

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

(CONFLICT)

Except as otherwise provided, the county commissioners shall make the county estimates and cause the taxes to be assessed as follows.

1. Forms. The county estimates must be made in the manner approved by the Office of the State Auditor.

2. Preparation of estimates. In order to assess a county tax, the county commissioners, in accordance with the schedule established in the county charter or, if the county does not have a charter, by the end of the state fiscal year, shall prepare estimates of the sums necessary to pay the expenses that have accrued or may probably accrue for the coming year for correctional services. The estimates must be drawn so as to authorize the appropriations to be made for correctional services.

2-A. Tax assessment for correctional services. (REPEALED)

2-B. Retirement of fiscal year 2007-08 county jail debt. (REPEALED)

2-C. (CONFLICT: Text as amended by PL 2017, c. 281, §1) 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. If a county collects in a year an amount that is more than the base assessment limit established for that county pursuant to this subsection, the base assessment limit in the succeeding year is the amount collected in the prior year. For the purposes of this subsection, "correctional services" includes management services, personal services, contractual services, commodity purchases, capital expenditures and all other costs, or portions thereof, necessary to maintain and operate correctional services. "Correctional services" does not include county jail debt unless there is a surplus in the account that pays for correctional services at the end of the state fiscal year.

The assessment to municipalities within each county may not be less than the base assessment limit, which is:

- A. A sum of \$4,287,340 in Androscoggin County;
- B. A sum of \$2,316,666 in Aroostook County;
- C. A sum of \$11,575,602 in Cumberland County;
- D. A sum of \$1,621,201 in Franklin County;
- E. A sum of \$1,670,136 in Hancock County;
- F. A sum of \$5,588,343 in Kennebec County;
- G. A sum of \$3,188,700 in Knox County;
- H. A sum of \$2,657,105 in Lincoln County;
- I. A sum of \$1,228,757 in Oxford County;
- J. A sum of \$5,919,118 in Penobscot County;
- K. A sum of \$878,940 in Piscataquis County;
- L. A sum of \$2,657,105 in Sagadahoc County;
- M. A sum of \$5,363,665 in Somerset County;
- N. A sum of \$2,832,353 in Waldo County;
- O. A sum of \$2,000,525 in Washington County; and
- P. A sum of \$8,386,815 in York County.

2-C. (CONFLICT: Text as amended by PL 2017, c. 284, Pt. V, §1) Tax assessment for correctional services July 1, 2015 to June 30, 2018. Beginning July 1, 2015, the

counties shall annually collect no less than \$62,172,371 from municipalities for the provision of correctional services in accordance with this subsection. The counties may collect an amount that is more than the base assessment limit established in this subsection, except that the additional amount each year may not exceed the base assessment limit as adjusted by the growth limitation factor established in section 706-A, subsection 3 or 4%, whichever is less. 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;
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- M. A sum of \$5,363,665 in Somerset County;
- N. A sum of \$2,832,353 in Waldo County;
- O. A sum of \$2,000,525 in Washington County; and
- P. A sum of \$8,386,815 in York County.

3. Public hearing. The county commissioners shall hold a public hearing in the county on these estimates before the end of the county's fiscal year. They shall publish a

notice of the hearing at least 10 days before the hearing in a newspaper of general circulation within the county. Written notice and a copy of the estimates must be sent by mail or delivered in person to the clerk of each municipality in the county at least 10 days before the hearing. The municipal clerk shall notify the municipal officers of the receipt of the estimates.

4. Meeting with legislative delegation. (REPEALED)

§702. ESTIMATES RECORDED AND SENT TO STATE AUDITOR

The county clerk shall record the estimates made under section 701. A copy of the estimates must be signed by the chair of the county commissioners and attested to by the county commissioners' clerk. On or before the first day of the fiscal year, the clerk shall transmit that copy to the State Auditor, who shall retain the copy for 3 years. These records are a public record at the office of the county commissioners in the county that submitted those records.

§703. ACCEPTANCE OF STATE AND FEDERAL GRANTS

A county may accept and expend grants.

1. Federal. Counties may apply for and accept and expend Federal Government grants for any purpose for which Federal Government grants are available to counties, either directly or through the State.

2. State. Counties may apply for and accept and expend state grants for any purpose for which state grants are available to counties, either directly or through a state agency.

3. Application. This section is not intended to increase, expand or broaden the powers of the counties or to apply to the general revenue sharing funds of the counties.

§704. FEDERAL FUNDS RECEIVED BY COUNTIES

1. Anticipated federal funds. Any county which receives federal funds shall provide for the expenditure of those funds in accordance with the laws and procedures governing the expenditure of its own revenue and shall record estimates of the expenditure as provided in section 702.

2. Procedure if federal funds could not be anticipated. If federal funds become available to the county for expenditure by the county, and if the availability of those funds could not reasonably have been anticipated and included in the estimate adopted for the fiscal year in question, the county may accept and spend these funds in compliance with federal and state law. Upon application for those funds and upon receipt of those funds, the chair of the county commissioners shall submit to the clerk of each municipality in the county a statement:

A. Describing the proposed federal expenditure in the same manner as it would be described in the estimate; and

B. Containing a statement as to why the availability of these federal funds and the necessity of their expenditure could not have been anticipated in time for that expenditure to be adopted as part of the estimates for that particular fiscal year.

§705. GRANTS TO AGENCIES OUTSIDE OF COUNTY GOVERNMENT

Any grants placed in the county budget by the Legislature to any agency outside of the regular county departments shall be paid to those agencies on a quarterly basis. The commissioners may withhold funds from an agency if there is evidence that funds have been misappropriated or misapplied by the agency.

§706. APPORTIONMENT OF COUNTY TAX; WARRANTS

When a county tax is authorized, the county commissioners shall apportion it upon the municipalities, unorganized territory and other places in that county according to the most recent state valuation. They may add to the sum authorized an amount not exceeding 2% of that sum, if a fractional division necessitates that addition and if they demonstrate that necessity in the record of that apportionment. The county commissioners shall establish the date for the payment of the tax. The date may not be earlier than the first day of the following September.

No later than the 15th of July preceding the date established for payment of the tax, the county commissioners shall issue their warrant to the assessors of the municipalities and other places and to the State Tax Assessor for the unorganized territory within that county. Those officers shall assess the sum apportioned to their tax jurisdiction and commit their assessment for collection in the same manner as other amounts to be raised by the property tax during the tax year to which the county tax warrant applies.

If a municipality or place or the State Tax Assessor must make a supplemental assessment due to failure by the county commissioners to issue their warrant by July 15th, the county must bear the costs of that supplemental assessment. Those costs may be recovered by the tax jurisdiction through an offset against the county tax that the tax jurisdiction would otherwise be required to pay over to the county.

The county may collect delinquent county taxes and charge interest on delinquent county taxes as provided under Title 36, sections 891 and 892-A.

§706-A. LIMITATION ON COUNTY ASSESSMENTS

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

A. "Average personal income growth" has the same meaning as under Title 5, section 1531, subsection 2.

B. "County assessment" means total annual county appropriations reduced by all resources available to fund those appropriations other than the county tax.

C. (REPEALED)

D. "Property growth factor" means the percentage equivalent to a fraction, established by a county, whose denominator is the total valuation of all municipalities, plantations and unorganized territory in the county, and whose numerator is the amount of increase in the assessed valuation of any real or personal property in those jurisdictions that became subject to taxation for the first time, or taxed as a separate parcel for the first time for the most recent property tax year for which information is available, or that has had an increase in its assessed valuation over the prior year's valuation as a result of improvements to or expansion of the property.

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.

4. Adjustment for new state funding. If the State provides net new funding to a county for existing services funded in whole or in part by the county assessment, other than required state mandate funds pursuant to section 5685 that do not displace current county assessment expenditures, the county shall lower its county assessment limit in that year in an amount equal to the net new funds. For purposes of this subsection, "net new funds" means the amount of funds received by the county from the State in that fiscal year, with respect to services funded in whole or in part by the county assessment, less the product of the following: the amount of such funds received in the prior fiscal year multiplied by one plus the growth limitation factor described in subsection 3. If a county receives net new funds in any fiscal year for which its county assessment limit has not been adjusted as provided in this subsection, the county shall adjust its county assessment limit in the following year in an amount equal to the net new funds.

5. Exceeding county assessment limit; extraordinary circumstances. The county assessment limit established in subsection 2 may be exceeded for extraordinary circumstances only under the following circumstances.

A. The extraordinary circumstances must be circumstances outside the control of the county budget authority, including:

- (1) Catastrophic events such as natural disaster, terrorism, fire, war or riot;
- (2) Unfunded or underfunded state or federal mandates;
- (3) Citizens' initiatives or other referenda;
- (4) Court orders or decrees; or
- (5) Loss of state or federal funding.

Extraordinary circumstances do not include changes in economic conditions, revenue shortfalls, increases in salaries or benefits, new programs or program expansions that go beyond existing program criteria and operation.

B. The county assessment limit may be exceeded only as provided in subsection 7.

C. Exceeding the county assessment limit established in subsection 2 permits the county assessment to exceed the county assessment limit only for the year in which the extraordinary circumstance occurs and does not increase the base for purposes of calculating the county assessment limit for future years.

D. For fiscal years 2005-06 and 2006-07 in Sagadahoc County, and fiscal years 2006 and 2007 in Lincoln County, that portion of the county assessment that is attributable to the costs of construction, debt service, operation and maintenance of a new jail facility authorized under chapter 17 is not subject to paragraphs A, B and C or to subsections 2, 6 and 7. Notwithstanding subsection 2, paragraph A, the county assessment limit for fiscal year 2007-08 for Sagadahoc County and fiscal year 2008 in Lincoln County is the county assessment for each county for the previous fiscal year, multiplied by one plus the growth limitation factor pursuant to subsection 3. Notwithstanding subsection 2, paragraph C, the county assessments for Sagadahoc County in fiscal year 2008-09 and subsequent fiscal years and for Lincoln County in fiscal year 2009 and subsequent fiscal years are subject to subsection 2, paragraph B.

6. Increase in county assessment limit. The county assessment limit established in subsection 2 may be increased for other purposes only as provided in subsection 7.

7. Process for exceeding county assessment limit. A county may exceed or increase the county assessment limit only if approved by a vote of a majority of all the members of both the county budget committee or county budget advisory committee and the county commissioners.

Unless a county charter otherwise provides or prohibits a petition and referendum process, if a written petition, signed by at least 10% of the number of voters voting in the last gubernatorial election in the county, requesting a vote on the question of exceeding the county assessment limit is submitted to the county commissioners within 30 days of the commissioners' vote pursuant to this subsection, the article voted on by the commissioners

must be submitted to the legal voters in the next regular election or a special election called for that purpose. The election must be held within 45 days of the submission of the petition. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters, the filing requirement contained in section 2528 does not apply and absentee ballots must be prepared and made available at least 14 days prior to the date of the referendum. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the election. The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the article. The results must be declared by the county commissioners and entered upon the county records.

8. Treatment of surplus; reserves. Any county tax revenues collected by a county in any fiscal year in excess of its county assessment limit, as determined by a final audited accounting, must be transferred to a county tax relief fund, which each county must establish, and used to reduce county assessments in subsequent fiscal years. Nothing in this subsection limits the ability of a county to maintain adequate reserves.

9. Enforcement. If a county adopts a county assessment in violation of this section, the State Tax Assessor may require the county to adjust its county assessment downward in an amount equal to the illegal county assessment and impose such other penalties as the Legislature may provide.

§707. ILLEGAL ASSESSMENTS

All assessments under this Part made by the county commissioners which include sums assessed for an illegal object are not void, nor shall any error, mistake, omission or inclusion of illegal sums in the assessment by the county commissioners void any part of the assessment that is assessed for legal purposes.

Any person paying a tax assessed for an illegal object may bring a civil action against the county in the Superior Court for the same county and may recover as much of the sum paid as was assessed for an illegal object, with 25% interest and costs and any damages which that person has sustained because of the mistakes, errors or omissions of the commissioners.

§708. ALTERNATIVE FISCAL YEAR

The county commissioners of a county may adopt a July 1st to June 30th fiscal year. A county may raise one or 2 taxes during a single valuation, if the taxes raised are based on appropriations made for one or more county fiscal years none of which exceeds 18 months. A county fiscal year may extend beyond the end of the current tax year. The county commissioners, when changing the county's fiscal year, may for transition purposes, adopt one or more fiscal years not longer than 18 months each.

§709. COUNTY CORRECTIONAL SERVICES BUDGETS PRESENTED TO STATE BOARD OF CORRECTIONS

(REPEALED)

§710. COUNTY CORRECTIONAL SERVICES BUDGET PROCEDURE

(REPEALED)

CHAPTER 101 GENERAL PROVISIONS

§2001. Definitions

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

1. Clerk or municipal clerk. "Clerk" or "municipal clerk" means the clerk of a municipality.

2. Cable television company. "Cable television company" means any person owning, controlling, operating, managing or leasing a cable television system within the State.

3. Cable television system. "Cable television system" means any facility that, in whole or in part, receives directly or indirectly over the air, amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes those signals by wire or cable to subscribing members of the public who pay for that service.

A. This term does not include:

(1) Any facility that serves fewer than 50 subscribers; or

(2) Any facility that serves only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of the apartment dwellings.

4. Federal Government. "Federal Government" means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

5. Funded debt. "Funded debt" means an obligation for the payment of which some fund is set aside.

6. General obligation security. "General obligation security" means a note, bond or other certificate of indebtedness to the payment of which is pledged the full faith and credit of the issuing body.

7. Home rule authority. "Home rule authority" means the powers granted to municipalities under chapter 111; section 3001; and the Constitution of Maine, Article VIII, Part Second.

8. Municipality. "Municipality" means a city or town, except as provided in chapter 225.

9. Municipal legislative body. "Municipal legislative body" means:

A. The town meeting in a town;

B. The city council in a city; or

C. That part of a municipal government that exercises legislative powers under a law or charter.

10. Municipal officers. "Municipal officers" means:

A. The selectmen or councillors of a town; or

B. The mayor and aldermen or councillors of a city.

11. Municipal official. "Municipal official" means any elected or appointed member of a municipal government.

12. Municipal year. "Municipal year" means a municipality's fiscal year as determined by the municipal officers under section 5651.

13. Open areas. "Open areas" means any space or area the preservation or restriction of the use of which would:

A. Maintain or enhance the conservation of natural or scenic resources;

B. Protect natural streams or water supplies;

C. Promote conservation of swamps, wetlands, beaches or tidal marshes;

D. Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open areas or open spaces;

E. Affect or enhance public recreation opportunities;

F. Preserve historic sites;

G. Implement the plan of development adopted by the planning commission of any municipality; or

H. Promote orderly urban or suburban development.

14. Person. "Person" means an individual, corporation, partnership, firm, organization or other legal entity.

14-A. Public sewer or public drain. "Public sewer" or "public drain" means any sewer or drain constructed or laid by a governmental entity for the use of the public and includes both gravity and pressure mains.

14-B. Public drinking water supplier. "Public drinking water supplier" means a public water supplier as defined by the federal Safe Drinking Water Act that provides drinking water from a source water protection area.

15. Real estate. "Real estate" means land and structures attached to it.

16. Resident. "Resident" and "residence" refer to an individual's place of domicile.

17. Sewage. "Sewage" means the water-carried wastes created in and carried or to be carried away from any structure together with any surface or ground water or household and industrial waste that is present.

18. Sewer system. "Sewer system" includes both sewers and sewage disposal systems and all property, rights, easements and franchises relating to those sewers and sewage disposal systems.

19. Sewers. "Sewers" means and includes mains, pipes and laterals for the reception of sewage and carrying that sewage to an outfall or some part of a sewage disposal system, including pumping stations.

20. Sinking fund. "Sinking fund" means a fund created for the purpose of paying a debt.

20-A. Source water protection area. "Source water protection area" means an area that contributes recharge water to a surface water intake or public water supply well for a public drinking water supply. In order to qualify as a "source water protection area," the area must be identified and mapped by the Department of Health and Human Services, and that information must be given to the municipality in which the source water protection area is located.

21. Voter. "Voter" means a person registered to vote.

CHAPTER 111 HOME RULE

§2101. PURPOSE

The purpose of this chapter is to implement the home rule powers granted to municipalities by the Constitution of Maine, Article VIII, Part Second.

§2102. CHARTER REVISIONS, ADOPTIONS, PROCEDURE

1. Municipal officers. The municipal officers may determine that the revision of the municipal charter be considered or that adoption of a new municipal charter be considered and, by order, provide for the establishment of a charter commission to carry out that purpose as provided in this chapter.

2. Petition by voters. On the written petition of a number of voters equal to at least 20% of the number of votes cast in the municipality at the last gubernatorial election, but in no case less than 10, the municipal officers, by order, shall provide for the establishment of a charter commission for the revision of the municipal charter or the preparation of a new municipal charter as provided in this chapter.

3. Petition procedure. The following procedure shall be used in the alternative method set out in subsection 2.

A. Any 5 voters of the municipality may file an affidavit with the municipal clerk stating:

- (1) That the 5 voters will constitute the petitioners' committee;
- (2) The names and addresses of the 5 voters;
- (3) The address to which all notices to the committee are to be sent; and
- (4) That the 5 voters will circulate the petition and file it in proper form.

The petitioners' committee may designate additional voters of the municipality, who are not members of the committee, to circulate the petition.

Promptly after the affidavit is filed, the clerk shall issue petition blanks to the committee.

B. The municipal clerk shall prepare the petition forms at the municipality's expense. The petition forms 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.

CHAPTER 121 MEETINGS AND ELECTIONS

§2521. CALL OF TOWN MEETING

Each town meeting shall be called by a warrant. The warrant must be signed by a majority of the selectmen, except as follows.

1. First town meeting. The first town meeting shall be called in the manner provided in the act of incorporation.

2. Majority of selectmen. If, for any reason, a majority of the selectmen do not remain in office, a majority of those remaining may call a town meeting.

3. Petition of 3 voters, if no selectmen. When a town, once organized, is without selectmen, a notary public may call a meeting on the written petition of any 3 voters.

4. Petition by voters, if selectmen refuse. If the selectmen unreasonably refuse to call a town meeting, a notary public may call the meeting on the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10.

§2522. PETITION FOR ARTICLE IN WARRANT

On the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10, the municipal officers shall either insert a particular article in the next warrant issued or shall within 60 days call a special town meeting for its consideration.

§2523. WARRANT

The warrant for calling any town meeting must meet the following requirements.

1. Time and place. It shall specify the time and place of the meeting.

2. Business to be acted upon. It shall state in distinct articles the business to be acted upon at the meeting. No other business may be acted upon.

3. Notification. It shall be directed to a town constable, or to any resident by name, ordering that person to notify all voters to assemble at the time and place appointed.

4. Attested copy posted. The person to whom it is directed shall post an attested copy in some conspicuous, public place in the town at least 7 days before the meeting, unless the town has adopted a different method of notification.

5. Return on warrant. The person who notifies the voters of the meeting shall make a return on the warrant stating the manner of notice and the time when it was given.

A. If an original town meeting warrant is lost or destroyed, the return may be made or amended on a copy of the original warrant.

§2524. GENERAL TOWN MEETING PROVISIONS

The following provisions apply to all town meetings.

1. Qualified voter. Every voter in the town may vote in the election of all town officials and in all town affairs.

2. Moderator elected and sworn. The clerk, or in the clerk's absence a selectman or constable, shall open the meeting by:

- A. Calling for the election of a moderator by written ballot;
- B. Receiving and counting the votes for moderator; and
- C. Swearing in the moderator.

3. Moderator presides. As soon as the moderator has been elected and sworn, the moderator shall preside over and supervise the voting at the meeting and may appoint a deputy moderator to assist the moderator. If the moderator is absent or is unable to carry out the duties, the clerk, or in the clerk's absence a selectman or constable, may call for the election of a deputy moderator to act in the absence of the moderator.

A. All persons shall be silent at the moderator's command. A person may not speak before that person is recognized by the moderator. A person who is not a voter in the town may speak at the meeting only with the consent of 2/3 of the voters present.

(1) If any person, after a command for order by the moderator, continues to act in a disorderly manner, the moderator may direct that person to leave the meeting. If the person refuses to leave, the moderator may have that person removed by a constable and confined until the meeting is adjourned.

B. When a vote declared by the moderator is immediately questioned by at least 7 voters, the moderator shall make it certain by polling the voters or by a method directed by the municipal legislative body.

C. The moderator shall serve until the meeting is adjourned. The moderator is subject to the same penalties for neglect of official duty as other town officials.

4. Votes recorded by clerk. The clerk shall accurately record the votes of the meeting.

A. If the clerk is absent, the moderator shall appoint and swear in a temporary clerk.

5. Written ballots. The clerk shall prepare the ballots. Ballots shall be of uniform size and color, and must be blank except that 2 squares with "yes" by one and "no" by the other may be printed on them.

The moderator shall ensure that each voter receives only one ballot for each vote taken.

6. Location of meetings. Town meetings may be held outside the corporate limits of the municipality if the municipal officers determine that there is no adequate facility for the meeting within the municipality. The proposed location must be:

- A. Within an adjoining or nearby municipality;

B. Not more than 25 miles from the corporate limits of the municipality holding the meetings; and

C. Reasonably accessible to all voters of the town.

§2525. ANNUAL MEETING

1. Officials required to be elected. Each town shall hold an annual meeting at which the following town officials shall be elected by ballot:

A. Moderator;

B. Selectmen; and

C. School committee.

2. Other officials. A town, at a meeting held at least 90 days before the annual meeting, may designate other town officials to be elected by ballot. The election of officials at the last annual town meeting is deemed to be such a designation until the town acts otherwise at a meeting held at least 90 days before the annual meeting at which the election will be held.

3. Limitation. A town official may not be elected on a motion to cast one ballot.

§2526. CHOICE AND QUALIFICATIONS OF TOWN OFFICIALS

Unless otherwise provided by charter, the following provisions apply to the choice and qualifications of town officials.

1. Manner of election. In a town with a population greater than 4,000, according to the last Federal Decennial Census, election shall be by plurality. Except as provided in section 2528, subsection 10, in a town with a population of 4,000 or under, election shall be by majority.

2. Appointment in writing. The appointment of any town official or deputy must be in writing and shall be signed by the appointing party.

3. Qualifications. In order to hold a municipal office, a person must be a resident of the State, at least 18 years of age and a citizen of the United States.

A. In order to hold the office of selectman, a person must be a voter in the town in which that person is elected.

4. Selectmen and overseers. The following provisions apply to selectmen and overseers.

A. A town may determine at a meeting held at least 90 days before the annual meeting whether 3, 5 or 7 will be elected to each board and their terms of office.

(1) Once the determination has been made, it stands until revoked at a meeting held at least 90 days before the annual meeting.

(2) If a town fails to fix the number, 3 shall be elected. If a town fails to fix the term, it is for one year.

B. When others have not been elected, the selectmen shall serve as overseers of the poor.

C. A selectman may also serve as a member of the board of assessors.

D. A town, in electing selectmen and overseers, may designate one of them as chairman of the board.

(1) If no person is designated as chairman, the board shall elect by ballot a chairman from its own membership, before assuming the duties of office. When no member receives a majority vote, the clerk shall determine the chairman by lot.

E. If the town fails to fix the compensation of these officials at its annual meeting, they shall be paid \$10 each per day for every day actually and necessarily employed in the service of the town.

5. Assessors. The following provisions apply to assessors.

A. A town may determine at a meeting of its legislative body held at least 90 days before the annual meeting whether a single assessor will be appointed under subparagraph (3) or a board of 3, 5 or 7 will be elected and the term of office of the assessor or assessors. In towns where the municipal legislative body is the town meeting, the determination is effective only if the total number of votes cast for and against the determination equals or exceeds 10% of the number of votes cast in the town at the last gubernatorial election.

(1) Once a determination has been made, it stands until revoked at a meeting held at least 90 days before the annual meeting.

(2) If a town fails to fix the number, 3 shall be elected. If a town fails to fix the term, it is for one year.

(3) When a town has chosen a single assessor under this paragraph, the selectmen shall appoint the assessor for a term not exceeding 5 years.

B. In addition to the method provided by paragraph A and notwithstanding the provision of any town charter to the contrary, the municipal officers of any town, or the municipal officers of 2 or more towns acting jointly, may enact an ordinance providing for a single assessor. The municipal officers shall appoint the assessor for a term not exceeding 5 years.

(1) Seven days' notice of the meeting at which the ordinance is to be proposed shall be given in the manner provided for town meetings.

(2) In towns where the municipal legislative body is the town meeting, the ordinance is effective immediately after the next regular town meeting if enacted at least 90 days before the meeting. The ordinance stands until revoked by the municipal legislative body or the municipal officers at a meeting held at least 90 days before the annual town meeting.

C. When a town has not elected a full board of assessors, the selectmen shall serve as assessors as provided in Title 36, section 703. A selectman who is an assessor pursuant to this paragraph and Title 36, section 703 or any person who serves as both a selectman and a tax assessor may resign the position of assessor without resigning the office of selectman. The position of assessor must then be filled by appointment pursuant to section 2602, subsection 2. A person elected to the State Legislature who resigns the position of assessor pursuant to this paragraph may continue to serve concurrently as selectman and member of the State Legislature. If a person who is serving in the State Legislature or in another office incompatible with the position of assessor resigns the position of assessor pursuant to this paragraph before that person has performed any duties as tax assessor, that person may not be deemed to have vacated the previously held position of State Legislator or other office that is incompatible with the office of assessor.

D. A town, if it elects a board of assessors, may designate one member as chairman of the board.

(1) If no person is designated as chairman, the board shall elect by ballot a chairman from its own membership, before assuming the duties of office. When no member receives a majority vote, the clerk shall determine the chairman by lot.

E. If the town fails to fix the compensation of assessors at its annual meeting, they shall be paid \$10 each per day for every day actually and necessarily employed in the service of the town.

F. This subsection does not apply to any municipality which is incorporated into a primary assessing area.

G. Notwithstanding any other law when a vacancy occurs on an elected board of assessors, the municipal officers shall fill that vacancy as provided in section 2602, subsection 2.

6. Board of assessment review. The following provisions apply to a board of assessment review.

A. Any municipality may adopt a board of assessment review at a meeting of its legislative body held at least 90 days before the annual meeting.

B. The board of assessment review consists of 3 members and 2 alternates appointed by the selectmen. The municipality, when adopting such a board, may fix the compensation of the members. Initially, one member must be appointed for one year, one member for 2 years and one member for 3 years, and one of the alternates must be appointed for one year and one alternate for 2 years. Thereafter, the term of each new member or alternate is 3 years.

C. Any town adopting a board of assessment review may discontinue the board by vote in the same manner and under the same conditions as in adopting the board.

D. Municipalities may provide by ordinance for a board of assessment review consisting of 5 or 7 members and up to 3 alternates. The terms of office of members and alternates may not exceed 5 years and initial appointments must be such that the terms of office of no more than 2 members or alternates will expire in any single year.

E. Any town, by ordinance, may designate a board of appeals appointed under section 2691 as the board of assessment review.

F. A board of assessment review shall annually elect from its membership a chairman and a secretary.

G. The procedure of a board of assessment review is governed by section 2691, subsection 3.

H. This subsection does not apply to any municipality which is incorporated into a primary assessing area.

7. Road commissioners. The following provisions apply to road commissioners.

A. A town may determine at a meeting held at least 90 days before the annual meeting whether one or more road commissioners will be chosen and the term of office which may not exceed 3 years.

(1) Once the determination has been made, it stands until revoked at a meeting held at least 90 days before the annual meeting.

(2) If a town fails to fix the number, one shall be chosen. If a town fails to fix the term, it is one year.

B. A road commissioner appointed by the selectmen may be removed from office for cause by the selectmen.

C. The board of selectmen may act as a board of road commissioners.

8. Treasurers and tax collectors. Treasurers and tax collectors of towns may not simultaneously serve as municipal officers or as elected or appointed assessors until they have completed their duties and had a final settlement with the town.

A. The same person may serve as treasurer and tax collector of a municipality.

9. Sworn in. Before assuming the duties of office, a town official or deputy shall be sworn by the moderator in open town meeting, by the clerk, or by any other person authorized by law to administer an oath, including a notary public or dedimus justice.

A. Unless the oath is administered in the clerk's presence, the person who administers it shall give the official or deputy sworn a certificate, which must be returned to the clerk for filing. The certificate must state:

- (1) The name of the official or deputy sworn;
- (2) The official's or deputy's office;
- (3) The name of the person who administered the oath; and
- (4) The date when the oath was taken. [2003, c. 510, Pt. A, §27 (RPR).]

B. The clerk shall be sworn to accurately record the votes of town meetings and to discharge faithfully all the other duties of that office, until another clerk is elected and sworn.

C. After the town meeting, the clerk shall immediately issue a warrant directed to a constable containing the names of persons chosen for office who have not been sworn.

- (1) The constable shall immediately summon the named persons to appear before the clerk within 7 days from the time of notice to take the oath of office.
- (2) The constable shall make a return immediately to the clerk.
- (3) The town shall pay the constable a reasonable compensation for these services.

D. The clerk shall record the election or appointment of each official or deputy, including the clerk's own, and the other information specified in paragraph A.

E. A record by the clerk that a person was sworn for a stated town office is sufficient evidence that the person was legally sworn for the office. The entire oath need not be recorded.

§2527. ALTERNATIVE NOMINATION PROCEDURE

When any town accepts this section at a meeting held at least 90 days before the annual meeting, the following provisions apply to the nomination of all town officials required by section 2525 to be elected by ballot, except for the moderator, and to the nomination of any other officials which the town designates by a separate article in the warrant at the time of acceptance. No change may be made thereafter in the nomination of town officials, except at a meeting held at least 90 days before the annual meeting.

1. Nomination papers; certificate of political caucus. The nomination of candidates for any office shall be by nomination papers or certificate of political caucus as provided in section 2528, subsection 4.

2. Attestation and posting. The names of candidates nominated and the office for which they are nominated shall be attested by the clerk and posted at least 7 days before town meeting.

§2528. SECRET BALLOT

The following provisions govern a town's use of a secret ballot for the election of town officials or for municipal referenda elections. A vote by secret ballot takes precedence over a vote by any other means at the same meeting.

1. Acceptance by town. When any town accepts this section at a meeting held at least 90 days before the annual meeting, the provisions of this section apply to the election of all town officials required by section 2525 to be elected by ballot, except the moderator, who shall be elected as provided in section 2524, subsection 2.

A. The provisions of this section relating to the nomination of town officials by political caucus apply only when a town separately accepts those provisions at a meeting held at least 90 days before the annual meeting. If any town accepts those provisions, they remain effective until the town votes otherwise.

B. A town may accept only the provisions of subsection 4, relating to the nomination of town officials, as provided in section 2527.

2. Designation, number and terms of officials. At the time of acceptance, the town shall determine, by a separate article in the warrant, which other officials are to be elected according to this section, and may determine the number and terms of selectmen, assessors and overseers according to section 2526.

A. After the determination under this subsection, a town may not change the designation, number or terms of town officials, except at a meeting held at least 90 days before the annual meeting.

3. Voting place specified; polls. The warrant for a town meeting for the election of officials must specify the voting place, which must be in the same building or a building nearby where the meeting is to be held. The warrant for a town meeting for the election of officials that occurs at the same time as voting in federal, state or county elections, but not at the same time as a town meeting held for other purposes, may specify the same voting places as those used by the town for federal, state or county elections. The warrant must specify the time of opening and closing the polls, which must be kept open at least 4 consecutive hours.

A. In the warrant for a town meeting under this section, the municipal officers may designate the date of the election and designate another date within 14 days of the date set for elections as the time for considering the other articles of business in the warrant.

4. Nomination papers; caucuses. The nomination for any office shall be made by nomination papers or by political caucus as provided in this subsection.

A. The municipal clerk shall make nomination papers available to prospective candidates during the 40 days before the filing deadline. Before issuing nomination papers, the clerk must complete each sheet by writing in the name of the candidate and the title and term of office being sought.

(1) Nomination papers must be signed by the following number of voters based on the population of the town according to the last Federal Decennial Census of the United States:

(a) Not less than 3 nor more than 10 in towns with a population of 200 or less;

(b) Not less than 10 nor more than 25 in towns with a population of 201 to 500; and

(c) Not less than 25 nor more than 100 in towns with a population of more than 500.

(2) Each voter who signs a nomination paper shall add the voter's residence with the street and number, if any. The voter may sign as many nomination papers for each office as the voter chooses, regardless of the number of vacancies to be filled.

B. At the end of the list of candidates for each office, there must be left as many blank spaces as there are vacancies to be filled in which a voter may write in the name and, if residence in the municipality is not a requirement to hold office, municipality of residence of any person for whom the voter desires to vote. A sticker may not be used to vote for a write-in candidate in any municipal election other than a primary election.

C. Completed nomination papers or certificates of political caucus nomination must be filed with the clerk during business hours by the 60th day prior to election day. They must be accompanied by the written consent of the person proposed as a candidate agreeing:

(1) To accept the nomination if nominated;

(2) Not to withdraw; and

(3) If elected at the municipal election, to qualify as such municipal officer.

When these papers and certificates are filed, the clerk shall make them available to public inspection under proper protective regulations. The clerk shall keep them in the office for 6 months.

D. A nomination paper or a certificate of political caucus nomination that complies with this section is valid unless a written objection to it is made to the municipal officers by the 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 that must be recorded by the secretary, for any matter relating to the conduct of any hearing, except that the chair may waive any regulation upon good cause shown. Unless otherwise established by charter or ordinance, the board shall conduct a de novo review of any matter before the board subject to the requirements of paragraph D. If a charter or ordinance establishes an appellate review process for the board, the board shall limit its review on appeal to the record established by the board or official whose decision is the subject of the appeal and to the arguments of the parties. The board may not accept new evidence as part of an appellate review.

D. The board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious

evidence. Every party has the right to present the party's case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct any cross-examination that is required for a full and true disclosure of the facts.

E. The transcript or tape recording of testimony, if such a transcript or tape recording has been prepared by the board, and the exhibits, together with all papers and requests filed in the proceeding, constitute the public record. All decisions become a part of the record and must include a statement of findings and conclusions, as well as the reasons or basis for the findings and conclusions, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief. Notice of any decision must be mailed or hand delivered to the petitioner, the petitioner's representative or agent, the planning board, agency or office and the municipal officers within 7 days of the board's decision.

F. The board may reconsider any decision reached under this section within 45 days of its prior decision. A request to the board to reconsider a decision must be filed within 10 days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within 45 days of the date of the vote on the original decision. The board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.

Notwithstanding paragraph G, appeal of a reconsidered decision must be made within 15 days after the decision on reconsideration or within the applicable time period under section 4482-A if the final municipal review of the project is by a municipal administrative review board other than a board of appeals.

G. Any party may take an appeal, within 45 days of the date of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before the Superior Court must be without a jury.

H. For purposes of this section, a decision of the board is a final decision when the project for which the approval of the board is requested has received all required municipal administrative approvals by the board, the planning board or municipal reviewing authority, a site plan or design review board, a historic preservation review board and any other review board created by municipal charter or ordinance. If the final municipal administrative review of the project is by a municipal administrative review board other than a board of appeals, the time for appeal is governed by section 4482-A. Any denial of the request for approval by the board of appeals is considered a final decision even if other municipal administrative approvals are required for the project and remain pending. A denial of the request for approval by the board of appeals must be appealed within 45 days of the date of the board's vote to deny or within 15 days of final action by the board on a reconsideration that results in a denial of the request.

4. Jurisdiction. Any municipality establishing a board of appeals may give the board the power to hear any appeal by any person, affected directly or indirectly, from any decision, order, regulation or failure to act of any officer, board, agency or other body when

an appeal is necessary, proper or required. No board may assert jurisdiction over any matter unless the municipality has by charter or ordinance specified the precise subject matter that may be appealed to the board and the official or officials whose action or nonaction may be appealed to the board. Absent an express provision in a charter or ordinance that certain decisions of its code enforcement officer or board of appeals are only advisory or may not be appealed, a notice of violation or an enforcement order by a code enforcement officer under a land use ordinance is reviewable on appeal by the board of appeals and in turn by the Superior Court under the Maine Rules of Civil Procedure, Rule 80B. Any such decision that is not timely appealed is subject to the same preclusive effect as otherwise provided by law. Any board of appeals shall hear any appeal submitted to the board in accordance with Title 28-A, section 1054.

§2702. PERSONNEL RECORDS

1. Confidential records. The following records are confidential and not open to public inspection. They are not "public records" as defined in Title 1, section 402, subsection 3. These records include:

A. Except as provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the municipality for use in the examination or evaluation of applicants for positions as municipal employees.

(1) Notwithstanding any confidentiality provision other than this paragraph, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired.

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

(3) This paragraph does not preclude union representatives from access to personnel records 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 [1991, c. 729, §7 (NEW).]

B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury.

In cases specified in paragraphs A and B, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case.

2. Employee right to review. On written request from an employee or former employee, the municipal official with custody of the records shall provide the employee,

former employee or the employee's authorized representative with an opportunity to review the employee's personnel file, if the municipal official has a personnel file for that employee. These reviews shall take place during normal office hours at the location where the personnel files are maintained. For the purposes of this subsection, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits which the municipal official may possess. The records described in subsection 1, paragraph B, may also be examined by the employee to whom they relate, as provided in this subsection.

3. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

CHAPTER 161 SEWERS AND DRAINS

§3406. SERVICE CHARGES FOR SEWAGE OR STORM WATER DISPOSAL

The municipal officers may establish a schedule of service charges from time to time upon improved real estate connected with a municipal sewer or sewer system or storm water disposal system for the use of the system. These service charges must include reserve fund contributions. For purposes of this section, "storm water disposal system" means storm water and flood control devices, structures, conveyances, facilities or systems, including natural streams and rivers and other water bodies used wholly or partly to convey or control storm water or floodwater.

1. Interest. The municipal officers may charge interest on delinquent accounts at a rate not to exceed the highest lawful rate set by the Treasurer of State for municipal taxes.

2. Lien. There is a lien on real estate served or benefited by a municipal sewer or sewer system or storm water disposal system to secure the payment of service charges and interest on delinquent accounts established under this chapter. This lien arises and is perfected as services are provided and takes precedence over all other claims on the real estate, excepting only claims for taxes.

3. Collection. The treasurer of the municipality may collect the service charges and interest on delinquent accounts in the same manner as granted by Title 38, section 1208, to treasurers of sanitary sewer districts with reference to rates established and due under Title 38, section 1202.

§3428. MALFUNCTIONING DOMESTIC WASTE WATER DISPOSAL UNITS; ABATEMENT OF NUISANCE

Malfunctioning waste water disposal units, including septic tanks, cesspools, cisterns, dry wells, drainage beds, drains, sewer lines and pipes and the like, have become a menace to the health and general welfare of the citizens of this State and are declared to be a nuisance.

1. Abatement procedure. Upon complaint of any person resulting in documentation of a malfunctioning waste water disposal unit or on their own information, the municipal officers shall serve an order to remedy a malfunctioning waste water disposal unit upon the owner of any premises within that municipality that has such a malfunctioning unit.

2. Content of order. The order must be addressed to the owner of the premises and must contain:

- A. The date;
- B. The fact of the malfunctioning waste water disposal unit;
- C. A notice to remedy the nuisance within 10 days of service of the order; and
- D. The signatures of the municipal officers.

The municipal officers may allow the owner of the premises to request an extension of the 10-day period for no longer than an additional 20 days and may explain how to request an extension in the order. The municipal officers or their agents may approve an extension if it is reasonably necessary for and likely to result in remediation of the nuisance.

3. Service and return of service. One of the municipal officers or a law enforcement officer shall serve the order personally upon the owner, tenant or occupant in possession. The server shall make and file a return of service indicating the method used and the person served.

4. Abatement. If the nuisance is not abated within the 10-day period or such period up to but not exceeding the additional 20 days as allowed by the municipal officers under subsection 2, the municipal officers or their agents may enter the premises and have the malfunction adequately remedied. To recover any actual and direct expenses, including reasonable attorney's fees if the municipality is the prevailing party, incurred by the municipality in the abatement of such nuisances, the municipality shall:

- A. File a civil action against the owner. The costs, including reasonable attorney fees, to create and prosecute an action to collect expenses following such a civil complaint, shall also be recovered from the owners; or
- B. Assess a special tax against the land on which the waste water disposal unit is located for the amount of the expenses. This amount shall be included in the next annual warrant to the tax collector of the municipality for collection in the same manner as other state, county and municipal taxes are collected. Interest as

determined by the municipality pursuant to Title 36, section 505, in the year in which the special tax is assessed, shall accrue on all unpaid balances of any special tax beginning on the 60th day after the day of commitment of the special tax to the collector. The interest shall be added to and become part of the tax.

§3444. COLLECTION OF ASSESSMENTS

Except for service charges established under section 3406 which shall be collected as provided in that section, all assessments and charges made under this chapter shall be certified by the municipal officers and filed with the tax collector for collection. A facsimile of the signatures of the municipal officers imprinted at their direction upon any certification of an assessment or charge under this chapter has the same validity as their signatures.

1. Payment over time. The municipal officers of a municipality may adopt an order generally authorizing the assessors and the tax collector to assess and collect those assessments and charges over a period of time not exceeding 10 years, including expenses involved in the municipality's abatement of malfunctioning domestic waste water disposal units under section 3428, subsection 4.

A. The assessors and collector may exercise this authority only when the person assessed has agreed to that method of assessment and collection in writing and notice of that fact has been recorded in the appropriate registry of deeds.

B. The municipal officers shall annually file with the collector a list of installment payments due the municipality, which must be collected with interest at a rate determined by the municipal officers. If, within 30 days after written notice of the total amount of the assessments and charges, or annual installment payment and interest, the person assessed fails, neglects or refuses to pay the municipality the expense incurred, the municipal assessors may assess a special tax, equal to the amount of the total unpaid assessment and charges, upon each lot or parcel of land so assessed and buildings upon the lot or parcel of land. This assessment must be included in the next annual warrant to the tax collector for collection and must be collected in the same manner as state, county and municipal taxes are collected.

(1) Interest at the same rate used for delinquent property taxes as established by Title 36, section 505, subsection 4 on the unpaid portion of assessments and charges due the municipality accrues from the 30th day after written notice to the person assessed and must be added to and becomes part of the special tax when committed to the tax collector.

2. Action to recover unpaid assessments. If assessments under this section are not paid, and the municipality does not proceed to collect the assessments by a sale of the lots or parcels of land upon which the assessments are made, or does not collect or is in any manner delayed or defeated in collecting the assessments by a sale of the real estate so assessed, then the municipality may maintain a civil action in its name against the party so assessed for the amount of the assessment in any court competent to try the action. In this action, the municipality may recover the amount of the assessment with 12% interest on the assessment from the date of the assessment and costs.

§3445. LIEN FOR PAYMENT ON LOT AND BUILDING; ENFORCEMENT

When any assessment made under section 3442 is paid by any person against whom the assessment has been made, who is not the owner of the lot or parcel of land, then the person paying the assessment has a lien upon the lot or parcel of land with the buildings on the land for the amount of the assessment paid by that person, and incidental charges. The lien may be enforced in a civil action, and by attachment in the way and manner provided for the enforcement of liens upon buildings and lots under Title 10. The lien shall continue one year after the assessment is paid.

CHAPTER 163 TRANSPORTATION

§3511. EXEMPT FROM TAXATION; FUEL TAX REFUND

The property, both real and personal, of a district, whether held and operated by itself or leased to a private operator, for the purpose of providing mass transportation as provided in this chapter, is exempt from all registration fees, real, personal, excise, sales and use, and any other taxes which are assessed by the State or any political subdivision of the State. A district, or its lessee, or any person contracting with the district for the purpose of furnishing mass transportation, is entitled to be reimbursed and paid to the extent of the full amount of the tax paid for fuel used in motor vehicles owned and operated by them for that purpose. That district, lessee or person shall present its claim to the State Tax Assessor in the form and with any information that the State Tax Assessor requires, accompanied by original invoices showing the purchases. Applications for refunds as provided must be filed with the State Tax Assessor within 9 months from the date of purchase.

CHAPTER 187 PLANNING AND LAND USE REGULATION

§4401. DEFINITIONS

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

1. Densely developed area. "Densely developed area" means any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres.

2. Dwelling unit. "Dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, apartments and time-share units.

2-A. Freshwater wetland. "Freshwater wetland" means freshwater swamps, marshes, bogs and similar areas which are:

A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and

B. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

2-B. Farmland. "Farmland" means a parcel consisting of 5 or more acres of land that is:

A. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or

B. Used for the production of agricultural products as defined in Title 7, section 152, subsection 2.

3. Principal structure. "Principal structure" means any building or structure in which the main use of the premises takes place.

4. Subdivision. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of

the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres must be counted as a lot, except:

(1) (DELETED)

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance.

D. (REPEALED)

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate.

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

G. (REPEALED)

H. (REPEALED)

H-1. (REPEALED)

H-2. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2019. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2018 for the definition to remain valid for the grace period ending January 1, 2019. 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.

5. Confidentiality of personnel records. The following records are confidential and not open to public inspection:

A. Except as otherwise provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the authority for use in the examination or evaluation of applicants for employment by the authority.

(1) Applications, resumes and letters and notes of reference pertaining to the applicant hired, other than those letters and notes of reference expressly submitted in confidence, are public records after the applicant is hired.

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

B. Authority records pertaining to an identifiable employee and containing the following:

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

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

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

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

(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action; and

(6) Personal information, including that which pertains to the employee's:

(a) Age;

(b) Ancestry, ethnicity, genetic information, national origin, race or skin color;

(c) Marital status;

(d) Mental or physical disabilities;

(e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;

(f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, saving plans, pension plans, health insurance and life insurance;

(g) Religion;

(h) Sex or sexual orientation as defined in Title 5, section 4553, subsection 9-C; or

(i) Social security number; and

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

6. Employee right to review. On written request from an employee or former employee, the authority shall provide the employee, former employee or the employee's authorized representative with an opportunity to review the employee's personnel file, if the authority has a personnel file for that employee. The review must take place during normal office hours at the location where the personnel files are maintained. For the purposes of this subsection, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits that the authority may possess. The records described in subsection 5, paragraph B may also be examined by the employee to whom the records relate, as provided in this subsection.

7. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, subsection 5 does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

**CHAPTER 203
URBAN RENEWAL**

§5114. EXEMPTION FROM TAXES AND EXECUTION

1. Property exempt from execution. All property, including funds of the authority, is exempt from levy and sale by virtue of an execution, and no execution or other judicial process may issue against the authority's property nor may judgment against the authority be a charge or lien upon its property.

2. Property exempt from taxation. The property of the authority is declared to be public property used for essential public and governmental purposes and that property and the authority are exempt from all taxes of the municipality, the State or any political subdivision of the State, provided that, with respect to any property in a renewal project, the tax exemption provided in this section shall terminate when the authority sells, leases or otherwise disposes of the property to a redeveloper for redevelopment.

3. Construction; limitation of application. Nothing in this section may be construed to:

- A. Prohibit the authority from making payments in lieu of taxes to the municipality;
or
- B. Apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of the authority or the right of any obligee to pursue any remedies for the enforcement of any pledge or lien given by the authority on its rents, fees, grant or revenue.

**CHAPTER 205-A
MUNICIPAL CAPITAL IMPROVEMENT DISTRICTS**

§5211. DEFINITIONS

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

1. Assessed share. "Assessed share" means a special assessment that represents that portion of the total projected cost of an improvement undertaken by a municipality in a capital improvement district that is the obligation of an owner of property within the capital improvement district. The assessed share must be calculated by the municipal officers in the same manner and according to the same standards as the capital costs of sewer improvements are assessed pursuant to sections 3442 and 3444, except the total assessment must be calculated on the basis of the projected cost of the entire improvement rather than any percentage of the projected costs of the improvement, and no type of property within the capital improvement district is exempt from the assessment.

2. Capital improvement district. "Capital improvement district" means a defined area within a municipality that is initially privately owned and that has been designated by the municipality as a capital improvement district according to the provisions of this chapter for the interrelated purposes of fairly apportioning the costs of making necessary capital improvements among the owners of property in the capital improvement district and establishing the public elements of the capital improvement district as municipally owned.

3. Improvement. "Improvement" means road construction, drainage system development or the installation of sewer or drinking water infrastructure.

4. Public elements. "Public elements" of a capital improvement district means legal interests in defined properties located within a capital improvement district. "Public elements" may include public easements or fee simple titles in specifically defined property or properties.

§5212. CAPITAL IMPROVEMENT DISTRICTS AUTHORIZED

A municipality may create one or more capital improvement districts within the municipal boundaries.

§5213. CAPITAL IMPROVEMENT DISTRICTS; PUBLIC HEARING; NOTICE; REFERENDUM VOTES

In order to establish a capital improvement district, a municipality shall adhere to the following procedures.

1. Initial determinations. In order to establish a capital improvement district, the municipal officers shall establish all the public elements of the proposed capital improvement district for presentation to the residents of the municipality at a public hearing held pursuant to subsection 3. The municipal officers shall:

- A. Determine the proposed boundaries of the capital improvement district;
- B. Identify each separate parcel of property within the proposed capital improvement district and the parcel's owner of record;
- C. Describe all improvements to the proposed capital improvement district that need to be made;
- D. Calculate an estimate of the costs of the proposed improvements;
- E. Calculate the assessed shares and the contingency fee of no more than 25% of that assessment to the property owners in the proposed capital improvement district;
- F. Establish the proposed duration of the payment period for the assessed shares;
- G. Describe specifically the public elements of the capital improvement district that may be accepted by the voters of the municipality; and

H. Schedule the public hearing pursuant to subsection 3 and the referendum pursuant to subsection 4.

2. Public notice. The municipal officers shall provide posted notice of the public hearing held pursuant to subsection 3 in the same place and manner as the posting of a town meeting warrant and publish notice of the public hearing in a newspaper of general circulation within the municipality at least 14 days in advance of the public hearing. The published notice must include:

- A. A description of the proposed boundaries of the capital improvement district;
- B. The proposed improvements to the capital improvement district;
- C. The estimated costs of the proposed improvements;
- D. The public elements of the capital improvement district; and
- E. A brief narrative description and schedule of the referendum conducted pursuant to subsection 4.

At least 14 days in advance of the date of the initial public hearing, the same information provided in the published notice must also be sent by certified mail to all owners of property within the proposed capital improvement district according to the municipality's assessing records. Notice for any additional public hearings must be posted and published in the same manner as notice for the initial public hearing, but mailed notice of the subsequent public hearings is not required.

3. Public hearing. Prior to any referendum held pursuant to subsection 4 or 5, the municipal officers shall hold an initial public hearing on the proposed capital improvement district to solicit comments from the residents of the municipality and the owners of property located in the proposed district concerning the:

- A. Proposed boundaries of the capital improvement district;
- B. Type of improvements to the proposed capital improvement district being considered;
- C. Need for the proposed improvements;
- D. Costs of the proposed improvements;
- E. Projected assessed shares and the contingency fee of no more than 25% of that assessment to the owners of property located in the proposed capital improvement district to pay for the improvements being considered;
- F. Proposed duration of the payment period for those special assessments;
- G. Proposed public elements of the capital improvement district; and

H. Scheduled dates of referenda conducted pursuant to subsection 4 or 5.

The municipal officers may hold additional public hearings as necessary.

4. Referendum of owners of property in proposed capital improvement district. The municipal officers shall call and conduct a referendum among the owners of property within the proposed capital improvement district to determine the property owners' willingness to undertake the costs of the proposed improvements to the capital improvement district.

A. The method of calling and voting on the referendum question is as provided in section 2528 except as otherwise provided in this subsection.

B. The registered voters of the municipality who own property within the proposed capital improvement district and the owner or owners of record for each parcel of property located in the proposed capital improvement district reflected on the deed for the property recorded in the registry of deeds within the county as of the preceding April 1st, if the owner or owners are of legal voting age and citizens of the United States, are eligible to vote in the referendum. A person may not cast more than one vote. The municipal officers shall determine who are the legal voters of the proposed capital improvement district and shall prepare or cause to be prepared a list of voters at least 24 hours before the referendum is conducted.

C. The referendum must be scheduled to occur no sooner than 45 days after the date of the initial public hearing held pursuant to subsection 3.

D. A public hearing must be held pursuant to section 2528, subsection 5, only if any of the information presented to the voters at the most recent public hearing called pursuant to subsection 3 is changed prior to inclusion on the ballot.

E. The referendum to be voted on must be worded substantially as follows: "As an owner of property in the proposed capital improvement district described on the reverse side of this ballot or in the attachment to this ballot, are you in favor of authorizing the municipality of to apply a special assessment against the property you own in the proposed capital improvement district for a period of years, for the purpose of (description of improvements), with the total assessment to all property owners within the capital improvement district not to exceed \$, plus a contingency of no more than 25% of that assessment, all of which are subject to the property tax collection and lien procedures established by state law, and with said authorization contingent on the voters of the municipality of accepting the public costs for the capital improvement district improvements before any work is done, specifically described as (description of public elements)?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.

The municipal officers may proceed with conducting the municipal referendum in accordance with subsection 5 only if 2/3 of those casting ballots pursuant to this subsection vote to approve creating the capital improvement district.

5. Referendum of municipal voters. The referendum of the municipal voters may not be called and conducted for the purposes of this chapter unless the referendum held pursuant to subsection 4 resulted in a 2/3 majority vote supporting the ballot question. If the referendum held pursuant to subsection 4 received a 2/3 majority vote, the municipal officers shall call and conduct a referendum for the voters of the municipality to determine if the public elements of the proposed capital improvement district authorized pursuant to subsection 4 are authorized by the voters of the municipality.

A. The method of calling and voting on the referendum question is as provided in section 2528 except as otherwise provided in this subsection.

B. The referendum of the municipal voters must be scheduled to occur within 45 to 90 days after the date of the referendum held pursuant to subsection 4.

C. The referendum to be voted on must be worded substantially as follows: "Are you in favor of establishing a capital improvement district described on the reverse side of this ballot or in the attachment to this ballot and authorizing a special assessment against the several properties in the capital improvement district, with the special assessment running for a period of years, for the purpose of (describe improvements), with the total assessment to all owners of property within the capital improvement district not to exceed \$, plus a contingency of no more than 25% of that assessment, all of which are subject to the property tax collection and lien procedures established by state law, and are you also in favor of the municipality of accepting the public costs for the capital improvement district improvements, specifically described as (describe the public elements), with all associated and ongoing rights, privileges and responsibilities of public ownership?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.

D. If a majority of those voting approve of the ballot question, the capital improvement district is created. Upon the creation of a capital improvement district, the municipality is authorized to raise revenues pursuant to chapter 223 and expend those revenues for the improvements authorized at referendum.

E. If the owners of property within the proposed capital improvement district or the voters of the municipality fail to establish the capital improvement district, the municipal officers may not act upon a proposal to create the same capital improvement district for a period of 3 years from the date that capital improvement district was rejected by voters.

§5214. IMPLEMENTATION OF IMPROVEMENTS TO CAPITAL IMPROVEMENT DISTRICT

1. Advisory committee. The municipal officers are responsible for implementing improvements to the capital improvement district. For the purposes of overseeing the authorized improvements to the capital improvement district, the municipal officers shall appoint an advisory committee consisting of no fewer than 3 and no more than 7 owners of property within the capital improvement district for the purposes of receiving comments and recommendations on the proposed improvement or improvements within the capital improvement district. Advisory committee members serve at the pleasure of the municipal officers.

2. Cost of improvement. The initial cost of an authorized improvement in a capital improvement district is borne by the municipality until the improvement is complete, as determined by the municipal officers. Commencing with the first tax year that begins after the determination by the municipal officers that the improvement is complete, the municipality shall levy a special assessment against each property in the capital improvement district representing that property's annual share of the cost of the improvement as determined by the municipal officers and projected in the referenda ballots that created the capital improvement district, unless the actual total cost of the improvement is determined to be less than projected during the referenda, in which case the special assessments are reduced proportionally to reflect the actual cost.

3. Method of assessment. The special assessments must be included in the next annual warrant to the tax collector of the municipality for collection and must be collected in the same manner as state, county and municipal taxes are collected.

4. Annual report. The municipality's annual report must record the progress of implementing the improvements to the capital improvement district. At a minimum, the annual report must include:

- A. The boundaries of the capital improvement district;
- B. The public elements of the capital improvement district;
- C. The improvements to the capital improvement district made by the municipality;
and
- D. The total cost of those improvements, the schedule of the assessed shares and contingency fees against the property located within the district to pay for the improvements and the degree to which those assessed shares and contingency fees have been collected.

§5215. DISSOLUTION OF CAPITAL IMPROVEMENT DISTRICT

A capital improvement district created under this chapter may not be dissolved until the debt created by the improvements is finally discharged and the special assessments levied for the purpose of providing for those improvements have been paid or otherwise satisfied. The municipal officers shall dissolve a capital improvement district upon certification of the discharge of debt. The certification of the discharge of debt must be presented to the municipal officers by the municipal treasurer. At a minimum, the certification must include an attestation by the municipal treasurer that all assessed

shares levied for the improvements in a capital improvement district have been paid in full or a property tax lien has been recorded in the registry of deeds.

Chapter 206 DEVELOPMENT DISTRICTS

SUBCHAPTER 1 DEVELOPMENT DISTRICTS FOR MUNICIPALITIES AND PLANTATIONS

§5221. FINDINGS AND DECLARATION OF NECESSITY

1. Legislative finding. The Legislature finds that there is a need for new development in areas of municipalities and plantations to:

- A. Provide new employment opportunities;
- B. Improve and broaden the tax base; and
- C. Improve the general economy of the State.

2. Authorization. For the reasons set out in subsection 1, municipalities and plantations may develop a program for improving a district of the municipality or plantation:

- A. To provide impetus for industrial, commercial, transit-oriented or arts district development, or any combination;
- B. To increase employment; and
- C. To provide the facilities outlined in the development program adopted by the legislative body of the municipality or plantation.

3. Declaration of public purpose. It is declared that the actions required to assist the implementation of development programs are a public purpose and that the execution and financing of these programs are a public purpose.

§5222. DEFINITIONS

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

1. Amenities. "Amenities" means items of street furniture, signs and landscaping, including, but not limited to, plantings, benches, trash receptacles, street signs, sidewalks and pedestrian malls.

1-A. Arts district. "Arts district" means a specified area within the corporate limits of a municipality or plantation that has been designated by the municipality or plantation for the purpose of providing employment and cultural opportunities through the

development of arts opportunities, including, but not limited to, museums, galleries, arts education, art studios, performing arts venues and associated businesses.

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

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 75-412, 50 Stat. 888, Section 8, as amended.

2. Affordable housing development district. "Affordable housing development district" or "district" means a specified area within the corporate limits of a municipality that has been designated as provided under sections 5247 and 5250 to be developed under an affordable housing development program and financed under section 5250-A.

3. Affordable housing development program. "Affordable housing development program" or "program" means a statement of means and objectives designed to encourage the development and maintenance of affordable housing within an affordable housing development district.

4. Amenities. "Amenities" means items of street furniture, signs and landscaping, including, but not limited to, plantings, benches, trash receptacles, street signs, sidewalks and pedestrian malls.

5. Authority. "Authority" means the Maine State Housing Authority.

6. Captured assessed value. "Captured assessed value" means the amount, as a percentage or stated sum, of increased assessed value that is utilized from year to year to finance the project costs contained within the affordable housing development program.

7. Current assessed value. "Current assessed value" means the assessed value of the district certified by the municipal assessor as of April 1st of each year that the affordable housing development district remains in effect.

8. Director. "Director" means the Director of the Maine State Housing Authority.

9. Financial plan. "Financial plan" means a statement of the project costs and sources of revenue required to accomplish the affordable housing development program.

10. Increased assessed value. "Increased assessed value" means the valuation amount by which the current assessed value of an affordable housing development district exceeds the original assessed value of the district. If the current assessed value is equal to or less than the original, there is no increased assessed value.

11. Maintenance and operation. "Maintenance and operation" means all activities necessary to maintain affordable housing after development and all activities necessary to

operate the affordable housing, including, but not limited to, informational, promotional, safety and surveillance activities.

12. Original assessed value. "Original assessed value" means the assessed value of an affordable housing development district as of March 31st of the tax year preceding the year in which it was designated, and, for affordable housing development districts designated on or after April 1, 2014, "original assessed value" means the taxable assessed value of an affordable housing development district as of March 31st of the tax year preceding the year in which it was designated by the municipality or plantation.

13. Project costs. "Project costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5249, subsection 1 and included in an affordable housing development program.

14. Tax increment. "Tax increment" means real property taxes assessed by a municipality, in excess of any state, county or special district tax, upon the increased assessed value of property in the affordable housing development district.

15. Tax shifts. "Tax shifts" means the effect on a municipality's state revenue sharing, education subsidies and county tax obligations that results from the designation of an affordable housing development district and the capture of increased assessed value.

16. Tax year. "Tax year" means the period of time beginning on April 1st and ending on the succeeding March 31st.

§5247. AFFORDABLE HOUSING DEVELOPMENT DISTRICTS

1. Creation. A municipal legislative body may designate an affordable housing development district within the boundaries of the municipality in accordance with the requirements of this subchapter. If the municipality has a charter, the designation of an affordable housing development district may not be in conflict with the provisions of the municipal charter.

2. Considerations for approval. Before designating an affordable housing development district within the boundaries of a municipality, or before establishing an affordable housing development program for a designated affordable housing development district, the legislative body of a municipality must consider whether the proposed district or program will contribute to the expansion of affordable housing opportunities within the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality. Interested parties must be given a reasonable opportunity to present testimony concerning the proposed district or program at the hearing provided for in section 5250, subsection 1. If an interested party claims at the public hearing that the proposed district or program will result in a substantial detriment to that party's existing property interests in the municipality and produces substantial evidence to that effect, the legislative body shall consider that evidence. When considering that evidence, the legislative body also shall consider whether any adverse economic effect of the proposed district or program on that interested party's existing property interests in the municipality is outweighed by the contribution made by the district or program to the availability of

affordable housing within the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality.

3. Conditions for approval. Designation of an affordable housing development district is subject to the following conditions.

A. At least 25%, by area, of the real property within an affordable housing development district must:

- (1) Be suitable for residential use;
- (2) Be a blighted area; or
- (3) Be in need of rehabilitation or redevelopment.

B. The affordable housing development district is subject to the area cap established in section 5223, subsection 3, paragraph B.

C. The original assessed value of a proposed affordable housing development district plus the original assessed value of all existing affordable housing development districts within the municipality may not exceed 5% of the total value of taxable property within the municipality as of April 1st preceding the date of the director's approval of the designation of the proposed affordable housing development district.

D. (REPEALED)

E. The affordable housing development program must show that the development meets an identified community housing need. The affordable housing development program must provide a mechanism to ensure the ongoing affordability for a period of at least 10 years for single-family, owner-occupied units and 30 years for rental units.

F. (REPEALED)

G. The district must be primarily a residential development on which at least 33% of the dwelling units are affordable housing and that may be designed to be compact and walkable and to include internal open space, other common open space and one or more small-scale nonresidential uses of service to the residents of the development.

4. Powers of municipality. Within an affordable housing development district and consistent with an affordable housing development program, a municipality may acquire, construct, reconstruct, improve, preserve, alter, extend, operate or maintain property or promote development intended to meet the objectives of the affordable housing development program. Pursuant to the affordable housing development program, the municipality may acquire property, land or easements through negotiation or by using eminent domain powers in the manner authorized for community development programs under section 5204. The municipality's legislative body may adopt ordinances regulating traffic in and access to any facilities constructed within the affordable housing development district. The municipality may install public improvements.

§5248. AFFORDABLE HOUSING DEVELOPMENT PROGRAMS

1. Adoption. The legislative body of a municipality shall adopt an affordable housing development program for each affordable housing development district. The affordable housing development program must be adopted at the same time as the district as part of the district adoption proceedings or, if at a different time, in the same manner as adoption of the district, with the same notice and hearing requirements of section 5250. Before adopting an affordable housing development program, the municipal legislative body shall consider the factors and evidence specified in section 5247.

2. Requirements. The affordable housing development program must include:

- A. A financial plan in accordance with subsection 3;
- B. A description of facilities, improvements or programs to be financed in whole or in part by the affordable housing development program;
- C. Plans for the relocation of persons displaced by the development activities;
- D. The environmental controls to be applied;
- E. The proposed operation of the affordable housing development district after the planned improvements are completed;
- F. An assurance that the program complies with section 4349-A;
- G. The duration of the program, which may start during any tax year specified in the approval of the affordable housing development program by a municipal legislative body, except that the program may not exceed 30 years after the tax year in which the designation of the district is approved by the director as provided in section 5250, subsection 3; and
- H. All documentation submitted to or prepared by the municipality under section 5247, subsection 2.

3. Financial plan for affordable housing development district. The financial plan for an affordable housing development district must include:

- A. Cost estimates for the affordable housing development program;
- B. The amount of public indebtedness to be incurred;
- C. Sources of anticipated revenues;
- D. A description of the terms and conditions of any agreements, contracts or other obligations related to the affordable housing development program; and
- E. For each year of the affordable housing development program:

- (1) Estimates of increased assessed values of the district;
- (2) The portion of the increased assessed values to be applied to the affordable housing development program as captured assessed values and resulting tax increments in each year of the program; and
- (3) A calculation of the tax shifts resulting from designation of the affordable housing development district.

4. Limitation. For affordable housing development districts, a municipality may expend the tax increments received for any affordable housing development program only in accordance with the financial plan.

§5249. PROJECT COSTS

1. Authorized project costs. The director shall review proposed project costs to ensure compliance with this subsection. Authorized project costs are:

A. Costs of improvements made within the affordable housing development district, including, but not limited to:

(1) Capital costs, including, but not limited to:

(a) The acquisition of land or construction of public infrastructure improvements for affordable housing development;

(b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;

(c) Site preparation and finishing work; and

(d) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expenses and planning, engineering, architectural, testing, legal and accounting expenses;

(2) Financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(3) Real property assembly costs;

(4) Professional service costs, including, but not limited to, licensing, architectural, planning, engineering and legal expenses;

(5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of an affordable housing development program;

(6) Relocation costs, including, but not limited to, relocation payments made following condemnation;

(7) Organizational costs relating to the establishment of the affordable housing district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of affordable housing development districts and the implementation of project plans;

(8) Costs of facilities used predominantly for recreational purposes, including, but not limited to, recreation centers, athletic fields and swimming pools;

(9) Costs for child care, including finance costs and construction, staffing, training, certification and accreditation costs related to child care located in the affordable housing development district;

(10) Costs of case management and support services; and

(11) Operating costs, including but not limited to property management and administration, utilities, routine repairs and maintenance, insurance, real estate taxes and funding of a projects capital reserve account; and

B. Costs of improvements that are made outside the affordable housing development district but are directly related to or are made necessary by the establishment or operation of the district, including, but not limited to:

(1) That portion of the costs reasonably related to the construction, alteration or expansion of any facilities not located within the district that are required due to improvements or activities within the district, including, but not limited to, sewage treatment plants, water treatment plants or other environmental protection devices; storm or sanitary sewer lines; water lines; electrical lines; improvements to fire stations; and amenities on streets;

(2) Costs of public safety improvements made necessary by the establishment of the district;

(3) Costs of funding to mitigate any adverse impact of the district upon the municipality and its constituents. This funding may be used for funding public kindergarten to grade 12 costs and public facilities and improvements; and

(4) Costs to establish permanent housing development revolving loan funds or investment funds.

2. Limitation. Tax increments received from any affordable housing development program may not be used to circumvent other tax laws.

§5250. PROCEDURE

1. Notice and hearing. Before designating an affordable housing development district or adopting an affordable housing development program, the municipal legislative body or the municipal legislative body's designee must hold at least one public hearing on the proposed district. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality.

2. Review by director. Before final designation of an affordable housing development district, the director shall review the proposal for the district to ensure that the proposal complies with statutory requirements.

3. Effective date. A designation of an affordable housing development district is effective upon approval by the director.

4. Administration of district. The legislative body of a municipality may create a department, designate an existing department, office, agency, municipal housing or redevelopment authority or enter into a contractual arrangement with a private entity to administer activities authorized under this subchapter.

5. Amendments. A municipality may amend a designated affordable housing development district or an adopted affordable housing development program only after meeting the requirements of this section for designation of an affordable housing development district or adoption of an affordable housing development program. A municipality may not amend the designation of an affordable housing development district if the amendment would result in the district's being out of compliance with any of the conditions in section 5247, subsection 3.

§5250-A. AFFORDABLE HOUSING TAX INCREMENT FINANCING

1. Designation of captured assessed value. A municipality may retain all or part of the tax increment revenues generated from the increased assessed value of an affordable housing development district for the purpose of financing the affordable housing development program. The amount of tax increment revenues to be retained is determined by designating the captured assessed value. When an affordable housing development program for an affordable housing development district is adopted, the municipal legislative body shall adopt a statement of the percentage of increased assessed value to be retained as captured assessed value in accordance with the affordable housing development program. The statement of percentage may establish a specific percentage or percentages or may describe a method or formula for determination of the percentage. The municipal assessor shall certify the amount of the captured assessed value to the municipality each year.

2. Certification of assessed value. Upon or after the formation of an affordable housing development district, the assessor of the municipality in which the district is located shall certify the original assessed value of the taxable property within the boundaries of the affordable housing development district. Each year after the designation of an affordable housing development district, the municipal assessor shall certify the amount by which the assessed value has increased or decreased from the original value.

Nothing in this subsection allows or sanctions unequal apportionment or assessment of the taxes to be paid on real property in the State. An owner of real property within the affordable housing development district pays real property taxes apportioned equally with property taxes paid elsewhere in the municipality.

3. Affordable housing development program fund; affordable housing tax increment revenues. If a municipality has designated captured assessed value under subsection 1, the municipality shall:

A. Establish an affordable housing development program fund that consists of the following:

(1) A project cost account that is pledged to and charged with the payment of project costs that are outlined in the financial plan and are paid in a manner other than as described in subparagraph (2); and

(2) In instances of municipal indebtedness, a development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the cost of the affordable housing development program fund;

B. Annually set aside all affordable housing tax increment revenues on captured assessed values and deposit all such revenues to the appropriate affordable housing development program fund account established under paragraph A in the following order of priority:

(1) To the affordable housing development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 5250-D and the financial plan; and

(2) To the affordable housing project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual affordable housing project costs to be paid from the account;

C. Make transfers between affordable housing development program fund accounts established under paragraph A as required, provided that the transfers do not result in a balance in the affordable housing development sinking fund account that is insufficient to cover the annual obligations of that account; and

D. Annually return to the municipal general fund any tax increment revenues remaining in the affordable housing development sinking fund account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development sinking fund account after taking into account any transfers made under paragraph C. The municipality, at any time 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.

§5245. FINDINGS AND DECLARATION OF NECESSITY

1. Legislative finding. The Legislature finds that there is a need for the development of affordable, livable housing and the containment of the costs of unplanned growth in Maine municipalities.

2. Authorization. For the reasons set out in subsection 1, a municipality may develop a program to provide impetus for affordable housing development within a district of the municipality, as provided in the comprehensive plan adopted by the legislative body of the municipality.

3. Declaration of public purpose. It is declared that the actions required to assist the implementation of affordable housing development programs are a public purpose and that the execution and financing of these programs are a public purpose.

§5246. DEFINITIONS

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

1. Affordable housing. "Affordable housing" means a decent, safe and sanitary dwelling, apartment or other living accommodation for a household whose income does not exceed 120% of the median income for the area as defined by the United States Department

of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended.

2. Affordable housing development district. "Affordable housing development district" or "district" means a specified area within the corporate limits of a municipality that has been designated as provided under sections 5247 and 5250 to be developed under an affordable housing development program and financed under section 5250-A.

3. Affordable housing development program. "Affordable housing development program" or "program" means a statement of means and objectives designed to encourage the development and maintenance of affordable housing within an affordable housing development district.

4. Amenities. "Amenities" means items of street furniture, signs and landscaping, including, but not limited to, plantings, benches, trash receptacles, street signs, sidewalks and pedestrian malls.

5. Authority. "Authority" means the Maine State Housing Authority.

6. Captured assessed value. "Captured assessed value" means the amount, as a percentage or stated sum, of increased assessed value that is utilized from year to year to finance the project costs contained within the affordable housing development program.

7. Current assessed value. "Current assessed value" means the assessed value of the district certified by the municipal assessor as of April 1st of each year that the affordable housing development district remains in effect.

8. Director. "Director" means the Director of the Maine State Housing Authority.

9. Financial plan. "Financial plan" means a statement of the project costs and sources of revenue required to accomplish the affordable housing development program.

10. Increased assessed value. "Increased assessed value" means the valuation amount by which the current assessed value of an affordable housing development district exceeds the original assessed value of the district. If the current assessed value is equal to or less than the original, there is no increased assessed value.

11. Maintenance and operation. "Maintenance and operation" means all activities necessary to maintain affordable housing after development and all activities necessary to operate the affordable housing, including, but not limited to, informational, promotional, safety and surveillance activities.

12. Original assessed value. "Original assessed value" means the assessed value of an affordable housing development district as of March 31st of the tax year preceding the year in which it was designated, and, for affordable housing development districts designated on or after April 1, 2014, "original assessed value" means the taxable assessed value of an affordable housing development district as of March 31st of the tax year preceding the year in which it was designated by the municipality or plantation.

13. Project costs. "Project costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5249, subsection 1 and included in an affordable housing development program.

14. Tax increment. "Tax increment" means real property taxes assessed by a municipality, in excess of any state, county or special district tax, upon the increased assessed value of property in the affordable housing development district.

15. Tax shifts. "Tax shifts" means the effect on a municipality's state revenue sharing, education subsidies and county tax obligations that results from the designation of an affordable housing development district and the capture of increased assessed value.

16. Tax year. "Tax year" means the period of time beginning on April 1st and ending on the succeeding March 31st.

§5247. AFFORDABLE HOUSING DEVELOPMENT DISTRICTS

1. Creation. A municipal legislative body may designate an affordable housing development district within the boundaries of the municipality in accordance with the requirements of this subchapter. If the municipality has a charter, the designation of an affordable housing development district may not be in conflict with the provisions of the municipal charter.

2. Considerations for approval. Before designating an affordable housing development district within the boundaries of a municipality, or before establishing an affordable housing development program for a designated affordable housing development district, the legislative body of a municipality must consider whether the proposed district or program will contribute to the expansion of affordable housing opportunities within the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality. Interested parties must be given a reasonable opportunity to present testimony concerning the proposed district or program at the hearing provided for in section 5250, subsection 1. If an interested party claims at the public hearing that the proposed district or program will result in a substantial detriment to that party's existing property interests in the municipality and produces substantial evidence to that effect, the legislative body shall consider that evidence. When considering that evidence, the legislative body also shall consider whether any adverse economic effect of the proposed district or program on that interested party's existing property interests in the municipality is outweighed by the contribution made by the district or program to the availability of affordable housing within the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality.

3. Conditions for approval. Designation of an affordable housing development district is subject to the following conditions.

A. At least 25%, by area, of the real property within an affordable housing development district must:

- (1) Be suitable for residential use;

(2) Be a blighted area; or

(3) Be in need of rehabilitation or redevelopment.

B. The affordable housing development district is subject to the area cap established in section 5223, subsection 3, paragraph B.

C. The original assessed value of a proposed affordable housing development district plus the original assessed value of all existing affordable housing development districts within the municipality may not exceed 5% of the total value of taxable property within the municipality as of April 1st preceding the date of the director's approval of the designation of the proposed affordable housing development district.

D. (REPEALED)

E. The affordable housing development program must show that the development meets an identified community housing need. The affordable housing development program must provide a mechanism to ensure the ongoing affordability for a period of at least 10 years for single-family, owner-occupied units and 30 years for rental units.

F. (REPEALED)

G. The district must be primarily a residential development on which at least 33% of the dwelling units are affordable housing and that may be designed to be compact and walkable and to include internal open space, other common open space and one or more small-scale nonresidential uses of service to the residents of the development.

4. Powers of municipality. Within an affordable housing development district and consistent with an affordable housing development program, a municipality may acquire, construct, reconstruct, improve, preserve, alter, extend, operate or maintain property or promote development intended to meet the objectives of the affordable housing development program. Pursuant to the affordable housing development program, the municipality may acquire property, land or easements through negotiation or by using eminent domain powers in the manner authorized for community development programs under section 5204. The municipality's legislative body may adopt ordinances regulating traffic in and access to any facilities constructed within the affordable housing development district. The municipality may install public improvements.

§5248. AFFORDABLE HOUSING DEVELOPMENT PROGRAMS

1. Adoption. The legislative body of a municipality shall adopt an affordable housing development program for each affordable housing development district. The affordable housing development program must be adopted at the same time as the district as part of the district adoption proceedings or, if at a different time, in the same manner as adoption of the district, with the same notice and hearing requirements of section 5250. Before adopting an affordable housing development program, the municipal legislative body shall consider the factors and evidence specified in section 5247.

2. Requirements. The affordable housing development program must include:

- A. A financial plan in accordance with subsection 3;
- B. A description of facilities, improvements or programs to be financed in whole or in part by the affordable housing development program;
- C. Plans for the relocation of persons displaced by the development activities;
- D. The environmental controls to be applied;
- E. The proposed operation of the affordable housing development district after the planned improvements are completed;
- F. An assurance that the program complies with section 4349-A;
- G. The duration of the program, which may start during any tax year specified in the approval of the affordable housing development program by a municipal legislative body, except that the program may not exceed 30 years after the tax year in which the designation of the district is approved by the director as provided in section 5250, subsection 3; and
- H. All documentation submitted to or prepared by the municipality under section 5247, subsection 2.

3. Financial plan for affordable housing development district. The financial plan for an affordable housing development district must include:

- A. Cost estimates for the affordable housing development program;
- B. The amount of public indebtedness to be incurred;
- C. Sources of anticipated revenues;
- D. A description of the terms and conditions of any agreements, contracts or other obligations related to the affordable housing development program; and
- E. For each year of the affordable housing development program:
 - (1) Estimates of increased assessed values of the district;
 - (2) The portion of the increased assessed values to be applied to the affordable housing development program as captured assessed values and resulting tax increments in each year of the program; and
 - (3) A calculation of the tax shifts resulting from designation of the affordable housing development district.

4. Limitation. For affordable housing development districts, a municipality may expend the tax increments received for any affordable housing development program only in accordance with the financial plan.

§5249. PROJECT COSTS

1. Authorized project costs. The director shall review proposed project costs to ensure compliance with this subsection. Authorized project costs are:

A. Costs of improvements made within the affordable housing development district, including, but not limited to:

(1) Capital costs, including, but not limited to:

(a) The acquisition of land or construction of public infrastructure improvements for affordable housing development;

(b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;

(c) Site preparation and finishing work; and

(d) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expenses and planning, engineering, architectural, testing, legal and accounting expenses;

(2) Financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(3) Real property assembly costs;

(4) Professional service costs, including, but not limited to, licensing, architectural, planning, engineering and legal expenses;

(5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of an affordable housing development program;

(6) Relocation costs, including, but not limited to, relocation payments made following condemnation;

(7) Organizational costs relating to the establishment of the affordable housing district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of affordable housing development districts and the implementation of project plans;

(8) Costs of facilities used predominantly for recreational purposes, including, but not limited to, recreation centers, athletic fields and swimming pools;

(9) Costs for child care, including finance costs and construction, staffing, training, certification and accreditation costs related to child care located in the affordable housing development district;

(10) Costs of case management and support services; and

(11) Operating costs, including but not limited to property management and administration, utilities, routine repairs and maintenance, insurance, real estate taxes and funding of a projects capital reserve account; and

B. Costs of improvements that are made outside the affordable housing development district but are directly related to or are made necessary by the establishment or operation of the district, including, but not limited to:

(1) That portion of the costs reasonably related to the construction, alteration or expansion of any facilities not located within the district that are required due to improvements or activities within the district, including, but not limited to, sewage treatment plants, water treatment plants or other environmental protection devices; storm or sanitary sewer lines; water lines; electrical lines; improvements to fire stations; and amenities on streets;

(2) Costs of public safety improvements made necessary by the establishment of the district;

(3) Costs of funding to mitigate any adverse impact of the district upon the municipality and its constituents. This funding may be used for funding public kindergarten to grade 12 costs and public facilities and improvements; and

(4) Costs to establish permanent housing development revolving loan funds or investment funds.

2. Limitation. Tax increments received from any affordable housing development program may not be used to circumvent other tax laws.

§5250. PROCEDURE

1. Notice and hearing. Before designating an affordable housing development district or adopting an affordable housing development program, the municipal legislative body or the municipal legislative body's designee must hold at least one public hearing on the proposed district. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality.

2. Review by director. Before final designation of an affordable housing development district, the director shall review the proposal for the district to ensure that the proposal complies with statutory requirements.

3. Effective date. A designation of an affordable housing development district is effective upon approval by the director.

4. Administration of district. The legislative body of a municipality may create a department, designate an existing department, office, agency, municipal housing or redevelopment authority or enter into a contractual arrangement with a private entity to administer activities authorized under this subchapter.

5. Amendments. A municipality may amend a designated affordable housing development district or an adopted affordable housing development program only after meeting the requirements of this section for designation of an affordable housing development district or adoption of an affordable housing development program. A municipality may not amend the designation of an affordable housing development district if the amendment would result in the district's being out of compliance with any of the conditions in section 5247, subsection 3.

§5250-A. AFFORDABLE HOUSING TAX INCREMENT FINANCING

1. Designation of captured assessed value. A municipality may retain all or part of the tax increment revenues generated from the increased assessed value of an affordable housing development district for the purpose of financing the affordable housing development program. The amount of tax increment revenues to be retained is determined by designating the captured assessed value. When an affordable housing development program for an affordable housing development district is adopted, the municipal legislative body shall adopt a statement of the percentage of increased assessed value to be retained as captured assessed value in accordance with the affordable housing development program. The statement of percentage may establish a specific percentage or percentages or may describe a method or formula for determination of the percentage. The municipal assessor shall certify the amount of the captured assessed value to the municipality each year.

2. Certification of assessed value. Upon or after the formation of an affordable housing development district, the assessor of the municipality in which the district is located shall certify the original assessed value of the taxable property within the boundaries of the affordable housing development district. Each year after the designation of an affordable housing development district, the municipal assessor shall certify the amount by which the assessed value has increased or decreased from the original value. Nothing in this subsection allows or sanctions unequal apportionment or assessment of the taxes to be paid on real property in the State. An owner of real property within the affordable housing development district pays real property taxes apportioned equally with property taxes paid elsewhere in the municipality.

3. Affordable housing development program fund; affordable housing tax increment revenues. If a municipality has designated captured assessed value under subsection 1, the municipality shall:

A. Establish an affordable housing development program fund that consists of the following:

(1) A project cost account that is pledged to and charged with the payment of project costs that are outlined in the financial plan and are paid in a manner other than as described in subparagraph (2); and

(2) In instances of municipal indebtedness, a development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the cost of the affordable housing development program fund;

B. Annually set aside all affordable housing tax increment revenues on captured assessed values and deposit all such revenues to the appropriate affordable housing development program fund account established under paragraph A in the following order of priority:

(1) To the affordable housing development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 5250-D and the financial plan; and

(2) To the affordable housing project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual affordable housing project costs to be paid from the account;

C. Make transfers between affordable housing development program fund accounts established under paragraph A as required, provided that the transfers do not result in a balance in the affordable housing development sinking fund account that is insufficient to cover the annual obligations of that account; and

D. Annually return to the municipal general fund any tax increment revenues remaining in the affordable housing development sinking fund account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development sinking fund account after taking into account any transfers made under paragraph C. The municipality, at any time 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.

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-K. PROCEDURE

(REPEALED)

§5250-L. SELECTION CRITERIA

(REPEALED)

§5250-M. PROGRAM ADMINISTRATION; RULES

The commissioner shall administer this subchapter. The commissioner shall adopt rules pursuant to the Maine Administrative Procedure Act for implementation of Pine Tree Development Zones, including, but not limited to, rules for determining and certifying eligibility, selecting zones for designation and evaluating on a periodic basis the progress and success of each zone in achieving its goals. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§5250-N. UNORGANIZED TERRITORY

For the purposes of this subchapter, a county may act as a municipality for the unorganized territory within the county and may designate development districts within the unorganized territory. When a county acts under this section, the county commissioners act as the municipality and as the municipal legislative body, the State Tax Assessor acts as the municipal assessor and the unorganized territory education and services fund receives the funds designated for the municipal general fund.

§5250-O. CERTIFICATION OF QUALIFIED BUSINESS

A business may apply to the commissioner for certification as a qualified Pine Tree Development Zone business. Upon review and determination by the commissioner that a business is a qualified Pine Tree Development Zone business, the commissioner shall issue a 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 RECREATION ZONE

§5250-Q. PINE TREE RECREATION ZONE

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

A. "Qualified project" means a business project that meets the criteria set forth in subsection 4 conducted by a qualified industry.

B. "Qualified industry" means a for-profit corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust or any other entity, inside or outside the State, that is engaged in or will engage in a qualified project.

2. Establishment. The Pine Tree Recreation Zone is established to expand recreational opportunities and encourage tourism and economic development in areas adjacent to and located within the State's natural resources in the central and northern regions of the State.

3. Designation of zone. The Pine Tree Recreation Zone is that area of the State that is north and east of the Androscoggin River.

4. Project eligibility. A business project is eligible to qualify for Pine Tree Recreation Zone benefits if the project:

A. Is located within the Pine Tree Recreation Zone and is in a labor market area with a population density of less than 30 people per square mile according to the last Federal Decennial Census; and [2005, c. 555, §1 (NEW); 2005, c. 555, §3 (AFF).]

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.

4. Adjustment for new state funding. If the State provides net new funding to a municipality for existing services funded in whole or in part by the property tax levy, other than required state mandate funds pursuant to section 5685 that do not displace current property tax expenditures, the municipality shall lower its property tax levy limit in that year in an amount equal to the net new funds. For purposes of this subsection, "net new funds" means the amount of funds received by the municipality from the State during the most recently completed calendar year, with respect to services funded in whole or in part by the property tax levy, less the product of the following: the amount of such funds received in the prior calendar year multiplied by one plus the growth limitation factor described in subsection 3. "Net new funds" refers to state-municipal revenue sharing and does not include changes in state funding for general assistance under Title 22, section 4311 or in state funding under the Local Road Assistance Program under Title 23, section 1803-B if those changes are the result of the operation of the formula for calculation of state funding under that section but does include changes in funding that are the result of a statutory change in the formula for calculation of state funding under that section. If the calculation required by this subsection reveals that the municipality received or will receive a net reduction in funding, the municipality is authorized to adjust its property tax levy limit in an amount equal to the net reduction of funds. For the purpose of determining if there was or will be a net reduction in funding, the municipality may consider only those funds that are net new funds. For purposes of this subsection, with respect to the development of any municipal budget that was finally adopted on or before July 1, 2013, "net reduction in funding" means the amount of funds received by the municipality from the State during the calendar year immediately preceding the most recently completed calendar year less the amount of such funds received in the most recently completed calendar year. For the purposes of this subsection, with respect to the development of a municipal budget that is finally adopted after July 1, 2013, a municipality may calculate net reduction in funding as the amount of funds received by the municipality from the State during the municipal fiscal year immediately preceding the fiscal year for which the budget is being developed less the amount of such funds that will be received during the fiscal year

for which the budget is being prepared, as reasonably calculated on the basis of all available information. If the calculation required by this subsection yields a positive value, that value may be added to the municipality's property tax levy limit. If a municipality receives net new funds in any fiscal year for which its property tax levy limit has not been adjusted as provided in this subsection, the municipality shall adjust its property tax levy limit in the following year in an amount equal to the net new funds.

5. Exceeding property tax levy limit; extraordinary circumstances. The property tax levy limit established in subsection 2 may be exceeded for extraordinary circumstances only under the following circumstances.

A. The extraordinary circumstances must be circumstances outside the control of the municipal legislative body, including:

- (1) Catastrophic events such as natural disaster, terrorism, fire, war or riot;
- (2) Unfunded or underfunded state or federal mandates;
- (3) Citizens' initiatives or other referenda;
- (4) Court orders or decrees; or
- (5) Loss of state or federal funding.

Extraordinary circumstances do not include changes in economic conditions, revenue shortfalls, increases in salaries or benefits, new programs or program expansions that go beyond existing program criteria and operation.

B. The property tax levy limit may be exceeded only as provided in subsection 7.

C. Exceeding the property tax levy limit established in subsection 2 permits the property tax levy to exceed the property tax levy limit only for the year in which the extraordinary circumstance occurs and does not increase the base for purposes of calculating the property tax levy limit for future years.

6. Increase in property tax levy limit. The property tax levy limit established in subsection 2 may be increased for other purposes only as provided in subsection 7.

7. Process for exceeding property tax levy limit. A municipality may exceed or increase the property tax levy limit only by the following means.

A. If the municipal budget is adopted by town meeting or by referendum, the property tax levy limit may be exceeded by the same process that applies to adoption of the municipal budget except that the vote must be by written ballot on a separate article that specifically identifies the intent to exceed the property tax levy limit.

B. If the municipal budget is adopted by a town council or city council, the property tax levy limit may be exceeded only by a majority vote of all the elected members of the town council or city council on a separate article that specifically identifies the

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

8. Treatment of surplus; reserves. Any property tax revenues collected by a municipality in any fiscal year in excess of its property tax levy limit, as determined by a final audited accounting, must be transferred to a property tax relief fund, which each municipality must establish, and used to reduce property tax levies in subsequent fiscal years. Nothing in this subsection limits the ability of a municipality to maintain adequate reserves pursuant to section 5801.

9. Fractional divisions. A municipality may, consistent with Title 36, section 710, exceed its property tax levy limit in such reasonable amount as necessary to avoid fractional divisions.

10. Enforcement. If a municipality adopts a property tax levy in violation of this section, the State Tax Assessor may require the municipality to adjust its property tax levy downward in an amount equal to the illegal property tax levy and impose such other penalties as the Legislature may provide.

§5722. OPERATING EXPENSES

A municipality may raise or appropriate money to:

- 1. Operation.** Provide for the operation of its municipal government;
- 2. Pensions.** Establish a contributory pension system for its officials and employees, or participate in an existing system;
- 3. Fire and police protection.** Provide for fire and police protection;
- 4. Volunteer fire department.** Support an incorporated volunteer fire department, as long as the purposes for which an appropriation is made to a volunteer fire department are itemized;

5. Insurance for use of vehicles. Insure its officials, employees and volunteer workers against public liability and property damage resulting from their negligent operation of any vehicle owned or leased by the municipality while being used for municipal business;

6. Insurance for performance of duties. Insure its officers, officials and employees against any personal liability which they may incur out of and in the course of their acting by, for or on behalf of the municipality while performing their duties as public officers, officials and employees;

7. Revaluation. Provide for the revaluation of taxable property.

A. Any revaluation is under the jurisdiction of the municipal assessors whose judgment, as opposed to that of any hired appraiser, is final;

8. Municipal services. Provide for a supply of water, gas and electricity for municipal use for a period of years or for an energy facility, as defined in section 5401, subsection 3;

9. Advisory organizations. Obtain the services of municipal advisory organizations. The Legislature recognizes the Maine Municipal Association as a nonprofit advisory organization and declares it to be an instrumentality of its member municipal and quasi-municipal corporations with its assets upon its dissolution to be delivered to the Treasurer of State to be held in custody for the municipalities of the State. A municipal advisory organization may receive federal grants or contributions for its activities with respect to the solution of local problems; and

10. Water system. Provide for the acquisition, construction, reconstruction, improvement, extension, enlargement, equipment, repair, maintenance and operation of a water or sewer system or part of such a system, within or outside, or partly within and partly outside, the corporate limits of the municipality.

§5723. PUBLIC WORKS

A municipality may raise or appropriate money to:

1. Parks and construction projects. Provide for public buildings, ways, bridges, parks, parking places, sewers and drains;

2. Dumps. Provide for public dumps either within or outside its boundaries;

3. Cemeteries. Provide for public cemeteries; maintain private cemeteries established before 1880; care for graves of veterans and maintain fences around cemeteries in which veterans are buried;

4. Flood control. Provide for projects which have been approved by the Governor for improving navigation or preventing property damage by erosion or flood;

5. Fuel yard. Provide a fuel yard for the purpose of selling fuel to its residents without financial profit to itself; and

6. Water or sewer districts. Provide financial assistance to a water or sewer district which is a quasi-municipal corporation, within or outside, or partly within or outside, the corporate limits of the municipality to the extent that the assisted district serves the municipality providing assistance.

§5724. SCHOOLS AND LIBRARIES

A municipality may raise or appropriate money to:

1. Public schools and libraries. Provide for public schools and libraries;

2. School activities. Provide for school bands and other organized activities conducted under the supervision of the school committee;

3. Physical education. Provide for physical fitness programs in the schools;

4. Construction and maintenance. Provide for the construction, repairs and maintenance of buildings and equipment for educational institutions with which a municipality has a contract as provided in Title 20-A, section 2703;

5. Transportation. Provide for the transportation of school children to and from schools other than public schools, except those schools that are operated for profit in whole or in part;

6. Textbooks. Provide for the purchase of those secular textbooks which have been approved by the school committee or board of directors for use in public schools in the municipality or district and to loan those textbooks to pupils or to the parents of pupils attending nonpublic elementary and secondary schools. The loans shall be based upon individual requests submitted by the nonpublic school pupils or parents. The requests shall be submitted to the school committee or board of directors of the administrative district in which the student resides. The request for the loan of textbooks shall, for administrative convenience, be submitted by the nonpublic school student or parent to the nonpublic school which shall prepare and submit collective summaries of the individual requests to the school committee or board of directors. As used in this section, "textbook" means any book or book substitute which a pupil uses as a text or text substitute in a particular class or program in the school the pupil regularly attends;

7. Physician, nursing, dental and optometric services. Provide physician, nursing, dental and optometric services to pupils attending nonpublic elementary and secondary schools within a district or municipality. These services may be provided in the school attended by the nonpublic school pupil receiving the services;

8. Tests and scoring services. Provide for the use by pupils attending nonpublic elementary and secondary schools within the municipality or a district the standardized

tests and scoring services which are in use in the public schools serving that municipality or district; and

9. Advisory organizations. Obtain the services of educational advisory organizations. The Legislature recognizes the Maine School Management Association and the Maine School Boards Association as nonprofit advisory organizations and declares these associations to be instrumentalities of their member school administrative units, municipal and quasi-municipal corporations with their assets upon their dissolution to be delivered to the Treasurer of State to be held in custody for the municipalities of the State. An educational advisory organization may receive federal grants or contributions for their activities with respect to the solution of local problems.

A municipality may provide health or remedial services to nonpublic school pupils as authorized by this section only if those services are available to pupils attending the public school serving the municipality.

Health and remedial services and instructional materials and equipment provided for the benefit of nonpublic school pupils under this section and the admission of pupils to the nonpublic schools must be provided without distinction as to race, creed, color, the national origin of the pupils or of their teachers. No instructional materials or instructional equipment may be loaned to pupils in nonpublic schools or their parents unless similar instructional material or instructional equipment is available for pupils in a public school served by a municipality.

10. Municipal education foundations. A municipal education foundation is established with the assistance of the Department of Administrative and Financial Services and must contain the following provisions.

A. The endowment of a municipal education foundation is funded by contributions by citizens, estates, municipalities and bond money if the foundation meets standards pursuant to section 5652, subsection 2.

B. Trustees of a municipal education foundation must be citizens of the municipality and contain at least one member who is a teacher or administrator in the municipality's education system to be a liaison between the school system and the municipal education foundation.

A municipality may not provide services, materials or equipment for use in religious courses, devotional exercises, religious training or any other religious activity.

§5725. HEALTH AND WELFARE

A municipality may raise or appropriate money to:

1. Poor. Support the poor;

2. Hospital. Construct, maintain, operate and support a hospital serving its residents;

3. Community health facility. Construct, maintain, operate and support a community health facility which may be used in any manner that will improve health services in the community, including the leasing of space at fair market rates to physicians and other medical personnel;

4. Public health. Employ a public health nurse and conduct a public health program;

5. Blood service. Support a blood service program;

6. Dental hygienist. Employ a dental hygienist;

7. Physician. Subsidize physicians to induce them to settle in the municipality;

8. Pest control. Provide for the extermination and control of insect pests;

9. Ambulance. Provide for public ambulances and garages for them, or support an ambulance service serving its residents;

10. Veteran rehabilitation. Provide for a local program with or without state coordination for rehabilitating veterans honorably discharged from the Armed Forces of the United States;

11. Dutch elm disease. Determine the presence of the Dutch elm disease and carry out measures for the prevention or control of that disease on public or private grounds;

12. Youth commission. Provide for a local youth commission; and

13. Anti-poverty community action program. Assist and contribute to a community action program organized under the Federal Anti-Poverty Program.

§5726. DEVELOPMENT

A municipality may raise or appropriate money to:

1. Board of trade. Support and guarantee obligations of a chamber of commerce or board of trade or a local development corporation, or a chamber of commerce and a local development corporation, or a board of trade and a local development corporation;

2. Advertising. Advertise its resources and attractions or those of the State;

3. Real estate. Purchase real estate and personal property from the Federal Government for municipal purposes;

4. Athletic facilities and recreation. Provide real estate and personal property for recreational purposes and supporting a recreational program or for building, maintaining and operating an athletic facility;

5. Fish. Propagate and protect fish in public waters located wholly or partially within its boundaries.

A. The money appropriated shall be spent by the municipal officers or a person appointed by them; and

B. The person authorized to spend the money shall submit a written report of the expenditure to the municipal legislative body within one year of the date of appropriation;

6. Historical society. Assist a local historical society;

7. History. Write and publish its history;

8. Conventions. Assist conventions;

9. Lands. Provide for and acquire open areas, including marshlands, swamps or wetlands;

10. Mass bus transportation. Aid private companies or public agencies furnishing mass bus transportation services within the municipality;

11. Relocation assistance. Provide funds for relocation assistance services and payments to individuals, families and businesses displaced as a result of the acquisition of real property for a public purpose;

12. District Court. Construct, equip and furnish a district courthouse within the municipality. The municipality may negotiate a lease with the Chief Judge of the District Court for the use of such a courthouse;

13. Elderly housing. Provide municipally owned rental housing for the elderly;

14. Affordable housing. Facilitate affordable housing; and

15. Job creation and retention. Establish revolving loan fund programs to assist in job creation and retention for local for-profit and nonprofit enterprises if approved by a municipal referendum election pursuant to sections 2528, 2529 and 2532, even if the municipality or plantation has not accepted the provisions of section 2528.

§5727. CELEBRATIONS AND COMMEMORATIONS

A municipality may raise or appropriate money to:

1. Anniversary. Celebrate any anniversary of its settlement or incorporation and publish the proceedings of the celebration;

2. Holidays. Observe Memorial Day, Veterans Day and any other day set apart for commemoration;

3. Christmas. Decorate for Christmas;

4. Music. Support an organization to provide music for municipal functions and public celebrations; and

5. Memorials for veterans. Provide for monuments and memorials, and real estate suitable for their erection, to honor the veterans of the Armed Forces of the United States who sacrificed their lives in defense of their country.

§5728. GENERAL DUTIES AND OPERATIONS

A municipality may raise or appropriate money to:

1. Duties. Perform any of the duties required of it by law; and

2. Authorized by law. Provide for any operations authorized by law which, by their nature, require the expenditure of money.

§5729. FEDERAL AND STATE GRANTS

A municipality's acceptance of grants is governed by this section.

1. Federal. Municipalities may apply for, accept and appropriate federal grants for any purpose for which federal grants are made available to municipalities either directly or through the State.

2. State. Municipalities may apply for, accept and appropriate state grants for any purpose for which state grants are made available to municipalities either directly or through a state agency.

§5730. HISTORIC AND SCENIC PRESERVATION

Pursuant to the Constitution of Maine, Article IX, Section 8, Subsection 5, a municipality may raise or appropriate money to reimburse taxpayers for a portion of taxes paid under Title 36, Part 2 on real property if the property owner agrees to maintain the property in accordance with criteria that are adopted by ordinance by the governing legislative body of the municipality and that provide for maintaining the historic integrity of important structures or providing a scenic view. The Maine Historic Preservation Commission shall provide guidance, if requested by a municipality, in implementing this section.

§5751. PURPOSE

It is the purpose of this subchapter to increase the likelihood of orderly development and to provide an incentive for coordinated multi-community economic development by permitting 2 or more communities to share their tax base.

§5752. TAX BASE SHARING AGREEMENT

1. Agreement. Any 2 or more municipalities may, by a vote of their legislative bodies, enter into an agreement to share all or a specific part of the commercial, industrial or residential assessed valuation located within their respective communities. Municipalities that vote to enter into an agreement pursuant to this section are not required to have borders that are contiguous.

2. Specifications. Any such agreement must specify:

A. A duration which must be at least 5 years;

B. A description of the tax base that is to be shared, expressed in terms of type of property or location of property;

C. The formula for sharing the property taxes generated through taxation of the valuation that is to be shared; and

D. Any other necessary and proper matters.

3. Administration. The shared valuation must be assessed in the municipality in which the property is located. It must be taxed at the rate applicable in that municipality. The tax so assessed must be collected by the municipality in which the property is located and the share of that tax, as specified in the tax base sharing agreement, must be remitted within 15 days after collection or within such other period of time as the parties to the tax base sharing agreement specify to the other municipality or municipalities on the basis of the terms of the agreement to which they are parties. The municipality in which the property is located may be authorized by the tax base sharing agreement to make payments due to the other municipality or municipalities that are parties to the agreement to another party or entity. Payments to another party or entity must be for purposes that have a general public benefit.

§5753. FILING OF AGREEMENT

Before becoming effective, any agreement made under this subchapter must be filed with the clerk of each municipality and with the Secretary of State.

CHAPTER 301 PLANTATIONS

§7001. ORGANIZATION OF UNINCORPORATED TOWNSHIPS

1. Census. Any unincorporated township may, by petition of 20% or more of the voters of the township, require the county commissioners to determine from the Federal Decennial Census or by actual enumeration whether the township has 200 inhabitants or more. The county commissioners shall report the result of the census to the Secretary of State who shall record it.

2. Organization of township with population of 200 or more. If the report made under subsection 1 indicates that the township has a population of 200 or more, the county commissioners shall, with the consent of a majority of the petitioners under subsection 1, issue their warrant to an inhabitant of the unincorporated township, commanding that inhabitant to notify the voters of the unincorporated township, to assemble on a day and at a place named in the warrant, to choose a moderator, clerk, 3 assessors, treasurer, collector of taxes, constable, school committee and other necessary plantation officers.

A. The person selected by the commissioners shall give notice of the meeting by posting an attested copy of the warrant for the meeting in 2 public and conspicuous places in the township at least 14 days before the day of meeting. The warrant, with the inhabitant's return on it, shall be returned to the meeting and the officers shall be chosen and sworn.

3. Alternative method. Any unincorporated or unorganized place containing any number of inhabitants may be organized under this subsection. One or more of the county commissioners, on written application signed by at least 3 voters of any unincorporated or unorganized place in their county, may issue a warrant to one of the 3 voters, requiring that voter to announce a meeting of the voters of the unincorporated or unorganized place residing within the limits described in the warrant. When a state or county tax is assessed to the unincorporated or unorganized place, the Treasurer of State or the county commissioners, without application by the voters, may issue their warrant to an inhabitant of the unincorporated or unorganized place. In either case the warrant, notice of meeting and proceedings shall be the same as provided in subsection 2.

4. Organization meeting. At the time and place appointed for meetings for the organization of plantations under subsections 2 and 3, a moderator shall be chosen by ballot by the voters present to preside at the meeting. The person to whom the warrant was directed shall preside until the moderator is chosen and sworn by that person. A clerk, 3 assessors, treasurer and school committee shall be chosen by ballot and sworn by the moderator or a dedimus justice. Other plantation officers may be chosen by ballot or other method agreed on by vote of the meeting and shall be sworn by the moderator or a dedimus justice.

5. Documents recorded with Secretary of State. When a plantation is organized, the clerk and assessors shall send to the Secretary of State:

A. A certified copy of all proceedings performed in organizing the plantation, including:

(1) The petition, if any;

(2) The warrant issued for the organizational meeting and the return on the warrant; and

(3) The record of the organizational meeting; and

B. A written description of the limits of the plantation.

The Secretary of State shall record these documents. Upon recording, all laws applicable to organized plantations apply to plantations organized under this chapter.

§7002. ORGANIZED PLANTATIONS TO CONSIST OF ONE TOWNSHIP

Organized plantations may not be composed of more than one township, and when organized under section 7001, former organizations cease.

§7003. PLANTATIONS REORGANIZED

Plantations organized upon application of 3 or more inhabitants may be reorganized at any time under this chapter.

§7004. ANNUAL MEETING

Organized plantations shall hold an annual meeting and choose a clerk, 3 assessors, treasurer, collector of taxes and a school committee.

1. Term of office and election of assessors. The provisions of section 2526, subsection 5, relating to the terms of office and election of assessors, apply to the terms of office and election of assessors of organized plantations.

2. Road commissioners. When money is raised for the repair of ways and bridges, the assessors of the plantation shall appoint one or more road commissioners.

§7005. OFFICERS' NAMES SENT TO SECRETARY OF STATE

The Secretary of State shall furnish blanks to the clerks of organized plantations who shall return them to the Secretary of State on or before the first day of September, annually, with the names of the assessors and clerks of their respective plantations, and a statement that the assessors and clerk have been sworn.

1. Failure to return blanks. When any plantation fails to return the blanks, the Secretary of State shall not furnish it with blanks for election returns, and no votes purporting to be cast by voters of that plantation may be counted or allowed by the Governor.

2. During the first year of organization. When a plantation is organized after the first day of July, the clerk of that plantation is not required to return the blanks during that year, but the votes from those plantations shall not be counted or allowed by the Governor for any purpose, during the calendar year of its organization, unless it is organized at least 60 days before the Tuesday following the first Monday of November.

§7006. TOWN LAW APPLIES TO OFFICIALS AND EMPLOYEES

1. Plantation meetings, officials and employees. The following provisions apply to plantations and their officials and employees, as far as applicable, except when specifically provided otherwise:

A. Laws relating to calling, notifying and conducting town meetings; and

B. Laws relating to the election, appointment, hiring, qualification, 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.