in compliance with section 713, without regard to the limitations contained in that section regarding the justification necessary for a supplemental assessment.

2. False filing. An individual who knowingly gives false information for the purpose of claiming an exemption under this subchapter commits a Class E crime.

3. Continuation of eligibility. A person must annually file the report required by this section for all eligible business equipment, even though there may be no substantive change in the property from one year to the next.

4. Information confidential. [Repealed]

§694. Duty of assessor; reimbursement by State

1. Examination and identification. The assessor shall examine each report pursuant to section 693 that is timely filed, determine whether the property identified in the report is entitled to an exemption under this subchapter and determine the just value of the property.

2. Entitlement to reimbursement by State; calculation. Reimbursement is calculated as follows.

A. Notwithstanding section 661, upon proof in a form satisfactory to the bureau, unless a municipality chooses reimbursement under paragraph B, a municipality that has accepted a valid exemption under this subchapter is entitled to recover from the State the applicable percentage of property tax revenue lost by reason of the exemption. Except as otherwise provided in this subsection, the applicable percentage is:

(1) For property tax years beginning April 1, 2008, 100%;

(2) For property tax years beginning April 1, 2009, 90%;

(3) For property tax years beginning April 1, 2010, 80%;

(4) For property tax years beginning April 1, 2011, 70%;

(5) For property tax years beginning April 1, 2012, 60%; and

(6) For property tax years beginning April 1, 2013 and for subsequent tax years, 50%.

B. In the case of a municipality that chooses reimbursement under this paragraph in which the personal property factor exceeds 5%, the applicable percentage for exempt business equipment is 50% plus an amount equal to 1/2 of the personal property factor. For purposes of this paragraph, "personal property factor" means the percentage derived from a fraction, the numerator of which is the value of business personal property in the municipality, whether taxable or exempt, and the denominator of which is the value of all taxable property in the municipality plus the value of exempt business equipment. For purposes of this paragraph, the taxable value of exempt business equipment is the value that would have been assessed on that equipment if it were taxable.

C. In the case of a municipality that has one or more tax increment financing districts authorized pursuant to Title 30-A, chapter 206, subchapter 1 and effective under Title 30-A, section 5226, subsection 3 prior to April 1, 2008 or authorized pursuant to Title 30-A, former chapter 207 and effective under Title 30-A, former section 5253, subsection 1, paragraph F, prior to April 1, 2008, the applicable percentage with respect to TIF exempt business equipment is 50% plus a percentage amount equal to the percentage amount, if any, by which the municipal tax increment percentage for the tax increment financing district in which the TIF exempt business equipment is located exceeds 50%. This paragraph applies only when it will result in a greater percentage of reimbursement for the TIF exempt business equipment than would be provided under the greater of paragraph A or B.

3. Reimbursement to unorganized territory education and services. The bureau shall calculate the reimbursement to the Unorganized Territory Education and Services Fund for property tax revenue lost by reason of the exemption in the same manner as it does for municipalities and at the same percentages as are applicable to municipalities.

4. Information provided to State; deviations in assessment ratio. [Repealed]

5. Payments by State. Reimbursements to municipalities must be made as described in this subsection. A municipality claiming reimbursement under this section shall submit a claim to the bureau by November 1st of the year in which the exemption applies or within 30 days of commitment of taxes, whichever occurs later. The bureau shall review the claims and determine the total amount to be paid. The bureau shall certify and the Treasurer of State shall pay by December 15th of the year in which the exemption applies the amount that the bureau determines for that tax year. Municipal claims that are timely filed after November 1st must be paid as soon as reasonably possible after the December 15th payment date.

§695. Denial of exemption; appeals

If the assessor determines that a property is not entitled to an exemption under this subchapter, the assessor shall provide a written notice of denial prior to the tax commitment date in that municipality, including the reasons for the denial, to the applicant by either

personal delivery or certified mail. An applicant may contest a denial by the assessor of an exemption under this subchapter either by using the procedures provided in subchapter 8 or by pursuing such other actions or proceedings by which other property tax exemptions under this chapter may be reviewed or adjudicated. If the assessor determines that a property receiving an exemption under this subchapter in any year within the 3 preceding years was not eligible for the exemption, the assessor shall immediately notify the bureau in writing.

§696. Supplemental assessment

If the assessor makes a determination under section 695 that property receiving an exemption under this subchapter was not entitled to an exemption under this subchapter, the assessor shall by means of a supplemental assessment assess the property for which the exemption was improperly received, plus costs and interest. The taxpayer may contest a supplemental assessment under this subchapter either by using the procedures provided in subchapter 8 or by pursuing such other actions or proceedings by which other property tax exemptions under this chapter may be reviewed or adjudicated. The supplemental assessment must be assessed and collected pursuant to section 713. The bureau shall deduct the amount of the portion of the supplemental assessment that pertains to any funds previously reimbursed to the municipality under section 694 from the next reimbursement issued to the municipality.

§697. Audits; determination of bureau

The bureau may audit the records of a municipality to ensure compliance with this subchapter. The bureau may independently review the records of a municipality to determine if exemptions have been properly approved. If the bureau determines that an exemption was improperly approved for any of the 3 years immediately preceding the determination, the bureau shall ensure, by setoff against other payments due the municipality under this subchapter or subchapter 4-B, that the municipality is not reimbursed for the exemption.

§698. Appeals

The bureau shall send notice of its determination that an exemption was improperly or erroneously approved by the municipality to the taxpayer, in the manner provided for in section 151. The taxpayer may seek reconsideration pursuant to section 151 of any such decision. Notwithstanding any other provision of law, if a taxpayer does not timely request reconsideration of the bureau's decision under section 151, the local taxing jurisdiction must issue a supplemental assessment with respect to such property within 90 days after the bureau's determination. The taxpayer may not appeal that supplemental assessment except as to issues unrelated to the applicability of the exemption. Notwithstanding any other provision of law, if a taxpayer appeals a decision of the bureau to disqualify an exemption and does not prevail in that appeal, the local taxing jurisdiction must issue a supplemental assessment with respect to the property at issue within 90 days after the appeal has been resolved in the bureau's favor. The taxpayer may not appeal that supplemental assessment except as to issues unrelated to the applicability of the exemption. Notwithstanding any other provision of law, if a taxpayer appeals a decision of the bureau that an exemption was improperly or erroneously approved and the taxpayer prevails in that appeal, the bureau shall promptly restore any reimbursement to the municipality that was not made or was set off or otherwise denied the municipality under section 697.

§699. Legislative findings; intent

1. Findings. The Legislature finds that encouragement of the growth of capital investment in this State is in the public interest and promotes the general welfare of the people of the State. The Legislature further finds that the high cost of owning qualified business property in this State is a disincentive to the growth of capital investment in this State. The Legislature further finds that the tax exemption set forth in this subchapter is a reasonable means of overcoming this disincentive and will encourage capital investment in this State.

2. Intent. It is the intent of the Legislature to fund fully transfers to the Disproportionate Tax Burden Fund under section 700-A, subsection 1 and reimbursements under the business equipment tax reimbursement program under section 6652, subsection 4, paragraph B.

§700. Reimbursement for state-mandated costs

The bureau shall reimburse municipalities and the Unorganized Territory Education and Services Fund for state-mandated costs in the manner provided in Title 30-A, section 5685.

§700-A. Additional municipal compensation

1. Transfers to Disproportionate Tax Burden Fund. Pursuant to section 699, subsection 2 and in order to provide additional compensation to municipalities affected by property tax exemptions provided under this subchapter, the Treasurer of State shall make the following transfers as provided in section 700-B to the Disproportionate Tax Burden Fund established in Title 30-A, section 5681, subsection 3:

A. In fiscal year 2009-10, $2,000,000;

B. In fiscal year 2010-11, $2,500,000;

C. In fiscal year 2011-12, $3,000,000;

D. In fiscal year 2012-13, $3,500,000; and

E. In fiscal year 2013-14 and subsequent fiscal years, $4,000,000.

§700-B. Adjustments to revenue

1. Certification. By June 30, 2009 and each subsequent year, the State Tax Assessor shall certify to the State Controller amounts certified to the Treasurer of State as reimbursements to be paid to municipalities during the fiscal year under section 694, subsection 5. The Treasurer of State shall certify to the State Controller payments due under section 700-A.

2. Transfer. The State Controller shall transfer amounts certified under subsection 1 to the Business Equipment Tax Reimbursement reserve account established, maintained and administered by the State Controller from General Fund undedicated revenue. The assessor and the Treasurer of State shall pay amounts required under section 694, subsection 5 and section 700-A.

SUBCHAPTER 5
POWERS AND DUTIES OF ASSESSORS

§701. Rules for assessment

In the assessment of all taxes, assessors shall govern themselves by this chapter and, when applicable, chapter 102 and shall obey all warrants received by them while in office.

§701-A. Just value defined

In the assessment of property, assessors in determining just value are to define this term in a manner that recognizes only that value arising from presently possible land use alternatives to which the particular parcel of land being valued may be put. In determining just value, assessors must consider all relevant factors, including without limitation the effect upon value of any enforceable restrictions to which the use of the land may be subjected including the effect on value of designation of land as significant wildlife habitat under Title 38, section 480-BB, current use, physical depreciation, sales in the secondary market, functional obsolescence and economic obsolescence. Restrictions include but are not limited to zoning restrictions limiting the use of land, subdivision restrictions and any recorded contractual provisions limiting the use of lands. The just value of land is determined to arise from and is attributable to legally permissible use or uses only.

For the purpose of establishing the valuation of unimproved acreage in excess of an improved house lot, contiguous parcels and parcels divided by road, powerline or right-of-way may be valued as one parcel when: each parcel is 5 or more acres; the owner gives written consent to the assessor to value the parcels as one parcel; and the owner certifies that the parcels are not held for sale and are not subdivision lots.

§702. Assessors' liability

Assessors of municipalities and primary assessing areas are not responsible for the assessment of any tax which they are by law required to assess; but the liability shall rest solely with the municipality for whose benefit the tax was assessed, and the assessors shall be responsible only for their own personal faithfulness and integrity.

§703. Selectmen to act as assessors

If any municipality does not choose assessors and is not a part of a primary assessing area, the selectmen are the assessors, and each of them must be sworn as an assessor. A selectman who is an assessor pursuant to this paragraph may resign the position of assessor without resigning the office of selectman. The position of assessor must then be filled by appointment pursuant to Title 30-A, section 2602, subsection 2.

§704. Delinquent assessors; violation

Any assessor who refuses to assess a state, county or municipal tax as required by law, or shall knowingly omit or fail to perform any duty imposed upon him by law, commits a civil violation for which a forfeiture not to exceed $100 may be adjudged.

§705. County commissioners may appoint assessors; procedure

If for 3 months after any warrant for a state or county tax has been issued, a municipality which is not part of a primary assessing area or is not a primary assessing area has neglected to choose assessors, or the assessors chosen have neglected to assess and certify such tax, the Treasurer of State or of the county may so notify the county commissioners.

On receipt of such notification the county commissioners shall appoint 3 or more suitable persons in the county to be assessors for such municipality. New warrants shall be issued to such assessors, which said warrants shall supersede the state and county warrants originally issued to the assessors of the delinquent municipality.

Assessors appointed under this section shall be duly sworn; shall be subject to the same duties and penalties as other assessors; and shall assess upon the polls and estates of the municipality its due proportion of state and county taxes, and such reasonable charges for time and expense in making the assessment as the county commissioners may approve, which said charges shall be paid from the county treasury.

§706. Taxpayers to list property, notice, penalty, verification

Before making an assessment, the assessor or assessors, the chief assessor of a primary assessing area or the State Tax Assessor in the case of the unorganized territory may give seasonable notice in writing to all persons liable to taxation or qualifying for exemption pursuant to subchapter 4-C in the municipality, primary assessing area or the unorganized territory to furnish to the assessor or assessors, chief assessor or State Tax Assessor true and perfect lists of all their estates of which they were possessed on the first day of April of the same year.

The notice to owners may be by mail directed to the last known address of the taxpayer or by any other method that provides reasonable notice to the taxpayer.

If notice is given by mail and the taxpayer does not furnish the list, the taxpayer is barred of the right to make application to the assessor or assessors, chief assessor or State Tax Assessor or any appeal from an application for any abatement of those taxes, unless the taxpayer furnishes the list with the application and satisfies the assessing authority or authority to whom an appeal is made that the taxpayer was unable to furnish the list at the time appointed.

The assessor or assessors, chief assessor or State Tax Assessor may require the person furnishing the list to make oath to its truth, which oath any of them may administer.

The assessor or assessors, chief assessor or State Tax Assessor may require the taxpayer to answer in writing all proper inquiries as to the nature, situation and value of the taxpayer's property liable to be taxed in the State or subject to exemption pursuant to subchapter 4-C. As may be reasonably necessary to ascertain the value of property according to the income approach to value pursuant to the requirements of section 208-A or generally accepted assessing practices, these inquiries may seek information about income and expenses, manufacturing or operational efficiencies, manufactured or generated sales price trends or other related information. A taxpayer has 30 days from receipt of such an inquiry to respond. Upon written request, a taxpayer is entitled to a 30-day extension to respond to the inquiry and the assessor may at any time grant additional extensions upon written request. Information provided by the taxpayer in response to an inquiry that is proprietary information, and clearly labeled by the taxpayer as proprietary and confidential information, is confidential and is exempt from the provisions of Title 1, chapter 13. An assessor of the taxing jurisdiction may not allow the inspection of or otherwise release such proprietary information to anyone other than the State Tax Assessor, who shall treat such proprietary information as subject to section 191, subsection 1, except that the exemption provided in section 191, subsection 2, paragraph I does not apply to such proprietary information. As used in this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the person submitting the information and would make available information not otherwise publicly available and information protected from disclosure by federal or state law or regulations. A person who knowingly violates the confidentiality provisions of this paragraph commits a Class E crime.

A taxpayer's refusal or neglect to answer inquiries bars an appeal, but the answers are not conclusive upon the assessor or assessors, chief assessor or State Tax Assessor.

If the assessor or assessors, chief assessor or State Tax Assessor fail to give notice by mail, the taxpayer is not barred of the right to make application for abatement; however, upon demand the taxpayer shall answer in writing all proper inquiries as to the nature, situation and value of the taxpayer's property liable to be taxed in the State. A taxpayer's refusal or neglect to answer the inquiries and subscribe the same bars an appeal, but the list and answers are not conclusive upon the assessor or assessors, chief assessor or the State Tax Assessor.

§707. Exempt property; inventory required

Assessors shall include in their inventory, but not in the tax list, every 5 years beginning in 1963:

1. Neat cattle. [Repealed]

2. Property of veterans. The value of the real property of veterans, their widows, widowers and minor children not taxed;

3. Houses of religious worship. The value of the real estate of all houses of religious worship and parsonages not taxed;

4. Property of benevolent and charitable institutions. The value of all real property of benevolent and charitable institutions not taxed;

5. Property of literary institutions. The value of all real property of literary and scientific institutions not taxed;

6. Property of governmental units. The value of the real property of the United States, the State of Maine and any public municipal corporation;

7. Other property. The value of all other real property not taxed.

§708. Assessors to value real estate and personal property

The assessors and the chief assessor of a primary assessing area shall ascertain as nearly as may be the nature, amount and value as of the first day of each April of the real estate and personal property subject to be taxed, and shall estimate and record separately the land value, exclusive of buildings, of each parcel of real estate.

§708-A. Certification of valuation lists [Repealed]

§709. Assessment and commitment

The assessors shall assess upon the estates in their municipality all municipal taxes and their due proportion of any state or county tax payable during the municipal year for which municipal taxes are being raised, make perfect lists thereof and commit the same, when completed and signed by a majority of them, to the tax collector of their municipality, if any, otherwise to the sheriff of the county or his deputy, with a warrant under their hands, in the form prescribed by section 753.

§709-A. Primary assessing areas; assessment and commitment

The municipal officers after receipt of the valuation lists from the primary assessing areas shall assess upon the estates in their municipality all municipal taxes and their due proportion of any state or county tax, make perfect lists thereof and commit the same, when completed and signed by a majority of them, to the tax collector of their municipality, if any, otherwise to the sheriff of the county or his deputy, with a warrant under their hands in the form prescribed by section 753.

The municipal officers may delegate the preparation of such lists to any municipal employee, appropriately designated in writing, or may contract with the primary assessing area for the preparation of such lists.

§709-B. Extension of commitment time limit for 1977 [Repealed]

§710. Overlay

The assessors or, in primary assessing areas, the municipal officers may assess on the estates such sum above the sum necessary for them to assess, not exceeding 5% thereof as a fractional division renders convenient, and certify that fact to their municipal treasurer.

§711. Assessment record

The assessors or, in primary assessing areas, the municipal officers shall make a record of their assessment and of the invoice and valuation from which it was made. Before the taxes are committed to the officer for collection, they shall deposit such record, or a copy of it, in the assessor's office, or, in the case of a primary assessing area, with the municipal clerk, there to remain. Any place where the assessors usually meet to transact business and keep their papers or books is considered their office. An assessor, the municipal officers or any other municipal official with custodial authority over the assessing records shall make the entire assessing record related to any taxable property within the municipality available to the owner of that property upon request in a timely manner.

§712. Certificate of assessment

When the assessors or, in primary assessing areas, the municipal officers have assessed any tax and committed it to the tax collector, they shall return to the appropriate treasurer a certificate thereof with the name of such officer.

§713. Supplemental assessments

Supplemental assessments may be made within 3 years from the last assessment date whenever it is determined that any estates liable to taxation have been omitted from assessment or any tax on estates is invalid or void by reason of illegality, error or irregularity in assessment. A supplemental assessment may be made during the municipal year whenever, through error or inadvertance, the assessors have omitted from their assessment or commitment taxes duly raised by the municipality or its proportion of any state or county tax payable during the municipal year. In municipalities not a part of a primary assessing area, the assessors for the time being may, by a supplement to the invoice and valuation and the list of assessments, assess such estates for their due proportion of such tax, according to the principles on which the previous assessment was made. In primary assessing areas, the chief assessor may, by a supplement to the valuation list, certify the valuation of such estates to the municipal officers who shall assess such estates according to the principles upon which the previous assessment was made.

Such supplemental assessments shall be committed to the collector for the time being with a certificate as provided in sections 709 and 709-A stating that they were invalid or void or omitted and that the powers in the previous warrant, naming the date of it, are extended thereto. The tax collector has the same power, and is under the same obligation to collect them, as if they had been contained in the original list. Interest shall accrue on all unpaid balances of any supplemental tax, beginning on the 60th day after the date of commitment of the supplemental tax to the collector or the date interest accrues for delinquent taxes under the original commitment, whichever occurs later. The rate of interest shall be the same as specified by the municipality for the current tax year, in accordance with section 505, subsection 4.

All assessments shall be valid, notwithstanding that by such supplemental assessment the whole amount exceeds the sum to be assessed by more than 5%.

The lien on real estate created by section 552 may be enforced as provided in section 948.

Persons subjected to a tax under this section shall be deemed to have received sufficient notice if the notice required by section 706 was given.

§713-A. Certain supplemental assessments

Notwithstanding section 713, when a municipality has foreclosed on a parcel of real estate and the owner recovers the real estate because of errors in the lien and foreclosure process, supplemental assessments may be made for any year back to the year of the foreclosure which is determined to be erroneous.

§713-B. Penalties assessed as supplemental assessments

Penalties imposed under section 581 or 1112 may be assessed as supplemental assessments pursuant to section 713 regardless of the number of years applicable in determining the penalty.

§714. State-municipal revenue sharing aid

The assessors shall deduct from the total amount required to be assessed an amount equal to the amount that the municipal officers estimate will be received under Title 30-A, section 5681, during the municipal fiscal year.

SUBCHAPTER 6
POWERS AND DUTIES OF TAX COLLECTORS

§751. State and county taxes; collection

State and county taxes shall be collected by the tax collector and paid by him to the treasurer of his municipality as other taxes are paid.

§752. -- payment

On or before the first day of September in each year, the Treasurer of State shall issue his warrant to the treasurer of each municipality requiring him to transmit and pay to the Treasurer of State, on or before the time fixed by law, that municipality's proportion of the state tax for the current year. Warrants for county taxes shall be issued by the county treasurers in the same manner with proper changes.

§753. Municipal tax commitment; form

The State Tax Assessor shall annually, before April 1st, prescribe the form of the municipal tax commitment to be used by municipal assessors in committing property taxes to the municipal tax collector.

§754. -- lost or destroyed

When a warrant for the collection of taxes has been lost or destroyed, the assessors or, in the case of primary assessing areas, the municipal officers may issue a new warrant, which shall have the same force as the original.

§755. Bond

The municipal officers shall require each tax collector to give a corporate surety bond for the faithful discharge of his duty, to the inhabitants of the municipality, in the sum, and with such sureties as the municipal officers approve. The tax collector may furnish a bond signed by individuals if such individuals submit to the municipal officers a detailed sworn statement as to their personal financial ability, which shall be found acceptable by the municipal officers.

Such bond shall, after its approval and acceptance, be recorded by the clerk in the municipal records, and such record shall be prima facie evidence of the contents of such bond, but a failure to so record shall be no defense in any action upon such bond.

§756. Compensation

When municipalities choose tax collectors, they may agree what sum shall be allowed for performance of their duties. If the basis of compensation agreed upon is a percentage of tax collections, such percentage shall be computed only upon the cash collections of taxes committed to him. Tax liens filed but not discharged prior to the time that the tax collector is to perfect his collections and the amounts paid by the municipality to the tax collector upon the sale of tax deeds shall not be included in computing such percentage. Nothing in this section shall be construed as relieving the tax collector from the duty of perfecting liens for the benefit of the municipality by one of the methods prescribed by law in all cases where taxes on real estate remain unpaid.

§757. Receipts for taxes

When a tax is paid to a tax collector, he shall prepare a receipt for each payment; and upon reasonable request therefor, shall furnish a copy of such receipt to the taxpayer.

§757-A. Collector to furnish certificate to boat registration applicants [Repealed]

§758. Notification to assessors of invalid tax

Tax collectors and municipal treasurers on receipt of information that a tax may be invalid by reason of error, omission or irregularity in assessment shall at once notify the assessors or the chief assessor of the primary assessing area in writing stating the name of the proper party to be assessed, if known, and the reason why such tax is believed to be invalid, in order that a supplemental assessment may be made.

§759. Accounting; penalties

Every tax collector shall, on the last day of each month, pay to the municipal treasurer all moneys collected by him, and once in 2 months at least shall exhibit to the municipal officers a just and true account of all moneys received on taxes committed to him and excise taxes collected by him, and produce the treasurer's receipt for money by him paid. For each neglect, he forfeits to the municipality $100 to be recovered by the municipal officers thereof in a civil action.

§759-A. Prohibition on commingling funds

A tax collector is prohibited from commingling personal funds with any funds collected for a municipality while performing the duty of tax collector.

§760. Perfection of collections

Municipal assessors, or municipal officers in the case of primary assessing areas, shall specify in the collector's warrant the date on or before which the tax collector shall perfect his collections. Such date shall not be less than one year from the date of the commitment of taxes. In the event that no time is specified in the collector's warrant, tax collectors shall perfect their collections within 2 years after the date of the commitment of taxes.

§760-A. Minor or burdensome amounts

1. Not collected. After the date for perfection of collections, municipal officers may discharge collectors from any obligation to collect unpaid personal property taxes that the municipal officers determine are too small or too burdensome to collect economically and authorize the municipal treasurer to remove those taxes from the municipal books.

2. Discharged. Collectors shall identify the unpaid taxes discharged under subsection 1 on the tax lists.

§761. -- failure; action

An action against a tax collector for failure to perfect his tax collections shall be commenced within 6 years after the date of such collector's warrant.

§762. Collections completed by new collectors

When new tax collectors are chosen and sworn before the former officers have perfected their collections, the latter shall complete the same, as if others had not been chosen and sworn.

§763. Settlement procedure; removal from municipality; resignation

When a tax collector asks the municipal officers to resign the position of tax collector, or when a tax collector has removed, or in the judgment of the municipal officers is about to remove from the municipality before the time set for perfecting his collections, said officers may settle with him for the money that he has received on his tax lists, demand and receive of him such lists, and discharge him therefrom. Said officers may appoint another tax collector, and the assessors or, in the case of primary assessing areas, the municipal officers shall make a new warrant and deliver it to him with said lists, to collect the sums due thereon, and he shall have the same power in their collection as the original tax collector.

If such tax collector refuses to deliver the tax lists and to pay all moneys in his hands collected by him, when duly demanded, he shall be subject to section 894, and is liable to pay what remains due on the tax lists, said sum to be recovered by the municipal officers in a civil action.

§764. -- incapacity

When a tax collector becomes mentally ill, has a guardian or by bodily infirmities is incapable of performing the duties of his office before completing the collection, the municipal officers may demand and receive the tax lists from any person in possession thereof, settle for the money received thereon and discharge said tax collector from further liability. The tax lists may be committed to a new tax collector.

§765. -- death

If a tax collector dies without perfecting the collection of taxes committed to him, his executor or administrator, within 2 months after his acceptance of the trust, shall settle with the municipal officers for what was received by the deceased in his lifetime. For the amount so received, such executor or administrator is chargeable as the deceased would be if living. If he fails to so settle when he has sufficient assets in his hands, he shall be chargeable with the whole sum committed to the deceased for collection.

§766. Warrant for completion of collection; form

The State Tax Assessor shall prescribe the form of the warrant to be used by the assessors or municipal officers for the completion of the collection of taxes under sections 763 to 765.

SUBCHAPTER 7
POWERS AND DUTIES OF SHERIFFS

§801. Sheriff may collect taxes

If at the time of the completion of the assessment a tax collector has not been chosen or appointed, or if the tax collector neglects to collect a state or county tax, the sheriff of the county shall collect it, on receiving an assessment thereof, with a warrant under the hands of the municipal assessors, or in the case of primary assessing areas, the municipal officers, or the assessors appointed in accordance with section 705, as the case may be.

§802. Proceedings by sheriff

The sheriff or his deputy, on receiving the assessment and warrant for collection provided for in section 801, shall forthwith post in some public place in the municipality assessed, an attested copy of such assessment and warrant, and shall make no distress for any of such taxes until after 30 days therefrom. Any person paying his tax to such sheriff within that time shall pay 5% over and above his tax for sheriff's fees, but those who do not pay within that time shall be distrained or arrested by such officer, as by tax collectors. The same fees shall be paid for travel and service of the sheriff, as in other cases of distress.

§803. Sheriff's duty in respect to warrant; alias warrant

On each execution or warrant of distress issued in accordance with sections 891 and 895, and delivered to a sheriff or his deputy, he shall make return of his doings to such treasurer, with such money, if any, that he has received by virtue thereof. If he neglects to comply with any direction of such warrant or execution, he shall pay the whole sum mentioned therein. When it is returned unsatisfied, or satisfied in part only, such treasurer may issue an alias for the sum remaining due on the return of the first; and so on, as often as occasion occurs.

An officer executing an alias warrant against a delinquent tax collector may arrest the tax collector and proceed as on execution for debt. Such delinquent tax collector shall have the same rights and privileges as a debtor arrested or committed on execution in favor of a private creditor.

SUBCHAPTER 8
ABATEMENT

§841. Abatement procedures

1. Error or mistake. The assessors, either upon written application filed within 185 days from commitment stating the grounds for an abatement or on their own initiative within one year from commitment, may make such reasonable abatement as they consider proper to correct any illegality, error or irregularity in assessment, provided that the taxpayer has complied with section 706.

The municipal officers, either upon written application filed after one year but within 3 years from commitment stating the grounds for an abatement or on their own initiative within that time period, may make such reasonable abatement as they consider proper to correct any illegality, error or irregularity in assessment, provided the taxpayer has complied with section 706. The municipal officers may not grant an abatement to correct an error in the valuation of property.

2. Hardship or poverty. The municipal officers, or the State Tax Assessor for the unorganized territory, within 3 years from commitment, may, on their own knowledge or on written application, make such abatements as they believe reasonable on the real and personal taxes on the primary residence of any person who, by reason of hardship or poverty, is in their judgment unable to contribute to the public charges. The municipal officers, or the State Tax Assessor for the unorganized territory, may extend the 3-year period within which they may make abatements under this subsection.

Municipal officers or the State Tax Assessor for the unorganized territory shall:

A. Provide that any person indicating an inability to pay all or part of taxes that have been assessed because of hardship or poverty be informed of the right to make application under this subsection;

B. Assist individuals in making application for abatement;

C. Make available application forms for requesting an abatement based on hardship or poverty and provide that those forms contain notice that a written decision will be made within 30 days of the date of application;

D. Provide that persons are given the opportunity to apply for an abatement during normal business hours;

E. Provide that all applications, information submitted in support of the application, files and communications relating to an application for abatement and the determination on the application for abatement are confidential. Hearings and proceedings held pursuant to this subsection must be in executive session;

F. Provide to any person applying for abatement under this subsection, notice in writing of their decision within 30 days of application; and

G. Provide that any decision made under this subsection include the specific reason or reasons for the decision and inform the applicant of the right to appeal and the procedure for requesting an appeal.

For the purpose of this subsection, the municipal officers may set off or otherwise treat as available benefits provided to an applicant under chapter 907 when determining if the applicant is able to contribute to the public charges.

3. Inability to pay after 2 years. If after 2 years from the date of assessment a collector is satisfied that a tax upon real or personal property committed to him for collection cannot be collected by reason of the death, absence, poverty, insolvency, bankruptcy or other inability of the person assessed to pay, he shall notify the municipal officers thereof in writing, under oath, stating the reason why that tax cannot be collected. The municipal officers, after due inquiry, may abate that tax or any part thereof.

4. Veteran's widow or widower or minor child. Notwithstanding failure to comply with section 706, the assessors, on written application within one year from the date of commitment, may make such abatement as they think proper in the case of the unremarried widow or widower or the minor child of a veteran, if the widow, widower or child would be entitled to an exemption under section 653, subsection 1, paragraph D, except for the failure of the widow, widower or child to make application and file proof within the time set by section 653, subsection 1, paragraph G, if the veteran died during the 12-month period preceding the April 1st for which the tax was committed.

5. Certification; record. Whenever an abatement is made, other than by the State Tax Assessor, the abating authority shall certify it in writing to the collector, and that certificate shall discharge the collector from further obligation to collect the tax so abated. When the abatement is made, other than an abatement made under subsection 2, a record setting forth the name of the party or parties benefited, the amount of the abatement and the reasons for the abatement shall, within 30 days, be made and kept in suitable book form open to the public at reasonable times. A report of the abatement shall be made to the municipality at its annual meeting or to the mayor and aldermen of cities by the first Monday in each March.

6. Appeals. The decision of a chief assessor of a primary assessing area or the State Tax Assessor shall not be deemed "final agency action" under the Maine Administrative Procedure Act, Title 5, chapter 375.

7. Assessors defined. For the purposes of this subchapter the word "assessors" includes assessor, chief assessor of a primary assessing area and State Tax Assessor for the unorganized territory.

8. Approval of the Governor. The State Tax Assessor may abate taxes under this section only with the approval of the Governor or the Governor's designee.

§841-A. Abatement by municipal officers; procedure [Repealed]

§841-B. Land Classification Appeals Board; purpose; composition [Repealed]

§841-C. Hearing [Repealed]

§842. Notice of decision

The assessors or municipal officers shall give to any person applying to them for an abatement of taxes notice in writing of their decision upon the application within 10 days after they take final action thereon. The notice of decision must include the reason or reasons supporting the decision to approve or deny the abatement request and state that the applicant has 60 days from the date the notice is received to appeal the decision. It must also identify the board or agency designated by law to hear the appeal. If the assessors or municipal officers, before whom an application in writing for the abatement of a tax is pending, fail to give written notice of their decision within 60 days from the date of filing of the application, the application is deemed to have been denied, and the applicant may appeal as provided in sections 843 and 844, unless the applicant has in writing consented to further delay. Denial in this manner is final action for the purposes of notification under this section but failure to send notice of decision does not affect the applicant's right of appeal. This section does not apply to applications for abatement made under section 841, subsection 2.

§843. Appeals

1. Municipalities. If a municipality has adopted a board of assessment review and the assessors or the municipal officers refuse to make the abatement asked for, the applicant may apply in writing to the board of assessment review within 60 days after notice of the decision from which the appeal is being taken or after the application is deemed to have been denied, and, if the board thinks the applicant is over-assessed, the applicant is granted such reasonable abatement as the board thinks proper. Except with regard to nonresidential property or properties with an equalized municipal valuation of $1,000,000 or greater either separately or in the aggregate, either party may appeal from the decision of the board of assessment review directly to the Superior Court, in accordance with Rule 80B of the Maine Rules of Civil Procedure. If the board of assessment review fails to give written notice of its decision within 60 days of the date the application is filed, unless the applicant agrees in writing to further delay, the application is deemed denied and the applicant may appeal to Superior Court as if there had been a written denial.

1-A. Nonresidential property of $1,000,000 or greater. With regard to nonresidential property or properties with an equalized municipal valuation of $1,000,000 or greater either separately or in the aggregate, either party may appeal the decision of the local board of assessment review or the primary assessing area board of assessment review to the State Board of Property Tax Review within 60 days after notice of the decision from which the appeal is taken or after the application is deemed to be denied, as provided in subsections 1 and 2. The board shall hold a hearing de novo. If the board thinks that the applicant is over-assessed, it shall grant such reasonable abatement as the board thinks proper. For the purposes of this section, "nonresidential property" means property that is used primarily for commercial, industrial or business purposes, excluding unimproved land that is not associated with a commercial, industrial or business use.

2. Primary assessing areas. If a primary assessing area has adopted a board of assessment review and the assessors or municipal officers refuse to make the abatement asked for, the applicant may apply in writing to the board of assessment review within 60 days after notice of the decision from which the appeal is being taken or after the application is deemed to have been denied, and if the board thinks the applicant is over-assessed, the applicant is granted such reasonable abatement as the board thinks proper. Except with regard to nonresidential property or properties with an equalized municipal valuation of $1,000,000 or greater, either separately or in the aggregate, either party may appeal the decision of the board of assessment review directly to the Superior Court, in accordance with the Maine Rules of Civil Procedure, Rule 80B. If the board of assessment review fails to give written notice of its decision within 60 days of the date the application was filed, unless the applicant agrees in writing to further delay, the application is deemed denied and the applicant may appeal to the Superior Court as if there had been a written denial.

3. Notice of decision. Any agency to which an appeal is made under this section is subject to the provisions for notice of decision in section 842.

4. Payment requirements for taxpayers. If the taxpayer has filed an appeal under this section without having paid an amount of current taxes equal to the amount of taxes paid in the next preceding tax year, as long as that amount does not exceed the amount of taxes due in the current tax year or the amount of taxes in the current tax year not in dispute, whichever is greater, by or after the due date or according to a payment schedule mutually agreed to in writing by the taxpayer and the municipal officers, the appeal process must be suspended until the taxes, together with any accrued interest and costs, have been paid. If an appeal is in process upon expiration of a due date or written payment schedule date for payment of taxes in a particular municipality, without the appropriate amount of taxes having been paid, whether the taxes are due for the year under appeal or a subsequent tax year, the appeal process must be suspended until the appropriate amount of taxes described in this subsection, together with any accrued interest and costs, has been paid. This subsection does not apply to property with a valuation of less than $500,000.

§843-A. Appeals to Forestry Appeal Board [Repealed]

§843-B. Hearing [Repealed]

§844. Appeals to county commissioners

1. Municipalities without board of assessment review. Except when the municipality or primary assessing area has adopted a board of assessment review, if the assessors or the municipal officers refuse to make the abatement asked for, the applicant may apply to the county commissioners within 60 days after notice of the decisions from which the appeal is being taken or within 60 days after the application is deemed to have been denied. If the commissioners think that the applicant is over-assessed, the applicant is granted such reasonable abatement as the commissioners think proper. If the applicant has paid the tax, the applicant is reimbursed out of the municipal treasury, with costs in either case. If the applicant fails, the commissioners shall allow costs to the municipality, taxed as in a civil action in the Superior Court, and issue their warrant of distress against the applicant for collection of the amount due the municipality. The commissioners may require the assessors or municipal clerk to produce the valuation by which the assessment was made or a copy of it. Either party may appeal from the decision of the county commissioners to the Superior Court, in accordance with the Maine Rules of Civil Procedure, Rule 80B. If the county commissioners fail to give written notice of their decision within 60 days of the date the application is filed, unless the applicant agrees in writing to further delay, the application is deemed denied and the applicant may appeal to the Superior Court as if there had been a written denial.

1-A. County board of assessment review. The county commissioners in a county may establish a county board of assessment review to hear all appeals to the county commissioners. The board has the powers and duties of a municipal board of assessment review, including those provided under section 844-M.

2. Nonresidential property of $1,000,000 or greater. Notwithstanding subsection 1, the applicant may appeal the decision of the assessors or the municipal officers on a request for abatement with respect to nonresidential property or properties having an equalized municipal valuation of $1,000,000 or greater, either separately or in the aggregate, to the State Board of Property Tax Review within 60 days after notice of the decision from which the appeal is taken or after the application is deemed to be denied. If the State Board of Property Tax Review determines that the applicant is over-assessed, it shall grant such reasonable abatement as it determines proper. For the purposes of this subsection, "nonresidential property" means property that is used primarily for commercial, industrial or business purposes, excluding unimproved land that is not associated with a commercial, industrial or business use.

3. Notice of decision. An appeal to the county commissioners is subject to the provisions for notice of decision in section 842.

4. Payment requirements for taxpayers. If the taxpayer has filed an appeal under this section without having paid an amount of current taxes equal to the amount of taxes paid in the next preceding tax year, as long as that amount does not exceed the amount of taxes due in the current tax year or the amount of taxes in the current tax year not in dispute, whichever is greater, by or after the due date, or according to a payment schedule mutually agreed to in writing by the taxpayer and the municipal officers, the appeal process must be suspended until the taxes, together with any accrued interest and costs, have been paid. If an appeal is in process upon expiration of a due date or written payment schedule date for payment of taxes in a particular municipality, without the appropriate amount of taxes having been paid, whether the taxes are due for the year under appeal or a subsequent tax year, the appeal process must be suspended

until the appropriate amount of taxes described in this subsection, together with any accrued interest and costs, has been paid. This subsection does not apply to property with a valuation of less than $500,000.

§844-A. Board of Assessment Review [Repealed]

§844-B. Definitions [Repealed]

§844-C. Composition [Repealed]

§844-D. Jurisdiction [Repealed]

§844-E. Assignment of hearing [Repealed]

§844-F. Place of hearing [Repealed]

§844-G. Appeal to State Board of Assessment Review [Repealed]

§844-H. Hearing procedure [Repealed]

§844-I. Production of documents [Repealed]

§844-J. Evidence [Repealed]

§844-K. Compensation [Repealed]

§844-L. Appeal to the Superior Court [Repealed]

§844-M. County board of assessment review

1. Organization. A county board of assessment review, as authorized by section 844, subsection 1-A, consists of 5 or 7 members, at least one of whom must be a licensed real estate appraiser and one of whom must be a member of the general public, who serve staggered terms of at least 3 but no more than 5 years. The terms must be determined by rule of the board. The board shall elect annually a chair and a secretary from among its members. A county official or the spouse of a county official may not be a member of the board. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting on that issue must be decided by a majority vote of the members, excluding the member who is being challenged. The county commissioners may dismiss a member of the board for cause before the member's term expires.

2. Meetings; records. The chair shall call meetings of the board as required. The chair shall also call meetings of the board when requested to do so by a majority of the board members or by the county commissioners. A majority of the board's members constitutes a quorum. The chair shall preside at the meetings of the board and is the official spokesperson of the board. The secretary shall maintain a permanent record of the board meetings, the correspondence of the board and the records that are required as part of the various proceedings brought before the board. The records maintained or prepared by the secretary must be filed in the county commissioners' office and subject to public inspection in accordance with Title 1, chapter 13, unless excepted from the definition of public records under Title 1, section 402, subsection 3 or otherwise exempt from disclosure under Title 1, chapter 13.

3. Hearing. The board shall adopt rules to establish the procedure for the conduct of a hearing; however, the chair may waive any rule upon good cause shown.

4. Evidence. The board shall receive oral or documentary evidence and, as a matter of policy, provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Each party may present its case or defense by oral or documentary evidence, submit rebuttal evidence and conduct cross-examination that is required for a full and true disclosure of the facts.

5. Testimony; record; notice. The transcript or tape recording of testimony, if such a transcript or tape recording has been prepared by the board, and the exhibits, with all papers and requests filed in the proceeding, constitute the record. Decisions become a part of the record and must include a statement of findings and conclusions, as well as the reasons or basis for those findings and conclusions, upon the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief. If the board determines that the applicant is over-assessed, it shall grant such reasonable abatement as the board determines proper. Notice of a decision must be mailed or hand delivered to all parties and the county commissioners within 10 days of the board's decision.

6. Appeals. A party may appeal the decision of the county board of assessment review to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B. If the county board of assessment review fails to give written notice of its decision within 60 days of the date the application was filed, unless the applicant agrees in writing to further delay, the application is deemed denied and the applicant may appeal to the Superior Court as if there had been a written denial.

§844-N. Primary assessing area board of assessment review

1. Organization. A primary assessing area board of assessment review, as authorized by section 471-A, consists of 5 or 7 members who serve staggered terms of at least 3 but no more than 5 years. The terms must be determined by rule of the board. The board shall elect annually a chair and a secretary from among its members. A municipal officer or the spouse of a municipal officer may not be a member of the board. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting on that issue must be decided by a majority vote of the members, excluding the member who is being challenged. The municipal officers or the executive committee, where applicable, may dismiss a member of the board for cause before the member's term expires.

2. Meetings; records. The chair shall call meetings of the board as required. The chair shall also call meetings of the board when requested to do so by a majority of the board members or by the municipal officers or the executive committee, where applicable. A majority of the board's members constitutes a quorum. The chair shall preside at the meetings of the board and is the official spokesperson of the board. The secretary shall maintain a permanent record of the board meetings, the correspondence of the board and the records that are required as part of the various proceedings brought before the board. The records maintained or prepared by the secretary must be filed in the primary assessing area board of assessment review office and subject to public inspection in accordance with Title 1, chapter 13, unless excepted from the definition of public records under Title 1, section 402, subsection 3 or otherwise exempt from disclosure under Title 1, chapter 13.

3. Hearing. The board shall adopt rules to establish the procedure for the conduct of a hearing; however, the chair may waive any rule upon good cause shown.

4. Evidence. The board shall receive oral or documentary evidence and, as a matter of policy, provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Each party may present its case or defense by oral or documentary evidence, submit rebuttal evidence and conduct cross-examination that is required for a full and true disclosure of the facts.

5. Testimony; record; notice. The transcript or tape recording of testimony, if such a transcript or tape recording has been prepared by the board, and the exhibits, with all papers and requests filed in the proceeding, constitute the record. Decisions become a part of the record and must include a statement of findings and conclusions, as well as the reasons or basis for those findings and conclusions, upon the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief. If the board determines that the applicant is over-assessed, it shall grant such reasonable abatement as the board determines proper. Notice of a decision must be mailed or hand delivered to all parties and the municipal officers or the executive committee, where applicable, within 10 days of the board's decision.

§845. Appeals; to Superior Court [Repealed]

§846. -- hearing [Repealed]

§847. -- Commissioner's hearing and report [Repealed]

§848. -- Trial [Repealed]

§848-A. Assessment ratio evidence

Reports of assessment ratios contained in assessment ratio studies of the Bureau of Revenue Services are prima facie evidence of what the reported ratio is in fact, unless a party to proceedings related to a protested assessment establishes that the ratio was derived or established in a manner contrary to law or proves the existence of a different ratio.

In any proceedings relating to a protested assessment, it is a sufficient defense of the assessment that it is accurate within reasonable limits of practicality, except when a proven deviation of 10% or more from the relevant assessment ratio of the municipality or primary assessing area exists.

§849. -- judgment and execution

Claims for abatement on several parcels of real estate may be embraced in one appeal, but judgment shall be rendered and execution shall issue for the amount of taxes due on each separate parcel.

The lien created by statute on real estate to secure the payment of taxes shall be continued for 60 days after the rendition of judgment, and may be enforced by sale of said real estate on execution, in the same manner as attachable real estate may be sold under Title 14, section 2201, and with the same right of redemption.

§850. Assessment of costs [Repealed]

SUBCHAPTER 9
DELINQUENT TAXES

§891. Collection of delinquent state and county taxes

When the time for the payment of a state or county tax has expired and it is unpaid, the Treasurer of State or of the county shall give notice thereof to the treasurer of any delinquent municipality, and unless such tax shall be paid within 60 days, the Treasurer of State or of the county may issue his warrant to the sheriff of the county, returnable in 90 days, requiring him to levy by distress and sale upon the real and personal property of any of the inhabitants of the municipality. The sheriff or his deputy shall execute such warrants, observing the regulations provided for satisfying warrants against delinquent collectors prescribed by sections 803, 896 and 897.

§891-A. School subsidies withheld from delinquent municipalities

When any state tax assessed upon any city, town or plantation remains unpaid, such city, town or plantation may be precluded from drawing from the Treasurer of State the school subsidy set apart for such city, town or plantation so long as such tax remains unpaid.

§892. Interest on delinquent state taxes

Beginning with the first day of January, following the date on which state taxes are levied, interest shall accrue on any unpaid balances that are then due. All provisions of law that relate to the collection of such taxes shall apply to the collection of interest on overdue taxes.

§892-A. Interest on delinquent county taxes

Interest shall accrue on all unpaid balances of the county tax that are then due, beginning on the 60th day after the date for payment set by the county commissioners under Title 30-A, section 706. County taxes, not paid prior to the 60th day after the date for payment, are delinquent.

The rate of interest shall be specified by vote of the county commissioners and a notification of this rate shall be included in the warrant to assessors required under Title 30-A, section 706. The rate of interest may not exceed the rate of interest established by the State Tax Assessor under section 186. The specified rate of interest shall apply to delinquent taxes committed during the taxable year until those taxes are paid in full and the interest shall be added to and become part of the taxes.

§893. Collector liable to inhabitants

A delinquent tax collector shall at all times be answerable to the inhabitants of his municipality for all sums which they have been obliged to pay by means of his deficiency and for all consequent damages.

§894. Delinquent tax collectors; forfeiture

Any tax collector who refuses to collect a state, county or municipal tax as required by law, or who shall knowingly omit or fail to perform any duty imposed upon him by law, commits a civil violation for which a forfeiture not to exceed $100 may be adjudged.

§895. Warrant form; for completion of collection by treasurer

The State Tax Assessor shall prescribe the form of the warrant for use by the municipal treasurer where the tax collector has failed to collect and pay the taxes to the treasurer as required.

§896. Personal property distrained; sold as on execution

Any officer selling personal property, distrained under a treasurer's warrant against a tax collector or against the inhabitants of a municipality, shall proceed as in the sale of such property on execution.

§897. Real estate levied on; sold as on execution

When a treasurer's warrant of distress is levied on the real estate of a delinquent tax collector or against the inhabitants of a municipality, the officer shall proceed as in the sale of such property on execution.

§898. Collector to account when taken on execution

When any tax collector is taken on execution under section 895, the municipal officers may demand of him a true copy of the tax lists, with the evidence of all payments made thereon. If he complies with this demand, he shall receive such credit as the municipal

officers, on inspection of the tax lists, adjudge him entitled to, and account for the balance; but if he refuses, he shall forthwith be committed to jail by the officer who so took him or by a warrant from a justice of the peace, there to remain until he complies.

§899. Municipalities may choose another tax collector

The same municipality may, at any time, proceed to the choice of another collector, to complete the collection of taxes, who shall be sworn and give the security required of the first collector. The assessors or, in the case of primary assessing areas, the municipal officers shall deliver to him the uncollected assessments, with a proper warrant for their collection, and he shall proceed as prescribed.

§900. Payments to former collector in dispute; procedure

When the tax of any person named in said tax lists does not thereby appear to have been paid, but such person declares that it was paid to the former tax collector, the new tax collector shall not distrain or commit him without a vote of the municipal officers.

§901. Remedy of owners of property taken for default of others

When the estate of an inhabitant of a municipality, who is not a tax collector thereof, is levied upon and taken as mentioned in section 891, he may maintain an action against such municipality, and recover the full value of the estate so levied on, with interest at the rate of 20% from the time it was taken, with costs. Such value may be proved by any other legal evidence, as well as by the result of the sale under such levy.

§902. Amendments permitted in actions to collect taxes

At the trial of any action for the collection of taxes, or of any civil action involving the validity of any sale of real estate for nonpayment of taxes, or involving any tax lien certificate under sections 942 and 943 and the title to real estate acquired upon foreclosure of the tax lien mortgage, if it shall appear that the tax in question was lawfully assessed, the court may permit the tax collector or other officer to amend his record, return, deed or certificate in accordance with the fact, when circumstantial errors or defects appear therein, provided the rights of 3rd parties are not injuriously affected thereby. If a deed be so amended, and the amended deed be thereupon recorded, it shall have the same effect as if it had been originally made in its amended form.

§903. Defendant estopped to deny title; exceptions

In all civil actions to enforce the collection of a tax on real estate, if it appears that on April 1st of the year for which such tax was assessed, the record title to the real estate listed was in the defendant, he shall not deny his title thereto. If any owner of real estate who has conveyed the same shall forthwith file a copy of the description as given in his deed with the date thereof and the name and last known address of his grantee, in the registry of deeds where such deed should be recorded, he shall be free from any liability under this section.

§904. Treasurer's receipt as evidence of redemption

The municipal treasurer's receipt or certificate of payment of a sufficient sum to redeem any real estate taxed shall be legal evidence of such payment and redemption.

§905. Municipalities may set off moneys due against taxes

Subject to the approval of the municipal officers, the treasurer or any disbursing officer of any municipality may, and if so requested by the tax collector shall, withhold payment of any money then due and payable to any taxpayer whose taxes are due and wholly or partially unpaid, to an amount not in excess of the unpaid taxes together with any interest and costs. The sum withheld shall be paid to the tax collector, who shall, if required, give a receipt in writing therefor to the officer withholding payment and to the taxpayer. The tax collector's rights under this section shall not be affected by any assignment or trustee process.

§906. Application of payments to unpaid taxes

The municipal officers of a municipality may, upon request of the municipal treasurer or the tax collector, require that any tax payment received from an individual as payment for any property tax be applied against outstanding or delinquent taxes due on that property in chronological order beginning with the oldest unpaid tax bill. Taxes may not be applied to a period for which an abatement request or appeal has not been resolved unless approved in writing by the taxpayer.

§941. Civil action with special attachments; procedure

The lien on real estate created by section 552 may be enforced in the following manner.

The tax collector may, after the expiration of 8 months and within one year from the date of original commitment of the tax or, in the case of deferred taxes pursuant to chapter 908-A, after the due and payable date established pursuant to section 6271, subsection 5, give to the person against whom the tax is assessed, or leave at the person's last and usual place of abode, or send by registered mail to the person's last known address, a notice in writing signed by said tax collector stating the amount of the tax, describing the real estate on which the tax is assessed and demanding the payment of such tax within 10 days after service of such notice.

After the expiration of said 10 days a civil action for the collection of the tax may be brought in the county where the real estate lies, against the person to whom said tax is assessed. Such action may be brought in the name of the tax collector or the municipal officers may in writing direct the action to be brought in the name of the municipality. Such action shall be begun by a writ of attachment commanding the officer serving it to specially attach the real estate upon which the lien is claimed, which shall be served as other writs of attachment to enforce liens on real estate.

The complaint in such action shall contain a statement of such tax, a description of the real estate contained in said notice and an allegation that a lien is claimed on said real estate to secure the payment of the tax. If no service is made upon the defendant, or if it shall appear that other persons are interested in such real estate, the court shall order such notice of said action as appears proper and shall allow such other persons to become parties thereto.

If it shall appear upon trial of said action that the tax was legally assessed on said real estate, and is unpaid, and that there is an existing lien on said real estate for the payment of the tax, judgment shall be rendered for the tax, interest and costs of suit against the defendants and against the real estate attached, and execution shall issue thereon to be enforced by the sale of such real estate in the manner provided for in a sale on execution of real estate attached on original writs. In all actions brought in the Superior Court under this section or section 1284, full costs shall be recovered notwithstanding the amount of the judgment be $20 or less.

Any person interested in the real estate may redeem it at any time within one year after its sale by the officer on that execution by paying the amount for which it was sold with interest at the rate determined by the State Tax Assessor pursuant to section 186.

This section shall not affect any other provision of law for the enforcement and collection of taxes upon real estate.

§942. Tax lien certificate; procedure

Except as provided in section 942-A, liens on real estate created by section 552, in addition to other methods established by law, may be enforced in the following manner.

The tax collector may, after the expiration of 8 months and within one year after the date of original commitment of a tax or, in the case of deferred taxes pursuant to chapter 908-A, after the due and payable date established pursuant to section 6271, subsection 5, give to the person against whom the tax is assessed, or leave at the person's last and usual place of abode, or send by certified mail, return receipt requested, to the person's last known address, a notice in writing signed by the tax collector or bearing the tax collector's facsimile signature, stating the amount of the tax, describing the real estate on which the tax is assessed, alleging that a lien is claimed on the real estate to secure the payment of the tax, and demanding the payment of the tax within 30 days after service or mailing of the notice with $3 for the tax collector for making the demand together with the certified mail, return receipt requested, fee. In the case of taxes supplementally assessed, the tax collector may give that notice after the expiration of 8 months and within one year after the date of commitment of the supplementally assessed taxes. If an owner or occupant of real estate to whom the real estate is taxed dies before that demand is made on that owner or occupant, the demand may be made upon the personal representative of that owner's or occupant's estate or upon any of that owner's or occupant's heirs or devisees.

After the expiration of the 30 days and within 10 days thereafter, the tax collector shall record in the registry of deeds of the county or registry district where the real estate is situated a tax lien certificate signed by the tax collector or bearing his facsimile signature, setting forth the amount of the tax, a description of the real estate on which the tax is assessed and an allegation that a lien is claimed on the real estate to secure the payment of the tax, that a demand for payment of the tax has been made in accordance with this section, and that the tax remains unpaid. When the undivided real estate of a deceased person has been assessed to his heirs or devisees without designating any of them by name it will be sufficient to record in said registry a tax lien certificate in the name of the heirs or the devisees of said decedent without designating them by name.

At the time of the recording of the tax lien certificate in the registry of deeds, in all cases the tax collector shall file with the municipal treasurer a true copy of the tax lien certificate and shall hand deliver or send by certified mail, return receipt requested, to each record holder of a mortgage on that real estate, to the holder's last known address, a true copy of the tax lien certificate. If the real estate has not been assessed to its record owner, the tax collector shall send by certified mail, return receipt requested, a true copy of the tax lien certificate to the record owner.

The costs to be paid by the taxpayer are the sum of the fees for recording and discharge of the lien as established by Title 33, section 751, plus $13, plus the fee established by section 943 for sending a notice 30 to 45 days prior to the foreclosing date of the tax lien mortgage if that notice is actually sent and all certified mail, return receipt requested, fees. In the case of a lien in effect pursuant to chapter 908-A, the costs to be paid include interest in the amount established under section 6271, subsection 3. Upon redemption, the municipality shall prepare and record a discharge of the tax lien mortgage.

The municipality shall pay the tax collector $3 for the notice, $1 for filing the tax lien certificate and the amount paid for certified mail, return receipt requested, fees. The fees for recording the tax lien certificate and for discharging the tax lien mortgage must be paid by the municipality to the register of deeds.

§942-A. Aggregate tax lien certificate for time-share units; procedure

Liens created by section 552 on time-share units owned by the same person and in the same time-share project, in addition to other methods established by law, may be enforced in the following manner if requested by the taxpayer prior to notification of filing of a tax lien certificate.

1. Aggregate notice. If a taxpayer owns more than one time-share unit in the same project, the tax collector may send the notice required by section 942 to be sent before filing the tax lien certificate as one aggregate notice covering all time-share units owned by that taxpayer. The tax collector must specifically describe all units on which the taxes are due and which will be covered by the tax lien certificate by listing each unit in the notice or by appending to the notice a list or computer printout describing the units. The notice must state if a list or printout is appended.

2. Aggregate tax lien certificate. If a taxpayer owns more than one time-share unit in the same project, the tax collector shall specifically describe all units covered by the aggregate tax lien certificate by listing each unit on the certificate or by appending to the certificate a list or computer printout describing the units. The certificate must state if a list or printout is appended.

3. Total or partial discharge. The taxpayer may discharge all the liens included in the aggregate tax lien certificate by payment of all the taxes due on all the tax liens, plus the fees required by subsection 4. The taxpayer may discharge less than all the liens included in the aggregate tax lien certificate by payment of all the taxes due on one or more of the time-share units, plus the fees required by subsection 5 for each partial discharge.

4. Total discharge. The taxpayer shall pay the following fees for the total discharge of liens covered by the aggregate tax lien certificate:

A. Thirty-five cents per time-share unit listed for the tax collector, for making one aggregate notice and demand for payment of all the assessed taxes on all time-share units owned by the taxpayer together with the certified mail, return receipt requested, fee;

B. The fees established by Title 33, section 751 for the register of deeds for recording one aggregate tax lien certificate;

C. The fees established by Title 33, section 751 for the register of deeds for recording one aggregate discharge of the tax lien mortgage;

D. Ten dollars; and

E. Three dollars established by section 943 for sending one aggregate notice 30 to 45 days prior to the foreclosing date of the tax lien mortgage if that notice is actually sent and all the certified mail, return receipt requested, fees.

5. Partial discharge. The taxpayer shall pay the following fees for the partial discharge of liens covered by the aggregate tax lien certificate:

A. Thirty-five cents per time-share unit listed for the tax collector for making one aggregate notice and demand for payment of all the assessed taxes on all time-share units owned by the taxpayer together with the certified mail, return receipt requested, fee;

B. The fees established by Title 33, section 751 for the register of deeds for recording one aggregate tax lien certificate;

C. The fees established by Title 33, section 751 for the register of deeds for recording the discharge of the tax lien mortgage on the first 4 time-share units and $0.25 for each additional time-share unit;

D. Ten dollars; and

E. Three dollars established by section 943 for sending one aggregate notice 30 to 45 days prior to the foreclosing date of the tax lien mortgage if that notice is actually sent and all the certified mail, return receipt requested, fees.

6. Application. This section applies to all taxes assessed on time-share units on or after April 1, 1986.

7. Effect on foreclosure procedure. A partial discharge does not affect the foreclosure date for any liens not discharged.

§943. Tax lien mortgage; redemption; discharge; foreclosure

The filing of the tax lien certificate in the registry of deeds shall create a tax lien mortgage on said real estate to the municipality in which the real estate is situated having priority over all other mortgages, liens, attachments and encumbrances of any nature, and shall give to said municipality all the rights usually incident to a mortgagee, except that the municipality shall not have any right of possession of said real estate until the right of redemption shall have expired.

The filing of the tax lien certificate in the registry of deeds shall be sufficient notice of the existence of the tax lien mortgage.

In the event that the tax, interest and costs underlying the tax lien are paid within the period of redemption, the municipal treasurer or assignee of record shall prepare and record a discharge of the tax lien mortgage in the same manner as is now provided for the discharge of real estate mortgages, except that a facsimile signature of the treasurer or treasurer's assignee may be used.

If the tax lien mortgage, together with interest and costs, shall not be paid within 18 months after the date of the filing of the tax lien certificate in the registry of deeds, the said tax lien mortgage shall be deemed to have been foreclosed and the right of redemption to have expired.

The municipal treasurer shall notify the party named on the tax lien mortgage and each record holder of a mortgage on the real estate not more than 45 days nor less than 30 days before the foreclosing date of the tax lien mortgage, in a writing signed by the treasurer or bearing the treasurer's facsimile signature and left at the holder's last and usual place of abode or sent by certified mail, return receipt requested, to the holder's last known address of the impending automatic foreclosure and indicating the exact date of foreclosure. For sending this notice, the municipality is entitled to receive $3 plus all certified mail, return receipt requested, fees. These costs must be added to and become a part of the tax. If notice is not given in the time period specified in this section to the party named on the tax lien mortgage or to any record holder of a mortgage, the person not receiving timely notice may redeem the tax lien mortgage until 30 days after the treasurer does provide notice in the manner specified in this section.

Beginning with taxes that are assessed after April 1, 1985, the notice of impending automatic foreclosure shall be substantially in the following form:

STATE OF MAINE
NOTICE OF IMPENDING AUTOMATIC FORECLOSURE
Title 36, M.R.S.A. Section 943

IMPORTANT: DO NOT DISREGARD
THIS NOTICE. YOU WILL LOSE
YOUR PROPERTY UNLESS YOU PAY
YOUR 19 PROPERTY TAXES,
INTEREST AND COSTS.

TO:

You are the party named on a tax lien certificate filed on , 19 , and recorded in Book , Page in the County Registry of Deeds. This filing has created a tax lien mortgage on the real estate described therein.

On , 19 , the tax lien mortgage will be foreclosed and your right to recover your property by paying the taxes, interest and costs that are owed will expire.

IF THE TAX LIEN FORECLOSES,
THE MUNICIPALITY WILL OWN
YOUR PROPERTY.

If you cannot pay the property taxes you owe please contact me to discuss this notice.

Municipal Treasurer

After the expiration of the 18-month period for redemption, the mortgagee of record of said real estate or his assignee and the owner of record if the said real estate has not been assessed to him or the person claiming under him shall, in the event the notice provided for said mortgagee and said owner has not been given as provided in section 942, have the right to redeem the said real estate within 3 months after receiving actual knowledge of the recording of the tax lien certificate by payment or tender of the amount of the tax lien mortgage, together with interest and costs, and the tax lien mortgage shall then be discharged by the owner thereof in the manner provided.

The tax lien mortgage shall be prima facie evidence in all courts in all proceedings by and against the municipality, its successors and assigns, of the truth of the statements therein and after the period of redemption has expired, of the title of the municipality to the real estate therein described, and of the regularity and validity of all proceedings with reference to the acquisition of title by such tax lien mortgage and the foreclosure thereof.

Whenever the person against whom the tax is assessed shall have died after the tax has been committed and prior to the expiration of the 18-months period of foreclosure and such person shall have left a will offered for probate, the probate judge of the county wherein said will is offered upon petition of any devisee of the real estate on which said tax is unpaid may grant a period of redemption not to exceed 60 days following the final allowance or disallowance of said will. Notice of said petition shall be given to the tax collector of the town wherein said property is located and a certified copy of the court order shall be filed in the registry of deeds of the county wherein the property is located.

A discharge of a municipal tax lien mortgage given after the right of redemption has expired, which discharge has been recorded in the Registry of Deeds for more than one year, terminates all title of the municipality derived from such tax lien mortgage or any other recorded tax lien mortgage for which the right of redemption expired 10 years or more prior to the foreclosure date of this discharged lien, unless the municipality has conveyed any interest based upon the title acquired from any of the affected liens. This paragraph applies to discharges of municipal tax lien mortgages given after October 1, 1935.

When a municipality conveys the premises back to the former record titleholder or to a successor of that holder who obtained title before the foreclosure for a consideration of the taxes and costs due, the rights of the other parties claiming an interest of record in the premises at the time of foreclosure, including mortgagees, lien creditors or other secured parties, are revived as if the tax lien mortgage had not been foreclosed.

§943-A. Application for abatement

Each notice under sections 942 and 1281 that is sent by a municipality or the State Tax Assessor to a person on whose primary residence taxes have been assessed must contain a statement that that person may apply for an abatement of those taxes if the person cannot pay the taxes that have been assessed because of poverty or hardship.

§943-B. Credit reporting; payment during redemption period

If a municipality takes action under section 942 or 943 to enforce a lien in effect pursuant to chapter 908-A that results in a record of a lien in a party's name being placed in that party's file with a consumer reporting agency, that lien must be considered inaccurate information under 15 United States Code, Section 1681i if the party submits proof to the consumer reporting agency that the deferred taxes were paid during the 18-month redemption period provided for in section 943.

§944. Foreclosure for equitable relief, procedure

A tax lien mortgage filed in accordance with sections 942 and 943 may be foreclosed by an action for equitable relief in the following manner.

1. Waiver of foreclosure. The municipal treasurer, when so authorized by the inhabitants of the municipality, or in the case of a city by the legislative body thereof, may waive the foreclosure of a tax lien mortgage by recording a waiver of foreclosure in the registry of deeds in which the tax lien certificate is recorded before the right of redemption therefrom shall have expired.

The tax lien mortgage, after the recording of such waiver, shall then continue to be in full force and effect.

2. Form. The waiver of foreclosure must be substantially in the following form:

The foreclosure of the tax lien mortgage on real estate for a tax assessed against ..... to ..... dated ..... (name) (name of municipality) and recorded in ..... registry of deeds in Book ...., Page .... is hereby waived.
Dated this ..... date of ..... 20..

..... A.B. .....
Treasurer of .....

State of Maine
..... ss. ..... 20....

Then personally appeared the above named ..... A.B. ..... Treasurer and acknowledged the foregoing instrument to be a free act and deed in the Treasurer's said capacity.

Before me, ...
.....
Notary Public

The form required by this subsection must be dated, signed by the treasurer or bear the treasurer's facsimile signature and notarized.

A charge to the municipality of 50¢ for the waiver of foreclosure and the charges of the registry of deeds for the recording of the waiver in accordance with the fees set forth in Title 33, section 751, subsection 1 must be included in the amount secured by the tax lien mortgage.

3. Foreclosure of tax lien mortgage. If said tax lien mortgage together with interest and costs shall not be paid within 6 months after the date of recording the waiver of foreclosure thereof, the tax lien mortgage may be foreclosed in an action for equitable relief.

4. Right of redemption. In such action the court shall provide a period for the exercise of the right of redemption from the tax lien mortgage which shall expire in not less than 90 days from the decree of the court and in no event before the expiration of 18 months from the date of filing of the tax lien certificate in the registry of deeds as provided in section 942.

§945. Foreclosure in action for equitable relief; alternative procedure; class action

In addition to and as an alternative to the proceedings for foreclosure of a tax lien mortgage under section 944, a municipality may, provided a waiver of foreclosure thereof has been recorded in accordance with section 944, foreclose any tax lien mortgage held by the municipality for a period of at least 4 years from the date of filing of the tax lien certificate in the registry of deeds by an action in rem for equitable relief in the following manner:

1. Action in rem for equitable relief. Such actions may be commenced on or before the first day of April in each year and each such action shall relate only to tax lien mortgages arising from taxes assessed in a given year. The action in rem for equitable relief shall be entitled substantially as follows: (Name of municipality) against all persons having, or claiming to have, an interest in sundry parcels of real estate in (name of municipality) for the foreclosure of tax lien mortgages arising from taxes assessed in the year ..... the defendants in said action shall be described as aforesaid in lieu of naming them.

2. Complaint. The municipality shall set forth in substance in the complaint the following:

A. That the municipality holds the tax lien mortgages referred to in the complaint;

B. That the tax lien mortgages arose from taxes assessed in a given year;

C. That the real estate described in the tax lien mortgages is located in (name of municipality), and the tax lien mortgages are recorded in a named registry of deeds.

D. The municipality shall further set forth in the complaint with respect to each tax lien mortgage in substance the following:

That a tax of $..... was duly assessed against ..... (name of person) on real estate bounded and described as follows:..... for the year ....; that on .... (date) a tax lien certificate thereon was recorded in .... County registry of deeds in Book ...., Page ....; that on .... (date) a waiver of foreclosure thereof was recorded in said registry of deeds in Book ...., Page ....; that said tax of $....., costs to date of $....., together with interest at ..... percent per annum from ..... (date) is and still remains unpaid.

3. Notice. The court shall order that notice of the pendency of the complaint be given to the defendants:

A. By publication of a true copy of the complaint and the order of notice thereon, attested by the clerk of courts, in a newspaper published or printed in whole or in part in the county where the municipality is situated, if any, or if none, in the state paper, once a week for 3 successive weeks with the last publication not less than 30 days before the time set for appearance of the defendants;

B. By posting a true copy of the complaint and the order of notice thereof, attested by the clerk of courts, in at least 3 public places within the municipality not less than 30 days before the time set for appearance of the defendants; and

C. By mailing a copy of the published notice to the defendants at their last known addresses.

4. No personal judgment. In such action, no personal judgment against a defendant shall be entered. Each person answering the complaint shall have the right to the severance of the action as to the parcel of real estate in which he is interested.

§946. Action for equitable relief after period of redemption; procedure

A municipality which has become the purchaser at a sale of real estate for nonpayment of taxes or which as to any real estate has pursued the alternative method for the enforcement of liens for taxes provided in sections 942 and 943, whether in possession of such real estate or not, after the period of redemption from such sale or lien has expired, may maintain an action for equitable relief against any and all persons who claim or may claim some right, title or interest in the premises adverse to the estate of such municipality.

Any purchaser or his successors in interest from a municipality of real estate or lien thereon acquired by a municipality as a purchaser at a sale thereof for nonpayment of taxes, or acquired under the alternative method for the enforcement of liens for taxes

provided in sections 942 and 943, whether in possession of such real estate or not, after the period of redemption from such sale or lien has expired, may maintain an action for equitable relief against any and all persons who claim or may claim some right, title or interest in the premises adverse to the estate of such municipality or purchaser.

No municipal officer shall, while holding municipal office, acquire from that municipality any interest in real estate acquired by that municipality on account of nonpayment of taxes, unless such sale occurs by sealed bid after duly advertising the same at least twice during a 7-day period prior to the acceptance of bids. Any town official who submits a sealed bid shall not take part in the bid acceptance process except that a municipal officer may purchase tax acquired property if the property was owned by the municipal officer's son, daughter, spouse or parent immediately prior to its acquisition by the municipality and if such purchase is authorized by the municipality.

1. Service. Service shall be made as in other actions on all defendants who can with due diligence be personally served within the State. If any defendants cannot be so served or are described in the complaint as being unascertained, service shall be made by publication as in other actions in which publication is required. A copy of the published notice shall be mailed to all known defendants at their last known addresses if they have not been personally served.

If, after notice has been given or served as ordered by the court and the time limited in such notice for the appearance of the defendants has expired, the court finds that there are or may be defendants who have not been actually served with process and who have not appeared in the action, it may of its own motion, or on the representation of any party, appoint an agent, guardian ad litem or next friend for any such defendant, and if any such defendants have or may have conflicting interests, it may appoint different agents, guardians ad litem or next friends to represent them. The cost of appearance of any such agent, guardian ad litem or next friend, including the cost of compensation of his counsel, shall be determined by the court and paid by the plaintiff, against whom execution may issue therefor in the name of the agent, guardian ad litem or next friend.

2. Decree; effect. The plaintiff in such action shall pray the court to establish and confirm its title to the premises described in the complaint as against all the defendants named or described therein, and if upon hearing the court shall find the plaintiff's title so to be good it shall make and enter its decree accordingly, which decree when recorded in the registry of deeds for the county or district where the real estate lies shall have the effect of a deed of quitclaim of the premises involved in the action from all the defendants named or described therein to the plaintiff.

3. Jury. If the cause is tried in the Superior Court, issues of fact may be framed upon application of any party to be tried by a jury whose verdict shall have the same effect as the verdict of a jury in other civil actions.

§946-A. Tax-acquired property and the restriction of title action [Repealed]

§946-B. Tax-acquired property and the restriction of title action

1. Tax liens recorded after October 13, 2014. A person may not commence an action against the validity of a governmental taking of real estate for nonpayment of property taxes upon the expiration of a 5-year period immediately following the expiration of the period of redemption. This subsection applies to a tax lien recorded after October 13, 2014.

2. Tax liens recorded after October 13, 1993 and on or before October 13, 2014. A person may not commence an action against the validity of a governmental taking of real estate for nonpayment of property taxes after the earlier of the expiration of a 15-year period immediately following the expiration of the period of redemption and October 13, 2019. This subsection applies to a tax lien recorded after October 13, 1993 and on or before October 13, 2014.

3. Tax liens recorded on or before October 13, 1993. For a tax lien recorded on or before October 13, 1993, a person must commence an action against its validity no later than 15 years after the expiration of the period of redemption or no later than July 1, 1997, whichever occurs later.

4. Disability or lack of knowledge. Disability or lack of knowledge of any kind does not suspend or extend the time limits provided in this section.

§947. Presumption of validity

In an action to foreclose a tax lien mortgage under sections 944, 945, or 946, the proceedings from and including the assessment of the tax upon which such tax lien mortgage is based to and including the time of filing the complaint in such action need not be set forth in the complaint, pleaded or proved and shall be presumed to be valid. A defendant alleging any invalidity or defect in such proceedings must specify in his answer such invalidity or defect and must establish such defense.

§948. Supplemental assessments; enforcement of lien

When taxes are assessed under section 713, the lien upon real estate shall be enforced as provided in sections 941 to 943; except that if real estate shall have been transferred to a bona fide purchaser for value since the assessment was omitted or invalidly made with the transfer duly recorded, prior to the date of the supplemental assessment, the lien shall terminate.

§949. Disbursement of excess funds

1. Authorization to adopt ordinance. A municipality that obtains title to property acquired under the operation of this article may, by ordinance, disburse to the former owner the excess of any funds received from the disposition of that property. The ordinance must contain standards governing the disbursement of the excess of any funds and the procedures that protect the interests of the taxpayers of the municipality.

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

A. "Excess of any funds" means the amount obtained by the municipality for the disposition of the property less:

(1) All taxes and interest owed on the property and the amount of taxes and interest that would have been assessed had the property not been acquired by the municipality;

(2) The municipality's cost of the lien and foreclosure process;

(3) The municipality's cost of maintaining and disposing of the property; and

(4) Unpaid sewer, water or other charges and fees imposed by the municipality or a quasi-governmental authority.

B. "Former owner" means a party named on a tax lien mortgage at the time of the levy of a tax lien or that party's successors, heirs or assigns.

3. Unorganized territory. The obligations of a municipality under this section apply to the State with regard to property in the unorganized territory. The State Tax Assessor may adopt routine technical rules providing for the disbursement of the excess of any funds received from the disposition of property in the unorganized territory for nonpayment of taxes under chapter 115.

4. Application. An ordinance or rule adopted under this section may apply to sales of property acquired through the tax lien and foreclosure process occurring on or after January 1, 2015.

§991. Distraint for taxes; procedure; sale

If any resident or nonresident taxpayer after a reasonable demand refuses or neglects to pay any part of the tax assessed against him in accordance with this chapter, the tax collector may distrain him in any part of the State by any of his goods and chattels not exempt from attachment for debt, for the whole or any part of his tax, and may keep such distress for not less than 4 days nor more than 7 days at the expense of the owner, and if he does not pay his tax within that time, the distress shall be openly sold at vendue by the tax collector after the 4th day but on or before the 7th day. The place of sale may be other than where the tax was assessed or where the property was seized. Notice of such sale shall be posted in some public place in the municipality where the tax was assessed and in the place where the sale is to be held at least 48 hours before the time set for sale.

§992. Disposition of surplus

The officer, after deducting the tax and expense of sale, shall restore the balance to the former owner, with a written account of the sale and charges. For distress for nonpayment of taxes the officer shall have the same fees as for levying executions, but his travel shall be computed only from his dwelling house to the place where it is made.

§993. Arrest; notice; procedure; fees

If any resident or nonresident taxpayer assessed in accordance with this chapter, for 12 days after demand, refuses or neglects to pay his tax and to show the tax collector sufficient goods and chattels to pay it, such officer may arrest him in the county where found and commit him there to jail, until he pays it or is discharged by law.

If the tax collector thinks that there are just grounds to fear that such person may abscond before the end of said 12 days, the tax collector may demand immediate payment and, on failure to pay, he may commit such person as provided.

For commitment for nonpayment of taxes, the tax collector shall have the same fees as sheriffs have for levying executions, but his travel shall be computed only from his dwelling house to the place of commitment.

§994. Collector may issue warrant of distress to sheriff

Any tax collector after 3 months from the date of commitment may issue his warrant to the sheriff of any county, or his deputy, or to a constable of his municipality, directing him to distrain the person or property of any taxpayer not paying his taxes, which warrant

shall be of the same tenor as that prescribed to be issued to tax collectors with the appropriate changes returnable to the tax collector issuing the same in 30, 60 or 90 days.

§995. Warrant of distress; service, notice, fees

Before the officer serves any such warrant, he shall deliver to the taxpayer or leave at his last and usual place of abode a summons from said tax collector stating the amount of tax due, and that it must be paid within 10 days from the time of leaving such summons. If not so paid, the officer shall serve such warrant the same as tax collectors may do and shall receive the same fees as for levying executions in personal actions.

For the service of such warrant, the officer shall have the same fees as sheriffs have for serving warrants, but his travel shall be computed only from his place of abode to place of service.

§996. Distraint before tax due to prevent loss

When a tax collector has reason to believe that there is danger of losing, by delay, a tax assessed upon any taxpayer, at any time after commitment:

1. Warrant issued. He may issue the warrant provided for in section 994 prior to the expiration of the 3-month period; or

2. When served. He may in the warrant authorized by section 994, or in subsection 1, direct the officer to demand immediate payment, and if not so paid, the officer shall serve such warrant without further notice; or

3. When notice period unexpired. He may, after the issuance of such warrant, in writing direct the officer to whom the warrant has been issued to demand immediate payment, and if not so paid to serve such warrant without further notice notwithstanding any unexpired portion of the 10-day notice period required by section 995; or

4. Distrain or arrest. He may himself demand immediate payment and upon failure he may distrain the property or arrest the person of such taxpayer.

§997. Arrest and commitment; procedure

When a tax collector or any officer by virtue of a warrant, for want of property, arrests any person and commits him to jail, he shall give an attested copy of his warrant to the jailer and certify, under his hand, the sum that such person is to pay as his tax and the costs of arresting and committing, and that for want of goods and chattels whereon to make distress, he has been arrested. Such copy and certificate are a sufficient warrant to require the jailer to receive and keep such person in custody until he pays his tax, charges and 33¢ for the copy of the warrant. Such person shall have the same rights and privileges as a debtor arrested or committed on execution in favor of a private creditor.

§998. Collector liable unless he commits within one year

When a person imprisoned for not paying his tax is discharged, the tax collector committing him shall not be discharged from such tax without a vote of the municipality, unless the taxpayer was imprisoned within one year after the date of commitment of such tax.

§1031. Collector may bring action in own name

Any tax collector or his executor or administrator may bring a civil action in his own name for any tax, and no Judge of any District Court before whom such action is brought is incompetent to try the same by reason of his residence in the municipality assessing said tax. No defendant is liable for any costs of the action, unless it appears by the complaint and by proof that payment of said tax had been duly demanded before the action.

§1032. Action may be brought in name of municipality

In addition to other provisions for the collection of taxes, the municipal officers of any municipality to which a tax is due may in writing direct a civil action to be commenced in the name of such municipality against the party liable; but no such defendant is liable for any costs of the action, unless it appears by the declaration and by proof that payment of said tax had been duly demanded before the action.

§1071. Collector's tax auction sale; notice; procedure

If any tax on real estate remains unpaid on the first Monday in February next after said tax was assessed, the tax collector shall sell at public auction so much of such real estate as is necessary for the payment of said tax, interest and all the charges, at 9 o'clock in the forenoon of said first Monday in February at the office of the tax collector or at the place where the last preceding annual municipal

meeting was held. In case of the absence or disability of the tax collector, the sale shall be made by some constable of the municipality who shall have the same powers as the tax collector.

In the case of the real estate of resident owners, the tax collector may give notice of the sale and of his intention to sell so much of said real estate as is necessary for the payment of delinquent taxes and all charges by posting notices thereof in the same manner and at the same places that warrants for municipal meetings are therein required to be posted, at least 6 weeks and not more than 7 weeks before such first Monday in February, designating the name of the owner if known, the right, lot and range, the number of acres as nearly as may be, the amount of tax due and such other short description as is necessary to render its identification certain and plain.

In the case of taxes assessed on the real estate of nonresident owners, he shall cause said notices to be published in some newspaper, if any, published in the county where said real estate lies, 3 weeks successively, such publication to begin at least 6 weeks before said first Monday in February. If no newspaper is published in said county, said notices shall be published in like manner in the state paper. He shall, in the advertisements so published, state the name of the municipality and if within 3 years it has been changed for the whole or a part of the territory, both the present and former name shall be stated; and that, if the taxes, interest and charges are not paid on or before such first Monday in February, so much of the estate as is sufficient to pay the amount due therefor with interest and charges will be sold without further notice, at public auction, on said first Monday in February at 9 o'clock in the forenoon at the office of the tax collector or at the place where the last preceding annual municipal meeting was held. The date of the commitment shall be stated in the advertisement.

In all cases said tax collector shall lodge with the municipal clerk a copy of each such notice, with his certificate thereon that he has given notice of the intended sale as required by law. Such copy and certificate shall be recorded by said clerk and the record so made shall be open to the inspection of all persons interested. The clerk shall furnish to any person desiring it an attested copy of such record, on receiving payment or tender of payment of a reasonable sum therefor; but notice of sales of real estate within any village corporation for unpaid taxes of said corporation may be given by notices thereof, posted in the same manner, and at the same places as warrants for corporation meetings, and by publication, as provided.

No irregularity, informality or omission in giving the notices required by this section, or in lodging copy of any of the same with the municipal clerk, as required, shall render such sale invalid, but such sale shall be deemed to be legal and valid, if made at the time and place provided, and in other respects according to law, except as to the matter of notice. For any irregularity, informality or omission in giving notice as required by this section, and in lodging copy of the same with the municipal clerk, the tax collector shall be liable to any person injured thereby.

§1072. -- form

The notice for posting, or the advertisement, as the case may be, of the tax collector required by section 1071 shall be in substance as follows:

Unpaid taxes on real estate situated in the municipality of ....., in the County of ....., for the year ..... The name of the municipality was formerly ....., (to be stated in the case of change of name, as mentioned in the preceding section). The following list of taxes on real estate of resident (or nonresident, as the case may be,) owners in the municipality of ....., for the year ...., committed to me for collection for said municipality on the ..... day of ....., remain unpaid; and notice is hereby given that if said taxes, interest and charges are not previously paid, so much of the real estate taxed as is sufficient to pay the amount due therefor, including interest and charges, will be sold at public auction at ..... in said municipality, on the first Monday of February, 19.., at nine o'clock a. m. (Here follows the list, a short description of each parcel taken from the inventory, to be inserted in an additional column.)

C. D., Tax collector of the municipality of .....

§1073. Notice to owners of time and place of sale

After the real estate is so advertised, and at least 10 days before the day of sale, the tax collector shall notify the owner, if resident, or the occupant thereof, if any, of the time and place of sale by delivering to him in person, or by registered mail with receipt demanded, or by leaving at his last and usual place of abode, a written notice signed by him stating the time and place of sale and the amount of taxes due. In case of nonresident owners of real estate, such notice shall be sent by mail to the last and usual address, if known to the tax collector, at least 10 days before the day of sale. If such tax is paid before the time of sale, the amount to be paid for such advertisement and notice shall not exceed $1, in addition to the sum paid the printer, if any.

§1074. Sale; procedure; costs

When no person appears to discharge the taxes duly assessed on any such real estate of resident or nonresident owners, with costs of advertising, on or before the time of sale, the tax collector shall proceed to sell at public auction, to the highest bidder, so much of such real estate as is necessary to pay the tax due, in the case of each person assessed, with $3 for advertising and selling it, the sum paid to the printer, 25¢ for each copy required to be lodged with the municipal clerk, 25¢ for the return required to be made to the municipal clerk, and 67¢ for the deed thereof and certificate of acknowledgment. If the bidding is for less than the whole, it shall be for a fractional part of the estate, and the bidder who will pay the sum due for the least fractional part shall be the purchaser. If more than one right, lot or parcel

of real estate assessed to the same person is so advertised and sold, said charge of $3, the 25¢ for each copy lodged with the municipal clerk, and the 25¢ for the return made to the municipal clerk, shall be divided equally among the several rights, lots or parcels advertised and sold at any one time; and in addition, the sum paid to the printer shall be divided equally among the nonresident rights, lots or parcels so advertised and sold; and the tax collector shall receive in addition, 50¢ on each parcel of real estate so advertised and sold, when more than one parcel is advertised and sold. The tax collector may, if necessary to complete the sales, adjourn the auction from day to day.

§1075. Collector's return of sale; form

The tax collector making any sale of real estate for nonpayment of taxes shall, within 30 days after such sale make a return, with a particular statement of his doings in making such sale, to the municipal clerk who shall receive and file it. Said return shall be evidence of the facts therein set forth in all cases where such tax collector is not personally interested. The tax collector's return to the municipal clerk shall be in substance as follows:

Pursuant to law, I caused the taxes assessed on the real estate of nonresident owners described herein, situated in the municipality of ..... for the year ....., to be advertised according to law by advertising in the ..... three weeks successively, the first publication being on the ..... day of ....., and at least six weeks before the day of sale; and caused the taxes assessed on the real estate of resident owners described herein, situated in the municipality of ..... for the year ....., to be advertised according to law by posting notice as required by law, at the following places, six weeks before the day of sale, being public and conspicuous places in said municipality. I also, at least ten days before the day of sale, gave to each resident owner of said real estate, or the occupant thereof, if any, in hand, or forwarded to him by registered mail with receipt demanded, or left at his last and usual place of abode, and sent by mail to the last and usual address of each nonresident owner of said real estate, whose address was known to me, written notice of the time and place of said sale, in the manner provided by law; and afterwards on the first Monday of February, 19.., at nine o'clock a.m., being the time and place of sale, I proceeded to sell, according to the tenor of the advertisement, the estates upon which the taxes so assessed remained unpaid; and in the schedules following is set forth each parcel of the estate so offered for sale, the amount of taxes and the name of the purchaser; and I have made and executed deeds of the several parcels to the several persons entitled thereto, and placed them on file in the municipal treasurer's office, to be disposed of as the law requires.

SCHEDULE NO. 1
Nonresident Owners

Name of owner	Description of property	Amount of tax, interest and charges	Quantity sold	Name of purchaser

SCHEDULE NO. 2
Resident Owners

Name of owner	Description of property	Amount of tax, interest and charges	Quantity sold	Name of purchaser

In witness whereof I have hereunto subscribed my name, this ..... day of ....., 19...
C.D., Tax Collector of the municipality of .....

§1076. Purchaser to notify mortgagee of sale; right of redemption

When real estate is so sold for taxes, the tax collector shall, within 30 days after the day of sale, lodge with the municipal treasurer a certificate under oath, designating the quantity of real estate sold, the names of the owners of each parcel and the names of the purchasers; what part of the amount of each was tax and what was cost and charges; also a deed of each parcel sold, running to the purchasers. The treasurer shall not at that time deliver the deeds to the grantees, but put them on file in his office, to be delivered at the expiration of 2 years from the day of sale, and the treasurer shall after the expiration of 2 years deliver said deed to the grantee or his heirs, provided the owner, the mortgagee or any person in possession or other person legally taxable therefor does not within such time redeem the estate from such sale, by payment or tender of the taxes, all the charges and interest on the whole at the rate of 8% a year from the date of sale to the time of redemption, and costs as provided, with 67¢ for the deed and certificate of acknowledgment.

If there is an undischarged mortgage duly recorded on the real estate sold for taxes, the purchaser at such sale shall notify the holder of record of each such mortgage within 60 days from the date of said sale, by sending a notice in writing by registered letter addressed to the record holder of such mortgage at the residence of such holder as given in the registry of deeds in the county where said real estate is situated, stating that he has purchased the estate at a tax sale on such date and request the mortgagee to redeem the same. If such notice is not given, the holder of record of any mortgage, which mortgage was on record in the registry of deeds at the time of said sale, may redeem the real estate sold at any time within 3 months after receiving actual notice of such sale, by the payment or tender of the amounts, interest and costs as specified, and the registry fee for recording and discharging the deed, if the deed has been recorded, and the deed shall be discharged by the grantee therein, or the owner under the tax deed at the time of redemption, in manner provided for the discharge of mortgages of real estate.

If any owner of real estate which is assessed to any former owner who was not the owner on April 1st of the taxable year as assessed, or to owners unknown, does not have actual notice of the sale of his real estate for taxes within said 2 years, he may, at any time within 3 months after he has had actual notice, redeem the real estate sold from such sale although the deed may have been recorded, by payment or tender of the amounts, interest and costs as specified and the registry fee for recording and discharging the deed, in case the deed has been recorded, and the deed shall be discharged by the grantee therein, or the owner under the tax deed at the time of redemption, in manner provided for the discharge of mortgages on real estate.

If the real estate is redeemed before the deed is delivered, the municipal treasurer shall give the owner, mortgagee or party to whom the real estate is assessed or other person legally taxable therefor a certificate thereof, cancel the deed and pay to the grantee on demand the amount so received from him. If the amounts, interest and costs specified are not paid to the treasurer within the time as specified, he shall deliver to the grantee his deed upon the payment of the fees for the deed and acknowledgment and 30¢ more for receiving and paying out the proceeds of the sale, but all tax deeds of real estate upon which there is an undischarged mortgage duly recorded shall carry no title except subject to such mortgage, unless the purchaser at such tax sale gives to the record holder of the mortgage, notice as provided. For the fidelity of the treasurer in discharging his duties required, the municipality is responsible, and has a remedy on his bond in case of default.

§1077. Purchaser's failure to pay in 20 days voids sale

If the purchaser of real estate sold for taxes under section 1074 fails to pay the tax collector within 20 days after the sale of the amount bid by him, the sale shall be void, and the municipality in which such sale was made shall be deemed to be the purchaser of the real estate so sold, the same as if purchased by some one in behalf of the municipality under section 1082. If a municipality becomes a purchaser under this section, the deed to it shall set forth the fact that a sale was duly made, the amount bid for the real estate included in said deed, and that the purchaser failed to pay the amount bid within 20 days after the sale. The said deed shall confer upon said municipality the same rights and duties as if it had been the purchaser under section 1082.

§1078. Owner's right to redeem

Any person to whom the right by law belongs may, at any time within 2 years from the day of sale, redeem any real estate sold for taxes on paying into the municipal treasury for the purchaser the full amount certified to be due, including taxes, costs and charges, with interest on the whole at the rate of 8% a year from the date of the sale, which shall be received and held by said treasurer as the property of the purchaser aforesaid. The treasurer shall pay it to said purchaser, his heirs or assigns, on demand. If not paid when demanded, the purchaser may recover it in any court of competent jurisdiction, with costs and interest at the rate of 8%, after such demand. The sureties of the treasurer shall pay the same on failure of said treasurer. In default of payment by either, the municipality shall pay the same with costs and interest as provided.

§1079. Refund of taxes paid by purchaser

Any person interested in the estate, by the purchase at the sale, may pay any tax assessed thereon, before or after that so advertised, and for which the estate remains liable, and on filing with the municipal treasurer the receipt of the officer to whom it was paid, the amount so paid shall be added to that for which the estate was liable, and shall be paid by the owner redeeming the estate, with interest at the same rate as on the other sums.

§1080. Delivery of deed to purchaser after 2 years

If the estate is not redeemed within the time specified by payment of the full amount required by this chapter, the municipal treasurer shall deliver to the purchaser the deeds lodged with him by the tax collector. If he willfully refuses to deliver such deed to said purchaser, on demand, after said 2 years and forfeiture of the land, he forfeits to said purchaser the full value of the property so to be conveyed, to be recovered in a civil action, with costs and interest as in other cases. The sureties of said treasurer shall make good the payment required in default of payment by the principal. On the failure of both, the municipality is liable.

§1081. Nonresident owner's action; time limit

Any nonresident owner of real estate sold under section 1074, having paid the taxes, costs, charges and interest as provided, may, at any time within one year after making such payment, commence a civil action against the municipality to recover the amount paid, and if on trial it appears that the money raised was for an unlawful purpose, he shall have judgment for the amount so paid. If not commenced within the year, the claim shall be forever barred. The action may be in the Superior Court and the plaintiff recovering judgment therein shall have full costs, although the amount of damages is less than $20.

§1082. Municipal officers may bid at sale

The municipal officers may employ one of their own number, or some other person, to attend the sale for taxes of any real estate in which their municipality is interested, and bid therefor a sum sufficient to pay the amount due and charges, in behalf of the municipality, and the deed shall be made to it.

§1083. Collector's deed; prima facie evidence of validity of sale

In the trial of any civil action, involving the validity of any sale of real estate for nonpayment of taxes, it shall be sufficient for the party claiming under it, in the first instance to produce in evidence the tax collector's deed, duly executed and recorded, which shall be prima facie evidence of his title, and if the other party claims and offers evidence to show that such sale was invalid and ineffectual to convey the title, the party claiming under it shall have judgment in his favor so far as relates to said tax title, if he then produces the assessment, signed by the assessors, and their warrant to the tax collector, and proves that such tax collector complied with the requirements of law in selling such real estate. In all civil actions involving the validity of such sales the tax collector's return to the municipal clerk shall be prima facie evidence of all facts therein set forth.

§1084. Posting notices; evidence of

The affidavit of any disinterested person as to posting notifications required for the sale of any real estate to be sold by the sheriff or his deputy, constable or tax collector, in the execution of his office, may be used in evidence in any trial to prove the fact of notice, if such affidavit, made on one of the original advertisements, or on a copy of it, is filed in the registry of the county where the real estate lies, within 6 months.

SUBCHAPTER 10
FARM AND OPEN SPACE TAX LAW

§1101. Purpose

It is declared that it is in the public interest to encourage the preservation of farmland and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the State to conserve the State's natural resources and to provide for the welfare and happiness of the inhabitants of the State, that it is in the public interest to prevent the forced conversion of farmland and open space land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such farmland and open space land, and that the necessity in the public interest of the enactment of this subchapter is a matter of legislative determination.

§1102. Definitions

When used in this subchapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Assessor. [**Repealed**]

2. Comprehensive plan. "Comprehensive plan" means zoning or a plan of development, including any amendment thereto, prepared or adopted by the planning board.

3. Cropland. "Cropland" means acreage within a farm unit of land in tillage rotation, open land formerly cropped and land in bush fruits.

4. Farmland. "Farmland" means any tract or tracts of land, including woodland and wasteland, of at least 5 contiguous acres on which farming or agricultural activities have contributed to a gross annual farming income of at least $2,000 per year from the sales value of agricultural products as defined in Title 7, section 152, subsection 2 in one of the 2, or 3 of the 5, calendar years preceding the date of application for classification. The farming or agricultural activity and income derived from that activity may be achieved by either the owner or a lessee of the land.

A. [**Repealed**]

B. [**Repealed**]

Gross income as used in this subsection includes the value of commodities produced for consumption by the farm household. Any applicant for assessment under this subchapter bears the burden of proof as to the applicant's qualification.

4-A. Forest management and harvest plan. "Forest management and harvest plan" means a written document that outlines activities to regenerate, improve and harvest a standing crop of timber. A plan must include the location of water bodies and wildlife habitat as identified by the Department of Inland Fisheries and Wildlife. A plan may include, but is not limited to, schedules and recommendations for timber stand improvement and harvesting plans and recommendations for regeneration activities. A plan must be prepared by a licensed professional forester or a landowner and be reviewed and certified by a licensed professional forester as consistent with sound silvicultural practices.

4-B. Forested land. "Forested land" means land that is used in the growth of trees but does not include ledge, marsh, open swamp, bog, water and similar areas that are unsuitable for growing trees.

5. Farm woodland. "Farm woodland" means the combined acreage within a farm unit of forested land.

5-A. Horticultural land. "Horticultural land" means land which is engaged in the production of vegetables, tree fruits, small fruits, flowers and woody or herbaceous plants.

6. Open space land. "Open space land" means any area of land, including state wildlife and management areas, sanctuaries and preserves designated as such in Title 12, the preservation or restriction of the use of which provides a public benefit in any of the following areas:

A. Conserving scenic resources;

B. Enhancing public recreation opportunities;

C. Promoting game management; or

D. Preserving wildlife or wildlife habitat.

7. Orchard land. "Orchard land" means the combined acreage within a farm unit of land devoted to the cultivation of trees bearing edible fruit.

8. Pastureland. "Pastureland" means the combined acreage within a farm unit of land devoted to the production of forage plants used for animal production.

9. Planning board. "Planning board" means a planning board created for the purpose of planning in any municipality or the Maine Land Use Planning Commission in the unorganized territory.

10. Wildlife habitat. "Wildlife habitat" means land that is subject to a written management agreement between the landowner and either the Department of Inland Fisheries and Wildlife or the Department of Agriculture, Conservation and Forestry to ensure that the habitat benefits provided by the land are not lost. Management agreements may be revised or updated by mutual consent of both parties at any time. Management agreements must be renewed at least every 10 years. "Wildlife habitat" must also meet one of the following criteria:

A. The land is designated by the Department of Inland Fisheries and Wildlife as supporting important wildlife habitat;

B. The land supports the life cycle of any species of wildlife as identified by the Department of Inland Fisheries and Wildlife;

C. The land is identified by the Department of Agriculture, Conservation and Forestry as supporting a natural vegetation community; or

D. The land is designated as a resource protection area in a comprehensive plan, zoning ordinance or zoning map.

§1103. Owner's application

An owner of farmland or open space land may apply for taxation under this subchapter by filing with the assessor the schedule provided for in section 1109. The election to apply requires the written consent of all owners of an interest in that farmland or open space land.

§1104. Administration; regulations

The State Tax Assessor shall adopt and amend such rules and regulations as may be reasonable and appropriate to carry out his responsibilities as provided in this subchapter.

§1105. Valuation of farmland

The municipal assessor, chief assessor or State Tax Assessor for the unorganized territory shall establish the 100% valuation per acre based on the current use value of farmland used for agricultural or horticultural purposes. The values established must be guided by the Department of Agriculture, Conservation and Forestry as provided in section 1119 and adjusted by the assessor if determined necessary on the basis of such considerations as farmland rentals, farmer-to-farmer sales, soil types and quality, commodity values, topography and other relevant factors. These values may not reflect development or market value purposes other than agricultural or horticultural use. The values may not reflect value attributable to road frontage or shore frontage.

The 100% valuation per acre for farm woodland within a parcel classified as farmland under this subchapter is the 100% valuation per acre for each forest type established for each county pursuant to subchapter II-A. Areas other than woodland, agricultural land or horticultural land located within any parcel of farmland classified under this subchapter are valued on the basis of just value.

§1106. Powers and duties; State Tax Assessor [Repealed]

§1106-A. Valuation of open space land

1. Valuation method. For the purposes of this subchapter, the current use value of open space land is the sale price that particular open space parcel would command in the marketplace if it were required to remain in the particular category or categories of open space land for which it qualifies under section 1102, subsection 6, adjusted by the certified ratio.

2. Alternative valuation method. Notwithstanding any other provision of law, if an assessor is unable to determine the valuation of open space land under the valuation method in subsection 1, the assessor may value that land under the alternative method in this subsection. The assessor may reduce the ordinary assessed valuation of the land, without regard to conservation easement restrictions and as reduced by the certified ratio, by the cumulative percentage reduction for which the land is eligible according to the following categories.

A. All open space land is eligible for a reduction of 20%.

B. Permanently protected open space land is eligible for the reduction set in paragraph A and an additional 30%.

C. Forever wild open space land is eligible for the reduction set in paragraphs A and B and an additional 20%.

D. Public access open space land is eligible for the applicable reduction set in paragraph A, B or C and an additional 25%.

E. Managed forest open space land is eligible for the reduction set in paragraphs A, B and D and an additional 10%.

Notwithstanding this section, the value of forested open space land may not be reduced to less than the value it would have under subchapter II-A, and the open space land valuation may not exceed just value as required under section 701-A.

3. Definition of land eligible for additional percentage reduction. The following categories of open space land are eligible for the additional percentage reduction set forth in subsection 2, paragraphs B, C, D and E.

A. Permanently protected open space is an area of open space land that is eligible for an additional cumulative percentage reduction in valuation because that area is subject to restrictions prohibiting building development under a perpetual conservation easement pursuant to Title 33, chapter 7, subchapter 8-A or as an open space preserve owned and operated by a nonprofit entity in accordance with section 1109, subsection 3, paragraph H.

B. Forever wild open space is an area of open space land that is eligible for an additional cumulative percentage reduction in valuation because it is permanently protected and subject to restrictions or committed to uses by a nonprofit entity in accordance with section 1109, subsection 3, paragraph H that ensure that in the future the natural resources on that protected property will remain substantially unaltered, except for:

(1) Fishing or hunting;

(2) Harvesting shellfish in the intertidal zone;

(3) Prevention of the spread of fires or disease; or

(4) Providing opportunities for low-impact outdoor recreation, nature observation and study.

C. Public access open space is an area of open space land, whether ordinary, permanently protected or forever wild, that is eligible for an additional cumulative percentage reduction in valuation because public access is by reasonable means and the applicant agrees to refrain from taking action to discourage or prohibit daytime, nonmotorized and nondestructive public use. The applicant may permit, but is not obligated to permit as a condition of qualification for public access status, hunting, snowmobiling, overnight use or other more intensive outdoor recreational uses. The applicant, without disqualifying land from status as public access open space, may impose temporary or localized public access restrictions to:

(1) Protect active habitat of endangered species listed under Title 12, chapter 925, subchapter 3;

(2) Prevent destruction or harm to fragile protected natural resources under Title 38, chapter 3, subchapter 1, article 5-A; or

(3) Protect the recreational user from any hazardous area.

D. Managed forest open space land is an area of open space land whether ordinary, permanently protected pursuant to paragraph A or public access pursuant to paragraph C containing at least 10 acres of forested land that is eligible for an additional cumulative percentage reduction in valuation because the applicant has provided proof of a forest management and harvest plan. A forest management and harvest plan must be prepared for each parcel of managed forest open space land and updated every 10 years. The landowner must comply with the forest management and harvest plan and must submit every 10 years to the municipal assessor for parcels in a municipality or the State Tax Assessor for parcels in the unorganized territory a statement from a licensed professional forester that the landowner is managing the parcel according to the forest management and harvest plan. Failure to comply with the forest management and harvest plan results in the loss of the additional cumulative percentage reduction under this paragraph for 10 years. The assessor or the assessor's duly authorized representative may enter and examine the forested land and may examine any information in the forest management and harvest plan submitted by the owner. A copy of the forest management and harvest plan must be made available to the assessor to review upon request. For the purposes of this paragraph, "to review" means to see or possess a copy of a forest management and harvest plan for a reasonable amount of time to verify that the forest management and harvest plan exists or to facilitate an evaluation as to whether the forest management and harvest plan is appropriate and is being followed. Upon completion of a review, the forest management and harvest plan must be returned to the owner or an agent of the owner. A forest management and harvest plan provided in accordance with this section is confidential and is not a public record as defined in Title 1, section 402, subsection 3.

§1107. Orders [Repealed]

§1108. Assessment of tax

1. Organized areas. The municipal assessors shall adjust the 100% valuations per acre for farmland for their jurisdiction by whatever ratio or percentage of current just value is then being applied to other property within the municipality to obtain the assessed values. For any tax year, the classified farmland value must reflect only the current use value for farm or open space purposes and may not include any increment of value reflecting development pressure. Commencing April 1, 1978, land in the organized areas subject to taxation under this subchapter must be taxed at the property tax rate applicable to other property in the municipality, which rate must be applied to the assessed values so determined.

2. Unorganized territory. The State Tax Assessor shall adjust the 100% valuations per acre for farmland for the unorganized territory by such ratio or percentage as is then being used to determine the state valuation applicable to other property in the unorganized territory to obtain the assessed values. For any tax year, the classified farmland value must reflect only the current use value for farm or open space purposes and shall not include any increment of value reflecting development pressure. Commencing April 1, 1978, land in the unorganized territory subject to taxation under this subchapter shall be taxed at the state property tax rate applicable to other property in the unorganized territory, which rate shall be applied to the assessed values so determined.

§1109. Schedule; investigation

1. Schedule. The owner or owners of farmland subject to taxation under this subchapter shall submit a signed schedule, on or before April 1st of the year in which the owner or owners wish to first subject the land to taxation under this subchapter, to the assessor upon a form prescribed by the State Tax Assessor identifying the land to be taxed under this subchapter, indicating the number of acres of each farmland classification, showing the location of the land in each classification and representing that the land is farmland as defined in section 1102, subsection 4. In determining whether the land is farmland, the assessor shall take into account, among other things, the acreage of the land, the portion of the land that is actually used for farming or agricultural operations, the productivity of the land, the gross income derived from farming or agricultural operations on the land, the nature and value of the equipment used in connection with farming or agricultural operations on the land and the extent to which the tracts comprising the land are contiguous. If the assessor determines that the land is farmland as defined in section 1102, subsection 4, the assessor shall classify it as farmland and apply the appropriate 100% valuations per acre for farmland and that land is subject to taxation under this subchapter.

The assessor shall record, in the municipal office of the town in which the farmland is located, the value of the farmland as established under this subchapter and the value at which the farmland would have been assessed had it not been classified under this subchapter.

2. Provisional classification. The owner of a parcel of land of at least 5 contiguous acres on which farming or agricultural activities have not produced the gross income required in section 1102, subsection 4 per year for one of the 2 or 3 of the 5 preceding calendar years, may apply for a 2-year provisional classification as farmland by submitting a signed schedule in duplicate, on or before April 1st of the year for which provisional classification is requested, identifying the land to be taxed under this subsection, listing the number of acres of each farmland classification, showing the location of the land in each classification and representing that the applicant intends to conduct farming or agricultural activities upon that parcel. Upon receipt of the schedule, the land must be provisionally classified as farmland and subjected to taxation under this subchapter. If, at the end of the 2-year period, the land does not qualify as farmland under section 1102, subsection 4, the owner shall pay a penalty that is an amount equal to the taxes that would have been

assessed had the property been assessed at its fair market value on the first day of April for the 2 preceding tax years less the taxes paid on the property over the 2 preceding years and interest at the legal rate from the dates on which those amounts would have been payable.

3. Open space land qualification. The owner or owners of land who believe that land is open space land as defined in section 1102, subsection 6 shall submit a signed schedule on or before April 1st of the year in which that land first becomes subject to taxation under this subchapter to the assessor on a form prescribed by the State Tax Assessor that must contain a description of the land, a general description of the use to which the land is being put and other information required by the assessor to aid the assessor in determining whether the land qualifies for classification as open space land and for which of the valuation categories set forth in section 1106-A the land is eligible. The assessor shall determine whether the land is open space land as defined in section 1102, subsection 6 and, if so, that land must be classified as open space land and subject to taxation under this subchapter. In determining whether the restriction of the use or preservation of the land provides a public benefit in one of the areas set forth in section 1102, subsection 6, the assessor shall consider all facts and circumstances pertinent to the land and its vicinity. A factor that is pertinent to one application may be irrelevant in determining the public benefit of another application. A single factor, whether listed below or not, may be determinative of public benefit. Among the factors to be considered are:

A. The importance of the land by virtue of its size or uniqueness in the vicinity or proximity to extensive development or comprising an entire landscape feature;

B. The likelihood that development of the land would contribute to degradation of the scenic, natural, historic or archeological character of the area;

C. The opportunity of the general public to appreciate significant scenic values of the land;

D. The opportunity for regular and substantial use of the land by the general public for recreational or educational use;

E. The importance of the land in preserving a local or regional landscape or resource that attracts tourism or commerce to the area;

F. The likelihood that the preservation of the land as undeveloped open space will provide economic benefit to the town by limiting municipal expenditures required to service development;

G. Whether the land is included in an area designated as open space land or resource protection land on a comprehensive plan or in a zoning ordinance or on a zoning map as finally adopted;

H. The existence of a conservation easement, other legally enforceable restriction, or ownership by a nonprofit entity committed to conservation of the property that will permanently preserve the land in its natural, scenic or open character;

I. The proximity of other private or public conservation lands protected by permanent easement or ownership by governmental or nonprofit entities committed to conservation of the property;

J. The likelihood that protection of the land will contribute to the ecological viability of a local, state or national park, nature preserve, wildlife refuge, wilderness area or similar protected area;

K. The existence on the land of habitat for rare, endangered or threatened species of animals, fish or plants, or of a high quality example of a terrestrial or aquatic community;

L. The consistency of the proposed open space use with public programs for scenic preservation, wildlife preservation, historic preservation, game management or recreation in the region;

M. The identification of the land or of outstanding natural resources on the land by a legislatively mandated program, on the state, local or federal level, as particular areas, parcels, land types or natural resources for protection, including, but not limited to, the register of critical areas under Title 12, section 544-B; the laws governing wildlife sanctuaries and management areas under Title 12, section 10109, subsection 1 and sections 12706 and 12708; the laws governing the State's rivers under Title 12, chapter 200; the natural resource protection laws under Title 38, chapter 3, subchapter 1, article 5-A; and the Maine Coastal Barrier Resources Systems under Title 38, chapter 21;

N. Whether the land contains historic or archeological resources listed in the National Register of Historic Places or is determined eligible for such a listing by the Maine Historic Preservation Commission, either in its own right or as contributing to the significance of an adjacent historic or archeological resource listed, or eligible to be listed, in the National Register of Historic Places; or

O. Whether there is a written management agreement between the landowner and the Department of Inland Fisheries and Wildlife or the Department of Agriculture, Conservation and Forestry as described in section 1102, subsection 10.

If a parcel of land for which the owner or owners are seeking classification as open space contains any principal or accessory structures or any substantial improvements that are inconsistent with the preservation of the land as open space, the owner or owners in their schedule shall exclude from their application for classification as open space a parcel of land containing those buildings or improvements at least equivalent in size to the state minimum lot size as prescribed by Title 12, section 4807-A or by the zoning ordinances or zoning map pertaining to the area in which the land is located, whichever is larger. For the purposes of this section, if any of the buildings or improvements are located within shoreland areas as defined in Title 38, chapter 3, subchapter 1, article 2-B, the excluded parcel must include the minimum shoreland frontage required by the applicable minimum lot standards under the minimum guidelines established pursuant to Title 38, chapter 3, subchapter 1, article 2-B or by the zoning ordinance for the area in which the land is located, whichever is larger. The shoreland frontage requirement is waived to the extent that the affected frontage is part of a contiguous shore path or a beach for which there is or will be, once classified, regular and substantial use by the public. The shoreland frontage requirement may be waived at the discretion of the legislative body of the municipality if it determines that a public benefit will be served by preventing future development near the shore or by securing access for the public on the particular shoreland area that would otherwise be excluded from classification.

4. Investigation. The assessor shall notify the landowner, on or before June 1st following receipt of a signed schedule meeting the requirements of this section, whether the application has been accepted or denied. If the application is denied, the assessor shall state the reasons for the denial and provide the landowner an opportunity to amend the schedule to conform to the requirements of this subchapter.

The assessor or the assessor's duly authorized representative may enter and examine lands subject to taxation under this subchapter and may examine any information submitted by the owner or owners.

The assessor may require the owner to respond within 60 days of the receipt of notice in writing by certified mail, return receipt requested, to written questions or interrogatories the assessor considers necessary to obtain material information about those lands. If the assessor determines that the required material information regarding those lands cannot reasonably be obtained through written questions or interrogatories, the assessor may require the owner, upon notice in writing by certified mail, return receipt requested, or by another method that provides actual notice, to appear before the assessor at a reasonable time and place designated by the assessor and answer questions or interrogatories the assessor considers necessary to obtain material information about those lands.

If the owner of a parcel of land subject to taxation under this subchapter fails to submit the schedules required by this section, fails to respond to written questions or interrogatories of the assessor as provided in this subsection or fails to appear before the assessor to respond to questions or interrogatories as provided in this subsection, that owner or owners are deemed to have waived all rights of appeal.

5. Owner obligation. It is the obligation of the owner to report to the assessor any change of use or change of classification of land subject to taxation under this subchapter by the end of the tax year in which the change occurs and to report to the assessor on or before April 1st of every 5th year the gross income realized in each of the previous 5 years from acreage classified as farmland.

If the owner fails to report to the assessor as required by this subsection, the assessor shall assess those taxes that should have been paid, shall assess the penalty provided in section 1112 and shall assess an additional penalty equal to 25% of the penalty provided in section 1112. The assessor may waive the additional penalty for cause.

6. Recertification. The assessor shall determine annually whether any classified land continues to meet the requirements of this subchapter. Each year the assessor shall recertify any classifications made under this subchapter. If any classified land no longer meets the requirements of this subchapter, the assessor shall either remove the classification or, if he deems it appropriate, allow the land to have a provisional classification as detailed in subsection 2.

7. Transition. Repealed]

§1110. Reclassification

Land subject to taxes under this subchapter may be reclassified as to land classification by the municipal assessor, chief assessor or State Tax Assessor upon application of the owner with a proper showing of the reasons justifying that reclassification or upon the initiative of the respective municipal assessor, chief assessor or State Tax Assessor where the facts justify the same. In the event that the municipal assessor, chief assessor or State Tax Assessor determines, upon his own initiative, to reclassify land previously classified under this subchapter, he shall provide to the owner or owners of the land by certified mail, return receipt requested, notice of his intention to reclassify that land and the reasons therefor:

§1111. Scenic easements and development rights

Any municipality may, through donation or the expenditure of public funds, accept or acquire scenic easements or development rights for preserving property for the preservation of agricultural farmland or open space land. The term of such scenic easements or development rights must be for a period of at least 10 years.

§1112. Recapture penalty

Any change in use disqualifying land for classification under this subchapter shall cause a penalty to be assessed by the assessors of the municipality in which the land is located, or by the State Tax Assessor if the land is not within a municipality, in addition to the annual tax in the year of disqualification except when the change is occasioned by a transfer resulting from the exercise or the threatened exercise of the power of eminent domain.

For land that has been classified as farmland under this subchapter, the penalty is the recapture of the taxes that would have been paid on the land for the past 5 years if it had not been classified under this subchapter, less all taxes that were actually paid during those 5 years and interest at the rate set by the town during those 5 years on delinquent taxes. An owner of farmland that has been classified under this subchapter for 5 full years or more may pay any penalty owed under this paragraph in up to 5 equal annual installments with interest at the rate set by the town to begin 60 days after the date of assessment. Notwithstanding section 943, for an owner paying a penalty under this procedure, the period during which the tax lien mortgage, including interest and costs, must be paid to avoid foreclosure and expiration of the right of redemption is 48 months from the date of the filing of the tax lien certificate instead of 18 months.

A penalty may not be assessed at the time of a change of use from the farmland classification of land subject to taxation under this subchapter to the open space classification of land subject to taxation under this subchapter. A penalty may not be assessed upon the withdrawal of open space land from taxation under this subchapter if the owner applies for the land to be classified as and the land is accepted for classification as timberland under subchapter 2-A. There also is no penalty imposed when land classified as timberland is accepted for classification as open space land. A penalty may not be assessed upon withdrawal of open space land from taxation under this subchapter if the owner applies for the land to be classified as and the land is accepted for classification as farmland under this subchapter. A penalty may not be assessed upon withdrawal of land enrolled under the Maine Tree Growth Tax Law if the owner applies for the land to be classified as and the land is accepted for classification as farmland under this chapter. The recapture penalty for withdrawal from farmland classification within 10 years of a transfer from either open space tax classification or timberland tax classification is the same imposed on withdrawal from the prior tax classification, open space or tree growth. The recapture penalty for withdrawal from farmland classification more than 10 years after such a transfer will be the regular farmland recapture penalty provided for in this section. In the event a penalty is later assessed under subchapter 2-A, the period of time that the land was taxed as farmland or as open space land under this subchapter must be included for purposes of establishing the amount of the penalty. The recapture penalty for withdrawal from open space classification within 10 years of a transfer from tree growth classification occurring on or after August 1, 2012 is the same that would be imposed if the land were being withdrawn from the tree growth classification. The recapture penalty for withdrawal from open space classification more than 10 years after such a transfer will be the open space recapture penalty provided for in this section.

If land is withdrawn from classification under this subchapter, any penalty assessed may be considered for abatement pursuant to the procedures incorporated in subchapter VIII.

For land classified as open space under this subchapter, the penalty is the same as that imposed for withdrawal from tree growth classification in section 581 and may be assessed and collected as a supplemental assessment in accordance with section 713-B.

§1112-A. Mineral lands [Repealed]

§1112-B. Mineral lands subject to an excise tax

Any statutory or constitutional penalty imposed as a result of withdrawal or a change of use, whether imposed before or after January 1, 1984, shall be determined without regard to the presence of minerals, provided that when payment of the penalty is made or demanded, whichever occurs first, there is in effect a state excise tax which applies or would apply to the mining of those minerals.

§1113. Enforcement provision

A lien is created to secure the payment of the penalties provided in section 1109, subsections 2 and 5 and section 1112, which may be enforced in the same manner as liens created by section 552.

§1114. Application

No person can apply for classification for more than an aggregate total of 15,000 acres under this subchapter. The classification of farmland or open space land hereunder shall continue until the municipal assessor, or State Tax Assessor in the unorganized territory, determine that the land no longer meets the requirements of such classification.

§1115. Transfer of portion of parcel of land

Transfer of a portion of a parcel of farmland subject to taxation under this subchapter does not affect the taxation under this subchapter of the resulting parcels unless they do not meet the minimum acreage requirements of this subchapter. Transfer of a portion of a parcel of open space land subject to taxation under this subchapter does not affect the taxation under this subchapter of the resulting

parcels unless either or both of the parcels no longer provide a public benefit in one of the areas enumerated in section 1102, subsection 6. Each resulting parcel must be taxed to the owners under this subchapter until it is withdrawn from taxation under this subchapter, in which case the penalties provided in section 1112 apply only to the owner of that parcel. If the transfer of a portion of a parcel of farmland subject to taxation under this subchapter results in the creation of a parcel that is less than the minimum acreage required by this subchapter or if the transfer of a portion of a parcel of open space land subject to taxation under this subchapter results in the creation of a parcel that no longer provides a public benefit in one of the areas enumerated in section 1102, subsection 6, that parcel is deemed to have been withdrawn from taxation under this subchapter as a result of the transfer and is subject to the penalties provided in section 1112.

§1116. Reclassification and withdrawal in unorganized territory [Repealed]

§1117. Appeal from State Tax Assessor or Commissioner of Agriculture [Repealed]

§1118. Appeals and abatements

The denial of an application or an assessment made under this subchapter is subject to the abatement procedures provided by section 841. Appeal from a decision rendered under section 841 or a recommended current use value established under section 1106-A must be to the State Board of Property Tax Review.

§1119. Valuation guidelines

By December 31, 2000 and biennially thereafter, the Department of Agriculture, Conservation and Forestry working with the Bureau of Revenue Services, representatives of municipal assessors and farmers shall prepare guidelines to assist local assessors in the valuation of farmland. The department shall also deliver these guidelines in training sessions for local assessors throughout the State. These guidelines must include recommended values for cropland, orchard land, pastureland and horticultural land, differentiated by region where justified. Any variation in assessment of farmland from the recommended values must be substantiated by the local assessor within the parameters allowed within this subchapter.

§1120. Program promotion

The Department of Agriculture, Conservation and Forestry shall undertake an informational program designed to educate Maine citizens as to the existence of the farm and open space tax laws, which must include, but not be limited to, informing local farm organizations and associations of tax assessors about the law.

The Department of Agriculture, Conservation and Forestry and the Bureau of Revenue Services shall produce written materials designed to inform municipal assessors, farmers and Maine citizens about the farm and open space tax program. These materials must be in a form that is attractive, easily understandable and designed to interest the public in the program. The department and the bureau shall ensure that these written materials are made available and distributed as widely as possible throughout the State.

§1121. Program monitoring

The Department of Agriculture, Conservation and Forestry and the Bureau of Revenue Services shall periodically review the level of participation in the farm and open space tax program, the taxes saved due to that participation, the fiscal impact, if any, on municipalities, including the impact of any penalties assessed under section 1112 and the effectiveness of the program in preserving farmland and open space. The department and the bureau may report to the joint standing committee of the Legislature having jurisdiction over taxation matters on the status of the program. The department and the bureau may identify problems that prevent realization of the purposes of this subchapter and potential solutions to remedy those problems.

SUBCHAPTER 10-A
CURRENT USE VALUATION OF CERTAIN WORKING WATERFRONT LAND

§1131. Purpose

It is declared that it is in the public interest to encourage the preservation of working waterfront land and to prevent the conversion of working waterfront land to other uses as the result of economic pressures caused by the assessment of that land, for purposes of property taxation, at values incompatible with its use as working waterfront land and that the necessity in the public interest of the enactment of this subchapter in accordance with the Constitution of Maine, Article IX, Section 8 is a matter of legislative determination.

§1132. Definitions

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

1. Commercial aquacultural production. "Commercial aquacultural production" has the same meaning as in section 2013, subsection 1, paragraph A-1.

2. Commercial fishing. "Commercial fishing" means harvesting or processing, or both, of wild marine organisms with the intent of disposing of them for profit or trade in commercial channels.

3. Commercial fishing activities. "Commercial fishing activities" means commercial aquacultural production and commercial fishing. "Commercial fishing activities" does not include retail sale to the general public of marine organisms or their byproducts, or of other products or byproducts of commercial aquacultural production or commercial fishing.

4. Excess valuation factor. "Excess valuation factor" means a market-based influence on the determination of the just value of working waterfront land that would result in a valuation that is in excess of that land's current use value. "Excess valuation factor" includes, but is not limited to, aesthetic factors, recreational water-use factors, residential housing factors and nonresidential development factors unrelated to working waterfront uses.

5. Head of tide. "Head of tide" means the inland or upstream limit of water affected by the tide.

6. Intertidal zone. "Intertidal zone" means all land affected by the tides between the mean high-water mark and the mean low-water mark.

7. Marine organism. "Marine organism" means an animal or plant that inhabits intertidal zones or waters below head of tide.

8. Support the conduct of commercial fishing activities. "Support the conduct of commercial fishing activities" means:

A. To provide access to the water or the intertidal zone over waterfront property to persons directly engaged in commercial fishing activities; or

B. To conduct commercial business activities that provide goods or services that directly support commercial fishing activities.

9. Used predominantly. "Used predominantly" means used more than 90% for commercial fishing activity, allowing for limited uses for noncommercial or nonfishing activities if those activities are minor and purely incidental to a property's predominant use.

10. Used primarily. "Used primarily" means used more than 50% for commercial fishing activity.

11. Working waterfront land. "Working waterfront land" means a parcel of land, or a portion thereof, abutting water to the head of tide or land located in the intertidal zone that is used primarily or used predominantly to provide access to or support the conduct of commercial fishing activities. For purposes of this subchapter, a parcel is deemed to include a unit of real estate notwithstanding the fact that it is divided by a road, way, railroad or pipeline.

§1133. Owner's application

An owner or owners of land may elect to apply for taxation under this subchapter for the tax year beginning April 1, 2007 and for subsequent tax years by filing with the assessor the schedule provided for in section 1137, subsection 1.

§1134. Administration; rules

The State Tax Assessor may adopt rules necessary to carry out this subchapter. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§1135. Current use valuation of working waterfront land

The municipal assessor, chief assessor or State Tax Assessor for the unorganized territory shall establish the current use value per parcel for property classified as working waterfront land. The current use value of working waterfront land is the sale price that the parcel would command in the marketplace if it were required to remain in the use currently being made of the parcel as working waterfront land. The assessor may use one of the following methods to determine current use value.

1. Comparative valuation. The assessor may determine the current use value of working waterfront land by considering:

A. All excess valuation factors that affect the land's just value;

B. The comparative valuation of inland commercial enterprises that are being assessed on the basis of a use that is similar to the use of the working waterfront land with respect to function, access and level of activity; and

C. Any other factor that results in a determination of the current use value of the working waterfront land.

2. Alternative valuation. If there is insufficient data to determine the current use value of working waterfront land under subsection 1, the assessor may reduce the ordinary assessed valuation of the land, without regard to permanent protection restrictions and as reduced by the certified ratio, by applying the percentage reductions for which the land is eligible according to the following categories.

A. Working waterfront land used predominantly as working waterfront land is eligible for a reduction of 20%.

B. Working waterfront land used primarily as working waterfront land is eligible for a reduction of 10%.

C. Working waterfront land that is permanently protected from a change in use through deeded restrictions is eligible for the reduction described in paragraph A or B and an additional reduction of 30%.

§1136. Assessment of tax

An assessment of working waterfront land for purposes of property taxation must be based on the value determined in accordance with this subchapter.

§1137. Schedule; qualification

1. Schedule. The owner or owners of waterfront land may apply for taxation of that land under this subchapter by submitting a signed schedule, on or before April 1st of the year in which the owner or owners wish to first subject that land to taxation under this subchapter, to the assessor upon a form to be prescribed by the State Tax Assessor that must contain a description of the parcel, together with a map identifying the location and boundaries of the working waterfront land, a description of the manner in which the land is used primarily for commercial fishing activities and other information the assessor may require to aid the assessor in determining what portion of the land qualifies for classification as working waterfront land. The schedule must be signed and consented to by each person with an ownership interest in the land. Classification of the land as working waterfront land may not be inconsistent with the use prescribed in the comprehensive plan, growth management program or zoning ordinance of the municipality in which the land is situated.

In defining the working waterfront land area contained within a parcel, land used primarily for commercial fishing activities must be included, together with any remaining portion of the parcel that is not used for purposes inconsistent with commercial fishing activities as long as the remaining portion is not sufficient in dimension to meet the requirements for a minimum lot as provided by either the state minimum lot requirements as prescribed by Title 12, section 4807-A or Title 38, chapter 3, subchapter 1, article 2-B, as applicable, or the minimum lot size provided by the zoning ordinance or zoning map pertaining to the area in which the remaining portion is located.

2. Classification. The assessor shall determine what land meets the requirements of this subchapter and shall classify such land as working waterfront land in accordance with this subchapter. The assessor shall file, in the municipal office of the town in which the working waterfront land is located, the original schedule and the value of the working waterfront land as established under this subchapter and the value at which the working waterfront land would have been assessed had it not been classified under this subchapter.

3. Notification of determination. The assessor shall notify the owner or owners in writing of the assessor's determination as to the applicability of this subchapter by June 1st following receipt of a signed schedule meeting the requirements of this section. The assessor's notification must state whether the application has been accepted or denied, and if denied the assessor shall state the reasons for the denial and provide the owner or owners an opportunity to amend the schedule to conform to the requirements of this subchapter.

4. Investigation. The assessor or the assessor's duly authorized representative may enter and examine the lands under this subchapter for tax purposes and may examine any information submitted by the owner or owners.

Upon notice in writing by certified mail, return receipt requested, any owner or owners shall, within 60 days of the receipt of such notice, respond to such written questions or interrogatories as the assessor may consider necessary to obtain material information about those lands. If the assessor determines that it is not reasonable to obtain the required material information regarding those lands through such written questions or interrogatories, the assessor may require any owner or owners, upon notice in writing by certified mail, return receipt requested, or by such other method as provides actual notice, to appear before the assessor at such reasonable time and place as the assessor may designate and answer such questions or interrogatories as the assessor may consider necessary to obtain material information about those lands.

5. Owner obligation. If the owner or owners of any land subject to taxation under this subchapter fail to submit the schedules under this section, or fail to respond, within 60 days of receipt, to written questions or interrogatories of the assessor, or fail within 60 days of receipt of notice as provided in this section to appear before the assessor to respond to questions or interrogatories, or fail to provide information after notice duly received as provided under this section, that owner or those owners are deemed to have waived all rights of appeal.

It is the obligation of the owner or owners to report to the assessor any disqualifying change of use of land subject to taxation under this subchapter by the end of the tax year in which the change occurs. If the owner or owners fail to report any disqualifying change of use of

land to the assessor, the assessor shall assess those taxes that should have been paid, shall assess the penalty provided in section 1138 and shall assess an additional penalty of 25% of the foregoing penalty amount. The assessor may waive the additional penalty for cause.

6. Recertification. The assessor shall determine annually whether any classified land continues to meet the requirements of this subchapter. Each year the assessor shall recertify any classifications made under this subchapter and update the information required under subsection 1. If any classified land no longer meets the requirements of this subchapter, or the owner or owners request withdrawal of the land from the classification in writing, the assessor shall remove the classification.

§1138. Recapture penalty

1. Assessor determination; owner request. If the assessor determines that land subject to this subchapter no longer meets the requirements of this subchapter, the assessor must withdraw the land from taxation under this subchapter. The owner or owners of land subject to this subchapter may at any time request withdrawal of any land from taxation under this subchapter by certifying in writing to the assessor that the land is no longer to be classified under this subchapter.

2. Withdrawal of portion. In the case of withdrawal of a portion of the working waterfront land, the owner or owners, as a condition of withdrawal, shall file with the assessor a schedule including the information required under section 1137, subsection 1 showing the area withdrawn and the area remaining under this subchapter.

3. Penalty. If land is withdrawn from taxation under this subchapter, the assessor shall impose a penalty upon the owner or owners. The penalty is the greater of:

A. An amount equal to the taxes that would have been assessed on the first day of April for the 5 tax years, or any lesser number of tax years starting with the year in which the property was first classified, preceding such withdrawal had such real estate been assessed in each of those years at its just value on the date of withdrawal less all taxes paid on that real estate over the preceding 5 years, and interest at the prevailing municipal rate from the date or dates on which those amounts would have been payable; and

B. An amount computed by multiplying the amount, if any, by which the fair market value of the real estate on the date of withdrawal exceeds the 100% valuation of the real estate pursuant to this subchapter on the preceding April 1st by the following rates:

(1) If the real estate was subject to valuation under this subchapter for 10 years or less prior to the date of withdrawal, the rate is 30%; and

(2) If the real estate was subject to valuation under this subchapter for more than 10 years prior to the date of withdrawal, the rate is that percentage obtained by subtracting 1% from 30% for each full year beyond 10 years that the real estate was subject to valuation under this subchapter prior to the date of withdrawal until a rate of 20% is reached.

For purposes of this section, just value at the time of withdrawal is the assessed just value of comparable property in the municipality adjusted by the municipality's certified assessment ratio.

4. Assessment and collection of penalties. The penalties for withdrawal must be paid upon withdrawal to the tax collector as additional property taxes. Penalties may be assessed and collected as supplemental assessments in accordance with section 713-B.

5. Eminent domain. A penalty may not be assessed under this section if the withdrawal of the parcel is occasioned by a transfer to the State or other entity holding the power of eminent domain resulting from the exercise or threatened exercise of that power.

6. Relief from requirements. Upon withdrawal, the land is relieved of the requirements of this subchapter immediately and is returned to taxation under the statutes relating to the taxation of real property to be so taxed on the following April 1st.

7. Reclassification as open space. No penalty may be assessed upon the withdrawal of land from taxation under this subchapter if the owner or owners apply for and are accepted for classification of that land as open space land under subchapter 10.

8. Report of penalty. Any municipality that receives a penalty for the withdrawal of land from taxation under this subchapter shall report to the State Tax Assessor the total amount received in that reporting year on the municipal valuation return form described in section 383.

§1139. Enforcement

A tax lien is created to secure the payment of the penalties provided in section 1138. The lien may be enforced in the same manner and has the same effect as liens on real estate created by section 552.

§1140. Transfer of ownership

If land taxed under this subchapter is transferred to a new owner or owners, in order to maintain the classification, within one year of the date of transfer, the new owner or owners must file with the assessor a new application and a sworn statement indicating that the transferred parcel continues to meet the requirements of section 1132, subsection 11.

§1140-A. Appeals and abatements

The denial of an application or an assessment made under this subchapter is subject to the abatement procedures provided by section 841. Appeal from a decision rendered under section 841 is to the State Board of Property Tax Review.

§1140-B. Analysis and report

1. Analysis. The State Tax Assessor, in consultation with municipal assessors, the Commissioner of Agriculture, Conservation and Forestry or the commissioner's designee, representatives of working waterfront organizations and other interested parties, shall collect and analyze the sales prices of all actual sales that occur in the State of waterfront land that is subject to restrictions on that land's use that are legally enforceable and prohibit or substantially restrict development that is not commercial fishing activity or commercial activity that is the functional equivalent of commercial fishing activity.

2. Report. [**Repealed**]

CHAPTER 107
UNINCORPORATED AND UNORGANIZED PLACES

§1181. Lands in unorganized territory

The Commissioner of Agriculture, Conservation and Forestry shall provide to the State Tax Assessor at his request all information in his possession touching the value and description of lands in the unorganized territory; and a statement of all lands on which timber has been sold or a permit to cut timber has been granted by lease or otherwise. All other state officers, when requested, shall in like manner provide all information in their possession touching said valuation to the State Tax Assessor.

In fixing the valuation of unorganized townships, whenever practicable the lands and other property therein of any owners shall be valued and assessed separately. When the soil of townships or tracts taxed by the State as land in unorganized territory is not owned by the person or persons who own the growth or part of the growth thereon, the State Tax Assessor shall value the soil and such growth separately for purposes of taxation.

§1182. Returns to State Tax Assessor for unorganized territory; penalty for failure [**Repealed]**

§1231. Returns to State Tax Assessor

On or before the first day of May in each year, every owner or person in charge or control of personal property that on the first day of April of that year is situated, whether permanently or temporarily, within the unorganized territory shall return to the State Tax Assessor on a form to be furnished by the State Tax Assessor a complete list of such property that would not be exempt from taxation if it were located in a municipality of this State and that is not otherwise subject to taxation under this Part. That property must be taxed at the rate established by the State Tax Assessor as provided in section 1602.

A person who knowingly makes a fraudulent return under this section commits a civil violation for which a fine of not less than $100 nor more than $500 for each violation must be adjudged.

§1232. Due dates; proceedings on delinquency

Taxes levied under section 1602 shall be paid to the State Tax Assessor on or before October 1st of each year. A lien is created on all personal property for such taxes and expenses incurred in accordance with section 1233, and such property may be sold for the payment of such taxes and expenses at any time after October 1st. When the time for the payment of the tax to the State Tax Assessor has expired, and it is unpaid, the State Tax Assessor shall give notice thereof to the delinquent property owner, and unless such tax shall be paid within 60 days, the State Tax Assessor may issue his warrant to the sheriff of the county, requiring him to levy by distress and sale upon the personal property of said property owner, and the sheriff or his deputy shall execute such warrants. Any balance remaining after deducting taxes and necessary additions made in accordance with this subchapter shall be returned to the owner or person in possession of such property or the State Tax Assessor may certify such unpaid taxes to the Attorney General, who shall bring a civil action in the name of the State.

In addition to the procedure authorized in the preceding paragraph, the State Tax Assessor may follow the procedure provided in section 612 and, with regard to that procedure, shall be subject to the same rights and obligations as a municipality or municipal officers.

§1233. Failure to make return; penalty

Should any owner or person having in his charge or control personal property taxable by said State Tax Assessor, as provided in section 1231, neglect or refuse to comply with the requirements of this subchapter, the State Tax Assessor may secure the necessary information by such methods as he deems advisable, and the necessary expense incurred in securing such information shall be added to the tax assessed against the property of such owner or person and paid to the State Tax Assessor with the tax.

§1281. Payment of taxes; delinquent taxes; publication; certificate filed in registry

Taxes on real estate mentioned in section 1602, including supplementary taxes assessed under section 1331, are delinquent on the 15th day of January next following the date of assessment. Annually, on or before February 1st, the State Tax Assessor shall send by mail to the last known address of each owner of such real estate upon which taxes remain unpaid a notice in writing, containing a description of the real estate assessed and the amount of unpaid taxes and interest, and alleging that a lien is claimed on that real estate for payment of those taxes, interests and costs, with a demand that payment be made by the next February 21st. If the owners of any such real estate are unknown, instead of sending the notices by mail, the assessor shall cause the information required in this section on that real estate to be advertised in the state paper and in a newspaper, if any, of general circulation in the county in which the real estate lies. Such a statement or advertisement is sufficient legal notice of delinquent taxes. If those taxes and interest to date of payment and costs are not paid by February 21st, the State Tax Assessor shall record by March 15th, in the registry of deeds of the county or registry district where the real estate lies, a certificate signed by the assessor, setting forth the name or names of the owners according to the last state valuation, or the valuation established in accordance with section 1331; the description of the real estate assessed as contained in the last state valuation, or the valuation established in accordance with section 1331; the amount of unpaid taxes and interest; the amount of costs; and a statement that demand for payment of those taxes has been made, and that those taxes, interest and costs remain unpaid. The costs charged by the register of deeds for the filing may not exceed the fees established by Title 33, section 751.

§1282. Filing of certificate to create mortgage; foreclosure provisions; notice; discharge

The filing of the certificate provided for in section 1281 in the registry of deeds shall be deemed to create and shall create a mortgage on such real estate to the State, having priority over all other mortgages, liens, attachments and encumbrances of any nature, and shall give to the State all the rights usually incident to a mortgage, except that the mortgagee shall not have any right of possession of such real estate until the right of redemption shall have expired.

Part payments accepted during the redemption period shall not interrupt or extend the redemption period or in any way affect the foreclosure proceedings. If the total amount necessary for redemption is not paid before the mortgage is foreclosed, the mortgagor shall be entitled to a refund of such part payments made after the filing of the certificate provided for in section 1281.

If said mortgage, together with interest and costs, shall not be paid by the 30th day of March of the year following the filing of such certificate in the registry of deeds as provided for in this section and section 1281, the said mortgage shall be deemed to have been foreclosed and the right of redemption to have expired.

The filing of such certificate in the registry of deeds shall be sufficient notice of the existence of the mortgage.

In the event that such tax, interest and costs, together with the fees established by Title 33, section 751 for recording the discharge, are paid within the period of redemption, the State Tax Assessor shall discharge that mortgage in the same manner as is now provided for the discharge of real estate mortgages and shall record that discharge in the appropriate registry of deeds.

Each owner may pay for his proportionate ownership in any tract of land whether in common or not, and upon filing with the State Tax Assessor a certificate containing a suitable description of the property on which he desires to pay the taxes and where the same is located, and paying the amount due, together with interest and costs, shall receive a certificate from the State Tax Assessor discharging the taxes on the fractional part or ownership upon which such payment is made.

§1283. Supervision, administration and sale of real estate

A copy of the lien certificate shall be filed in the office of the State Tax Assessor. On the 30th day of March annually, whenever the State shall have acquired title to real estate assessed for any taxes assessed under chapter 115, the State Tax Assessor shall certify to the State Controller the amount of unpaid taxes, interest and costs then outstanding. Unpaid taxes and interest and costs on the books of the State shall be charged against the Unorganized Territory Education and Services Fund.

The State Tax Assessor shall, whenever the State acquires title to real estate under this subchapter, cause an inventory to be made of all the real estate. The inventory must contain a description of the real estate, amount of accrued taxes by years and any other information necessary in the administration and supervision of the real estate. A copy of the inventory must be furnished to the Commissioner of Agriculture, Conservation and Forestry and the Commissioner of Inland Fisheries and Wildlife prior to the convening of the Legislature. The assessor shall report annually to the Legislature not later than 15 days after it convenes. The report must contain a copy of the inventory of real estate then owned by the State and such recommendations as to the disposition of this real estate the

assessor, the Commissioner of Agriculture, Conservation and Forestry and the Commissioner of Inland Fisheries and Wildlife may wish to make.

The State Tax Assessor shall, after authorization by the Legislature, sell and convey any such real estate; but shall in all cases of sales, except sales to the former owners of the real estate, give public notice of the proposal to sell such real estate and shall ask for competitive bids and shall sell to the highest bidder, with the right of rejecting all bids. No sales of such real estate or any stumpage thereon shall be made by the State Tax Assessor except by authorization of the Legislature.

The supervision, administration, utilization and vindication of the rights of the State in such real estate shall be vested in the State Tax Assessor until title is conveyed or otherwise disposed of by the Legislature.

All money received from the sale or use of such real estate shall be credited to the Unorganized Territory Education and Services Fund.

This section shall apply to real estate acquired through tax sales and owned by the State.

§1284. Action to recover taxes

The State Tax Assessor may bring a civil action in his own name to enforce the lien on real estate created by section 552, to secure the payment of state taxes assessed under sections 1331 and 1602 upon real estate not liable to be assessed in any town. Such action shall be begun after the expiration of 8 months and within one year after August 1st following the date such taxes were assessed. The proceedings shall be in accordance with section 941, except that the preliminary notice and demand for payment of said tax as provided in said section shall not be required.

§1285. Collection of taxes in unorganized townships

In addition to the methods of collecting state taxes provided by law, owners of real estate in unorganized townships shall be liable to pay such taxes to the State Tax Assessor upon demand. If such taxes shall not be paid within 30 days after such demand, the State Tax Assessor may collect the same, with interest as provided by law, by a civil action in the name of the State. Such action shall be brought in a court of competent jurisdiction in the county where such unorganized townships are located, and the Attorney General may begin and prosecute such actions when requested by the State Tax Assessor. The demand shall be sufficient if made by a writing mailed to such owner or his agent at his usual post-office address. In case such owner resides without the State and has no agent within the State known to the State Tax Assessor, such demand shall be sufficient if made upon the Director of the Bureau of Forestry. Such action shall be brought not less than 30 days after the giving or mailing of the demand. The beginning of such action, obtaining execution and collecting the same shall be deemed a waiver of the rights of the State under sections 1281 and 1282. In case the owners of any such real estate are unknown, the demand shall be sufficient if advertised in the state paper and in some newspaper, if any, published in the county in which the real estate lies.

§1286. Limitation on recovery of tax sold real estate in unorganized places

When the State has taxed real estate in unorganized territory, and the State Tax Assessor has conveyed it, or part of it, for nonpayment of tax, by deed purporting to convey the interest of the State by forfeiture for such nonpayment, or it or a part of it has been conveyed under authority given by the Legislature by a deed purporting to convey the interest of the State acquired under sections 1281 to 1283, and the pertinent records of the State Tax Assessor show that the grantee, his heirs or assigns, has paid the state and county taxes thereon, or on his acres or interest therein, as stated in the deed, continuously for the 20 years subsequent to such deed; and when a person claims under a recorded deed describing real estate in unorganized territory taxed by the State, and the pertinent records of the State Tax Assessor show that he has, by himself or by his predecessors under that deed, paid the state and county taxes thereon, or on his acres or interest therein as stated in the deed, continuously for 20 years subsequent to recording that deed; and whenever, in either case, it appears that the person claiming under such a deed, and those under whom he claims, have, during that period, held such exclusive, peaceable, continuous and adverse possession thereof as comports with the ordinary management of real estate in unorganized territory in this State, and it further appears that during such period no former owner, or person claiming under him, has paid any such tax, or any assessment by the county commissioners, or done any other act indicative of ownership, no action may be maintained by a former owner, or those claiming under him, to recover such real estate or to avoid such deed, unless commenced within those 20 years. That payment shall give the grantee or person claiming, his heirs or assigns, a right of entry and seizin in the whole, or such part, in common and undivided, of the whole tract as the deed states, or as the number of acres in the deed is to the number of acres assessed.

This section shall apply to rights and interests acquired under tax sales made by the State Tax Assessor for the nonpayment of taxes.

§1287. Action may be commenced in 10 years after disability

If any such former owner, or person claiming under him, during said period of 20 years, or any portion thereof, is a minor, mentally ill, imprisoned or absent from the United States he may, if otherwise entitled, bring such action at any time within 10 years after such disability is removed, notwithstanding said period of 20 years has expired, and if such person dies during the continuance of the

disability, and no determination or judgment has been had on his title or right of action, such action may be brought by his heirs, or other person claiming under him, at any time within 10 years after his death, notwithstanding the 20 years have elapsed.

§1288. Applicability of provisions

Sections 1286 and 1287 shall not apply to actions between cotenants.

§1331. Supplemental assessments

Supplemental assessments may be made within 3 years from the last assessment date whenever it is determined that any estates in the unorganized territory liable to taxation have been omitted from assessment or any tax on estates is invalid or void by reason of illegality, error or irregularity in assessment. The State Tax Assessor may, by supplement to the list of assessments, assess such estates for their due proportion of such tax. Any supplemental assessments shall be made in the same manner as the original assessment should have been made. Such supplemental assessment shall be based on the valuation to be established by the State Tax Assessor.

The lien on real estate created by section 552 may be enforced as provided in section 1282.

Persons subjected to a tax under this section shall be deemed to have received sufficient notice if the notice required by section 706 was given.

Interest shall accrue on supplemental assessments from October 1st of the year to which the property tax applies, except that the taxpayer has a 2-month period from the assessment of the supplemental tax during which all interest will be automatically waived if the tax is paid.

§1332. Abatement where double tax [Repealed]

CHAPTER 111
AIRCRAFT, HOUSE TRAILERS AND MOTOR VEHICLES

§1481. Definitions

The following words and phrases as used in section 551 and this chapter shall have the following meanings:

1. Mobile home. "Mobile home" means:

A. A structure, transportable in one or more sections, which is 8 body feet or more in width and is 32 body feet or more in length, and which 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.

A mobile home remains a mobile home for purposes of this Title even though it may be used for the advertising, sales, display or promotion of merchandise or services, or for any other commercial purposes except the transportation of property.

B. A trailer or semitrailer which is 32 feet or longer and primarily designed and constructed to provide temporary living quarters for recreational, camping, travel or other use.

1-A. Camper trailer. "Camper trailer" shall mean:

A. A trailer or semitrailer of less than 32 feet in length primarily designed and constructed to provide temporary living quarters for recreational, camping, travel or other use.

B. A manufactured or homemade tent trailer, so called, which consists of a platform, shelf or box, with means of permanently or temporarily attaching a tent, used to provide temporary living quarters for recreational, camping, travel or other use.

2. Maker's list price. "Maker's list price" in the case of vehicles manufactured in the United States means the retail price at the point of manufacture, less the federal manufacturer's tax. "Maker's list price" in the case of vehicles manufactured outside the United States means the retail price at the nearest port of entry. In either case, "maker's list price" includes the manufacturer's suggested retail price of all accessories and equipment which are a part of the vehicle at the time the excise tax is paid.

3. Motor vehicle. "Motor vehicle" means any self-propelled vehicle not operated exclusively on tracks, including motorcycles, but not including aircraft. "Motor vehicle" does not include any vehicle prohibited by law from operating on the public highways. "Motor vehicle" does not include any snowmobile as defined in Title 12, section 13001.

4. Stock race car. "Stock race car" means a one-time factory produced vehicle equipped with roll bars or bracing welded or attached to the frame in a permanent manner and special safety belts, firewalls and having a certain amount of the body removed.

5. Vehicle. "Vehicle" means a motor vehicle, mobile home, camper trailer, heavier-than-air aircraft or lighter-than-air aircraft. "Vehicle" does not include any snowmobiles as defined in Title 12, section 13001.

6. Automobile. "Automobile" means a motor vehicle, including a motorized home but not including a stock race car, designed for the conveyance of passengers with a seating capacity of not more than 14 persons.

7. Purchase price. "Purchase price" means the actual price paid, including any trade-in value applied to the cost of purchasing the vehicle.

8. Bus. "Bus" has the same meaning as in Title 29-A, section 101, subsection 11.

§1482. Excise tax

1. Annual excise tax. An annual excise tax is imposed with respect to each registration year in the following cases.

A. For the privilege of operating an aircraft within the State, each heavier-than-air aircraft or lighter-than-air aircraft operated in this State that is owned or controlled by a resident of this State is subject to an excise tax computed as follows: 9 mills on each dollar of the maker's average equipped price for the first or current year of model; 7 mills for the 2nd year; 5 mills for the 3rd year; 4 mills for the 4th year; and 3 mills for the 5th and succeeding years. The minimum tax is $10. Nonresidents of this State who operate aircraft within this State for compensation or hire must pay 1/12 of the tax amount computed as required in this paragraph for each calendar month or fraction thereof that the aircraft remains in the State.

A-1. [**Repealed**]

B. For the privilege of operating a mobile home upon the public ways, each mobile home to be so operated is subject to such excise tax as follows: A sum equal to 25 mills on each dollar of the maker's list price for the first or current year of model, 20 mills for the 2nd year, 16 mills for the 3rd year and 12 mills for the 4th year and succeeding years. The minimum tax is $15.

C. For the privilege of operating a motor vehicle or camper trailer on the public ways, each motor vehicle, other than a stock race car, or each camper trailer to be so operated is subject to excise tax as follows, except as specified in subparagraph (3), (4) or (5): a sum equal to 24 mills on each dollar of the maker's list price for the first or current year of model, 17 1/2 mills for the 2nd year, 13 1/2 mills for the 3rd year, 10 mills for the 4th year, 6 1/2 mills for the 5th year and 4 mills for the 6th and succeeding years. The minimum tax is $5 for a motor vehicle other than a bicycle with motor attached, $2.50 for a bicycle with motor attached, $15 for a camper trailer other than a tent trailer and $5 for a tent trailer. The excise tax on a stock race car is $5.

(1) On new registrations of automobiles, trucks and truck tractors, the excise tax payment must be made prior to registration and is for a one-year period from the date of registration.

(2) Vehicles registered under the International Registration Plan are subject to an excise tax determined on a monthly proration basis if their registration period is less than 12 months.

(3) For commercial vehicles manufactured in model year 1996 and after, the amount of excise tax due for trucks or truck tractors registered for more than 26,000 pounds and for Class A special mobile equipment, as defined in Title 29-A, section 101, subsection 70, is based on the purchase price in the original year of title rather than on the list price. Verification of purchase price for the application of excise tax is determined by the initial bill of sale or the state sales tax document provided at point of purchase. The initial bill of sale is that issued by the dealer to the initial purchaser of a new vehicle.

(4) For buses manufactured in model year 2006 and after, the amount of excise tax due is based on the purchase price in the original year of title rather than on the list price. Verification of purchase price for the application of excise tax is determined by the initial bill of sale or the state sales tax document provided at point of purchase. The initial bill of sale is that issued by the dealer to the initial purchaser of a new vehicle.

(5) For trucks or truck tractors registered for more than 26,000 pounds that have been reconstructed using a prepackaged kit that may include a frame, front axle or body but does not include a power train or engine and for which a new

certificate of title is required to be issued, the amount of excise tax due is based on the maker's list price of the prepackaged kit.

For motor vehicles being registered pursuant to Title 29-A, section 405, subsection 1, paragraph C, the excise tax must be prorated for the number of months in the registration.

D. [**Repealed**]

2. Tax 1/2 during certain periods. The excise tax is 1/2 of the amount provided in subsection 1 during the following periods:

A. On a farm truck, as defined in Title 29-A, section 505, subsection 1, with 2 or 3 axles that is used primarily for transportation of agricultural produce grown by the owner on the owner's farm during the last 6 months of a registration year; and

B. On all property subject to excise tax under subsection 1 during the last 4 months of a registration year.

3. Tax paid for previous registration year. If an excise tax was paid for the previous registration year by the same person on the same vehicle, the excise tax for the new registration year must be assessed as if the vehicle was in its next year of model.

4. Maker's list price. The maker's list price of a vehicle to be used must be obtained from sources approved by the State Tax Assessor, except for a truck or truck tractor described under subsection 1, paragraph C, subparagraph (5). When the maker's list price of a vehicle is not readily obtainable the State Tax Assessor shall prescribe the maker's list price to be used or the manner in which the maker's list price is determined.

A. At the time of payment of the excise tax prior to a new registration for a new passenger vehicle purchased from a motor vehicle dealer licensed in any state for the sale of new passenger vehicles, the owner shall submit the manufacturer's suggested retail price sticker, or a copy of the sticker, to the excise tax collector. In the case of rental and fleet vehicles, other documentation may be provided at the discretion of the municipal excise tax collector.

This paragraph applies only to those vehicles for which a manufacturer's suggested retail price sticker is required by the Federal Government.

5. Credits. An owner or lessee who has paid the excise or property tax for a vehicle is entitled to a credit up to the maximum amount of the tax previously paid in that registration year for any one vehicle toward the tax for any number of vehicles, regardless of the number of transfers that may be required of the owner or lessee in that registration year. The credit is available only if the vehicle's ownership is transferred, the vehicle is totally lost by fire, theft or accident, the vehicle is totally junked or abandoned, the use of the vehicle is totally discontinued or, in the case of a leased vehicle, the registration is transferred.

A. The credit must be given in any place in which the excise tax is payable.

B. For each transfer made in the same registration year, the owner shall pay $3 to the place in which the excise tax is payable.

C. During the last 4 months of the registration year, the credit may not exceed 1/2 of the maximum amount of the tax previously paid in that registration year for any one vehicle.

D. If the credit available under this subsection exceeds the amount transferred to another vehicle, a municipality may choose, but is not required to refund the excess amount. If a municipality chooses to refund excess amounts it must do so in all instances where there is an excess amount.

E. For the purposes of this subsection, "owner" includes the surviving spouse of the owner.

F. [**Repealed**]

G. For the purposes of this subsection, "totally discontinued" means that the owner has permanently discontinued all use of the vehicle except for selling, transferring ownership of, junking or abandoning that vehicle. The owner of the vehicle must provide a signed statement attesting that use of the vehicle from which the credit is being transferred is totally discontinued. If the owner who has totally discontinued use of a vehicle later seeks to register that vehicle, no excise tax credits may be applied with respect to the registration of that vehicle or any subsequent transfer of that vehicle's registration.

6. Payment of tax. Payment of excise tax before property taxes are committed.

A. Where the person seeking to pay the excise tax owned the vehicle other than an automobile truck or truck tractor on or before April 1st, the excise tax must be paid before property taxes for the year in question are committed to the collector, otherwise the owner is subject to a personal property tax.

B. Where the person seeking to pay the excise tax acquired the vehicle other than an automobile, truck or truck tractor after April 1st, or, being a nonresident, brought the vehicle other than an automobile, truck or truck tractor into this State after April 1st, the excise tax may be paid at any time.

C. Where a property tax is paid and later registration of the vehicle is desired, the property tax paid shall be allowed as a credit on the excise tax.

D. Where an excise tax is paid on a mobile home and said mobile home is later in the same year assessed as real estate, the excise tax paid shall be allowed as a credit on the real estate tax.

E. [**Repealed**]

7. Special mobile equipment; local option. A municipality may by ordinance refund a portion of the excise tax paid on leased special mobile equipment, as defined by Title 29-A, section 101, subsection 70, if the person who paid the excise tax provides evidence that the registration has been voluntarily surrendered and cancelled under Title 29-A, section 410. The amount of the refund must be the percentage of the excise tax paid that is equal to the percentage represented by the number of full months remaining in the year of the cancelled registration.

§1483. Exemptions

The following are exempt from the excise tax:

1. State vehicles. Vehicles owned by this State or by political subdivisions of the State;

2. Driver education. Motor vehicles registered by municipalities for use in driver education in the secondary schools or by private secondary schools for use in driver education in those schools;

3. Volunteer fire departments. Motor vehicles owned by volunteer fire departments;

4. Dealers or manufacturers. Vehicles owned by bona fide dealers or manufacturers of the vehicles that are held solely for demonstration and sale and constitute stock in trade, and aircraft registered in accordance with Title 6, section 53;

5. Transporter registration. Vehicles to be lawfully operated on transporter registration certificates;

6. Railroads. Vehicles owned by railroad companies that are subject to the excise tax imposed under chapter 361;

7. Benevolent and charitable institutions. Vehicles owned and used solely for their own purposes by benevolent and charitable institutions that are incorporated by this State and entitled to exemption from property tax under section 652, subsection 1;

8. Literary and scientific institutions. Vehicles owned and used solely for their own purposes by literary and scientific institutions that are entitled to exemption from property tax under section 652, subsection 1;

9. Religious societies. Vehicles owned and used solely for their own purposes by houses of religious worship or religious societies that are entitled to exemption from property tax under section 652, subsection 1, paragraph G;

10. Certain nonresidents. Motor vehicles permitted to operate without Maine registration under Title 29-A, section 109;

11. Interstate commerce. Vehicles traveling in the State only in interstate commerce that are owned in a state where an excise or property tax has been paid on the vehicle and that grants to Maine-owned vehicles the exemption provided in this subsection;

12. Certain veterans. Automobiles owned by veterans who are granted free registration of those vehicles by the Secretary of State under Title 29-A, section 523, subsection 1;

13. Certain buses. Buses used for the transportation of passengers for hire in interstate or intrastate commerce, or both, by carriers engaged in furnishing common carrier passenger service. At the option of the appropriate municipality, those buses may be subject to the excise tax provided in section 1482;

14. Antique and experimental aircraft. Antique and experimental aircraft as defined in Title 6, section 3, subsections 10-A and 18-E that are registered in accordance with the provisions of Title 6;

15. Adaptive equipment. Adaptive equipment installed on a motor vehicle owned by a disabled person or the family of a disabled person or by a carrier engaged in furnishing passenger service for hire to make that vehicle operable or accessible by a disabled person; and

16. Active military stationed in Maine. Vehicles owned, including those jointly owned with a spouse, by a person on active duty serving in the Armed Forces of the United States who is permanently stationed at a military or naval post, station or base in the State. Joint ownership of the vehicle must be indicated in the vehicle's title documentation. A member of the Armed Forces of the United States stationed in the State, or that member's spouse, who desires to register that member's vehicle in this State pursuant to this subsection shall present certification from the commander of the member's post, station or base, or from the commander's designated agent, that the member is permanently stationed at that post, station or base. For purposes of this subsection, "a person on active duty serving in the Armed Forces of the United States" does not include a member of the National Guard or the Reserves of the United States Armed Forces.

§1483-A. Local option exemption for residents permanently stationed or deployed for military service outside of the State

A municipality may by ordinance exempt from the annual excise tax imposed pursuant to section 1482 vehicles owned by a resident who is on active duty serving in the United States Armed Forces and who is either permanently stationed at a military or naval post, station or base outside this State or deployed for military service for a period of more than 180 days who desires to register that resident's vehicle in this State. To apply for the exemption, the resident must present to a designated municipal official certification from the commander of the resident's post, station or base, or from the commander's designated agent, that the resident is permanently stationed at that post, station or base or is deployed for military service for a period of more than 180 days. For purposes of this section, "United States Armed Forces" includes the National Guard and the Reserves of the United States Armed Forces. For purposes of this section, "deployed for military service" has the same meaning as in Title 26, section 814, subsection 1, paragraph A.

§1484. Place of payment (CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

The excise tax imposed by this chapter must be paid as provided in this section.

1. Aircraft. The excise tax on an aircraft must be paid to the municipality where the aircraft is based except as follows.

A. If the aircraft is based at an airport owned by a county, the excise tax payments must be paid to that county.

B. If the aircraft is based at the Augusta State Airport, the excise tax payments must be paid to the City of Augusta.

C. [Repealed]

For the purposes of this subsection, an aircraft is deemed to be based at the location in the State where it has been hangared, parked, tied down or moored the most nights during the 30-day period of active flying preceding payment of the excise tax. If the aircraft has not been hangared, parked, tied down or moored at a location in the State during the 30-day period of active flying preceding payment, then the aircraft is deemed to be based at the location in the State where it will be hangared, parked, tied down or moored the most nights during the 30-day period of active flying next following payment of the excise tax.

2. Mobile homes and camper trailers. Mobile homes and camper trailers are subject to excise tax as provided in this subsection.

A. If the excise tax on a mobile home or camper trailer is paid prior to April 1st, or if the mobile home or camper trailer is acquired or brought into this State after April 1st, the excise tax must be paid in the place where the mobile home or camper trailer is located.

B. If the excise tax on a mobile home or camper trailer is paid on or after April 1st, the excise tax must be paid in the place where the mobile home or camper trailer was located on April 1st.

C. [**Repealed**]

3. Motor vehicles. Motor vehicles are subject to excise tax as provided in this subsection.

A. The excise tax on a motor vehicle owned by an individual resident of this State must be paid in the place where the owner resides.

B. The excise tax on a motor vehicle owned by a nonresident individual must be paid in the place where the owner is temporarily or occasionally residing. If there is no such residing place, the tax must be paid to the Secretary of State.

C. (TEXT EFFECTIVE UNTIL 1/1/17) The excise tax on a motor vehicle owned by a corporation or a partnership must be paid in the following manner.

(1) If the owner is a corporation or partnership other than one described in subparagraph (2), the excise tax must be paid to the place in which the owner's registered or main office is located, except that if the owner has an additional permanent place of business where motor vehicles are customarily kept, the tax on these vehicles must be paid to the place where that permanent

place of business is located. The temporary location of an office and the stationing of vehicles in connection with a construction project of less than 24 months duration is not considered to constitute a permanent place of business. If the owner is a foreign corporation or partnership not maintaining a place of business within the State, the excise tax must be paid to the Secretary of State.

(2) If the owner is a corporation described in Title 35-A, sections 2101 to 2104, the excise tax must be paid to the place in which the registered or main office of that organization is located.

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

C. (TEXT EFFECTIVE 1/1/17) The excise tax on a motor vehicle owned by a corporation or a partnership must be paid to the place in which the owner's registered or main office is located, except that if the owner has an additional permanent place of business where motor vehicles are customarily kept, the tax on these vehicles must be paid to the place where that permanent place of business is located. The temporary location of an office and the stationing of vehicles in connection with a construction project of less than 24 months' duration are not considered to constitute a permanent place of business. If the owner is a foreign corporation or partnership not maintaining a place of business within the State, the excise tax must be paid to the Secretary of State.

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

D. Notwithstanding other provisions of this subsection, if a motor vehicle is leased for a period of one month or longer, the excise tax must be paid in the place where it would be paid if the lessee were the owner.

E. When an excise tax is paid to the Secretary of State under this subsection, it must be deposited in the General Fund.

4. When paid to State. [**Repealed**]

§1485. Exemption from personal property taxation

Any vehicle owner who has paid the excise tax on his vehicle in accordance with sections 1482 and 1484 shall be exempt from personal property taxation of such vehicle for that year.

§1486. Tax paid before registration

No vehicle may be registered under Title 29-A until the excise tax or personal property tax or real estate tax has been paid in accordance with sections 1482 and 1484.

1. Exempt status. Where a personal property or real estate tax is to be paid as a prerequisite to registration, the exempt status of the vehicle shall be determined by section 1483.

§1487. Collection of tax

1. Municipal tax collector. In the case of municipalities, or a municipally owned airport or seaplane base the municipal tax collector or such other person as the municipality may designate shall collect such excise tax and shall deposit the money received with the municipal treasurer monthly.

A. Such collector shall report to the municipal officers at the end of the municipal year, showing the total amount of excise tax collected by him and the amounts applying to each year.

1-A. County treasurer. In the case of a county owned airport or seaplane base the county treasurer or such other person as the county commissioners may designate shall collect such excise tax and shall deposit the money received with the county treasurer monthly.

A. Such collector shall report to the county commissioners at the end of the county year, showing the total amount of excise tax collected by him and the amounts applying to each year.

2. State Tax Assessor. The State Tax Assessor shall appoint agents to collect the excise tax in the unorganized territory. Agents, including municipalities designated as agents, are allowed a fee of $6 for each tax receipt issued. The State Tax Assessor may authorize the offset of credit card fees incurred in the collection of the excise taxes against the receipts from those collections. Agents shall deposit the remainder on or before the 20th day of each month following receipt with the Treasurer of State. The Treasurer of State shall make quarterly payments to each county in an amount that is equal to the receipts for that period from each county. Those payments must be made at the same time as payments under section 1606. County receipts under this section must be deposited in the county's unorganized territory fund.

2-A. Agent for collecting excise tax. The State Tax Assessor may appoint the Secretary of State as an agent for the purpose of collecting excise tax for the unorganized territories.

3. Tribal clerk. [**Repealed**]

§1488. Receipts issued in duplicate

Receipts for payment of the excise tax shall be in the form prescribed by the Secretary of State. They shall be issued in duplicate, and one copy shall be filed with the application at the time application is made for registration of the vehicle.

§1489. Crediting and apportionment of tax received

1. Municipal excise tax account. In municipalities the treasurer shall credit money received from excise taxes to an excise tax account, from which it may be appropriated by the municipality for any purpose for which a municipality may appropriate money.

2. County treasurer. [**Repealed**]

§1490. False statements to any person receiving tax

Any person intentionally making any false statement to any person charged with the duty of receiving this tax and issuing the receipt therefor, when making statement for the purpose of the levy of the tax hereunder, commits a civil violation for which a forfeiture not to exceed $25 may be adjudged.

§1491. False entry on renewal forms

Any person making a false entry on the renewal form provided by the Secretary of State in the collection of the excise tax, as authorized by section 1482, subsection 6, paragraph E, commits a civil violation for which a forfeiture of not less than $100 nor more than $500 shall be adjudged.

CHAPTER 111-A
BUS TAXATION PRORATION AGREEMENT

§1492. Purposes and principles -- Article I

1. Purposes of agreement. It is the purpose of this agreement to set up a system whereby any contracting state may permit owners of fleets of buses operating in 2 or more states to prorate the registration of the buses in such fleets in each state in which the fleets operate on the basis of the proportion of miles operated within such state to total fleet miles, as defined herein.

2. Principle of proration of registration. It is hereby declared that in making this agreement the contracting states adhere to the principle that each state should have the freedom to develop the kind of highway user tax structure that it determines to be most appropriate to itself, that the method of taxation of interstate buses should not be a determining factor in developing its user tax structure, and that annual taxes or other taxes of the fixed fee type upon buses which are not imposed on a basis that reflects the amount of highway use should be apportioned among the states, within the limits of practicality, on the basis of vehicle miles traveled within each of the states.

§1493. Definitions -- Article II

1. Administrator. "Administrator" means the official or agency of a state administering the fee involved, or, in the case of proration of registration, the official or agency of a state administering the proration of registration in that state.

2. Base state. "Base state" means the state from or in which the bus is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled, or in the case of a fleet bus the state to which it is allocated for registration under statutory requirements. In order that this section may not be used for the purpose of evasion of registration fees, the administrators of the contracting states may make the final decision as to the proper base state, in accordance with section 1494, subsection 8, to prevent or avoid such evasion.

3. Bus. "Bus" means any motor vehicle of a bus type engaged in the interstate transportation of passengers and subject to the jurisdiction of the Interstate Commerce Commission, or any agency successor thereto, or one or more state regulatory agencies concerned with the regulation of passenger transport.

4. Contracting state. "Contracting state" means a state that is a party to this agreement.

5. Fleet. As to each contracting state, "fleet" includes only those buses that actually travel a portion of their total miles in such state. A fleet must include 3 or more buses.

6. Person. "Person" includes any individual, firm, copartnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate or any other group or combination acting as a unit.

7. Proration of registration. "Proration of registration" means registration of fleets of buses in accordance with section 1495, Article IV.

8. Reciprocity. "Reciprocity" means that each contracting state, to the extent provided in this agreement, exempts a bus from registration and registration fees.

9. Registration. "Registration" means the registration of a bus and the payment of annual fees and taxes as set forth in or pursuant to the laws of the respective contracting states.

10. State. "State" includes the States of the United States, the District of Columbia, the territories of the United States, the Provinces of Canada, and the States, Territories and Federal District of Mexico.

§1494. General provisions -- Article III

1. Effect on other agreements, arrangements and understandings. On and after its effective date, this agreement supersedes any reciprocal or other agreement, arrangement or understanding between any 2 or more of the contracting states covering, in whole or in part, any of the matters covered by this agreement; but this agreement may not affect any reciprocal or other agreement, arrangement or understanding between a contracting state and a state or states not a party to this agreement.

2. Applicability to exempt vehicles. This agreement does not require registration in a contracting state of any vehicles that are in whole or part exempt from registration under the laws or regulations of such state without respect to this agreement.

3. Inapplicability to caravaned vehicle. The benefits and privileges of this agreement may not be extended to a vehicle operated on its own wheels, or in tow of a motor vehicle, transported for the purpose of selling or offering the same for sale to or by any agent, dealer, purchaser or prospective purchaser.

4. Other fees and taxes. This agreement does not waive any fees or taxes charged or levied by any state in connection with the ownership or operation of vehicles other than registration fees as defined herein. All other fees and taxes must be paid to each state in accordance with the laws thereof.

5. Statutory vehicle regulations. This agreement does not authorize the operation of a vehicle in any contracting state contrary to the laws or regulations thereof, except those pertaining to registration and payment of fees; and with respect to such laws or regulations, only to the extent provided in this agreement.

6. Violations. Each contracting state reserves the right to withdraw, by order of the administrator thereof, all or any part of the benefits or privileges granted pursuant to this agreement from the owner of any vehicle or fleet of vehicles operated in violation of any provision of this agreement. The administrator shall immediately give notice of any such violation and withdrawal of any such benefits or privileges to the administrator of each other contracting state in which vehicles of such owner are operated.

7. Cooperation. The administrator of each of the contracting states shall cooperate with the administrators of the others and each contracting state hereby agrees to furnish such aid and assistance to each other within its statutory authority as will aid in the proper enforcement of this agreement.

8. Interpretation. In any dispute between or among contracting states arising under this agreement, the final decision regarding interpretation of questions at issue relating to this agreement must be reached by joint action of the contracting states, acting through the administrator thereof, and must upon determination be placed in writing.

9. Effect of headings. Article and section heading contained herein may not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any Article or part hereof.

10. Entry into force. This agreement enters into force and becomes binding between and among the contracting states when enacted or otherwise entered into by any 2 states. Thereafter, it enters into force and becomes binding with respect to any state when enacted into law by such state. If the statutes of any state so authorize or provide, such state may become party to this agreement upon the execution thereof by an executive or administrative official thereof acting on behalf of and for such state.

§1495. Proration of registration -- Article IV

1. Applicability. Any owner of a fleet may register the buses of said fleet in any contracting state by paying to said state total registration fees in an amount equal to that obtained by applying the proportion of in-state fleet miles divided by the total fleet miles, to the total fees which would otherwise be required for regular registration of each and all of such vehicles in such contracting state.

All fleet pro-rata registration fees must be based upon the mileage proportions of the fleet during the period of 12 months ending on August 31st next preceding the commencement of the registration year for which registration is sought. Except, that mileage proportions for a fleet not operated during such period in the state where application for registration is made will be determined by the administrator upon the sworn application of the applicant showing the operations during such period in other states and the estimated operations during the registration year for which registration is sought, in the state in which application is being made; or if no operations were conducted during such period a full statement of the proposed method of operation.

If any buses operate in 2 or more states which permit the proration of registration on the basis of a fleet of buses consisting of a lesser number of vehicles than provided in section 1493, Article II, subsection 5, such fleet may be prorated as to registration in such states, in which event the buses in such fleet may not be required to register in any other contracting states if each such vehicle is registered in some contracting state, except to the extent it is exempt from registration as provided in section 1494, Article III, subsection 2.

If the administrator of any state determines, based on the administrator's method of the operation thereof, that the inclusion of a bus or buses as a part of a fleet would adversely affect the proper fleet fee that should be paid to that administrator's state, having due regard for fairness and equity, the administrator may refuse to permit any or all of such buses to be included in that administrator's state as a part of such fleet.

2. Total fleet miles. Total fleet miles, with respect to each contracting state, means the total miles operated by the fleet in such state, in all other contracting states, in other states having proportional registration provisions, in states with which such contracting state has reciprocity, and in such other states as the administrator determines should be included under the circumstances in order to protect or promote the interest of that administrator's state; except that in states having laws requiring proration on the basis of a different determination of total fleet miles, total fleet miles must be determined on such basis.

3. Leased vehicles. If a bus is operated by a person other than the owner as a part of a fleet that is subject to this Article, then the operator of such fleet must be deemed to be the owner of said bus for the purposes of this Article.

4. Extent of privileges. Upon the registration of a fleet in a contracting state pursuant to this Article, each bus in the fleet may be operated in both interstate and intrastate operations in such state, except as provided in section 1494, Article III, subsection 5.

5. Application for proration. The application for proration of registration must be made in each contracting state upon substantially the application forms and supplements authorized by joint action of the administrators of the contracting states.

6. Issuance of identification. Upon registration of a fleet, the state that is the base state of a particular bus of the fleet shall issue the required license plates and registration card for such bus and each contracting state in which the fleet of which such bus is a part, operates shall issue a special identification identifying such bus as a part of a fleet that has fully complied with the registration requirements of such state. The required license plates, registration cards and identification must be appropriately displayed in the manner required by or pursuant to the laws of each respective state.

7. Additions to fleet. If any bus is added to a prorated fleet after the filing of the original application, the owner shall file a supplemental application. The owner shall register such bus in each contracting state in like manner as provided for buses listed in an original application and the registration fee payable must be determined on the mileage proportion used to determine the registration fees payable for buses registered under the original application.

8. Withdrawals from fleet. If any bus is withdrawn from a prorated fleet during the period for which it is registered or identified, the owner shall notify the administrator of each state in which it is registered or identified of such withdrawal and shall return the plates, and registration card or identification as may be required by or pursuant to the laws of the respective states.

9. Audits. The administrator of each contracting state shall, within the statutory authority of such administrator, make any information obtained upon an audit of records of any applicant for proration of registration available to the administrators of the other contracting states.

10. Errors in registration. If it is determined by the administrator of a contracting state, as a result of such audits or otherwise, that an improper fee has been paid that administrator's state, or errors in registration found, the administrator may require the fleet owner to make the necessary corrections in the registration of the fleet and payment of fees.

§1496. Reciprocity -- Article V

1. Grant of reciprocity. Each of the contracting states grants reciprocity as provided in this Article.

2. Applicability. The provisions of this agreement with respect to reciprocity applies only to a bus properly registered in the base state of the bus, which state must be a contracting state.

3. Nonapplicability to fleet buses. The reciprocity granted pursuant to this Article does not apply to a bus which is entitled to be registered or identified as part of a prorated fleet.

4. Extent of reciprocity. The reciprocity granted pursuant to this Article permits the interstate operation of a bus and intrastate operation that is incidental to a trip of such bus involving interstate operation.

5. Other agreements. Nothing in this agreement may be construed to prohibit any of the contracting states from entering into separate agreements with each other for the granting of temporary permits for the intrastate operation of vehicles registered in the other state; nor to prevent any of the contracting states from entering into agreements to grant reciprocity for intrastate operation within any zone or zones agreed upon by the states.

§1497. Withdrawal or revocation -- Article VI

Any contracting state may withdraw from this agreement upon 30 days written notice to each other contracting state, which notice may be given only after the repeal of this agreement by the legislature of such state, if adoption was by legislative act, or after renunciation by the appropriate administrative official of such contracting state if the laws thereof empower that official so to renounce.

§1498. Construction and severability -- Article VII

This compact must be liberally construed so as to effectuate the purposes thereof. The provisions of this compact are severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance are not affected thereby. If this compact is held contrary to the constitution of any state participating herein, the compact remains in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

§1499. Ratification

The Bus Taxation Proration Agreement is enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as provided in this subchapter.

§1499-A. Administrator, defined

As used in the agreement, with reference to this State, the term "administrator" means Secretary of State.

§1499-B. Exemptions

The Secretary of State has the power to make such exemptions from the coverage of the agreement as may be appropriate and to make such changes in methods for the reporting of any information required to be furnished to this State pursuant to the agreement as, in the Secretary of State's judgment, is suitable, provided that any such exemptions or changes are not contrary to the purposes set forth in section 1492, Article 1, and is made in order to permit the continuance of uniformity of practice among the contracting states with respect to buses. Any such exemption or change must be made by rule or regulation and is not effective unless made by the same procedure required for other rules and regulations of the Secretary of State's department.

§1499-C. Withdrawal from agreement

Unless otherwise provided in any statute withdrawing this State from participation in the agreement, the Governor must be the officer to give notice of withdrawal therefrom.

CHAPTER 112
WATERCRAFT EXCISE TAX

§1501. Purpose

The purpose of this chapter is to levy an excise tax upon the owner of any watercraft, not otherwise exempt, for the privilege of operating a watercraft upon the waters of this State.

§1502. Excise tax in lieu of property taxes

The excise tax imposed by this chapter is in lieu of all property taxes on watercraft.

1. Collection; reimbursement. [Repealed]

§1503. Definitions

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

1. Commercial vessel. "Commercial vessel" means any type of watercraft used exclusively in a business or trade:

A. Is required to be registered under Title 12, section 13056; or

B. Is documented under the laws of the United States.

1-A. Canoe. "Canoe" has the same definition as that set out in Title 12, section 1872, subsection 2.

2. Commissioner. "Commissioner" means the Commissioner of Inland Fisheries and Wildlife.

3. Director. "Director" means the Director of the Division of Licensing, Registration and Engineering, Department of Inland Fisheries and Wildlife.

3-A. Dory. "Dory" means an unpowered, double-ended boat used exclusively for the transport and storage of fishing gear.

4. Established base of operations. An "established base of operations" means the location where a commercial vessel has its primary relationship with a municipality. Among the factors identifying a primary relationship are the locations at which the vessel is primarily moored or docked, where it prepares for expeditions and hires a crew and to which it regularly returns for repairs, supplies and activities relating to its business or trade. The fact that a commercial vessel carries on one or more of the activities, as mentioned in this subsection, at more than one location within this State or carries on one or more of the activities, enumerated in this subsection, at a location or locations outside this State shall not prevent it from being deemed to have an established base of operations within the State, if a substantial portion of these activities are carried on at a location or locations within this State.

4-A. Marina or boat yard. "Marina or boat yard" means any facility that leases storage, docking or mooring space to watercraft.

5. Overall length. "Overall length" means the horizontal distance stated in feet and defined as the straight line measurement over the deck, excluding sheer, from the foremost part of the watercraft to the aftermost part, measured parallel to the centerline, excluding outboard motors, brackets, bowsprits, rudders and similar attachments. For any watercraft documented under the laws of the United States, overall length means the registered length of the vessel as set forth in the document issued to its owner by the United States Coast Guard.

6. Owner. "Owner" means a person or persons claiming lawful possession of a watercraft by virtue of legal title, equitable interest or a leasehold interest in the watercraft.

7. Principally moored, docked or located. "Principally moored, docked or located" means the place where a watercraft, other than a commercial vessel, is usually moored, docked, anchored or located during the period from June 1st to August 31st.

8. Registration period. [**Repealed**]

8-A. Registration period. [**Repealed**]

8-B. Registration period. "Registration period" means from January 1st to December 31st of the year for which the certificate of number is issued pursuant to Title 12, section 13056.

9. Taxable year. "Taxable year" means from January 1st to December 31st.

10. Watercraft. "Watercraft" means any type of vessel, boat, canoe or craft capable of being used as a means of transportation on water, other than a seaplane, including motors, electronic and mechanical equipment and other machinery, whether permanently or temporarily attached, and which are customarily used in the operations of the watercraft. Watercraft does not include a vessel, boat, canoe or craft located and intended to be permanently docked in one location and not used as a means of transportation on water.

§1504. Excise tax

1. Payment schedule. The owner of a watercraft located in this State that is not exempt under subsection 4 shall pay an annual excise tax within 10 days of the first operation of the watercraft upon the waters of this State, or prior to obtaining a certificate of number pursuant to Title 12, section 13056, or prior to July 1st, whichever event first occurs, based on the following schedules.

A. The following tax is assessed based upon the overall length of the watercraft.

Overall length of watercraft to nearest foot	Length Tax
Watercraft under 13 feet, all dories regardless of length and all canoes regardless of length	$6
13 feet	7
14 feet	8
15 feet	9
16 feet	11
17 feet	13
18 feet	16
19 feet	19
20 feet	22
21 feet	26
22 feet	30
23 feet	51
24 feet	56
25 feet	61
26 feet	68
27 feet	75
28 feet	82
29 feet	89
30 feet	96
31 feet	103
32 feet	110
33 feet	117
34 feet	125
35 feet	133
36 feet	141
37 feet	149
38 feet	158
39 feet	167
40 feet	177
41 feet	187
42 feet	198
43 feet	210
44 feet	223
45 feet	237
46 feet	252
47 feet	268
48 feet	284
49 feet	301
50 feet	318
51 feet	335
52 feet	352
53 feet	370

54 feet 388
55 feet 406
56 feet 424
57 feet 442
58 feet 460
59 feet 478
60 feet 496
61 feet 514
62 feet 532
63 feet 550
64 feet 568
65 feet 586
and over.....plus $18 for each foot over 65 feet

B. In addition to the length tax, the owner of any watercraft, other than a canoe, with an overall length greater than 13 feet and less than 23 feet shall pay a tax on the total motor horsepower as shown on the watercraft's registration in accordance with the following schedule:

(1) Horsepower of 20 or less $2

(2) Horsepower over 20 but not over 70..... $5

(3) Horsepower over 70..... $12.

C. [**Repealed**]

D. [**Repealed**]

E. [**Repealed**]

F. [**Repealed**]

G. [**Repealed**]

H. [**Repealed**]

I. [**Repealed**]

J. [**Repealed**]

K. [**Repealed**]

L. [**Repealed**]

M. [**Repealed**]

N. [**Repealed**]

O. [**Repealed**]

2. Reduction in tax. The amount of excise tax payable shall be reduced as follows.

A. For any commercial vessel, the tax payable shall be 50% of the value due under subsection 1.

B. For all other watercraft, the tax payable shall be reduced 20% when the watercraft is over 10 years of age and shall be reduced 40% when the watercraft is over 20 years of age.

C. Any depreciation allowed under this subsection may not reduce the total tax below $12.

D. The tax payable for a watercraft registered to a new owner after September 1st of any year is 50% of the amount due under subsection 1.

3. Payment of tax. The excise tax shall be paid as follows.

A. If the watercraft is owned by an individual resident of this State, the excise tax shall be paid to the municipality where the owner resides. The excise tax for watercraft owned by residents of Indian reservations shall be paid to the tribal clerks.

B. If the watercraft is owned by an individual who is a nonresident of this State or by a partnership or corporation, domestic or foreign, the excise tax shall be paid to the municipality where the watercraft is principally moored, docked or located or has its established base of operations.

C. The State Tax Assessor shall determine a vessel's established base of operation if 2 or more municipalities disagree over which taxing jurisdiction has the right to tax a particular vessel. The State Tax Assessor's decision shall be final.

D. Beginning April 1, 1984, upon payment of the excise tax, the municipality shall certify on forms provided by the Department of Inland Fisheries and Wildlife that the excise tax has been paid. The municipality may withhold certification that the excise tax has been paid until all outstanding taxes due under this chapter for the current year have been paid.

4. Exemptions. The following shall be exempt from the tax imposed by this section:

A. Lifeboats or life rafts customarily carried or required to be carried by a watercraft for purposes of rescuing the occupants of the watercraft in case of danger;

B. Watercraft held by registered retailers as demonstrators or stock-in-trade;

C. Watercraft which were exempt from taxation under Title 36, chapter 105 on April 1, 1983;

D. Commercial vessels without an established base of operations in this State and all other watercraft which are not within this State more than 75 days during the year; and

E. Watercraft 20 feet or less in length that are not required to be registered under Title 12, section 13056.

5. Credits. Any owner who has paid the excise tax for a watercraft which is subsequently totally lost by fire, theft or accident in the same year, shall be entitled to a pro rata credit for the tax previously paid in that period for any one watercraft toward the tax for any number of watercraft.

A. The credit shall be allowed in any place in which the excise tax is payable.

B. No portion of any excise tax once paid may be repaid to any person by reason of the loss of a watercraft.

C. For purposes of this subsection, the term "owner" includes the surviving spouse.

5-A. Credit for transfer. Any owner who has paid the excise tax for a watercraft which is transferred in the same tax year is entitled to a credit to the maximum amount of the tax previously paid in that year for any number of watercraft, regardless of the number of transfers which may be required of him in the same tax year. The credit shall be allowed in any place in which the excise tax is payable.

6. Watercraft not required to register. [**Repealed**]

6-A. Improper levy of tax. If a municipality or watercraft owner believes the excise tax has been improperly levied under the authority of this section, the municipality or watercraft owner may request a determination of this question by the State Tax Assessor. The State Tax Assessor's determination is binding on all parties. Any party may seek review of the determination in accordance with the Maine Rules of Civil Procedure, Rule 80B.

7. Evidence of tax payment. Each watercraft, required to pay the excise tax established by this chapter but not required to be registered under Title 12, section 13056, must display a current excise tax decal as directed by the commissioner. A current excise tax decal must be issued by the municipal tax collector or tribal clerk upon the payment of all excise taxes due under this chapter. The commissioner shall make excise tax decals available at cost to municipalities and Indian reservations. For watercraft required to be registered under Title 12, section 13056, the registration sticker is considered evidence of tax payment.

7-A. Interest on delinquent taxes. Any tax assessed under this chapter which is not paid when due shall accrue interest at the rate set for municipal property taxes for the year during which the excise tax is due.

8. Lien. If the tax imposed by this chapter is not paid when due, the tax collector may file in the office of the registry of deeds of the county where the owner of the watercraft resides or in the case of a nonresident owner or partnership or corporation, either domestic or foreign, where the watercraft is principally moored, docked or located or has its established base of operations, or in the office in which a security or financial statement or notice with respect to personal property would be filed, a notice of lien specifying the amount of the tax, addition to tax, penalty and interest due, the name and last known address of the taxpayer liable for the amount and the fact

that the tax collector has complied with this chapter in the assessment of the tax. From the time of the filing, the amount set forth in the certificate constitutes a lien upon all property of the taxpayer, in the county then owned by him or thereafter acquired by him in the period before the expiration of the lien. In the case of any prior mortgage on any real or personal property so written as to secure a present debt and also future advances by the mortgagee to the mortgagor, the lien, as provided in this subsection, when notice thereof has been filed in the proper office, shall be subject to the prior mortgage, unless the assessor also notifies the mortgagee of the recording of the lien in writing, in which case any indebtedness thereafter created from the mortgagor to the mortgagee shall be junior to the lien provided in this subsection. The lien, provided in this subsection, has the same force, effect and priority as a judgment lien and shall continue for 5 years from the date of recording, unless sooner released or otherwise discharged. The lien may, within the 5-year period or within 5 years from the date of the last extension of the lien in the manner provided in this section, be extended by filing for record in the appropriate office, a copy of the notice and from the time of that filing the lien shall be extended for 5 years, unless sooner released or otherwise discharged.

9. Enforcement. General enforcement provisions are as follows.

A. Beginning March 1, 1984, payment of the excise tax and accrued interest, where applicable, is a prerequisite for obtaining a certificate of number of a watercraft under Title 12, section 13056, and no registration may be renewed until all excise taxes and accrued interest, where applicable, with respect to the watercraft have been paid in accordance with this chapter.

B. The provisions of chapters 7 and 835 shall apply with like effect to collecting the tax and enforcing this chapter in the unorganized territory.

C. [Repealed]

D. Each marina or boat yard leasing storage space or leasing mooring or docking spaces for 10 or more consecutive days during the period from April 15th of any year and April 15th of the next year to watercraft not registered in the State shall maintain a list of all such watercraft. The list shall contain, with respect to each watercraft:

(1) The name of the vessel;

(2) The name and address of the owner of the watercraft;

(3) The state of registration or port of hail;

(4) The approximate length of the vessel; and

(5) The type of vessel.

These lists shall be made available by marinas and boat yards for inspection during normal business hours by law enforcement officers and by municipal officials. Marina and boat yard owners must retain these lists for 3 years.

E. Upon receipt from the United States Coast Guard of a list of watercraft that have valid marine documents as a watercraft of the United States, and that are moored in this State or owned by State residents, the State Tax Assessor shall send a copy of this list to the tax collector of each municipality.

10. Reimbursement. [**Repealed**]

§1505. Unorganized territory

For the purposes of this chapter, the unorganized territory shall be treated as a municipality. All excise tax payments for watercraft owned by residents of the unorganized territory, nonresidents or a partnership or corporation, domestic or foreign, and principally moored, docked or located or with an established base of operations in the unorganized territory shall be collected and distributed in the same manner as the motor vehicle excise tax.

§1506. Rulemaking

After consultation with the Commissioner of Marine Resources, the Commissioner of Inland Fisheries and Wildlife and the Director of the Division of Licensing, Registration and Engineering within the Department of Inland Fisheries and Wildlife, the State Tax Assessor may adopt rules and establish forms and procedures as necessary for the efficient administration and enforcement of the excise tax imposed by this chapter. Rules adopted pursuant to this section are routine technical rules for the purposes of Title 5, chapter 375, subchapter 2-A.

CHAPTER 113

TIMBER AND GRASS ON PUBLIC RESERVED LOTS

§1541. Public reserved lots held for payment of taxes

The timber and grass claimed on the public reserved lots shall be held to the State for the payment of those taxes which may be lawfully assessed against them.

§1542. Payment of owner's interest; discharge

Each owner of timber and grass so assessed may pay the part of the tax so assessed proportioned to his interest in any tract, whether in common or not; and shall receive from the State Tax Assessor a certificate, discharging the tax upon the interest upon which such payment is made.

§1543. Each acreage interest forfeited if tax unpaid

Each fractional part, or interest represented by acreage, in all such public reserved lots, upon which the state taxes and interest are not paid by the 30th day of March of the year following the assessment shall be forfeited to the State, and whenever such taxes are assessed on a biennial basis, such forfeiture shall occur on the 30th day of March following the 2nd year of the biennium. Any owner may redeem his interest in such public reserved lots by tendering to the State Tax Assessor, within one year after the date of the forfeiture, his proportional part of all the sums due on such lots, and $1 for a release.

§1544. Land unredeemed in one year forfeited to State

If any fractional part or interest represented by acreage in such public reserved lots shall not be redeemed as provided in section 1543 at the expiration of one year from the date of the forfeiture, then it shall be and remain wholly forfeited to the State, and shall vest in the State free from all claims by any former owner.

§1545. Timber and grass forfeited held for benefit of towns

All timber and grass forfeited under section 1544 shall be held in trust by the State for the benefit of the people of Maine and shall be held by the Director of the Bureau of Parks and Lands subject to the same powers and responsibilities as apply to other lands in his custody.

§1546. Division of lots partially forfeited

The Director of the Bureau of Parks and Lands shall cause a division to be made, if found necessary from time to time, of the public reserved lots which have been partially forfeited, and shall set off and hold the forfeited portions for the benefit of the people of Maine, as provided for in section 1545.

§1547. Taxes due from forfeited interest charged against Unorganized Territory Education and Services Fund

After such timber and grass shall be wholly forfeited to the State, the State Tax Assessor shall certify to the State Controller the amount of unpaid taxes and interest then outstanding. Such state taxes and interest shall be charged to the Unorganized Territory Education and Services Fund.

CHAPTER 115
UNORGANIZED TERRITORY EDUCATIONAL AND SERVICES TAX

§1601. Unorganized Territory Tax District

The Legislature hereby creates a tax district to be known as the Unorganized Territory Tax District. It shall include all of the unorganized territory of the State and any areas which may subsequently become a part thereof.

§1602. Annual tax

1. Annual levy of tax. A tax, to be known as the Unorganized Territory Educational and Services Tax, shall be levied each year upon all nonexempt real and personal property located in the Unorganized Territory Tax District on April 1st of each year. The State Tax Assessor shall fix the status of all taxpayers and of all such property as of that date.

2. Computation and determination of tax. The tax shall be computed and apportioned on the basis of the State Tax Assessor's determination of the value of that property.

3. Determination of original tax. The State Tax Assessor shall determine the amount of tax due from each taxpayer. The State Tax Assessor shall notify each taxpayer in writing, not later than August 1st annually.

4. Establishment of mill rate.

A. The State Tax Assessor shall establish a separate mill rate for each county, which is calculated to raise the amount certified by the Legislature as the cost of county-provided services in the unorganized territory.

B. The State Tax Assessor shall establish a district-wide mill rate calculated to raise the cost of all other portions of the municipal cost component certified by the Legislature.

C. The rates calculated under paragraphs A and B shall be added and rounded to the next highest 1/4 of a mill to determine the mill rate for the municipal cost component which will be assessed against the taxable property in each county.

§1603. Definition of "municipal cost component"

1. Definition. For the purposes of this chapter, "municipal cost component" means the cost of funding services in the Unorganized Territory Tax District that would not be borne by the State if the Unorganized Territory Tax District were a municipality, but does not include a state cost allocation charge, including, without limitation, reimbursement to the General Fund for departmental functions such as accounting, personnel administration and supervision. "Municipal cost component" also includes the cost of funding obligations of the unorganized territory under the terms of a tax increment financing district approved by the Commissioner of Economic and Community Development pursuant to Title 30-A, chapter 206. The "municipal cost component" includes, but is not limited to:

A. The cost of education, as would be determined by the Essential Programs and Services Funding Act if the unorganized territory were a municipality;

B. The cost of services the state funds in the unorganized territory that are funded locally by a municipality; the cost of forest fire protection to be included in the cost component must be determined in accordance with Title 12, section 9205-A and collected in the same manner as other portions of the municipal cost component;

C. The cost of reimbursement by the State for services a county provides to the unorganized territory in accordance with Title 30-A, chapter 305. A county may not be reimbursed for services provided on or after January 1, 1979, unless a legislative allocation is obtained pursuant to this chapter. If a county receives, in addition to its budget, funds that are designated by the Legislature for a specific purpose and the county does not spend those funds for that specific purpose in that fiscal year, then the reimbursement under this chapter to that county for the next fiscal year must be reduced by an amount equal to the amount of funds so designated that were not expended for that specific purpose; and

D. The cost for payments that the unorganized territory is required to make pursuant to the terms of a tax increment financing district approved by the Commissioner of Economic and Community Development pursuant to Title 30-A, chapter 206 with respect to taxable property in the Unorganized Territory Tax District.

§1604. Determination; procedure

1. Recommendation to the Legislature. The administrator of the unorganized territory shall submit to the Legislature, by March 1st, annually, a bill listing the requests of all counties and agencies under this chapter.

2. Legislative determination of municipal cost components. The Legislature shall consider the requests for funding under this chapter and by June 1st of each year enact legislation determining the amounts of the municipal cost component for services provided by each county and the amount of all other portions of the municipal cost component.

2-A. Legislative amendment of components. Notwithstanding subsection 2, the Legislature may amend enacted legislation that determines the amounts of the municipal cost components.

3. Contracts. Each county or agency which contracts with another entity to provide services funded under this chapter shall enter into a written contract with the providing agency. A copy of each contract shall be maintained in the office of the county or agency entering into the contract. A copy of each contract shall be provided to the fiscal administrator of the unorganized territory who shall maintain copies in his office.

4. Property. All real and personal property which is purchased to provide services for which reimbursement is requested under this chapter shall be held by the State or county in trust for the unorganized territory. Any income from the use or sale of that property held by the State shall be credited to the Unorganized Territory Education and Services Fund. Income from the use or sale of that property held by a county shall be credited to the unorganized territory fund of that county.

When it is proposed that an area of the unorganized territory becomes organized into a town or plantation, the fiscal administrator of the unorganized territory shall make recommendations to the Legislature regarding the disposition of property obtained with funds under this chapter.

§1605. Unorganized Territory Education and Services Fund

1. Fund established. The Legislature hereby creates the Unorganized Territory Education and Services Fund. The State Tax Assessor shall deposit in the fund all Unorganized Territory Educational and Services Tax money and county tax money, assessed pursuant to Title 30-A, section 706, which he collects.

2. Disbursements. Each agency making disbursements for expenses attributable to the municipal cost component shall, by June 30th of each year, submit an accounting of all expenditures made for the fiscal year ending on that date to the Treasurer of State with a copy to the fiscal administrator of the unorganized territory. Upon receipt of the accounting, the Treasurer of State shall transfer from the fund sufficient money to pay the expenses attributable to the municipal cost component, including the amount charged to the fund under Title 12, section 9205-A. Any expenditures made or identified after those reported to the Treasurer of State on June 30th shall be identified separately and included in the report for the next fiscal year.

2-A. Advance payment to General Fund. On October 31st of each year, the Treasurer of State shall transfer from the Unorganized Territory Education and Services Fund to the General Fund an amount equal to 90% of the total amount transferred pursuant to subsection 2 and this subsection in the preceding fiscal year. This payment must be taken as a credit against the disbursement required by subsection 2.

2-B. Indian Township services. On or before October 15th immediately following the date of assessment, the State Tax Assessor shall certify to the fiscal administrator of the unorganized territory the total amount of property tax assessed on reservation out-parcels situated in the Passamaquoddy Tribe reservation at Indian Township in Washington County under authority of section 1602. On October 31st of each year in which the Passamaquoddy Tribe provides governmental services to these reservation out-parcels, the Treasurer of State shall pay to the Passamaquoddy Tribe from the Unorganized Territory Education and Services Fund an amount equal to the property taxes assessed on reservation out-parcels in consideration for any and all governmental services as may be provided by the Passamaquoddy Tribe for the benefit of nonreservation Indian Township property owners. For the purposes of this subsection, "reservation out-parcel" means a parcel of real property situated in Indian Township, assessed by the State and included in the relevant state valuation certified by the State Tax Assessor.

3. Balance carried forward. Any unexpended balance may not lapse but must be carried forward to the same fund for the next fiscal year and must be available for the purposes authorized by this chapter. Any unexpended balance remaining in the fund at the end of the year, not including amounts set aside in any capital reserve accounts, that is in excess of 10% of the amount of expenditures for that year must be used to reduce the amount to be collected in taxes during the next year.

4. Fund accounting. The State Controller shall establish an Unorganized Territory Education and Services Fund that reflects all of the activity of that fund within the state accounting system chart of accounts in accordance with the standards of a governmental accounting standards board as they apply to financial statements of the fund.

§1606. Property taxes credited on assessments; quarterly payments for unorganized territory services and annually for county taxes

1. Credit and appropriation of special funds or taxes for political subdivisions. Notwithstanding any other statute to the contrary, the gross amount of property taxes assessed upon real and personal property in the unorganized territory through the State Tax Assessor for the benefit of any special fund or political subdivision of the State may be credited on the books of the State to the special fund or to the proper fiscal officer of the political subdivision. The Treasurer of State shall pay to that fiscal officer the amount of the tax so assessed, in equal quarterly amounts for unorganized territory services, on or before the last day of July, October, January and April and an annual installment for county taxes on or before October 15th following the date of the assessment. The amount of the assessment is appropriated for the purposes of this subsection.

2. Tax increment financing payments. With respect to a tax increment financing district located in the unorganized territory and approved by the Commissioner of Economic and Community Development pursuant to Title 30-A, chapter 206, the Treasurer of State must deposit into the development program fund established by a county for the tax increment financing district pursuant to Title 30-A, section 5227, subsection 3 the tax increment revenues on the captured assessed value, as that term is defined in Title 30-A, section 5222. The payment must be made on or before October 15th following the date of assessment or within 30 days after the taxes constituting the tax increment are paid, whichever is later. The amount of the assessment is appropriated for the purposes of this subsection.

3. Deposits, abatements, interest payments and supplemental assessments. Upon collection by the State Tax Assessor, taxes collected under subsection 1 must be deposited in the Unorganized Territory Education and Services Fund. All abatements of such taxes must be charged against the Unorganized Territory Education and Services Fund and all interest and supplemental assessments must be paid into the Unorganized Territory Education and Services Fund and neither may be charged against or credited to the special fund or

political subdivision on account of which the tax was levied. Any excess of supplemental assessments over abatements accruing to the Unorganized Territory Education and Services Fund must be considered as reimbursement to the Unorganized Territory Education and Services Fund for administrative expenses connected with the assessment of those taxes.

4. Intent. The intent of the Legislature is to permit the administration of all real and personal property taxes in the unorganized territory through the Unorganized Territory Education and Services Fund as a matter of convenience and economy.

§1607. Meaning of letters used in lists

In the lists made by the State Tax Assessor, in accordance with this chapter, for purposes of valuation and assessment, the following initial letters mean as follows: The letter "T." when used alone means Township; the letter "R." when used alone means Range; the letter "N." when used alone means North; "E." means East; "S." means South; "W." means West; the letters "N.W." means North West; "N.E." means North East; "S.W." means South West; and "S.E." means South East.

§1608. Financial report

The fiscal administrator of the unorganized territory shall, by March 1st annually, publish a financial report of the status of the Unorganized Territory Education and Services Fund subject to the following provisions.

1. Record of financial transactions. It shall contain a record of all financial transactions of the fund during the preceding fiscal year, including an itemized list of receipts and disbursements from the fund. It shall also contain an itemized record showing the sources of all revenue received by the fund and showing all disbursements for each agency under the municipal cost component by major items of expense comparable with the approved budgetary expenditure classifications under the captions of personal services, contractual services, commodities, debt service and capital expenditures.

2. Statement of assets, liabilities, reserves and surplus. It shall contain an itemized statement of the assets, liabilities, reserves and surpluses of the fund under each municipal cost component.

3. Copies for distribution. Copies of the report shall be given to each member of the Legislature and to each county commissioner in each county which contains unorganized territory. Copies shall be made available in convenient locations for taxpayers in the unorganized territory.

4. Statement of availability. All tax bills issued under this chapter shall include a statement that the report required by this section is available, if requested.

§1609. Audit of municipal cost component and the Unorganized Territory Education and Services Fund

The Unorganized Territory Education and Services Fund and each account of the municipal cost component must be audited annually. The audit must cover the last entire fiscal year and be completed no later than February 1st following the end of each fiscal year. The expenses of these auditing services are part of the municipal cost component and are paid out of the Unorganized Territory Education and Services Fund. The audit must be performed in accordance with generally accepted auditing standards and procedures pertaining to governmental accounting and must include a management letter covering the audit of the operational aspects of the fund, as well as suggestions that the auditor determines advisable for the proper administration of the fund. The auditor shall produce the audit report on the forms required by the accounting system established by the Office of the State Auditor in Title 5, section 243.

The audit must include an accounting of receipts, expenditures, disbursements, allocations, apportionments and methods for calculating requests for transfers from the fund covering each account of the municipal cost component and the Unorganized Territory Education and Services Fund. The audit must also include a review of the accounting procedure used by agencies or governmental entities receiving transfers from the fund to determine whether the expenditures and transfers from the fund have been used in compliance with laws of this State.

§1610. Adjustment [**Repealed**]

§1611. Limitation on municipal cost component

1. Growth limitation. Except as otherwise provided in this section, the municipal cost component may not exceed the growth limitations established in subsection 2.

2. Calculation of growth limitations. The growth limitation factors are calculated as follows.

A. The growth limitation factor for the aggregate cost of the municipal cost components provided by the State is the same as the General Fund appropriation limitation factor calculated under Title 5, section 1534, subsection 2.

B. The growth limitation factor for the cost of the municipal cost components provided by a county may not exceed the municipal cost component assessment limit for that county. For purposes of this section, a municipal cost component assessment limit must be determined by the State Tax Assessor annually for the unorganized territory in each county using the criteria provided under Title 30-A, section 5721-A as if the unorganized territory for each county were a municipality.

3. Exceeding or increasing growth limitations. Growth limitations on the municipal cost component may be exceeded or increased as follows.

A. A governmental body with the authority to approve the county municipal cost component under Title 30-A, chapter 305 may exceed or increase the county growth limitation only if that action is approved by a majority of the county budget committee or county budget advisory committee and the county commissioners.

B. The Legislature may exceed or increase the municipal cost component growth limitation for a state component by including a provision in the municipal cost component legislation enacted pursuant to section 1604 that specifically states the intent of the Legislature to exceed or increase the growth limitation.

4. Application. This section applies to municipal cost component fiscal years beginning on or after July 1, 2007.

TITLE 36
TAXATION

PART 4
BUSINESS TAXES

CHAPTER 361
RAILROAD COMPANIES

§2623. EXCISE TAX; PAYMENT TO CITIES AND TOWNS ONE PERCENT ON STOCK HELD THEREIN

Every corporation, person or association operating any railroad in the State under lease or otherwise shall pay to the State Tax Assessor, for the use of the State, an annual excise tax for the privilege of exercising its franchises and the franchises of its leased roads in the State, which, with the tax provided for in section 561, is in place of all taxes upon the property of such railroad.

§2624. AMOUNT OF TAX

The amount of the annual excise tax on railroads shall be ascertained as follows: The amount of the gross transportation receipts for the year ended on the 31st day of December preceding the levying of the tax shall be compared with the net railway operating income for that year. When the net railway operating income does not exceed 10% of the gross transportation receipts, the tax shall be an amount equal to 3 1/4% of the gross transportation receipts. When the net railway operating income exceeds 10% of the gross transportation receipts but does not exceed 15%, the tax shall be an amount equal to 3 3/4% of the gross transportation receipts. When the net railway operating income exceeds 15% of the gross transportation receipts but does not exceed 20%, the tax shall be an amount equal to 4 1/4% of such gross transportation receipts. When the net railway operating income exceeds 20% of the gross transportation receipts but does not exceed 25%, the tax shall be an amount equal to 4 3/4% of the gross transportation receipts. When the net railway operating income exceeds 25% of the gross transportation receipts, the tax shall be an amount equal to 5 1/4% of the gross transportation receipts. The tax shall be decreased by the amount by which 5 3/4% of operating investment exceeds net railway operating income but shall in no event be decreased below a minimum amount equal to 1/2 of 1% of gross transportation receipts. In the case of railroads operating not over 50 miles of road, the tax shall not exceed 1 3/4% of the gross transportation receipts.

When a railroad lies partly within and partly without the State, or is operated as a part of a line or system extending beyond the State, the tax shall be equal to the same proportion of the gross transportation receipts in the State, and its amount shall be determined as follows: The gross transportation receipts of such railroad, line or system, as the case may be, over its whole extent, within and without the State, shall be divided by the total number of miles operated to obtain the average gross transportation receipts per mile, and the gross transportation receipts in the State shall be taken to be the average gross transportation receipts per mile multiplied by the number of miles operated within the State, and the net railway operating income within the State shall be similarly determined.

The State Tax Assessor, after notice and hearing, may determine the accuracy of any returns required of any railroad, and if found inaccurate, may order proper corrections to be made therein.

The tax calculated pursuant to this section, for any taxable year, shall be decreased by a tax credit as defined in section 2621-A, subsection 3, calculated for that same taxable year. At no time may a tax credit be utilized to decrease the tax below the minimum tax imposed by this section.

CHAPTER 367
COMMERCIAL FORESTRY EXCISE TAX

§2721. LEGISLATIVE FINDINGS

The Legislature finds that engaging in commercial forestry is a privilege that results in costs as well as benefits to the State and that persons enjoying that privilege should be subject to the tax imposed by this chapter.

The Legislature further finds that the persons owning 500 acres or more of forest land are typically engaged in commercial forest activity. Historically, that amount of land has been used for administrative efficiency and to delineate the amount of land indicative of management for commercial activity, especially for purposes of the Maine Tree Growth Tax Law and the spruce budworm tax. The activity of growing commercially valuable trees is one which occupies a very long cycle. It is not uncommon that 40 years must pass between the planting of a seedling and the time when the tree will be harvested for commercial use. During that interim, it may at times be difficult to discern any obvious commercial activity taking place on the land. In many instances, the best accepted commercial practice with regard to that forest land is to do nothing other than to allow the trees to follow the natural course of maturation. Experience has

shown that it is almost inevitable that a large amount of land containing commercially valuable trees will at some point be harvested for commercial purposes. Owners of such large amounts of land will receive the financial benefit of commercial activity either through the sale of the forest product or through the increased value that the forest product adds to the land when the land is transferred.

§2722. ANNUAL TAX

An excise tax is imposed upon the privilege of using one's land in commercial forestry enterprise in this State. The tax shall be levied upon owners of commercial forest land and shall be apportioned according to the formula specified in section 2723-A. The State, municipalities and the Federal Government are not subject to this tax.

§2723. COMPUTATION OF THE TAX [Repealed]

§2723-A. COMPUTATION OF TAX

1. **Calculation of fire control net costs.** Annually by September 1 beginning in 1987, the Commissioner of Agriculture, Conservation and Forestry shall certify to the State Tax Assessor the amount appropriated from the General Fund by the Legislature for the current fiscal year, including funds appropriated or allocated for capital improvements and repairs and the amounts proposed and budgeted to be spent in any federal and dedicated accounts for forest fire protection activities in the same fiscal year. The commissioner shall certify the amounts of all projected revenues resulting from forest fire protection activities for the same fiscal year, including federal revenues and dedicated revenues from the sale of buildings, vehicles and other equipment; fees and other miscellaneous revenues; and revenues estimated to be received from municipalities and the unorganized territory pursuant to Title 12, sections 9204, 9205 and 9205-A.

2. **Preceding fiscal year net costs.** The commissioner shall certify to the State Tax Assessor actual expenditures and revenues for forest fire protection for the preceding fiscal year for the same categories of information required in subsection 1 and provide the net amount resulting from subtracting revenues from expenditures.

3. **Roll forward amount from preceding fiscal year.** The State Tax Assessor shall subtract the amount in subsection 2 from the amount determined for the preceding fiscal year under subsection 4. If the resulting amount is positive, it shall be treated as a revenue and deducted from current year estimated expenditures. If the amount is negative, it shall be treated as an expenditure and added to current year estimated expenditures.

4. **Computing current year costs.** The State Tax Assessor shall add all projected expenditures for the current fiscal year, including general, federal and dedicated funds. From this amount shall be subtracted all revenues projected to be received in the current fiscal year, as identified in accordance with subsection 1. From this amount shall be added or subtracted, as appropriate, the net roll forward amount from the prior fiscal year as determined in subsection 3.

5. **Computing the tax.** [Repealed]

5-A. **Computing tax.** This amount must be multiplied by 40% and the sum must then be divided by the total number of adjusted acres of commercial forest land, rounded to the nearest 1/10 of a cent and multiplied by the number of adjusted acres of commercial forest land owned by each taxpayer to determine the amount of tax for which each owner of commercial forest land is liable.

6. **Minimum tax.** If the amount calculated under this chapter is less than $5, the amount assessed shall be $5.

§2724. DEFINITIONS

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

1. **Adjusted acres.** "Adjusted acres" means the total number of acres of commercial forest land owned by a person throughout the State reduced by 500 acres. Cotenants of property, whether joint tenants or tenants in common, shall be treated as one person and shall collectively be entitled to only one 500-acre reduction.

2. **Commercial forest land.** "Commercial forest land" means land that is classified or that is eligible for classification as forest land pursuant to the Maine Tree Growth Tax Law, chapter 105, subchapter II-A, except that "commercial forest land" does not include land described in section 573, subsection 3, paragraph B or C when all commercial harvesting of forest products is prohibited. In determining whether land not classified under the Maine Tree Growth Tax Law is eligible for classification under that law, all facts and circumstances must be considered, including whether the landowner is engaged in the forest products business and the land is being used in that business or there is a forest management plan for commercial use of the land or a particular parcel of land has been harvested for commercial purposes within the preceding 5 years.

§2725. DUE DATE

This excise tax is due May 1, 1986, and each subsequent May 1st.

§2726. ADMINISTRATION

1. **Returns.** The State Tax Assessor shall prescribe and make available the required tax return. All owners of more than 500 acres of forested land, whether or not that land is commercial forest land, shall complete and file tax returns with the State Tax Assessor no later than February 1st.

2. **Date of ownership.** The ownership and use of forested land for purposes of this chapter shall be determined as of April 1st preceding the date that the tax return is due.

3. **Notice.** The State Tax Assessor shall notify all landowners subject to this tax of the tax assessed against them no later than 30 days before the date that the tax is due. Failure to notify a landowner shall not relieve the obligation to pay the tax when due.

4. **Supplemental assessments.** Supplemental assessments may be made in accordance with section 141, subsection 1, except that the following limitations apply:

A. If a landowner who has failed to file a return under this chapter signs and files with the assessor an affidavit stating that the landowner did not know of the requirement to file a return under this chapter, a supplemental assessment may be made only for the 3 preceding years. Interest and penalties must be waived or abated if the tax is paid within 30 days after receipt of notice of the supplemental assessment as provided in a manner prescribed in section 111, subsection 2; and

B. If a landowner knew of the requirement to file a return under this chapter or if the assessor determines that the affidavit under paragraph A was falsely filed, the supplemental assessment may be made for the 6 preceding years plus interest and penalties.

5. **Interest and penalties.** Taxes remaining unpaid after the due date are subject to interest and penalty as provided in chapter 7.

6. **Enforcement.** The tax imposed by this chapter may be enforced by the enforcement and collection procedures provided in chapter 7.

§2727. CREDIT; REFUND [Repealed]

§2728. REPORT ON OWNERSHIP OF COMMERCIAL FOREST LAND BY SIZE OF OWNERSHIP

On or before September 1st of each year, the State Tax Assessor shall provide the Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry with information on the number of landowners filing tax returns in accordance with this chapter, including a breakdown of the number of landowners by acreage categories. The State Tax Assessor shall consult with the Director of the Bureau of Forestry in determining the acreage categories and shall provide the information in a consistent format to facilitate comparison from year to year.

CHAPTER 371
MINING EXCISE TAX

§2851. PREAMBLE

It is the Legislature's belief that mining for metallic minerals is an acceptable and necessary activity in the State. Mining results in economic benefits to the locality where it occurs, as well as to the entire State and the Nation. Those who conduct mining do so by their own initiative and by investing their capital. When mining is conducted, investments of the State are also made to provide public facilities and services. Aesthetic costs and the permanent loss of valuable assets also result from mining. It is the Legislature's intent that the mining excise tax be fairly related to the services provided by the State and its subdivisions, as well as account for the costs of mining and the permanent loss of valuable assets.

§2852. FINDINGS

The Legislature makes the following findings.

1. **Mineral resources fundamental.** Mineral resources are fundamental to modern civilization.

2. **Mineral resources as economic wealth.** Mineral resources have historically been a primary source of economic wealth, are valuable and, once removed, are forever lost as an economic asset to the State.

3. **Development of mineral resources.** Development of this country's mineral resources has involved only a small portion of its land area and may be expected to involve a similarly small portion of the land area of Maine.

4. **Excise tax.** The tax established by this chapter is not a property tax. It is an excise tax imposed on those engaged in and enjoying the privilege of conducting mining in the State.

5. **Creation of additional costs to government by mining.** The activity of mining may create additional costs to the State and its political subdivisions for government services, such as environmental monitoring and education and for highways, sewers, schools and other improvements which are necessary to accommodate the development of a mining industry.

6. **Effect of mining on environment and other qualities.** The activity of mining may have permanent and often damaging effects on the environment and recreational and aesthetic qualities of the State. These effects constitute a cost to the State.

7. **Quality of life.** The activity of mining may significantly alter the quality of life in communities affected by mining.

8. **Size of mining operation.** As the size of a mining operation increases, the cost to the State and its political subdivisions may increase, as do the effects on the environment. As the size of a mining operation increases, the mining company benefits from economies of scale in the mining operation.

9. **Long-term and short-term economic costs.** The State and its political subdivisions incur long-term and short-term economic costs as a result of mining. A fund, in which is deposited a portion of the excise tax revenues, assures that money will be available for long-term and short-term costs associated with social, educational, environmental and economic impacts of mining.

10. **Impact of mining tax laws on mining industry.** Mining tax laws may have a significant impact on the profitability of mining and the industry's ability to enter into and sustain production.

§2853. PURPOSE

It is the policy of the State to encourage the sound and orderly development of Maine's mineral resources. The object of this policy is to assure that the actions associated with development of these resources will:

1. **Expansion and diversification of economy.** Encourage expansion and diversification of the state's economy and create new employment opportunities for the state's people;

2. **Land use; environmental, safety and health regulations.** Adhere to sound and effective land use, environmental, safety and health regulations administered through appropriate public agencies;

3. **Assistance to municipalities and counties.** Provide planning and development assistance to municipalities, counties and the unorganized territory if significantly affected by mineral resource development; and

4. **Scheme of taxation.** Establish a practical scheme of taxation on mining companies which will:

A. Permit these companies to profitably operate mines within the State;

B. Encourage the economically efficient extraction of minerals;

C. Permit the State to derive a benefit from the extraction of a nonrenewable resource; and

D. Compensate the State and its political subdivisions for present and future costs incurred or to be incurred as a result of the mining activity.

§2854. EXCISE TAX IN LIEU OF PROPERTY TAXES

1. **Annual excise tax.** A mining company shall pay to the State Tax Assessor, for the use set forth in this chapter, an annual excise tax for the privilege of conducting mining within the State.

2. **Property tax exemption.** The excise tax imposed by this chapter shall be in lieu of all property taxes on or with respect to mining property, except for the real property taxes on the following:

A. Buildings, excluding fixtures and equipment; and

B. Land, excluding the value of minerals or mineral rights.

§2865. MINE SITE AND VALUATION DETERMINATIONS

1. **Mine site.** The State Tax Assessor shall determine the area of a mine site, taking into account all relevant information, including, but not limited to, plans or permits approved under the site location of development law, Title 38, chapter 3, subchapter 1, Article 6. The assessor shall give notice to the mining company and to the municipality in which the mine site is located of the determination . The assessor's determination is reviewable under section 151.

2. **Valuation.** If a mine site is located in a municipality, the assessor shall determine the valuation of mining property and the percentage of that valuation represented by land and buildings that are not exempt from property taxes. That valuation of land and buildings must be applied in determining the property taxes. The municipality in which the mine site is located may appeal that determination to the State Board of Property Tax Review as provided in chapter 101, subchapter 2-A.

TITLE 36
TAXATION

PART 7
SPECIAL TAXES

CHAPTER 711-A
REAL ESTATE TRANSFERS

§4641. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings:

1. **Consideration.** "Consideration" means the total price or amount paid, or required to be paid, for real property valued in money, whether received in money or otherwise and includes the amount of any mortgages, liens or encumbrances thereon, regardless of whether the underlying indebtedness is assumed by the grantee.

1-A. **Controlling interest.** "Controlling interest" means the following.

A. In the case of a corporation, "controlling interest" means more than 50% of the total combined voting power of all classes of stock of the corporation entitled to vote or more than 50% of the capital, profits or beneficial interest in the voting stock of the corporation.

B. In the case of a partnership, association, trust or other entity, "controlling interest" means more than 50% of the capital, profits or beneficial interest in the partnership, association, trust or other entity.

C. For purposes of the tax imposed by section 4641-A, subsection 2, all acquisitions of persons acting in concert are aggregated for purposes of determining whether a transfer or acquisition of a controlling interest has taken place. The State Tax Assessor shall adopt standards by rule to determine when persons are acting in concert. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. In adopting a rule for this purpose, the assessor shall consider the following:

(1) Persons must be treated as acting in concert when they have a relationship with each other such that one person influences or controls the actions of another through common ownership; and

(2) When persons are not commonly owned or controlled, they must be treated as acting in concert only when the unity with which the purchasers have negotiated and will consummate the transfer of ownership interests supports a finding that they are acting as a single entity. If the acquisitions are completely independent, with each purchaser buying without regard to the identity of the other purchasers, the acquisitions must be considered separate acquisitions.

2. **Deed.** "Deed" means a written instrument whereby the grantor conveys to the grantee title in whole or in part to real property.

2-A. **Real property.** "Real property" means land or anything affixed to land. "Real property" includes, but is not limited to, improvements such as buildings, mobile homes other than stock-in-trade, lines of electric light and power companies and pipelines and other things constructed or situated on land when the owner of the improvements is not the landowner.

3. **Value.** "Value" means the amount of the actual consideration for real property, except that in the case of a gift, or a contract or deed with nominal consideration or without stated consideration, or in the case of the transfer of a controlling interest in an entity with a fee interest in real property when the consideration for the real property cannot be determined, "value" is to be based on the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

"Value" does not include the amount of consideration attributable to vacation exchange rights, vacation services or club memberships or the costs associated with those rights, services or memberships. Upon request of a municipal assessor or the State Tax Assessor, a developer of a time-share estate, as defined in Title 33, section 591, subsection 7, or an association of time-share estate owners shall provide an itemized schedule of fees included in the sales price of a time-share estate.

§4641-A. RATE OF TAX; LIABILITY FOR TAX

1. **Deeds.** A tax is imposed on each deed by which any real property in this State is transferred.

A. The rate of the tax is $2.20 for each $500 or fractional part of $500 of the value of the property transferred.

B. The tax is imposed 1/2 on the grantor and 1/2 on the grantee.

2. **Transfer of direct or indirect controlling interest in entity with interest in real property.** A tax is imposed on the transfer or acquisition within any 12-month period of a direct or indirect controlling interest in any entity with a fee interest in real property in this State.

A. The rate of the tax is $2.20 for each $500 or fractional part of $500 of the value of the real property owned by the entity and located in this State.

B. The tax is imposed 1/2 on the transferor and 1/2 on the transferee, but if the transfer or acquisition is not reported to the register of deeds in the county or counties in which the property is located and the tax is not paid within 30 days of the completion of the transfer or acquisition, the transferor and the transferee are jointly and severally liable for the full amount.

C. If a controlling interest is acquired by a series of transfers, each transferor is liable for its proportional share of tax based on the value of the property on the date of the sale.

§4641-B. COLLECTION

1. **Transfer of real property by deed.** The State Tax Assessor shall provide for the collection of the tax on the transfer of real property by deed by each register of deeds. When any deed is offered for recordation, the register of deeds shall ascertain and compute the amount of tax due on the deed and shall collect that amount. The amount of tax must be computed on the value of the property as set forth in the declaration of value prescribed by section 4641-D. Payment of tax must be evidenced by affixing an indicium of payment prescribed by the assessor to the declaration of value provided for in section 4641-D.

2. **Transfer or acquisition of controlling interest in entity with fee interest in real property.** A person transferring or acquiring a controlling interest in an entity with a fee interest in real property for which a deed is not given shall report the transfer or acquisition to the register of deeds in the county or counties in which the real property is located within 30 days of the transfer or acquisition on a return in the form of an affidavit furnished by the State Tax Assessor. The return must be signed by both the transferor and the transferee and accompanied by payment of the tax due. When the real property is located in more than one county, the tax must be divided among the counties in the same proportion in which the real property is distributed among the counties. Disputes between 2 or more counties as to the proper amount of tax due to them as a result of a particular transaction must be decided by the State Tax Assessor upon the written petition of an official authorized to act on behalf of any such county.

3. **Disposition of funds.** Each register of deeds shall, on or before the 10th day of each month, pay over to the State Tax Assessor 90% of the tax collected pursuant to this section during the previous month. The remaining 10% must be retained for the county by the register of deeds and accounted for to the county treasurer as reimbursement for services rendered by the county in collecting the tax. If the tax collected is not paid over by the 10th day of the month, the State Tax Assessor may impose interest pursuant to section 186.

4. **Distribution of State's share of proceeds.** [Repealed]

4-A. **Distribution of State's share of proceeds.** [Repealed]

4-B. **Distribution of State's share of proceeds.** The State Tax Assessor shall pay all net receipts received pursuant to this section to the Treasurer of State and shall at the same time provide the Treasurer of State with documentation showing the amount of revenues derived from the tax imposed by section 4641-A, subsection 1 and the amount of revenues derived from the tax imposed by section 4641-A, subsection 2.

A. In fiscal year 2011-12, the Treasurer of State shall credit the revenues derived from the tax imposed pursuant to section 4641-A, subsection 1 in accordance with this paragraph.

(1) At the beginning of the fiscal year, the Maine State Housing Authority shall certify to the Treasurer of State the amount that is necessary and sufficient to meet the authority's obligations relating to bonds issued or planned to be issued by the authority under Title 30-A, section 4864.

(2) On a monthly basis the Treasurer of State shall apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first pay revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Maine Energy, Housing and Economic Recovery Fund established in Title 30-A, section 4863, until the amount paid equals the amount certified by the Maine State Housing Authority under subparagraph (1), after which the Treasurer of State shall credit any remaining revenues available under this subparagraph to the General Fund.

(3) On a monthly basis the Treasurer of State shall apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first credit $3,830,000 of the revenues available under this subparagraph to the General Fund, after which the Treasurer of State shall pay any remaining revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

B. In fiscal year 2012-13, the Treasurer of State shall credit the revenues derived from the tax imposed pursuant to section 4641-A, subsection 1 in accordance with this paragraph.

(1) At the beginning of the fiscal year, the Maine State Housing Authority shall certify to the Treasurer of State the amount that is necessary and sufficient to meet the authority's obligations relating to bonds issued or planned to be issued by the authority under Title 30-A, section 4864.

(2) On a monthly basis the Treasurer of State shall apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first pay revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Maine Energy, Housing and Economic Recovery Fund established in Title 30-A, section 4863, until the amount paid equals the amount certified by the Maine State Housing Authority under subparagraph (1), after which the Treasurer of State shall credit any remaining revenues available under this subparagraph to the General Fund.

(3) On a monthly basis the Treasurer of State shall apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first credit $300,000 of the revenues available under this subparagraph to the Department of Health and Human Services, Medical Care - Payments to Providers, Other Special Revenue Funds account and $3,950,000 of the revenues available under this subparagraph to the General Fund, after which the Treasurer of State shall pay any remaining revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

C. In fiscal year 2013-14, the Treasurer of State shall credit the revenues derived from the tax imposed pursuant to section 4641-A, subsection 1 in accordance with this paragraph.

(1) At the beginning of the fiscal year, the Maine State Housing Authority shall certify to the Treasurer of State the amount that is necessary and sufficient to meet the authority's obligations relating to bonds issued or planned to be issued by the authority under Title 30-A, section 4864.

(2) On a monthly basis the Treasurer of State shall apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first pay revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Maine Energy, Housing and Economic Recovery Fund established in Title 30-A, section 4863, until the amount paid equals the amount certified by the Maine State Housing Authority under subparagraph (1), after which the Treasurer of State shall credit any remaining revenues available under this subparagraph to the General Fund.

(3) On a monthly basis the Treasurer of State shall apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first credit $2,710,964 of the revenues available under this subparagraph to the General Fund, after which the Treasurer of State shall pay any remaining revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

D. In fiscal year 2014-15, the Treasurer of State shall credit the revenues derived from the tax imposed pursuant to section 4641-A, subsection 1 in accordance with this paragraph.

(1) At the beginning of the fiscal year, the Maine State Housing Authority shall certify to the Treasurer of State the amount that is necessary and sufficient to meet the authority's obligations relating to bonds issued or planned to be issued by the authority under Title 30-A, section 4864.

(2) On a monthly basis the Treasurer of State shall apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first pay revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Maine Energy, Housing and Economic Recovery Fund established in Title 30-A, section 4863, until the amount paid equals the amount certified by the Maine State Housing Authority under subparagraph (1), after which the Treasurer of State shall credit any remaining revenues available under this subparagraph to the General Fund.

(3) On a monthly basis the Treasurer of State shall apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first credit $5,038,104 of the revenues available under this subparagraph to the General Fund, after which the Treasurer of State shall pay any remaining revenues available under this subparagraph to the Maine State

Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

E. In fiscal year 2015-16 and each fiscal year thereafter, the Treasurer of State shall credit the revenues derived from the tax imposed pursuant to section 4641-A, subsection 1 in accordance with this paragraph.

(1) At the beginning of the fiscal year, the Maine State Housing Authority shall certify to the Treasurer of State the amount that is necessary and sufficient to meet the authority's obligations relating to bonds issued or planned to be issued by the authority under Title 30-A, section 4864.

(2) On a monthly basis the Treasurer of State shall apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first pay revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Maine Energy, Housing and Economic Recovery Fund established in Title 30-A, section 4863, until the amount paid equals the amount certified by the Maine State Housing Authority under subparagraph (1), after which the Treasurer of State shall credit any remaining revenues available under this subparagraph to the General Fund.

(3) On a monthly basis, the Treasurer of State shall credit 50% of the revenues to the Maine State Housing Authority, except that, notwithstanding paragraph F, in fiscal year 2015-16, the Treasurer of State shall first credit $6,291,740 of the revenues available under this subparagraph to the General Fund and except that, notwithstanding paragraph F, in fiscal year 2016-17, the Treasurer of State shall first credit $6,090,367 of the revenues available under this subparagraph to the General Fund. The Maine State Housing Authority shall deposit the funds received pursuant to this subparagraph in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

F. Neither the Governor nor the Legislature may divert the revenues payable to the Housing Opportunities for Maine Fund to any other fund or for any other use. Any proposal to enact or amend a law to allow distribution of less than 1/2 of the revenues derived from the tax imposed by section 4641-A, subsection 1 to the Housing Opportunities for Maine Fund established in Title 30-A, section 4853, as adjusted under this subsection, must be submitted to the Legislative Council and to the joint standing committee of the Legislature having jurisdiction over affordable housing matters at least 30 days prior to any vote or public hearing on the proposal.

G. The Treasurer of State shall credit to the General Fund all of the revenues derived from the tax imposed by section 4641-A, subsection 2.

5. **Dispute regarding amount.** In the event of a dispute as to the correct amount of tax, the individual seeking to record the deed may request that the State Tax Assessor determine the correct amount of tax to be paid in order for the deed to be recorded.

6. **Transfer of tax on deeds of foreclosure or in lieu of foreclosure.** Notwithstanding subsection 4-B, the State Tax Assessor shall monthly pay to the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection the revenues derived from the tax imposed on the transfer of real property described in section 4641-C, subsection 2, paragraphs A and C.

7. **Assignment of rights in or connected with foreclosed real property.** A person assigning rights in or connected with title to foreclosed real property for which a deed is not given, including rights as high bidder at the public sale pursuant to Title 14, section 6323, shall report the assignment to the register of deeds in the county or counties in which the real property is located within 30 days of the assignment on a return in the form of an affidavit furnished by the State Tax Assessor. The State Tax Assessor shall provide for the collection of the tax in the same manner as in subsection 1 as if the assignment were a transfer of real property by deed. The return must be signed by both the transferor and the transferee and accompanied by payment of the tax due. When the real property is located in more than one county, the tax must be divided among the counties in the same proportion in which the real property is distributed among the counties. Disputes between 2 or more counties as to the proper amount of tax due to them as a result of a particular transaction must be decided by the State Tax Assessor upon the written petition of an official authorized to act on behalf of any such county. This subsection applies to assignments made during the time between the judgment of foreclosure and the transfer of the foreclosed real property by deed.

§4641-C. EXEMPTIONS

The following are exempt from the tax imposed by this chapter:

1. **Governmental entities.** Deeds to property transferred to or by the United States, the State of Maine or any of their instrumentalities, agencies or subdivisions. For the purposes of this subsection, only the United States, the State of Maine and their instrumentalities, agencies and subdivisions are exempt from the tax imposed by section 4641-A; except that real property transferred to the Department of Transportation or the Maine Turnpike Authority for transportation purposes; gifts of real property to governmental entities; and deeds transferring real property to governmental entities from a bona fide nonprofit land conservation organization are exempt from the tax;

2. **Mortgage deeds, deeds of foreclosure and deeds in lieu of foreclosure.** Mortgage deeds, discharges of mortgage deeds and partial releases of mortgage deeds.

A. For the purposes of this subsection, only the mortgagor is exempt from the tax imposed for a deed in lieu of foreclosure.

B. In the event of a transfer, by deed, assignment or otherwise, to a 3rd party at a public sale held pursuant to Title 14, section 6323, the tax imposed upon the grantor by section 4641-A applies only to that portion of the proceeds of the sale that exceeds the sums required to satisfy in full the claims of the mortgagee and all junior claimants originally made parties in interest in the proceedings or having subsequently intervened in the proceedings as established by the judgment of foreclosure and sale. The tax must be deducted from the excess proceeds.

C. In the event of a transfer, by deed, assignment or otherwise, from a mortgagee or its servicer to the mortgagee or its servicer or to the owner of the mortgage debt at a public sale held pursuant to Title 14, section 6323, the mortgagee or its servicer if the servicer is the selling entity is considered to be both the grantor and grantee for purposes of section 4641-A.

D. In the event of a deed in lieu of foreclosure and a deed from a mortgagee or its servicer to the mortgagee or its servicer or to the owner of the mortgage debt at a public sale held pursuant to Title 14, section 6323, the tax applies to the value of the property.

For the purposes of this subsection, "servicer" means a person or entity that acts on behalf of the owner of a mortgage debt to provide services related to the mortgage debt, including accepting and crediting payments from the mortgagor, issuing statements and notices to the mortgagor, enforcing rights of the owner of a mortgage debt and initiating and pursuing foreclosure proceedings;

3. **Deeds affecting a previous deed.** Deeds that, without additional consideration and without changing ownership or ownership interest, confirm, correct, modify or supplement a deed previously recorded;

4. **Deeds between certain family members.** Deeds between husband and wife, parent and child or grandparent and grandchild, without actual consideration for the deed, and deeds between spouses in divorce proceedings;

5. **Tax deeds.** Tax deeds; [Repealed]

6. **Deeds of partition.** Deeds of partition when the interest conveyed is without consideration. However, if any of the parties take shares greater in value than their undivided interest, a tax is due on the difference between their proportional undivided interest and the greater value, computed at the rate set forth in section 4641-A;

7. **Deeds pursuant to mergers or consolidations.** Deeds made pursuant to mergers or consolidations of business entities, from which no gain or loss is recognized under the Code. For purposes of this subsection, "business entity" means an association or legal entity organized to conduct business, including, without limitation, a domestic or foreign corporation, a limited partnership, a general partnership, a limited liability partnership, a limited liability company, a joint venture, a joint stock company or a business trust;

8. **Deeds by subsidiary corporation.** Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;

9. **Deeds prior to October 1, 1975.** Deeds dated or acknowledged prior to October 1, 1975, and offered for recording subsequent to that date;

10. **Deeds by parent corporation.** Deeds made by a parent corporation to its subsidiary corporation for no consideration other than shares of stock of the subsidiary corporation;

11. **Deeds of distribution.** Deeds of distribution made pursuant to Title 18-A or Title 18-B;

12. **Deeds executed by public officials.** Deeds executed by public officials in the performance of their official duties;

13. **Deeds of foreclosure and in lieu of foreclosure.** [Repealed]

14. **Deeds given pursuant to the United States Bankruptcy Code.** Deeds given pursuant to the United States Bankruptcy Code;

15. **Deeds to a trustee, nominee or straw.** Any deeds:

A. To a trustee, nominee or straw party for the grantor as beneficial owner;

B. For the beneficial ownership of a person other than the grantor when, if that person were the grantee, no tax would be imposed upon the conveyance pursuant to this chapter; or

C. From a trustee, nominee or straw party to the beneficial owner;

16. **Certain corporate, partnership and limited liability company deeds.** Deeds between a family corporation, partnership, limited partnership or limited liability company and its stockholders, partners or members for the purpose of transferring real property in the organization, dissolution or liquidation of the corporation, partnership, limited partnership or limited liability company under the laws of this State, if the deeds are given for no actual consideration other than shares, interests or debt securities of the corporation, partnership, limited partnership or limited liability company. For purposes of this subsection a family corporation, partnership, limited partnership or limited liability company is a corporation, partnership, limited partnership or limited liability company in which the majority of the voting stock of the corporation, or of the interests in the partnership, limited partnership or limited liability company is held by and the majority of the stockholders, partners or members are persons related to each other, including by adoption, as descendants or as spouses of descendants of a common ancestor who was also a transferor of the real property involved, or persons acting in a fiduciary capacity for persons so related;

17. **Deeds to charitable conservation organizations.** Deeds for gifts of land or interests in land granted to bona fide nonprofit institutions, organizations or charitable trusts under state law or charter, a similar law or charter of any other state or the Federal Government that meet the conservation purposes requirements of Title 33, section 476, subsection 2, paragraph B without actual consideration for the deeds;

18. **Limited liability company deeds.** Deeds to a limited liability company from a corporation, a general or limited partnership or another limited liability company, when the grantor or grantee owns an interest in the limited liability company in the same proportion as the grantor's or grantee's interest in or ownership of the real estate being conveyed;

19. **Change in identity or form of ownership.** Any transfer of real property, whether accomplished by deed, conversion, merger, consolidation or otherwise, if it consists of a mere change in identity or form of ownership of an entity. This exemption is limited to those transfers when no change in beneficial ownership is made and may include transfers involving corporations, partnerships, limited liability companies, trusts, estates, associations and other entities; and

20. **Controlling interests.** Transfers of controlling interests in an entity with a fee interest in real property if the transfer of the real property would qualify for exemption if accomplished by deed of the real property between the parties to the transfer of the controlling interest.

§4641-D. DECLARATION OF VALUE

Except as otherwise provided in this section, any deed, when offered for recording, and any report of a transfer of a controlling interest must be accompanied by a declaration, signed by the parties to the transaction or their authorized representatives, declaring the value of the property transferred and indicating the taxpayer identification numbers of the grantor and grantee. The declaration of value with regard to a transfer by deed must include evidence of compliance with section 5250-A. The declaration of value must identify the tax map and parcel number of the property transferred unless a tax map does not exist that includes that property, in which event the declaration must indicate that an appropriate tax map does not exist. The following are exempt from these requirements: [2007, c. 437, §14 (AMD).]

1. **Governmental conveyances.** Any conveyance by or to the United States of America, the State of Maine or any of their instrumentalities, agencies or subdivisions. For purposes of this subsection, only governmental entities are exempt from the requirement to file a declaration of value;

2. **Mortgage.** Any mortgage or mortgage discharge;

3. **Partial release of mortgage.** Any partial release of a mortgage deed;

4. **Deed affecting previous deed.** Any deed that, without additional consideration, confirms, corrects, modifies or supplements a previously recorded deed; and

5. **Deed dated prior to October 1, 1975.** [Repealed]

6. **Deed of distribution.** Any deed of distribution made pursuant to Title 18-A.

If the transfer is exempt from the tax imposed by this chapter, the reason for the exemption must be stated on the declaration of value.

The declaration of value must be in a form prescribed by the State Tax Assessor, who shall provide an adequate supply of such forms to each register of deeds in the State. The State Tax Assessor shall prescribe a form for the declaration of value with regard to transfers of controlling interests subject to tax under this chapter. The State Tax Assessor, by rule, may establish grounds and procedures for waiver of the requirement that the taxpayer identification numbers of the grantor and grantee must be shown on the declaration of value. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

The register of deeds shall transmit the declaration of value to the State Tax Assessor not later than 40 days from the date of recordation of the deed or, in the case of a transfer of a controlling interest subject to tax under this chapter, no later than the 10th day of the month following the month in which the report of the transfer is received by the register of deeds.

The State Tax Assessor shall, on or before the 20th day of the month following the month of receipt, transmit each declaration of value to the assessors of the municipality or the chief assessor of a primary assessing area in which the real estate is situated.

§4641-E. POWERS AND DUTIES OF STATE TAX ASSESSOR

The State Tax Assessor is authorized to prescribe such rules and regulations as are necessary to carry out the purposes of this chapter.

Within 3 years of the recording of a deed subject to the tax imposed by this chapter or of the date on which a transfer of a controlling interest in an entity subject to taxation under this chapter is reported to the register of deeds, the State Tax Assessor may examine any books, papers, records or memoranda of the grantor or grantee bearing upon the amount of tax payable, and may enforce that right of examination by subpoena. If the assessor determines that there is a deficiency of taxes due under this chapter, such deficiency must be assessed, together with interest and penalties, with notice to the persons liable, but no such assessment may be made more than 3 years after the date of recording or transfer.

§4641-F. PETITION FOR RECONSIDERATION OF ASSESSMENT [Repealed]

§4641-G. APPEALS [Repealed]

§4641-H. NOTICES [Repealed]

§4641-I. PRIORITY [Repealed]

§4641-J. RECORDING WITHOUT TAX

Any register of deeds who, upon recording any deed or receiving a report of a transfer of a controlling interest upon which a tax is imposed by this chapter, fails to collect that tax or to obtain the declaration of value required by this chapter and does so with the intent of defeating the purposes of this chapter commits a civil violation for which a forfeiture not to exceed $200 may be adjudged.

§4641-K. FALSIFYING DECLARATION OF VALUE

1. **Prohibition.** A person may not:

A. Knowingly falsify the declaration of value prescribed by section 4641-D;

B. Refuse to permit the State Tax Assessor or any of the State Tax Assessor's agents or representatives to inspect property in question or any relevant books, papers, records or memoranda within 3 years after recording or transfer of a controlling interest subject to tax under this chapter;

C. Knowingly alter, cancel or obliterate a part of any relevant books, papers, records or memoranda; or

D. Knowingly make a false entry in any relevant books, papers, records or memoranda.

2. **Penalties.** A person who violates this section commits a Class E crime.

§4641-L. NO EFFECT ON RECORDATION

Failure to comply with the requirements of this chapter does not affect the validity of any recorded instrument or the validity of any recordation or transfer of a controlling interest.

§4641-M. CONFIDENTIALITY OF DECLARATION OF VALUE [Repealed]

§4641-N. REVIEW

The Maine State Housing Authority shall submit a report to the joint standing committee of the Legislature having jurisdiction over taxation by April 1, 1987, and each 2 years thereafter. The report shall cover the 2 prior fiscal years of the authority and shall identify the amount of revenues under this chapter that have been credited to the Housing Opportunities for Maine Fund and the manner in which those funds have been used. The committee shall review that report by May 1st of the year in which it is received.

§4642. RATE OF TAX [Repealed]

§4643. COLLECTION [Repealed]

§4644. EXEMPTIONS [Repealed]

TITLE 36
TAXATION

PART 9
TAXPAYER BENEFIT PROGRAMS

CHAPTER 907-A

MUNICIPAL PROPERTY TAX ASSISTANCE

§6231. DEFINITIONS [Repealed]

§6232. MUNICIPAL AUTHORITY

The legislative body of a municipality may by ordinance adopt a program to provide benefits to persons with homesteads in the municipality. A municipality may choose to restrict the program to persons who are at least 62 years of age.

1. **Conditions of program.** Except as provided in subsection 1-A, a program adopted under this section must:

A. Require that the claimant has a homestead in the municipality;

B. Provide benefits for both owners and renters of homesteads; and

C. Calculate benefits in a way that provides greater benefits proportionally to claimants with lower incomes in relation to their property taxes accrued or rent constituting property taxes accrued.

1-A. **Volunteer program.** A municipality may by ordinance adopt a program that permits claimants who are at least 60 years of age to earn benefits up to a maximum of $750 by volunteering to provide services to the municipality. A program adopted under this subsection does not need to meet the requirements of subsection 1, paragraph B or C. Benefits provided under this subsection must be related to the amount of volunteer service provided. Benefits received under this subsection may not be considered income for purposes of Part 8. A municipality may by ordinance establish procedures and additional standards of eligibility for a program adopted under this subsection.

2. **Relationship to state program.** [Repealed]

3. **Repeal of program.** A municipality that has adopted a program under this section may repeal it through the same procedure by which the program was adopted.

§6233. TERMINATION OF PROGRAM [Repealed]

CHAPTER 908
DEFERRED COLLECTION OF HOMESTEAD PROPERTY TAXES

§6250. DEFINITIONS

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

1. **Benefited property.** [Repealed]

2. **Bureau.** "Bureau" means the Bureau of Revenue Services.

3. **Homestead.** "Homestead" means the owner-occupied principal dwelling, either real or personal property, owned by the taxpayer and up to 10 contiguous acres upon which it is located. If the homestead is located in a multi-unit building, the homestead is the portion of the building actually used as the principal dwelling and its percentage of the value of the common elements and of the value of the tax lot upon which it is built. The percentage is the value of the unit consisting of the homestead compared to the total value of the building exclusive of the common elements, if any.

4. **Tax-deferred property.** "Tax-deferred property" means the property upon which taxes are deferred under this chapter.

5. **Taxes.** "Taxes" or "property taxes" means ad valorem taxes, assessments, fees and charges entered on the assessment and tax roll.

6. **Taxpayer.** "Taxpayer" means an individual who has filed a claim for deferral under this chapter or individuals who have jointly filed a claim for deferral under this chapter.

§6251. DEFERRAL OF TAX ON HOMESTEAD; JOINT ELECTION; AGE REQUIREMENT; FILING CLAIM

1. **Filing claim.** Subject to section 6252, an individual or 2 or more individuals jointly may elect to defer the property taxes on their homestead by filing a claim for deferral with the municipal assessor after January 1st but no later than April 1st of the first year in which deferral is claimed if:

A. The individual or each individual, in the case of 2 or more individuals filing a claim jointly, is 65 years of age or older on April 1st of the year in which the claim is filed; and

B. The individual or, in the case of 2 or more individuals filing a claim jointly, all the individuals together have household income, as defined in section 6201, subsection 7, of less than $32,000 for the calendar year immediately preceding the calendar year in which the claim is filed.

The municipal assessor shall forward each claim filed under this subsection to the bureau within 30 days of receipt and the bureau shall determine if the property is eligible for deferral.

Claims from new applicants may not be filed pursuant to this chapter prior to January 1, 1994. For purposes of this section, "new applicants" means any person or persons that have not filed claims prior to April 1, 1991.

2. **Property tax deferral.** When the taxpayer elects to defer property taxes for any year by filing a claim for deferral under subsection 1, it shall have the effect of:

A. Deferring the payment of the property taxes levied on the homestead for the municipal fiscal year beginning on or after April 1st of that year;

B. Continuing deferral of the payment by the taxpayer of any property taxes deferred under this chapter for previous years that have not become delinquent under section 6260; and

C. Continuing the deferral of the payment by the taxpayer of any future property taxes for as long as the provisions of section 6252 are met.

3. **Guardian compliance.** If a guardian or conservator has been appointed for an individual otherwise qualified to obtain deferral of taxes under this chapter, the guardian or conservator may act for that individual in complying with this chapter.

4. **Trustee compliance.** If a trustee of an inter vivos trust which was created by and is revocable by an individual, who is both the trustor and a beneficiary of the trust and who is otherwise qualified to obtain a deferral of taxes under this chapter, owns the fee simple estate under a recorded instrument of sale, the trustee may act for the individual in complying with this chapter.

5. **Spouse not required to claim.** Nothing in this section may be construed to require a spouse of an individual to file a claim jointly with the individual even though the spouse may be eligible to claim the deferral jointly with the individual.

6. **Appeal.** Any person aggrieved by the denial of a claim for deferral of homestead property taxes or disqualification from deferral of homestead property taxes may file an appeal of the State Tax Assessor's determination, within 30 days of notification of denial or disqualification by the State Tax Assessor, with the State Board of Property Tax Review as provided in chapter 101, subchapter II-A.

§6252. PROPERTY ENTITLED TO DEFERRAL

In order to qualify for tax deferral under this chapter, the property must meet all of the following requirements when the claim is filed and thereafter as long as the payment of taxes by the taxpayer is deferred.

1. **Claimant's homestead.** The property must be the homestead of the individual or individuals who file the claim for deferral, except for an individual required to be absent from the homestead by reason of health.

2. **Fee simple estate.** The person claiming the deferral must, solely or together with the person's spouse, own the fee simple estate or be purchasing the fee simple estate under a recorded instrument of sale, or 2 or more persons must together own or be purchasing the fee simple estate with rights of survivorship under a recorded instrument of sale if all owners live in the homestead and if all owners apply for the deferral jointly.

3. **No prohibitions.** There must be no prohibition to the deferral of property taxes contained in any provision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract or conditional sale contract for which the homestead is security.

§6253. CLAIM FORMS; CONTENTS

1. **Administration.** A taxpayer's claim for deferral under this chapter shall be in writing on a form supplied by the bureau and shall:

A. Describe the homestead;

B. Recite facts establishing the eligibility for the deferral under the provisions of this chapter, including facts that establish that the household income as defined in section 6201, subsection 7, of the individual, or, in the case of 2 or more individuals claiming the deferral jointly, was less than $32,000 for the calendar year immediately preceding the calendar year in which the claim is filed; and

C. Have attached any documentary proof required by the bureau to show that the requirements of section 6252 have been met.

2. **Statement verification.** There shall be annexed to the claim a statement verified by a written declaration of the applicant making the claim to the effect that the statements contained in the claim are true.

§6254. STATE LIENS AGAINST TAX-DEFERRED PROPERTY

1. **Lien.** The lien provided in section 552 must continue for purposes of protecting the State's deferred tax interest in tax deferred property. When it is determined that one of the events set out in section 6259 has occurred and that a property is no longer eligible for property tax deferral under this chapter, the State Tax Assessor shall send notice by certified mail to the owner, or the owner's heirs or devisees, listing the total amount of deferred property taxes, including accrued interest and costs of all the years and demanding payment on or before April 30th of the year following the tax year in which the circumstances causing withdrawal from the provisions of this chapter occur.

When the circumstances listed in section 6259, subsection 4 occur, the amount of deferred taxes is due and payable 5 days before the date of removal of the property from the State.

If the deferred tax liability of a property has not been satisfied by the April 30th demand date, the State Tax Assessor shall, within 30 days, record in the registry of deeds in the county where the real estate is located a tax lien certificate signed by the State Tax Assessor or bearing the assessor's facsimile signature, setting forth the total amount of deferred tax liability, a description of the real estate on which the tax was deferred and an allegation that a tax lien is claimed on the real estate to secure payment of the tax, that a demand for payment of the tax has been made in accordance with this section and that the tax remains unpaid.

At the time of the recording of the tax lien certificate in the registry of deeds, the State Tax Assessor shall send by certified mail, return receipt requested, to each record holder of a mortgage on the real estate, to the holder's last known address, a true copy of the tax lien certificate. The cost to be paid by the property owner, or the owner's heirs or devisees, is the sum of the fees for recording and discharging of the lien as established by Title 33, section 751, plus $13. Upon redemption, the State Tax Assessor shall prepare and record a discharge of the tax lien mortgage. The lien described in section 552 is the basis of this tax lien mortgage procedure.

The filing of the tax lien certificate, provided for in this section, in the registry of deeds creates a mortgage on the real estate to the State and has priority over all other mortgages, liens, attachments and encumbrances of any nature and gives to the State all rights usually instant to a mortgage, except that the mortgagee does not have any right of possession of the real estate until the right of redemption expires.

Payments accepted during the redemption period may not interrupt or extend the redemption period or in any way affect the foreclosure procedures.

2. **Foreclosure.** If the mortgage, including interest and costs, is not paid within 12 months of the date on which the certificate was filed in the registry of deeds, as provided in this section, the mortgage is deemed foreclosed and the right of redemption expired.

2-A. **Inventory.** The filing of the certificate in the registry of deeds is sufficient notice of the existence of the mortgage. Whenever the State acquires title to real estate, the State Tax Assessor shall cause an inventory to be made of all such real estate. The inventory must contain a description of the real estate, amount of accrued taxes by years and any information necessary to the administration and supervision of the real estate.

2-B. **Sale; legislative authorization.** After authorization by the Legislature, the State Tax Assessor shall, sell or convey any such real estate, but shall in all cases of sales, except sales to former owners of the real estate, give public notice of the proposal to sell the real estate and shall ask for competitive bids and sell to the highest bidder with the right of rejecting all bids. Sales of any such real estate may not be made by the State Tax Assessor except by authorization of the Legislature.

The supervision, administration, utilization and vindication of the right of the State in any such real estate is vested in the State Tax Assessor until the title is conveyed or otherwise disposed of by the Legislature.

3. **Foreclosure receipts.** Following the sale by the State Tax Assessor of real property acquired through the tax lien certificate procedure outlined in this chapter, all claims of the State evolving from the homestead property tax exemption are satisfied, as well as any tax delinquencies relative to the property in question in the municipality where located. The residual amount resulting from the sale of the property is to be returned to the former owner or to the owner's heirs or devisees.

§6255. LISTING OF TAX-DEFERRED PROPERTY; INTEREST ACCRUAL

1. **Tax-deferred property list.** If eligibility for deferral of homestead property is established as provided in this chapter, the bureau shall notify the municipal assessor and the municipal assessor shall show on the current ad valorem assessment and tax roll which property is tax-deferred property by an entry clearly designating that property as tax-deferred property.

2. **Tax statement.** When requested by the bureau, the municipal tax collector shall send to the bureau as soon as the taxes are extended upon the roll the tax statement for each tax-deferred property.

3. **Interest.** Interest shall accrue on the actual amount of taxes advanced to the municipality for the tax-deferred property at the rate of 6% per annum.

§6256. RECORDING LIENS IN COUNTY; RECORDING CONSTITUTES NOTICE OF STATE LIEN

1. **Recording of liens.** For each municipality in which there is tax-deferred property, the bureau shall cause to be recorded in the mortgage records of the county, a list of tax-deferred properties of that municipality. The list must contain a description of the property as listed in the municipal valuation together with the name of the owner listed on the valuation. The list must be corrected annually to reflect the addition or deletion of deferred properties as well as partial payments received.

2. **Notice of recording.** The recording of the tax-deferred properties under subsection 1 is notice that the bureau claims a lien against those properties in the amount of the deferred taxes plus interest together with any fees paid to the county register of deeds in connection with the recording, release or satisfaction of the lien, even though the amount of taxes, interest or fees is not listed.

§6257. MUNICIPAL TAX COLLECTOR TO RECEIVE AMOUNT EQUIVALENT TO DEFERRED TAXES FROM STATE

1. **Payment of deferred taxes.** Within 30 days of the receipt of information from a municipal tax collector concerning the amount of deferred property taxes in the respective municipality, the State Tax Assessor shall certify that amount to the Treasurer of the State who shall make payment on or before the 15th day of the following month.

1-A. **Prorated payment of deferred taxes.** The State Tax Assessor is authorized to prorate payments to municipalities for claims filed pursuant to this chapter if the amount available in the Senior Property Tax Deferral Revolving Account established in section 6266 in any fiscal year is insufficient to make full payments to all municipalities. If the applicant for deferred taxes can not pay the difference due to the municipality, the municipality that does not receive the full amount of deferred property taxes may cause a tax lien certificate to be filed in the county registry of deeds for the amount not received.

1-B. **Reimbursement to taxpayers.** The State Tax Assessor is authorized to reimburse taxpayers who qualified under this chapter and who have paid property taxes that would have otherwise been deferred but for the prorating of benefits as allowed in subsection 1-A.

2. **Accounts maintained.** The bureau shall maintain accounts for each deferred property and shall accrue interest only on the actual amount of taxes advanced to the municipality.

§6258. ANNUAL NOTICE TO TAXPAYER

1. **Annual deferral notice.** On or before December 15th of each year, the bureau shall send a notice to each taxpayer who has claimed deferral of property taxes for the current tax year. The notice must:

A. Inform the taxpayer that the property taxes have been deferred in the current year;

B. Show the total amount of deferred taxes remaining unpaid since initial application for deferral and the interest accruing therein to November 15th of the current year;

C. Inform the taxpayer that voluntary payment of the deferred taxes may be made at any time to the bureau; and

D. Contain any other information that the bureau considers necessary to facilitate administration of the homestead deferral program including, but not limited to, the right of the taxpayer to submit any amount of money to reduce the total amount of the deferred taxes and interest.

2. **Notice mailed.** The bureau shall give the notice required under subsection 1 by mail sent to the residence address of the taxpayer as shown in the claim for deferral or as otherwise determined by the bureau to be the correct address of the taxpayer.

§6259. EVENTS REQUIRING PAYMENT OF DEFERRED TAX AND INTEREST

Subject to section 6261, all deferred property taxes, including accrued interest, become payable as provided in section 6260 when:

1. **Death of claimant.** The taxpayer who claimed deferment of collection of property taxes on the homestead dies or, if there was more than one claimant, the survivor of the taxpayers who originally claimed deferment of collection of property taxes under section 6251 dies;

2. **Sale of property.** The property with respect to which deferment of collection of taxes is claimed is sold, a contract to sell is entered into, or some person other than the taxpayer who claimed the deferment becomes the owner of the property;

3. **Claimant moves.** The tax-deferred property is no longer the homestead of the taxpayer who claimed the deferral, except in the case of a taxpayer required to be absent from that tax-deferred property by reason of health; or

4. **Removal of home.** The tax-deferred property, a mobile or floating home, is moved out of the State.

§6260. TIME FOR PAYMENTS; DELINQUENCIES

Whenever any of the circumstances listed in section 6259 occurs:

1. **Continuation of assessment year.** The deferral of taxes for the assessment year in which the circumstance occurs shall continue for that assessment year;

2. **Deferred property taxes due.** The amounts of deferred property taxes, including accrued interest, for all years are due and payable to the bureau April 30th of the year following the calendar year in which the circumstance occurs, except as provided in subsection 3 and section 6261;

3. **Out-of-state move.** Notwithstanding the provisions of subsection 2 and section 6263, when the circumstance listed in section 6259, subsection 4, occurs, the amount of deferred taxes shall be due and payable 5 days before the date of removal of the property from the State; and

4. **Delinquency.** If the amounts falling due as provided in this section are not paid on the indicated due date or as extended under section 6263, those amounts shall be deemed delinquent as of that date and the property shall be subject to foreclosure as provided in section 6254.

§6261. ELECTION BY SPOUSE TO CONTINUE TAX DEFERRAL

1. **Continuation by spouse.** When one of the circumstances listed in section 6259, subsections 1 to 3 occurs, the spouse who did not or was not eligible to file a claim jointly with the taxpayer may continue the property in its deferred tax status by filing a claim within the time and in the manner provided under section 6251 if:

A. The spouse of the taxpayer is or will be 65 years of age or older not later than 6 months from the day the circumstance listed in section 6259, subsections 1 to 3 occurs; and

B. The property is the homestead of the spouse of the taxpayer and meets the requirements of section 6252, subsection 2.

2. **Continuation of deferral by spouse.** A spouse who does not meet the age requirements of subsection 1, paragraph A, but is otherwise qualified to continue the property in its tax-deferred status under subsection 1 may continue the deferral of property taxes deferred for previous years by filing a claim within the time and in the manner provided under section 6251. If a spouse eligible for and continuing the deferral of taxes previously deferred under this subsection becomes 65 years of age prior to April 1st of any year, the spouse may elect to continue the deferral of previous years' taxes deferred under this subsection and may elect to defer the current assessment year's taxes on the homestead by filing a claim within the time and in the manner provided under section 6251. Thereafter, payment of the taxes levied on the homestead and deferred under this subsection and payment of taxes levied on the homestead in the current assessment year and in future years may be deferred in the manner provided in and subject to this chapter.

3. **Filing extension.** Notwithstanding that section 6251 requires that a claim be filed no later than April 1st, if the bureau determines that good and sufficient cause exists for the failure of a spouse to file a claim under this section on or before April 1st, the claim may be filed within 90 days after notice of taxes due and payable under section 6260 is mailed or delivered by the department to the taxpayer or spouse.

§6262. VOLUNTARY PAYMENT OF DEFERRED TAX AND INTEREST

1. **Payments.** All payments of deferred taxes shall be made to the bureau.

2. **Taxes and interest.** Subject to subsection 3, all or part of the deferred taxes and accrued interest may at any time be paid to the bureau by:

A. The taxpayer or the spouse of the taxpayer; or

B. The next of kin of the taxpayer, heir at law of the taxpayer, child of the taxpayer or any person having or claiming a legal or equitable interest in the property.

3. **Notice of payment.** A person listed in subsection 2, paragraph B, may make the payments only if no objection is made by the taxpayer within 30 days after the bureau deposits in the mail notice to the taxpayer of the fact that the payment has been tendered.

4. **Payment application.** Any payment made under this section shall be applied first against accrued interest and any remainder against the deferred taxes. This payment does not affect the deferred-tax status of the property. Unless otherwise provided by law, this payment does not give the person paying the taxes any interest in the property or any claim against the estate, in the absence of a valid agreement to the contrary.

5. **Lien discharge.** When the deferred taxes and accrued interest are paid in full and the property is no longer subject to deferral, the bureau shall prepare and record in the county in which the property is located a lien discharge.

§6263. EXTENSION OF TIME FOR PAYMENT UPON DEATH OF CLAIMANT OR SPOUSE

1. **Payment extension.** If the taxpayer who claimed homestead property tax deferral dies, or if a spouse who continued the deferral under section 6261 dies, the bureau may extend the time for payment of the deferred taxes and interest accruing with respect to the taxes becoming due and payable under section 6260, subsection 2, if:

A. The homestead property becomes property of an individual or individuals:

(1) By inheritance or devise; or

(2) If the individual or individuals are heirs or devisees in the course of settlement of the estate;

B. An individual or individuals commence occupancy of the property as a principal residence on or before August 15th of the calendar year following the calendar year of death; or

C. An individual or individuals make application to the bureau for an extension of time for payment of the deferred taxes and interest prior to August 15th of the calendar year following the calendar year of death.

2. **Extension terms.** Subject to paragraph B, an extension granted under this section shall be for a period not to exceed 5 years after August 15th of the calendar year following the calendar year of death. The terms and conditions under which the extension is granted shall be in accordance with a written agreement entered into by the bureau and the individual or individuals.
An extension granted under this section shall terminate immediately if:

A. The homestead property is sold or otherwise transferred by any party to the extension agreement;

B. All of the heirs or devisees who are parties to the extension agreement cease to occupy the property as a principal residence; or

C. The homestead property, a mobile or floating home is moved out of the State.

3. **Accrued interest.** During the period of extension, and until paid, the deferred taxes shall continue to accrue interest in the same manner and at the same rate as provided under section 6255, subsection 3. No interest may accrue upon interest.

§6264. LIMITATIONS

Nothing in this chapter is intended to or may be construed to:

1. **Foreclosure.** Prevent the collection, by foreclosure, of property taxes which become a lien against tax-deferred property;

2. **Benefited property.** [Repealed]

3. **Land provisions.** Affect any provision of any mortgage, or other instrument relating to land, requiring a person to pay property taxes.

§6265. DEED OR CONTRACT CLAUSES PREVENTING APPLICATION FOR DEFERRAL PROHIBITED; CLAUSES VOID

After the effective date of this chapter, it shall be unlawful for any mortgage trust deed or land sale contract to contain a clause or statement that prohibits the owner from applying for the benefits of the deferral of homestead property taxes provided in this chapter. Any such clause or statement in a mortgage trust deed or land sale contract executed after the effective date of this chapter shall be void.

§6266. SENIOR PROPERTY TAX DEFERRAL REVOLVING ACCOUNT; SOURCES; USES

1. **Revolving account.** This section establishes in the State Treasury the Senior Property Tax Deferral Revolving Account to be used by the bureau for the purpose of making the payments to municipal tax collectors of property taxes deferred for tax years beginning on or after April 1, 1990, as required by section 6257.

2. **Advancement of funds.** The funds necessary to make payments under subsection 1 shall be advanced to the bureau from time to time as necessary by the Treasurer of State as an appropriation from the General Fund.

3. **Payments credited.** All sums of money received by the bureau under this chapter as repayments of deferred property taxes including the interest accrued under section 6255, subsection 3, shall, upon receipt, be credited to the revolving account and shall be available for the purposes of subsection 1.

4. **Appropriation request.** If there is not sufficient money in the revolving account to make the payments required by subsection 1, the State Tax Assessor shall request an appropriation from the General Fund which together with the money in the revolving account will provide an amount sufficient to make the required payments.

5. **General Fund reimbursement.** When the bureau determines that funds in sufficient amounts are available in the revolving account, the bureau shall repay to the General Fund the amounts advanced as appropriations under subsection 2, plus accrued interest.

§6267. PHASE OUT OF ELDERLY TAX DEFERRAL PROGRAM

New taxpayer claims for participation in the deferral program provided pursuant to this chapter are not allowed regarding an application filed on or after April 1, 1991.

CHAPTER 908-A
MUNICIPAL PROPERTY TAX DEFERRAL FOR SENIOR CITIZENS

§6271. MUNICIPAL AUTHORITY

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

A. "Eligible homestead" means the owner-occupied principal dwelling, either real or personal property, owned by a taxpayer and the land upon which it is located. If the dwelling is located in a multiunit building, the eligible homestead is the portion of the building actually used as the principal dwelling and its percentage of the value of the common elements and of the value of the tax lot upon which it is built. The percentage is the value of the dwelling compared to the total value of the building exclusive of the common elements, if any.

B. "Federal poverty level" means the nonfarm income official poverty line for a family of the size involved, as defined by the federal Office of Management and Budget and revised annually in accordance with the United States Omnibus Budget Reconciliation Act of 1981, Section 673, Subsection 2.

C. "Household income" has the meaning set out in section 6201, subsection 7.

D. "Program" means a tax deferral program adopted by a municipality pursuant to subsection 2.

E. "Tax-deferred property" means the property upon which taxes are deferred under this chapter.

F. "Taxes" or "property taxes" means ad valorem taxes, assessments, fees and charges entered on the assessment and tax roll.

G. "Taxpayer" means an individual who is responsible for payment of property taxes and has applied to participate or is currently participating in the program under this chapter.

2. **Authority.** The legislative body of a municipality may by ordinance adopt a property tax deferral program for senior citizens, referred to in this section as "the program." Upon application by a taxpayer, a municipality may defer property taxes on property if the following conditions are met:

A. The property is an eligible homestead where the taxpayer has resided for at least 10 years prior to application;

B. The taxpayer is an owner of the eligible homestead, is at least 70 years of age on April 1st of the first year of eligibility and occupies the eligible homestead; and

C. The household income of the taxpayer does not exceed 300% of the federal poverty level.

An application, information submitted in support of an application and files and communications relating to an application for deferral of taxes under the program are confidential. Hearings and proceedings held by a municipality on an application must be held in executive session unless otherwise requested by the applicant. Nothing in this paragraph applies to the recording of liens or lists under subsection 3 or any enforcement proceedings undertaken by the municipality pursuant to this chapter or other applicable law.
The municipality shall make available upon request the most recent list of tax-deferred properties of that municipality required to be filed under subsection 3. The municipality may publish and release as public information statistical summaries concerning the program as long as the release of the information does not jeopardize the confidentiality of individually identifiable information.

3. **Effect of deferral.** If property taxes are deferred under the program, the lien established on the eligible homestead under section 552 continues for the purpose of protecting the municipal interest in the tax-deferred property. Interest on the deferred taxes accrues at the rate of 0.5% above the otherwise applicable rate for delinquent taxes. In order to preserve the right to enforce the lien, the municipality shall record in the county registry of deeds a list of the tax-deferred properties of that municipality. The list must contain a description of each tax-deferred property as listed in the municipal valuation together with the name of the taxpayer listed on the valuation. The list must be updated annually to reflect the addition or deletion of tax-deferred properties, the amount of deferred taxes accrued for each property and payments received.

The recording of the tax-deferred properties under this subsection is notice that the municipality claims a lien against those properties in the amount of the deferred taxes plus interest together with any fees paid to the county registry of deeds in connection with the recording. For a property deleted from the list, the recording serves as notice of release or satisfaction of the lien, even though the amount of taxes, interest or fees is not listed.

4. **Notice.** The State Tax Assessor shall prepare a one-page notice of the effect of the deferral of property taxes under this section, of the right of the municipality to file a tax lien mortgage pursuant to chapter 105 and that the deferred taxes become due and payable as established in subsection 5. This notice must have a readability score, as determined by a recognized instrument for measuring adult literacy levels, equivalent to no higher than a 6th grade reading level. A municipality that adopts the program shall provide a copy of this notice to each taxpayer applying to the program at the time of application and shall also annually provide to each taxpayer in the program, in lieu of a property tax bill, a copy of this notice together with an accounting of taxes deferred and interest accrued.

5. **Lien.** When it is determined that one of the events set out in subsection 6 has occurred and that a property is no longer eligible for property tax deferral under this chapter, the municipality shall send notice by certified mail to the taxpayer, or the taxpayer's heirs or devisees, listing the total amount of deferred property taxes, including accrued interest and costs of all the years and establishing a due and payable date. For events listed in subsection 6, paragraphs A, B and C, payment is due within 45 days of the date of the notice. When the event listed in subsection 6, paragraph D occurs, the total amount of deferred taxes is due and payable 5 days before the date of removal of the property from the State. The municipality shall include in the notice a statement that the lien enforcement procedures pursuant to chapter 105, subchapter 9 apply.

If the deferred tax liability of a property has not been satisfied by the date established pursuant to this subsection, the municipality may enforce the lien according to procedures in chapter 105, subchapter 9.
Partial payments accepted during the 18-month redemption period provided for in section 943 may not interrupt or extend the redemption period or in any way affect foreclosure procedures.

6. **Events requiring the payment of deferred tax and interest.** Subject to subsection 7, all deferred taxes and accrued interest must be paid pursuant to subsection 5 when:

A. The taxpayer dies;

B. Some person other than the taxpayer becomes the owner of the property;

C. The tax-deferred property is no longer occupied by the taxpayer as a principal residence, except that this paragraph does not apply if the taxpayer is required to be absent from the eligible homestead for health reasons; or

D. The tax-deferred property, a mobile home, is moved out of the State.

7. **Election to continue deferral.** If one of the events listed in subsection 6 occurs, and the ownership of the eligible homestead is transferred to another member of the same household, the transferee may apply to the municipality for continuation of the deferral of taxes if the transferee meets the conditions in subsection 2, paragraphs B and C.

8. **Repeal of program.** A municipality that has adopted the program under this section may discontinue it through the same procedure by which the program was adopted; however, any taxes deferred under the program continue to be deferred under the conditions of the program on the date it was ended.

CHAPTER 915
REIMBURSEMENT FOR TAXES PAID ON CERTAIN BUSINESS PROPERTY

§6651. DEFINITIONS

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

1. **Eligible property.** "Eligible property" means qualified business property first placed in service in the State, or constituting construction in progress commenced in the State, after April 1, 1995 but does not include property that is eligible business equipment as defined in section 691, subsection 1. "Eligible property" includes, without limitation, repair parts, replacement parts, additions, accessions and accessories to other qualified business property placed in service on or before April 1, 1995 if the part, addition, accession or accessory is first placed in service, or constitutes construction in progress, in the State after April 1, 1995, unless that property is eligible business equipment as defined in section 691, subsection 1. "Eligible property" includes used qualified business property if the qualified business property was first placed in service in the State, or constituted construction in progress commenced in the State, after April 1, 1995 but does not include property that is eligible business equipment as defined in section 691, subsection 1. "Eligible property" also includes inventory parts.

2. **Inventory parts.** "Inventory parts" includes repair parts, replacement parts, replacement equipment, additions, accessions and accessories on hand but not in service and stocks or inventories of repair parts, replacement parts, replacement equipment, additions, accessions and accessories on hand but not in service if acquired after April 1, 1995, regardless of when placed in service.

2-A. **Primarily.** "Primarily" means more than 50% of the time.

3. **Qualified business property.** "Qualified business property" means tangible personal property that:

A. Is used or held for use exclusively for a business purpose by the person in possession of it or, in the case of construction in progress or inventory parts, is intended to be used exclusively for a business purpose by the person who will possess that property; and

B. Either:

(1) Was subject to an allowance for depreciation under the Code on April 1st of the property tax year to which the claim for reimbursement relates or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated; or

(2) In the case of construction in progress or inventory parts, would be subject under the Code to an allowance for depreciation when placed in service or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated.

"Qualified business property" also includes all property that is affixed or attached to a building or other real estate if it is used to further a particular trade or business activity taking place in that building or on that real estate. "Qualified business property" does not include components or attachments to a building if used primarily to serve the building as a building, regardless of the particular trade or activity taking place in or on the building. "Qualified business property" also does not include land improvements if used primarily to further the use of the land as land, regardless of the particular trade or business activities taking place in or on the land. In the case of construction in progress or inventory parts, the term "used" means intended to be used. "Qualified business property" also does not include any vehicle registered for on-road use on which a tax assessed pursuant to chapter 111 has been paid or any watercraft registered for use on state waters on which a tax assessed pursuant to chapter 112 has been paid.

4. **Retail sales activity.** "Retail sales activity" means an activity associated with the selection and purchase of goods or the rental of tangible personal property.

5. **Retail sales facility.** "Retail sales facility" means a structure used to serve customers who are physically present at the facility for the purpose of selecting and purchasing goods at retail or for renting tangible personal property. "Retail sales facility" does not include a separate structure that is used as a warehouse or call center facility.

§6652. REIMBURSEMENT ALLOWED; LIMITATION

1. **Generally.** A person against whom taxes have been assessed pursuant to Part 2, except for chapters 111 and 112, with respect to eligible property and who has paid those taxes is entitled to reimbursement of a portion of those taxes from the State as provided in this chapter. The reimbursement under this chapter is the percentage of the taxes assessed and paid with respect to eligible property specified in subsection 4. For purposes of this chapter, a tax applied as a credit against a tax assessed pursuant to chapter 111 or 112 is a tax assessed pursuant to chapter 111 or 112. A taxpayer that included eligible property in its investment credit base under section 5219-M and claimed the credit provided in section 5219-M on its income tax return may not be reimbursed under this chapter for taxes assessed on that same eligible property in a year in which that credit is taken. A successor in interest of a person against whom taxes have been assessed with respect to eligible property is entitled to reimbursement pursuant to this section, whether the tax was paid by the person assessed or by the successor, as long as a transfer of the property in question to the successor has occurred and the successor is the owner of the property as of August 1st of the year in which a claim for reimbursement may be filed pursuant to section 6654. For purposes of this subsection, "successor in interest" includes the initial successor and any subsequent successor. When an eligible successor in interest exists, the successor is the only person to whom reimbursement under this chapter may be made with respect to the transferred property. For an item of eligible property that is first subject to assessment under Part 2 on or after April 1, 2008, and for any item of eligible property for which reimbursement is paid under subsection 4, paragraph B, the reimbursement otherwise payable under this section may not exceed the actual property taxes paid less any tax increment financing refund received with respect to that property.

1-A. **Certain persons excluded.** Notwithstanding any other provision of law, the following persons are not eligible for reimbursement pursuant to this chapter:

A. A public utility as defined by Title 35-A, section 102;

B. A person that provides radio paging services as defined by Title 35-A, section 102;

C. A person that provides mobile telecommunications services as defined by Title 35-A, section 102;

D. A cable television company as defined by Title 30-A, section 2001;

E. A person that provides satellite-based direct television broadcast services; and

F. A person that provides multichannel, multipoint television distribution services.

This subsection applies retroactively to property tax years beginning after April 1, 1995.

1-B. **Certain property excluded.** Notwithstanding any other provision of law, reimbursement pursuant to this chapter may not be made with respect to the following property:

A. Office furniture, including, without limitation, tables, chairs, desks, bookcases, filing cabinets and modular office partitions;

B. Lamps and lighting fixtures;

C. Gambling machines or devices, including any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity as that term is defined in Title 8, section 1001, subsection 15, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. "Gambling machines or devices" includes, without limitation:

(1) Associated equipment as defined in Title 8, section 1001, subsection 2;

(2) Computer equipment used directly and primarily in the operation of a slot machine as defined in Title 8, section 1001, subsection 39;

(3) An electronic video machine as defined in Title 17, section 1831, subsection 4;

(4) Equipment used in the playing phases of lottery schemes; and

(5) Repair and replacement parts of a gambling machine or device; or

D. Personal property that would otherwise be entitled to reimbursement under this chapter used primarily to support a telecommunications antenna used by a telecommunications business subject to the tax imposed by section 457.

Property affected by this subsection that was eligible for reimbursement pursuant to this chapter of property taxes paid for the 1996 property tax year is grandfathered into the program and continues to be eligible for reimbursements unless it subsequently becomes ineligible.

1-C. **Certain energy facilities.** Reimbursement for certain energy facilities under this chapter is limited as follows.

A. Reimbursement may not be made for a natural gas pipeline, including pumping or compression stations, storage depots and appurtenant facilities used in the transportation, delivery or sale of natural gas, but not including a pipeline that is less than a mile in length and is owned by a consumer of natural gas delivered through the pipeline.

B. Except as provided in paragraph C, reimbursement may not be made for property used to produce or transmit energy primarily for sale. Energy is primarily for sale if during the property tax year immediately preceding the property tax year for which a claim is being made 2/3 or more of the useful energy is directly or indirectly sold and transmitted through the facilities of a transmission and distribution utility as defined in Title 35-A, section 102, subsection 20-B.

C. A cogeneration facility is eligible for reimbursement on that portion of property taxes paid multiplied by a fraction, the numerator of which is the total amount of useful energy produced by the facility during the property tax year immediately preceding the property tax year for which a claim is being made that is directly used by a manufacturing facility without transmission over the facilities of a transmission and distribution utility as defined in Title 35-A, section 102, subsection 20-B and the denominator of which is the total amount of useful energy produced by the facility during the property tax year immediately preceding the property tax year for which a claim is being made.

D. For purposes of this subsection, unless the context indicates otherwise, the following terms have the following meanings.

(1) "Cogeneration facility" means the eligible property within a facility that produces electrical energy, thermal energy or both for commercial or industrial use when less than 2/3 of the useful energy produced by the facility during the property tax year is sold and transmitted directly or indirectly through the facilities of a transmission and distribution utility, as defined in Title 35-A, section 102, subsection 20-B. "Cogeneration facility" includes eligible property within a heat recovery steam generator.

(2) "Useful energy" is energy in any form that does not include waste heat, efficiency losses, line losses or other energy dissipation.

1-D. **Retail sales facilities.** Reimbursement pursuant to this chapter may not be made with respect to property that is located in a retail sales facility exceeding 100,000 square feet of interior customer selling space and used primarily in a retail sales activity, unless the facility is owned by a business whose Maine-based operation derives less than 50% of its total annual revenue on a calendar-year basis from sales that are subject to Maine sales tax. This subsection applies to property tax years beginning after April 1, 2006. Property affected by this subsection that was eligible for reimbursement pursuant to this chapter for property taxes paid for the 2006 property tax year is grandfathered into the program and continues to be eligible for reimbursement to the extent permitted by this chapter as it existed on April 1, 2006, unless that property subsequently becomes ineligible.

2. **Limitation.** Reimbursement may not be made by the State Tax Assessor pursuant to this chapter with respect to the payment of taxes assessed against property that is entitled to exemption pursuant to section 656, subsection 1, paragraph E or any other provision of law except that reimbursement must be made with respect to the payment of taxes assessed against property that has not been certified for exemption pursuant to section 656, subsection 1, paragraph E but that is entitled to exemption pursuant to that provision if that property has been placed in service after the December 1st immediately preceding April 1st of the tax year for which reimbursement is sought but prior to April 1st of the property tax year for which reimbursement is sought. The claimant may seek reconsideration, pursuant to section 151, of the assessor's denial of reimbursement under this subsection. If the assessor denies a reimbursement claim on the ground that the property in question is entitled to exemption under section 656, subsection 1, paragraph E and the claimant seeks reconsideration of the denial, the assessor shall, at the claimant's request, allow the claimant up to one year to obtain a statement from the Commissioner of Environmental Protection that the property at issue is not exempt. If the claimant timely produces such a statement or otherwise demonstrates that the property is not exempt, the assessor shall allow the reimbursement.

3. **Withholding for failure to report.** [Repealed]

4. **Reimbursement percentage.** The reimbursement under this chapter is an amount equal to the percentage specified in paragraphs A and B of taxes assessed and paid with respect to each item of eligible property, except that for claims filed for application periods that begin on August 1, 2006, August 1, 2009, August 1, 2010 or August 1, 2013 the reimbursement is 90% of that amount and for claims filed for the application period that begins on August 1, 2014, the reimbursement is 80% of that amount.

A. For each of the first to 12th years for which reimbursement is made, the percentage is 100%.

B. Pursuant to section 699, subsection 2, reimbursement under this chapter after the 12th year for which reimbursement is made is according to the following percentages of taxes assessed and paid with respect to each item of eligible property.

(1) For the 13th year for which reimbursement is made, the percentage is 75%.

(2) For the 14th year for which reimbursement is made, the percentage is 70%.

(3) For the 15th year for which reimbursement is made, the percentage is 65%.

(4) For the 16th year for which reimbursement is made, the percentage is 60%.

(5) For the 17th year for which reimbursement is made, the percentage is 55%.

(6) For the 18th year for which reimbursement is made and for subsequent years, the percentage is 50%.

§6653. TAXPAYER TO OBTAIN INFORMATION

Before filing a request for reimbursement with the State Tax Assessor pursuant to section 6654, a taxpayer must notify the assessor or assessors for any taxing jurisdiction in which eligible property is subject to tax and for which the taxpayer intends to claim reimbursement that the taxpayer intends to file a reimbursement request. The notification must also include a list of the property that the taxpayer believes constitutes eligible property, the original cost of that property, the date that property was acquired and whether the property was acquired new or used. The taxpayer must submit to the assessor or assessors of each taxing jurisdiction at the same time a request that the assessor or assessors of the taxing jurisdiction provide to the taxpayer a statement identifying the assessed just value of eligible property for which reimbursement will be requested and the associated tax attributed to that property. If the taxpayer submits the request to the assessor or assessors 60 days or more before the commitment date for the property tax year at issue, the assessor or assessors of the taxing jurisdiction shall make the statement available to the taxpayer at the time the taxing jurisdiction first bills the taxpayer for property taxes for the property tax year at issue. If the taxpayer submits the request to the assessor or assessors less than 60 days before the commitment date or after the commitment date, the assessor or assessors shall make the statement available to the taxpayer within 60 days after the request is made.

§6654. CLAIM FOR REIMBURSEMENT

A person entitled to reimbursement of property taxes paid with respect to eligible property pursuant to section 6652 may file a claim for reimbursement with the State Tax Assessor. The reimbursement claim must be filed with the State Tax Assessor on or after August 1st and on or before the following December 31st for property taxes paid during the preceding calendar year for which no previous reimbursement pursuant to this chapter has been made. For good cause, the State Tax Assessor may at any time extend the time for filing a claim for reimbursement for a period not exceeding 60 days from the original due date. Except as otherwise provided, the claim must be accompanied by the statement obtained by the claimant pursuant to section 6653. If the claimant requests reimbursement of an amount of tax that differs from the amount of tax specified for the eligible property in the statement provided by the assessor or assessors of the taxing jurisdiction, the claimant must attach to the claim form an explanation of the reasons for that difference and the State Tax Assessor shall determine the correct amount of reimbursement to which the claimant is entitled, taking into consideration both the statement from the assessor or assessors and the taxpayer's explanation. If, for any reason, the claimant is unable to obtain the statement specified in section 6653 from the assessor or assessors within the time specified in section 6653, the claimant must attach to the claim form an explanation of the amount of reimbursement requested and the State Tax Assessor shall process the claim without that statement.

§6655. FORMS

The State Tax Assessor shall prescribe forms for the notice of claim and statement of the assessor or assessors provided in section 6653 and the claim for reimbursement, with instructions, and make those forms available to taxpayers and taxing jurisdictions. The forms must include a checkoff to indicate if the applicant is also receiving tax increment financing.

§6656. PAYMENT OF CLAIMS

1. **Reimbursement claim.** Notwithstanding any other provision of law, except as provided in subsection 1-A, section 6652 and section 6662, upon receipt of a timely and properly completed claim for reimbursement, the State Tax Assessor shall certify that the claimant is eligible for reimbursement under this chapter. The assessor shall determine the benefit for each claimant and shall certify to the State Controller the amounts to be transferred to the Business Equipment Tax Reimbursement reserve account established, maintained and administered by the State Controller from General Fund undedicated revenue.

1-A. **Suspension of reimbursement for nonpayment of taxes.** The State Tax Assessor shall suspend reimbursement under this chapter for a claimant who is delinquent in the payment of personal property taxes. For the purposes of this paragraph, delinquency occurs when:

A. The taxpayer has a past due balance in a single municipality or the unorganized territory in the amount of $10,000 or more in property tax on personal property; and

B. The municipal tax collector certifies to the State Tax Assessor or, in the case of the unorganized territory, the State Tax Assessor determines that the taxpayer is delinquent in the payment of personal property taxes. Certification by the municipal tax collector must be made on a form prescribed by the State Tax Assessor and list the tax and interest due and the year for which it is due. The certification by the municipal tax collector or determination by the State Tax Assessor must be made from July 1st to July 15th of the year for which the reimbursement is to be suspended.

Within 10 days after certifying or determining that a taxpayer is delinquent, the municipal tax collector or, in the case of the unorganized territory, the State Tax Assessor shall notify the taxpayer that reimbursement under this chapter for the application period beginning August 1st of that year may be suspended under this subsection unless the past due taxes are paid by the end of the application period for that year.

A taxpayer receiving a notice under this subsection has until the last day of the application period prescribed under section 6654 to pay the past due tax to the municipality or, in the case of the unorganized territory, to the State Tax Assessor to redeem any otherwise eligible reimbursement under this chapter. When the municipal tax collector certifies to the State Tax Assessor or, in the case of the unorganized territory, the State Tax Assessor determines that the past due tax has been paid, the State Tax Assessor shall release the reimbursement that has been suspended to the taxpayer in the same manner as for other claims under this chapter. If the taxpayer does not pay the past due tax by the end of the application period, the taxpayer's eligibility for the suspended reimbursement is terminated.

2. **Pay certified amounts.** The assessor shall pay the certified amounts to each approved applicant that qualifies for the benefit under this chapter by November 1st or within 90 days after receipt of the claim, whichever is later. Interest is not allowed on any payment made to a claimant pursuant to this chapter.

3. **Assignment of reimbursement payments.** A claimant may assign its right to payments under this chapter to secure a loan from the Finance Authority of Maine, and such an assignment, notwithstanding any contrary provision of law, is a legally valid assignment binding upon the claimant and its successors in interest. Upon notice of such an assignment given to the assessor by the Finance Authority of Maine and written confirmation of such an assignment signed by the claimant, the assessor shall pay to the Finance Authority of Maine any payments due to the claimant pursuant to this chapter and assigned to the Finance Authority of Maine until the Finance Authority of Maine notifies the assessor that the assignment has been released.

§6657. AUDIT OF CLAIM

The State Tax Assessor has the authority to audit any claim filed under this chapter and take any action provided in section 384. If the State Tax Assessor determines that the amount of the claimed reimbursement is incorrect, the State Tax Assessor shall redetermine the claim and notify the claimant in writing of the redetermination and the State Tax Assessor's reasons. If the claimant has received reimbursement of an amount that the State Tax Assessor concludes should not have been reimbursed, the State Tax Assessor may issue an assessment for that amount within 3 years from the date the reimbursement claim was filed or at any time if a fraudulent reimbursement claim was filed. The claimant may seek reconsideration, pursuant to section 151, of the redetermination or assessment.

§6658. SUBSEQUENT CHANGES

If, after a claim for reimbursement has been filed, the associated property tax assessment is reduced or abated for any reason, or the property tax paid is applied as a credit against the tax assessed pursuant to chapter 111 or 112, the claimant shall file, within 60 days after receipt of the reduction, abatement or credit, an amended claim for reimbursement reflecting the reduction, abatement or credit. If a claimant has received reimbursement for property tax that is reduced, abated or credited against the tax assessed pursuant to chapter 111 or 112, the claimant shall, within 60 days of receipt of the reduction, abatement or credit, refund to the Bureau of Revenue Services the amount of the reimbursement attributable to the property tax that has been reduced, abated or credited. If the claimant fails to make the refund within the 60-day period, the State Tax Assessor, within 3 years from the claimant's receipt of reimbursement, may issue an assessment for the amount that the claimant owes to the Bureau of Revenue Services. The claimant may seek reconsideration, pursuant to section 151, of the assessment.

§6659. LEGISLATIVE FINDINGS

The Legislature finds that encouragement of the growth of capital investment in this State is in the public interest and promotes the general welfare of the people of the State. The Legislature further finds that the high cost of owning qualified business property in this State is a disincentive to the growth of capital investment in this State. The Legislature further finds that the program set forth in this chapter is a reasonable means of overcoming this disincentive and will encourage capital investment in this State.

§6660. AVAILABILITY OF INFORMATION

Notwithstanding section 191, information contained in applications for reimbursement, the names of persons receiving reimbursement and the amount of reimbursement paid to an applicant may be publicly disclosed by the bureau. This section does not permit the disclosure of taxpayer identification numbers.

§6661. CERTAIN LEASED PROPERTY

A lessor of eligible property shall pay over to the lessee of that property reimbursement of property taxes received by the lessor under this chapter with respect to that property to the extent that the lessor has been reimbursed for those taxes by the lessee.

§6662. DISALLOWANCE OF REIMBURSEMENT FOR CERTAIN PROPERTY

Reimbursement under this chapter may not be made for property tax payments made with respect to property located at a facility that has permanently ceased all productive operations on April 1st of the year for which the property taxes are assessed and where no productive operations have been conducted for at least 12 months before the date that reimbursement is requested. This section does not apply if the owner of the facility has publicly advertised that the facility is available for sale or lease and has made a good faith effort to market and sell or lease the facility to prospective buyers or lessees.

§6663. PROGRAM NAME *(REALLOCATED FROM TITLE 36, SECTION 6661)*

The procedure for business property tax reimbursement provided by this chapter may be referred to as the "Business Equipment Tax Reimbursement" or "BETR" program.

§6664. REPORT

1. **Report to Legislature.** By April 1st annually, the State Tax Assessor shall submit to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over taxation matters a report that contains the following information with regard to persons receiving benefits under this chapter:

A. A list of persons receiving reimbursement for property taxes both under this chapter and under a tax increment financing agreement;

B. The total tax increment financing district property value for each person;

C. The municipality of each tax increment financing district and the property tax rate for that municipality;

D. The total tax increment financing district property taxes paid, categorized by real property and personal property;

E. The total tax increment financing credit enhancement agreement reimbursement for property taxes paid categorized by real property and personal property;

F. The total reimbursement received by each person under this chapter; and

G. The extent of overlap between reimbursement for property taxes on personal property under this chapter and under a tax increment financing agreement.

2. **Cooperation.** Claimants for reimbursement under this chapter, the Department of Economic and Community Development and municipalities shall provide any information requested by the State Tax Assessor for the completion of the report required by this section.

§6665. FINANCIAL PROJECTIONS REPORT [Repealed]

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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