

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2538

H.P. 1855 House of Representatives, March 16, 1988
Reported by Representative CARROLL from the Joint
Standing Committee on State and Local Government. Sent up for
concurrence and ordered printed. Approved by the Legislative
Council on April 15, 1986 and extended on June 17, 1987.
Reference to the Committee on State and Local Government
suggested and printing ordered under Joint Rule 19.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-EIGHT

1 AN ACT to Recodify the Laws on
2 Municipalities and Counties.
3

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

6 PART A

1. 1. County officers' salaries. Notwithstanding
2 other sections of this chapter, counties that are not
3 required to obtain legislative approval of their
4 budgets under section 253, shall not be required to
5 obtain legislative approval of the salaries of county
6 officers under this section. The county
7 commissioners, treasurers, sherriffs, judges of
8 probate, registers of probate and registers of deeds
9 in those counties whose budgets require legislative
10 approval under section 253, shall receive annual
11 salaries from the county treasury, in weekly, biweekly
12 or monthly payments, as follows:

13 A. Androscoggin County:

14 (1) Commissioners

15 (a) Chairman \$ 5,550

16 (b) Members 4,750

17 (2) Treasurer 16,050

18 (3) Sheriff 23,557

19 (4) Judge of Probate 10,774

20 (5) Register of probate 12,000

21 (6) Register of deeds 20,800

22 B. Aroostook County:

23 (1) Commissioners \$ 0

24 (2) Treasurer 6,930

25 (3) Sheriff 18,850

26 (4) Judge of Probate 9,818

27 (5) Register of probate 14,000

28 (6) Register of deeds

1	<u>(a) Northern District</u>	<u>13,730</u>
2	<u>(b) Southern District</u>	<u>13,730</u>
3	<u>C. Franklin County:</u>	
4	<u>(1) Commissioners</u>	
5	<u>(a) Chairman</u>	<u>\$ 4,401</u>
6	<u>(b) Members</u>	<u>4,174</u>
7	<u>(2) Treasurer</u>	<u>4,555</u>
8	<u>(3) Sheriff</u>	<u>22,873</u>
9	<u>(4) Judge of Probate</u>	<u>10,500</u>
10	<u>(5) Register of probate</u>	<u>15,000</u>
11	<u>(6) Register of deeds</u>	<u>16,000</u>
12	<u>D. Hancock County:</u>	
13	<u>(1) Commissioners</u>	
14	<u>(a) Chairman</u>	<u>\$ 6,170</u>
15	<u>(b) Members</u>	<u>5,711</u>
16	<u>(2) Treasurer</u>	<u>14,277</u>
17	<u>(3) Sheriff</u>	<u>24,000</u>
18	<u>(4) Judge of Probate</u>	<u>12,633</u>
19	<u>(5) Register of probate</u>	<u>13,167</u>
20	<u>(6) Register of deeds</u>	<u>14,277</u>
21	<u>E. Kennebec County:</u>	
22	<u>(1) Commissioners</u>	

1.	<u>(a) Chairman</u>				\$ 6,150
2	<u>(b) Members</u>				5,773
3	<u>(2) Treasurer</u>				8,159
4	<u>(3) Sheriff</u>				23,626
5	<u>(4) Judge of Probate</u>				14,055
6	<u>(5) Register of probate</u>				18,020
7	<u>(6) Register of deeds</u>				18,020
8	<u>F. Knox County:</u>				
9	<u>(1) Commissioners</u>				
10		<u>1987</u>	<u>1988</u>	<u>1989</u>	
11	<u>(a) District 1</u>	<u>\$3,611</u>	<u>\$3,611</u>	<u>\$3,611</u>	
12	<u>(b) District 2</u>	<u>3,439</u>	<u>3,439</u>	<u>3,611</u>	
13	<u>(c) District 3</u>	<u>3,439</u>	<u>3,439</u>	<u>3,611</u>	
14	<u>(d) Chairman</u>				
15	<u>differential</u>	<u>250</u>	<u>250</u>	<u>250</u>	
16	<u>(2) Treasurer</u>	<u>6,000</u>	<u>6,000</u>	<u>6,000</u>	
17	<u>(3) Sheriff</u>	<u>22,500</u>	<u>22,500</u>	<u>22,500</u>	
18	<u>(4) Judge of</u>				
19	<u>Probate</u>	<u>11,000</u>	<u>11,000</u>	<u>11,000</u>	
20	<u>(5) Register of</u>				
21	<u>probate</u>	<u>13,425</u>	<u>13,425</u>	<u>15,000</u>	
22	<u>(6) Register of</u>				
23	<u>deeds</u>	<u>15,000</u>	<u>15,000</u>	<u>15,000</u>	
24	<u>G. Lincoln County:</u>				
25	<u>(1) Commissioners</u>				

1	<u>(a) Chairman</u>	<u>\$ 5,292</u>
2	<u>(b) Members</u>	<u>4,515</u>
3	<u>(2) Treasurer</u>	<u>4,935</u>
4	<u>(3) Sheriff</u>	<u>24,532</u>
5	<u>(4) Judge of Probate</u>	<u>11,907</u>
6	<u>(5) Register of probate</u>	<u>14,430</u>
7	<u>(6) Register of deeds</u>	<u>18,428</u>
8	<u>H. Oxford County:</u>	
9	<u>(1) Commissioners</u>	
10	<u>(a) Chairman</u>	<u>\$ 5,152</u>
11	<u>(b) Members</u>	<u>4,694</u>
12	<u>(2) Treasurer</u>	<u>6,205</u>
13	<u>(3) Sheriff</u>	<u>23,148</u>
14	<u>(4) Judge of Probate</u>	<u>12,934</u>
15	<u>(5) Register of probate</u>	<u>14,820</u>
16	<u>(6) Register of deeds</u>	
17	<u>(a) Eastern District</u>	<u>15,236</u>
18	<u>(b) Western District</u>	<u>11,700</u>
19	<u>I. Penobscot County:</u>	
20	<u>(1) Commissioners</u>	
21	<u>(a) Chairman</u>	<u>\$ 7,176</u>
22	<u>(b) Members</u>	<u>6,864</u>

1	<u>(2) Treasurer</u>	<u>2,808</u>
2	<u>(3) Sheriff</u>	<u>22,932</u>
3	<u>(4) Judge of Probate</u>	<u>18,720</u>
4	<u>(5) Register of probate</u>	<u>18,044.</u>
5	<u>(6) Register of deeds</u>	<u>18,044</u>
6	<u>J. Piscataquis County:</u>	
7	<u>(1) Commissioners</u>	
8	<u>(a) Chairman</u>	<u>\$ 5,000</u>
9	<u>(b) Members</u>	<u>4,200</u>
10	<u>(2) Treasurer</u>	<u>5,200</u>
11	<u>(3) Sheriff</u>	<u>20,000</u>
12	<u>(4) Judge of Probate</u>	<u>11,700</u>
13	<u>(5) Register of probate</u>	<u>13,450</u>
14	<u>(6) Register of deeds</u>	<u>13,900</u>
15	<u>K. Sagadahoc County:</u>	
16	<u>(1) Commissioners</u>	
17	<u>(a) Chairman</u>	<u>\$ 4,120</u>
18	<u>(b) Members</u>	<u>3,605</u>
19	<u>(2) Treasurer</u>	<u>7,017</u>
20	<u>(3) Sheriff</u>	<u>19,055</u>
21	<u>(4) Judge of Probate</u>	<u>12,929</u>
22	<u>(5) Register of probate</u>	<u>14,125</u>

1	<u>(6) Register of deeds</u>	<u>15,073</u>
2	<u>L. Somerset County:</u>	
3	<u>(1) Commissioners</u>	
4	<u>(a) Chairman</u>	<u>\$ 4,296</u>
5	<u>(b) Members</u>	<u>3,681</u>
6	<u>(2) Treasurer</u>	<u>8,850</u>
7	<u>(3) Sheriff</u>	<u>25,400</u>
8	<u>(4) Judge of Probate</u>	<u>14,307</u>
9	<u>(5) Register of probate</u>	<u>15,089</u>
10	<u>(6) Register of deeds</u>	<u>15,500</u>
11	<u>M. Washington County:</u>	
12	<u>(1) Commissioners</u>	
13	<u>(a) Chairman</u>	<u>\$ 4,872</u>
14	<u>(b) Members</u>	<u>4,061</u>
15	<u>(2) Treasurer</u>	<u>15,600</u>
16	<u>(3) Sheriff</u>	<u>22,381</u>
17	<u>(4) Judge of Probate</u>	<u>13,834</u>
18	<u>(5) Register of probate</u>	<u>13,696</u>
19	<u>(6) Register of deeds</u>	<u>13,696</u>
20	<u>N. York County:</u>	
21	<u>(1) Commissioners</u>	<u>\$ 0</u>
22	<u>(2) Treasurer</u>	<u>3,900</u>

1	<u>(3) Sheriff</u>	<u>27,000</u>
2	<u>(4) Judge of Probate</u>	<u>11,463</u>
3	<u>(5) Register of probate</u>	<u>15,935</u>
4	<u>(6) Register of deeds</u>	<u>17,563</u>

5 2. Clerk hire and expenses. Expenses of county
6 officers shall be allowed as follows.

7 A. County commissioners shall allow all necessary
8 and proper office expenses, clerk hire and travel
9 to the county officers, except clerks of courts.
10 They shall also allow to the sheriffs, whether
11 acting within or outside the county, the costs of
12 boarding, guarding and transporting:

13 (1) Prisoners, whether awaiting trial,
14 during trial or after conviction; or

15 (2) Juveniles, whether awaiting hearing,
16 during hearing or after adjudication that a
17 juvenile offense has been committed.

18 B. The Chief Justice of the Supreme Judicial
19 Court or the Chief Justice's designee shall allow
20 to clerks of court, for payment by the State,
21 their necessary and proper office expenses, clerk
22 hire and travel expenses. Clerks must obtain
23 approval of these expenses at such time and in
24 such manner as the Chief Justice or the Chief
25 Justice's designee directs.

26 3. Fees and charges. The payment of fees and
27 charges to the county treasurer is governed by the
28 following provisions.

29 A. All fees and charges received by any county
30 officer, except clerks of court, shall be paid by
31 that county officer to the county treasurer by the
32 15th day of every month following the month in
33 which they were collected. Fees received by any
34 clerk of courts shall be paid by that clerk as

1 elsewhere provided by law or, in the absence of
2 express provision, to the State.

3 B. All fees and charges received by any deputy
4 sheriff shall be paid by that deputy sheriff to
5 the county treasurer by the 15th day of every
6 month following the month in which they were
7 collected, except that deputies not on a salary or
8 per diem basis may receive and retain fees for the
9 service of criminal or civil process.

10 (1) Sheriffs and their deputies shall
11 collect fees chargeable for the service of
12 civil process only from the litigants.

13 (2) Fees chargeable for the service of
14 criminal process by deputies not on salary or
15 per diem must be approved by the respective
16 district attorneys and paid by the respective
17 county treasurers.

18 4. Salaries and expenses of court and jury
19 officers. Each county shall pay the salaries and
20 expenses of bailiffs and other court and jury officers
21 who work for courts located in that county. The
22 Judicial Department shall reimburse each county
23 quarterly for these salaries and expenses as provided
24 in Title 4, section 25.

25 §3. Expense accounts to be under oath

26 Whenever required by law to provide a bill of
27 expenses, every county officer shall itemize the bill
28 and swear, before presenting it for auditing or
29 payment, that it includes only actual cash spent in
30 performing the officer's official duties.

31 §4. County officer's private benefit from county labor

32 No county officer may receive a private benefit
33 from the labor of any person employed by the county.

34 §5. Conflicts of interest

35 Sections 2604 and 2605, invalidating certain

1 actions due to conflicts of interest, apply to all
2 county officials.

3 §6. Transition period

4 There is a 30-day transition period for all newly
5 elected county officers from December 1st to January
6 1st in each year. During this period, each newly
7 elected county officer may, without pay, attend the
8 office to which that county officer has been elected
9 in order to become familiar with its duties. During
10 this period, all of the personnel of that office,
11 including the incumbent county officer, shall assist
12 the officer in learning the duties of that office.

13 §7. Violation and penalty

14 Any agent or officer who willfully violates
15 section 701, 921, 922, 923, 924 or 951 is guilty of a
16 Class E crime.

17 §8. Civil violation

18 Any county officer who fails to follow the
19 requirements of this chapter or chapter 3 commits a
20 civil violation for which a forfeiture of not more
21 than \$200 may be adjudged.

22 SUBCHAPTER II

23 COUNTY COMMISSIONERS

24 ARTICLE 1. GENERAL PROVISIONS

25 §51. Salaries; county commissioners

26 1. Salaries; time of payment. Except as provided
27 in section 82, the county commissioners in the several
28 counties shall receive annual salaries as set forth in
29 section 2 from the county treasurer in weekly,
30 biweekly, monthly, semiannual or annual payments, as

1 determined by the county commissioners. If these
2 payments are made monthly, they shall be made on the
3 last day of each month; if semiannually, they shall be
4 made on the last day of June and the last day of
5 December; if annually, they shall be made on the last
6 day of December.

7 2. Salaries; full compensation. These salaries
8 are in full compensation for all services of the
9 commissioners, including the management of the jails
10 and for any expenses or travel to and from the county
11 seat for any commissioner, except as provided in
12 subsection 3, section 82, subsection 4 and section 105.

13 3. Travel expenses. Travel expenses shall be
14 allowed as follows.

15 A. The county commissioners may allow, by
16 majority vote, the payment of all necessary and
17 proper expenses and travel allowances to and from
18 the county seat by commissioners who live more
19 than 5 miles from the county seat.

20 B. When outside of the county seat on official
21 business, including attendance at or participation
22 in public hearings, inspection and supervision of
23 construction, snow removal and maintenance of
24 roads in unincorporated townships in their county,
25 all county commissioners shall be allowed in
26 addition to their salaries all necessary traveling
27 and hotel expenses connected with those
28 activities. All bills for expenses under this
29 paragraph must be approved by the district
30 attorney serving their county and shall be paid by
31 the treasurer of the county.

32 §52. Incompatible offices

33 1. Municipal offices. No person holding the
34 office of county commissioner may at the same time
35 hold either the office of mayor or assessor of a city
36 or the office of selectman or assessor of a town.

37 2. County offices. No county commissioner,
38 during the term for which that commissioner has been

1 elected and for one year thereafter may be appointed
2 to any office of profit or employment position of the
3 county, which was created or the compensation of which
4 was increased by the action of the county
5 commissioners during the county commissioner's term.

6 §53. Commissioner not agent; spend money

7 No commissioner may be appointed to expend money
8 assessed or raised for any purpose by the board of
9 which that commissioner is a member.

10 ARTICLE 2. ELECTION AND TENURE

11 §61. Board of commissioners; election; chairman

12 There shall be a board of commissioners for each
13 county consisting of a chairman and 2 other persons.
14 Each of the commissioners of a county must represent
15 one of the commissioner districts established under
16 section 66 for the commissioner's county.

17 1. Residency; election by district. Members of
18 each board of commissioners must be residents of the
19 commissioner district which they represent and shall
20 be elected by the voters of that district.

21 2. Mode of election. County commissioners shall
22 be elected on the Tuesday following the first Monday
23 of November in each even-numbered year. The votes
24 shall be received, sorted, counted and declared in the
25 same manner as votes for Representatives. The clerk
26 shall record in the municipal records the names of the
27 persons voted for, the number of votes for each and
28 the whole number of ballots received. The clerk shall
29 send true copies of these records, sealed and attested
30 in the same manner as returns of votes for Senators,
31 to the Secretary of State.

32 3. Chairman. The commissioners shall select
33 their chairman annually at their first meeting on or
34 after the first day of January to act for one year.

35 §62. Vacancies; expiration of term

1 Vacancies to occur by expiration of the term of
2 office at the end of any year in which a biennial
3 election is held shall be filled by election on the
4 Tuesday following the first Monday of November in that
5 year.

6 1. Term of office. The term of office for a
7 county commissioner is 4 years, except when a person
8 is elected to fill an unexpired term, in which case it
9 is for the remainder of the unexpired term.

10 2. Election designation. When only one county
11 commissioner is to be elected, the nomination papers
12 and official ballot shall specify simply the office of
13 county commissioner. When 2 or more county
14 commissioners are to be elected, the nomination papers
15 and ballots shall also designate the respective terms
16 for which they are to be nominated or elected.

17 §63. Vacancies during other times

18 When no choice is effected or a vacancy happens in
19 the office of county commissioner by death,
20 resignation, removal from the county or for any other
21 reason, the Governor shall appoint a person to fill
22 the vacancy. That person shall hold office until the
23 first day of January following the next biennial
24 election at which a person shall be elected to fill
25 the office.

26 In the case of a vacancy in the term of a
27 commissioner who was nominated by primary election
28 before the general election, the commissioner
29 appointed by the Governor must be enrolled in the same
30 political party as the commissioner whose term was
31 vacant.

32 §64. Military or naval service; substitutes

33 Whenever a county commissioner during the
34 commissioner's term of office in time of war,
35 contemplated war or emergency, enlists, enrolls, is
36 called or ordered or drafted into the military or
37 naval service of the United States, that commissioner
38 is not deemed to have thereby resigned from or

1 abandoned the office, nor is the commissioner
2 removable from that office during the period of
3 military or naval service except that the term of
4 office is not lengthened because of this section.
5 From the time of induction into service, the
6 commissioner is regarded as on leave of absence
7 without pay from the office, and the Governor shall
8 appoint a competent citizen, a resident of the same
9 county, to fill the office while the county
10 commissioner is in the federal service, but not for a
11 longer period than the remaining portion of that
12 commissioner's term. In the case of a vacancy in the
13 term of a commissioner who was nominated by primary
14 election before the general election, the commissioner
15 appointed by the Governor must be enrolled in the same
16 political party as the commissioner whose term was
17 vacant. During the period of military or naval
18 service, the county shall pay to the substitute county
19 commissioner a salary at the same rate as the rate of
20 pay of the county commissioner and amounts so paid
21 shall be deducted from the salary of the county
22 commissioner. The citizen appointed to fill the
23 temporary vacancy has the title of "substitute county
24 commissioner" and possesses all the rights and powers
25 and is subject to all the duties and obligations of
26 the county commissioner.

27 §65. Apportionment of county commissioner districts

28 1. Redistricting, generally. In 1983 and every
29 10 years thereafter, the apportionment commission
30 established under the Constitution of Maine, Article
31 IV, Part Third, Section 1-A, shall review the existing
32 county commissioner districts and, as necessary,
33 reapportion those districts in each county to
34 establish as nearly as practicable equally populated
35 districts. The Speaker of the House is responsible
36 for calling the commission together to review the
37 county commissioner districts. No action may be taken
38 by the commission without a quorum of 7.

39 A. The apportionment commission shall divide the
40 number of commissioners in each county into the
41 number of inhabitants of the county, excluding
42 foreigners not naturalized, according to the

1 latest Federal Decennial Census or a state census
2 previously ordered by the Legislature to coincide
3 with the Federal Decennial Census, to determine a
4 mean population figure for each county
5 commissioner district. Each county commissioner
6 district must be formed of contiguous and compact
7 territory and must cross political subdivision
8 lines the least number of times necessary to
9 establish as nearly as practicable equally
10 populated districts. Whenever the population of a
11 municipality entitles it to more than one
12 district, all whole districts must be drawn within
13 the municipal boundaries. Any population
14 remainder within the municipality must be included
15 in a district drawn to cross the municipal
16 boundary, provided that the population remainder
17 within the municipality is contiguous to another
18 municipality or municipalities included in the
19 district. Any county which already meets the
20 standards and guidelines for equally populated
21 districts, as established by this section, the
22 Constitution of Maine and the Constitution of the
23 United States, need not be reapportioned.

24 B. Interested parties from each county may submit
25 redistricting plans for the commission to
26 consider. Those plans must be submitted to the
27 commission no later than 30 calendar days after
28 the commission is called together by the Speaker
29 of the House under this subsection. The
30 commission may hold public hearings on plans
31 affecting each county.

32 C. The commission shall submit its plan to the
33 Clerk of the House no later than 120 calendar days
34 after the commission is called together by the
35 Speaker of the House under this subsection. The
36 Clerk of the House shall submit to the
37 Legislature, no later than January 15, 1984, and
38 every 10th year thereafter, one legislative
39 document to reapportion the county commissioner
40 districts based on the plan submitted by the
41 apportionment commission. The Legislature must
42 enact the submitted plan or a plan of its own in
43 regular or special session by a vote of 2/3 of the

1 members of each House within 30 calendar days
2 after the plan is submitted to it by the Clerk of
3 the House. This action is subject to the
4 Governor's approval, as provided in the
5 Constitution of Maine, Article IV, Part Third,
6 Section 2.

7 2. Supreme Judicial Court. If the Legislature
8 fails to make an apportionment within the 30 calendar
9 days, the Supreme Judicial Court shall make the
10 apportionment within 60 calendar days following the
11 period in which the Legislature is required to act,
12 but fails to do so. In making the apportionment, the
13 Supreme Judicial Court shall consider plans and briefs
14 filed by the public with the court during the first 30
15 days of the period in which the court is required to
16 apportion.

17 3. Funding. The commission shall make equal
18 amounts of money available to the 2 major parties
19 represented on the commission for the purpose of this
20 apportionment. In addition, sufficient funds shall be
21 made available to the chairman of the commission. The
22 commission shall recommend to the Legislature, if that
23 body is in session, otherwise to the Legislative
24 Council, an appropriation sufficient to cover the cost
25 of reapportionment.

26 §66. County commissioner districts

27 1. Creation of Androscoggin County Commissioner
28 Districts. Androscoggin County is divided into the
29 following 3 districts.

30 A. Commissioner District Number 1, in the County
31 of Androscoggin, consists of the municipalities of
32 Greene, Leeds, Lisbon, Livermore, Livermore Falls,
33 Sabattus, Turner, Wales and that portion of the
34 City of Lewiston described as follows: Beginning
35 on College Road at the Greene town line; thence in
36 a general southeasterly direction along the Greene
37 town line to Old Greene Road; thence in a general
38 southwesterly direction along Old Greene Road to
39 North Temple Street; thence in a general
40 southwesterly direction along North Temple Street

1 to Sabattus Street; thence in a general westerly
2 direction along Sabattus Street to Nichols Street;
3 thence in a general northeasterly direction along
4 Nichols Street to Holland Street; thence in a
5 general northwesterly direction along Holland
6 Street to College Street; thence in a general
7 northeasterly direction along College Street to
8 the point of beginning. The term of office of the
9 county commissioner from this district shall
10 expire in 1988 and every 4 years thereafter.

11 B. Commissioner District Number 2, in the County
12 of Androscoggin, consists of the municipalities of
13 Auburn, Durham, Mechanic Falls, Minot and Poland.
14 The term of office of the county commissioner from
15 this district shall expire in 1988 and every 4
16 years thereafter.

17 C. Commissioner District Number 3, in the County
18 of Androscoggin, consists of all of the City of
19 Lewiston, excepting that portion as described in
20 County Commissioner District Number 1. The term
21 of office of the county commissioner from this
22 district shall expire in 1990 and every 4 years
23 thereafter.

24 2. Creation of Aroostook County Commissioner
25 Districts. Aroostook County is divided into the
26 following 3 districts.

27 A. Commissioner District Number 1 consists of the
28 municipalities of Amity, Ashland, Bancroft,
29 Benedicta, Blaine, Bridgewater, Cary Plantation,
30 Crystal, Dyer Brook, E Plantation, Easton, Fort
31 Fairfield, Garfield Plantation, Glenwood
32 Plantation, Hammond, Haynesville, Hersey, Hodgdon,
33 Houlton, Island Falls, Linneus, Littleton, Ludlow,
34 Macwahoc Plantation, Mars Hill, Masardis, Merrill,
35 Monticello, Moro Plantation, Nashville Plantation,
36 New Limerick, Oakfield, Orient, Oxbow Plantation,
37 Reed Plantation, Sherman, Smyrna, Westfield,
38 Weston and the unorganized territories of Central
39 Aroostook and South Aroostook. The term of office
40 of the county commissioner from this district
41 shall expire in 1990 and every 4 years thereafter.

1 B. Commissioner District Number 2 consists of the
2 municipalities of Allagash, Caribou, Castle Hill,
3 Chapman, Eagle Lake, Mapleton, Perham, Portage
4 Lake, Presque Isle, St. Francis, St. John
5 Plantation, Wade, Washburn, Westmanland,
6 Winterville Plantation and the unorganized
7 territories of Northwest Aroostook and Square
8 Lake. The term of office of the commissioner from
9 this district shall expire in 1988 and every 4
10 years thereafter.

11 C. Commissioner District Number 3 consists of the
12 municipalities of Caswell Plantation, Cyr
13 Plantation, Fort Kent, Frenchville, Grand Isle,
14 Hamlin, Limestone, Madawaska, New Canada, New
15 Sweden, Saint Agatha, Stockholm, Van Buren,
16 Wallagrass Plantation, Woodland and the
17 unorganized territory of Connor. The term of
18 office of the commissioner from this district
19 shall expire in 1988 and every 4 years thereafter.

20 3. Creation of Cumberland County Commissioner
21 Districts. Cumberland County is divided into the
22 following 3 districts.

23 A. Commissioner District Number 1 consists of the
24 municipalities of Falmouth and Portland. The term
25 of office of the commissioner from this district
26 shall expire in 1988 and every 4 years thereafter.

27 B. Commissioner District Number 2 consists of the
28 municipalities of Baldwin, Cape Elizabeth, Gorham,
29 Scarborough, South Portland, Standish and
30 Westbrook. The term of office of the commissioner
31 from this district shall expire in 1988 and every
32 4 years thereafter.

33 C. Commissioner District Number 3 consists of the
34 municipalities of Bridgton, Brunswick, Casco,
35 Cumberland, Freeport, Gray, Harpswell, Harrison,
36 Naples, New Gloucester, North Yarmouth, Pownal,
37 Raymond, Sebago, Windham and Yarmouth. The term
38 of office of the commissioner from this district
39 shall expire in 1990 and every 4 years thereafter.

1 4. Creation of Franklin County Commissioner
2 Districts. Franklin County is divided into the
3 following 3 districts.

4 A. Commissioner District Number 1 consists of the
5 municipalities of Jay and Wilton. The term of
6 office of the commissioner from this district
7 shall expire in 1988 and every 4 years thereafter.

8 B. Commissioner District Number 2 consists of the
9 municipalities of Chesterville, Farmington,
10 Industry and New Sharon. The term of office of
11 the commissioner from this district shall expire
12 in 1988 and every 4 years thereafter.

13 C. Commissioner District Number 3 consists of the
14 municipalities of Avon, Carrabassett Valley,
15 Carthage, Coplin Plantation, Dallas Plantation,
16 Eustis, Kingfield, Madrid, New Vineyard, Phillips,
17 Rangeley Plantation, Rangeley, Sandy River
18 Plantation, Strong, Temple, Weld and the
19 unorganized territories of East Franklin, North
20 Franklin, South Franklin, West Central Franklin
21 and Wyman. The term of office of the commissioner
22 from this district shall expire in 1990 and every
23 4 years thereafter.

24 5. Creation of Hancock County Commissioner
25 Districts. Hancock County is divided into the
26 following 3 districts.

27 A. Commissioner District Number 1 consists of the
28 municipalities of Amherst, Aurora, Blue Hill,
29 Dedham, Eastbrook, Ellsworth, Gouldsboro, Great
30 Pond, Mariaville, Osborn, Otis, Sorrento,
31 Sullivan, Surry, Waltham, Winter Harbor and the
32 unorganized territories of Central Hancock, East
33 Hancock and North Hancock. The term of office of
34 the commissioner from this district shall expire
35 in 1988 and every 4 years thereafter.

36 B. Commissioner District Number 2 consists of the
37 municipalities of Brooklin, Brooksville,
38 Bucksport, Castine, Deer Isle, Orland, Penobscot,

1 Sedgwick, Stonington and Verona. The term of
2 office of the commissioner from this district
3 shall expire in 1990 and every 4 years thereafter.

4 C. Commissioner District Number 3 consists of the
5 municipalities of Bar Harbor, Cranberry Isles,
6 Franklin, Frenchboro, Hancock, Lamoine, Mount
7 Desert, Southwest Harbor, Swan's Island, Tremont
8 and Trenton. The term of office of the
9 commissioner from this district shall expire in
10 1988 and every 4 years thereafter.

11 6. Creation of Kennebec County Commissioner
12 Districts. Kennebec County is divided into the
13 following 3 districts.

14 A. Commissioner District Number 1 consists of the
15 municipalities of Augusta, Chelsea, China,
16 Randolph, Sidney, Vassalboro and Windsor. The
17 term of office of the commissioner from this
18 district shall expire in 1988 and every 4 years
19 thereafter.

20 B. Commissioner District Number 2 consists of the
21 municipalities of Belgrade, Farmingdale, Fayette,
22 Gardiner, Hallowell, Litchfield, Manchester,
23 Monmouth, Mount Vernon, Pittston, Readfield, Rome,
24 Vienna, Wayne, West Gardiner and Winthrop. The
25 term of office of the commissioner from this
26 district shall expire in 1990 and every 4 years
27 thereafter.

28 C. Commissioner District Number 3 consists of the
29 municipalities of Albion, Benton, Clinton,
30 Oakland, Waterville, Winslow and Unity Township.
31 The term of office of the commissioner from this
32 district shall expire in 1988 and every 4 years
33 thereafter.

34 7. Creation of Knox County Commissioner
35 Districts. Knox County is divided into the following
36 3 districts.

37 A. Commissioner District Number 1 consists of the

1 municipalities of Owls Head, Rockland and South
2 Thomaston. The term of office of the commissioner
3 from this district shall expire in 1990 and every
4 4 years thereafter.

5 B. Commissioner District Number 2 consists of the
6 municipalities of Cushing, Friendship, Isle au
7 Haut, Matinicus Isle Plantation, North Haven, St.
8 George, Thomaston, Vinalhaven, Warren and the
9 unorganized territory of Criehaven. The term of
10 office of the commissioner from this district
11 shall expire in 1988 and every 4 years thereafter.

12 C. Commissioner District Number 3 consists of the
13 municipalities of Appleton, Camden, Hope,
14 Rockport, Union and Washington. The term of
15 office of the commissioner from this district
16 shall expire in 1988 and every 4 years thereafter.

17 8. Creation of Lincoln County Commissioner
18 Districts. Lincoln County is divided into the
19 following 3 districts.

20 A. Commissioner District Number 1 consists of the
21 municipalities of Boothbay, Boothbay Harbor,
22 Southport, Westport and Wiscasset. The term of
23 office of the commissioner from this district
24 shall expire in 1988 and every 4 years thereafter.

25 B. Commissioner District Number 2 consists of the
26 municipalities of Bremen, Bristol, Monhegan
27 Plantation, Nobleboro, South Bristol and
28 Waldoboro. The term of office of the commissioner
29 from this district shall expire in 1990 and every
30 4 years thereafter.

31 C. Commissioner District Number 3 consists of the
32 municipalities of Alna, Damariscotta, Dresden,
33 Edgecomb, Jefferson, Newcastle, Somerville,
34 Whitefield and the unorganized territory of
35 Hibberts Gore. The term of office of the
36 commissioner from this district shall expire in
37 1988 and every 4 years thereafter.

1 9. Creation of Oxford County Commissioner
2 Districts. Oxford County is divided into the
3 following 3 districts.

4 A. Commissioner District Number 1 consists of the
5 municipalities of Andover, Bethel, Brownfield,
6 Denmark, Fryeburg, Gilead, Hanover, Hiram, Lovell,
7 Newry, Norway, Porter, Stoneham, Stow, Sweden,
8 Waterford and the unorganized territories of North
9 Oxford and those portions of South Oxford known as
10 Batchelders Grant and Mason. The term of office
11 of the commissioner from this district shall
12 expire in 1988 and every 4 years thereafter.

13 B. Commissioner District Number 2 consists of the
14 municipalities of Byron, Dixfield, Lincoln
15 Plantation, Magalloway Plantation, Mexico, Peru,
16 Roxbury, Rumford and Upton. The term of office of
17 the commissioner from this district shall expire
18 in 1988 and every 4 years thereafter.

19 C. Commissioner District Number 3 consists of the
20 municipalities of Buckfield, Canton, Greenwood,
21 Hartford, Hebron, Otisfield, Oxford, Paris,
22 Sumner, West Paris, Woodstock and the unorganized
23 territories of Milton and that portion of South
24 Oxford known as Albany. The term of office of the
25 commissioner from this district shall expire in
26 1990 and every 4 years thereafter.

27 10. Creation of Penobscot County Commissioner
28 Districts. Penobscot County is divided into the
29 following 3 districts.

30 A. Commissioner District Number 1 consists of the
31 municipalities of Bangor, Brewer and Hampden. The
32 term of office of the commissioner from this
33 district shall expire in 1988 and every 4 years
34 thereafter.

35 B. Commissioner District Number 2 consists of the
36 municipalities of Carmel, Clifton, Corinna,
37 Corinth, Dexter, Dixmont, Eddington, Etna, Exeter,
38 Garland, Glenburn, Hermon, Holden, Kenduskeag,
39 Levant, Newburgh, Newport, Orono, Orrington,

1 Plymouth, Stetson and Veazie. The term of office
2 of the commissioner from this district shall
3 expire in 1988 and every 4 years thereafter.

4 C. Commissioner District Number 3 consists of the
5 municipalities of Alton, Bradford, Bradley,
6 Burlington, Carroll Plantation, Charleston,
7 Chester, Drew Plantation, East Millinocket,
8 Edinburg, Enfield, Greenbush, Greenfield, Howland,
9 Hudson, Lagrange, Lakeville, Lee, Lincoln, Lowell,
10 Mattawamkeag, Maxfield, Medway, Milford,
11 Millinocket, Mount Chase, Old Town, Passadumkeag,
12 Patten, Prentiss Plantation, Seboeis Plantation,
13 Springfield, Stacyville, Webster Plantation, Winn,
14 Woodville, Penobscot Indian Island Reservation and
15 the unorganized territories of Argyle, Grand
16 Falls, Kingman, North Penobscot, Summit, Twombly
17 and Whitney. The term of office of the
18 commissioner from this district shall expire in
19 1990 and every 4 years thereafter.

20 11. Creation of Piscataquis County Commissioner
21 Districts. Piscataquis County is divided into the
22 following 3 districts.

23 A. Commissioner District Number 1 consists of the
24 municipalities of Abbot, Beaver Cove, Blanchard
25 Plantation, Greenville, Guilford, Kingsbury
26 Plantation, Monson, Shirley, Wellington,
27 Willimantic and the unorganized territory of
28 Elliottsville. The term of office of the
29 commissioner from this district shall expire in
30 1990 and every 4 years thereafter.

31 B. Commissioner District Number 2 consists of the
32 municipalities of Dover-Foxcroft, Parkman and
33 Sangerville. The term of office of the
34 commissioner from this district shall expire in
35 1988 and every 4 years thereafter.

36 C. Commissioner District Number 3 consists of the
37 municipalities of Atkinson, Bowerbank, Brownville,
38 Lake View Plantation, Medford, Milo, Sebec and the
39 unorganized territories of Barnard, Northeast
40 Piscataquis, Northwest Piscataquis and Southeast

1 Piscataquis. The term of office of the
2 commissioner from this district shall expire in
3 1988 and every 4 years thereafter.

4 12. Creation of Sagadahoc County Commissioner
5 Districts. Sagadahoc County is divided into the
6 following 3 districts.

7 A. Commissioner District Number 1 consists of the
8 municipalities of Bowdoin, Bowdoinham and
9 Topsham. The term of office of the commissioner
10 from this district shall expire in 1988 and every
11 4 years thereafter.

12 B. Commissioner District Number 2 consists of the
13 municipalities of Arrowsic, Georgetown,
14 Phippsburg, Richmond, West Bath, Woolwich, the
15 unorganized territory of Perkins and that portion
16 of the City of Bath south and east of a line
17 described as follows: Beginning at the Carleton
18 Bridge a line west to King Street at Water Street,
19 thence west on King Street to Washington Street,
20 thence south on Washington Street to Bath Street,
21 thence west on Bath Street to High Street, thence
22 south on High Street to Pine Street, thence east
23 on Pine Street to Washington Street, thence south
24 on Washington Street to an inlet of the Kennebec
25 River (which is just north of Hunt Street). The
26 term of office of the commissioner from this
27 district shall expire in 1988 and every 4 years
28 thereafter.

29 C. Commissioner District Number 3 consists of
30 that portion of the City of Bath north and west of
31 a line described as follows: Beginning at the
32 Carleton Bridge a line west to King Street at
33 Water Street, thence west on King Street to
34 Washington Street, thence south on Washington
35 Street to Bath Street, thence west on Bath Street
36 to High Street, thence south on High Street to
37 Pine Street, thence east on Pine Street to
38 Washington Street and thence south on Washington
39 Street to an inlet of the Kennebec River (which is
40 just north of Hunt Street). The term of office of
41 the commissioner from this district shall expire

1 in 1990 and every 4 years thereafter.

2 13. Creation of Somerset County Commissioner
3 Districts. Somerset County is divided into the
4 following 3 districts.

5 A. Commissioner District Number 1 consists of the
6 municipalities of Anson, Athens, Bingham, Brighton
7 Plantation, Cambridge, Caratunk, Dennistown
8 Plantation, Embden, Harmony, Hartland, Highland
9 Plantation, Jackman, Moose River, Moscow, New
10 Portland, Palmyra, Pleasant Ridge Plantation,
11 Ripley, St. Albans, Starks, The Forks Plantation,
12 West Forks Plantation and the unorganized
13 territories of Central Somerset, Northeast
14 Somerset, Northwest Somerset and Seboomook Lake.
15 The term of office of the commissioner from this
16 district shall expire in 1988 and every 4 years
17 thereafter.

18 B. Commissioner District Number 2 consists of the
19 municipalities of Fairfield, Madison, Mercer,
20 Norridgewock, Smithfield and Solon. The term of
21 office of the commissioner from this district
22 shall expire in 1988 and every 4 years thereafter.

23 C. Commissioner District Number 3 consists of the
24 municipalities of Canaan, Cornville, Detroit,
25 Pittsfield and Skowhegan. The term of office of
26 the commissioner from this district shall expire
27 in 1990 and every 4 years thereafter.

28 14. Creation of Waldo County Commissioner
29 Districts. Waldo County is divided into the following
30 3 districts.

31 A. Commissioner District Number 1 consists of the
32 municipalities of Belfast, Belmont, Islesboro,
33 Lincolnvillle and Northport. The term of office of
34 the commissioner from this district shall expire
35 in 1990 and every 4 years thereafter.

36 B. Commissioner District Number 2 consists of the
37 municipalities of Frankfort, Jackson, Monroe,

1 Prospect, Searsport, Stockton Springs, Swanville
2 and Winterport. The term of office of the
3 commissioner from this district shall expire in
4 1988 and every 4 years thereafter.

5 C. Commissioner District Number 3 consists of the
6 municipalities of Brooks, Burnham, Freedom, Knox,
7 Liberty, Montville, Morrill, Palermo, Searsmont,
8 Thorndike, Troy, Unity and Waldo. The term of
9 office of the commissioner from this district
10 shall expire in 1988 and every 4 years thereafter.

11 15. Creation of Washington County Commissioner
12 Districts. Washington County is divided into the
13 following 3 districts.

14 A. Commissioner District Number 1 consists of the
15 municipalities and unorganized territories of
16 Calais, Danforth, Topsfield, Indian Township
17 Voting District, unorganized territories of T8 R4,
18 Forest City T9 R4, Forest T10 R3, T8 R3, Brookton
19 Township, T11 R3, Lambert Lake T1 R3, Kossuth T7
20 R2, T6 R1, Dyer T1 R2, Fowler T1 R1, T5 ND, T6 ND,
21 T42 MD, T43 MD, T27 ED, T36 MD, T37 MD and T26 ED,
22 Vanceboro, Codyville Plantation, Waite, Talmadge,
23 Grand Lake Stream Plantation, Plantation Number
24 21, Princeton, Baileyville, Alexander, Crawford,
25 Meddybemps and Baring Plantation. The term of
26 office of the commissioner from this district
27 shall expire in 1988 and every 4 years thereafter.

28 B. Commissioner District Number 2 consists of the
29 municipalities and unorganized territories of East
30 Machias, Machiasport, Northfield, Robbinston,
31 Perry, Charlotte, Wesley, Cooper, Plantation
32 Number 14, Dennysville, Whiting, Cutler,
33 unorganized territories of T30 MD, T25 MD, T19 ED,
34 T18 ED, Marion Township, Edmunds Township,
35 Trescott, Lubec, Pembroke, Pleasant Point Voting
36 District and Eastport. The term of office of the
37 commissioner from this district shall expire in
38 1988 and every 4 years thereafter.

39 C. Commissioner District Number 3 consists of the
40 municipalities and unorganized territories of

1 county commissioners at meetings other than their
2 regular meetings shall be recorded in the minutes of
3 the next regular meeting after the decision is made.

4 §72. Quorum

5 A majority of the commissioners constitutes a
6 quorum. When fewer attend, they may adjourn to a
7 convenient time and place. When no commissioner
8 attends, the clerk may adjourn the meeting.

9 ARTICLE 4. CLERK: COUNTY ADMINISTRATOR

10 §81. Designation of clerk; duties

11 1. Appointment of clerk; term; clerk pro
12 tempore. The county commissioners in each county may
13 appoint a suitable person to serve as clerk to the
14 county commissioners. If the county has a county
15 administrator, the commissioners may not appoint a
16 clerk. The clerk of the county commissioners shall be
17 known as the county clerk.

18 A. The county clerk serves at the will of the
19 county commissioners.

20 B. When a clerk is absent, the clerk may appoint
21 a clerk pro tempore to the commissioners for whose
22 actions the clerk is responsible.

23 2. Duties; commissioners' records. County clerks
24 must be sworn and shall make a record of the actions
25 of the county commissioners. The commissioners shall
26 examine these records and, when correct, shall certify
27 them and they shall be adopted into the records of the
28 county commissioners by the clerk.

29 §82. County administrator

30 The county commissioners of each county may
31 appropriate funds for the hiring of a county
32 administrator. If the county commissioners do not
33 hire a full-time county administrator, then no county
34 employee, other than county commissioners, may perform

1 any of the administrative functions of a county
2 administrator.

3 1. Appointment; qualifications. The county
4 commissioners shall choose the county administrator
5 solely on the basis of executive and administrative
6 qualifications with special reference to the actual
7 experience in, or knowledge of, the duties of the
8 office as set forth in the policies established by the
9 board of county commissioners and by law.

10 A. At the time of appointment, the county
11 administrator need not be a resident of the
12 county, but, while in office, the county
13 administrator may reside outside the county only
14 with the county commissioners' approval.

15 B. A county administrator may not hold any other
16 elective or appointed county office, except as
17 provided in this section.

18 2. Compensation; tenure of office. The county
19 commissioners shall determine the compensation of the
20 county administrator. The county administrator shall
21 hold office for an indefinite term unless otherwise
22 specified by contract. The county commissioners may,
23 for cause, remove or suspend the county administrator
24 in accordance with the procedure for removing or
25 suspending a town manager under section 2633. In the
26 absence or during the disability of the county
27 administrator, the county commissioners may appoint an
28 official of the county to perform the administrator's
29 duties.

30 3. Duties. The county administrator is the chief
31 administrative official of the county and is
32 responsible for the administration of all departments
33 and offices controlled by the county commissioners.
34 The county administrator shall act as the clerk of the
35 county. The county administrator shall act as
36 purchasing agent for all departments and offices of
37 the county, although the county commissioners may
38 require that all purchases greater than a designated
39 amount must be submitted to sealed bid. The county

1 administrator shall attend all meetings of the county
2 commissioners, except when the county administrator's
3 removal or suspension is being considered. The county
4 administrator shall keep the county commissioners and
5 the county legislative delegation informed as to the
6 financial condition of the county and shall collect
7 all data necessary to prepare the budget.

8 4. County commissioners' compensation.
9 Notwithstanding any other provision of law, if the
10 county commissioners hire a full-time county
11 administrator, they shall forego the annual salary
12 otherwise due them and shall receive only \$75 each for
13 each meeting attended and reimbursement for travel at
14 the same rate established for state employees.

15 ARTICLE 5. POWERS AND DUTIES

16 §101. Commissioners' duties

17 The commissioners of each county shall:

18 1. Receipts and expenditures. Examine, allow and
19 settle accounts of the money of the county;

20 2. Representation. Represent the county;

21 3. Manage property and business. Care for its
22 property and manage its business;

23 4. Convey real estate. By a recorded order,
24 appoint an agent to convey its real estate;

25 5. County ways. Lay out, alter or discontinue
26 ways;

27 6. Keep books and accounts. Keep their books and
28 accounts on forms and in a manner approved by the
29 Department of Audit; and

30 7. Other duties. Perform all other duties
31 required by law.

32 §102. County commissioners' authority

1 The county commissioners have final authority over
2 the operation of all county offices by elected or
3 appointed county officers, except in circumstances for
4 which a County Personnel Board has been established
5 under subchapter VII, article 2 with the powers and
6 duties set forth in that article and in section 501.
7 The county commissioners must act as a board and not
8 on an individual basis in exercising this authority.

9 §103. County office hours

10 The county commissioners may establish reasonable
11 office hours for offices in the county buildings.
12 County offices, in the discretion of the county
13 commissioners, may be closed in part or in whole on
14 Saturdays.

15 1. County offices of Androscoggin County. Except
16 on any holiday listed in Title 4, section 1051, all
17 county offices of Androscoggin County shall remain
18 open from 9 a.m. to 5 p.m. during each working day.
19 This subsection does not apply to the offices of
20 sheriff, Judge of Probate and district attorney.

21 §104. Execution of process

22 Sheriffs and their deputies and constables shall
23 execute all legal processes directed to them by the
24 commissioners.

25 §105. Services in condemnation cases

26 The county commissioners shall charge \$3 a day and
27 actual traveling expenses for their services in the
28 assessment of damages for land or easement sought to
29 be taken or acquired by private corporations. They
30 must certify these charges and expenses in a bill of
31 items to the district attorney. The district attorney
32 shall collect these sums from the party seeking to
33 exercise the right of eminent domain and immediately
34 pay those sums to the county treasurer. The county
35 treasurer shall pay the actual traveling expenses to
36 the commissioners when they are collected by the
37 district attorney.

1 §106. Warrants of distress; actions

2 Warrants of distress on judgments legally rendered
3 by the county commissioners may be originally issued
4 within 2 years after judgment and made returnable to
5 the clerk's office within 90 days from their date.
6 New warrants may be issued within 2 years from the
7 return day of the last preceding warrant for any sums
8 remaining unpaid.

9 1. Warrants against municipalities. No warrant
10 may be originally issued against a municipality until
11 20 days after the county clerk transmits a certificate
12 of rendition of the judgment to the assessors of that
13 municipality.

14 2. Interest. Interest on the damages shall be
15 included and collected by warrants as in executions.

16 3. Civil action. A party, for whose benefit a
17 judgment is rendered by the county commissioners, may
18 recover the amount in a civil action founded on that
19 judgment.

20 §107. Contracts with municipalities

21 The county commissioners of each county may
22 contract with municipalities within the county to
23 provide services that either a county or a
24 municipality may perform. Under such a contract, the
25 county commissioners may also contract with other
26 political subdivisions of the State, quasi-municipal
27 corporations, any agency or instrumentality of the
28 State or with private enterprises, to enable or assist
29 in performing all or part of the services contracted
30 for by a municipality.

31 1. Municipal action required. The legislative
32 body of any municipality entering into a contract
33 under this section must take appropriate action by
34 ordinance, resolution or other action pursuant to law
35 before the contract takes effect.

36 2. Contents of contract. Any contract with a

- 1 municipality must specify the following:
- 2 A. Its duration;
- 3 B. Its purpose;
- 4 C. The manner and amount of financing for the
5 contracted services and maintaining a budget;
- 6 D. The scope and nature of the services to be
7 performed by the county;
- 8 E. The manner of administering the performance of
9 the contract and the methods and extent of
10 municipal control of that administration;
- 11 F. The manner of acquiring, holding and disposing
12 of real and personal property acquired or used in
13 performing the contract;
- 14 G. Any limitations on the county commissioners'
15 power to contract with other political
16 subdivisions, quasi-municipal corporations,
17 agencies, instrumentalities or enterprises to
18 perform the services specified in the
19 municipal-county contract, including the duties
20 and activities that may be contracted for by the
21 county;
- 22 H. The method of partial or complete termination
23 of the contract and the obligations and
24 responsibilities of each party on termination; and
- 25 I. Any other necessary and proper matters.
- 26 3. Filing. A copy of the contract shall be filed
27 with the clerk of each municipality that is a party to
28 the contract and in the office of the county
29 commissioners.

30 §108. Charges and rents

- 31 1. Publication charges. The county commissioners
32 shall set the amount to be charged by the register of
33 probate for the publication of notices required by

1 law. The amount set may not be less than the county's
2 actual cost of providing the publication service,
3 including the actual cost of publication.

4 2. Rent for county housing. The county
5 commissioners shall set the amount of rent to be
6 charged the sheriff or jailer occupying the house or
7 apartment connected with the county jail. The amount
8 of rent must be reasonable, but may not be less than
9 the actual cost of operating and maintaining the house
10 or apartment, including the cost of any fuel and
11 electricity supplied by the county.

12 ARTICLE 6. BUILDINGS AND PROPERTY

13 §121. County buildings and land; records; parking
14 areas

15 1. Buildings. The county commissioners, in the
16 county seat of their county, may provide a jail and
17 shall keep it in proper repair. The county
18 commissioners, in the county seat of their county,
19 shall provide and keep in repair:

20 A. Courthouses pursuant to Title 4, section 115,
21 with a suitable room in each for the county law
22 library;

23 B. Fireproof buildings of brick or stone, with
24 separate fireproof rooms and suitable alcoves,
25 cases or boxes for each office, for the
26 safekeeping of records and papers belonging to the
27 offices of:

28 (1) The register of deeds;

29 (2) The register of probate;

30 (3) The register of insolvency; and

31 (4) The clerk of courts; and

32 C. Any other necessary buildings.

1 2. Acquiring land. The county commissioners may
2 acquire land by purchase or by condemnation
3 proceedings for the enlargement of the grounds around
4 county buildings. These condemnation proceedings must
5 be in conformity with Title 23, sections 2051 to 2058.

6 3. Files and records. If, in the judgment of the
7 county commissioners, public convenience so requires,
8 they, at the county's expense, may cause the files and
9 records of the probate and other county courts to be
10 rearranged, indexed and docketed, the docketed which
11 are worn or defaced to be renewed and the indexes to
12 be consolidated under the direction of the respective
13 registers and clerks of courts.

14 4. Parking areas. The county commissioners may
15 lay out parking areas on county lands near county
16 buildings and may enact ordinances and enforce them by
17 suitable penalties for the reasonable use of those
18 areas. Any violation of these ordinances is a traffic
19 infraction.

20 §122. Location of county buildings; referendum
21 required.

22 The county commissioners may not remove a county
23 building or erect a new one outside of the county
24 seat, without first notifying the officers of each
25 municipality in the county of their intentions and of
26 the place where they propose to locate it. The
27 municipal officers shall present that proposal to the
28 municipality at its next annual meeting or election
29 for choosing state or municipal officers and receive,
30 sort and count the votes for and against the
31 proposal. They and the clerks shall certify and
32 return the votes to the county clerk. The
33 commissioners shall examine the votes and act
34 according to the decision of a majority.

35 §123. Inventory of property

36 By January 1st of each year, the county
37 commissioners of each county shall make or require an
38 inventory to be made of all property belonging to the
39 county. Copies of the inventory shall be filed in the

1 county commissioners' office by January 1st of each
2 year.

3 §124. Bids, awards and contracts

4 Any contract for construction, renovation or
5 improvement of county buildings or facilities
6 involving a total cost of \$2,500 or more must be
7 awarded by a system of competitive bidding.

8 Except for purchases through the State, the county
9 commissioners shall make all purchases over \$1,000 of
10 services, supplies, materials and equipment needed by
11 the county, or any department or agency of the county,
12 by competitive bidding. Title 5, section 1816 governs
13 these purchases as far as applicable. Title 5,
14 section 1816, subsection 2, paragraph A, governs
15 purchases through the State.

16 SUBCHAPTER III

17 COUNTY TREASURERS

18 ARTICLE 1. ELECTION AND TENURE

19 §151. Election; vacancy

20 Except as provided in section 156, the voters of
21 each county shall elect a county treasurer.

22 1. Qualifications. The county treasurer must be
23 a resident of the county. Neither the Attorney
24 General, district attorney, clerk of courts, sheriff
25 of the county nor any of the deputies may be county
26 treasurer.

27 2. Term. The county treasurer shall hold office
28 for 4 years from the first day of January following
29 the election and until another is chosen and qualified
30 in the county treasurer's place.

31 3. Vacancy. If a person so chosen declines to
32 accept or a vacancy occurs, the Governor may appoint a
33 suitable resident of the county to serve as treasurer.

1 When that person has accepted the office, provided a
2 bond and been sworn, that person shall be treasurer
3 until the first day of January following the next
4 biennial election, at which election a treasurer shall
5 be chosen for the remainder of the term, if any; but,
6 in any event, that person shall hold office until
7 another is chosen and qualified.

8 §152. Conduct of election; notice to county commiss-
9 ioners

10 The meetings for the election of treasurers shall
11 be conducted and returns made as provided in Title 33,
12 section 602. The Governor shall immediately notify
13 the county commissioners of the county where the
14 person resides of the election.

15 §153. Bond required

16 The person elected under section 152 and accepting
17 the office of county treasurer shall give bond to the
18 county for the faithful discharge of duties in the sum
19 ordered by the commissioners and with such sureties as
20 they approve in writing on the bond.

21 §154. Salaries

22 County treasurers shall receive annual salaries as
23 set forth in section 2. The deputy treasurer shall
24 receive an annual salary as established by the
25 treasurer and approved by the county commissioners.

26 §155. Androscoggin County treasurer to be full time

27 The office of treasurer of Androscoggin County is
28 a full-time office.

29 §156. Creation of position of appointed county
30 treasurer

31 1. County commissioners' decision. Notwith-
32 standing sections 151 and 152, the county
33 commissioners may decide to abolish the position of
34 elected county treasurer and replace it with an
35 appointed county treasurer. This decision is not

1 effective until approved by the voters of the county
2 under subsection 3.

3 2. Petition by voters. On the written petition
4 of a number of voters equal to at least 10% of the
5 number of votes cast in the county at the last
6 gubernatorial election, the county commissioners, by
7 order, shall provide for the abolition of the position
8 of elected county treasurer and its replacement with
9 an appointed county treasurer in the form and manner
10 provided in this section.

11 A. The petition procedure of section 1321,
12 subsection 3, shall be used in this alternative
13 method except that the legend at the top of each
14 petition form shall read as follows:

15 "County of ** **

16 Each of the undersigned voters respectively
17 requests the county commissioners to abolish
18 the position of elected county treasurer and
19 replace it with a county treasurer appointed
20 by the county commissioners."

21 B. The procedure after the petition is filed is
22 the same as that under section 1321, subsection 4.

23 3. Election procedure. Within 30 days after a
24 decision under subsection 1 or the receipt of a
25 certificate or final determination of sufficiency
26 under subsection 2, paragraph B, the county
27 commissioners, by order, shall submit the question of
28 the abolition of the position of elected county
29 treasurer and its replacement with an appointed county
30 treasurer to the voters of the county at the next
31 regular or special statewide election. The question
32 to be submitted to the voters shall be in substance as
33 follows:

34 "Shall the position of elected county treasurer be
35 abolished and replaced with a treasurer appointed
36 by the county commissioners?"

1 If a majority of those voting on this question vote in
2 the affirmative, the position of elected county
3 treasurer shall be abolished after the term of the
4 current elected county treasurer expires and the
5 county commissioners shall appoint a treasurer under
6 subsection 4.

7 4. Term; compensation; qualifications. Upon
8 abolition of the position of elected county treasurer
9 under this section, the county commissioners shall
10 appoint a treasurer to serve at their will and,
11 notwithstanding section 154, with the compensation
12 they set. The treasurer must be qualified in matters
13 of business administration and finance. The appointed
14 treasurer has all authority granted to treasurers
15 under this subchapter and is subject to all the
16 requirements of this subchapter.

17 ARTICLE 2. DEPUTIES

18 §161. Deputy treasurers; duties

19 Each county treasurer may appoint a deputy
20 treasurer for their county, subject to the
21 requirements of section 501. The deputy treasurer
22 shall assist the treasurer in performing the duties of
23 the treasurer's office. The deputy treasurer shall
24 give bond to the county for the faithful discharge of
25 duties in the sum ordered by the county commissioners
26 and with such sureties as they approve in writing on
27 the bond, the premium of the bond to be met by the
28 county. The deputy treasurer shall act as treasurer
29 in the event of a vacancy until a treasurer is chosen
30 and qualified under section 151.

31 §162. Provisional treasurer

32 If the offices of county treasurer and deputy
33 treasurer are both vacant, the county commissioners
34 shall appoint a provisional treasurer who shall serve
35 until a treasurer is chosen and qualified under
36 section 151. The provisional treasurer has all the
37 authority granted to treasurers under this subchapter
38 and is subject to all the requirements of this

1 subchapter.

2 ARTICLE 3. DUTIES GENERALLY

3 §171. Deposit or investment of county funds

4 The treasurer, with the approval of the county
5 commissioners, may deposit the money received for the
6 use of the county in any of the banking institutions
7 or trust companies or mutual savings banks organized
8 under the laws of this State or in any national bank
9 or banks located in the State. When, in the
10 treasurer's judgment, there is money in the treasury
11 which is not needed to meet current obligations, the
12 treasurer, with the advice and consent of the county
13 commissioners, may invest any amount considered
14 advisable in bonds, notes, certificates of
15 indebtedness or other obligations of the United States
16 which mature within one year from the date of
17 investment.

18 §172. Receipt of costs in favor of State

19 Costs in all civil actions in the name of the
20 State, paid before execution issues, shall be paid to
21 the clerk of the court where the action is pending.
22 The clerk shall pay these costs, without deduction, to
23 the county treasurer.

24 §173. Payments out of treasury

25 1. Payment on written order of commissioners.
26 The county treasurer shall apply all money received
27 for the use of the county toward defraying its
28 expenses, as the county commissioners direct by
29 written order.

30 2. Itemization required; public record. The
31 treasurer may not pay out any funds for an account or
32 claim against the county unless the account or claim
33 is itemized and declared to be a public record.
34 Notwithstanding Title 17-A, section 4-A, any violation
35 of this subsection is a Class E crime, punishable by a
36 fine of not more than \$300 or by imprisonment for not
37 more than 30 days, or both.

1 §174. Enforcing payment of taxes; collection of
2 accounts due counties

3 1. Enforcing payment of taxes. The county
4 treasurer may enforce the payment of taxes in the
5 manner prescribed for the Treasurer of State.

6 2. Charging off accounts. The county treasurer
7 may charge off the county's books of account, in whole
8 or in part, and any accounts receivable, including
9 taxes, that the county commissioners certify as
10 impracticable of realization.

11 ARTICLE 4. RECORDS AND ACCOUNTS

12 §181. Method of accounting; report to commissioners

13 The county treasurer shall keep the books and
14 accounts on forms and in the manner approved by the
15 Department of Audit. The treasurer shall report all
16 county receipts and payments to the commissioners of
17 the county.

18 §182. Accounts to commissioners

19 Each county treasurer shall provide the
20 commissioners of the county with the following.

21 1. Annual accounting of county books. The county
22 treasurer shall prepare and deliver the annual account
23 as treasurer to the county clerk. This account shall
24 be enclosed with the estimates for county taxes made
25 by the county commissioners and sent to the Secretary
26 of State.

27 2. Account of money or effects. Every treasurer
28 holding money or effects belonging to the county,
29 annually and more often if required, shall provide an
30 account of the money or effects to the county
31 commissioners for adjustment.

32 3. Account of federal money for use of jails.
33 The county treasurer shall receive, for the county,

1 all money paid by the United States for the use and
2 keeping of county jails and account for that money
3 according to law.

4 §183. Annual statement of financial standing

5 At the end of each year, in cooperation with the
6 commissioners, each treasurer shall make a statement
7 of the financial condition of the county and shall
8 publish in pamphlet form a reasonable number of copies
9 for distribution among its citizens. This statement
10 must show in detail all money received into and paid
11 out of the county treasury, including a statement in
12 detail of:

13 1. Unclaimed inheritances. All sums received
14 under Title 18-A, section 3-914;

15 2. Division among accounts. The division of
16 money among general, special and capital reserve
17 accounts and the amounts remaining in each account;

18 3. Federal funds. All federal funds received; and

19 4. Facts and statistics. Other facts and
20 statistics necessary to exhibit the true state of the
21 county's finances, including the number of weeks'
22 board and expense of clothing furnished prisoners.

23 SUBCHAPTER IV

24 CLERKS

25 §201. Clerical help

26 In all county offices, there shall be allowed for
27 clerk hire the amount authorized by the county
28 commissioners. The county commissioners shall
29 determine the salary of all clerks after receiving a
30 recommendation from the county officer under whom the
31 clerk is employed. The county treasurer shall pay
32 weekly to the clerks employed by the county the wages
33 to which they are entitled. The county commissioners
34 shall certify the names of the clerks to the county

1 treasurer. The county commissioners may provide for a
2 county pay scale, vacations and sick leave for
3 clerical help.

4 SUBCHAPTER V

5 DISTRICT ATTORNEYS

6 ARTICLE 1. ELECTION AND TENURE

7 §251. Election; qualifications

8 District attorneys shall be elected as provided in
9 this section. They shall enter office on the first
10 day of January following their election.

11 1. Election. The district attorneys shall be
12 elected on the Tuesday following the first Monday of
13 November in every 4th year, by the voters of the
14 respective prosecutorial districts. The votes shall
15 be received, sorted, counted and declared in the same
16 manner as votes for Representatives. The names of the
17 persons voted for, the number of votes for each and
18 the whole number of ballots received shall be recorded
19 by the clerk of each municipality within the
20 prosecutorial district. The clerk shall send true
21 copies of these names and totals, sealed and attested
22 as returns of votes for Senators, to the Secretary of
23 State.

24 2. Qualifications. Only attorneys admitted to
25 the general practice of law in this State and who
26 reside in the prosecutorial district may be elected or
27 appointed district attorney. Removal from the
28 prosecutorial district vacates the office.

29 3. Term of office. The term of office for a
30 district attorney is 4 years, except when one is
31 elected to fill out an unexpired term, in which case
32 it is for the remainder of the unexpired term.

33 §252. Vacancies in office

34 A vacancy in the office of district attorney,
35 because of expiration of the term of office, death,

1 permanent incapacity, removal from office under
2 section 257, removal from the prosecutorial district,
3 or otherwise, shall be filled under this section,
4 except as provided in section 253.

5 1. Vacancies caused by expiration of the term.
6 Vacancies occurring by expiration of the term of
7 office shall be filled by election in that year as
8 provided in section 251.

9 2. Vacancies caused by other reasons. When no
10 person is elected or a vacancy happens in the office
11 of district attorney, other than as provided in
12 subsection 1, the Governor shall appoint a competent
13 attorney, a resident of the prosecutorial district
14 affected, to serve as a substitute district attorney
15 until the first day of January following the next
16 biennial election. At that election, a person shall
17 be elected to the office of district attorney to serve
18 for the remainder of the unexpired term. When the
19 office of district attorney becomes vacant after the
20 first day of October in the 2nd year after the
21 election of a district attorney under section 251, a
22 new election shall not be held to fill the vacancy,
23 but the substitute district attorney shall serve for
24 the remainder of the unexpired term.

25 A. In the case of a vacancy in the term of a
26 district attorney who was nominated by primary
27 election before the general election, the district
28 attorney appointed by the Governor must be
29 enrolled in the same political party as the
30 district attorney whose term was vacant.

31 §253. Military or naval service; substitutes

32 Whenever a district attorney during the district
33 attorney's term of office in time of war, contemplated
34 war or emergency, enlists, enrolls, is called or
35 drafted into the military service of the United
36 States, that district attorney is not deemed to have
37 thereby resigned from or abandoned the office; nor is
38 the district attorney removable from that office
39 during military service except that the term of office
40 may not be held to have been lengthened because of

1 this section. From the time of induction into
2 service, the district attorney is regarded as on leave
3 of absence without pay from the office and the
4 Governor shall appoint a competent attorney, a
5 resident of the same prosecutorial district, to fill
6 the office while the district attorney is in the
7 Federal service, but not for a longer period than the
8 remaining portion of the district attorney's term.
9 During the period of military or naval service, the
10 Treasurer of State shall pay to the substitute
11 attorney a salary at the same rate as the rate of pay
12 of the district attorney and amounts so paid shall be
13 deducted from the salary of the district attorney.
14 The attorney so appointed to fill the temporary
15 vacancy has the title of "substitute district
16 attorney" and possesses all the rights and powers and
17 is subject to all the duties and obligations of the
18 district attorney.

19 §254. Prosecutorial districts

20 1. Prosecutorial District Number 1. There shall
21 be one district attorney for York County, which shall
22 be known as "Prosecutorial District Number 1." The
23 district attorney shall be elected by the voters of
24 York County in the manner set forth in section 251.

25 2. Prosecutorial District Number 2. There shall
26 be one district attorney for Cumberland County, which
27 shall be known as "Prosecutorial District Number 2."
28 The district attorney shall be elected by the voters
29 of Cumberland County in the manner set forth in
30 section 251.

31 3. Prosecutorial District Number 3. There shall
32 be one district attorney for Oxford, Franklin and
33 Androscoggin Counties, which shall be known as
34 "Prosecutorial District Number 3." The district
35 attorney shall be elected by the voters of Oxford,
36 Franklin and Androscoggin Counties in the manner set
37 forth in section 251.

38 4. Prosecutorial District Number 4. There shall
39 be one district attorney for Kennebec and Somerset

1 Counties, which shall be known as "Prosecutorial
2 District Number 4." The district attorney shall be
3 elected by the voters of Kennebec and Somerset
4 Counties in the manner set forth in section 251.

5 5. Prosecutorial District Number 5. There shall
6 be one district attorney for Penobscot and Piscataquis
7 Counties, which shall be known as "Prosecutorial
8 District Number 5." The district attorney shall be
9 elected by the voters of Penobscot and Piscataquis
10 Counties in the manner set forth in section 251.

11 6. Prosecutorial District Number 6. There shall
12 be one district attorney for Sagadahoc, Lincoln, Knox
13 and Waldo Counties, which shall be known as
14 "Prosecutorial District Number 6." The district
15 attorney shall be elected by the voters of Sagadahoc,
16 Lincoln, Knox and Waldo Counties in the manner set
17 forth in section 251.

18 7. Prosecutorial District Number 7. There shall
19 be one district attorney for Hancock and Washington
20 Counties, which shall be known as "Prosecutorial
21 District Number 7." The district attorney shall be
22 elected by the voters of Hancock and Washington
23 Counties in the manner set forth in section 251.

24 8. Prosecutorial District Number 8. There shall
25 be one district attorney for Aroostook County, which
26 shall be known as "Prosecutorial District Number 8."
27 The district attorney shall be elected by the voters
28 of Aroostook County in the manner set forth in section
29 251.

30 §255. District attorney salaries

31 1. Annual salary. The district attorney for each
32 of the prosecutorial districts in section 254 shall
33 receive an annual salary of \$35,000.

34 2. Biweekly payments. The district attorneys and
35 their assistants shall receive their annual salaries
36 from the State Treasury in biweekly payments on a date
37 to be determined by the State Controller and in a sum

1 which, in a year aggregate, will most nearly equal the
2 annual salary.

3 3. Additional sums. In addition to the annual
4 salary under subsection 1, each district attorney
5 shall receive the additional sums for which the
6 district attorney qualifies under the following
7 provisions:

8 A. One thousand two hundred dollars for each full
9 calendar year of prior service as an elected or
10 appointed Attorney General, Deputy Attorney
11 General, United States Attorney or district
12 attorney within the State;

13 B. Three hundred dollars for each 50,000 persons
14 constituting the population of the district
15 according to the latest Federal Decennial Census;

16 C. Three hundred dollars for each county within
17 the district;

18 D. Four hundred dollars for each full calendar
19 year of prior service as assistant district
20 attorney, United States Attorney or Assistant
21 Attorney General; and

22 E. Four hundred dollars for each full calendar
23 year of prior service as an elected or appointed
24 county attorney.

25 4. Prior service. The method of proving prior
26 service is as follows.

27 A. Whenever it appears that any district attorney
28 qualifies for any payments under subsection 3, the
29 records of the Secretary of State control the
30 length and type of prior service.

31 B. If any district attorney qualifies for payment
32 because of prior service with the Federal
33 Government or in another state, that district
34 attorney must secure and furnish to the Secretary
35 of State such official records as may properly

1 document the prior service.

2 5. Limitation. The salary of any district
3 attorney may not exceed that of a Justice of the
4 Superior Court.

5 §256. Full-time district attorneys

6 All district attorneys and assistant district
7 attorneys designated as full-time assistants are
8 full-time officers of the State. During their terms
9 of office, they may not:

10 1. Appear as counsel. Appear as counsel in any
11 civil or criminal case or controversy before the
12 Supreme Judicial Court, Superior Courts or District
13 Courts of the State or comparable courts in any other
14 state or before the United States District Court or at
15 any administrative hearing held by any state or United
16 States agency other than in the capacity as district
17 attorney; or

18 2. Private practice of law. Engage in the
19 private practice of law nor be a partner or associate
20 of any person engaged in the private practice of law
21 nor be a member or employee of a professional
22 association engaged in the private practice of law.

23 §257. Removal from office

24 The Justices of the Supreme Judicial Court have
25 jurisdiction to remove any district attorney from
26 office, by majority vote of the justices sitting, upon
27 complaint filed with the court by the Attorney
28 General, and after notice and hearing, as provided in
29 this section.

30 1. Expedited proceeding. Proceedings under this
31 section shall be expedited insofar as practicable and
32 shall take precedence over all other matters except
33 requests for opinions of the justices and petitions
34 for writs of habeas corpus.

35 2. Complaint; application of court rules. The
36 complaint in a proceeding under this section shall

1 contain a short and plain statement of facts showing
2 that grounds for removal exist. The proceedings shall
3 be conducted in accordance with the Maine Rules of
4 Civil Procedure and the Maine Rules of Evidence,
5 except that:

6 A. Discovery procedures may be used only by order
7 of the court on motion for cause shown; and

8 B. The court may modify any rule or restrict its
9 application as is necessary or appropriate to
10 expedite the proceeding and ensure that the court
11 is as fully informed of the relevant and material
12 facts as practicable.

13 3. Removal. If a majority of the justices
14 sitting finds, by clear and convincing evidence, that
15 the respondent district attorney has violated a
16 statute or is not performing the duties faithfully and
17 efficiently, and finds in consequence that removal
18 from office is necessary in the public interest,
19 judgment to that effect shall be entered, and the
20 respondent shall thereby be removed from office as
21 district attorney.

22 ARTICLE 2. ASSISTANTS AND SUBSTITUTES

23 §271. Appointment of temporary substitutes

24 When the district attorney does not attend a
25 criminal session or the office is vacant, the court
26 may appoint an attorney to perform duties during the
27 session and allow a reasonable compensation to be paid
28 from the county treasury, in the county where the
29 appointment is made. The justice shall notify the
30 Attorney General who shall deduct that amount from the
31 district attorney's salary and forward it to the
32 county treasurer.

33 §272. Assistant district attorneys

34 1. Appointment. Each district attorney shall
35 appoint assistant district attorneys, one or more of
36 whom may be full-time, to serve at the district
37 attorney's will. The district attorney shall designate

1 whether each assistant district attorney will serve
2 full-time or part-time when appointed.

3 2. Duties. The assistants shall take the oath
4 prescribed for district attorneys and assist the
5 district attorney in the ordinary duties of that
6 office, in the drawing of indictments, in the hearing
7 of complaints before the grand juries and in the
8 preparation and trial of criminal causes. They, when
9 directed by the district attorney, shall act as
10 counsel for the State in the trial of complaints
11 before Judges of the District Court and Justices of
12 the Superior Court and in the prosecution of appeals
13 before the Supreme Judicial Court.

14 3. Salaries. The district attorney shall set the
15 salaries of assistant district attorneys. Salaries
16 for full-time assistants may not exceed 80% of the
17 salary designated for the district attorney. Salaries
18 for part-time assistants may not exceed 50% of the
19 salary designated for the district attorney. Salaries
20 for assistant district attorneys shall be on an annual
21 basis and shall be paid in the same manner as is
22 provided for the payment of salaries for district
23 attorneys.

24 4. Deputy district attorney. Each district
25 attorney may designate one full-time assistant
26 district attorney or, if there is no full-time
27 assistant district attorney, one part-time assistant
28 district attorney to be the deputy. In the absence of
29 the district attorney, the deputy shall act in the
30 district attorney's place and shall have the
31 authority, duties and responsibilities of the district
32 attorney. Notwithstanding any other provision of law,
33 any full-time assistant district attorney designated
34 as a deputy district attorney may receive a salary up
35 to 90% of the salary designated for the district
36 attorney.

37 5. Staff. Each district attorney shall be
38 allowed sufficient sums to ensure an adequate staff of
39 assistants to screen, process and investigate
40 complaints, to assist law enforcement agencies, to
41 conduct trials in the District and Superior Courts, to

1 prosecute appeals in the Supreme Judicial Court and to
2 carry out all other duties and responsibilities.

3 6. Allowance for compensation. For the
4 compensation of assistant district attorneys, the
5 district attorneys shall be allowed annually sums up
6 to the limit of \$40,000 plus 68¢ for each person
7 constituting the population of the district according
8 to the latest formal population estimate of the Office
9 of Vital Statistics of the Department of Human
10 Services until June 30, 1988 and \$40,000 plus 69¢ for
11 each such person thereafter. In addition to the sums
12 allowed in this section, funds shall be provided for
13 fringe benefits for which other state employees,
14 including confidential employees, are eligible.

15 ARTICLE 3. DUTIES

16 §281. District attorney operations

17 1. Expenses allowed. County commissioners shall
18 allow to the district attorney serving the county
19 sufficient funds for all office expense, clerk hire
20 and travel, including, but not limited to, funds for:

21 A. Consultation and services of experts;

22 B. Rendition of prisoners; and

23 C. Training and reference books and treatises
24 which may aid the district attorney and staff in
25 the prosecution of criminal matters.

26 2. Office space. The county commissioners shall
27 also provide to the district attorney serving the
28 county office space suitable for the performance of
29 duties, including sufficient private area for
30 research, conferences and meetings with officers,
31 witnesses, complainants and citizens. If office space
32 is not available on county property, the county
33 commissioners shall provide sufficient funds to the
34 district attorney for the rental of suitable quarters
35 at locations convenient to courthouses within the
36 county.

1 §282. Civil proceedings

2 1. Representation of counties. The county
3 commissioners shall immediately transmit to the
4 district attorney serving the county any writs,
5 summonses or other processes served upon the county or
6 commissioners. The district attorney for each
7 prosecutorial district shall appear for each county
8 within the district for which the district attorney
9 was elected, under the direction of the county
10 commissioners for each county within that district, in
11 all actions and other civil proceedings in which any
12 county within the district is a party or is
13 interested, or in which the official acts of the
14 county commissioners are called in question, in all
15 the courts of the State, and in such actions and
16 proceedings before any other tribunal when requested
17 by the commissioners. The district attorney shall
18 prosecute or direct the prosecution of all such
19 actions and proceedings. The county commissioners may
20 employ other counsel if in their judgment the public
21 interest so requires.

22 2. Traffic infractions. The district attorney,
23 or someone acting under the district attorney's
24 direction, shall prosecute all traffic infraction
25 cases and shall be present at the trial of any such
26 case.

27 3. Civil actions; State as party. The district
28 attorney shall prosecute to final judgment and
29 execution all civil cases in which the State is a
30 party in any county within the district attorney's
31 prosecutorial district and shall institute proceedings
32 against sureties on any recognizance upon which the
33 principal and sureties have been defaulted, before the
34 term next succeeding that at which the default was
35 entered upon the docket of the court, unless by order
36 in open court the presiding justice grants a delay in
37 proceedings against the sureties.

38 4. Compensation. For the services mentioned, the
39 district attorney may receive no compensation other

1 than the salary from the State, except actual expenses
2 when performing those services. Those expenses shall
3 be audited by the county commissioners and paid from
4 the county treasury.

5 5. Limitation. This section does not relate to
6 or give the district attorney control of litigation in
7 which any county within the prosecutorial district is
8 not financially interested although the official acts
9 of the county commissioners may be called in question.

10 §283. Criminal proceedings

11 The district attorney shall attend all criminal
12 trials held in the counties within the prosecutorial
13 district for which the district attorney was elected
14 and act for the State in all cases in which the State
15 or county is an interested party. Unless the district
16 attorney makes an order of dismissal under section
17 284, the district attorney or someone acting under the
18 district attorney's direction shall prosecute all
19 criminal cases and shall be present at the trial of
20 any such case before the District Court of any of the
21 counties within the district. If the Attorney General
22 is absent from a term in any of the counties, the
23 district attorney shall perform the Attorney General's
24 duties in state cases, in any of the counties, under
25 directions from the Attorney General. The district
26 attorney shall appear and act for the State with the
27 Attorney General in the Law Court in all state cases
28 coming into that court from any of the counties. No
29 additional compensation may accrue to the district
30 attorney for performing these duties.

31 §284. Dismissal of cases

32 1. Civil cases. In order to dismiss civil cases,
33 the district attorney must sign a written order of
34 dismissal together with a statement of the reasons for
35 dismissal upon the back of the writ or complaint in
36 those cases. This order of dismissal does not take
37 effect unless approved in writing by the justice
38 presiding at the term when the dismissal is made.

1 2. Criminal cases. The district attorney may
2 dismiss criminal cases in such manner and under such
3 circumstances as the Supreme Judicial Court may
4 provide by rule.

5 §285. Collection of fines and costs; examination of
6 sheriff's bond

7 1. Enforce collection of fines; move examination
8 of sheriff's bond. For counties within the district
9 attorney's prosecutorial district, the district
10 attorney shall:

11 A. Enforce the collection and payment to the
12 county treasurers of all fines, forfeitures and
13 costs accruing to the State and the faithful
14 performance of their duties by sheriffs and
15 constables and inform the court of their defaults
16 in this respect; and

17 B. Annually move the county commissioners of each
18 of the counties within the prosecutorial district,
19 at their respective meetings immediately following
20 the 3rd Tuesday of June, to examine and consider
21 the sufficiency of the bond of the sheriff for
22 their county.

23 2. Civil violation. If the district attorney
24 neglects either of these duties, the district attorney
25 commits a civil violation for which a forfeiture of
26 not more than \$100 may be adjudged. This forfeiture
27 is to be recovered in a civil action in the name of
28 the Treasurer of State.

29 §286. Restrictions and obligations

30 The district attorney is under the same
31 restrictions as to fees and the same obligations as to
32 witnesses as imposed on the Attorney General by Title
33 5, sections 201 and 205.

34 §287. Physical examination of crime victims

35 1. Payment of expenses by district attorney. In
36 all cases of alleged rape, gross sexual misconduct,

1 sexual abuse of minors and assault when serious bodily
2 injury has been inflicted, which are reported to a law
3 enforcement officer, the office of the district
4 attorney of the county in which the alleged crime
5 occurred shall pay all expenses for a physical
6 examination of a victim of the alleged crime which is
7 conducted for the purpose of obtaining evidence for
8 the prosecution.

9 2. Limitation. The office of the district
10 attorney is not liable for the payment of any charges,
11 costs or fees for an examination under subsection 1
12 until the district attorney has received copies of all
13 reports and records pertaining to the examination, if
14 the copies have been requested.

15 3. Medical personnel not liable for furnishing
16 reports, records or testimony. No physician, nurse,
17 hospital, clinic or any other person, firm or
18 corporation attending a victim under subsection 1 may
19 be liable in damages or otherwise for providing
20 reports or records, copies of reports or records or
21 for their testimony relating to any examination
22 performed under this section when those reports,
23 records or testimony are provided to a district
24 attorney, a law enforcement officer or a court for the
25 purpose of prosecuting the alleged crime, whether or
26 not the reports, records or testimony are provided
27 with the written authorization of the victim examined
28 under this section.

29 §288. Disclosure of minor victims of sexual offenses

30 The Legislature finds that publicity given to the
31 identity of minor victims of sexual offenses causes
32 intense shame and humiliation for which abused
33 children are particularly ill-prepared and may cause
34 severe and permanent emotional harm to the victim of
35 such an offense.

36 Therefore district attorneys, their assistants and
37 employees and other law enforcement officials shall
38 refrain from any unnecessary pretrial public
39 disclosure of information that may identify a minor
40 victim of an offense under Title 17, chapter 93-B,

1 Title 17-A, chapter 11 or Title 17-A, section 556.

2 §289. Investigation of child abuse cases

3 Unless a written agreement exists between a law
4 enforcement agency and a district attorney concerning
5 primary responsibility for investigating any of the
6 following offenses, the district attorney may direct
7 the investigation of any offense under Title 17,
8 chapter 93-B, and Title 17-A, chapter 11, or Title
9 17-A, sections 207, 208 and 556, when a victim may not
10 have attained his 18th birthday, and may designate, by
11 geographical boundaries or otherwise, a particular law
12 enforcement agency to have primary responsibility for
13 that investigation.

14 Any case involving the sexual or physical abuse of
15 children which is discovered by or reported to any law
16 enforcement department or officer shall be immediately
17 reported by that department or officer to the
18 appropriate district attorney or assistant district
19 attorney or, in their absence, to the Attorney General
20 or one of the Attorney General's assistants.

21 SUBCHAPTER VI

22 SHERIFFS AND OFFICERS

23 ARTICLE 1. GENERAL PROVISIONS

24 §351. Definitions

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

28 1. Deputy. "Deputy" means either a full-time or
29 part-time county law enforcement officer appointed
30 under section 381.

31 2. Full-time deputy. "Full-time deputy" means a
32 deputy who is compensated on a salaried or per diem
33 basis under section 386, subsection 1, and who is
34 employed in county law enforcement for at least 40

1 hours a week.

2 3. Part-time deputy. "Part-time deputy" means a
3 deputy who is compensated on an hourly or per diem
4 basis under section 386, subsection 2, and who does
5 not receive more than the maximum amount allowed under
6 that subsection in any one calendar or fiscal year for
7 performing county law enforcement duties.

8 4. Special deputy. "Special deputy" means a
9 person appointed under section 382 who may exercise
10 the powers of a deputy only when a state of war or
11 emergency exists.

12 §352. Pension for dependents

13 If a sheriff or deputy dies as a result of injury
14 received in the line of duty, the spouse or, if none,
15 the minor child or children, of the sheriff or deputy
16 shall receive a pension equal to 1/2 of the pay of the
17 sheriff or deputy at the time of death, but in no case
18 may the pension be less than \$1,000 annually. This
19 pension shall be paid to the spouse until the spouse
20 dies or remarries and to a child or children until
21 they die or reach the age of 18 years.

22 The county commissioners of each county shall pay
23 these pensions from county funds.

24 §353. Officer not to act as attorney or draw papers;
25 employee of jailer not to act as judge or
26 attorney

27 No officer may appear before any court as attorney
28 or adviser of any party in an action or draw any writ,
29 complaint, declaration, citation, process or plea for
30 any other person; all such acts are void. No person
31 employed by the keeper of a jail in any capacity may
32 exercise any power or duty of a magistrate or act as
33 attorney for any person confined in the jail; all such
34 acts are void.

35 §354. Uniforms

36 Every county shall furnish one uniform to the

1 sheriff and to each full-time deputy, sufficient to
2 identify them as officers of the law. If the county
3 commissioners approve, the county may provide more
4 than one uniform for each. The sheriffs shall require
5 each deputy, while engaged in the enforcement of Title
6 29, section 2501, to wear a uniform as required by
7 this section.

8 §355. Political activities

9 1. Sheriff. No sheriff may directly or
10 indirectly coerce, attempt to coerce or command any
11 county employee or deputy to pay, lend or contribute
12 anything of value to, or to engage in any political
13 service or activity on behalf of, a party, committee,
14 organization, agency or person for political purposes.

15 2. Full-time deputies. No full-time deputy may
16 hold the municipal office of selectman, city
17 councilman or budget committeeman or any county or
18 state office.

19 3. Sheriffs and deputies. No sheriff or deputy,
20 whether a full-time, part-time or chief deputy, may
21 directly or indirectly, solicit or receive, or be in
22 any manner concerned in soliciting or receiving any
23 assessment, subscription, contribution or political
24 service, whether voluntary or involuntary, for any
25 political purpose from any person, except that while
26 off duty and not in uniform a sheriff or deputy may
27 engage in political activities relating to nonpartisan
28 municipal, school board or special district elections
29 and may solicit or receive contributions or political
30 services for the purpose of electing that sheriff or
31 deputy to a political office.

32 4. Official duties. Official duties undertaken
33 solely to preserve the public peace and the order and
34 security of polling places are not political services
35 or activities.

36 5. Rights of voting and free expression.
37 Sheriffs or deputies retain the right to vote as they
38 choose; to express opinions on political subjects or
39 candidates and to attend and vote at party caucuses
40 and conventions.

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ARTICLE 2. ELECTION AND TENURE; BOND

§371. Election or appointment

Sheriffs shall be elected or appointed and shall hold their offices according to the Constitution of Maine. Their election shall be conducted and determined as is provided for county commissioners. They shall take office on the first day of January following their election.

§372. Sheriff's bond

1. Bond required. Every person elected or appointed sheriff for the Counties of York, Cumberland, Kennebec or Penobscot, before receiving that commission, must give bond to the Treasurer of State with at least 3 sufficient sureties or with the bond of a surety company authorized to do business in this State as surety in the sum of \$40,000 and for any of the other counties in the sum of \$25,000, conditioned for the faithful performance of the duties of the office and to answer for all neglect and misdoings of the chief deputy.

2. Approval of bond; delivery to State Auditor. After executing the required bond, every sheriff shall file it in the office of the county clerk, to be presented to the county commissioners at their next meeting for approval. After the bond has been approved by the commissioners, the clerk shall record it and certify the fact of approval on the bond. The clerk shall retain a copy of the bond and deliver the original to the sheriff who shall deliver it to the State Auditor within 20 days after its approval to be filed in the State Auditor's office.

3. Annual examination of bonds. The county commissioners of each county, at their first meeting after the 3rd Tuesday of June, on motion of the district attorney, shall annually examine the sufficiency of the bond of the sheriff of their county and have their clerk make a record of their determination. The clerk shall report the commissioner's findings to the State Auditor within 30

1 days.

2 4. New bond where insufficient. If the bond of
3 any sheriff is found to be insufficient, the clerk
4 shall certify that fact to the sheriff within 10
5 days. Within 20 days after that notice is given, the
6 sheriff must give a new bond with sufficient sureties,
7 to be filed in the office of the county clerk and
8 approved by the county commissioners, and then filed
9 in the State Auditor's office.

10 5. Forfeiture for neglect to give bond. A
11 sheriff forfeits \$150 to the State for each month's
12 neglect to give the security required in this
13 section. The State Auditor shall report that neglect
14 to the Treasurer of State. The Attorney General shall
15 prosecute a civil action for the Treasurer of State to
16 recover the forfeiture. The clerk of courts of the
17 sheriff's county shall certify the sheriff's name to
18 the Governor and the Attorney General. Unless
19 reasonable cause for this neglect is shown or within
20 20 days after the clerk certifies the sheriff's name
21 the sheriff gives or renews the security to the
22 satisfaction of the Governor, the sheriff thereby
23 vacates the office.

24 6. Governor may require new bond. If the
25 Treasurer of State certifies to the Governor that
26 money due to the State on warrants or any other sums
27 or balances are in a sheriff's possession and
28 furnishes the names of the sheriff's sureties, and it
29 appears to the Governor that the sureties are
30 insufficient or have left the State, the Governor may
31 require the sheriff to give a new bond with sufficient
32 sureties within 60 days after the sheriff is
33 notified. The new bond must be filed as required in
34 subsections 1 and 2. If the sheriff neglects to file
35 this new bond, the sheriff's office becomes vacant.

36 7. New bond required on application of sureties.
37 When a surety on the official bond of a sheriff or the
38 surety's heirs, executors or administrators petition
39 the county commissioners to be discharged from
40 suretyship, the commissioners shall have an attested
41 copy of the petition served on the sheriff and may

1 require a new bond to be given to their satisfaction.
2 When it is given and accepted, the surety or the
3 surety's legal representatives are not liable for any
4 neglect or misdoings after that time.

5 §373. Salaries

6 1. Salaries; full compensation. County sheriffs
7 shall receive annual salaries as set forth in section
8 2. The salaries are in full compensation for:

9 A. Services in attendance upon the Supreme
10 Judicial Court and upon the Superior Court;

11 B. Services as jailer, master or keeper of the
12 jail in each county;

13 C. Receiving and committing prisoners in the jail;

14 D. The service of all criminal and civil
15 processes; and

16 E. The performance of all duties relating to the
17 enforcement of all criminal laws.

18 2. Expenses allowed. The county commissioners
19 shall allow and pay from the county treasuries all
20 actual and necessary expenses for travel and hotel
21 bills within their respective counties and necessary
22 incidental expenses as are just and proper, incurred
23 in the performance of the sheriffs' public duties,
24 including all necessary expense for aid in keeping the
25 jails.

26 §374. County sheriff to be full time

27 The office of county sheriff is a full-time office
28 in each county.

29 ARTICLE 3. DEPUTIES

30 §381. Deputies; appointments and removal

31 The sheriff may appoint, subject to the
32 requirements of section 501, full-time or part-time

1 deputies, whose special duties are to enforce the
2 criminal laws in the county.

3 1. Qualifications for appointment. To be
4 eligible for appointment, a deputy must have:

5 A. Actual experience in law enforcement duties;

6 B. Training in criminal justice or law
7 enforcement from an accredited college or
8 university or from the Maine Criminal Justice
9 Academy; or

10 C. Knowledge of the duties, activities and
11 responsibilities of a deputy gained from other
12 experience or training.

13 2. Training at Maine Criminal Justice Academy
14 required. Appointed deputies are subject to the
15 training requirements of Title 25, sections 2805 and
16 2805-A.

17 3. Tenure of office. Deputies shall be
18 originally appointed for a probationary period of not
19 more than 6 months and thereafter may be appointed or
20 reappointed for a term of 3 years.

21 A. The failure of a sheriff to reappoint a
22 deputy, except for appointment at the end of the
23 probationary period, is subject to the procedures
24 and standards for dismissal of an applicable
25 collective bargaining agreement.

26 4. Sheriff to furnish names. From time to time,
27 each sheriff shall furnish to the county commissioners
28 of that county the names of the deputies appointed,
29 with the residence and post office address of each.

30 5. Residence. A full-time deputy may reside
31 outside the county during the term of appointment only
32 with the permission of the sheriff and county
33 commissioners.

34 §382. Special deputies; duties

1 1. Appointment. Sheriffs may at any time appoint
2 and train as special deputies citizens more than 18
3 years of age. The appointment must be in writing,
4 signed by the sheriff, and include the residence and
5 post office address of each special deputy. The
6 appointment must be recorded in the office of the
7 county commissioners in the county and is not valid
8 until recorded.

9 2. Active duty. The sheriff or the sheriffs'
10 chief deputy may order special deputies to active duty
11 only when:

12 A. A state of war exists;

13 B. The Governor proclaims an emergency under
14 Title 37-B, chapter 13; or

15 C. The Director of the Maine Emergency Management
16 Agency declares that a state of emergency is
17 imminent.

18 3. Powers; liability. Special deputies shall
19 exercise all the powers of deputy sheriffs appointed
20 under the general law, except the service of civil
21 process, only for the duration of the emergency that
22 exists or which has been proclaimed or during the time
23 for which they have been ordered to active duty.
24 Special deputies are personally responsible for any
25 unreasonable, improper or illegal acts committed by
26 them in the performance of their duties, but the
27 sheriffs are not liable upon their bonds or otherwise
28 for any neglect or misdoings of these deputies.

29 §383. Chief deputy

30 1. Appointment. As soon as possible after the
31 sheriff takes office, the sheriff in each county shall
32 appoint a chief deputy to serve under the sheriff.
33 The appointment must be in writing, signed by the
34 sheriff and recorded in the office of the county
35 commissioners in the county. The appointment is not
36 valid until recorded, except by operation of law or by
37 vacancy in the office of sheriff.

1 2. Tenure. The chief deputy serves at the will
2 of the sheriff.

3 3. Powers and duties. The chief deputy has all
4 the powers and duties of a deputy sheriff and is
5 subject to the direction of the sheriff in the
6 administration of that office.

7 4. Sheriff responsible for misconduct. The
8 sheriff is responsible for the official misconduct or
9 neglect of the chief deputy.

10 §384. Chief deputy, deputies, bond; approval and
11 filing

12 Before receiving a commission, every person
13 appointed chief deputy under section 383, or appointed
14 a deputy under section 381, must give bond to the
15 Treasurer of State with at least 3 sufficient
16 sureties, or with the bond of a surety company
17 authorized to do business in this State as surety, in
18 the sum required by the county commissioners of that
19 county, conditioned for the faithful performance of
20 the duties of that office. The bond of the chief
21 deputy and of each part-time deputy shall be filed and
22 approved in the same manner as is required for the
23 bond of a sheriff under section 372, subsection 2, and
24 all of that subsection applies to these bonds. The
25 county may furnish a bond for all full-time deputies,
26 which complies with this section. That bond must be
27 recorded in the county records and delivered to the
28 State Auditor to be filed.

29 §385. Vacancy in sheriff's office

30 1. Chief deputy's powers. If the office of
31 sheriff becomes vacant because of death, resignation
32 or otherwise, the chief deputy shall have and exercise
33 the same rights and powers and be subject to the same
34 duties and liabilities as a sheriff until the vacancy
35 in the office of sheriff is filled as provided in the
36 Constitution of Maine and the new sheriff has
37 qualified under law.

38 2. Other deputies. During the vacancy in the

1 office of sheriff, all other deputies of the sheriff
2 vacating the office shall continue to have and
3 exercise the powers and duties of deputy sheriffs and
4 are subject to the direction and control of the chief
5 deputy in the same manner and to the same extent as if
6 the chief deputy were sheriff.

7 §386. Compensation of deputies

8 1. Full-time deputies. Full-time deputies shall
9 be compensated at a rate of at least \$21 per day,
10 based on a 7-day work week, or at a rate of at least
11 \$23 per day, based on a 7-day work week, if the deputy
12 has:

13 A. An associate degree in criminal justice, with
14 an emphasis on law enforcement from an accredited
15 college or university; or

16 B. Successfully completed the basic training
17 course at the Maine Criminal Justice Academy or
18 its equivalent, as determined by the board of
19 trustees of the academy and has served at least 3
20 years as a full-time law enforcement officer in
21 the preceding 4 years.

22 The minimum compensation rate does not apply to any
23 deputy sheriff who is in a probationary period or who
24 is undergoing disciplinary action.

25 The respective county commissioners shall establish
26 the compensation of full-time deputies for their
27 county. The respective county treasurers shall pay
28 the compensation, together with those incidental
29 expenses which are necessary for the proper
30 enforcement of the laws.

31 All fees received by full-time deputies for the
32 service of civil process are deemed fees for the use
33 of the county and shall be paid to the county
34 treasurer for the use and benefit of the county.

35 2. Part-time deputies. Part-time deputies shall
36 be compensated at a reasonable rate established by the
37 county commissioners, which may not exceed the lowest

1 per diem compensation rate of a full-time deputy in
2 the county. No part-time deputy may be compensated
3 under this section more than \$6,000 in any one
4 calendar or fiscal year. Incidental expenses as are
5 necessary for the proper enforcement of the laws shall
6 also be paid in the same manner as provided for
7 full-time deputies and are not included in the \$6,000
8 limitation on compensation. Compensation paid to a
9 part-time deputy for serving as a court officer is not
10 included in the \$6,000 limitation on compensation.

11 3. Special deputies. Special deputies shall only
12 be compensated when on active duty as provided under
13 section 382. They shall be compensated at a rate
14 equal to the rate of compensation of full-time or
15 part-time deputies, depending on the actual duties
16 performed while on active service.

17 ARTICLE 4. DUTIES

18 §401. County law enforcement administration

19 1. Sheriff's duties. The sheriff shall act as
20 the chief county law enforcement officer and is
21 responsible for administering and directing the
22 sheriff's department as authorized by the county
23 budget. The sheriff shall inform the county
24 commissioners of sheriff's department activities on a
25 regular basis and shall meet with the commissioners as
26 required under subsection 3.

27 2. County commissioners' duties. The county
28 commissioners shall regularly review the sheriff's
29 operations and shall ensure that the law enforcement
30 functions required under the budget are being
31 adequately performed. The county commissioners may
32 not give orders directly to any deputies or other
33 subordinates of the sheriff, either publicly or
34 privately.

35 3. Meetings with municipal officers. At least
36 annually, the county commissioners and sheriff shall
37 hold a special meeting for reviewing county law
38 enforcement activities. The county commissioners
39 shall set a date, time and place for this meeting and

1 inform the sheriff and all municipal officers,
2 including all municipal police chiefs within the
3 county, of the meeting at least one week in advance.
4 The purpose of this meeting is to review activities of
5 the sheriff's department, to coordinate law
6 enforcement activities throughout the county and to
7 resolve problems in law enforcement.

8 4. Orders from the Governor. Sheriffs shall obey
9 all orders relating to law enforcement which they
10 receive from the Governor.

11 5. Construction. Nothing in this subchapter may
12 be construed to relieve any state or municipal law
13 enforcement agency of its authority and responsibility.

14 §402. Aid required by officer; refusal

15 1. Officer may require aid. Any officer may
16 require suitable aid in the execution of official
17 duties in criminal and traffic infraction cases for
18 the following reasons:

19 A. For the preservation of the peace; or

20 B. For apprehending or securing any person for
21 the breach of the peace or in case of the escape
22 or rescue of persons arrested on civil process.

23 2. Violation and penalty. Any person required to
24 aid an officer under this section who neglects or
25 refuses to do so commits a civil violation for which a
26 forfeiture of not less than \$3 nor more than \$50 to be
27 paid to the county may be adjudged.

28 §403. Officer to pay money collected

29 Any officer, who unreasonably neglects or refuses,
30 on demand, to pay money received by him on execution
31 to the person entitled to the money, shall pay 5 times
32 the lawful interest on that money so long as the
33 officer retains the money.

34 §404. Arrest in other counties

1 Every sheriff or deputy sheriff in fresh pursuit
2 of a person who travels beyond the limits of the
3 county in which the officer is appointed has the same
4 power to arrest that person as the officer has within
5 the officer's county. This section applies to
6 felonies, misdemeanors and traffic infractions.

7 As used in this section, with respect to felonies,
8 the term "fresh pursuit" has the same meaning as in
9 Title 15, section 152. With respect to misdemeanors
10 and traffic infractions, "fresh pursuit" means instant
11 pursuit of a person with intent to apprehend.

12 ARTICLE 5. FEES

13 §421. Fees

14 Sheriffs and their deputies shall receive the
15 following fees, unless the sheriffs and deputies are
16 paid a salary instead of the fees:

17 1. Civil process. For service of all writs or
18 complaints with summonses, precepts, notices,
19 executions, court orders, orders of service, copies
20 and all other civil process or papers requiring
21 service which are not specified in this section, \$4
22 for each such service and \$8 if the service is made in
23 hand;

24 2. Disclosure subpoena. For the service of a
25 disclosure subpoena as provided by Title 14, chapter
26 502, \$8;

27 3. Complaint for divorce. For the service of a
28 complaint for divorce with a writ of attachment by
29 servng summonses and attested copy of the writ and
30 complaint, or for the service of a complaint for
31 divorce with an order of court by attested copy, \$8;

32 4. Attachment of real estate. For the attachment
33 of real estate at the registry of deeds, \$4;

34 5. Attachment of personal property; replevin.
35 For the attachment of personal property or for the
36 service of a writ of replevin, \$6, and \$2 more for

- 1 each hour after the first required for the service;
- 2 6. Civil arrests and custody. For civil arrests
3 is \$5 for the arrest and \$5 shall be charged for
4 custody under the arrest, including arrest and custody
5 under paternity proceedings;
- 6 7. Tax summonses and warrants. For the service
7 of tax summonses and arrest under tax warrants, the
8 same as for service of civil process;
- 9 8. Executions in personal actions. For levying
10 and collecting executions in personal actions, for
11 every dollar of the first \$100, 4¢; for every dollar
12 above \$100 and not exceeding \$200, 3¢; and for every
13 dollar above \$200, 2¢;
- 14 9. Redeeming mortgaged real estate. For
15 advertising in a newspaper a right in equity of
16 redeeming mortgaged real estate to be sold on
17 execution, the sums that they pay the printer for
18 those advertisements; for posting notice of the sale
19 of the equity in the municipality where the land lies
20 and in 2 adjoining municipalities, \$6 and usual
21 travel, and for a deed and return of the sale of the
22 equity, \$3;
- 23 10. Warrant; mittimus. For the service of a
24 warrant, the officer is entitled to \$2 and \$2 for the
25 service of a mittimus to commit a person to jail and
26 usual travel, except as limited by Title 15, section
27 1363, and are entitled to reasonable expenses incurred
28 in the conveyance of the prisoner;
- 29 11. Attending court and keeping prisoner. For
30 attending court and keeping the prisoner in criminal
31 cases, \$18 a day, and in that proportion for a greater
32 or shorter length of time;
- 33 12. Sales or use tax warrant. For the services
34 of a sales or use tax warrant and arrest as provided
35 by Title 36, section 173, the same as for service of
36 civil process, and for civil arrests. For collecting
37 sales or use taxes, penalties and interest, under such
38 warrants, for every dollar of the first \$100, 4¢; for

1 every dollar above \$100 and not exceeding \$200, 3¢;
2 and for every dollar above \$200, 2¢. Additional
3 services, including travel, shall be charged as
4 provided in this section;

5 13. Service of an income tax warrant. For the
6 service of an income tax warrant and arrest as
7 provided by Title 36, Part 8, the same as for service
8 of civil process, and for civil arrests. For
9 collecting income tax, penalties and interest, under
10 such warrants, for every dollar of the first \$100, 4¢;
11 for every dollar above \$100 and not exceeding \$200,
12 3¢; and for every dollar above \$200, 2¢. Additional
13 services, including travel, shall be charged as
14 provided in this section; and

15 14. Search for persons to serve. For diligently
16 searching for persons upon whom they are commanded to
17 serve civil process when that party cannot be located
18 at an address given to the sheriff or the sheriff's
19 deputy by the plaintiff or the plaintiff's attorney
20 when commanding the service to be made, \$2, plus
21 necessary travel.

22 The fees of the register of deeds for recording a
23 levy upon real estate or the deed of the officer for
24 the sale of real estate on execution and all sums paid
25 by the officers for the state transfer tax shall be
26 taxed by the officers in their return. All officers
27 making levy on real estate by appraisal shall have the
28 execution and their return on the execution recorded
29 by the register of deeds for the district where the
30 land lies within 3 months after the levy.

31 A sheriff or deputy sheriff may not charge a fee
32 for attesting copies of any writ.

33 In addition to the fees charged for service,
34 travel shall be charged for each mile actually
35 traveled at the same rate at which state employees are
36 reimbursed under Title 5, section 8.

37 The county commissioners of each county may
38 require that the fees collected under subsections 1,
39 2, 3, 5, 7, 14, 15 and 16 be increased by \$1. The

1 sheriff or deputy shall collect this additional dollar
2 and pay it to the county treasurer for the use and
3 benefit of the county.

4 §422. Fees from deputies

5 No sheriff may receive any fees earned by the
6 sheriff's deputies or any percentage of those fees
7 from any of the deputies.

8 §423. Collection and accounting for fees

9 The sheriff shall charge and collect, as provided
10 by law, all fees chargeable under the laws for
11 performing any of the duties described in section
12 373. The sheriff shall keep an accurate account of
13 those fees, and of those specified in section 424, and
14 transmit that account to the county treasurer on the
15 last days of March, June, September and December
16 annually, and the amount deducted from the quarter's
17 salary for the quarter then ending. If these fees are
18 greater than the amount of salary then due the
19 sheriff, the sheriff shall pay the excess to the
20 county treasurer. No county treasurer may pay any
21 quarter's salary until this statement has been filed.

22 §424. Disposal of fees for prisoners confined in jail

23 For all prisoners committed from other counties or
24 from any court of the United States and for all other
25 persons confined on civil processes, sheriffs shall
26 collect the same fees for their entire support as are
27 provided by law or may be set by the county
28 commissioners as provided by law. They shall include
29 those fees in the statement provided for in section
30 423 and the fees shall be deducted from the salary as
31 prescribed. They shall not make any charge or collect
32 any fees for the support of prisoners committed on
33 criminal process from any court in the county in which
34 the jail is located.

35 ARTICLE 6. ACTIONS AGAINST SHERIFFS

36 §431. Persons injured sue on sheriff's bond;
37 endorsement of writ; costs; judgment

1 Any person injured by the neglect or misdoings of
2 a sheriff, who has first determined the amount of the
3 damages by judgment in a civil action against the
4 sheriff, the sheriff's executors or administrators, or
5 by a decree of the Probate Court allowing that claim,
6 at the injured person's expense in the name of the
7 Treasurer of State, may institute a civil action on
8 the sheriff's official bond in the county where the
9 sheriff was authorized to act and prosecute it to
10 final judgment and execution. The injured person's
11 name and place of residence or that of the injured
12 person's attorney shall be endorsed on the writ,
13 summons or complaint and the endorser alone is liable
14 for costs. If judgment is rendered for the Treasurer
15 of State, it shall be for the damages determined, or
16 so much of those damages as remains unpaid, with
17 interest. The party's name for whom the action was
18 brought shall be set forth in the execution issued on
19 that judgment. If the judgment is for the defendant,
20 execution for costs shall be issued against the party
21 for whom the action was brought.

22 §432. Additional actions on sheriff's bond;
23 proceedings

24 Any other person having a right of action on a
25 sheriff's bond may file an additional complaint in the
26 same action in the office of the clerk of courts. The
27 clerk shall issue a summons, directed to the
28 defendant, specifying the cause of action and the
29 amount demanded, returnable to the same court and
30 endorsed by the name and place of residence of that
31 other person or that person's attorney. The endorser
32 is liable for costs like endorsers of writs, summonses
33 and complaints.

34 1. Service; answer. The summons shall be served
35 on the defendant and attachment may be made, as in an
36 original action. After service, the person filing the
37 complaint has all the rights of a plaintiff in the
38 action. The defendant shall answer to the complaint,
39 and judgment may be rendered on the complaint as if it
40 were filed in an action originally instituted for the
41 same cause.

42 2. Judgment; execution. When judgment is

1 rendered against the defendant in such an action,
2 damages shall be assessed on each complaint for the
3 amount which the party filing it would recover in an
4 action on the bond, with costs. Executions shall
5 issue for that amount in the name of each party so
6 recovering in the order in which the complaints were
7 filed, but not beyond the amount of the bond. If
8 judgment is for the defendant on any such complaint,
9 execution for costs shall issue against the party
10 filing it. No such action may be dismissed, except by
11 order of court, without the consent of all plaintiffs.

12 §433. Exemption from arrest in civil action;
13 proceedings on failure to pay execution; office
14 vacated

15 No sheriff may be arrested upon any writ or
16 execution in a civil action. When a judgment is
17 rendered against the sheriff in the sheriff's private
18 or official capacity, the execution on that judgment
19 shall issue against the sheriff's property but not
20 against the sheriff's body.

21 1. Sheriff's disclosure. The sheriff, after
22 notice that execution has issued, unless upon a
23 judgment for the sheriff's official delinquency, may
24 cite the creditor and disclose the actual state of the
25 sheriff's affairs in the manner provided for poor
26 debtors arrested upon execution.

27 2. Filing with Governor; office vacated. If the
28 execution is returned unsatisfied and the sheriff has
29 not made a disclosure under subsection 1 or if the
30 judgment was rendered for the sheriff's own official
31 delinquency, the creditor may file an attested copy of
32 the execution and return with the Governor, and serve
33 on the sheriff a copy of that copy, attested by the
34 Secretary of State, with a signed notice of the day on
35 which the first copy was filed. If, within 40 days
36 after this service, the sheriff does not pay the
37 creditor the full debt with reasonable costs for
38 copies and service of the copies, the sheriff thereby
39 vacates the sheriff's office. When the sheriff ceases
40 to be sheriff, the clerk may issue alias executions
41 against the former sheriff's property and body, as in
42 other cases.

1 §434. Copy of bond available; evidence

2 The Treasurer of State shall deliver an attested
3 copy of a sheriff's bond to anyone applying and paying
4 for it. That copy is competent evidence in any case
5 relating to the sheriff's bond, unless its execution
6 is disputed, in which case the court may order the
7 treasurer to produce the bond in court for the
8 purposes of the trial.

9 §435. Survival of actions against sheriff or deputy

10 Actions for the neglect or misdoings of a sheriff
11 or the sheriff's deputies survive the sheriff and may
12 be brought against the sheriff's executors or
13 administrators.

14 ARTICLE 7. REMOVAL OF SHERIFF

15 §441. Removal of sheriff

16 Whenever the county commissioners find that the
17 sheriff is not faithfully or efficiently performing
18 any duty imposed by this chapter or that the sheriff
19 is improperly exercising or acting outside the
20 sheriff's authority, the commissioners may file a
21 complaint with the Governor describing in detail the
22 facts of those actions or omissions and requesting the
23 Governor to remove the sheriff from office and appoint
24 another sheriff in that office for the remainder of
25 the term.

26 ARTICLE 8. COUNTY LAW ENFORCEMENT FUNCTIONS

27 §451. Definitions

28 As used in this article, unless the context
29 otherwise indicates, the following terms have the
30 following meanings.

31 1. Ambulance services. "Ambulance services"
32 means those emergency services primarily designed to
33 transport ill or injured persons to available medical
34 facilities and to administer first aid and emergency

1 life-support systems in the interim period.

2 2. Civil emergency services. "Civil emergency
3 services" means those emergency services administered
4 to populations or areas to minimize and repair injury
5 and damage resulting from disasters or catastrophes
6 caused by hostile action or natural events.

7 3. Communications. "Communications" means a
8 system for sending and receiving information to aid in
9 law enforcement or law enforcement functions between
10 fixed or mobile points, including telephone, teletype
11 or radio systems. Communications also includes
12 dispatching, which means the operation of sending
13 messages and directing the operations of mobile units
14 from a central fixed-base transmitter.

15 4. Detention. "Detention" means the confining of
16 an adult or juvenile held in lawful custody in a
17 specially constructed or modified facility designed to
18 ensure continued custody and control. Detention may
19 be confinement before trial or another hearing by a
20 court or confinement to serve court-imposed sentences
21 or dispositions and may be in a jail or lock-up.

22 5. Emergency services. "Emergency services"
23 means assistance given to one or more persons or
24 areas, when there is imminent danger of damage or
25 injury to property or personal health and safety, and
26 includes ambulance services, civil emergency services
27 and rescue services.

28 6. Intelligence. "Intelligence" means the
29 collection, storage, retrieval, analysis and use of
30 information about persons known to be repeatedly
31 violating the criminal law in a manner difficult to
32 detect as part of a covertly planned, deliberate or
33 organized attempt to undertake criminal acts.

34 7. Investigation. "Investigation" means the
35 inquiry about, or examination or observation of,
36 persons or objects to gather evidence concerning
37 unlawful acts or the apprehension of wrongdoers.
38 Investigation may also mean examination, inquiry or
39 observation of persons or things in order to determine

1 compliance with qualifications or requirements for the
2 issuing of licenses or permits, when those actions are
3 taken at the request of the issuing authority.

4 8. Jail. "Jail" means a specially constructed or
5 modified facility designated by law or regularly used
6 for detention for a period of up to 12 months.

7 9. Juvenile services. "Juvenile services" means
8 the personnel, procedures and services provided to
9 deal with delinquents or criminal offenders under 18
10 years of age. "Delinquent" means a person under 18
11 years of age who:

12 A. Is habitually truant;

13 B. Behaves in an incorrigible or indecent and
14 lascivious manner;

15 C. Knowingly and willfully associates with
16 vicious, criminal or grossly immoral people; or

17 D. Repeatedly deserts home without just cause.

18 10. Laboratory services. "Laboratory services"
19 means those services which concern the testing or
20 analyzing of physical evidence, by chemical or
21 physical science methods and techniques, in order to
22 determine its properties, composition, attributes or
23 other information required for law enforcement
24 purposes.

25 11. Law enforcement functions. "Law enforcement
26 functions" means functions or services related to law
27 enforcement, including patrol, laboratory services,
28 intelligence, investigation, juvenile services,
29 emergency services, detention and communications,
30 whether or not those services are administered or
31 directed through the sheriff's department or municipal
32 police departments.

33 12. Lock-up. "Lock-up" means a facility
34 designated by law or regularly used for detention for
35 a temporary period before trial or transfer to a jail
36 or other facility.

1 13. Patrol. "Patrol" means the regular and
2 repeated circuit of the jurisdictional area as a
3 method of deterring criminal activities, of observing
4 or inspecting for possible violations or criminal
5 activities, of providing for rapid response to calls
6 for assistance and of maintaining order and the
7 general peace. Patrol includes regulating and
8 facilitating the movement of people and vehicles and
9 maintaining highway safety by routine enforcement of
10 the traffic laws and also the response to particular
11 calls for assistance. Patrol may be conducted on foot
12 or in a motor vehicle, aircraft or watercraft.

13 14. Rescue. "Rescue" means those services
14 required to free or save persons from imminent injury
15 or death due to accidents or other emergencies.

16 §452. Patrol

17 The sheriff in each county, in person or by the
18 sheriff's deputies, may patrol throughout the county,
19 but may not be required by law to patrol the entire
20 county. The county commissioners, with the sheriff's
21 agreement, may enter into a contract with a
22 municipality under section 107 to provide specific
23 patrol services by the sheriff's department in return
24 for payment for these services.

25 §453. Communications centers

26 Each county may establish a communications center,
27 separate from any communications function of the
28 sheriff's department and capable of serving the
29 communication needs of the county and the
30 municipalities which may wish to use the center.

31 The county commissioners, after consulting with
32 municipal officers, are responsible for setting
33 policies for the communications center. They shall
34 appoint a director or chief dispatcher who is
35 responsible for carrying out their policies. The
36 director or chief dispatcher, if qualified, may be the
37 County Director of the Maine Emergency Management
38 Agency.

1 The county communications center shall provide
2 communication services for the sheriff's department,
3 county civil emergency services, county or municipal
4 rescue or ambulance services, county or municipal fire
5 departments or municipal police departments.

6 The county commissioners, after consulting with
7 the director or chief dispatcher, may enter into an
8 agreement with a municipality under section 107 to
9 provide specific communications for municipal law
10 enforcement functions, including dispatching of
11 municipal units, in return for payment for these
12 services.

13 §454. Detention

14 Each county shall provide detention facilities,
15 either within the county or, by contract with another
16 county, outside the county. Counties may enter into
17 an agreement under chapter 115 to provide consolidated
18 detention facilities for the use of the agreeing
19 counties.

20 §455. Investigation, intelligence or laboratory
21 services

22 Counties may provide investigation, intelligence
23 or laboratory services within the sheriff's department
24 to aid county law enforcement, municipal police
25 departments or the district attorney. The county may
26 set uniform charges payable by municipalities for
27 specific laboratory procedures or tests, when those
28 charges reflect the actual cost of the procedures or
29 tests, but may not require or accept any additional
30 payments, other than the county tax, for
31 investigation, intelligence or other laboratory
32 services when they are provided to municipal
33 departments or the district attorney.

34 §456. Rescue services

35 Each county may provide rescue services through
36 the sheriff's department and deputies.

1 §457. Ambulance service

2 1. Scope of service. Each county may provide
3 ambulance service:

4 A. To the entire county, omitting only those
5 municipalities who request not to be included; or

6 B. By municipal-county contracts under section
7 107 or chapter 115, to those municipalities who
8 enter into contracts, provided that county tax
9 revenues are not used to support the ambulance
10 services.

11 2. Method of service. Within the limits of
12 subsection 1, the county may provide ambulance
13 services by county personnel and vehicles or by
14 contract with private organizations, corporations or
15 persons, or with municipalities under section 107 or
16 chapter 115.

17 §458. Juvenile services

18 Each county may provide juvenile services either
19 through the sheriff's department or by other county
20 personnel.

21 §459. Administrative services

22 Each county may undertake administrative,
23 management and supporting functions required to
24 implement the law enforcement functions authorized by
25 this chapter, including the recruitment and training
26 of county personnel, maintenance of records and
27 preservation of evidence, purchasing of necessary
28 supplies and planning and budget preparation.

29 §460. Victim and witness support

30 Each county is encouraged to establish a victim
31 and witness support program to assist the victims and
32 witnesses of criminal offenses in the prosecution of
33 those offenses. Each county is further encouraged to
34 hire, train and provide support staff to a qualified
35 person or persons to carry out the victim and witness

1 support program. The district attorney for the
2 prosecutorial district in which the county is located
3 shall administer any program established under this
4 section.

5 SUBCHAPTER. VII

6 COUNTY EMPLOYMENT

7 ARTICLE 1. GENERAL PROVISIONS

8 §501. Employment and dismissal of county employees

9 1. Employment. All county officers or department
10 heads shall submit to the county commissioners or the
11 County Personnel Board, if one has been established
12 according to article 2, the name of any person the
13 county officer or department head proposes to employ
14 or the names of more than one person from which the
15 county commissioners or personnel board are to select
16 a person for employment. The county commissioners or
17 the County Personnel Board may approve the employment
18 of the person or select a person for employment. If
19 approval is withheld or a selection is not made, the
20 county commissioners or the County Personnel Board,
21 within 14 days after the name or names have been
22 submitted, shall notify the county officer or
23 department head of the reasons for their disapproval
24 or failure to make a selection.

25 2. Qualifications. All county employees shall be
26 appointed without regard to any political affiliation
27 and solely on the basis of professional qualifications
28 relating to the work to be performed or their
29 potential for acquiring those qualifications.

30 3. Dismissal, suspension, discipline. A county
31 officer or department head may dismiss, suspend or
32 otherwise discipline a department employee only for
33 cause, except as provided in paragraph A. Cause for
34 dismissal, suspension or disciplinary action must be a
35 just, reasonable, appropriate and substantial reason
36 for the action taken that relates to or affects the
37 ability, performance of duties, authority or actions
38 of the employee or the public's rights or interests.

1 A. An employee may be dismissed by a county
2 officer or department head only for cause and only
3 with the prior approval of the county
4 commissioners or personnel board, except that
5 county employees may be laid off or dismissed,
6 with the approval of the county commissioners or
7 personnel board, to meet the requirements of
8 budget reductions or governmental reorganization.

9 B. In every case of suspension or disciplinary
10 action other than dismissal, at the employee's
11 request, the county commissioners or personnel
12 board shall investigate the circumstances and
13 fairness of the action and, if they find the
14 charges unwarranted, shall order the employee's
15 reinstatement to the employee's former position
16 with no loss of pay, rights or benefits resulting
17 from the suspension or disciplinary action.

18 4. Application to county commissioners'
19 employees. Subsections 1 and 3 do not apply to county
20 employees directly employed by the county
21 commissioners, unless a County Personnel Board has
22 been established according to article 2.

23 §502. Mandatory retirement age prohibited

24 No county or county officer may adopt any rule or
25 take any action which requires a county employee, as a
26 condition of employment, to retire at or before a
27 specified age or after a specified number of years of
28 service. All of the provisions of section 2704
29 relating to the prohibition of mandatory retirement of
30 municipal employees also apply to and prohibit the
31 mandatory retirement of county employees.

32 §503. Personnel records

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

37 A. Working papers, research materials, records
38 and the examinations prepared for and used

1 specifically in the examination or evaluation of
2 applicants for county employment;

3 B. County records containing the following:

4 (1) Medical information of any kind,
5 including information pertaining to the
6 diagnosis or treatment of mental or emotional
7 disorders;

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

10 (3) Information pertaining to the credit
11 worthiness of a named employee;

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

15 (5) Complaints, charges or accusations of
16 misconduct, replies to those complaints,
17 charges or accusations and any other
18 information or materials that may result in
19 disciplinary action. If disciplinary action
20 is taken, the final written decision relating
21 to that action is no longer confidential
22 after it is completed; and

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

25 2. Employee right to review. On written request
26 from an employee or former employee, a county official
27 with custody of the records shall provide that
28 employee, former employee or a duly authorized
29 representative with an opportunity to review the
30 employee's personnel file, if the county official has
31 a personnel file for that employee. These reviews
32 shall take place during normal office hours at the
33 location where the personnel files are maintained.

34 A. For the purposes of this subsection, a
35 personnel file includes, but is not limited to,
36 any formal or informal employee evaluations and

1 reports relating to the employee's character,
2 credit, work habits, compensation and benefits of
3 which the county official has possession.

4 B. The records described in subsection 1,
5 paragraph B, may also be examined by the employee
6 to whom they relate, as provided in this
7 subsection.

8 ARTICLE 2. COUNTY PERSONNEL BOARD

9 §521. Establishment

10 The county commissioners may establish, after a
11 public hearing, a County Personnel Board. The County
12 Personnel Board has the duties and powers set forth in
13 section 501 and this article.

14 §522. Membership, term and compensation

15 The County Personnel Board shall be composed of
16 not less than 3 nor more than 5 members who may not be
17 county officers or employees. The county
18 commissioners shall appoint the members. The term of
19 office of the members is 3 years, except that for the
20 first appointment one shall be appointed for one year,
21 one for 2 years and one for 3 years. Vacancies shall
22 be filled for the remainder of the term of the vacated
23 appointment. The board shall elect its own chairman
24 annually. The members may receive \$25 a day for the
25 time actually spent in the discharge of their duties
26 and their necessary expenses.

27 §523. Powers and duties

28 1. Duties. The board shall:

29 A. Appoint a director;

30 B. Approve appointments as authorized under
31 section 501;

32 C. Investigate and make orders in cases of
33 dismissal, suspension or other disciplinary action
34 as authorized under section 501;

1 D. Investigate, hold hearings and report its
2 findings, recommendations and orders for the
3 purpose of approving appointments and dismissals,
4 or reviewing suspensions, or other disciplinary
5 actions;

6 E. Enforce the rules made under subsection 2,
7 paragraph A;

8 F. Receive, review and send to the county
9 commissioners and sheriff the annual report of the
10 director. The director's report may be
11 supplemented by any additional comment, criticism
12 or suggestions for the more effectual
13 accomplishment of the purposes of this subchapter
14 that the commission may care to submit; and

15 G. Keep full and complete minutes of its
16 proceedings, which are, subject to reasonable
17 rules, open to public inspection.

18 2. Powers. The board may:

19 A. After a public hearing, adopt or amend rules
20 relating to:

21 (1) Examination or standards for
22 appointments;

23 (2) Probationary period;

24 (3) Reinstatement;

25 (4) Demotion;

26 (5) Suspension, layoff or dismissal;

27 (6) Provisional, emergency, exceptional and
28 temporary appointments; and

29 (7) Leave of absence, resignation, hours of
30 service, vacations and sick leave; and

31 B. In the course of any investigation through any

1 member of the board, administer oaths and subpoena
2 and require the attendance of witnesses and the
3 production of books, papers, public records and
4 other documentary evidence relating to the
5 investigation.

6 (1) If any person refuses to comply with any
7 subpoena issued under this section or to
8 testify to any matter regarding which that
9 person which may be lawfully interrogated,
10 the Superior Court in the county on
11 application of any one of the members of the
12 commission or of the director, when
13 authorized by the commission, may issue an
14 order requiring that person to comply with
15 the subpoena and to testify. The court may
16 punish any failure to obey this order as
17 contempt of court.

18 §524. Director; qualifications; tenure; compensation;
19 powers and duties

20 At the time of appointment, the director must be a
21 person familiar with the principles, methods and
22 techniques of public personnel administration on the
23 merit basis. The director's tenure of office is at
24 the will of the personnel board and the director shall
25 receive the compensation set by the board with the
26 county commissioners' approval.

27 The director shall administer and make effective
28 this subchapter and the rules of the personnel board.

29 SUBCHAPTER VIII

30 COUNTY RECORDS LAW

31 §551. Short title

32 This subchapter shall be known and may be cited as
33 the "County Records Law."

34 §552. Definitions

35 As used in this subchapter, unless the context
36 otherwise indicates, the following terms have the

1 following meanings.

2 1. County official. "County official" means any
3 elected or appointed member of a county government.

4 2. Record. "Record" means all documentary
5 material, regardless of media or characteristics, made
6 or received and maintained by a county in accordance
7 with law or rule or in the transaction of its official
8 business.

9 §553. General requirements

10 The following provisions apply to county records.

11 1. Delivery to successor in office. County
12 officials shall deliver the records of their office to
13 their successors in office when their terms expire.

14 2. Records available for public use. County
15 officials shall make records under their supervision
16 available for public use at reasonable times unless
17 the use of those records is otherwise restricted by
18 law.

19 3. Protection of records. County officials shall
20 carefully protect and preserve the records of their
21 office from deterioration, mutilation, loss or
22 destruction.

23 4. Disposition of records. No record may be
24 destroyed or otherwise disposed of by any county
25 official, except as provided by the County Records
26 Board. Records which have been determined by the board
27 to possess sufficient archival value to warrant
28 permanent preservation shall be preserved by the
29 county or deposited with the State Archivist.

30 5. Rules of County Records Board. Each county
31 official shall comply with the standards, procedures
32 and rules adopted by the County Records Board.

33 §554. County Records Board

34 The County Records Board is established as follows.

1 1. Membership. The County Records Board as
2 established by Title 5, section 12004, subsection 10,
3 shall consist of 5 members.

4 A. Four persons shall be appointed by the
5 Governor for terms of 3 years:

6 (1) One of whom must be a county
7 commissioner;

8 (2) One of whom must be a register of deeds;

9 (3) One of whom must be a register of
10 probate; and

11 (4) One of whom must be experienced in real
12 estate title examinations; and

13 B. The State Archivist shall serve as chairman.

14 Any person appointed to fill a vacancy in the
15 membership of the board shall serve for the remainder
16 of the term for which that person's predecessor was
17 appointed.

18 2. Meetings; quorum; compensation. The board
19 shall meet at the call of the chairman, but not less
20 than 4 times during each calendar year. Three members
21 of the board constitute a quorum. Appointed members
22 shall be compensated according to the provisions of
23 Title 5, chapter 379.

24 §555. Powers and duties of board

25 The County Records Board shall establish
26 standards, procedures and rules for the effective
27 management of county records. These standards,
28 procedures and rules shall follow, as far as
29 practicable, the program established under the
30 "Archives and Records Management Law" to govern the
31 creation, utilization, maintenance, retention,
32 preservation and disposal of state records, except as
33 otherwise provided in this subchapter, and shall
34 follow the standards for the making of records set

1 forth in Title 33, chapter 11, subchapter II. The
2 board may revise these standards, procedures and rules
3 as it considers necessary. The Maine State Archives
4 shall provide administrative services to the board and
5 serve as secretariat of the board.

6 §556. Assistance to counties

7 The State Archivist shall provide advice and
8 assistance to counties in the establishment and
9 administration of county archival programs. The State
10 Archivist shall provide program services to counties
11 similar to those furnished the agencies of State
12 Government to the extent the State Archivist considers
13 desirable in the administration of the state program
14 and facilities. The State Archivist may acquire and
15 maintain sufficient microfilm equipment and supplies
16 to microfilm records that the board may order
17 microfilmed in accordance with section 555. These
18 services shall be furnished to counties at cost.

19 §557. Violation

20 Notwithstanding Title 17-A, section 4-A, whoever
21 violates any provisions of this subchapter or rules of
22 the County Records Board adopted under section 555 is
23 guilty of a Class E crime and shall be punished by a
24 fine of not less than \$100 nor more than \$500, or by
25 imprisonment for not more than 90 days, or both.

26 CHAPTER 3

27 COUNTY BUDGET AND FINANCES

28 SUBCHAPTER I

29 ASSESSMENT OF TAXES

30 ARTICLE 1. ASSESSMENT OF TAXES; GENERALLY

31 §701. Annual estimates for county taxes

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

1 1. Forms. The county estimates must be made on
2 forms and in the manner approved by the Department of
3 Audit. The Secretary of State shall provide copies of
4 these forms to the county commissioners of each county
5 no later than September 19th of each year.

6 2. Preparation of estimates. In order to assess
7 a county tax, the county commissioners, prior to
8 November 7th in each year, shall prepare estimates of
9 the sums necessary to pay the expenses which have
10 accrued or may probably accrue for the coming year,
11 including the building and repairing of jails,
12 courthouses and appurtenances, with the debts owed by
13 their counties.

14 The estimates must be drawn so as to authorize the
15 appropriations to be made to each department or agency
16 of the county government for the year. The estimates
17 must provide specific amounts for personal services,
18 contractual services, commodities, debt service and
19 capital expenditures.

20 3. Public hearing. The county commissioners
21 shall hold a public hearing in the county on these
22 estimates before December 1st. They shall publish a
23 notice of the hearing at least 10 days before the
24 hearing in a newspaper of general circulation within
25 the county. Written notice and a copy of the
26 estimates shall be sent by mail or delivered in person
27 to the clerk of each municipality in the county and to
28 each member of the county legislative delegation at
29 least 10 days before the hearing. The municipal clerk
30 shall notify the municipal officers of the receipt of
31 the estimates.

32 4. Meeting with legislative delegation. Before
33 the Legislature convenes, the county commissioners of
34 each county shall meet with the legislative delegation
35 of their county to finalize estimates for the year.

36 §702. Estimates recorded and sent to Secretary of
37 State

38 1. Estimates sent to Legislature for approval;

1 amendments. The county clerk shall record the
2 estimates made under section 701 in a book. A copy of
3 the estimates shall be signed by the chairman of the
4 county commissioners and attested by their clerk. The
5 clerk shall transmit that copy to the office of the
6 Secretary of State on or before the first day of each
7 January, together with the county reports under
8 section 952 for the 2 preceding years, to be presented
9 by the Secretary to the Legislature for its approval.

10 A. Except as otherwise provided, the Legislature
11 may change or alter specific line categories
12 within the county estimates before approving a
13 budget.

14 2. Records. The Legislature shall file a copy of
15 these estimates, with any amendments that it adopts,
16 including any changes in specific line categories,
17 with the State Auditor who shall retain them for 3
18 years. These records shall be a public record at the
19 office of the county commissioners in the county which
20 submitted them.

21 §703. Acceptance of state and federal grants

22 A county may accept and expend grants.

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

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

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

35 §704. Federal funds received by counties

36 1. Anticipated federal funds. Any county which

1 receives federal funds shall provide for the
2 expenditure of those funds in accordance with the laws
3 and procedures governing the expenditure of its own
4 revenue and shall record estimates of the expenditure
5 as provided in section 702, except as provided in
6 subsection 2.

7 2. Procedure if federal funds could not be
8 anticipated. If federal funds become available to the
9 county for expenditure by the county while the
10 Legislature is not in session, and if the availability
11 of those funds could not reasonably have been
12 anticipated and included in the estimate adopted by
13 the Legislature for the fiscal year in question, the
14 county may accept and spend these funds in compliance
15 with federal and state law. Upon application for
16 those funds and upon receipt of those funds, the
17 chairman of the county commissioners shall submit to
18 the clerk of each municipality in the county and to
19 each member of the county legislative delegation a
20 statement:

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

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

30 §705. Grants to agencies outside of county government

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

37 §706. Apportionment of county tax; warrants

38 When a county tax is authorized, the county
39 commissioners, within 30 days of that authorization,

1 shall apportion it upon the municipalities and other
2 places according to the last state valuation and fix
3 the date for the payment of the tax. This date may
4 not be earlier than the first day of the following
5 September. They may add that sum above the sum so
6 authorized, not exceeding 2% of that sum, as a
7 fractional division necessitates and demonstrate that
8 necessity in the record of that apportionment, and
9 issue their warrant to the assessors requiring them to
10 immediately assess the sum apportioned to their
11 municipality or place, and to commit their assessment
12 to the constable or collector for collection. The
13 county treasurer shall immediately certify the millage
14 rate to the State Tax Assessor. The State Tax
15 Assessor shall separately assess this millage rate
16 upon the real and personal property in the unorganized
17 territory within the appropriate county.

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

21 §707. Illegal assessments

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

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

35 §708. Alternative fiscal year

36 The county commissioners of a county may adopt a
37 July 1st to June 30th fiscal year. A county may raise
38 one or 2 taxes during a single valuation, if the taxes
39 raised are based on appropriations made for a county

1 fiscal year that does not exceed 18 months. A county
2 fiscal year may extend beyond the end of the current
3 tax year. The county commissioners, when changing the
4 county's fiscal year, may for transition purposes,
5 adopt one or more fiscal years not longer than 18
6 months each.

7 ARTICLE 2. ANDROSCOGGIN COUNTY BUDGET COMMITTEE

8 §721. Purpose

9 The purpose of this article is to establish in
10 Androscoggin County a method of appropriating money
11 for county expenditures, including the salaries for
12 county officers, according to a budget which must
13 first be adopted by a budget committee and must then
14 be approved by the Legislature. This article amends
15 the statutory method in sections 2, 701 and 702 by
16 creating a committee elected by Androscoggin County
17 municipal officers with authority to adopt or amend
18 the budget. The Legislature continues to have
19 authority to approve but not to amend the budget.
20 This article applies only to Androscoggin County.

21- §722. Definitions.

22 As used in this article, unless the context
23 otherwise indicates, the following terms have the
24 following meanings.

25 1. County commissioners. "County commissioners"
26 means the county commissioners of Androscoggin County.

27 2. Municipal officials. "Municipal officials"
28 means the mayor, aldermen, councillors or manager of a
29 city and the selectmen, councillors or manager of a
30 town located in Androscoggin County.

31 §723. Androscoggin County budget committee

32 In Androscoggin County there is established a
33 budget committee to carry out the purposes of this
34 article.

35 1. Membership. The budget committee shall
36 consist of 9 members, 3 members from each commissioner

1 district selected as provided in this section. The
2 county commissioners shall serve on the committee in
3 an advisory capacity only and may not vote on any
4 committee matters.

5 In 1989, and every 3rd year thereafter, at least 90
6 days before the end of the fiscal year, the 9 members
7 shall be elected by the following procedure.

8 A. The county commissioners shall notify all
9 municipal officers in the county to caucus by
10 county commissioner districts at a specified date,
11 time and place for the purpose of nominating at
12 least 3 residents of the district of voting age as
13 candidates for the county budget committee. At
14 least 2 of the persons nominated must not be
15 municipal officials. A county commissioner shall
16 serve as nonvoting moderator for that district
17 caucus. Nominations shall be received from the
18 floor and require a majority vote of those present
19 to be approved. The names of those duly nominated
20 shall be recorded and forwarded to the county
21 commissioners to be placed on a written ballot.

22 B. The county commissioners shall have written
23 ballots printed with the names of those candidates
24 selected in each county commissioner district
25 under paragraph A. Each commissioner district
26 shall require a separate ballot and each ballot
27 shall specify each candidate's full name and
28 municipality. The county commissioners shall
29 distribute the appropriate ballots to each
30 municipality within a commissioner district. The
31 municipal officers shall vote, as a board, for 3
32 budget committee members from the candidates on
33 the ballot. The municipal officers must vote for
34 at least 2 candidates who are not municipal
35 officials. After voting, the municipal officers
36 shall return the ballot to the county
37 commissioners by a certain date.

38 C. The ballots shall be counted at a regular
39 meeting of the county commissioners. Each
40 municipality's vote shall be weighted according to
41 the formula set out in paragraph D to ensure that

1 each municipality's vote reflects its proportion
2 of the commissioner district's total population.
3 The 2 candidates with the highest vote totals and
4 who are not municipal officials and the candidate
5 with the otherwise highest vote total are elected
6 to membership on the county budget committee for
7 each district. The county commissioners shall:

8 (1) Notify each municipality, in writing, of
9 the election results; and

10 (2) Certify the results to the Secretary of
11 State.

12 D. The votes of each municipality shall be
13 multiplied by the figure opposite the
14 municipality's name as follows:

15 (1) For Commissioner District Number One:

16	<u>(a) Greene</u>	<u>902</u>
17	<u>(b) Leeds</u>	<u>435</u>
18	<u>(c) Lewiston</u>	<u>2231</u>
19	<u>(d) Lisbon</u>	<u>2605</u>
20	<u>(e) Livermore</u>	<u>542</u>
21	<u>(f) Livermore Falls</u>	<u>1061</u>
22	<u>(g) Sabattus</u>	<u>915</u>
23	<u>(h) Turner</u>	<u>1051</u>
24	<u>(i) Wales</u>	<u>256</u>

25 (2) For Commissioner District Number 2:

26	<u>(a) Auburn</u>	<u>7034</u>
27	<u>(b) Durham</u>	<u>631</u>
28	<u>(c) Mechanic Falls</u>	<u>800</u>

1 (d) Minot 398

2 (e) Poland 1141

3 (3) For Commissioner District Number 3:

4 (a) Lewiston 1

5 These adjustment figures will be revised after
6 each decennial census.

7 2. Duties. The county budget committee shall
8 review the budget and estimates, including the
9 salaries for county officers, prepared by the county
10 commissioners, and shall approve a final county budget.

11 3. Term of office. The term of office for budget
12 committee members is 3 years.

13 4. Vacancies. A vacancy occurring on the budget
14 committee shall be filled by the committee for the
15 balance of the unexpired term: The person appointed
16 to fill the vacant office must be from the same
17 municipality as the person vacating the office.

18 5. Expenses. Members shall serve without
19 compensation, but shall be reimbursed from the county
20 treasury for expenses lawfully incurred by them in the
21 performance of their duties.

22 §724. Budget committee organization

23 The budget committee shall conduct its meetings in
24 public at the county courthouse. The county
25 commissioners shall direct the county clerk to call an
26 organizational meeting of the budget committee at
27 least 60 days before the end of the county's fiscal
28 year. The county commissioners shall provide the
29 committee with necessary clerical assistance, office
30 expenses and suitable meeting space, as well as access
31 to county files and information. The budget committee
32 shall select its own chairman, vice-chairman and
33 secretary. The budget committee shall adopt its own
34 rules or procedures and bylaws.

1 §725. Budget procedure

2 1. Proposed budget. The county commissioners
3 shall submit itemized budget estimates, as described
4 in sections 701 and 702 to the budget committee in a
5 timely fashion, at least 60 days before the end of the
6 county's fiscal year.

7 2. Public hearing on commissioners' budget. The
8 budget committee shall review the proposed itemized
9 budgets prepared by the county commissioners, together
10 with any supplementary material prepared by the head
11 of each county department or provided by any
12 independent board or institution or another
13 governmental agency. The budget committee shall hold
14 a public hearing, with notice as provided in
15 subsection 4, on the proposed itemized budgets
16 prepared by the county commissioners.

17 3. Budget committee process. After the public
18 hearing required under subsection 2 is completed, the
19 budget committee may increase, decrease, alter or
20 revise the proposed budgets provided that:

21 A. The budget committee shall enter into its
22 minutes an explanation for any change in the
23 estimated expenditures and revenues as initially
24 presented by the county commissioners; and

25 B. The total estimated revenues, together with
26 the amount of county tax to be levied, must equal
27 the total estimated expenditures.

28 4. Public hearing on revised budget. The budget
29 committee shall hold at least one additional public
30 hearing in the county on the proposed budget, as
31 revised by the budget committee, before the end of the
32 county's fiscal year and before the final adoption of
33 the budget. Notice of the hearing must be given at
34 least 10 days before the hearing in all newspapers of
35 general circulation within the county. Written notice
36 and a copy of the proposed budget shall be mailed or
37 delivered in person to the clerk of each municipality
38 in the county. The municipal clerk shall notify the

1 municipal officials of the proposed budget.

2 5. Adoption of budget. After the public hearing
3 or hearings held under subsection 4 are completed, the
4 budget committee may further increase, decrease, alter
5 and revise the proposed itemized budgets, subject to
6 the conditions and restrictions imposed in subsection
7 3. The proposed itemized budget must be finally
8 adopted by a majority vote of the budget committee at
9 a duly called meeting held before the end of the
10 county's fiscal year.

11 6. Final budget approval. Before January 15th of
12 the fiscal year for which the budget is prepared, the
13 budget committee shall submit the proposed budget to
14 the Legislature. The Legislature shall approve or
15 disapprove the budget as submitted before May 1st of
16 each year.

17 If the Legislature disapproves of the budget, the
18 budget committee shall submit, within 15 calendar
19 days, new budget proposals in accordance with
20 subsection 1 and the provisions of this section shall
21 be followed until a budget is finally approved.

22 7. Assessment of taxes. The budget as approved
23 by the Legislature is the final authorization for the
24 assessment of county taxes. The budget shall be sent
25 to the county commissioners and the county tax
26 authorized shall be apportioned and collected in
27 accordance with section 706.

28 8. Interim budget. Until a budget is finally
29 adopted, the county shall operate on an interim budget
30 which may not exceed the previous year's budget.

31 §726. Budget amendments

32 The approved budget shall govern the expenditures
33 of the county during the fiscal year. No expenses may
34 be incurred in excess of those shown in the approved
35 budget, but the county commissioners may transfer
36 funds as provided in section 922, and the budget may
37 be from time to time revised by the preparation and
38 submission of a proposed amended budget by the county

1 commissioners to the budget committee. The budget
2 committee shall within 15 calendar days approve,
3 disapprove or amend this revised budget. If the
4 proposed revised budget is approved or amended, the
5 budget committee within this same time period shall
6 forward the revised budget to the Legislature for
7 final approval. The Legislature has 15 calendar days
8 to approve or disapprove the revised budget. If the
9 Legislature is not in session or does not approve the
10 revised budget within this time, it is disapproved. A
11 report of approval of a revised budget shall be
12 transmitted to the State Auditor within 15 days of the
13 Legislature's approval of a revised budget.

14 §727. Filing of county budget

15 A copy of the final budget and any subsequent
16 amendments shall be filed, on forms approved by the
17 Department of Audit, with the State Auditor, who shall
18 retain them for 3 years.

19 ARTICLE 3. AROOSTOOK COUNTY BUDGET COMMITTEE

20 §731. Purpose

21 The purpose of this article is to establish in
22 Aroostook County a method of appropriating money for
23 county expenditures, including expenditures for
24 municipal services in the unorganized territory,
25 according to a budget, which must first be adopted by
26 a budget committee and must then be approved by the
27 Legislature. This article amends the statutory method
28 in sections 701 and 702 by creating a committee
29 elected by Aroostook County municipal officers with
30 authority to advise on the budget. The Legislature
31 has authority to approve the budget. This article
32 applies only to Aroostook County.

33 §732. Definitions

34 As used in this article, unless the context
35 otherwise indicates, the following terms have the
36 following meanings.

- 37 1. County commissioners. "County commissioners"

1 means the county commissioners of Aroostook County.

2 2. Municipal officials. "Municipal officials"
3 means the mayor, aldermen, councillors or manager of a
4 city, the selectmen, councillors or manager of a town
5 and the assessors of a plantation located in Aroostook
6 County.

7 3. Municipal officers. "Municipal officers"
8 means the elected mayor, aldermen or councillors of a
9 city, the selectmen or councillors of a town and the
10 assessors of a plantation located in Aroostook County.

11 §733. Aroostook County budget committee

12 In Aroostook County there is established a budget
13 committee to carry out the purposes of this article.

14 1. Membership. The budget committee shall
15 consist of 10 members, 3 members from each
16 commissioner district selected under paragraphs A and
17 B and one member selected under paragraph C. The
18 county commissioners shall serve on the committee in
19 an advisory capacity only and shall not vote on any
20 committee matters.

21 In 1985, and every 3rd year thereafter, at least 90
22 days before the end of the fiscal year, the 10 members
23 shall be elected by the following procedure.

24 A. The county commissioners shall notify all
25 municipal officers in the county to caucus by
26 county commissioner districts at a specified date,
27 time and place for the purpose of nominating at
28 least 3 residents of the district of voting age as
29 candidates for the county budget committee. A
30 county commissioner shall serve as nonvoting
31 moderator for the county commissioner's district
32 caucus. Nominations shall be received from the
33 floor and require a majority vote of those present
34 to be approved. The names of those duly nominated
35 shall be recorded and forwarded to the county
36 commissioners to be placed on a written ballot.

37 B. The county commissioners shall have written

1 ballots printed with the names of those candidates
2 selected in each district in accordance with
3 paragraph A. Each commissioner district shall
4 require a separate ballot and each ballot shall
5 specify each candidate's full name and
6 municipality. The county commissioners shall
7 distribute the appropriate ballots to each
8 municipality within a commissioner district. The
9 municipal officers shall vote, as a board, for 3
10 budget committee members from the candidates on
11 the ballot and return the ballot to the county
12 commissioners by a certain date. The ballots
13 shall be counted at a regular meeting of the
14 county commissioners. Each vote shall be weighted
15 according to that municipality's population as a
16 proportion of the district's total population.
17 The county commissioners shall:

18 (1) Notify each municipality, in writing, of
19 the election results; and

20 (2) Certify the results to the Secretary of
21 State.

22 C. The county commissioners shall appoint one
23 qualified budget committee member from the
24 unorganized territory of Aroostook County to serve
25 on the budget committee.

26 D. It is the responsibility of the county budget
27 committee to review the budget and estimates,
28 including the budget for municipal services in the
29 unorganized territory prepared by the county
30 commissioners, and to approve a final county and
31 unorganized budget.

32 E. The term of office is 3 years.

33 F. A vacancy occurring on the budget committee
34 shall be filled by the committee for the balance
35 of the unexpired term. The person appointed to
36 fill the vacant office must be from the same
37 municipality or unorganized territory as the
38 person vacating the office.

1 G. Members shall serve without compensation.

2 H. Two out of the 3 members from each
3 commissioner's district shall be municipal
4 officers.

5 §734. Budget committee organization

6 The budget committee shall conduct its meetings in
7 public at the county courthouse. The county
8 commissioners shall direct the county clerk to call an
9 organizational meeting of the budget committee no
10 later than 60 days before the end of the county's
11 fiscal year. The county commissioners shall provide
12 the committee with necessary clerical assistance,
13 office expenses and suitable meeting space, as well as
14 access to county files and information. The budget
15 committee shall select its own chairman, vice-chairman
16 and secretary. The budget committee shall adopt its
17 own rules or procedures and bylaws.

18 §735. Budget procedures

19 1. Proposed budget. The county commissioners
20 shall submit itemized budget estimates, as described
21 in sections 701, 702 and 7503, to the budget committee
22 in a timely fashion, no later than 60 days before the
23 end of the county's fiscal year.

24 2. Budget review process. The budget committee
25 shall review the proposed itemized budgets prepared by
26 the county commissioners, together with any
27 supplementary material prepared by the head of each
28 county department or provided by any independent board
29 or institution or another governmental agency. The
30 budget committee may increase, decrease, alter or
31 review the proposed budgets provided that:

32 A. The budget committee shall enter into its
33 minutes an explanation for any change in the
34 estimated expenditures and revenues as initially
35 presented by the county commissioners; and

36 B. The total estimated revenues, together with
37 the amount of county tax to be levied, must equal
38 the total estimated expenditures.

1 3. Public hearing. The budget committee shall
2 hold a public hearing in the county on the proposed
3 budget before the end of the county's fiscal year and
4 before the final adoption of the budget. Notice of
5 the hearing shall be given at least 10 days before the
6 hearing in all newspapers of general circulation
7 within the county. Written notice and a copy of the
8 proposed budget shall be sent by registered or
9 certified mail with return receipt requested, or
10 delivered in person, with proof received of the
11 delivery, to the clerk of each municipality in the
12 county. The municipal clerk shall notify the
13 municipal officials of the proposed budget.

14 4. Adoption of budget. After the public hearing
15 is completed, the budget committee may further
16 increase, decrease, alter and revise the proposed
17 itemized budgets, subject to the conditions and
18 restrictions imposed in subsection 2. The proposed
19 itemized budget must be finally adopted by a majority
20 vote of the budget committee at a duly called meeting
21 not later than the end of the county's fiscal year.

22 5. Final budget approval. The budget committee
23 shall submit the proposed budget to the Legislature
24 before January 15th of the fiscal year for which the
25 budget is prepared.

26 6. Assessment of taxes. The budget as approved
27 by the Legislature is the final authorization for the
28 assessment of county taxes. The budget shall be sent
29 to the county commissioners and the county tax
30 authorized shall be apportioned and collected in
31 accordance with section 706. The budget for the
32 unorganized territories will be sent to the State as
33 provided by section 7503.

34 7. Interim budget. Until a budget is finally
35 adopted, the county shall operate on an interim budget
36 which shall not exceed the previous year's budget.

37 8. Transfer of funds. The county commissioners
38 may transfer funds as provided in section 922.

1 §736. Budget amendments

2 The approved budget shall govern the expenditures
3 of the county during the fiscal year. No expenses may
4 be incurred in excess of those shown in the approved
5 budget, but the budget may be from time to time
6 revised by the preparation and submission of a
7 proposed amended budget by the county commissioners to
8 the budget committee. The budget committee shall
9 within 15 calendar days approve, disapprove or amend
10 this revised budget. If the proposed revised budget
11 is approved or amended, the budget committee within
12 this same time period shall forward the revised budget
13 to the Legislature for final approval. Only after the
14 Legislature has approved or amended the budget shall
15 it become effective. A report of approval of a
16 revised budget shall be transmitted to the State
17 Auditor within 15 days of an approval of a revised
18 budget by the Legislature.

19 §737. Filing of county budget

20 A copy of the final budget and subsequent
21 amendments shall be filed, on forms approved by the
22 Department of Audit, with the State Auditor, who shall
23 retain them for 3 years.

24 §738. Repeal

25 This article is repealed on September 30, 1988.

26 ARTICLE 4. CUMBERLAND COUNTY BUDGET

27 §741. Budget; appropriations; approval

28 Notwithstanding sections 2, 701 and 702, in
29 Cumberland County the county commissioners may
30 appropriate money, according to a budget, which must
31 be approved by a majority of the county commissioners.

32 §742. Interim budget

33 If the budget is not approved before the start of
34 a fiscal year, until a budget is finally adopted, the
35 county shall operate on an interim budget which may

1 not exceed 80% of the previous year's budget.

2 §743. Advisory committee

3 There is established a Cumberland County Budget
4 Advisory Committee comprised as follows.

5 1. Municipal officers. Municipal officers within
6 each commissioner district shall caucus and shall
7 elect municipal officers from that district to fill
8 vacancies as they arise, for terms as provided in
9 paragraph A.

10 A. Members shall serve for 3-year terms, except
11 that initially each district caucus shall select
12 one member for a one-year term, one member for a
13 2-year term and one member for a 3-year term. If
14 a committee member ceases to be a municipal
15 officer during the term of membership, the
16 committee member shall resign the membership and
17 the next district caucus shall elect a qualified
18 municipal officer to fill the membership for the
19 remainder of the unexpired term.

20 2. Human Services Board representative. The
21 Cumberland County Human Services Board shall annually
22 appoint one member representing human service agencies
23 within the county who shall serve as an ex officio
24 nonvoting member.

25 The committee shall select its own chairman each
26 year.

27 §744. Public hearing

28 The Cumberland County commissioners shall hold one
29 or more public hearings on the budget estimate before
30 October 1st.

31 §745. Budget estimate; submission to advisory
32 committee

33 The Cumberland County commissioners shall submit a
34 budget estimate to the advisory committee no later
35 than October 1st for the coming year. The advisory
36 committee shall review the budget estimate and make

1. recommendations to the commissioners before November
2 15th. The county commissioners shall act on the
3 budget in a timely fashion and, in any event, not
4 later than December 15th of the budget year.

5 \$746. Final budget estimates; filing

6 A copy of the final budget estimates shall be
7 filed, on forms approved by the Department of Audit,
8 with the State Auditor, who shall retain them for 3
9 years.

10 ARTICLE 5. KENNEBEC COUNTY BUDGET
11 ADVISORY COMMITTEE

12 \$771. Definitions

13 As used in this article, unless the context
14 otherwise indicates, the following terms have the
15 following meanings.

16 1. County commissioners. "County commissioners"
17 means the county commissioners of Kennebec County.

18 2. Municipal officers. "Municipal officers"
19 means the mayor, aldermen or councillors of a city,
20 the selectmen or councillors of a town and the
21 assessors of a plantation located in Kennebec County.

22 \$772. Kennebec County Budget Advisory Committee

23 In Kennebec County, there is established the
24 Kennebec County Budget Advisory Committee to carry out
25 the purposes of this article. This article applies
26 only to Kennebec County.

27 1. Membership. The budget advisory committee
28 shall consist of 9 members, 3 members from each
29 commissioner district to be appointed by the county
30 commissioners. The term of each member of the budget
31 advisory committee is 2 years.

32 2. Responsibilities. It is the responsibility of
33 the county budget advisory committee to review the
34 budget estimates prepared by the county commissioners
35 and to make recommendations to the county.

1 commissioners concerning a final county budget.

2 3. Vacancies. The county commissioners shall
3 fill, by appointment, any vacancy on the budget
4 advisory committee for the balance of the unexpired
5 term. The person appointed to fill the vacant office
6 must be from the same municipality as the person
7 vacating the office.

8 4. Expenses. Members shall serve without
9 compensation, but shall be reimbursed from the county
10 treasury for expenses lawfully incurred by them in
11 performing their duties.

12 §773. Budget advisory committee organization

13 The budget advisory committee shall conduct its
14 meetings in public at the county courthouse. The
15 county commissioners shall direct the county clerk to
16 call an organizational meeting of the budget advisory
17 committee no later than 60 days before the end of the
18 county's fiscal year. The county commissioners shall
19 provide the committee with necessary clerical
20 assistance, office expenses and suitable meeting
21 space, as well as access to county files and
22 information. The budget advisory committee shall
23 select its own chairman, vice-chairman and secretary.
24 The budget advisory committee shall adopt its own
25 rules or procedures and bylaws.

26 §774. Budget procedures

27 1. Proposed budget. The county commissioners
28 shall submit an itemized budget estimate, as described
29 in sections 701 and 702, to the budget advisory
30 committee in a timely fashion, no later than 60 days
31 before the end of the county's fiscal year.

32 2. Budget review process. The budget advisory
33 committee shall review the proposed itemized budget
34 prepared by the county commissioners, together with
35 any supplementary material prepared by the head of
36 each county department or provided by any independent
37 board, institution or other governmental agency. The
38 budget advisory committee may make recommendations
39 concerning any increase, decrease, alteration or

1 revision to the proposed budget.

2 3. Public hearing. The budget advisory committee
3 shall hold a public hearing in the county on the
4 proposed budget before the end of the county's fiscal
5 year and before the final adoption of the budget.
6 Notice of the hearing shall be given at least 10 days
7 before the hearing in a newspaper of general
8 circulation within the county. Written notice and a
9 copy of the proposed budget shall be sent by
10 registered or certified mail with return receipt
11 requested, or delivered in person, with proof received
12 of the delivery, to the clerk of each municipality in
13 the county. The municipal clerk shall notify the
14 municipal officers of the proposed budget.

15 4. Adoption of budget. After the public hearing
16 is completed, the county commissioners may further
17 increase, decrease, alter and revise the proposed
18 itemized budget, provided that:

19 A. The county commissioners shall enter into
20 their minutes an explanation for any rejection of
21 any recommendation of the budget advisory
22 committee; and

23 B. The total estimated revenues, together with
24 the amount of county tax to be levied, must equal
25 the total estimated expenditures.

26 The county commissioners shall then send the
27 recommended budget to the Legislature for its
28 approval. The county tax authorized shall be
29 apportioned and collected in accordance with section
30 706.

31 §775. Budget amendments

32 The approved budget shall govern the expenditures
33 of the county during the fiscal year. No expenses may
34 be incurred in excess of those shown in the approved
35 budget, but the budget may be from time to time
36 revised by the commissioners with the advice of the
37 budget advisory committee.

1 §776. Filing of county budget

2 A copy of the final budget and subsequent
3 amendments shall be filed, on forms approved by the
4 Department of Audit, with the State Auditor, who shall
5 retain them for 3 years.

6 §777. Repeal

7 This article is repealed on September 30, 1988.

8 ARTICLE 6. PISCATAQUIS COUNTY BUDGET COMMITTEE

9 §821. Purpose

10 The purpose of this article is to establish in
11 Piscataquis County a method of appropriating money for
12 county expenditures, including expenditures for
13 municipal services in the unorganized territory,
14 according to a budget, which shall first be reviewed
15 by a budget committee and shall then be approved by
16 the Legislature. This article amends the statutory
17 method in sections 701 and 702 by creating a committee
18 with authority to review the budget and make
19 recommendations to the county commissioners. The
20 Legislature has authority to approve and amend the
21 budget. This article applies only to Piscataquis
22 County.

23 §822. Definitions

24 As used in this article, unless the context
25 otherwise indicates, the following terms have the
26 following meanings:

27 1. County commissioners. "County commissioners"
28 means the elected county commissioners of Piscataquis
29 County.

30 2. Municipal officials. "Municipal officials"
31 may include the mayor, aldermen, councillors or
32 manager of a city, the selectmen, councillors or
33 manager of a town and the assessors of a plantation
34 located in Piscataquis County.

1 3. Municipal officers. "Municipal officers"
2 means the elected mayor, aldermen or councillors of a
3 city, the selectmen or councillors of a town and the
4 assessors of a plantation located in Piscataquis
5 County.

6 §823. Piscataquis County Budget Committee

7 In Piscataquis County there is established the
8 Piscataquis County Budget Committee to carry out the
9 purposes of this article.

10 1. Membership. The budget committee shall
11 consist of 9 members, 3 members from each commissioner
12 district selected at least 90 days before the end of
13 the fiscal year as provided for in this section.

14 A. Of the 3 members from each commissioner
15 district, one must be a municipal official and one
16 must be a representative of the general public.
17 All 3 members shall be appointed by the county
18 commissioners.

19 One member of the general public on the committee
20 must be a resident of the unorganized
21 territories. No other member of the general
22 public on the committee may be a resident of the
23 unorganized territories.

24 B. It is the responsibility of the county budget
25 committee to review the budget and estimates,
26 including the budget for municipal services in the
27 unorganized territory prepared by the county
28 commissioners, and to make recommendations
29 concerning the budget and estimates.

30 C. The term of office is as follows:

31 (1) The member who is a municipal officer,
32 appointed by the county commissioners, has an
33 initial term of one year;

34 (2) The member who is a representative of
35 the general public, appointed by the county

1 commissioners, has an initial term of 2
2 years; and

3 (3) The 3rd member has an initial term of 3
4 years.

5 The terms of the respective members shall increase
6 by one year at the time of reappointment, except
7 the 3-year term, which shall become a one-year
8 term.

9 D. A vacancy occurring on the budget committee
10 shall be filled in the same manner as the original
11 appointment for the balance of the unexpired
12 term. The person appointed to fill the vacant
13 office must have the same qualifications as the
14 person vacating the office.

15 E. Members shall serve without compensation.

16 §824. Budget committee organization

17 The budget committee shall conduct its meetings in
18 public at the county courthouse. The county
19 commissioners shall direct the county clerk to call an
20 organizational meeting of the budget committee within
21 15 days after the county budget has been prepared by
22 the county commissioners. The county commissioners
23 shall provide the committee with necessary clerical
24 assistance, office expenses and suitable meeting
25 space, as well as access to county files and
26 information. The budget committee shall select its
27 own chairman, vice-chairman and secretary. The budget
28 committee shall adopt its own rules or procedures and
29 bylaws.

30 §825. Budget procedures

31 1. Proposed budget. The county commissioners
32 shall submit itemized budget estimates, as described
33 in sections 701, 702 and 7503, to the budget committee
34 in a timely fashion, no later than 90 days before the
35 end of the county's fiscal year.

36 2. Budget review process. The budget committee
37 shall review the proposed itemized budgets prepared by

1 the county commissioners, together with any
2 supplementary material prepared by the head of each
3 county department or provided by any independent
4 board, institution or another governmental agency.
5 The budget committee may make recommendations
6 concerning any increase, decrease, alteration or
7 revision to the proposed budget. These activities
8 shall be done before November 1st.

9 3. Meeting with legislative delegation. Before
10 November 15th, the county commissioners shall meet
11 with the county legislative delegation to review and
12 finalize estimates for the year.

13 4. Public hearing. The county commissioners
14 shall hold a public hearing in the county on the
15 proposed budget prior to December 1st and before the
16 final adoption of the budget. Notice of the hearing
17 shall be given at least 10 days before the hearing in
18 all newspapers of general circulation within the
19 county. Written notice and a copy of the proposed
20 budget shall be sent by mail or delivered in person to
21 the clerk of each municipality in the county and to
22 the members of the budget committee. The municipal
23 clerk shall notify the municipal officials of the
24 proposed budget and the date of the public hearing.

25 5. Adoption of budget. After the public hearing
26 is completed, the county commissioners may further
27 increase, decrease, alter and revise the proposed
28 itemized budgets provided that:

29 A. The county commissioners shall enter into
30 their minutes and submit to the budget committee a
31 statement of their bases for any rejection of any
32 recommendation of the budget committee; and

33 B. The county commissioners shall hold a public
34 meeting prior to December 7th with the budget
35 committee to discuss any rejections.

36 The proposed itemized budget must be finally adopted
37 by a majority vote of the county commissioners at a
38 duly called meeting not later than December 15th.

1 6. Interim approval by legislative delegation.
2 Before submitting the budget to the Legislature under
3 subsection 7, the county commissioners shall submit
4 the proposed budget to the legislative delegation.
5 The delegation shall render a decision by January
6 1st. Failure to do so is considered approval of the
7 budget as submitted. If the legislative delegation
8 disapproves of the budget, the county commissioners
9 shall submit, within 15 calendar days, new budget
10 proposals in accordance with subsection 1 and the
11 provisions of this section shall be followed until a
12 budget is approved by the legislative delegation.

13 7. Final budget approval. Before January 15th of
14 the fiscal year for which the budget is prepared, the
15 county commissioners shall submit the proposed budget
16 to the Legislature. The Legislature shall approve,
17 disapprove or amend the budget as submitted.

18 8. Assessment of taxes. The budget as approved by
19 the Legislature is the final authorization for the
20 assessment of county taxes. The budget shall be sent
21 to the county commissioners and the county tax
22 authorized shall be apportioned and collected in
23 accordance with section 706. The budget for the
24 unorganized territories shall be sent to the State as
25 provided by section 7503.

26 9. Interim budget. Until a budget is finally
27 adopted, the county shall operate on an interim budget
28 which shall not exceed the previous year's budget.

29 10. Transfer of funds. The county commissioners
30 may transfer funds as provided in section 922.

31 §826. Budget amendments

32 The approved budget shall govern the expenditures
33 of the county during the fiscal year. No expenses may
34 be incurred in excess of those shown in the approved
35 budget, but the budget may be from time to time
36 revised by the preparation of a proposed amended
37 budget by the county commissioners. This proposed
38 amended budget shall be submitted to the county budget
39 committee for review. Any recommendations by this

1 committee must be submitted within 10 calendar days.
2 After receiving the recommendation of the budget
3 committee, the county commissioners shall forward the
4 proposed revised budget to the legislative delegation
5 for approval. The delegation has 10 calendar days to
6 render a decision on the proposed revision. Failure
7 of the delegation to render a decision within the
8 specified time is considered an approval of the
9 revision. If the delegation disapproves of the
10 revision, the procedure of section 825, subsection 6,
11 shall be followed. The county commissioners shall
12 submit the proposed revised budget to the Legislature
13 for approval, disapproval or amendment. If approved,
14 the Legislature shall transmit a report of approval of
15 a revised budget to the State Auditor within 15 days
16 of that approval.

17 §827. Filing of county budget

18 A copy of the final budget and subsequent
19 amendments shall be filed, on forms approved by the
20 Department of Audit, with the State Auditor, who shall
21 retain them for 3 years.

22 ARTICLE 7. WALDO COUNTY BUDGET COMMITTEE

23 §851. Purpose

24 The purpose of this article is to establish in
25 Waldo County a method of appropriating money for
26 county expenditures, according to a budget, which must
27 first receive approval of a budget committee. This
28 article amends the statutory method in sections 2, 701
29 and 702 by transferring the authority of the Waldo
30 County legislative delegation and the Legislature to
31 approve the Waldo County budget to a committee
32 comprised of Waldo County and municipal officials.
33 This article applies only to Waldo County.

34 §852. Definitions

35 As used in this article, unless the context
36 indicates otherwise, the following terms have the
37 following meanings.

- 38 1. County commissioners. "County commissioners"

1 means the county commissioners of Waldo County.

2 2. Municipal officers. "Municipal officers"
3 means the mayor, councillors or selectmen.

4 §853. Waldo County Budget Committee

5 In Waldo County there is established a Waldo
6 County Budget Committee to carry out the purposes of
7 this article.

8 1. Membership. The budget committee shall
9 consist of 9 members, 3 members from each commissioner
10 district selected as provided for in this section.
11 The county commissioners shall serve on the committee
12 in an advisory capacity only and may not vote on any
13 committee matters.

14 In 1987, and thereafter, at least 90 days before the
15 end of every fiscal year, the members shall be elected
16 by the following procedure.

17 A. The county commissioners shall notify all
18 municipal officers in the county to caucus by
19 county commissioner districts at a specified date,
20 time and place for the purpose of nominating at
21 least one municipal officer from each district as
22 a candidate for the county budget committee;
23 except that in 1987, at least 3 municipal officers
24 shall be nominated from each district. A county
25 commissioner shall serve as nonvoting moderator
26 for his district's caucus. Nominations shall be
27 received from the floor. The nominee receiving
28 the most votes shall be approved. Any other
29 nominees who receive a majority vote of those
30 present shall also be approved. The names of
31 those duly approved shall be recorded and
32 forwarded to the county commissioners to be placed
33 on a written ballot.

34 B. The county commissioners shall have written
35 ballots printed with the names of those candidates
36 selected in their districts under paragraph A.
37 Each commissioner district shall require a
38 separate ballot and each ballot shall specify each
39 candidate's full name and municipality. The

1 county commissioners shall distribute the
2 appropriate ballots to each municipality within a
3 commissioner district. The municipal officers
4 shall vote as a board for one budget committee
5 member from the candidates on the ballot and
6 return the ballot to the county commissioners by a
7 certain date, except that in 1987, the municipal
8 officers shall vote as a board for 3 budget
9 committee members. The ballots shall be counted
10 at a regular meeting of the county commissioners.
11 Each vote shall be weighted according to that
12 municipality's population as a proportion of the
13 district's total population, except that no
14 municipality may have more than one budget
15 committee member. The county commissioners shall
16 notify each municipality, in writing, of the
17 results of the election and shall certify the
18 results to the Secretary of State.

19 2. Duties. The county budget committee shall
20 review the budget estimates prepared by the county
21 commissioners and approve a final county budget.

22 3. Term of office. The term of office shall be 3
23 years, provided that a budget committee member remains
24 a municipal officer in the municipal officer's
25 municipality, except that of those elected in 1987,
26 one from each district shall be elected for a term of
27 3 years; one from each district shall be elected for a
28 term of 2 years; and one from each district shall be
29 elected for a term of one year.

30 4. Vacancies. A vacancy occurring on the budget
31 committee shall be filled by the committee for the
32 balance of the unexpired term. The person appointed
33 to fill the vacant office must be a municipal officer
34 from the same municipality as the person vacating the
35 office.

36 5. Expenses. Members shall serve without
37 compensation, but shall be reimbursed from the county
38 treasury for expenses lawfully incurred by them in the
39 performance of their duties.

1 §854. Budget committee organization

2 The budget committee shall conduct its meetings in
3 public at the county courthouse. The county
4 commissioners shall direct the county clerk to call an
5 organizational meeting of the budget committee no
6 later than 60 days before the end of the county's
7 fiscal year. The county commissioners shall provide
8 the committee with necessary clerical assistance,
9 office expenses and suitable meeting space, as well as
10 access to county files and information. The budget
11 committee shall adopt its own rules or procedures and
12 bylaws.

13 §855. Budget procedures

14 1. Proposed budget. The county commissioners
15 shall submit an itemized budget estimate, as described
16 in sections 701 and 702, to the budget committee in a
17 timely fashion, no later than 60 days before the end
18 of the county's fiscal year.

19 2. Budget review process. The budget committee
20 shall review the proposed itemized budget prepared by
21 the county commissioners, together with any
22 supplementary material prepared by the head of each
23 county department or provided by any independent board
24 or institution or another governmental agency. The
25 budget committee may increase, decrease, alter or
26 revise the proposed budget, provided that:

27 A. The budget committee shall enter into its
28 minutes an explanation for any change in the
29 estimated expenditures and revenues as initially
30 presented by the county commissioners; and

31 B. The total estimated revenues, together with
32 the amount of county tax to be levied, must equal
33 the total estimated expenditures.

34 3. Public hearing. The budget committee shall
35 hold a public hearing in the county on the proposed
36 budget before the end of the county's fiscal year and
37 before the final adoption of the budget. Notice of
38 the hearing shall be given at least 10 days before the

1 hearing in a newspaper of general circulation within
2 the county. Written notice and a copy of the proposed
3 budget shall be sent by registered or certified mail
4 with return receipt requested, or delivered in person,
5 with proof received of the delivery, to the clerk of
6 each municipality in the county. The municipal clerk
7 shall notify the municipal officers of the proposed
8 budget.

9 4. Adoption of budget. After the public hearing
10 is completed, the budget committee may further
11 increase, decrease, alter and revise the proposed
12 itemized budget, subject to the conditions and
13 restrictions imposed in subsection 2. The proposed
14 itemized budget must be finally adopted by a majority
15 vote of the budget committee at a duly called meeting
16 not later than the end of the county's fiscal year.
17 The approved budget is the final authorization for the
18 assessment of county taxes. The budget shall be sent
19 to the county commissioners and the county tax
20 authorized shall be apportioned and collected in
21 accordance with section 706.

22 5. Interim budget. If the budget is not approved
23 before the start of a fiscal year, until a budget is
24 finally adopted, the county shall operate on an
25 interim budget which may not exceed the previous
26 year's budget.

27 6. Transfer of funds. The county commissioners
28 may transfer funds as provided in section 922.

29 §856. Budget amendments

30 The approved budget shall govern the expenditures
31 of the county during the fiscal year. No expenses may
32 be incurred in excess of those shown in the approved
33 budget, but the budget may be revised from time to
34 time by the preparation and submission of a proposed
35 amended budget by the county commissioners to the
36 budget committee. The budget committee shall render,
37 not less than 15 calendar days, except in emergencies,
38 nor more than 30 days after the submission to it, a
39 decision on any such revised budget. An approved
40 revised budget shall be transmitted to the State

1 Auditor within 15 days of the budget committee's
2 action.

3 §857. Filing of county budget

4 A copy of the final budget and subsequent
5 amendments shall be filed, on forms approved by the
6 Department of Audit, with the State Auditor, who shall
7 retain them for 3 years.

8 SUBCHAPTER II

9 COUNTY FISCAL MATTERS

10 ARTICLE 1. EXPENDITURES

11 §901. Insurance for firefighters

12 Any county may expend funds to be accounted for as
13 other money of the county for the purchase of accident
14 and disability insurance on a county-wide basis,
15 protecting all persons whether part-time, full-time or
16 on-call, and whether paid or unpaid, while acting as
17 firefighters for any municipal fire department or
18 incorporated volunteer fire association.

19 §902. Authority to operate a regional solid waste
20 collection and disposal service

21 1. Authorization. The county commissioners of
22 each county may operate a solid waste collection and
23 disposal system or contract for solid waste collection
24 and disposal services to serve their respective
25 counties. The county commissioners may contract with
26 municipalities, unorganized townships, other
27 governmental agencies, including regional refuse
28 disposal districts, and private enterprises for the
29 financing, implementation and operation of collection
30 and disposal services.

31 2. Municipalities and others served. A county
32 solid waste collection and disposal system or service
33 may serve municipalities, unorganized townships and
34 other public and private producers of solid waste.
35 The system or service may serve municipalities,
36 unorganized townships and other public and private

1 producers of solid waste in an adjoining county with
2 the approval of the county commissioners of that
3 county.

4 A county may not require municipalities, unorganized
5 territories and other public or private producers to
6 join or be served by the system or service.

7 3. Fees. Each municipality, unorganized
8 territory and each public or private producer of solid
9 waste using the solid waste collection and disposal
10 system or service offered by the county shall be
11 assessed for the cost of that service. These costs
12 shall be prorated equitably among those served. In
13 determining the costs, consideration shall be given
14 to, but not limited to, the nature and quantity of
15 solid waste collected and the disposal of solid waste.

16 The county commissioners shall determine the amount of
17 assessments annually. In the case of municipalities,
18 the county commissioners shall include these
19 assessments in their warrants to municipal assessors
20 of the municipalities served, issued under section
21 706. In the case of unorganized territory, the county
22 commissioners shall certify the amount of the
23 assessments for the unorganized territory as provided
24 in section 5903.

25 4. Personnel. County commissioners may not
26 employ additional personnel solely for administrative
27 and clerical purposes related to solid waste
28 collection and disposal systems or services.

29 §903. Authority to contract for energy conservation
30 improvements

31 1. Agreement with energy service and 3rd-party
32 financing companies. County commissioners may enter
33 into an agreement with a private party, such as an
34 energy service or 3rd-party financing company, for the
35 design, installation, operation, maintenance and
36 financing of energy conservation improvements at
37 county facilities.

38 2. Future operation. The county commissioners,
39 at the termination of the agreement with the private

1 party under this section, may acquire, operate and
2 maintain the improvement, renew the agreement with the
3 private party or make an agreement with another
4 private party to operate and maintain the improvement.

5 3. Budgetary approval required. Expenditures by
6 the county commissioners under this section are
7 subject to the county budgetary approval process.

8 §904. Food stamp or donated food program

9 The county commissioners of any county may provide
10 for a food stamp or donated food program in conformity
11 with regulations adopted by the United States
12 Department of Agriculture and the United States
13 Department of Health, Education and Welfare and may
14 expend county funds to operate and administer such a
15 program.

16 §905. Priority social services programs

17 The county commissioners may expend county funds,
18 from whatever source received, for a priority social
19 services program under the Priority Social Services
20 Act of 1973 contained in Title 22, Subtitle IV. They
21 may assist in, contribute to and participate in
22 providing a priority social services program through
23 agreements between public or nonprivate organizations
24 and the Department of Human Services.

25 1. Cumberland County. The county commissioners
26 of Cumberland County may also expend county funds for
27 other nonwelfare programs as authorized by the
28 Cumberland County legislative delegation.

29 §906. Kennebec County fire protection services for
30 Unity Township

31 The county commissioners of Kennebec County may
32 contract with municipalities for fire protection
33 services for Unity Township, assess Unity Township and
34 expend funds to provide those services.

35 §907. Piscataquis County child and family services

36 The county commissioners of Piscataquis County may

1 expend county funds to support programs for child and
2 family services.

3 §908. Ambulance service in the plantations and
4 unorganized territories of Piscataquis County

5 The county commissioners of Piscataquis County may
6 expend funds for ambulance service in the plantations
7 and unorganized territories of that county. Those
8 funds may be raised by tax levy in those plantations
9 and territories. The commissioners may contract with
10 either a profit or nonprofit agency or a municipality
11 to provide ambulance service and may enter into
12 reciprocal agreements with private, public and
13 municipal agencies for ambulance service.

14 ARTICLE 2. BUDGETARY ACCOUNTS

15 §921. Capital reserve accounts

16 1. Capital reserve accounts authorized. Section
17 5801, subsections 1 and 2, and section 5802, which
18 contain the capital reserve account provisions for
19 municipalities, apply equally to counties. The county
20 commissioners have the powers and duties of municipal
21 officers under those provisions.

22 2. Purpose of account stated. Before
23 establishing any account under this section, including
24 capital reserve accounts established for the
25 unorganized territory, the county commissioners shall
26 clearly specify the purpose for which the account is
27 created, state the anticipated amount of the account
28 and report that purpose and that amount, in writing,
29 to the Department of Audit. Once a purpose for an
30 account is specified, any expenditure from that
31 account must be for that purpose unless the Department
32 of Audit states in writing that an account for that
33 purpose is no longer needed.

34 §922. Insufficient appropriations

35 1. Transfer of funds within department or
36 agency. Whenever any specific appropriation of a
37 department or agency of county government is
38 insufficient to pay the required expenditures for the

1 statutory purposes for which the appropriation was
2 made, the county commissioners may transfer an amount
3 from any other specific line appropriation of the same
4 department or agency to meet the expenditure, upon the
5 written request of the department or agency. This
6 request must bear the written approval of a majority
7 of the county commissioners.

8 2. Contingent fund. There is established a
9 contingent account in each county in an amount not to
10 exceed \$50,000 annually. Any funds that are available
11 to each county may be used for this purpose. This
12 fund may be used at the discretion of the county
13 commissioners for emergency purposes only. At the end
14 of each fiscal year there shall be transferred from
15 unencumbered county funds an amount sufficient to
16 restore the established county contingent account.

17 3. Record of transfers. The county treasurer
18 shall keep a record of any transfers between specific
19 line categories or from the contingent account. This
20 record must be certified by the county commissioners
21 within 30 days of each transfer.

22 §923. Capital expenditure accounts to carry over

23 Any unexpended balance of capital expenditures
24 shall not lapse but shall be carried forward into the
25 next year or until the purpose for which that account
26 was established has been completed.

27 §924. Surplus funds

28 The county commissioners of each county shall use
29 the unexpended balances and the actual revenue in
30 excess of estimates from the previous fiscal year only
31 as provided in this section.

32 1. Restore contingent fund. The county
33 commissioners shall first use any unencumbered surplus
34 funds to restore the contingent account as provided in
35 section 922, subsection 2.

36 2. Reduce tax levy. After restoring the
37 contingent account under subsection 1, the county
38 commissioners shall use any unencumbered surplus funds

1 to reduce the tax levy in the ensuing year as provided
2 in this subsection. On the first day of each fiscal
3 year, the county commissioners shall use any remaining
4 unencumbered surplus funds in excess of 10% of the
5 amount to be raised by taxation in that year to reduce
6 the tax levy.

7 3. Other uses; working capital. The county
8 commissioners may use any remaining unencumbered
9 surplus funds to fund a county charter commission, as
10 provided in section 1322, subsection 4, or to
11 establish a capital reserve account under section 921,
12 as provided in section 5801. If not used for these
13 purposes, any remaining surplus funds may not be
14 expended but shall be retained as working capital for
15 the use and benefit of the county.

16 ARTICLE 3. DEBTS AND BORROWING

17 §931. Property taken for debt due from county

18 The personal property of the residents and the
19 real estate within the boundaries of a county may be
20 taken to pay any debt due from the county. The owner
21 of property so taken may recover from the county under
22 Title 14, section 4953.

23 §932. Anticipatory borrowing

24 1. Taxes. The county commissioners of all
25 counties may borrow in anticipation of taxes. If the
26 county budget has not yet been approved by the
27 Legislature, the county commissioners of each county
28 may borrow an amount not exceeding 80% of the previous
29 year's budget, except as otherwise provided.

30 2. Sale of notes or securities. The county
31 officers authorized to issue notes and securities may
32 borrow money in anticipation of their sale by issuing
33 temporary notes and renewal notes, the total face
34 amount of which does not exceed at any one time
35 outstanding the authorized amount of the notes and
36 securities. The period of this anticipatory borrowing
37 may not exceed one year and the time within which the
38 securities are to become due may not be extended by
39 such anticipatory borrowing beyond the time fixed in

1 the vote authorizing their issue or, if no term is
2 specified there, beyond the term permitted by law.

3 §933. Temporary loans

4 Without obtaining the consent of their county, the
5 county commissioners of each county may raise funds
6 through temporary loans not exceeding 1/5 of 1% of the
7 assessed valuation of their respective counties.
8 These loans must be paid, within one year from the
9 time when the loan is contracted, out of money raised
10 during the current year by taxes.

11 §934. Loans

12 The county commissioners may obtain loans of money
13 for the use of their county and cause notes or
14 obligations, with coupons for lawful interest, to be
15 issued for payment of the loans. These loans may not
16 exceed \$10,000, except in Franklin County as provided
17 in section 935, without first obtaining the consent of
18 the county, substantially as provided in section 122.

19 §935. Franklin County loans

20 The county commissioners of Franklin County may
21 obtain loans of money for the use of Franklin County,
22 not to exceed \$50,000, and cause notes or obligations,
23 with coupons for lawful interest, to be issued for
24 payment of the loans. Any loans of money in excess of
25 \$10,000 may be incurred only for the purpose of
26 building, rebuilding, altering or otherwise improving
27 county owned real estate and personal property in that
28 real estate.

29 §936. Bonds

30 A county which issues bonds must first receive
31 approval of the Legislature. The Legislature shall
32 determine the period over which installments will be
33 paid.

34

ARTICLE 4. AUDITS AND REPORTS

1 §951. County audit

2 1. Annual audit. Every county shall have an
3 audit made of its accounts annually covering the last
4 complete fiscal year by the Department of Audit or by
5 a certified public accountant selected by the county
6 commissioners. The audit must be performed in
7 accordance with generally accepted auditing standards
8 and procedures pertaining to governmental accounting
9 and must include a management letter covering the
10 audit of the operational aspects of the county, as
11 well as suggestions which the auditor considers
12 advisable for the proper administration of the
13 county. The auditor shall produce at least those
14 reports on those forms required in section 952. When
15 an audit is conducted by a certified public
16 accountant, the audit, upon completion, shall be
17 forwarded to the Department of Audit. The audit,
18 including the management letter, is a public document.

19 2. Improper transactions; report to district
20 attorney. If, in the course of the audit, the auditor
21 finds evidence of improper transactions, including the
22 use of contingency funds for nonemergency purposes,
23 the transfer of funds between departments or agencies,
24 incompetence in keeping accounts or handling funds,
25 failure to comply with this subchapter or any other
26 improper practice of financial administration, the
27 auditor shall report the same to the district attorney
28 immediately.

29 3. Commissioners responsible. The county
30 commissioners are responsible for the proper financial
31 administration of each county department or agency and
32 for approving county expenditures.

33 §952. Annual report

34 The county commissioners of each county shall
35 publish annually a complete report subject to the
36 following provisions.

37 1. Record of financial transactions. The report
38 must contain a record of all financial transactions of
39 the county during the last fiscal year, showing all

1 revenue receipts by sources and showing all
2 disbursements for each department by major items of
3 expense comparable with the approved budgetary
4 expenditure classifications under the captions of
5 personal services, contractual services, commodities,
6 debt service and capital expenditures.

7 This reporting must be made in the manner or format
8 recommended by the Department of Audit.

9 2. Statement of assets, liabilities, reserves and
10 surplus. The report must contain a detailed statement
11 of the assets, liabilities, general, special and
12 capital reserves and surplus of the county.

13 3. Postaudit report. The report must contain the
14 statement that the complete postaudit report for the
15 latest fiscal year is on file at the county
16 commissioners' office and the following excerpts from
17 that report:

18 A. Auditor's comments and suggestions for
19 improving the financial administration;

20 B. Comparative balance sheet;

21 C. Statement of departmental operations;

22 D. Analysis of surplus; and

23 E. Statement of public debt.

24 4. Copies for distribution. Copies of the report
25 shall be deposited in the county commissioners' office
26 or a convenient place of business for distribution to
27 the public and shall be distributed to each
28 municipality in the county.

29 5. Copies open for inspection. Copies of the
30 report and all county records shall be kept in the
31 county commissioners' office and shall be open to the
32 inspection of the public during usual business hours.

33 CHAPTER 5

34 MERIDIAN LINES AND STANDARDS OF LENGTH

1 §1001. Meridian line; record

2 1. Line constructed. The county commissioners,
3 at the expense of their respective counties, shall
4 erect and maintain a true meridian line in their
5 county, at a place convenient to the public and remote
6 from electrical disturbances. The line must be
7 perpetuated by stone pillars with brass or copper
8 points firmly fixed on the tops of the pillars,
9 indicating the true range of the meridian.

10 2. Record book. The commissioners shall provide
11 a book of records to be kept by the county
12 commissioners or by their appointee who is nearer to
13 the structure and is accessible to all persons wishing
14 to refer to the book.

15 §1002. Care and custody

16 The structures referred to in section 1001 are
17 under the care and custody of the county
18 commissioners. Any surveyor residing in the county or
19 engaged in surveying in the county shall have free
20 access to the structure for the purpose of testing the
21 variation of the magnetic needle.

22 §1003. Annual verification of compass; record of
23 needle declination

24 When the meridian lines required by section 1001
25 have been established and completed, every land
26 surveyor shall, at least annually before making any
27 survey, test and verify his compass or other
28 instrument using the magnetic needle by the meridian
29 line established in the county where his surveys are
30 to be made.

31 1. Test recorded. The surveyor shall enter the
32 declination of that needle from the true meridian in
33 the book mentioned in section 1001, together with the
34 style and make of the instrument and its number, if
35 any, and the date and hour of observation and sign his
36 name for future reference. The surveyor shall insert
37 corresponding entries as to date and declination in
38 the field notebooks. The surveyor's field notebooks

1 must also show the dates on which the surveys are made.

2 2. Violation. Neglect or refusal to comply with
3 this section is a civil violation for which a
4 forfeiture of \$25 for each neglect may be adjudged, to
5 be recovered on complaint in the county where any
6 survey is made, half to the complainant and half to
7 the county.

8 3. Application. This section does not apply to
9 surveys that are made by angles from some fixed,
10 permanent line or by a solar instrument and
11 independent of the magnetic needle.

12 \$1004. Standards of length; verification of tape or
13 chain

14 1. Standard of length constructed. The county
15 commissioners, at the expense of their respective
16 counties, shall erect and maintain in their county, at
17 a place convenient to the public, a standard of length
18 at least 100 feet long with suitable subdivisions
19 marked on it. This standard may consist of stone
20 monuments permanently fixed with metal plates on the
21 tops of the monuments, properly marked and protected,
22 or of a steel bar of the necessary length properly
23 marked and suitably placed and protected. All such
24 standards must correspond with the standard of the
25 National Bureau of Standards and must be provided with
26 proper means for determining the tension of tapes or
27 chains during comparison. These standards are under
28 the care and custody of the county commissioners.

29 2. Record book; comparisons. The county
30 commissioners shall keep a suitable book for the
31 record of comparisons. The standards shall be
32 accessible to any person for comparing any tape, chain
33 or other linear measure.

34 3. Surveyors' comparisons. Before making surveys
35 in this State and at least annually, every surveyor
36 must compare the tape or chain used in those surveys
37 with the standard in the county in which the surveyor
38 resides or in which surveys are to be made, and shall
39 record the result in the book provided for that
40 purpose. The surveyor must describe the tape or chain

1 with the difference, if any, between that tape or
2 chain and the standard, together with the date and
3 temperature and the tension on the tape or chain at
4 the time of comparison.

5 4. Violation. When this standard is completed in
6 any county, any surveyor residing or making surveys in
7 that county who neglects or refuses to comply with
8 this section is liable to the penalties under section
9 1003.

10 §1005. Appointment of commissioners to verify
11 meridians and standards

12 When the meridian line or standard of length is
13 established, repaired or rebuilt in any county, the
14 Governor shall appoint a competent commissioner, not
15 necessarily a resident of this State, to inspect and
16 verify the meridian line or standard of length. In
17 case of a meridian line, the commissioner shall verify
18 the line by astronomical observation and in the
19 commissioner's report shall accurately describe the
20 structure, its latitude and longitude and the
21 declination of the needle at the time. In case of a
22 standard of length, the commissioner shall describe
23 the structure, its location and exact length as
24 determined by comparison with some authentic standard
25 from the National Bureau of Standards. All such
26 reports must be full and accurate and shall be
27 deposited in the Department of the Secretary of State
28 and a certified copy shall be filed and recorded in
29 the office of the county commissioners in the county
30 where the structure is located. The commissioner
31 appointed by the Governor shall receive from the State
32 such just compensation as the Governor allows.

33 §1006. Damage to meridians; penalty

34 Whoever willfully displaces, alters, defaces,
35 breaks or otherwise damages any of the pillars or
36 points, plates, enclosures, bars, locks, bolts or any
37 part of the structure of any meridian line or standard
38 of length:

39 1. Civil violation. Commits a civil violation
40 for which a forfeiture of not more than \$100 may be

1 adjudged, to be recovered on complaint in the county
2 where the structure is located, half to the
3 complainant and half to the county; and

4 2. Liabie for cost of repairs. Is liabie in a
5 civil action for the amount necessarily expended in
6 repairing damages caused by that act.

7 §1007. Exceptions

8 This chapter does not apply to the County of
9 Kennebec and the County of Aroostook.

10 CHAPTER 7

11 CIVIL DEFENSE

12 §1101. Activities authorized; costs

13 County commissioners may provide for civil defense
14 activities as provided by law within their respective
15 counties. The county commissioners shall include the
16 cost of these activities in the annual estimate under
17 chapter 3.

18 CHAPTER 9

19 REGIONAL DEVELOPMENT

20 §1201. Membership in a regional planning commission

21 As provided in section 2323, a county may become a
22 member of a regional planning commission by resolution
23 of the county commissioners, provided that all or part
24 of the county is located within the regional planning
25 and development district or subdistrict served by the
26 commission.

27 CHAPTER 11

28 COUNTY CHARTERS

29 SUBCHAPTER I

30 GENERAL PROVISIONS

1 §1301. Purpose

2 The purpose of this chapter is to provide a method
3 for each county, by vote of its voters, to determine
4 the structure of county government in that county. The
5 county charter adopted in each county may determine
6 the officers of the county, their relationship, the
7 administrative structure necessary to perform county
8 functions and the organization of county government,
9 subject to the limits of the Constitution of Maine.

10 §1302. Definitions

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

14 1. County commissioners. "County commissioners"
15 means the county commissioners in a county or the
16 officers, under a charter, who exercise legislative
17 powers within the county.

18 SUBCHAPTER II

19 PROCEDURES

20 §1321. Charter adoptions, revisions, procedure

21 1. County commissioners. The county
22 commissioners may determine that the adoption of a
23 county charter should be considered or that the
24 revision of a county charter already adopted under
25 this chapter should be considered and, by order,
26 provide for the establishment of a charter commission
27 to carry out that purpose as provided in this chapter.

28 2. Petition by voters. On the written petition
29 of a number of voters equal to at least 10% of the
30 number of votes cast in the county at the last
31 gubernatorial election, the county commissioners
32 shall, by order, provide for the establishment of a
33 charter commission for the preparation or revision of
34 a county charter in the form and manner provided in
35 this chapter.

1 3. Petition procedure. The following procedure
2 shall be used in the alternative method under
3 subsection 2.

4 A. Any 5 voters of the county may file an
5 affidavit with the county clerk stating:

6 (1) They will constitute the petitioner's
7 committee;

8 (2) They will circulate the petition and
9 file it in proper form;

10 (3) The names and addresses of the members;
11 and

12 (4) The address to which all notices to the
13 committee are to be sent.

14 Promptly after the affidavit is filed, the clerk
15 shall issue petition blanks to the committee.
16 Petition blanks shall be issued for each
17 municipality.

18 The petitioner's committee may designate
19 additional voters of the county, who are not
20 members of the committee, to circulate the
21 petition.

22 B. The clerk shall prepare petition forms at the
23 county's expense. The petition forms shall be
24 printed on paper of uniform size and may consist
25 of as many individual sheets as are reasonably
26 necessary.

27 (1) Petition forms shall carry the following
28 legend in bold lettering at the top of the
29 face of each form.

30 "County of"

31 "Each of the undersigned voters respectfully
32 requests the county commissioners to
33 establish a charter commission for the

1 purpose of revising the county charter or
2 preparing a new county charter."

3 Each signature to a petition must be in ink
4 or other indelible instrument and must be
5 followed by the residence of the voter with
6 street and number, if any. No petition may
7 contain any party or political designation.

8 (2) The clerk shall note the date of each
9 petition form issued. All petitions must be
10 filed within 120 days of the date of issue or
11 they are void.

12 (3) Each petition form shall have printed on
13 its back an affidavit to be executed by the
14 circulator, stating that the circulator
15 personally circulated the form, the number of
16 signatures on the form, that all the
17 signatures were signed in the circulator's
18 presence, that the circulator believes them
19 to be genuine signatures of the persons whose
20 names they purport to be, that each signer
21 has signed no more than one petition and that
22 each signer had an opportunity to read the
23 petition before signing. Before filing the
24 petitions under subparagraph (4), the
25 circulator shall submit them to the registrar
26 of each municipality concerned for
27 certification according to Title 21-A,
28 section 354, subsection 7, paragraph B.

29 (4) Petition forms shall be assembled as one
30 instrument and filed at one time with the
31 clerk. The clerk shall note the date of
32 filing on the forms.

33 4. Procedure after filing. Within 20 days after
34 the petition is filed, the clerk shall complete a
35 certificate as to its sufficiency, specifying, if it
36 is insufficient, the particulars which render it
37 defective. The clerk shall promptly send a copy of
38 the certificate to the petitioners' committee by mail
39 and shall file a copy with the county commissioners.

40 A. A petition certified insufficient for lack of

1 the required number of valid signatures may be
2 amended once if the petitioners' committee files a
3 notice of intention to amend it with the clerk
4 within 2 days after receiving the copy of the
5 clerk's certificate.

6 Within 10 days after the notice of intention is
7 filed, the committee may file a supplementary
8 petition to correct the deficiencies in the
9 original petition. This supplementary petition
10 must in form and content comply with the
11 requirements for an original petition under
12 subsection 3.

13 B. Within 5 days after a supplementary petition
14 is filed, the clerk shall complete and file a
15 certificate as to its sufficiency in the manner
16 provided for an original petition.

17 C. Any petition finally determined to be
18 insufficient is void. The clerk shall stamp the
19 petition void and seal and retain it in the manner
20 required for secret ballots.

21 5. Election procedure. Within 30 days after the
22 adoption of an order under subsection 1 or the receipt
23 of a certificate or final determination of sufficiency
24 under subsection 4, the county commissioners shall by
25 order submit the question for establishment of a
26 charter commission to the voters of the county at the
27 next regular or special statewide election held at
28 least 155 days from the date of this order.

29 A. The question to be submitted to the voters
30 shall be in substance as follows.

31 "Shall a charter commission be established
32 for the purpose of revising the county
33 charter or establishing a new county charter?"

34 §1322. Charter commission; membership; procedure

35 1. Membership. The charter commission shall
36 consist of 9 members, 6 of whom must be voters of the
37 county, elected as provided in paragraph A, and 3 of
38 whom shall be appointed by the county commissioners

1 under paragraph B.

2 A. Voter members shall be nominated as provided
3 in Title 21-A, sections 351, 352, 354, 355 and
4 356, and shall be nominated and elected by
5 district if the county commissioners are elected
6 by district. The number of voter members from
7 each district shall be apportioned equally. When
8 equal apportionment is not possible, one or more
9 voter members may be nominated and elected at
10 large. The voter members must be nominated and
11 elected without party designation. County
12 commissioners are not eligible for election.
13 Election of voter members may be held at the same
14 election as the referendum for the charter
15 commission, but must be held within 60 days of
16 that election. The names of the candidates shall
17 be arranged on the ballot alphabetically by last
18 name. If the elections are held at the same time,
19 they shall appear immediately below the question
20 relating to the charter commission.

21 B. Appointive members must be residents of the
22 county. No person may be appointed who is a
23 resident of a municipality in which another member
24 resides, unless this is impossible due to the
25 composition of the county's districts and the
26 residences of any of those eligible under this
27 paragraph to be appointive members. The county
28 commissioners shall make the appointments within
29 30 days after the voter members have been
30 selected. No more than 2 appointive members may
31 be members of the same political party. One
32 appointive member must be a county commissioner,
33 one must be a municipal officer and one must be
34 either a Senator or Representative. The county
35 clerk shall give at least 7 days' notice to the
36 clerk of each municipality within the county and
37 each member of the county legislative delegation
38 of the date, time and place of the meeting at
39 which the appointive members will be selected.
40 The county commissioners shall set the date, time
41 and place of the meeting.

42 2. Organization. Immediately after receiving
43 notice of the appointment of the members by the county

1 commissioners, the county clerk shall notify the
2 appointed and elected members of the charter
3 commission of the date, time and place of the
4 commission's organizational meeting. The clerk shall
5 set the date, time and place and give at least 10
6 days' notice of the meeting.

7 The charter commission shall organize by electing from
8 its members a chairman, vice-chairman and a secretary
9 and shall file notice of those elections with the
10 county clerk. Vacancies occurring on the commission
11 shall be filled by vote of the commission from the
12 voters of the county and, when the vacating member was
13 elected by a district, the district, except that a
14 vacancy among appointive members shall be promptly
15 filled by the county commissioners. Members shall
16 serve without compensation, but shall be reimbursed
17 from the commission's account for expenses lawfully
18 incurred by them in performing their duties.

19 3. Rules; staff. The charter commission may
20 adopt rules governing the conduct of its meetings and
21 proceedings and may employ any necessary legal,
22 research, clerical or other employees and consultants
23 within the limits of its budget.

24 4. Funding. A county shall provide its charter
25 commission, free of charge, with suitable office space
26 and with reasonable access to facilities for holding
27 public hearings, may contribute clerical and other
28 assistance to the commission, and shall permit it to
29 consult with and obtain advice and information from
30 county officers, officials and employees during
31 ordinary working hours. Within 20 days after the
32 election of a charter commission, the county
33 commissioners shall credit \$500 to the charter
34 commission account. A county may from time to time
35 transfer additional funds to the charter commission
36 account from surplus or from other accounts in the
37 county budget.

38 A. In addition to funds made available by a
39 county, the charter commission account may receive
40 funds from any other source, public or private,
41 except that no contribution of more than \$5 may be
42 accepted from any source other than the county or

1 a municipality in the county unless the name and
2 address of the person or agency making the
3 contribution and the amount of the contribution
4 are disclosed in writing filed with the clerk.

5 B. Prior to its termination, the charter
6 commission shall file with the clerk a complete
7 account of all its receipts and expenditures for
8 public inspection. Any balance remaining in its
9 account shall be credited to the county's surplus
10 account.

11 5. Hearings, reports, time limits. The charter
12 commission shall hold at least 3 public hearings to
13 receive information, views, comments and other
14 material relating to its functions. The first hearing
15 shall be held within 30 days after the charter
16 commission's organizational meeting.

17 A. The charter commission shall hold its public
18 hearings within the county at times and places set
19 by the commission. At least 10 days before a
20 hearing, the charter commission shall publish the
21 date, time and place of the hearing in a notice in
22 a newspaper having general circulation in the
23 county. Hearings may be adjourned from time to
24 time without further published notice.

25 B. Within 9 months after its election, the
26 charter commission shall:

27 (1) Prepare a preliminary report including
28 the text of the charter or charter revision
29 which the commission intends to submit to the
30 voters and any explanatory information the
31 commission considers desirable;

32 (2) Have the report printed and circulated
33 throughout the county; and

34 (3) Provide sufficient copies of the
35 preliminary report to the county clerk to
36 permit its distribution to each voter
37 requesting a copy.

38 C. Within 12 months after its election the

1 charter commission shall submit its final report
2 to the county commissioners. This report must
3 include:

4 (1) The full text and an explanation of the
5 proposed new charter or charter revision;

6 (2) Any comments that the commission
7 considers desirable;

8 (3) An indication of the major differences
9 between the current and proposed charters; and

10 (4) A written opinion by an attorney
11 admitted to the bar of this State that the
12 proposed charter or charter revision does not
13 conflict with the United States Constitution,
14 the Constitution of Maine or the general laws.

15 Minority reports may be filed.

16 D. The county commissioners may extend the time
17 limits for the preparation and submission of
18 preliminary and final reports of the charter
19 commission for up to 24 months after the election
20 of the charter commission, if the extension is
21 necessary to:

22 (1) Properly complete the reports;

23 (2) Have them printed or circulated; or

24 (3) Obtain the written opinion of an
25 attorney.

26 6. Election. When the final report is filed, the
27 county commissioners shall order the proposed new
28 charter or charter revision to be submitted to the
29 voters of the county at the next regular or special
30 statewide election held at least 30 days after the
31 final report is filed.

32 7. Termination. Except as provided in paragraph
33 A, the charter commission shall continue in existence
34 for 30 days after submitting its final report to the

1 county commissioners to wind up its affairs.

2 A. If judicial review is sought under section
3 1325, the charter commission shall continue in
4 existence until that review and any appeals from
5 that review are finally completed for the purpose
6 of intervening in those proceedings.

7 §1323. Charter amendments; procedure

8 1. County commissioners. The county
9 commissioners may determine that amendments to the
10 county charter should be considered and, by order,
11 provide for notice and hearing on them in the same
12 manner as provided in subsection 4, paragraph A.
13 Within 7 days after the hearing, the county
14 commissioners may order the proposed amendment to be
15 placed on a ballot at the next regular or special
16 statewide election held in the county at least 30 days
17 after the order is passed.

18 A. Each amendment shall be limited to a single
19 subject, but more than one section of the charter
20 may be amended as long as it is germane to that
21 subject.

22 B. Alternative statements of a single amendment
23 are prohibited.

24 2. Petition by voters. On the written petition
25 of a number of voters equal to at least 10% of the
26 number of votes cast in a county at the last
27 gubernatorial election the county commissioners shall,
28 by order, provide that the proposed amendments to the
29 county charter be placed on a ballot in accordance
30 with the following procedures.

31 A. Each amendment shall be limited to a single
32 subject, but more than one section of the charter
33 may be amended as long as it is germane to that
34 subject.

35 B. Alternative statements of a single amendment
36 are prohibited.

37 3. Petition procedure. The petition forms shall

1 carry the following legend in bold lettering at the
2 top of the face of each form.

3 "County of"

4 "Each of the undersigned voters respectfully
5 requests the county commissioners to provide for
6 the amendment of the county charter as set out
7 below."

8 No more than one subject may be included in a petition.

9 In all other respects, the form, content and
10 procedures governing amendment petitions are the same
11 as provided for charter revision and adoption
12 petitions under section 1321, including procedures
13 relating to filing, sufficiency and amendments.

14 4. Action on petition. The following procedures
15 shall be followed upon receipt of a report that a
16 petition is sufficient.

17 A. Within 10 days after receiving a report that a
18 petition is sufficient, the county commissioners
19 shall, by order, provide for a public hearing on
20 the proposed amendment. At least 10 days before
21 the hearing, they shall publish a notice of the
22 hearing in a newspaper having general circulation
23 in the county. The notice must contain the text
24 of the proposed amendment and a brief
25 explanation. The hearing shall be conducted by
26 the county commissioners or a committee appointed
27 by them.

28 B. Within 7 days after public hearing, the county
29 commissioners or the committee appointed by them
30 shall file with the county clerk a report
31 containing the final draft of the proposed
32 amendment and a written opinion by an attorney
33 admitted to the bar of this State that the
34 proposed amendment does not conflict with the
35 general laws, the United States Constitution or
36 the Constitution of Maine. In the case of a
37 committee report, a copy shall also be filed with
38 the county commissioners.

1 C. On all petitions filed more than 120 days
2 before the end of the current county fiscal year,
3 the county commissioners shall order the proposed
4 amendment to be submitted to the voters of the
5 county at the next regular or special statewide
6 election held within that year after the final
7 report is filed. If no such election is held
8 before the end of the current county fiscal year,
9 the county commissioners may order a special
10 election to be held before the end of the current
11 county fiscal year for the purpose of voting on
12 the proposed amendment. Unrelated charter
13 amendments shall be submitted to the voters as
14 separate questions.

15 5. Summary. When the county commissioners, with
16 the advice of an attorney, determine that it is not
17 practical to print the proposed amendment on the
18 ballot and that a summary would not misrepresent the
19 subject matter of the proposed amendment, the county
20 commissioners shall include in their order a summary
21 of the proposed amendment and instruction to the clerk
22 to include the summary on the ballot instead of the
23 text of the proposed amendment.

24 §1324. Submission to voters

25 1. Voting procedure. The method of voting at all
26 elections, when a question relating to a charter
27 revision, a charter adoption or a charter amendment is
28 involved, shall be by secret ballot in the manner
29 prescribed for state elections. The county
30 commissioners shall notify the municipal officers of
31 the county of the date on which the election will be
32 held. The municipal officers shall notify the
33 inhabitants of their respective municipalities in that
34 county to meet, in the manner prescribed by law for
35 holding a statewide election, to vote on the
36 acceptance or rejection of these recommended charter
37 revisions by voting on the question in paragraphs A
38 and B.

39 A. In the case of a charter revision or a charter
40 adoption, the question to be submitted to the
41 voters shall be in substance as follows.

1 "Shall the county approve the (charter
2 revision) (new charter) recommended by the
3 charter commission?"

4 B. In the case of a charter amendment, the
5 question to be submitted to the voters shall be in
6 substance as follows.

7 "Shall the county approve the charter
8 amendment reprinted (summarized) below?"

9 The voters of each municipality in the county shall
10 vote by ballot on this question and shall designate
11 their choice by a cross or check mark placed within a
12 corresponding square below the words "Yes" or "No."
13 The ballots shall be received, sorted, counted and
14 declared in open ward, town and plantation meetings in
15 the county and returns made to the Secretary of State
16 in the same manner as votes for members of the
17 Legislature. The Governor shall review the returns,
18 and, if it appears that a majority of the votes in the
19 county are in favor of the recommended adoption,
20 amendment or revision, the Governor shall proclaim
21 that fact without delay. The adoption, amendment or
22 revision becomes part of that county's charter 30 days
23 after the date of the Governor's proclamation.

24 The Secretary of State shall prepare and furnish to
25 each municipality in the county all ballots and
26 returns necessary to carry out the purpose of this
27 referendum.

28 2. Voter information. The following procedures
29 shall be performed before the election.

30 A. In the case of a charter revision or charter
31 adoption, at least 2 weeks before the election,
32 the county commissioners shall:

33 (1) Have the final report of the charter
34 commission printed;

35 (2) Make copies of the report available to
36 the voters in the clerk's office; and

1 (3) Post the report in at least one public
2 place in each municipality in the county.

3 B. In the case of a charter amendment, at least 2
4 weeks before the election, the county
5 commissioners shall:

6 (1) Have the proposed amendment and any
7 summary of the amendment printed;

8 (2) Make copies available to the voters in
9 the clerk's office; and

10 (3) Post the amendment and any summary of
11 the amendment in the same manner as required
12 under paragraph A.

13 §1325. Judicial review

14 1. Petition. The Superior Court, upon petition
15 of 10 voters of the county or on petition of the
16 Attorney General, may enforce this chapter. The
17 charter commission may intervene as a party in any
18 such proceeding.

19 2. Declaratory judgment. A petition for
20 declaratory relief under Title 14, chapter 707, may be
21 brought on behalf of the public by the Attorney
22 General or, by leave of the court, by 10 voters of the
23 county. The charter commission shall be served with
24 notice of the petition for declaratory judgment.

25 A. If 10 voters petition for declaratory relief,
26 they shall serve the Attorney General and the
27 charter commission with notice of the preliminary
28 petition for leave.

29 B. The Attorney General or the charter commission
30 may intervene as a party at any stage of the
31 proceedings.

32 C. The petitioners are liable for costs. The
33 court has discretion to award costs and reasonable
34 attorney fees to the petitioners.

1 3. Judicial review. Any 10 voters of the county
2 may, by petition, obtain judicial review to determine
3 the validity of the procedures under which a charter
4 was adopted, revised or amended. The 10 voters must
5 serve the charter commission with notice of the
6 petition. The charter commission may intervene as a
7 party in the proceeding. The petition must be brought
8 within 30 days after the election at which the
9 charter, revision or amendment is approved. If no
10 such petition is filed within this period, compliance
11 with all the procedures required by this chapter and
12 the validity of the manner in which the charter
13 adoption, revision or amendment was approved is
14 conclusively presumed. No charter adoption, revision
15 or amendment may be found invalid because of any
16 procedural error or omission, unless it is shown that
17 the error or omission materially and substantially
18 affected the adoption, revision or amendment.

19 4. Resubmission upon judicial invalidation for
20 procedural error. If the court finds that the
21 procedures under which any charter was adopted,
22 revised or amended are invalid, the Superior Court
23 may, on its own motion or the motion of any party,
24 order the resubmission of the charter adoption,
25 revision or amendment to the voters. This order shall
26 require only the minimum procedures on resubmission to
27 the voters that are necessary to cure the material and
28 substantial errors or omissions. The Superior Court
29 may also recommend or order other curative procedures
30 to provide for valid charter adoption, revision or
31 amendment.

32 SUBCHAPTER III

33 CHARTER POWERS

34 §1351. Charter powers; limits

35 1. Charter powers. The charter for any county
36 may provide for:

37 A. The organization of county government;

38 B. The election of a county legislative body and

1 the method of selecting officers, officials and
2 employees;

3 C. The establishment of county departments,
4 agencies, boards or commissions, and their
5 descriptions, powers and duties; and the powers
6 and authority of county officers or officials to
7 direct, regulate and control these agencies,
8 departments, boards and commissions;

9 D. The internal activities of county government;
10 and

11 E. The provisions required for the transition to
12 the new form.

13 2. Limitations. A county adopting a charter
14 under this chapter may exercise only those powers
15 specifically stated in the charter. New powers may
16 only be exercised upon amendment or revision of the
17 charter. In any event, no county may, by the
18 adoption, amendment or revision of a charter, exercise
19 any power or function which the Legislature has not
20 conferred on that county either expressly or by clear
21 implication by general or specific law. A county may
22 not alter the statutory method of raising money for
23 county expenditures.

24 3. Districts. A county adopting a charter under
25 this chapter shall provide for the election of county
26 officers from 3, 5 or 7 districts, from each of which
27 one officer shall be elected. The charter shall
28 specify the number of districts and establish the
29 boundaries of each district.

30 §1352. Application of general law; duties designated

31 1. Application. In those counties that adopt
32 county charters, the following general laws do not
33 apply:

34 A. Sections 2, 52 and 53;

35 B. Chapter 1, subchapter II, sections 61 to 82;

36 C. Chapter 1, subchapter III, sections 151 to 162;

1 D. Chapter 1, subchapter IV, section 201; and

2 E. Title 33, sections 601 to 608.

3 2. Duties designated. The county charter must
4 designate the county officers, officials or employees
5 who will carry out the duties required of county
6 commissioners, county treasurers and registers of
7 deeds under general law if the new charter abolishes
8 any of these offices or positions.

9 §1353. Finance committee

10 A county adopting a charter under this chapter may
11 provide for a method of appropriating money for county
12 expenditures other than the method in sections 2, 701
13 and 702. Any alternative method provided must give
14 the county legislative body the authority to
15 appropriate money, according to the budget, which must
16 first be approved by majority vote of the finance
17 committee. If the budget is not approved before the
18 start of a fiscal year, the county shall, until a
19 budget is finally adopted, operate on an interim
20 budget which may not exceed 80% of the previous year's
21 budget.

22 1. Creation of finance committee. A county
23 choosing to exercise its authority under this section
24 shall specify in the charter the number, term and
25 method of selection of members of the finance
26 committee. Each commissioner district must be equally
27 represented. One of the following methods of
28 selection shall be used.

29 A. Each county commissioner shall appoint the
30 finance committee members from that commissioner's
31 district from among the municipal officers of that
32 district.

33 B. The municipal officers within each
34 commissioner district shall caucus and elect the
35 finance committee members from that district. The
36 principle of proportional representation shall be
37 followed in the election of the finance committee.

1 2. Chairman; membership; terms. The finance
2 committee shall select its own chairman each year.
3 Members may not serve ex officio and shall have terms
4 covering at least one full budget cycle.

5 3. Budget estimate. The county commissioners
6 shall submit a budget estimate to the finance
7 committee in a timely fashion, no later than October
8 1st for the coming year, and shall provide the
9 committee with necessary clerical assistance, office
10 expenses and meeting space, as well as access to
11 county files and information. The committee shall act
12 on the budget in a timely fashion, in any event not
13 later than December 15th of the budget year.

14 4. Budget procedures. Any county adopting an
15 alternative method of appropriating money for county
16 expenditures under this section shall require in the
17 charter that the county commissioners hold one or more
18 public hearings in the county on the budget estimates
19 before October 1st. A copy of the final budget
20 estimates shall be filed, on forms approved by the
21 Department of Audit, with the State Auditor, who shall
22 retain them for 3 years.

23 CHAPTER 13

24 COUNTY JAILS AND JAILERS

25 SUBCHAPTER I

26 OFFICIALS AND PERSONNEL

27 §1501. Custody of jail and prisoners; jailer

28 The sheriff has the custody and charge of the
29 county jail and of all prisoners in that jail and
30 shall keep it in person, or by the deputy as jailer,
31 master or keeper.

32 1. Subordinate assistants and employees. The
33 jailer, master or keeper shall appoint, subject to the
34 requirements of section 501, all subordinate
35 assistants and employees. Subordinate assistants and
36 employees shall be appointed for the same period that

1 is provided for deputy sheriffs under section 381.
2 The professional qualifications required of them must
3 emphasize training or experience in or knowledge of
4 corrections. The jailer, master or keeper and all
5 subordinate assistants and employees are subject to
6 the training requirements of Title 25, section 2805.

7 2. Compensation. The pay of the jailer, master
8 or keeper and all subordinate assistants and employees
9 shall be set by the county commissioners and paid by
10 their respective counties, except when otherwise
11 provided by law.

12 3. Jailer and subordinates may be deputies. The
13 jailer and the jailer's subordinate assistants and
14 employees may be deputy sheriffs.

15 §1502. Jailer's duties when office of sheriff vacant

16 When a vacancy occurs in the office of sheriff,
17 the jailer lawfully acting continues in office and
18 shall retain charge of the jail and of all prisoners
19 in or committed to the jail. The jailer's official
20 neglects and misdoings are a breach of the principal's
21 official bond until a new sheriff is qualified, or the
22 Governor removes that jailer and appoints another,
23 which the Governor may do. The jailer so appointed
24 shall give bond in the manner required of a sheriff
25 for the faithful discharge of duties.

26 §1503. Offices of jailer and sheriff vacant;
27 appointment by county commissioners

28 If the office of jailer becomes vacant while the
29 office of sheriff is vacant, the county commissioners
30 may appoint a jailer, who shall give bond as a sheriff
31 is required to do and continue in office, if the
32 appointment is confirmed at the commissioners' next
33 meeting, during the vacancy in the office of sheriff
34 or until a new jailer is appointed.

35 §1504. Jailer to return list of prisoners at each
36 criminal session of court

37 At the opening of every criminal term of the
38 Superior Court for a county, every jailer shall return

1 a list of prisoners in custody and afterwards a list
2 of all committed during the session, certifying the
3 cause for which and the person by whom committed, and
4 shall have the calendar of prisoners in court for its
5 inspection. If the jailer fails to do so, the court
6 may impose a reasonable fine.

7 §1505. Record of persons committed

8 Every sheriff shall keep in a suitable bound book
9 a true and exact calendar containing the names of all
10 prisoners committed to the jail under the sheriff's
11 charge, their residences, additions, time of their
12 commitments, for what cause and by what authority, and
13 a particular description of the persons of those
14 committed for offenses. The sheriff shall register in
15 that book the name and description, the time when and
16 the authority by which any prisoner was discharged,
17 and the time and manner of any prisoner's escape.

18 §1506. Official papers filed and kept with calendar
19 and delivered to successor

20 All warrants, mittimuses, processes and other
21 official papers by which any prisoner is committed or
22 released, or attested copies of those papers, shall be
23 regularly filed in order of time and safely kept with
24 the calendar. When vacating the sheriff's office, the
25 sheriff or the sheriff's personal representative shall
26 deliver those papers to the successor on penalty of
27 forfeiting \$200 to the county.

28 §1507. Sheriff responsible for delivery of prisoners
29 to successors

30 All sheriffs are responsible for the delivery to
31 their successor of all prisoners in custody at the
32 time of their removal. For that purpose they shall
33 retain the keeping of the jail in their counties and
34 the prisoners in the jail until their successors enter
35 office.

36 §1508. Liability of sheriff or jail keeper for escape

37 1. To creditor of other person. When a prisoner
38 escapes through the insufficiency of the jail or the

1 negligence of the sheriff or jail keeper, the sheriff
2 is chargeable to the creditor or other person at whose
3 suit the prisoner was committed or to whose use any
4 forfeiture was adjudged against that prisoner.

5 2. Fine. If any jail keeper, through negligence,
6 allows a prisoner charged with an offense to escape,
7 the jail keeper shall be fined according to the nature
8 of the offense charged against the escaped prisoner,
9 but if a person committed for debt escapes from jail
10 and the sheriff or jail keeper returns the prisoner to
11 the jail within 3 months, the sheriff is liable only
12 for the costs of any action commenced against the
13 sheriff for that escape.

14 §1509. Escape through insufficiency of jail

15 1. Payment by county; sheriff's action. When an
16 escape happens through the insufficiency of the jail,
17 the county commissioners may order the county
18 treasurer to pay to the sheriff the amount of the fine
19 paid under section 1508. If they do not make an order
20 within 6 months after the demand is presented to them,
21 the sheriff may bring action against the inhabitants
22 of that county, to be tried in that county or in an
23 adjoining county. Service shall be made as in other
24 actions.

25 2. Appointment of agent to defend county;
26 execution. The commissioners may appoint an agent to
27 appear and defend an action brought under subsection
28 1. If they have no meeting between the time of service
29 and the time within which the answer is required to be
30 served, the action shall be continued for such time as
31 the court directs, saving all advantages to the
32 defendants.

33 SUBCHAPTER II

34 PRISONERS AND THEIR CONDUCT

35 §1551. Positions of trust for certain prisoners

36 A sheriff may grant positions of trust only to a
37 prisoner confined in a jail who was sentenced to serve
38 a term in that particular jail or who was transferred

1 to that particular jail from another correctional
2 facility where the prisoner was serving a sentence.

3 §1552. Treatment of prisoners for debt and minors

4 All jail keepers shall keep prisoners committed
5 for debt separate from prisoners charged with felony
6 or infamous crimes. They shall keep all minors so
7 committed and all prisoners upon a first charge,
8 before or after conviction, separate from those
9 convicted more than once of felony or infamous crimes,
10 so far as the construction or state of the jail allows.

11 §1553. Violations or furnishing liquor to prisoners

12 If any jail keeper violates section 1552 or
13 voluntarily or negligently allows any prisoner in
14 custody, charged with or convicted of any offense, to
15 have any intoxicating liquor, unless the physician
16 authorized to attend the sick in that jail certifies
17 in writing that the prisoner's health requires it and
18 prescribes the quantity, the jailkeeper forfeits \$25
19 for the first offense and \$50 for the 2nd offense.
20 These forfeitures shall be recovered for the county by
21 indictment, or by persons suing therefor, to their own
22 use. The jail keeper shall be removed from office and
23 may not hold the office of sheriff, deputy sheriff or
24 jailer for 5 years.

25 §1554. Federal prisoners

26 The keepers of the county jails shall receive and
27 safely keep all prisoners committed under authority of
28 the United States until discharged, under the
29 penalties provided for the safekeeping of prisoners
30 under the laws of this State.

31 §1555. Prisoners may attend funerals

32 Prisoners at the county jails may, at the
33 discretion of the sheriff, attend funerals of their
34 legally considered mother, father, husband, wife or
35 child if the funeral is held within the State.
36 Prisoners must pay the cost of transportation and the
37 fee and expenses of the officer who takes them to the
38 funeral.

1 §1556. Furloughs

2 1. Furlough authorized. The sheriff may
3 establish rules for and permit a prisoner under the
4 final sentence of a court a furlough from the county
5 jail in which the prisoner is confined. Furlough may
6 be granted for not more than 3 days at one time in
7 order to permit the prisoner to visit a dying
8 relative, to obtain medical services or for any other
9 reason consistent with the rehabilitation of an inmate
10 or prisoner which is consistent with the laws or rules
11 of the department. Furlough may be granted for a
12 period longer than 3 days if medically required.

13 2. Copy of rules provided to prisoner. Any
14 prisoner permitted furlough from the county jail under
15 this section shall be furnished a copy of the rules of
16 the county jail applicable to the furlough. The
17 prisoner must attest to receiving the copy.

18 3. Violation of terms of release. All prisoners
19 who willfully violate the terms of their release under
20 this section in relation to the time for reporting to
21 their places of furlough, the activities they may
22 conduct while on furlough or time of reporting back to
23 the county jail, may be punished by imprisonment for
24 not more than 60 days, except that prisoners who do
25 not return to the county jail within 24 hours from the
26 time they are scheduled to return may be prosecuted
27 for escape under Title 17-A, section 755. They shall
28 be prosecuted in the county in which the jail to which
29 they were sentenced is located.

30 4. Violation; obstruction or assistance to
31 furloughed prisoner. Notwithstanding Title 17-A,
32 section 4-A, any person 18 years of age or over who
33 willfully obstructs, intimidates or abets any prisoner
34 on furlough under this section, and thereby
35 contributes to or causes the prisoner's violation of
36 the terms and conditions of the furlough, after having
37 been warned by the sheriff to cease and desist in that
38 relationship or association with the prisoner, is
39 guilty of a Class D crime and shall be punished by a
40 fine of not more than \$500 or by imprisonment for not
41 more than 11 months, or both.

1 §1557. Transfer from jails

2 The sheriff may transfer a prisoner serving a
3 sentence in a county jail from one jail to another to
4 serve any part of that sentence, upon request of the
5 sheriff and approval of the county commissioners of
6 the county of the sending jail and upon the approval
7 of the sheriff and county commissioners of the county
8 of the receiving jail.

9 1. Cost of transfer or return. The county of the
10 sending jail shall pay the cost of the transfer or
11 return of the prisoner.

12 2. Cost of support. The county of the sending
13 jail shall pay the cost of the support of the prisoner
14 in the receiving jail which shall be an amount agreed
15 upon by the county commissioners party to the transfer.

16 3. Commissioner of Corrections to determine
17 temporary housing assignments. If a county that has
18 no jail is unable to locate space in any county
19 facility, that county may contact the Commissioner of
20 Corrections to obtain temporary housing in a
21 correctional facility operated by the Department of
22 Corrections. The sending county shall, on a daily
23 basis, contact each county facility in a continuing
24 effort to locate placement in a county facility. When
25 the sending county locates available space in a county
26 facility, the sheriff shall transfer the prisoner from
27 the department's correctional facility and place the
28 prisoner in the county facility.

29 §1558. Transfer from state correctional facilities

30 The sheriffs may accept custody of prisoners
31 transferred to their jail from state correctional
32 facilities under Title 34-A, section 3063.

33 §1559. Administration of medication

34 1. Administration of medication by sheriff or
35 deputy. The sheriff of any county may administer to
36 any prisoner in custody any oral or topical medication
37 as prescribed by a licensed physician or dentist or,

1 if requested by a prisoner, any nonprescription
2 medication in accordance with the directions on its
3 container. The sheriff may delegate this authority to
4 administer medication to the deputy who is in charge
5 of the county jail or to the master or keeper of the
6 county jail.

7 2. Limitations on administration of medication.
8 The sheriff or the sheriff's delegate may not
9 administer any prescription or nonprescription
10 medication to any prisoner who has been incarcerated
11 in the county jail for less than 24 hours, unless the
12 sheriff or the delegate has consulted with and
13 received permission to administer that medication from
14 a licensed physician.

15 3. Insulin injections. This section does not
16 prevent any prisoner from self-administering insulin
17 injections, provided that:

18 A. A duly licensed physician has authorized that
19 self-administration; and

20 B. That self-administration takes place in the
21 presence of the sheriff or the sheriff's delegate.

22 4. Statement by prisoner. Before administering
23 any nonprescription medication to any prisoner who has
24 been incarcerated in the county jail for 24 hours or
25 longer, the sheriff or the sheriff's delegate shall
26 obtain a written statement signed by the prisoner,
27 which states that the prisoner has requested that
28 medication and has had no previous adverse allergic
29 reaction to that medication.

30 5. Records of medication administered. Every
31 sheriff or the sheriff's delegate shall maintain for
32 at least 2 years a record which includes a description
33 of each prescription and nonprescription medication
34 administered in the county jail and the identity of
35 each person to whom that medication is administered.

36 6. Administration of medication not a violation.
37 The administration of medication to prisoners, as
38 provided in this section, is not a violation of Title
39 32, section 2102, subsection 2, paragraph D, or Title

1 32, section 3270, or any other law.

2 §1560. Removal for disease

3 The removal of prisoners afflicted with dangerous
4 diseases is governed as follows.

5 1. Removal. If a prisoner in a jail is afflicted
6 with a disease which the local health officer, by
7 medical advice, considers dangerous to the safety and
8 health of other prisoners or of the inhabitants of the
9 municipality, the local health officer shall, by
10 written order, direct the person's removal to some
11 place of safety, to be securely kept and provided for
12 until the officer's further order.

13 2. Return. Upon recovering from the disease, the
14 prisoner shall be returned to the place of confinement.

15 3. Removal not escape. A removal under this
16 section is not an escape.

17 4. Notice. If the diseased person was committed
18 to the place of confinement by an order of court or
19 judicial process, the local health officer shall send
20 the following to the office of the clerk of court from
21 which the order or process was issued:

22 A. The order for the diseased person's removal or
23 a copy of the order attested by the local health
24 officer; and

25 B. A statement describing the actions taken under
26 the order.

27 §1561. Recovery of medical expenses

28 The county may bring a civil action in any court
29 of competent jurisdiction to recover the cost of any
30 medical, dental, psychiatric or psychological expenses
31 incurred by the county on behalf of a prisoner
32 incarcerated in a county jail. The following assets
33 are not subject to judgment under this section:

34 1. Joint ownership of real property. Joint
35 ownership, if any, that the offender has in real
36 property;

1 2. Joint ownership in sources of income. Joint
2 ownership, if any, that the offender has in any
3 assets, earnings or other sources of income; and

4 3. Assets of offender's spouse or family. The
5 income, assets, earnings or other property, both real
6 and personal, owned by the offender's spouse or family.

7 §1562. Damage to property by inmates; restitution

8 Restitution may be imposed for the purpose of
9 replacing or repairing property destroyed or damaged
10 by the inmate or juvenile while at the jail. The jail
11 shall collect the amount provided for in subsection 1
12 from the prisoner and apply it to defray the cost of
13 replacement or repair of the items destroyed or
14 damaged.

15 1. Income available. When restitution is
16 imposed, any inmate or juvenile subject to that
17 punishment and who is able to generate income from
18 whatever source shall pay to the county jail where the
19 damage occurred 25% of that income, up to the cost of
20 replacement or repair of the items destroyed or
21 damaged. Any payments made for the support of
22 dependents which is required by the Department of
23 Human Services shall be subtracted from the prisoner's
24 income before the restitution share is calculated
25 under this subsection.

26 2. Transfer of prisoner. Any inmate or juvenile
27 who is transferred to another facility remains liable
28 for any restitution authorized under this subchapter.
29 The facility receiving the inmate or juvenile shall
30 collect the restitution and transfer it to the
31 facility where the damage occurred.

32 §1563. Disposal of body of person who died in jail

33 When a person dies in jail, the jailer or sheriff
34 shall deliver the body to the friends of the deceased,
35 if requested. Otherwise, the jailer or sheriff shall
36 dispose of it for anatomical purposes, as provided in
37 Title 22, chapter 709, unless the deceased at any time
38 requested to be buried, in which case the jailer or

1 sheriff shall bury the body in the common burying
2 ground and the burial expenses shall be paid by the
3 municipality in which the deceased had a residence, if
4 any in the State or, if not, by the State.

5 §1564. Assistance to discharged prisoners

6 The sheriff or the deputy keeping the jail may, at
7 the county's expense, give a prisoner about to be
8 discharged from jail a sum of money not exceeding \$2
9 and wearing apparel to a value not exceeding \$10 and
10 may furnish to that discharged prisoner a railroad
11 ticket, nontransferable, to any place to which the
12 fare does not exceed \$8. All sums so expended by the
13 sheriff or jailer shall be repaid from the county
14 treasury after the account of those expenses has been
15 audited and the amount found correct by the county
16 commissioners.

17 SUBCHAPTER III

18 PRISON LABOR

19 §1601. Employment of prisoners generally

20 The county commissioners may authorize the
21 employment of prisoners committed for crime, for the
22 benefit of the county or of their dependent families,
23 in some suitable manner not inconsistent with their
24 security and the discipline of the prison. The
25 commissioners may pay the proceeds of that labor, less
26 a reasonable sum to be deducted for the cost of
27 maintenance of those prisoners, to the dependent
28 families of the prisoners.

29 This section does not apply to sections 1602 and
30 1603.

31 §1602. Charitable organizations

32 The county commissioners may authorize the use of
33 prisoners committed for crime to provide assistance in
34 the improvement of property owned by charitable
35 organizations. The charitable organizations must pay
36 for the transportation of the prisoners and for the
37 transportation and per diem compensation for any
38 guards who accompany the prisoners.

1 §1603. Contracts subject to cancellation or
2 suspension

3 Except for contracts made under section 1602, any
4 contract for the employment of prisoners made by the
5 county commissioners with any person, firm or
6 corporation, shall be made subject to the right of the
7 county commissioners to withdraw, cancel or suspend
8 the contract in whole or in part.

9 §1604. Pay for labor of prisoners before sentence

10 Any person charged with a crime or awaiting
11 sentence who, while confined in any jail where
12 provision for labor has been made, chooses to labor as
13 provided for persons under sentence, shall receive
14 such sum for that labor as, in the judgment of the
15 commissioners of that county, that person has earned.

16 §1605. Employment of county jail prisoners

17 1. Order of release; purpose. Any person
18 sentenced or committed to a county jail for crime,
19 nonpayment of a fine or forfeiture or court order or
20 criminal or civil contempt of court, may be granted
21 the privilege of leaving the jail during necessary and
22 reasonable hours for any of the following purposes:

23 A. Employment;

24 B. Conducting that person's own business or
25 occupation, including, in the case of a person
26 primarily responsible for the family's
27 housekeeping and domestic needs, housekeeping and
28 attending the needs of that family;

29 C. Attendance at a weekly religious service;

30 D. Attendance at an educational institution;

31 E. Medical treatment;

32 F. Voluntary services within the county in which
33 the jail is located; or

1 G. To work or provide service to the victim of
2 the crime in accordance with Title 17-A, chapter
3 54, but only with the express approval of the
4 victim.

5 2. Grant of privilege; withdrawal. Unless the
6 court expressly grants a privilege described in
7 subsection 1, the prisoner is sentenced to ordinary
8 confinement. The court may grant a privilege at the
9 time of sentence or commitment or thereafter. The
10 court may withdraw the privilege at any time by order
11 entered with or without notice of hearing.

12 3. Wages, self-employment income; collection. If
13 a prisoner is employed for wages or salary, the
14 sheriff shall collect the wages or salary or require
15 the prisoner to turn over the wages or salary in full
16 when received. If the prisoner is self-employed, the
17 self-employment income shall be turned over to the
18 sheriff as may be ordered by the court. The sheriff
19 shall deposit the income in a trust checking account
20 and shall keep a ledger showing the status of the
21 account of each prisoner. The wages or salaries are
22 not subject to trustee process in the hands of either
23 the employer or the sheriff, and the self-employment
24 income is not subject to trustee process in the hands
25 of the sheriff during the prisoner's term and shall be
26 disbursed only as provided in this section; but for
27 tax purposes they are income of the prisoner.

28 4. Board; transportation. Every prisoner
29 gainfully employed is liable for the cost of board in
30 the jail, as fixed by the county commissioners. If
31 necessarily absent from jail at a mealtime, the
32 prisoner shall by request be furnished with an
33 adequate nourishing lunch to carry to work. The
34 sheriff shall charge the prisoner's account, if there
35 is one, for board.

36 If prisoners are gainfully self-employed, they shall
37 pay the sheriff for board, in default of which
38 privileges under this section are automatically
39 forfeited.

40 If the jail food is furnished directly by the county,

1 the sheriff shall account for and pay over these board
2 payments to the county treasurer. The county
3 commissioners may provide that the county furnish or
4 pay for the transportation of prisoners employed under
5 this section to and from the place of employment.

6 5. Disbursements. By order of the court, the
7 wages or salaries of employed prisoners and employment
8 income of self-employed prisoners shall be disbursed
9 by the sheriff for the following purposes, in the
10 order stated:

11 A. The board of the prisoners;

12 B. Necessary travel expenses to and from work and
13 other incidental expenses of the prisoners;

14 C. Support of the prisoners' dependents, if any;

15 D. Payments, either in full or ratably, of
16 restitution, and of the prisoners' obligations,
17 acknowledged in writing, in accordance with Title
18 17-A, chapter 54, or which have been reduced to
19 judgment; and

20 E. The balance, if any, to the prisoners upon
21 their release.

22 6. Restitution disbursements. Notwithstanding
23 subsection 5, the wages or salaries of employed
24 prisoners, employment income of self-employed
25 prisoners or income from any other source shall be
26 disbursed by the sheriff in accordance with any
27 restitution authorized by section 1562. These
28 disbursements may not be authorized until any
29 disbursements required by subsection 5, paragraphs A
30 to D have been made.

31 7. Employment in other county. The court may by
32 order authorize the sheriff, to whom the prisoner is
33 committed, to arrange with another sheriff for the
34 employment of the prisoner in the other's county, and
35 while so employed to be in the other's custody, but in
36 other respects to be and continue subject to the
37 commitment.

1 8. Evaluation of need of dependents. The welfare
2 director or the overseers of the poor of the
3 municipality in which the prisoner's dependents
4 reside, or the Department of Human Services, shall at
5 the request of the court investigate and report to the
6 court the amount necessary for the support of the
7 prisoner's dependents.

8 9. Denial of privilege. The sheriff may refuse
9 to permit prisoners to exercise their privileges to
10 leave the jail, as provided in subsection 1, for any
11 breach of discipline or other violation of jail
12 regulations. Any prisoner so disciplined may petition
13 either the District Court or the Superior Court for a
14 review of that disciplinary action. The court, after
15 review, shall make any order that it considers
16 appropriate.

17 10. Violations. Persons who willfully violate
18 the terms of their release relating to the time for
19 reporting to their place of employment or to any other
20 place to which they may be released under subsection
21 1, paragraphs A to E, or for reporting back to the
22 county jail may be punished by imprisonment for not
23 more than 60 days. A prisoner who does not return to
24 the county jail within 48 hours from the time
25 scheduled to return is guilty of escape under Title
26 17-A, section 755.

27 11. Rules of procedure. Proceedings under this
28 section are subject to the rules of procedure adopted
29 under Title 4, section 9.

30 §1606. Prisoner participation in public works
31 projects

32 1. Participation in public works projects
33 authorized. The sheriff in charge of a county jail
34 may, by discretion, permit certain inmates of that
35 jail to participate in public works-related projects
36 in the county where the jail is located. Before an
37 inmate is permitted to participate in this type of
38 project, the judge or justice who originally sentenced
39 the inmate to the county jail must sign an approval to
40 the inmate's participation.

1 2. Sentence prorated. Inmates participating in a
2 public works-related project under this section shall
3 have their sentences to the jail prorated at the rate
4 of one day removed from the sentences for every 16
5 hours of participation in the project.

6 3. Participation not deemed employment.
7 Participation in this type of project may not be
8 deemed employment under section 1605, subsections 3 to
9 8.

10 SUBCHAPTER IV

11 MISCELLANEOUS PROVISIONS

12 §1651. Examination of jails

13 At the commencement of each session required by
14 law, the county commissioners shall examine the jail
15 in their county, take necessary precaution for the
16 security of prisoners, for the prevention of infection
17 and sickness and for the accommodations of the
18 prisoners.

19 §1652. Jails to be clean and healthful

20 The sheriff shall see that the county jail is kept
21 clean and healthful, have the walls whitewashed in
22 April or May annually and as often as the county
23 commissioners order, at the county's expense, and pay
24 strict attention to the personal cleanliness of the
25 prisoners.

26 §1653. Bible, books and instruction for prisoners

27 The jailer, at the county's expense, shall have
28 available to each prisoner who is able to read a copy
29 of the Bible, and to all, on Sundays, such religious
30 instruction as may be obtained without expense, and to
31 those who may be benefited hereby, instruction in
32 reading, writing and arithmetic one hour every evening
33 except on Sunday. The jailer shall receive for their
34 use from whatever source, by loan or contribution, any
35 books or literature of a moral or religious tone and
36 exclude those of opposite tendencies.

1 §1654. Supplies for jails; accounts audited

2 The county commissioners of the several counties
3 shall, without extra charge or commission to
4 themselves or to any other person, procure all
5 necessary supplies, including necessary food, fuel,
6 bedding and clothing for the jails and the prisoners
7 in the jails, to be furnished and purchased under
8 their direction and at the expense of the counties.
9 No county commissioner may be interested directly or
10 indirectly in the purchase of any such supplies or in
11 any contract for such supplies made by the board of
12 which and while he is a member, and all contracts made
13 in violation of this provision are void. A suitable
14 person shall be employed to prepare the foods of the
15 prisoners in each county at the expense of the
16 county. The service of the food to the prisoners is
17 under the general direction of the jailer, master or
18 keeper. The sheriff shall appoint the person employed
19 to prepare the food of the prisoners subject to the
20 approval of the county commissioners. The county
21 commissioners may at any time direct specific rations
22 or articles of food, clothing, soap, fuel or other
23 necessities to be provided to the prisoners. The
24 bills and accounts for supplies furnished and the
25 items of expense incurred in preparing and serving
26 these supplies shall be audited by the Department of
27 Audit, as provided by Title 5, section 243, subsection
28 2.

29 §1655. Cumberland commissioners annually advertise
30 for supplies

31 The county commissioners of the County of
32 Cumberland may each year, as soon after January 1st as
33 possible, estimate the amount of food, fuel, clothing
34 and supplies as far as practicable which will be
35 required by the county jail and for the support of the
36 prisoners in the jail for the current year. They
37 shall advertise for sealed proposals for furnishing
38 those supplies according to specifications furnished
39 by them, in the daily papers of the City of Portland,
40 3 days successively, at least 14 days before the time
41 limited for the reception of those proposals, at which
42 time they shall examine all the proposals and award

1 the contract to the lowest responsible bidder. The
2 county commissioners shall procure such other
3 necessary supplies and articles for the foregoing
4 purposes as may not be furnished by contract and
5 account for the same in the manner provided for in
6 section 1654.

7 §1656. Transfer of prisoners when jail unfit or
8 insecure

9 1. Transfer of prisoners when jail unfit or
10 insecure. Whenever complaint on oath is made to a
11 Justice of the Superior Court that a prisoner or
12 prisoners should be removed from a jail to another
13 jail, or to a state correctional facility because that
14 jail is unfit for occupation or is insufficient for
15 the secure keeping of any person charged with a crime
16 and committed to await trial, the Justice of the
17 Superior Court shall:

18 A. Schedule the time and place for a hearing on
19 this complaint;

20 B. Have not less than 3 days' notice of that
21 hearing given to the sheriff or sheriffs of the
22 county jail or jails involved and, if transfer to
23 a state correctional facility is anticipated, to
24 the Commissioner of Corrections;

25 C. Order removal, at the expense of the sending
26 county, of the prisoner or prisoners to a state
27 correctional facility pending hearing, provided
28 that the Commissioner of Corrections and the
29 sending sheriff agree; and

30 D. Conduct a hearing and if the matter complained
31 of is found true:

32 (1) Issue a warrant for the transfer of the
33 prisoner or prisoners, at the expense of the
34 sending county, to any jail; or

35 (2) Issue a warrant for the transfer of the
36 prisoner or prisoners, at the expense of the
37 sending county, to a state correctional
38 facility, provided that the Justice of the

1 Superior Court finds that the receiving
2 institution is able to resolve the problem
3 causing the need to transfer, the nature of
4 the offense committed by the prisoner is so
5 severe that it requires sending to the
6 receiving institution and the security of the
7 sending facility is inadequate to handle the
8 problem.

9 2. Emergency. In the event of an emergency,
10 regardless of whether a complaint on oath has been
11 made to a Justice of the Superior Court, the sheriff,
12 with the agreement of the Commissioner of Corrections,
13 may immediately, at the expense of the sending county,
14 remove any prisoner from the county jail to a state
15 correctional facility. If removal is made under this
16 section, a complaint on oath shall be made to a
17 Justice of the Superior Court within 24 hours and a
18 hearing shall be conducted in accordance with the
19 requirements in subsection 1, paragraph D.

20 3. Transfer of prisoners when jail unfit due to a
21 casualty. If by fire or other casualty any jail is
22 destroyed or rendered unfit for use, any Justice of
23 the Superior Court may, upon being notified by the
24 district attorney of the county where the jail was or
25 is located, issue a order to the sheriff and the
26 deputies and constables of that county to have all
27 prisoners who might be liable to imprisonment in that
28 county imprisoned in the jail of some adjoining county
29 or in any other place of confinement. The order shall
30 be printed in the newspapers having general
31 circulation in that county.

32 §1657. Fines applied to building and repair of jail

33 All fines imposed by this chapter and chapter 1,
34 subchapter VI; Title 14, section 555; and Title 14,
35 chapter 203, subchapter IV, not otherwise
36 appropriated, shall be applied to building and
37 repairing the jails in the county where the offense is
38 committed.

39 §1658. Additional accommodations

40 The county commissioners may make such additions

1 in workshops, fences and other suitable accommodations
2 in, adjoining or appurtenant to the jails in the
3 several counties as may be found necessary for the
4 safekeeping, governing and employing of offenders
5 committed to the jails by authority of the State or
6 the United States. For the better employing of these
7 offenders, they may lease or purchase necessary lands
8 or buildings anywhere within their respective counties
9 and may authorize the employment on those lands for
10 the benefit of the county or of dependent families of
11 prisoners committed for crime, as provided in section
12 1601. Whenever the county commissioners determine
13 that the use of the land and buildings is unnecessary
14 for that use, they may sell and dispose of the land
15 and buildings in the manner required by law. The
16 county commissioners may raise by loan of their
17 respective counties, or otherwise, a total sum not
18 exceeding \$5,000 to make those purchases, alterations
19 and improvements, and may expend so much of that
20 amount as is necessary.

21 PART 2

22 MUNICIPALITIES

23 SUBPART 1

24 GENERAL PROVISIONS

25 CHAPTER 101

26 GENERAL PROVISIONS

27 §2001. Definitions

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

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

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

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

9 A. This term does not include:

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

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

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

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

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

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

33 8. Municipality. "Municipality" means a city or
34 town.

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

- 1 A. The town meeting in a town;
- 2 B. The city council in a city; or
- 3 C. That part of a municipal government that
4 exercises legislative powers under a law or
5 charter.
- 6 10. Municipal officers. "Municipal officers"
7 means:
- 8 A. The selectmen or councillors of a town; or
- 9 B. The mayor and aldermen or councillors of a
10 city.
- 11 11. Municipal official. "Municipal official"
12 means any elected or appointed member of a municipal
13 government.
- 14 12. Municipal year. "Municipal year" means a
15 municipality's fiscal year as determined by the
16 municipal officers under section 708.
- 17 13. Open areas. "Open areas" means any space or
18 area the preservation or restriction of the use of
19 which would:
- 20 A. Maintain or enhance the conservation of
21 natural or scenic resources;
- 22 B. Protect natural streams or water supplies;
- 23 C. Promote conservation of swamps, wetlands;
24 beaches or tidal marshes;
- 25 D. Enhance the value to the public of abutting or
26 neighboring parks, forests, wildlife preserves,
27 nature reservations or sanctuaries or other open
28 areas or open spaces;
- 29 E. Affect or enhance public recreation
30 opportunities;
- 31 F. Preserve historic sites;

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

3 H. Promote orderly urban or suburban development.

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

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

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

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

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

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

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

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

28 §2002. Municipality as body corporate

29 The residents of a municipality are a body
30 corporate which may sue and be sued, appoint attorneys
31 and adopt a seal.

32 §2003. Nonstatutory municipal functions

1 In addition to those offices and departments
2 required by general law, a municipality may provide
3 under its home rule authority for the performance of
4 any other municipal function.

5 §2004. General powers of cities

6 When no specific provision in a city charter
7 exists in reference to the exercise of a municipal
8 power, the city has all of the powers granted to towns
9 or municipalities under the general law.

10 SUBPART 2

11 ORGANIZATION AND INTERLOCAL COOPERATION

12 CHAPTER 111

13 HOME RULE

14 §2101. Purpose

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

18 §2102. Charter revisions, adoptions, procedure

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

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

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

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

3 (1) That the 5 voters will constitute the
4 petitioners' committee;

5 (2) The names and addresses of the 5 voters;

6 (3) The address to which all notices to the
7 committee are to be sent; and

8 (4) That the 5 voters will circulate the
9 petition and file it in proper form.

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

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

16 B. The municipal clerk shall prepare the petition
17 forms at the municipality's expense. The petition
18 forms shall be printed on paper of uniform size
19 and may consist of as many individual sheets as
20 are reasonably necessary.

21 (1) Petition forms shall carry the following
22 legend in bold lettering at the top of the
23 face of each form.

24 "Municipality of"

25 "Each of the undersigned voters
26 respectfully requests the municipal
27 officers to establish a Charter
28 Commission for the purpose of revising
29 the Municipal Charter or preparing a New
30 Municipal Charter."

31 Each signature to a petition must be in ink
32 or other indelible instrument and must be

1 followed by the residence of the voter with
2 street and number, if any. No petition may
3 contain any party or political designation.

4 (2) The clerk shall note the date of each
5 petition form issued. All petitions must be
6 filed within 120 days of the date of issue or
7 they are void.

8 (3) Each petition form shall have printed on
9 its back an affidavit to be executed by the
10 circulator, stating:

11 (a) That the circulator personally
12 circulated the form;

13 (b) The number of signatures on the
14 form;

15 (c) That all the signatures were signed
16 in the circulator's presence;

17 (d) That the circulator believes them
18 to be genuine signatures of the persons
19 whose names they purport to be;

20 (e) That each signer has signed no more
21 than one petition; and

22 (f) That each signer had an opportunity
23 to read the petition before signing.

24 C. Petition forms shall be assembled as one
25 instrument and filed at one time with the clerk.
26 The clerk shall note the date of filing on the
27 forms.

28 4. Procedure after filing. Within 20 days after
29 the petition is filed, the clerk shall complete a
30 certificate as to its sufficiency, specifying, if it
31 is insufficient, the particulars which render it
32 defective. The clerk shall promptly send a copy of
33 the certificate to the petitioners' committee by mail
34 and shall file a copy with the municipal officers.

1 A. A petition certified insufficient for lack of
2 the required number of valid signatures may be
3 amended once if the petitioners' committee files a
4 notice of intention to amend it with the clerk
5 within 2 days after receiving the copy of the
6 clerk's certificate.

7 Within 10 days after this notice of intention is
8 filed, the committee may file a supplementary
9 petition to correct the deficiencies in the
10 original. This supplementary petition, in form
11 and content, must comply with the requirements for
12 an original petition under subsection 3.

13 B. Within 5 days after a supplementary petition
14 is filed, the clerk shall complete and file a
15 certificate as to its sufficiency in the manner
16 provided for an original petition.

17 C. When an original or supplementary petition has
18 been certified insufficient, the committee, within
19 2 days after receiving the copy of the clerk's
20 certificate, may file a request with the municipal
21 officers for review.

22 The municipal officers shall inspect the petitions
23 in substantially the same form, manner and time as
24 a recount hearing under section 2531 and shall
25 make due certificate of that inspection. The
26 municipal officers shall file a copy of that
27 certificate with the municipal clerk and mail a
28 copy to the committee. The certificate of the
29 municipal officers is a final determination of the
30 sufficiency of the petitions.

31 D. Any petition finally determined to be
32 insufficient is void. The clerk shall stamp the
33 petition void and seal and retain it in the manner
34 required for secret ballots.

35 5. Election procedure. Within 30 days after the
36 adoption of an order under subsection 1 or the receipt
37 of a certificate or final determination of sufficiency
38 under subsection 4, the municipal officers shall by
39 order submit the question for the establishment of a

1 charter commission to the voters at the next regular
2 or special municipal election held at least 90 days
3 after this order.

4 A. The question to be submitted to the voters
5 shall be in substance as follows:

6 "Shall a Charter Commission be established
7 for the purpose of revising the Municipal
8 Charter or establishing a New Municipal
9 Charter?"

10 §2103. Charter commission, membership, procedure

11 1. Membership. The charter commission shall
12 consist of several voters in the municipality, elected
13 under paragraph A, and 3 members appointed by the
14 municipal officers under paragraph B.

15 A. Voter members shall be elected by one of the
16 following methods:

17 (1) Six voter members shall be elected in
18 the same manner as the municipal officers,
19 except that they must be elected at-large and
20 without party designations; or

21 (2) One voter shall be elected from each
22 voting district or ward in the same manner as
23 municipal officers, except that they must be
24 elected without party designation.

25 Election of voter members may be held at the same
26 municipal election as the referendum for the
27 charter commission, but must be held within 90
28 days of the referendum election. The names of the
29 candidates on the ballot shall be arranged
30 alphabetically by last name. If the elections are
31 held at the same time, the names of the candidates
32 shall appear immediately below the question
33 relating to the charter commission.

34 B. Appointive members need not be residents of
35 the municipality, but only one may be a municipal
36 officer. The municipal officers shall make the
37 appointments in accordance with municipal custom

1 or bylaws within 30 days after the election
2 approving the establishment of the charter
3 commission.

4 2. Organization. Immediately after receiving
5 notice of the appointment of the members by the
6 municipal officers, the municipal clerk shall notify
7 the appointed and elected members of the charter
8 commission of the date, time and place of the charter
9 commission's organizational meeting. The clerk shall
10 set the date, time and place of the meeting and give
11 at least 7 days' notice of the meeting.

12 The charter commission shall organize by electing from
13 its members a chairman, vice-chairman and a secretary
14 and shall file notice of these elections with the
15 municipal clerk. Vacancies occurring on the
16 commission shall be filled by vote of the commission
17 from the voters of the municipality, except that a
18 vacancy among appointive members shall be promptly
19 filled by the municipal officers. Members shall serve
20 without compensation, but shall be reimbursed from the
21 commission's account for expenses lawfully incurred by
22 them in the performance of their duties.

23 3. Regulations, staff. The charter commission
24 may adopt regulations governing the conduct of its
25 meetings and proceedings and may employ any necessary
26 legal, research, clerical or other employees and
27 consultants within the limits of its budget.

28 4. Funding. A municipality shall provide its
29 charter commission, free of charge, with suitable
30 office space and with reasonable access to facilities
31 for holding public hearings, may contribute clerical
32 and other assistance to the commission and shall
33 permit it to consult with and obtain advice and
34 information from municipal officers, officials and
35 employees during ordinary working hours. Within 20
36 days after the members of a charter commission are
37 elected and appointed, the municipal officers shall
38 credit \$100 to the charter commission account. A
39 municipality, from time to time, may appropriate
40 additional funds to the charter commission account.
41 These funds may be raised by taxation, borrowed or
42 transferred from surplus.

1 A. In addition to funds made available by a
2 municipality, the charter commission account may
3 receive funds from any other source, public or
4 private, except that no contribution of more than
5 \$5 may be accepted from any source other than the
6 municipality, unless the name and address of the
7 person or agency making the contribution and the
8 amount of the contribution are disclosed in
9 writing filed with the clerk.

10 B. Prior to its termination, the charter
11 commission shall file with the clerk a complete
12 account of all its receipts and expenditures for
13 public inspection. Any balance remaining in its
14 account shall be credited to the municipality's
15 surplus account.

16 5. Hearings, reports, time limits. The following
17 requirements regarding hearings, reports and time
18 limits apply to a charter commission.

19 A. Within 30 days after its organizational
20 meeting, the charter commission shall hold a
21 public meeting to receive information, views,
22 comments and other material relating to its
23 functions.

24 B. The charter commission shall hold its public
25 hearings within the municipality at the times and
26 places set by the commission. At least 10 days
27 before a hearing, the charter commission shall
28 publish the date, time and place of the hearing in
29 a notice in a newspaper having general circulation
30 in the municipality. Hearings may be adjourned
31 from time to time without further published notice.

32 C. Within 9 months after its election, the
33 charter commission shall:

34 (1) Prepare a preliminary report including
35 the text of the charter or charter revision
36 which the commission intends to submit to the
37 voters and any explanatory information the
38 commission considers desirable;

1 (2) Have the report printed and circulated
2 throughout the municipality; and

3 (3) Provide sufficient copies of the
4 preliminary report to the municipal clerk to
5 permit its distribution to each voter
6 requesting a copy.

7 D. Within 12 months after its election, the
8 charter commission shall submit its final report
9 to the municipal officers. This report must
10 include:

11 (1) The full text and an explanation of the
12 proposed new charter or charter revision;

13 (2) Any comments that the commission
14 considers desirable;

15 (3) An indication of the major differences
16 between the current and proposed charters; and

17 (4) A written opinion by an attorney
18 admitted to the bar of this State that the
19 proposed charter or charter revision does not
20 contain any provision prohibited by the
21 United States Constitution, the Constitution
22 of Maine or the general laws.

23 Minority reports if filed may not exceed 1,000
24 words.

25 E. The municipal officers may extend the time
26 limits for the preparation and submission of
27 preliminary and final reports of the charter
28 commission for up to 24 months after the election
29 of the commission if the extension is necessary to:

30 (1) Properly complete the reports;

31 (2) Have them printed or circulated; or

32 (3) Obtain the written opinion of an
33 attorney.

1 6. Election. When the final report is filed, the
2 municipal officers shall order the proposed new
3 charter or charter revision to be submitted to the
4 voters at the next regular or special municipal
5 election held at least 35 days after the final report
6 is filed.

7 7. Charter modification summaries. When a
8 proposed charter revision is submitted to the voters
9 in separate questions as charter modifications under
10 section 2105, subsection 1, paragraph A, and the
11 municipal officers, with the advice of an attorney,
12 determine that it is not practical to print the
13 proposed charter modification on the ballot and that a
14 summary would not misrepresent the subject matter of
15 the proposed modification, a summary of the
16 modification may be substituted for the text of the
17 proposed modification in the same manner as a summary
18 is substituted for a proposed amendment under section
19 2104, subsection 6.

20 8. Termination. Except as provided in paragraph
21 A, the charter commission shall continue in existence
22 for 30 days after submitting its final report to the
23 municipal officers for the purpose of winding up its
24 affairs.

25 A. If judicial review is sought under section
26 2108, the charter commission shall continue in
27 existence until that review and any appeals are
28 finally completed for the purpose of intervening
29 in those proceedings.

30 §2104. Charter amendments; procedure

31 1. Municipal officers. The municipal officers
32 may determine that amendments to the municipal charter
33 should be considered and, by order, provide for notice
34 and hearing on them in the same manner as provided in
35 subsection 5, paragraph A. Within 7 days after the
36 hearing, the municipal officers may order the proposed
37 amendment to be placed on a ballot at the next regular
38 municipal election held at least 30 days after the
39 order is passed; or they may order a special election
40 to be held at least 30 days from the date of the order

1 for the purpose of voting on the proposed amendments.

2 A. Each amendment shall be limited to a single
3 subject, but more than one section of the charter
4 may be amended as long as, it is germane to that
5 subject.

6 B. Alternative statements of a single amendment
7 are prohibited.

8 2. Petition by voters. On the written petition
9 of a number of voters equal to at least 20% of the
10 number of votes cast in a municipality at the last
11 gubernatorial election, but in no case less than 10,
12 the municipal officers, by order, shall provide that
13 proposed amendments to the municipal charter be placed
14 on a ballot in accordance with paragraphs A and B.

15 A. Each amendment shall be limited to a single
16 subject, but more than one section of the charter
17 may be amended as long as it is germane to that
18 subject.

19 B. Alternative statements of a single amendment
20 are prohibited.

21 3. Petition procedure. The petition forms shall
22 carry the following legend in bold lettering at the
23 top of the face of each form.

24 "Municipality of"

25 "Each of the undersigned voters respectfully
26 requests the municipal officers to provide for the
27 amendment of the municipal charter as set out
28 below."

29 No more than one subject may be included in a petition.

30 In all other respects, the form, content and
31 procedures governing amendment petitions shall be the
32 same as provided for charter revision and adoption
33 petitions under section 2102, including procedures
34 relating to filing, sufficiency and amendments.

1 4. Amendment constituting revision. At the
2 request of the petitioners' committee, the petition
3 form shall also contain the following language:

4 "Each of the undersigned voters further requests
5 that if the municipal officers determine that the
6 amendment set out below would, if adopted,
7 constitute a revision of the charter, then this
8 petition shall be treated as a request for a
9 charter commission."

10 Upon receipt of a petition containing this language,
11 the municipal officers, if they determine with the
12 advice of an attorney that the proposed amendment
13 would constitute a revision of the charter, shall
14 treat the petition as a request for a charter
15 commission and follow the procedures applicable to
16 such a request.

17 5. Action on petition. The following procedures
18 shall be followed upon receipt of a petition certified
19 to be sufficient.

20 A. Within 10 days after a petition is determined
21 to be sufficient, the municipal officers, by
22 order, shall provide for a public hearing on the
23 proposed amendment. At least 7 days before the
24 hearing, they shall publish a notice of the
25 hearing in a newspaper having general circulation
26 in the municipality. The notice must contain the
27 text of the proposed amendment and a brief
28 explanation. The hearing shall be conducted by the
29 municipal officers or a committee appointed by
30 them.

31 B. Within 7 days after the public hearing, the
32 municipal officers or the committee appointed by
33 them shall file with the municipal clerk a report
34 containing the final draft of the proposed
35 amendment and a written opinion by an attorney
36 admitted to the bar of this State that the
37 proposed amendment does not contain any provision
38 prohibited by the general laws, the United States
39 Constitution or the Constitution of Maine. In the
40 case of a committee report, a copy shall also be
41 filed with the municipal officers.

1 C. On all petitions filed more than 120 days
2 before the end of the current municipal year, the
3 municipal officers shall order the proposed
4 amendment to be submitted to the voters at the
5 next regular or special municipal election held
6 within that year after the final report is filed.
7 If no such election will be held before the end of
8 the current municipal year, the municipal officers
9 shall order a special election to be held before
10 the end of the current municipal year for the
11 purpose of voting on the proposed amendment.
12 Unrelated charter amendments shall be submitted to
13 the voters as separate questions.

14 6. Summary of amendment. When the municipal
15 officers, with the advice of an attorney, determine
16 that it is not practical to print the proposed
17 amendment on the ballot and that a summary would not
18 misrepresent the subject matter of the proposed
19 amendment, the municipal officers shall include in
20 their order a summary of the proposed amendment,
21 prepared subject to the requirements of section 2105,
22 subsection 3, paragraph C, and instruction to the
23 clerk to include the summary on the ballot instead of
24 the text of the proposed amendment.

25 §2105. Submission to voters

26 The method of voting at municipal elections, when
27 a question relating to a charter adoption, a charter
28 revision, a charter modification or a charter
29 amendment is involved, shall be in the manner
30 prescribed for municipal elections under sections 2528
31 to 2532, even if the municipality has not accepted the
32 provisions of section 2528.

33 1. Charter revision or adoption. Except as
34 provided in paragraph A, in the case of a charter
35 revision or a charter adoption, the question to be
36 submitted to the voters shall be in substance as
37 follows:

38 "Shall the municipality approve the (charter
39 revision) (new charter) recommended by the charter
40 commission?"

1 A. If the charter commission, in its final report
2 under section 2103, subsection 5, recommends that
3 the present charter continue in force with only
4 minor modifications, those modifications may be
5 submitted to the voters in as many separate
6 questions as the commission finds practicable.
7 The determination to submit the charter revision
8 in separate questions under this paragraph and the
9 number and content of these questions must be made
10 by a majority of the charter commission.

11 (1) If a charter commission decides to
12 submit the charter revision in separate
13 questions under this paragraph, each question
14 to be submitted to the voters shall be in
15 substance as follows:

16 "Shall the municipality approve the charter
17 modification recommended by the charter
18 commission and reprinted (summarized) below?"

19 2. Charter amendment. In the case of a charter
20 amendment the question to be submitted to the voters
21 shall be in substance as follows:

22 "Shall the municipality approve the charter
23 amendment reprinted (summarized) below?"

24 3. Voter information. Reports shall be made
25 available and summaries prepared and made available as
26 follows.

27 A. In the case of a charter revision or charter
28 adoption, at least 2 weeks before the election,
29 the municipal officers shall:

30 (1) Have the final report of the charter
31 commission printed;

32 (2) Make copies of the report available to
33 the voters in the clerk's office; and

34 (3) Post the report in the same manner that
35 proposed ordinances are posted.

1 B. In the case of a charter amendment, at least 2
2 weeks before the election, the municipal officers
3 shall:

4 (1) Have the proposed amendment and any
5 summary of the amendment prepared under this
6 section printed;

7 (2) Make copies available to the voters in
8 the clerk's office; and

9 (3) Post the amendment and any summary of
10 that amendment in the same manner that
11 proposed ordinances are posted.

12 C. The municipal officers shall prepare any
13 summary of a proposed amendment with the advice of
14 an attorney. The summary must fairly describe the
15 content of the proposed amendment and shall not
16 contain information designed to promote or oppose
17 the amendment.

18 4. Effective date. If a majority of the ballots
19 cast on any question under subsection 1 or 2 favor
20 acceptance, the new charter, charter revision, charter
21 modification or charter amendment becomes effective as
22 provided in this subsection, provided the total number
23 of votes cast for and against the question equals or
24 exceeds 30% of the total votes cast in the
25 municipality at the last gubernatorial election.

26 A. Except as provided in subparagraph (1), new
27 charters, charter revisions or charter
28 modifications adopted by the voters take effect on
29 the first day of the next succeeding municipal
30 year.

31 (1) New charters, charter revisions or
32 charter modifications take effect immediately
33 for the purpose of conducting any elections
34 required by the new provisions.

35 B. Charter amendments adopted by the voters take
36 effect on the date determined by the municipal
37 officers, but not later than the first day of the
38 next municipal year.

1 §2106. Recording

2 Within 3 days after the results of the election
3 have been declared, the municipal clerk shall prepare
4 and sign 3 identical certificates setting forth any
5 charter that has been adopted or revised and any
6 charter modification or amendment approved. The clerk
7 shall send one certificate to each of the following:

8 1. Secretary of State. The office of the
9 Secretary of State, to be recorded;

10 2. Law library. The Law and Legislative
11 Reference Library; and

12 3. Clerk's office. The office of the municipal
13 clerk.

14 §2107. Effect of private and special laws

15 Private and special laws applying to a
16 municipality remain in effect until repealed or
17 amended by a charter revision, adoption, modification
18 or amendment under this chapter.

19 §2108. Judicial review

20 1. Petition. The Superior Court, upon petition
21 of 10 voters of the municipality or on petition of the
22 Attorney General, may enforce this chapter. The
23 charter commission may intervene as a party in any
24 such proceeding.

25 2. Declaratory judgment. A petition for
26 declaratory relief under Title 14, chapter 707, may be
27 brought on behalf of the public by the Attorney
28 General or, by leave of the court, by 10 voters of the
29 municipality. The charter commission shall be served
30 with notice of the petition for declaratory judgment.

31 A. If 10 voters petition for declaratory relief,
32 they shall serve the Attorney General and the
33 charter commission with notice of the preliminary
34 petition for leave.

1 B. The Attorney General or the charter commission
2 may intervene as a party at any stage of the
3 proceedings.

4 C. The petitioners are liable for costs.
5 However, the court has discretion to award costs
6 and reasonable attorney fees to the petitioners.

7 3. Judicial review. Any 10 voters of the
8 municipality, by petition, may obtain judicial review
9 to determine the validity of the procedures under
10 which a charter was adopted, revised, modified or
11 amended. The petition must be brought within 30 days
12 after the election at which the charter, revision,
13 modification or amendment is approved. If no such
14 petition is filed within this period, compliance with
15 all the procedures required by this chapter and the
16 validity of the manner in which the charter adoption,
17 revision, modification or amendment was approved is
18 conclusively presumed. No charter adoption, revision,
19 modification or amendment may be found invalid because
20 of any procedural error or omission unless it is shown
21 that the error or omission materially and
22 substantially affected the adoption, revision,
23 modification or amendment.

24 4. Resubmission upon judicial invalidation for
25 procedural error. If the court finds that the
26 procedures under which any charter was adopted,
27 revised, modified or amended are invalid, the Superior
28 Court, on its own motion or the motion of any party,
29 may order the resubmission of the charter adoption,
30 revision, modification or amendment to the voters.
31 This order shall require only the minimum procedures
32 on resubmission to the voters that are necessary to
33 cure the material and substantial errors or
34 omissions. The Superior Court may also recommend or
35 order other curative procedures to provide for valid
36 charter adoption, revision, modification or amendment.

37 §2109. Liberal construction

38 This chapter, being necessary for the welfare of
39 the municipalities and their inhabitants, shall be
40 liberally construed to accomplish its purposes.

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CHAPTER 113

CONSOLIDATION

§2151. Authority to consolidate

Any 2 or more municipalities may consolidate by following the procedure of section 2152 or the alternative procedure of section 2153.

§2152. Joint charter commission

1. Petition. The voters of a municipality may file a petition in the municipal office that must:

A. Be addressed to the municipal officers;

B. Be signed by at least 10% of the voters of that municipality, except that only 1,000 signatures are necessary in municipalities of 10,000 or more voters;

C. Propose that the municipality be consolidated with another municipality, or other municipalities, named in the petition; and

D. Request that 3 persons be elected by the voters of the municipality to serve as members of a joint charter commission for the purpose of drafting a consolidation agreement.

2. Joint charter commission. If a petition is filed as required under subsection 1, the 3 members of a joint charter commission shall be elected at the next special or regular election in the manner provided for the election of municipal officers. The election of members by 2 or more municipalities authorizes the commission to draft the consolidation agreement. If a municipality does not elect members, it may not participate in the consolidation.

3. Consolidation agreement. The joint charter commission shall draft an agreement between the consolidating municipalities which includes:

A. The names of the municipalities;

1 B. The name under which it is proposed to
2 consolidate, which must be distinguishable from
3 the name of any other municipality in the State,
4 other than the consolidating municipalities;

5 C. The property, real and personal, belonging to
6 each municipality, and its fair value;

7 D. The indebtedness, bonded and otherwise, of
8 each municipality;

9 E. The proposed name and location of the
10 municipal office;

11 F. The proposed charter;

12 G. The terms for apportioning tax rates to
13 service the existing bonded indebtedness of the
14 respective municipalities; and

15 H. Any other necessary and proper facts and terms.

16 4. Submission of consolidation agreement. The
17 consolidation agreement shall be submitted to the
18 voters of each municipality at a municipal election
19 after notice and hearing as provided in paragraphs A
20 and B. The consolidation agreement may be amended,
21 provided that the amended agreement meets the notice
22 and hearing requirements of paragraphs A and B. Upon
23 approval of a majority of those voting in each of 2 or
24 more municipalities, the consolidation agreement
25 becomes effective, according to its terms, in those
26 municipalities.

27 A. The municipal officers of each municipality
28 shall hold a public hearing on the consolidation
29 agreement. The public hearing may be held on more
30 than one day, provided that it adjourns
31 permanently at least 10 days before the election.

32 B. The municipal officers shall notify the voters
33 of each municipality of the consolidation
34 agreement and of the time and place of the public
35 hearing in the same manner that the voters of each
36 municipality are notified of ordinances to be

1 enacted. This notice must be given at least 30
2 days before the election and at least 10 days
3 before the hearing.

4 §2153. Alternative procedure

5 The municipal officers of 2 or more municipalities
6 may act as a joint charter commission without a
7 petition under section 2152, subsection 1.

8 §2154. Effects of consolidation

9 All the rights, privileges and franchises of each
10 of the municipalities and all property, real and
11 personal, and all debts due on whatever amounts,
12 belonging to and of the municipalities, are
13 transferred to and vested in the consolidated
14 municipality, provided that all bonded debt of each
15 municipality remains in effect after consolidation as
16 a debt of that portion of the consolidated
17 municipality within the limits of the former
18 municipality that incurred the debt. Ordinances of
19 the former municipalities remain in effect in their
20 respective territories until 2 years after the
21 effective date of the consolidation when they become
22 void.

23 §2155. Limitation

24 If the voters of a municipality reject a
25 consolidation agreement, that municipality may not be
26 a party to any consolidation agreement for 3 years
27 after the date of the rejection, except when 30% of
28 the qualified voters have requested an agreement by
29 signing a petition under section 2152, subsection 1.

30 §2156. Certificate to Secretary of State

31 The municipal officers shall declare the results
32 of any vote under this chapter and file a certificate
33 of the result with the Secretary of State.

34

CHAPTER 115

35

INTERLOCAL COOPERATION

1 §2201. Purpose

2 It is the purpose of this chapter to permit
3 municipalities to make the most efficient use of their
4 powers by enabling them to cooperate with other
5 municipalities on a basis of mutual advantage and
6 thereby to provide services and facilities in a manner
7 and pursuant to forms of governmental organization
8 that will accord best with geographic, economic,
9 population and other factors influencing the needs and
10 development of local communities.

11 §2202. Definitions

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

15 1. Public agency. "Public agency" means:

16 A. Any political subdivision of the State;

17 B. Any quasi-municipal corporation, including,
18 but not limited to, school administrative
19 districts, urban renewal authorities and sewer
20 districts; or

21 C. Any agency of State Government or the Federal
22 Government.

23 §2203. Joint exercise of powers

24 Any power or powers, privileges or authority
25 exercised or capable of exercise by a public agency of
26 the State may be exercised and enjoyed jointly with
27 any other public agency of this State, or of the
28 Federal Government to the extent that federal laws
29 permit the joint exercise. When acting jointly with
30 any public agency, any agency of State Government may
31 exercise all of the powers, privileges and authority
32 conferred by this chapter upon a public agency.

33 1. Agreement. Any 2 or more public agencies may
34 enter into agreements with one another for joint or
35 cooperative action under this chapter. The governing
36 bodies of the participating public agencies must take

1 appropriate action by ordinance, resolution or other
2 action under law before any such agreement may become
3 effective.

4 2. Specifications. Any agreement made under this
5 chapter must specify the following:

6 A. Its duration;

7 B. The precise organization, composition and
8 nature of any separate legal or administrative
9 entity created by the agreement together with the
10 powers delegated to that entity, provided the
11 entity may be legally created;

12 C. Its purpose;

13 D. The manner of financing the joint or
14 cooperative undertaking and of establishing and
15 maintaining a budget for the undertaking;

16 E. The method to be used to partially or
17 completely terminate the agreement and to dispose
18 of property upon termination; and

19 F. Any other necessary and proper matters.

20 3. Additional items. If the agreement does not
21 establish a separate legal entity to conduct the joint
22 or cooperative undertaking, the agreement, in addition
23 to the items listed in subsection 2, must contain the
24 following.

25 A. It must provide for an administrator or a
26 joint board responsible for administering the
27 joint or cooperative undertaking. In the case of
28 a joint board, all public agencies party to the
29 agreement must be represented.

30 B. It must provide the manner of acquiring,
31 holding and disposing of real and personal
32 property used in the joint or cooperative
33 undertaking.

34 4. Responsibility. No agreement made under this
35 chapter may relieve any public agency of any

1 obligation or responsibility imposed upon it by law
2 except to the extent of actual and timely performance
3 by a joint board or other legal or administrative
4 entity created by an agreement made under this
5 chapter. This performance may be offered in
6 satisfaction of the obligation or responsibility.

7 5. Liability. An action is maintainable against
8 any public agency whose default, failure of
9 performance or other conduct caused or contributed to
10 the incurring of damage or liability by the other
11 public agencies jointly.

12 6. Notice to regional councils. Any agreement
13 made under this chapter is subject to the reporting
14 requirements of section 2342, subsection 6, if
15 applicable.

16 7. Liberal construction. It being the intent of
17 the Legislature to avoid the proliferation of special
18 purpose districts and inflexible enabling laws, this
19 chapter shall be liberally construed toward that end.

20 8. Limitation. Notwithstanding any other
21 provision of this chapter:

22 A. No powers, privileges or authority may be
23 jointly exercised unless each type of power,
24 privilege or authority exercised is capable of
25 being exercised by at least one of the parties
26 within the entire jurisdictional area of the
27 contract, or by each of the several parties within
28 each of their several jurisdictions if all of the
29 several jurisdictions make up the total
30 jurisdictional area of the contract; or

31 B. No essential legislative powers, taxing
32 authority or eminent domain power may be delegated
33 by contract to a joint authority or administrative
34 entity.

35 §2204. Filing of agreement

36 Before becoming effective, an agreement made under
37 this chapter must be filed with the clerk of each
38 concerned municipality and the Secretary of State.

1 §2205. Approval by state officers

2 If an agreement made under this chapter deals in
3 whole or in part with the provision of services or
4 facilities with regard to which an officer or agency
5 of the State Government has constitutional or
6 statutory powers of control, the agreement must be
7 submitted to the state officer or agency having that
8 power of control before becoming effective. The state
9 officer or agency shall approve or disapprove it as to
10 all matters within the state officer's or agency's
11 jurisdiction.

12 The officer or agency shall approve any agreement
13 submitted to the officer or agency under this chapter
14 unless the officer or agency finds that it does not in
15 substance comply with any law regarding matters within
16 that officer's or the agency's jurisdiction. The
17 officer or agency shall detail in writing, addressed
18 to the governing bodies of the public agencies
19 concerned, the specific respects in which the proposed
20 agreement substantially fails to meet the requirements
21 of law. Failure to disapprove an agreement submitted
22 under this chapter within 30 days of its submission
23 constitutes approval of the agreement.

24 §2206. Funds, personnel and services

25 Any public agency entering into an agreement under
26 this chapter may appropriate funds and may sell,
27 lease, give or otherwise supply the administrative
28 joint board or other legal or administrative entity
29 created to operate the joint or cooperative
30 undertaking by providing any personnel or services for
31 that purpose that it may legally furnish.

32 §2207. Former districts unaffected

33 In municipalities which acted under the repealed
34 section 8-A of chapter 90-A of the Revised Statutes of
35 1954, the district formed remains effective so far as
36 it complies with this chapter and may be continued
37 accordingly.

38

CHAPTER 117

1 PUBLIC SELF-FUNDED POOLS

2 §2251. Intent

3 The Legislature finds that:

4 1. Insurance protection necessary. Insurance
5 protection is essential to the proper functioning of
6 this State's political subdivisions;

7 2. Burden on political subdivisions. The
8 resources of political subdivisions are burdened by
9 the securing of that protection through standard
10 carriers;

11 3. Political subdivision services are vital. The
12 services provided by this State's political
13 subdivisions are vital to the people of the State; and

14 4. Contributions to pool are public purpose. All
15 financial and administrative contributions made by a
16 political subdivision to a public self-funded pool, as
17 authorized by chapter 115 and section 3001 and created
18 under this chapter, are made for a public and
19 governmental purpose and that the contributions
20 benefit each contributing political subdivision.

21 §2252. "Political subdivision" defined

22 "Political subdivision" means any municipality,
23 plantation, county, quasi-municipal corporation and
24 special purpose district, including, but not limited
25 to, any water district, sanitary district, hospital
26 district, municipal electric utility and school
27 administrative unit. "School administrative unit" has
28 the same meaning as that found in Title 20-A, section
29 1, subsection 26.

30 §2253. Public self-funded pools; powers; limitations

31 1. Coverage. Any public self-funded pool formed
32 by 10 or more municipalities or school administrative
33 districts or an organization representing 10 or more
34 political subdivisions may provide risk management and
35 coverage for pool members and employees of pool
36 members, for acts or omissions arising out of the
37 scope of their employment, including any of the
38 following:

1 A. Casualty insurance, including general and
2 professional liabilities coverage, but excluding
3 workers' compensation insurance provided under
4 Title 39;

5 B. Property insurance, including marine insurance
6 and inland navigation, transportation, boiler and
7 machinery insurance coverage;

8 C. Automobile insurance and protection against
9 other liability and loss associated with the
10 ownership of motor vehicles;

11 D. Surety and fidelity insurance coverage; and

12 E. Environmental impairment insurance coverage.

13 2. Limitations. Any public self-funded pool may
14 not provide for hospital, medical, surgical or dental
15 benefits to the employees of the member political
16 subdivisions in the pool except when those benefits
17 arise from the obligations and responsibilities of the
18 pool in providing automobile insurance coverage and
19 protection against other liability and loss associated
20 with the ownership of motor vehicles.

21 3. Excess insurance; reinsurance. A public
22 self-funded pool shall obtain excess insurance or
23 reinsurance. Aggregate excess insurance to be
24 purchased by the pool under its plan shall be bound
25 before the effective date of the plan. The insurance
26 shall limit the exposure of the pool to a defined
27 level both as to ultimate claims values and loss ratio
28 at which recovery from the insurer will be realized.
29 The attachment point of continuing aggregate excess
30 coverage shall provide risk relief to the plan
31 adequate to its financing needs.

32 4. Amounts to be paid when coverage issued. Any
33 member joining the pool before the effective date of
34 the plan or during the first year of operation must
35 pay at least 25% of the first year's annual
36 contribution before coverage becomes effective.

1 5. Underwriting guidelines. Prior to the
2 operation of the pool's plan, underwriting guidelines
3 shall be adopted which embody rate charges to
4 prospective members at a level adequate to its
5 financial needs as certified by the pool's actuary.
6 Fixed costs of operations shall likewise be covered
7 for the first prospective fund year and an overlay
8 sufficient to reasonably meet immediate claims costs
9 shall be held in a separate account to be used solely
10 for this purpose.

11 6. Actuarial advisory opinion. Prior to the
12 operation of the pool's plan, the pool must obtain an
13 independent actuarial advisory opinion report given by
14 a member of the American Academy of Actuaries
15 qualified as a casualty loss reserve specialist as
16 defined by the National Association of Insurance
17 Commissioners. Two copies of this report shall be
18 filed with the Superintendent of Insurance; one copy
19 shall be filed with each member of the board of
20 directors; and one copy shall be provided to each
21 prospective pool member. The report shall address:

22 A. The financial viability of the plan; and

23 B. Ultimate risk exposures attendant to each line
24 being underwritten by the plan.

25 7. General powers. A public self-funded pool,
26 for the purposes of carrying on the business of the
27 public self-funded pool whether or not a body
28 corporate, may:

29 A. Sue or be sued;

30 B. Make contracts;

31 C. Hold and dispose of real property; and

32 D. Borrow money, contract debts and pledge assets
33 in the name of the public self-funded pool.

34 8. Establishment as separate legal or
35 administrative entity. The public self-funded pool

1 may be established as a separate legal or
2 administrative entity for purposes of effectuating
3 public self-funded pool agreements.

4 §2254. Public self-funded pool not insurance company

5 Any public self-funded pool operating under this
6 chapter is not an insurance company, reciprocal
7 insurer or insurer under the laws of the State. The
8 development, administration and provision of public
9 self-funded pool programs and coverages authorized by
10 section 2253, subsection 1, by the governing authority
11 created to administer the pool does not constitute
12 doing an insurance business.

13 §2255. Contract establishing public self-funded pool;
14 provisions

15 Any contract entered into under this chapter must
16 provide:

17 1. Financial plan. A financial plan setting
18 forth in general terms:

19 A. The insurance coverages to be offered by the
20 public self-funded pool; applicable deductible
21 levels; and the maximum level of claims which the
22 pool will self-insure;

23 B. The amount of cash reserves to be set aside
24 for the payment of claims;

25 C. The amount of insurance to be purchased by the
26 pool to provide coverage over and above the claims
27 which are not satisfied directly from the pool's
28 resources and the terms of that policy set forth
29 in section 2253, subsection 3; and

30 D. The amount of aggregate excess insurance
31 coverage to be purchased;

32 2. Management plan. A plan of management which
33 provides for all of the following:

34 A. The means of establishing the governing
35 authority of the pool;

1 B. The responsibility of the governing authority
2 with regard to fixing contributions to the pool,
3 maintaining reserves, levying and collecting
4 assessments for deficiencies, disposal of
5 surpluses and administering the pool in the event
6 of termination or insolvency;

7 C. The basis upon which new members may be
8 admitted to and existing members may leave the
9 pool;

10 D. The identification of funds and reserves by
11 exposure area;

12 E. Other provisions necessary or desirable for
13 the operation of the pool; and

14 F. The selection of a governing authority, which
15 shall be a board of directors for the pool, a
16 majority of whom must be elected or appointed
17 officials of pool members and 2 of whom must be
18 members of the public from the areas served by the
19 pool who are not currently serving as either
20 elected or appointed officials; and

21 3. Assessments. A provision that, if the assets
22 of a public self-funded pool are at any time actuarially
23 determined to be insufficient to enable the pool to
24 discharge its legal liabilities and other obligations
25 and to maintain actuarially sound reserves, it shall,
26 within 30 days of that determination, make up the
27 deficiency or levy a prorated assessment upon its
28 members for the amount needed to make up the
29 deficiency.

30 A. Members of the pool shall be given 30 days
31 notice of any assessment due.

32 B. The contract must provide sanctions for any
33 failure to comply with a mandatory assessment.

34 \$2256. Audit requirements

35 1. Filing of audited financial statements. Each
36 public self-funded pool shall file with the members of

1 the pool, by the last day of the 6th month following
2 the end of the pool's fiscal year, audited financial
3 statements certified by an independent certified
4 public accountant. The financial statement must
5 include, but is not limited to:

6 A. Actuarially certified appropriate reserves for
7 known claims and expenses associated with those
8 claims;

9 B. Claims incurred but not reported and expenses
10 associated with those claims;

11 C. Unearned premiums; and

12 D. Reserve for bad debts.

13 The audited financial statement shall include
14 information concerning the adequacy of the plan. This
15 report shall result from a charge by the directors to
16 the pool's actuary and auditor and shall address
17 excess insurance, charges for coverage to members,
18 service agent's costs and costs of administration of
19 the program.

20 The actuarial opinion must be given by a member of the
21 American Academy of Actuaries qualified as a casualty
22 loss reserve specialist as defined by the National
23 Association of Insurance Commissioners. Two
24 additional copies of the audited financial statements
25 shall be filed with the Superintendent of Insurance.

26 2. Failure to provide for audited financial
27 statements. If a public self-funded pool fails to
28 provide for the audited financial statements required
29 by subsection 1, the Superintendent of Insurance shall
30 perform or cause to be performed the audit. The
31 public self-funded pool shall reimburse the
32 Superintendent of Insurance for the cost of the audit.

33 CHAPTER 119

34 REGIONAL COOPERATION

35 SUBCHAPTER I

1 REGIONAL COUNCILS

2 ARTICLE 1. GENERAL PROVISIONS

3 §2301. Declaration of policy

4 The Legislature recognizes that a high level of
5 cooperation and understanding between the State and
6 its local governments is necessary to achieve common
7 public goals and that coordination through regional
8 councils is a way to achieve improved state and local
9 cooperation. The Legislature further recognizes that
10 regional councils are uniquely qualified to assist in
11 the development of technical capacities of local
12 governments; to develop regional policies, services
13 and solutions to meet local needs; and to serve as a
14 vital link between local governments and the State.

15 §2302. Forms of regional councils

16 The Legislature recognizes councils of governments
17 and regional planning commissions as forms of regional
18 councils.

19 §2303. Lead agency

20 1. State Planning Office. The State Planning
21 Office shall serve as the coordinator between regional
22 councils and the State. The State Planning Office
23 shall administer state funds supporting regional
24 council tasks and may provide technical assistance to
25 regional councils as appropriate.

26 2. Rulemaking. The Director of the State
27 Planning Office may adopt rules to create standardized
28 contracts and administrative and audit requirements
29 for state funds received by regional councils.

30 §2304. Tax status

31 Regional councils established in accordance with
32 this Title are tax-exempt institutions which are
33 exempt only from income and sales taxes.

1 §2305. Construction

2 This subchapter shall be liberally construed
3 toward the end of enabling councils to implement
4 municipal programs and services on behalf of member
5 municipalities, while avoiding the creation of special
6 districts or other legal or administrative entities to
7 accomplish these purposes.

8 ARTICLE 2. COUNCILS OF GOVERNMENTS

9 §2311. Establishment

10 The municipal officers of any 2 or more
11 municipalities, by appropriate action and as
12 authorized by Title 5, chapter 379, may enter into an
13 agreement, between or among those municipalities, for
14 the establishment of a regional council of governments.

15 §2312. Contents of agreement

16 The agreement must provide for representation, but
17 at least 1/2 of the representatives of each member
18 must be municipal officers. The agreement must
19 specify the organization, the method of withdrawal,
20 the method of terminating the agreement and the
21 grounds for suspension of member municipalities.

22 §2313. Powers and duties

23 1. Powers. The council may:

24 A. Study any area governmental problems common to
25 2 or more members of the council that it considers
26 appropriate, including, but not limited to,
27 matters affecting health, safety, welfare,
28 education, economic conditions and regional
29 development;

30 B. Promote cooperative arrangements and
31 coordinate action among its members; and

32 C. Make recommendations for review and action to
33 its members and other public agencies that perform
34 functions within the region.

1 2. Authority. The council, on behalf of one or
2 more member municipalities and upon appropriate action
3 of the legislative bodies of one or more member
4 municipalities, may exercise any power, privilege or
5 authority capable of exercise by a member municipality
6 and necessary or desirable for dealing with problems
7 of local or regional concern, except essential
8 legislative powers, taxing authority or eminent domain
9 power. This authority is in addition to any other
10 authority granted to municipalities by the general
11 laws.

12 3. Standing committee. The council, by
13 appropriate action of the legislative bodies of the
14 member municipalities, may establish a standing
15 committee to prepare and maintain a comprehensive
16 regional plan.

17 4. Transfer. Since a regional planning
18 commission has been established under article 3, the
19 member municipalities, by appropriate action, may
20 provide for the transfer of all assets, liabilities,
21 rights and obligations of the commission to the
22 council and provide for the dissolution of the
23 comission.

24 §2314. Bylaws

25 The council shall adopt bylaws designating the
26 officers of the council and providing for the conduct
27 of its business.

28 §2315. Staff

29 The council may employ any staff and consult and
30 retain any experts that it considers necessary.

31 §2316. Finances; annual report

32 1. Expenses. The legislative bodies of the
33 member governments may appropriate funds under their
34 home rule authority to meet the expenses of the
35 council. Services of personnel, use of equipment and
36 office space and other necessary services may be
37 accepted from members as part of their financial

1 support.

2 2. Funds. The council may accept funds, grants,
3 gifts and services from:

4 A. The Federal Government or its agencies;

5 B. The State or its departments, agencies or
6 instrumentalities;

7 C. Any other governmental unit, whether
8 participating in the council or not; and

9 D. Private and civic sources.

10 3. Report. The council shall make an annual
11 report of its activities to the member governments.

12 4. Borrowing. To accomplish the purposes of this
13 subchapter and for paying any indebtedness and any
14 necessary expenses and liabilities incurred for those
15 purposes, the council may borrow money and issue
16 therefor its negotiable notes having any terms and
17 provisions that the governing body of the council
18 determines. The council may contract with one or more
19 member municipalities for the receipt of funds to
20 accomplish any of the purposes authorized by this
21 article and may incur indebtedness in anticipation of
22 the receipt of these funds by issuing its negotiable
23 notes payable in not more than one year. The notes
24 may be renewed from time to time by the issue of other
25 notes, provided that no notes may be issued or renewed
26 in an amount which at the time of issuance or renewal
27 exceeds the amount of funds remaining to be paid under
28 contracts with one or more member municipalities.

29 ARTICLE 3. REGIONAL PLANNING COMMISSIONS

30 §2321. Establishment; purposes

31 1. Establishment. Any 7 or more municipalities,
32 all of which are within one regional planning and
33 development district and within one subdistrict if
34 any, by vote of their municipal officers, may join
35 together to form a regional planning commission.

1 2. Purposes. The purposes of a regional planning
2 commission are to:

3 A. Promote cooperative efforts toward regional
4 development;

5 B. Prepare and maintain a comprehensive regional
6 plan;

7 (1) The public shall be given an adequate
8 opportunity to be heard in the preparation of
9 a comprehensive plan;

10 C. Coordinate with state and federal planning and
11 development programs; and

12 D. Provide planning assistance and advisory
13 services to municipalities.

14 §2322. Incorporation; powers

15 Regional planning commissions shall be
16 incorporated under Title 13, chapter 81, and possess
17 all the powers of a corporation organized without
18 capital stock, except as limited by this article.

19 §2323. Representation

20 The municipal members of the commission's
21 governing body shall consist of representatives of
22 each member municipality appointed by the municipal
23 officers.

24 1. Municipal representatives. Municipalities
25 with a population of less than 10,000, as determined
26 by the last Federal Decennial Census, shall have 2
27 representatives. Municipalities with populations
28 greater than 10,000, as determined by the last Federal
29 Decennial Census, shall have 2 representatives and an
30 additional representative for each 10,000 increment in
31 population, or fraction exceeding 1/2 of that number,
32 over 10,000.

33 At least one representative for each municipality
34 regardless of size must be a municipal officer or a

1 designee elected by a majority vote of the municipal
2 officers. This designee serves at the will of the
3 municipal officers. All other representatives shall
4 serve for terms of 2 years and may be removed by the
5 municipal officers for cause after notice and
6 hearing. A permanent vacancy shall be filled for the
7 unexpired term in the same manner as a regular
8 appointment.

9 2. County representatives. A regional planning
10 commission, in its bylaws, shall make available voting
11 membership to any county within its regional planning
12 and development district or subdistrict as provided in
13 section 1201. Each member county shall have 2
14 representatives, to be appointed by vote of the county
15 commissioners.

16 3. Alternates. The commission, by bylaw, may
17 provide for one alternate representative for each
18 member municipality or county.

19 §2324. Bylaws; records

20 The commission shall adopt bylaws, not
21 inconsistent with this article, designating the
22 officers of the commission and providing for the
23 conduct of its business.

24 The minutes of the proceedings of the commission
25 shall be filed in the commission's office. These
26 minutes are a public record. Copies shall be provided
27 to the municipal officers and planning board of each
28 member municipality.

29 §2325. Finances

30 1. Budget; member contributions. The commission
31 shall prepare an annual budget and shall determine on
32 an equitable basis the contribution of each member
33 toward the support of the commission.

34 2. Funds. The commission may accept funds,
35 grants, gifts and services from:

36 A. The Federal Government or its agencies;

1 B. The State or its departments, agencies or
2 instrumentalities;

3 C. Any other governmental unit, whether a member
4 or not; and

5 D. Private and civic sources.

6 §2326. Staff services

7 To avoid duplication of staffs for various
8 regional bodies assisted by the Federal Government, a
9 commission may provide basic administrative, research
10 and planning services for any regional development and
11 planning bodies established in this State.

12 SUBCHAPTER II

13 REGIONAL PLANNING AND DEVELOPMENT DISTRICTS

14 §2341. Regional planning and development districts

15 1. Districts. The Governor may designate
16 regional planning and development districts and
17 subdistricts for the purpose of coordinating policies,
18 plans and programs among and within the various levels
19 of government affecting the development of those
20 districts or subdistricts.

21 2. Revisions. The Governor, after consulting
22 with the Department of Economic and Community
23 Development, regional councils and the officers of the
24 municipalities and counties involved, may revise the
25 district boundaries to reflect changing conditions or
26 otherwise to fulfill the purposes of this subchapter.

27 3. Agreements. The Governor may enter into
28 agreements on behalf of the State with the governor of
29 an adjoining state or, with the consent of the United
30 States Congress, with the premier of an adjoining
31 province of Canada to establish interstate or
32 international regional planning or development
33 districts.

34 §2342. Planning and program review

1 1. Review authority. The Governor may designate
2 a regional council as the authorized agency to
3 receive, review and comment on federal projects and
4 plans affecting regional planning, coordination and
5 development, those significant local and state
6 projects that exceed \$200,000 in total cost and those
7 state projects involving more than one municipality.

8 A. When 2 or more contiguous regional councils
9 are affected, and the Department of Economic and
10 Community Development determines that:

11 (1) A project clearly concerns the
12 jurisdictional area of only one regional
13 council, that council is the authorized
14 review agency; or

15 (2) A project clearly concerns the
16 jurisdictional area of 2 or more councils,
17 joint receipt and review and comment is
18 required.

19 B. When a project clearly concerns both
20 incorporated and unincorporated areas within a
21 district, joint receipt and review and comment by
22 the affected regional council or councils and the
23 Maine Land Use Regulation Commission is required.

24 C. All regional planning councils must complete
25 the review under this subsection within 30 days
26 after receiving the project information unless the
27 requesting agency agrees to extend this period.

28 2. Planning review of federal program grant
29 application. All applications for federal program
30 grants affecting regional planning, coordination and
31 development, including programs under Section 204 of
32 the United States Demonstration Cities and
33 Metropolitan Development Act of 1966, Public Law
34 89-754, and the United States Intergovernmental
35 Cooperation Act of 1968, Public Law 90-577, and the
36 objectives set forth in the United States Office of
37 Management and Budget Circular A-95, shall be
38 submitted to the regional council for review and
39 comment. Subsection 5 applies to these grant
40 applications.

1 3. Planning review of state agency long-term
2 plans. Each state department, commission, board or
3 agency shall submit to the regional council, for
4 review and comment, all long-term comprehensive plans
5 that will have a significant regional effect within
6 the council's jurisdiction. The regional council
7 shall complete its review within 30 days after
8 receiving the long-term comprehensive plan. When 2 or
9 more regional councils coexist within a district,
10 subsection 1 applies.

11 4. Planning review of local government and
12 special district plans and programs. Each
13 municipality, watershed district and soil conservation
14 district, all or part of which lies within the
15 jurisdictional area of the regional council, shall
16 submit to the council, for comment and recommendation,
17 its long-term comprehensive plans or any matter which
18 in the council's judgment has a substantial effect on
19 regional development, including, but not limited to,
20 plans for land use.

21 A. No action may be taken to institute any such
22 plan or part of a plan until 30 days after all the
23 relevant information has been submitted to the
24 regional council for review and comment.

25 B. The council shall notify each municipality or
26 special district, which may be affected by the
27 plans, of:

28 (1) The general nature of the plan;

29 (2) The date of submission; and

30 (3) The identity of the unit submitting the
31 plans.

32 C. The council may conduct a hearing on the
33 submitted plans if it considers the hearing to be
34 in the best interest of the region.

35 5. Review of applications for state-aid
36 programs. Within each planning and development
37 district or subdistrict in which a regional council

1 has been organized, the governing body of each
2 governmental unit and special district shall submit to
3 the regional council for review any applications to
4 state agencies for loans or grants-in-aid before the
5 application is made. The regional council shall
6 determine whether or not the proposed application is
7 properly coordinated with other existing or proposed
8 projects within the district, as well as any district
9 plans or policies where they exist. In making this
10 determination, the council shall inform both the
11 applicant agency and the granting authority of its
12 opinion within 30 days.

13 6. Referral of proposals for interlocal
14 agreements or formation of special purpose districts.
15 Before any 2 or more municipalities may join together
16 through an interlocal agreement or the formation of a
17 special purpose district under the Maine Revised
18 Statutes or any special act for purposes of jointly
19 developing or operating physical facilities and
20 services for the performance of municipal or regional
21 functions, the municipalities shall submit the
22 proposal to the regional council or councils within
23 whose areas of jurisdiction the municipalities are
24 located. The council or councils, within 30 days,
25 shall render an advisory report of the regional
26 significance of the proposal, unless the referring
27 municipalities agree to extend this period.

28 7. Notice to regional council to establish or
29 change land use zones. When a municipality proposes
30 to establish or change a land use zone or any
31 regulation affecting the use of a zone, any portion of
32 which is within 500 feet of the boundary of another
33 municipality located within the jurisdiction of a
34 regional council, the municipality shall give written
35 notice to the council of its public hearing to be held
36 in relation to that establishment or change. The
37 council shall study the proposal and shall report its
38 findings and recommendations to the municipality at or
39 before the public hearing. Failure to submit the
40 council's advisory report at or before the hearing
41 constitutes approval.

42 8. Local assistance. Regional councils may
43 provide local assistance as provided in this
44 subsection.

1 A. The council may make recommendations on the
2 basis of its plans and studies to local planning
3 boards or to the municipal officers of any member
4 and to any county, state or federal authorities.

5 B. A municipal planning board may use any part of
6 the regional planning studies which pertain to the
7 municipality in its own comprehensive plan.

8 C. The council may assist any of its members in
9 solving a local planning problem. All or part of
10 the cost of local assistance may be paid by any of
11 its members.

12 SUBPART 3

13 MUNICIPAL AFFAIRS

14 CHAPTER 121

15 MEETINGS AND ELECTIONS

16 SUBCHAPTER I

17 GENERAL PROVISIONS

18 §2501. Applicability of provisions

19 Except as otherwise provided by this Title or by
20 charter, the method of voting and the conduct of a
21 municipal election are governed by Title 21-A. The
22 qualifications for voting in a municipal election
23 conducted under this Title are governed solely by
24 Title 21-A, section 111.

25 §2502. Campaign reports in municipal elections

26 1. Reports by candidates. Title 21-A, sections
27 1001 to 1020 do not apply to a candidate for municipal
28 office in a town. A candidate for municipal office of
29 a city with a population of 10,000 or more is governed
30 by Title 21-A, sections 1001 to 1020, except that
31 notices of appointment of a treasurer and campaign
32 reports must be filed with the municipal clerk instead
33 of the Secretary of State.

1 A. Notwithstanding Title 17-A, section 4-A, a
2 candidate who fails to file a notice or report, as
3 required by this section, is guilty of a Class E
4 crime and shall be punished by a fine of \$5 for
5 every day the candidate is in default or by
6 imprisonment for not more than 30 days, or both.

7 2. Municipal referenda campaigns. Title 21-A,
8 chapter 13, subchapter IV, does not apply to municipal
9 referenda campaigns.

10 §2503. Reapportionment

11 1. Adoption by ordinance. Districts established
12 for the purpose of electing, from each district, an
13 equal number of municipal officers may be adjusted, by
14 ordinance, by the municipal legislative body subject
15 to the following conditions.

16 A. Each district must be formed of compact,
17 contiguous territory. Its boundary lines may
18 follow the center lines of streets.

19 B. Each district must contain as nearly as
20 possible the same number of inhabitants as
21 determined according to the latest Federal
22 Decennial Census, but districts may not differ in
23 number of inhabitants by more than 10% of the
24 inhabitants in the smallest district created.

25 C. The ordinance must include a map and a
26 description of the districts.

27 D. The ordinance takes effect on the 30th day
28 after adoption by the legislative body. The new
29 districts and boundaries, as of the effective
30 date, supersede previous districts and boundaries
31 for the purposes of the next regular municipal
32 election, including nominations.

33 2. Failure to enact ordinance. The municipal
34 legislative body must enact the reapportionment
35 ordinance within 18 months after the official
36 publication of the latest decennial census as required
37 by the United States Code, Title 13, Section 141,

1 paragraph (c); provided that ordinance is enacted at
2 least 90 days before a regular municipal election
3 occurring within that 18-month period. If the
4 legislative body fails to do so, all municipal
5 officers to be elected shall be elected at large and
6 shall serve until their terms expire. Such at-large
7 elections shall continue until the legislative body
8 enacts an ordinance in accordance with subsection 1 at
9 least 90 days before a regular municipal election.

10 3. Referendum. Except when the municipal
11 legislative body is the town meeting, the voters of
12 the municipality may require the municipal legislative
13 body to reconsider any ordinance adopted under
14 subsection 1. If the legislative body does not repeal
15 an ordinance so reconsidered, the voters may approve
16 or reject it at a municipal election.

17 A. Any 5 voters may commence referendum
18 proceedings by filing an affidavit with the
19 municipal clerk stating:

20 (1) They will constitute the petitioners'
21 committee;

22 (2) They will be responsible for circulating
23 the petition and filing it in proper form;

24 (3) Their names and addresses;

25 (4) The address to which all notices to the
26 committee are to be sent; and

27 (5) The ordinance sought to be reconsidered.

28 Promptly after the affidavit of the petitioners'
29 committee is filed, the clerk shall issue the
30 appropriate petition blanks to the petitioners'
31 committee.

32 B. Petitions under this subsection must meet the
33 following requirements.

34 (1) Petitions must be signed by a number of
35 voters of the municipality equal to at least
36 15% of the total number of voters in the

1 municipality at the last presidential
2 election.

3 (2) All papers of a petition shall be
4 uniform in size and style and shall be
5 assembled as one instrument for filing. Each
6 signature must be executed in ink or
7 indelible pencil and must be followed by the
8 address of the person signing. While being
9 circulated, petitions must have the full text
10 of the ordinance sought to be reconsidered
11 contained in or attached to the petition.

12 (3) When filed, each paper of a petition
13 must have an affidavit, executed by the
14 circulator of the petition, attached to it
15 stating:

16 (a) That the circulator personally
17 circulated the paper;

18 (b) The number of signatures on the
19 paper;

20 (c) That all the signatures were signed
21 in the circulator's presence;

22 (d) That the circulator believes them
23 to be the genuine signatures of the
24 persons whose names they purport to be;
25 and

26 (e) That each signer had an opportunity
27 before signing to read the full text of
28 the ordinance sought to be reconsidered.

29 (4) Petitions must be filed within 30 days
30 after the municipal legislative body adopts
31 the ordinance sought to be reconsidered.

32 C. The following procedure shall be followed
33 after the petition is filed with the municipal
34 clerk.

35 (1) Within 20 days after the petition is
36 filed, the municipal clerk shall complete a

1 certificate as to its sufficiency,
2 specifying, if it is insufficient, the
3 particulars which render it defective. The
4 clerk shall promptly send a copy of the
5 certificate to the petitioners' committee by
6 registered mail. A petition certified
7 insufficient for lack of the required number
8 of valid signatures may be amended once if
9 the petitioners' committee files a notice of
10 intention to amend it with the clerk within 2
11 days after receiving the copy of the clerk's
12 certificate and files a supplementary
13 petition upon additional papers within 10
14 days after receiving a copy of the
15 certificate. This supplementary petition
16 must comply with the requirements of
17 paragraph B, subparagraphs (2) and (3).
18 Within 5 days after it is filed, the clerk
19 shall complete a certificate as to the
20 sufficiency of the petition as amended and
21 promptly send a copy of that certificate to
22 the petitioners' committee by registered mail
23 as in the case of an original petition. If a
24 petition or amended petition is certified
25 insufficient and the petitioners' committee
26 does not elect to amend the petition or
27 request review under subparagraph (2), within
28 the time required, the clerk shall promptly
29 present the clerk's certificate to the
30 municipal legislative body and the
31 certificate is then a final determination as
32 to the sufficiency of the petition.

33 (2) If a petition has been certified
34 insufficient and the petitioners' committee
35 does not file notice of intention to amend it
36 or if an amended petition has been certified
37 insufficient, the committee, within 2 days
38 after receiving the copy of the certificate,
39 may file a request that it be reviewed by the
40 municipal legislative body. The legislative
41 body shall review the certificate at its next
42 meeting following the filing of the
43 committee's request and approve or disapprove
44 it. This determination is then final as to
45 the sufficiency of the petition.

1 (3) A final determination as to the
2 sufficiency of a petition is subject to court
3 review. A final determination of
4 insufficiency, even if sustained upon court
5 review, does not prejudice the filing of a
6 new petition for the same purpose.

7 D. When a petition is filed with the clerk under
8 this subsection, the ordinance sought to be
9 reconsidered is suspended from taking effect.
10 This suspension ends when:

11 (1) There is a final determination of
12 insufficiency of the petition;

13 (2) The petitioners' committee withdraws the
14 petition;

15 (3) The council repeals the ordinance; or

16 (4) Thirty days have elapsed after a vote of
17 the municipality on the ordinance.

18 E. The following procedure shall be followed if a
19 petition is determined to be sufficient.

20 (1) When a petition has been finally
21 determined sufficient, the municipal
22 legislative body shall promptly reconsider
23 the referred ordinance by voting its repeal.
24 If the legislative body fails to repeal the
25 referred ordinance within 30 days after the
26 date the petition was finally determined
27 sufficient, it shall submit the referred
28 ordinance to the voters of the municipality.

29 (2) The vote of the municipality on a
30 referred ordinance shall be held at least 30
31 days and not more than one year after the
32 municipal legislative body's final vote on
33 the ordinance. If no regular municipal
34 election is to be held within this period,
35 the legislative body shall provide for a
36 special election; otherwise the vote shall be
37 held at the same time as a regular election

1 occurring within this period, except that the
2 legislative body, in its discretion, may
3 provide for a special election at an earlier
4 date within the prescribed period. Copies of
5 the referred ordinance shall be made
6 available at the polls.

7 (3) The form of the ballot for the repeal of
8 the ordinance shall be substantially as
9 follows:

10 "Shall the ordinance entitled
11 '.....' be repealed?

12 YES / / NO / /"

13 (The voters shall indicate their choice by a
14 cross or check mark placed in the appropriate
15 box opposite the words YES or NO.)

16 (4) A petition may be withdrawn at any time
17 before the 15th day prior to the day
18 scheduled for a vote of the municipality.
19 The petitioners' committee must file with the
20 municipal clerk a request for withdrawal
21 signed by at least 4 members of the
22 petitioners' committee. Upon filing this
23 request, the petition has no further effect
24 and all proceedings on the petition shall be
25 terminated.

26 F. If a majority of the voters who vote on a
27 referred ordinance vote against it, it is
28 considered repealed upon certification of the
29 election results.

30 4. Exception. This section does not apply to
31 municipalities whose charters specify different
32 methods of reapportionment.

33 SUBCHAPTER II

34 TOWN MEETINGS AND ELECTIONS

35 §2521. Call of town meeting

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

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

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

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

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

21 §2522. Petition for article in warrant

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

29 §2523. Warrant

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

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

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

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

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

10 5. Return on warrant. The person who notifies
11 the voters of the meeting shall make that person's
12 return on the warrant stating the manner of notice and
13 the time when it was given.

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

17 §2524. General town meeting provisions

18 The following provisions apply to all town
19 meetings.

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

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

26 A. Calling for the election of a moderator by
27 written ballot;

28 B. Receiving and counting the votes for
29 moderator; and

30 C. Swearing in the moderator.

31 3. Moderator presides. As soon as the moderator
32 has been elected and sworn, the moderator shall
33 preside over and supervise the voting at the meeting
34 and may appoint a deputy moderator to assist the

1 moderator. If the moderator is absent or is unable to
2 carry out the duties, the clerk, or in the clerk's
3 absence a selectman or constable, may call for the
4 election of a deputy moderator to act in the absence
5 of the moderator.

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

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

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

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

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

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

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

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

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

6 A. Within an adjoining or nearby municipality;

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

10 C. Reasonably accessible to all voters of the
11 town.

12 §2525. Annual meeting

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

16 A. Moderator;

17 B. Selectmen; and

18 C. School committee.

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

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

27 §2526. Choice and qualifications of town officials

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

31 1. Manner of election. In a town with a
32 population greater than 4,000, according to the last
33 Federal Decennial Census, election shall be by

1 plurality. Except as provided in section 2528,
2 subsection 10, in a town with a population of 4,000 or
3 under, election shall be by majority.

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

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

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

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

16 A. A town may determine at a meeting held at
17 least 90 days before the annual meeting whether 3,
18 5 or 7 will be elected to each board and their
19 terms of office.

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

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

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

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

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

32 (1) If no person is designated as chairman,
33 the board shall elect by ballot a chairman
34 from its own membership, before assuming the
35 duties of office. When no member receives a

1 majority vote, the clerk shall determine the
2 chairman by lot.

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

8 5. Assessors. The following provisions apply to
9 assessors.

10 A. A town may determine at a meeting of its
11 legislative body held at least 90 days before the
12 annual meeting whether a single assessor will be
13 appointed under subparagraph (3) or a board of 3,
14 5 or 7 will be elected and the term of office of
15 the assessor or assessors. In towns where the
16 municipal legislative body is the town meeting,
17 the determination is effective only if the total
18 number of votes cast for and against the
19 determination equals or exceeds 10% of the number
20 of votes cast in the town at the last
21 gubernatorial election.

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

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

28 (3) When a town has chosen a single assessor
29 under this paragraph, the selectmen shall
30 appoint the assessor for a term not exceeding
31 5 years.

32 B. In addition to the method provided by
33 paragraph A and notwithstanding the provision of
34 any town charter to the contrary, the municipal
35 officers of any town, or the municipal officers of
36 2 or more towns acting jointly, may enact an
37 ordinance providing for a single assessor. The
38 municipal officers shall appoint the assessor for
39 a term not exceeding 5 years.

- 1 (1) Seven days' notice of the meeting at
2 which the ordinance is to be proposed shall
3 be given in the manner provided for town
4 meetings.
- 5 (2) In towns where the municipal legislative
6 body is the town meeting, the ordinance is
7 effective immediately after the next regular
8 town meeting if enacted at least 90 days
9 before the meeting. The ordinance stands
10 until revoked by the municipal legislative
11 body or the municipal officers at a meeting
12 held at least 90 days before the annual town
13 meeting.
- 14 C. When a town has not elected a full board of
15 assessors, the selectmen shall serve as assessors
16 as provided in Title 36, section 703.
- 17 D. A town, if it elects a board of assessors, may
18 designate one member as chairman of the board.
- 19 (1) If no person is designated as chairman,
20 the board shall elect by ballot a chairman
21 from its own membership, before assuming the
22 duties of office. When no member receives a
23 majority vote, the clerk shall determine the
24 chairman by lot.
- 25 E. If the town fails to fix the compensation of
26 assessors at its annual meeting, they shall be
27 paid \$10 each per day for every day actually and
28 necessarily employed in the service of the town.
- 29 F. This subsection does not apply to any
30 municipality which is incorporated into a primary
31 assessing area.
- 32 6. Board of assessment review. The following
33 provisions apply to a board of assessment review.
- 34 A. Any municipality may adopt a board of
35 assessment review at a meeting of its legislative
36 body held at least 90 days before the annual
37 meeting.

1 B. The board of assessment review shall consist
2 of 3 members appointed by the selectmen. The
3 town, when adopting such a board, may fix the
4 compensation of the members. Initially, one
5 member shall be appointed for one year, one member
6 for 2 years and one member for 3 years.
7 Thereafter, the term of each new member is 3 years.

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

12 D. Towns with a population of 5,000 or more may
13 provide by ordinance for a board of assessment
14 review consisting of 5 or 7 members. The terms of
15 office of members may not exceed 5 years and
16 initial appointments shall be such that the terms
17 of office of no more than 2 members will expire in
18 any single year.

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

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

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

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

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

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

- 1 (1) Once the determination has been made, it
2 stands until revoked at a meeting held at
3 least 90 days before the annual meeting.
- 4 (2) If a town fails to fix the number, one
5 shall be chosen. If a town fails to fix the
6 term, it is one year.
- 7 B. A road commissioner appointed by the selectmen
8 may be removed from office for cause by the
9 selectmen.
- 10 C. The board of selectmen may act as a board of
11 road commissioners.
- 12 8. Treasurers and tax collectors. Treasurers and
13 tax collectors of towns may not be selectmen or
14 assessors until they have completed their duties and
15 had a final settlement with the town.
- 16 A. The same person may serve as treasurer and tax
17 collector of a municipality.
- 18 9. Sworn in. Before assuming the duties of
19 office, a town official or deputy shall be sworn by
20 the moderator in open town meeting by the clerk, or by
21 any other person authorized by law to administer an
22 oath.
- 23 A. Unless the oath is administered in the clerk's
24 presence, the person who administers it shall give
25 the official or deputy sworn a certificate which
26 shall be returned to the clerk for filing. The
27 certificate must state:
- 28 (1) The name of the official or deputy sworn;
29 (2) His office;
30 (3) The name of the person who administered
31 the oath; and
32 (4) The date when the oath was taken.

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

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

9 (1) The constable shall immediately summon
10 the named persons to appear before the clerk
11 within 7 days from the time of notice to take
12 the oath of office.

13 (2) The constable shall make the return
14 immediately to the clerk.

15 (3) The town shall pay the constable a
16 reasonable compensation for services.

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

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

25 §2527. Alternative nomination procedure

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

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

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

10 §2528. Secret ballot

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

16 1. Acceptance by town. When any town accepts
17 this section at a meeting held at least 90 days before
18 the annual meeting, the following provisions apply to
19 the election of all town officials required by section
20 2525 to be elected by ballot, except the moderator,
21 who shall be elected as provided in section 2524,
22 subsection 2.

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

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

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

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

5 3. Voting place specified; polls. The warrant
6 for a town meeting for the election of officials shall
7 specify the voting place, which must be in the same
8 building or a building nearby where the meeting is to
9 be held. It shall specify the time of opening and
10 closing the polls, which must be kept open at least 4
11 consecutive hours.

12 A. In the warrant for a town meeting under this
13 section, the municipal officers may designate the
14 date of the election and designate the next day
15 other than a Sunday as the time for considering
16 the other articles of business in the warrant.

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

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

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

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

33 (b) Not less than 10 nor more than 25
34 in towns with a population of 201 to
35 500; and

36 (c) Not less than 25 nor more than 100
37 in towns with a population of more than
38 500.

1 (2) Each voter who signs a nomination paper
2 shall add the voter's residence with the
3 street and number, if any. The voter may
4 sign only as many nomination papers for each
5 office as there are vacancies to be filled.
6 If a voter signs more nomination papers for
7 an office than there are vacancies to be
8 filled, any signatures of that voter on
9 nomination papers, submitted after the clerk
10 has received a number of nomination papers
11 bearing that voter's signature which equals
12 the number of vacancies to be filled, are not
13 valid.

14 B. Instead of nomination papers, all candidates
15 for office nominated by political caucus must file
16 a certificate of political caucus nomination
17 signed by the chairman and secretary of the caucus
18 specifying the name of the candidate and the
19 office for which the candidate is nominated.

20 C. Completed nomination papers or certificates of
21 political caucus nomination must be filed with the
22 clerk during business hours by the 35th day prior
23 to election day. They must be accompanied by the
24 written consent of the person proposed as a
25 candidate agreeing:

26 (1) To accept the nomination if nominated;

27 (2) Not to withdraw; and

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

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

34 D. A nomination paper or a certificate of
35 political caucus nomination which complies with
36 this section is valid unless a written objection
37 to it is made to the selectmen by the 33rd day
38 prior to election day.

1 (1) If an objection is made, the clerk shall
2 immediately notify the candidate affected by
3 it.

4 (2) The selectmen shall determine objections
5 arising in the case of nominations. Their
6 decision is final.

7 E. Notwithstanding this subsection, when the
8 municipal officers determine to fill a vacancy
9 under section 2602, which must be filled by
10 election, the municipal officers may designate a
11 shorter time period for the availability of
12 nomination papers, but not less than 10 days
13 before the filing deadline, and may designate a
14 shorter time period for the final date for filing
15 nomination papers, but not less than the 14th day
16 before election day. Notice of the designation
17 shall be posted in the same place or places as
18 town meeting warrants are posted and local
19 representatives of the media shall be notified of
20 the designation.

21 5. Referendum questions. By order of the
22 municipal officers or on the written petition of a
23 number of voters equal to at least 10% of the number of
24 votes cast in the town at the last gubernatorial
25 election, but in no case less than 10, the municipal
26 officers shall have a particular article placed on the
27 next ballot printed or shall call a special town
28 meeting for its consideration. A petition or order
29 under this subsection is subject to the filing
30 provisions governing nomination papers under
31 subsection 4.

32 The municipal officers shall hold a public hearing on
33 the subject of the article at least 10 days before the
34 day for voting on the article. At least 7 days before
35 the date set for the hearing, the municipal officers
36 shall give notice of the public hearing by having a
37 copy of the proposed article, together with the time
38 and place of hearing, posted in the same manner
39 required for posting a warrant for a town meeting
40 under section 2523. The municipal officers shall make
41 a return on the original notice stating the manner or
42 notice and the time it was given.

- 1 A. The requirement for public hearing is not a
2 prerequisite to the valid issuance of any bond,
3 note or other obligation of a municipality
4 authorized to borrow money by vote under any such
5 particular article.
- 6 B. If a particular article to be voted on by
7 secret ballot requests an appropriation of money
8 by the municipality, the article, when printed in
9 the warrant and on the ballot, must be accompanied
10 by a recommendation of the municipal officers.
- 11 (1) If by town meeting vote or charter
12 provision, a budget committee has been
13 established to review proposed town
14 expenditures, the recommendations of the
15 budget committee shall be printed in addition
16 to those of the municipal officers.
- 17 (2) If the action affects the school budget,
18 a recommendation by the school board shall be
19 printed in addition to those of the municipal
20 officers and the budget committee, if any.
- 21 6. Ballots, specimen ballots and instruction
22 cards. The clerk shall prepare ballots, specimen
23 ballots and instruction cards according to the
24 following provisions.
- 25 A. The ballot shall contain the names of properly
26 nominated candidates arranged under the proper
27 office designation in alphabetical order by last
28 name. It may contain no other names.
- 29 B. At the end of the list of candidates for each
30 office, there shall be left as many blank spaces
31 as there are vacancies to be filled in which a
32 voter may write in or paste a sticker with the
33 name of any person for whom the voter desires to
34 vote.
- 35 C. Any question or questions required by law to
36 be submitted to a vote shall be printed either
37 below the list of candidates or on a separate
38 ballot from the ballot listing candidates. If a

1 separate ballot is used, this ballot must be a
2 different color than the ballot listing candidates.

3 D. A square shall be printed at the left of the
4 name of each candidate, and 2 squares shall be
5 printed at the left of any question submitted with
6 "yes" above one and "no" above the other, so that
7 a voter may designate the voter's choice clearly
8 by a cross mark (X) or a check mark (✓).

9 E. Words of explanation such as "Vote for one"
10 and "Vote yes or no" may be printed on the ballot.

11 F. Before distribution, the ballot shall be
12 folded in marked creases to measure, when folded,
13 from 4 1/2 to 5 inches wide and from 6 to 13 1/2
14 inches long. On the back and outside, when
15 folded, shall be printed "Official Ballot for the
16 Town of, " the date of election and a
17 facsimile of the signature of the clerk.

18 G. A sufficient number of ballots shall be
19 printed, photocopied or otherwise mechanically
20 reproduced and furnished, and a record of the
21 number shall be kept by the clerk. The printed
22 ballots shall be packaged in convenient blocks so
23 that they may be removed separately.

24 H. Ten or more specimen ballots printed on paper
25 of a distinctive color without the endorsement of
26 the clerk shall be provided.

27 I. Instruction cards containing the substance of
28 Title 21-A, sections 671 to 674, 681, 682, 691 and
29 693, to guide voters in obtaining and marking
30 ballots and to inform them of penalties for
31 improper conduct shall be printed.

32 J. The ballots and specimen ballots shall be
33 packed in sealed packages with marks on the
34 outside specifying the number of each enclosed.

35 K. When voting machines are used, the clerk shall
36 prepare and furnish ballot labels that comply, as
37 nearly as practicable, with the provisions of this
38 section which apply to ballots.

1 7. Specimen ballot posted. At least 4 days
2 before the election, the clerk shall have posted in
3 one or more conspicuous, public places a specimen
4 ballot or a list, substantially in the form of a
5 ballot, containing the name and office designation of
6 each candidate.

7 8. Ballot clerks. Before the polls are opened,
8 the selectmen shall appoint the necessary number of
9 ballot clerks as provided in Title 21-A, section 503.
10 When there are vacancies after the polls are opened,
11 the moderator shall appoint replacement clerks. The
12 ballot clerks shall be sworn before assuming their
13 duties.

14 A. On election day, before the polls are opened,
15 the clerk shall deliver the ballots to the ballot
16 clerks and shall post an instruction card at each
17 voting compartment and at least 3 instruction
18 cards and 5 specimen ballots in the voting room
19 outside the guardrail enclosure.

20 B. The ballot clerks shall give a receipt to the
21 clerk for the ballots received by them. The clerk
22 shall keep the receipt in the office for 6 months.

23 C. Ballots may not be delivered to the voters
24 until the moderator has been elected. The
25 moderator may appoint a qualified person to act as
26 temporary moderator during a temporary absence
27 from the polling place.

28 D. The selectmen shall prepare a duplicate
29 incoming voting list for the use of the ballot
30 clerks. The law pertaining to incoming voting
31 lists applies equally to duplicate incoming voting
32 lists.

33 9. After votes counted, ballots delivered to
34 clerk. After the ballot clerks have counted and
35 tabulated the votes cast, the moderator shall deliver
36 the ballots to the clerk who shall seal them in a
37 suitable package and keep them in the clerk's office
38 for 2 months.

1 10. Election by plurality vote; tie vote.
2 Election shall be by plurality vote. In the case of a
3 tie vote, the meeting shall be adjourned to a day
4 certain, when ballots shall again be cast for the
5 candidates tied for the office in question.

6 §2529. Absentee ballots

7 If a town has accepted section 2528, absentee
8 ballots may be cast at all regular and special
9 elections to which section 2528 applies, including
10 elections for town meeting members where the
11 representative town meeting form of government is used.

12 1. Procedure. The absentee voting procedure
13 outlined in Title 21-A shall be used, except that the
14 clerk shall perform the duties of the Secretary of
15 State.

16 2. Absentee ballot. The absentee ballot
17 requirements of Title 21-A, section 752, apply,
18 provided that the words "Absentee Ballot" are marked
19 conspicuously, instead of printed, on both sides of
20 the folded ballot, if at least one such marking
21 includes an attestation with the written signature of
22 the clerk and is sealed with the municipal seal.

23 §2530. Ballot inspection

24 Upon written application of any candidate for a
25 municipal office within 3 days after the result of a
26 city election or an election under section 2528 has
27 been declared, the clerk shall permit the candidate or
28 the candidate's agent to inspect the ballots under
29 proper protective regulations, subject to the
30 following provisions.

31 1. Notice. The inspection shall be permitted
32 only after written notice by the clerk to:

33 A. The ward officers who signed the election
34 returns in a city or the moderator in a town; and

35 B. All candidates for the office specified in the
36 application.

1 This notice must state the time and place of the
2 inspection and provide these persons with a reasonable
3 opportunity to be present and heard in person or to be
4 represented by counsel.

5 2. Time. The inspection must be held within 5
6 days after the clerk receives the written application.

7 3. Packages resealed. After each inspection, the
8 clerk shall reseal the packages and note the fact and
9 date of inspection on them.

10 4. Candidate defined. As used in this section,
11 and in section 2531, "candidate" means any person who
12 has received at least one vote for the municipal
13 office in question.

14 5. Percentage difference. For purposes of this
15 section, "percentage difference" means the percentage
16 of the total vote for an office represented by the
17 difference between the votes received by the candidate
18 requesting a ballot inspection and the votes received
19 by the nearest winning candidate.

20 6. When deposit is required. A deposit is not
21 required if the percentage difference shown by the
22 official tabulation is:

23 A. Ten percent or less if the combined vote for
24 the 2 candidates is 1,000 or less, otherwise a
25 deposit of \$150 is required;

26 B. Five percent or less if the combined vote for
27 the 2 candidates is 1,001 to 5,000, otherwise a
28 deposit of \$200 is required;

29 C. Four percent or less if the combined vote for
30 the 2 candidates is 5,001 to 10,000, otherwise a
31 deposit of \$250 is required;

32 D. Three percent or less if the combined vote for
33 the 2 candidates is 10,001 to 50,000, otherwise a
34 deposit of \$300 is required;

1 E. One percent or less if the combined vote
2 received by the 2 candidates is 50,001 to 100,000,
3 otherwise a deposit of \$500 is required; or

4 F. Half of one percent or less if the combined
5 vote received by the 2 candidates is 100,001 or
6 over, otherwise a deposit of \$1,000 is required.

7 All deposits required by this section must be made
8 with the municipal clerk when the ballot inspection is
9 requested. This deposit, made by the candidate
10 requesting the ballot inspection, is forfeited to the
11 municipality if the ballot inspection has begun and it
12 fails to result in a recount which changes the result
13 of the election. If a recount following the ballot
14 inspection reverses the election, the deposit shall be
15 returned to the candidate requesting the ballot
16 inspection.

17 §2531. Recount hearing

18 A candidate for any municipal office who has first
19 inspected the ballots under section 2530 may obtain a
20 recount of the votes cast for that office.

21 1. Petition. The candidate must file a sworn
22 petition with the clerk within 3 days from the date of
23 the ballot inspection.

24 A. The petition must state the office for which
25 that person was a candidate, and the reason for
26 the recount based on the candidate's own knowledge
27 or on information and belief.

28 2. Notice. When the petition has been filed, the
29 clerk shall immediately set a date for the recount
30 hearing, which must be held within 5 days after the
31 petition is filed. The clerk shall notify the
32 municipal officers, the petitioner and the opposing
33 candidates of the hearing date.

34 3. Hearing. At the hearing, the clerk shall sort
35 and count the votes under the supervision of the
36 municipal officers who were in office immediately
37 before the election.

1 A. The municipal officers in making corrected
2 returns, in their discretion, may accept any facts
3 that the candidates agreed upon at the ballot
4 inspection.

5 B. The petitioner or the petitioner's opponents
6 may have all ballots in any way involved in the
7 election and all records required by law to be
8 kept in connection with absentee ballots displayed
9 for counting or inspection. Upon request,
10 absentee ballots may be segregated from other
11 ballots.

12 C. Witnesses may be called by the candidates and
13 may be sworn by any municipal officer. If
14 authorized by the municipal officers, the
15 municipality shall pay witness fees as provided in
16 Title 16, section 251. A record shall be kept if
17 requested by any candidate.

18 D. If, during the recount, the election is
19 conceded to a candidate by a statement signed by
20 the other interested candidates and addressed to
21 the municipal officers, the municipal officers
22 shall issue a certificate of election to the
23 candidate whose election is conceded.

24 4. Certificate of election. Within 24 hours
25 after the results of a contested election are
26 determined, the municipal officers shall certify the
27 results of their count to the respective candidates
28 involved, and shall issue a certificate of election to
29 the candidate whom they find to have been elected.
30 This certificate of election supersedes any
31 certificate issued previously.

32 §2532. Referendum ballot inspection and recount
33 procedure

34 In the case of a referendum, a ballot inspection
35 or a recount hearing shall be granted upon written
36 application of 10% or 100, whichever is less, of the
37 persons whose names were checked on the voting list at
38 any town referendum or ballot question under section
39 2105 or 2528, or any city referendum. The time limits,

1 rules and all other matters applying to candidates
2 under sections 2530 and 2531 apply equally to
3 applicants for either the inspection or recount.

4 §2533. Title to municipal office

5 Within 30 days after election day, a person who
6 claims to have been elected to any municipal office
7 may proceed against another who claims title to the
8 office by following the procedure outlined in Title
9 21-A, section 746.

10 SUBCHAPTER III

11 CITY ELECTIONS

12 §2551. Warrant for city election; conduct of election

13 Each city election shall be called by a warrant.
14 The warrant must meet the requirements listed in
15 section 2523. An attested copy shall be posted in a
16 conspicuous, public place in each ward.

17 §2552. Designation of officials

18 1. Assessors and assistant assessors. The
19 following provisions apply to assessors and their
20 assistants.

21 A. Assessors and their assistants shall be chosen
22 annually on the 2nd Monday of March to serve for
23 one year and until others are chosen and qualified
24 in their places, unless the city charter provides
25 otherwise.

26 B. In addition to the assistant assessors chosen
27 under a city charter, the municipal officers may
28 authorize the assessors to appoint any necessary
29 assistants to serve during the municipal year in
30 which they are appointed.

31 C. Notwithstanding the provisions of any city
32 charter to the contrary, the city council, by
33 ordinance, may provide for a single assessor whose
34 powers and duties are the same as for towns, and
35 who is appointed for a term not exceeding 5 years.

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

3 A. Any city choosing a single assessor may adopt
4 a board of assessment review by vote of the city
5 council at least 30 days before the annual city
6 election.

7 B. The board of assessment review shall consist
8 of 3 members appointed by the city council.

9 C. The city council, when adopting a board of
10 assessment review, may fix the compensation of the
11 board's members. One member shall be appointed
12 for one year, one member for 2 years and one
13 member for 3 years. Thereafter, the term of each
14 new member is 3 years.

15 D. Any city adopting a board of assessment review
16 may discontinue the board by vote of the city
17 council at least 30 days before the annual city
18 election, in which case the board ceases to exist
19 at the end of the municipal year.

20 E. Cities with a population of 5,000 or more may
21 provide by ordinance for a board of assessment
22 review consisting of 5 or 7 members. The terms of
23 office of members must not exceed 5 years and
24 initial appointments must be such that the terms
25 of office of no more than 2 members will expire in
26 any single year.

27 F. This subsection does not apply in any city
28 which is incorporated into a primary assessing
29 area.

30 3. Constable. When a vacancy occurs in the
31 office of constable, the municipal officers may
32 appoint a qualified person to fill the vacancy for the
33 remainder of the term.

34 4. Warden and clerk. A warden and clerk for each
35 ward shall be elected by secret ballot at the regular
36 election of municipal officers.

1 A. They shall assume the duties of office on the
2 Monday following election.

3 B. They shall hold office for one year and until
4 others are chosen and qualified in their places.

5 5. Officials elected by aldermen and common
6 council. In the election of any official by the board
7 of aldermen or jointly by the aldermen and common
8 council in which the mayor has a right to give a
9 deciding vote, if the candidates have an equal number
10 of votes; the mayor shall determine which of them is
11 elected.

12 6. Officials appointed by the municipal
13 officers. Whenever appointments to office are made by
14 the municipal officers, they shall be made by the
15 mayor with the consent of the aldermen and may be
16 removed by the mayor.

17 §2553. Nomination to city office by petition

18 A person may be nominated to any city office by
19 nomination petition following the procedure prescribed
20 by Title 21-A, chapter 5, subchapter II. A person
21 seeking nomination under this section may use a
22 political designation only if permitted by the city
23 charter. The petition and consent must be filed with
24 the clerk at least 14 days before election day.

25 §2554. Ballots, specimen ballots and instruction
26 posters

27 Except as otherwise provided by its charter, the
28 ballots, specimen ballots and instruction posters for
29 use in a city election are governed by the following
30 provisions.

31 1. Prepared by clerk. The clerk shall prepare,
32 at the city's expense, the ballots, specimen ballots
33 and instruction posters for use in a city election a
34 reasonable time and as nearly as practicable before
35 each election, in accordance with section 2528,
36 subsection 6.

1 2. Write-in votes. In any city election, a voter
2 may write in or paste a sticker with the name of any
3 person for whom the voter desires to vote in the blank
4 space provided at the end of the list of candidates
5 for office.

6 3. Specimen ballots and instruction posters. At
7 least 4 days before election day, the clerk shall post
8 a specimen ballot in one or more conspicuous, public
9 places in each ward. Before the election, the clerk
10 shall publish a composite specimen ballot containing
11 the names of all the nominees in a newspaper having
12 general circulation in the city. On election day,
13 when the polls are opened, the clerk shall post an
14 instruction poster in each voting booth, and 3
15 instruction posters and 5 specimen ballots in the
16 voting room outside the guardrail enclosure.

17 §2555. Election by plurality

18 In a city election, unless otherwise provided by
19 municipal charter, the person who receives a plurality
20 of the votes cast for election to any office is
21 elected to that office.

22 §2556. Ballot inspection; recount; challenge for
23 office

24 Sections 2530 to 2533 apply in a city and govern
25 ballot inspections, recounts of elections for office,
26 referenda and the procedure for challenging a person
27 who claims title to an office.

28 CHAPTER 123

29 MUNICIPAL OFFICIALS

30 SUBCHAPTER I

31 GENERAL PROVISIONS

32 §2601. Appointment and term of officials; generally

33 1. Appointment of officials and employees.
34 Except where specifically provided by law, charter or

1 ordinance, the municipal officers shall appoint all
2 municipal officials and employees required by general
3 law, charter or ordinance and may remove those
4 officials and employees for cause, after notice and
5 hearing.

6 2. Term of officials. Unless otherwise
7 specified, the term of all municipal officials is one
8 year.

9 \$2602. Vacancy in municipal office

10 1. When vacancy exists. A vacancy in a municipal
11 office may occur by the following means:

12 A. Nonacceptance;

13 B. Resignation;

14 C. Death;

15 D. Removal from the municipality;

16 E. Permanent disability or incompetency;

17 F. Failure to qualify for the office within 10
18 days after written demand by the municipal
19 officers; or

20 G. Failure of the municipality to elect a person
21 to office.

22 2. Vacancy in office other than selectman,
23 assessor or school committee. When there is a vacancy
24 in a town office other than that of selectman,
25 assessor or school committee, the selectmen may
26 appoint a qualified person to fill the vacancy.

27 3. Vacancy in office of selectman or assessor.
28 When there is a vacancy in the office of selectman or
29 assessor, the selectmen may call a town meeting to
30 elect a qualified person to fill the vacancy.

31 4. Vacancy in school committee. A vacancy in a
32 municipality's school committee shall be filled as
33 provided in Title 20-A, section 2305, subsection 4.

1 5. Person appointed qualifies. The person
2 appointed to fill a vacant office must qualify in the
3 same manner as one chosen in the regular course of
4 municipal activity.

5 6. Home rule authority. Under its home rule
6 authority, a municipality may apply different
7 provisions governing the existence of vacancies in
8 municipal offices and the method of filling those
9 vacancies as follows:

10 A. Any change in the provisions of this section
11 relating to municipal officers must be
12 accomplished by charter; and

13 B. Any change in the provisions of this section
14 relating to any other municipal office may be
15 accomplished by charter or ordinance.

16 §2603. Deputy officials

17 The clerk, treasurer and collector of a
18 municipality may each appoint in writing a qualified
19 person as deputy.

20 1. Sworn and oath recorded. Before assuming the
21 duties of office, the deputy must be sworn and the
22 fact of the oath recorded as provided in section 2526,
23 subsection 9.

24 2. Term; duties. The deputy serves at the will
25 of the appointing official. The deputy may perform
26 any of the duties of office prescribed by the
27 appointing official.

28 3. Bond liability. The appointing official and
29 the surety on the official's bond are liable for all
30 acts and omissions of the official's deputy.

31 4. Absence. If the clerk, treasurer or tax
32 collector fails to do so, the municipal officers may
33 appoint a deputy to act during any absence.

34 §2604. Definitions

1 As used in section 2605, unless the context
2 otherwise indicates, the following terms have the
3 following meanings.

4 1. Body. "Body" means the governing unit of a
5 municipality or county, and any subunit of government
6 of a municipality or county, including, but not
7 limited to, agencies, authorities, boards, commissions
8 and offices.

9 2. Official. "Official" means any elected or
10 appointed member of a municipal or county government
11 or of a quasi-municipal corporation.

12 3. Quasi-municipal corporation. "Quasi-municipal
13 corporation" means any governmental unit embracing a
14 portion of a municipality, a single municipality or
15 several municipalities which is created by law to
16 deliver public services but which is not a general
17 purpose governmental unit. This definition includes,
18 but is not limited to, utility districts under the
19 jurisdiction of the Public Utilities Commission and
20 school administrative districts.

21 §2605. Conflicts of interest

22 Certain proceedings of municipalities, counties
23 and quasi-municipal corporations and their officials
24 are voidable and actionable according to the following
25 provisions.

26 1. Voting. The vote of a body is voidable when
27 any official in an official position votes on any
28 question in which that official has a direct or an
29 indirect pecuniary interest.

30 2. Contracts. A contract, other than a contract
31 obtained through properly advertised bid procedures,
32 made by a municipality, county or quasi-municipal
33 corporation during the term of an official of a body
34 of the municipality, county or quasi-municipal
35 corporation involved in the negotiation or award of
36 the contract who has a direct or an indirect pecuniary
37 interest in it is voidable, except as provided in
38 subsection 4.

1 3. Restrain proceedings. The Superior Court may
2 restrain proceedings in violation of this section on
3 the application of at least 10 residents of the
4 municipality, county or area served by the
5 quasi-municipal corporation.

6 4. Direct or indirect pecuniary interest. In the
7 absence of actual fraud, an official of a body of the
8 municipality, county government or a quasi-municipal
9 corporation involved in a question or in the
10 negotiation or award of a contract is deemed to have a
11 direct or indirect pecuniary interest in a question or
12 in a contract where the official is an officer,
13 director, partner, associate, employee or stockholder
14 of a private corporation, business or other economic
15 entity to which the question relates or with which the
16 unit of municipal, county government or the
17 quasi-municipal corporation contracts only where the
18 official is directly or indirectly the owner of at
19 least 10% of the stock of the private corporation or
20 owns at least a 10% interest in the business or other
21 economic entity.

22 When an official is deemed to have a direct or
23 indirect pecuniary interest, the vote on the question
24 or the contract is not voidable and actionable if the
25 official makes full disclosure of interest before any
26 action is taken and if the official abstains from
27 voting, from the negotiation or award of the contract
28 and from otherwise attempting to influence a decision
29 in which that official has an interest. The
30 official's disclosure and a notice of abstention from
31 taking part in a decision in which the official has an
32 interest shall be recorded with the clerk or secretary
33 of the municipal or county government or the
34 quasi-municipal corporation.

35 A. This subsection does not prohibit a member of
36 a city or town council or a member of a
37 quasi-municipal corporation who is a teacher from
38 making or renewing a teacher employment contract
39 with the municipality or quasi-municipal
40 corporation for which the member serves.

41 §2606. Prohibited appointments

1 No municipal officer, during the term for which
2 that officer has been elected and for one year
3 thereafter, may be appointed to any civil office of
4 profit or employment position of the municipality,
5 which was created or the compensation of which was
6 increased by the action of the municipal officers
7 during the officer's term. This section shall not be
8 construed to prohibit actions allowed or required
9 under state or federal law, municipal ordinance or
10 municipal charter.

11 §2607. Neglect of official duty

12 A municipal official who neglects or refuses to
13 perform a duty of office commits a civil violation for
14 which a fine of not more than \$100 for each offense
15 may be adjudged, when no other penalty is provided.
16 The fine shall be recovered on complaint to the use of
17 the municipality.

18 SUBCHAPTER II

19 TOWN MANAGER PLAN

20 §2631. Town manager plan

21 1. Applicable laws. The form of government
22 provided in this subchapter shall be known as the
23 "town manager plan" and, together with general law not
24 inconsistent, shall govern any town in which the
25 voters have adopted this plan at a meeting held at
26 least 60 days before the annual meeting.

27 2. Government. The government of each town under
28 this subchapter shall consist of a town meeting, an
29 elected board of selectmen, an elected school
30 committee, an appointed town manager and any other
31 officials and employees that may be appointed under
32 this subchapter, general law or ordinance. Other town
33 officials may be elected by ballot, including, but not
34 limited to, moderator, assessors, overseers of the
35 poor, clerk and treasurer. The election of officials
36 at the last annual town meeting shall require that
37 those town offices continue to be filled by election
38 until the town designates otherwise.

1 3. Duration. Once adopted, the town manager plan
2 remains in effect until revoked at a town meeting held
3 at least 60 days before the annual meeting unless the
4 voters of the town adopt a charter.

5 §2632. Qualifications of town manager

6 1. Selection by board; professional
7 qualification. The selectmen shall choose the town
8 manager solely on the basis of executive and
9 administrative qualifications with special reference
10 to actual experience in; or knowledge of, the duties
11 of office under this subchapter.

12 2. Residency. The town manager need not be a
13 resident of the town or State when appointed, but,
14 during tenure of office, may reside outside the town
15 or State only with the approval of the board of
16 selectmen.

17 3. Prohibited offices. A town manager may not
18 serve as moderator, selectman, assessor or member of
19 the school committee.

20 §2633. Term, compensation, removal, suspension

21 1. Term. The town manager shall hold office for
22 an indefinite term unless otherwise specified by
23 contract.

24 2. Compensation. The selectmen shall determine
25 the compensation of the town manager.

26 3. Removal, suspension. The selectmen may remove
27 or suspend the town manager for cause in accordance
28 with the following procedures.

29 A. The selectmen shall file a written preliminary
30 resolution with the town clerk stating the
31 specific reasons for the proposed removal. A copy
32 of that resolution shall be delivered to the
33 manager within 10 days of filing.

34 B. Within 20 days of receiving the resolution,
35 the manager may reply in writing and request a
36 public hearing.

1 C. Upon request for a public hearing, the
2 selectmen shall hold one at least 10 days but not
3 more than 30 days after the request is filed.

4 D. After the public hearing or at the expiration
5 of the time permitted the manager to request the
6 public hearing, if no such request is made, the
7 selectmen may adopt or reject the resolution of
8 removal.

9 E. The selectmen may suspend the manager from
10 duty in the preliminary resolution, but the
11 manager's salary may not be affected until the
12 final resolution of removal has been adopted.

13 §2634. Absence or disability of town manager

14 The town manager may designate a qualified
15 administrative official of the town to perform duties
16 during a temporary absence or disability, subject to
17 confirmation by the selectmen. If the town manager
18 does not make this designation, the selectmen may
19 appoint a town official to perform the manager's
20 duties during absence or disability and until the
21 manager returns or the disability ceases.

22 §2635. Board of selectmen to act as a body;
23 administrative service to be performed through
24 town manager; committees

25 It is the intention of this subchapter that the
26 board of selectmen as a body shall exercise all
27 administrative and executive powers of the town except
28 as provided in this subchapter. The board of
29 selectmen shall deal with the administrative services
30 solely through the town manager and shall not give
31 orders to any subordinates of the manager, either
32 publicly or privately. This section does not prevent
33 the board of selectmen from appointing committees or
34 commissions of its own members or of citizens to
35 conduct investigations into the conduct of any
36 official or department, or any matter relating to the
37 welfare of the town.

38 §2636. Powers and duties of town manager

1 The town manager:

- 2 1. Executive and administrative officer. Is the
3 chief executive and administrative official of the
4 town;
- 5 2. Administer offices. Is responsible to the
6 selectmen for the administration of all departments
7 and offices over which the selectmen have control;
- 8 3. Execute laws and ordinances. Shall execute
9 all laws and ordinances of the town;
- 10 4. Department head. Shall serve in any office as
11 the head of any department under the control of the
12 selectmen when directed by the selectmen;
- 13 5. Appoint department heads. Shall appoint,
14 subject to confirmation by the selectmen, supervise
15 and control the heads of departments under the control
16 of the selectmen when the department is not headed by
17 the town manager under subsection 4;
- 18 6. Appoint town officials. Unless otherwise
19 provided by town ordinance, shall appoint, supervise
20 and control all town officials whom the municipal
21 officers are required by law to appoint, except
22 members of boards, commissions, committees and single
23 assessors; and appoint, supervise and control all
24 other officials, subordinates and assistants, except
25 that the town manager may delegate this authority to a
26 department head and report all appointments to the
27 board of selectmen;
- 28 7. Purchasing agent. Shall act as purchasing
29 agent for all departments, except the school
30 department, provided that the town or the selectmen
31 require that all purchases greater than a designated
32 amount must be submitted to sealed bid;
- 33 8. Attend meetings of selectmen. Shall attend
34 all meetings of the board of selectmen, and the town
35 manager may attend meetings when the manager's removal
36 is being considered;

1 9. Make recommendations. Shall make
2 recommendations to the board of selectmen for the more
3 efficient operation of the town;

4 10. Attend town meetings. Shall attend all town
5 meetings and hearings;

6 11. Inform of financial condition. Shall keep
7 the board of selectmen and the residents of the town
8 informed as to the town's financial condition;

9 12. Collect data. Shall collect data necessary
10 to prepare the budget;

11 13. Assist residents. Shall assist, insofar as
12 possible, residents and taxpayers in discovering their
13 lawful remedies in cases involving complaints of
14 unfair vendor, administrative and governmental
15 practices; and

16 14. Remove appointments. Has exclusive authority
17 to remove for cause, after notice and hearing, all
18 persons whom the manager is authorized to appoint and
19 report all removals to the board of selectmen.

20 §2637. Transitional provisions

21 The selectmen, by resolve, may provide for the
22 orderly transition of the town government. These
23 resolves may not infringe upon the rights of any
24 official or employee of the town and may not be
25 inconsistent with this subchapter.

26 §2638. Regional cooperation

27 1. Agreement. Any 2 or more towns may enter into
28 an agreement, not inconsistent with this subchapter,
29 to employ and share a manager.

30 2. Selection of manager. The selectmen of the
31 contracting towns shall act as a joint board for the
32 purposes of selecting and removing for cause the
33 manager, provided that each town has a single vote.

34 3. Compensation. The agreement must contain a
35 formula establishing the percentage of the manager's

1 compensation to be contributed by each town. The
2 selectmen shall determine the manager's total
3 compensation acting as a joint board, each town having
4 a single vote.

5 4. Duration. The agreement must specify the
6 method of partial or complete termination of the
7 agreement.

8 §2639. Application

9 All municipalities operating under the repealed
10 Title 30, chapter 213, subchapter II are deemed to
11 have made the adoption under section 2631, subsection
12 1, as of October 1, 1969.

13 SUBCHAPTER III

14 MUNICIPAL CLERKS

15 §2651. Bond

16 A municipality may require its clerk to be bonded
17 according to section 5601, before assuming the duties
18 of office.

19 §2652. Fee schedule

20 Except as provided in Title 11, the clerk shall
21 charge for services according to the following fee
22 schedule:

23 1. Recording; general. Recording the following:

24 A. Administration of an oath, \$1;

25 (1) The municipality shall pay this fee;

26 B. A birth, marriage or death as required by
27 Title 22, sections 2702, 2703, 2763 and 2802, 50
28 cents;

29 (1) The municipality shall pay this fee;

30 C. Affidavit establishing or correcting a record
31 of birth, marriage or death as provided by Title

1 22, sections 2705 and 2764, \$2;

2 (1) Issuance of a copy of the record to the
3 applicant, \$5 for the first copy and \$2 for
4 each additional copy;

5 D. Affidavit legitimating a birth as provided by
6 Title 22, section 2765, \$2;

7 (1) Issuance of a copy of the amended birth
8 record to the applicant, \$5 for the first
9 copy and \$2 for each additional copy;

10 E. Release of an attachment, \$2;

11 F. Certificate of partnership, \$5;

12 G. Certificate of withdrawal of a partner, \$5;

13 H. Certificate of a person engaging in trade
14 under a name, style or designation other than that
15 person's own, \$5;

16 I. Honorable discharge or release papers of
17 veterans of the Armed Forces of the United States
18 of America, \$2;

19 (1) A copy of such a document attested by
20 the clerk is prima facie evidence of its
21 existence and validity;

22 J. Petition for enforcement of a lien on
23 monumental works, \$2;

24 K. License for clam cultivation or an assignment
25 of it, \$1; and

26 L. Any instrument entitled to be recorded, except
27 those under the Uniform Commercial Code, including
28 an executed assignment attached to or made a part
29 of it before it is received for recording, \$2 for
30 the first page and \$1 for each succeeding page or
31 part of a page;

32 (1) The acts of any municipality in
33 recording any instrument by microfilm before

1 September 21, 1963 are ratified, confirmed
2 and made effective;

3 2. Marriage intentions and license. Recording
4 marriage intentions and issuing a marriage license,
5 \$10, except, where the laws of this State require 2
6 licenses, the fee is \$5 each;

7 3. Birth, marriage or death certificates. Issuing
8 the following:

9 A. Certificate of birth, marriage or death, \$5
10 for the first copy and \$2 for each additional
11 copy; and

12 B. Burial permit, \$2; and

13 4. Marginal release. Entering in the margin of a
14 record the release of an attachment, no charge;

15 A. The person making the marginal release must
16 sign it.

17 If a municipality provides for a salary to be paid
18 to the clerk as full compensation, all revenues
19 received by the clerk on behalf of the town accrue to
20 the municipality.

21 §2653. Expenses

22 Each municipality shall pay the reasonable
23 expenses of its clerk and deputy clerk incurred in
24 attending the annual meetings of the Maine Municipal
25 Association and the Maine Town and City Clerks'
26 Association.

27 §2654. Assistant clerks

28 The clerk may appoint in writing one or more
29 assistants who shall perform any duties of the office
30 prescribed by the clerk.

31 1. Sworn and oath recorded. Before assuming the
32 duties of office, an assistant clerk must be sworn and
33 the fact of the oath recorded as provided in section
34 2526, subsection 9.

1 2. Term. The assistant clerk serves at the will
2 of the clerk.

3 3. Bond liability. The clerk and the surety on
4 the clerk's bond are liable for all acts and omissions
5 of the assistant.

6 SUBCHAPTER IV

7 LAW ENFORCEMENT OFFICERS

8 §2671. Police officers

9 1. Appointment. Except as provided by charter,
10 ordinance or section 2636, subsection 6, the municipal
11 officers may appoint police officers for a definite
12 term, and control and fix their compensation. Police
13 officers, including chiefs of police, may be removed
14 for cause after notice and hearing.

15 A. Before appointing any law enforcement officer,
16 the municipal officers shall investigate the
17 qualifications and background of any person being
18 considered for appointment. This includes
19 investigating the applicant's abilities,
20 reputation for truthfulness and respect for the
21 law.

22 B. An appointed law enforcement officer is
23 subject to the training requirements of Title 25,
24 sections 2805 and 2805-A.

25 2. Powers. Police officers may serve criminal
26 and traffic infraction processes and arrest and
27 prosecute offenders of the law. A police officer has
28 all the statutory powers of a constable, unless
29 limited by charter or ordinance. No police officer
30 has any authority in criminal or traffic infraction
31 matters beyond the limits of the municipality in which
32 the officer is appointed, except to:

33 A. Recapture a prisoner whom the officer has
34 arrested and who has escaped;

- 1 B. Take a person before the District Court;
- 2 C. Execute a mittimus given to the officer by the
3 District Court;
- 4 D. Pursue a person who has gone into another
5 municipality and for whose arrest the officer has
6 a warrant;
- 7 E. Arrest a person who travels beyond the limits
8 of the municipality in which the officer is
9 appointed when in fresh pursuit of that person.
10 This paragraph applies to felonies, misdemeanors
11 and traffic infractions. As used in this
12 paragraph:
- 13 (1) With respect to felonies, the term
14 "fresh pursuit" is defined in Title 15,
15 section 152; and
- 16 (2) With respect to misdemeanors and traffic
17 infractions, "fresh pursuit" means instant
18 pursuit of a person with intent to apprehend;
19 or
- 20 F. As provided for in section 2675.
- 21 3. Representation of the municipality in District
22 Court. The municipal officers may authorize a law
23 enforcement officer certified by the Maine Criminal
24 Justice Academy, under Title 25, section 2803,
25 subsection 3-A, to represent the municipality in
26 District Court in the prosecution of alleged
27 violations of ordinances which the officer may
28 enforce. Under this subsection, the municipal
29 officers may delegate their power to authorize law
30 enforcement officers to represent the municipality to
31 the municipality's full-time chief of police.
- 32 §2672. Special police officers
- 33 Special police officers of limited jurisdiction
34 may be appointed for a term of not more than one year
35 and as provided in section 2671, subsection 1. These
36 officers have all the powers of a police officer,

1 except as specifically provided by charter, ordinance
2 or the certificate of appointment.

3 §2673. Constables

4 Constables shall be appointed in the same manner
5 and with the same effect as special police officers
6 under section 2672. Persons injured by the neglect or
7 misdoings of a constable have the same remedy by
8 preliminary action and action of the constable's bond,
9 as in the case of a sheriff's bond. For services
10 which may be performed either by a deputy sheriff or a
11 constable, the constable is allowed the same fees as a
12 deputy sheriff, unless otherwise provided.

13 1. Carrying weapons. A constable's certificate
14 of appointment shall state whether or not the
15 constable is allowed to carry a weapon, concealed or
16 unconcealed, in the performance of duties. If a
17 constable is restricted in carrying a weapon, this
18 prohibition is not affected by any weapons license the
19 individual may possess.

20 §2674. Power of city police

21 Police officers appointed in any city have the
22 powers of constables in all matters criminal or
23 relating to the bylaws of their city.

24 §2675. Aid to other municipalities

25 Except as otherwise provided by municipal charter
26 or ordinance, the municipal officers may authorize the
27 chief of police or other designee to request other
28 municipalities to provide police officers to assist
29 the requesting municipality. The municipal officers
30 may authorize the chief of police or other designee to
31 provide police officers to assist other municipalities
32 when so requested by a properly authorized chief of
33 police or other designee of the requesting
34 municipality.

35 The authorizations of the municipal officers shall
36 be accompanied by an agreement between the requesting
37 municipality and the responding municipality that
38 specifies which municipality shall be liable, if any

1 liability is determined to exist, for personal injury
2 or property damage caused by or occurring to the
3 police officers of the responding municipality in the
4 course of assisting the requesting municipality.

5 The police officers of the responding municipality
6 shall have the same authority as police officers
7 within the limits of the requesting municipality,
8 except as to the service of civil process and, when
9 assisting other municipalities, shall have the same
10 privileges and immunities as when acting within their
11 own municipality.

12 SUBCHAPTER V

13 BOARD OF APPEALS

14 §2691. Board of appeals

15 This section governs all boards of appeals
16 established after September 23, 1971.

17 1. Establishment. A municipality may establish a
18 board of appeals under its home rule authority.
19 Unless provided otherwise by charter or ordinance, the
20 municipal officers shall appoint the members of the
21 board and determine their compensation.

22 2. Organization. A board of appeals shall be
23 organized as follows.

24 A. The board shall consist of 5 or 7 members,
25 serving staggered terms of at least 3 and not more
26 than 5 years, except that municipalities with a
27 population of less than 1,000 residents may form a
28 board consisting of at least 3 members. The board
29 shall elect annually a chairman and secretary from
30 its membership.

31 B. Neither a municipal officer nor the municipal
32 officer's spouse may be a member or associate
33 member of the board.

34 C. Any question of whether a particular issue
35 involves a conflict of interest sufficient to

1 disqualify a member from voting on that issue
2 shall be decided by a majority vote of the
3 members, excluding the member who is being
4 challenged.

5 D. The municipal officers may dismiss a member of
6 the board for cause before the member's term
7 expires.

8 E. Municipalities may provide under their home
9 rule authority for a board of appeals with
10 associate members not to exceed 3. If there are 2
11 or 3 associate members, the chairman shall
12 designate which will serve in the place of an
13 absent member.

14 3. Procedure. The following provisions govern
15 the procedure of the board.

16 A. The chairman shall call meetings of the board
17 as required. The chairman shall also call
18 meetings of the board when requested to do so by a
19 majority of the members or by the municipal
20 officers. A quorum of the board necessary to
21 conduct an official board meeting must consist of
22 at least a majority of the board's members. The
23 chairman shall preside at all meetings of the
24 board and be the official spokesman of the board.

25 B. The secretary shall maintain a permanent
26 record of all board meetings and all
27 correspondence of the board. The secretary is
28 responsible for maintaining those records which
29 are required as part of the various proceedings
30 which may be brought before the board. All
31 records to be maintained or prepared by the
32 secretary are public records. They shall be filed
33 in the municipal clerk's office and may be
34 inspected at reasonable times.

35 C. The board may provide, by regulation which
36 shall be recorded by the secretary, for any matter
37 relating to the conduct of any hearing, provided
38 that the chairman waives any regulation upon good
39 cause shown.

40 D. The board may receive any oral or documentary

1 evidence but shall provide as a matter of policy
2 for the exclusion of irrelevant, immaterial or
3 unduly repetitious evidence. Every party has the
4 right to present the party's case or defense by
5 oral or documentary evidence, to submit rebuttal
6 evidence and to conduct any cross-examination that
7 is required for a full and true disclosure of the
8 facts.

9 E. The transcript of testimony, if any, and
10 exhibits, together with all papers and requests
11 filed in the proceeding, constitute the record.
12 All decisions become a part of the record and must
13 include a statement of findings and conclusions,
14 as well as the reasons or basis for the findings
15 and conclusions, upon all the material issues of
16 fact, law or discretion presented and the
17 appropriate order, relief or denial of relief.
18 Notice of any decision shall be mailed or hand
19 delivered to the petitioner, the petitioner's
20 representative or agent, the planning board,
21 agency or office and the municipal officers within
22 7 days of the board's decision.

23 F. The board may reconsider any decision reached
24 under this section within 30 days of its prior
25 decision. The board may conduct additional
26 hearings and receive additional evidence and
27 testimony as provided in this subsection.

28 G. Any party may take an appeal, within 30 days
29 after the decision is rendered, to Superior Court
30 from any order, relief or denial in accordance
31 with the Maine Rules of Civil Procedure, Rule
32 80B. This time period may be extended by the
33 court upon motion for good cause shown. The
34 hearing before the Superior Court shall be without
35 a jury.

36 4. Jurisdiction. Any municipality establishing a
37 board of appeals may give the board the power to hear
38 any appeal by any person, affected directly or
39 indirectly, from any decision, order, regulation or
40 failure to act of any officer, board, agency or other
41 body when an appeal is necessary, proper or required.
42 No board may assert jurisdiction over any

1 matter unless the municipality has by charter or
2 ordinance specified the precise subject matter that
3 may be appealed to the board and the official or
4 officials whose action or nonaction may be appealed to
5 the board. Any board of appeals shall hear any appeal
6 submitted to the board in accordance with Title 28-A,
7 section 1054.

8 SUBCHAPTER VI

9 MUNICIPAL EMPLOYMENT

10 §2701. Employee probation periods

11 Except as specifically provided otherwise by
12 charter or ordinance, any reference to cause and
13 hearing in this Part only applies to an employee who
14 has completed a reasonable probation period
15 established by the municipality. Periods of probation
16 may not exceed 6 calendar months or the length of time
17 in effect in a municipality on January 1, 1984,
18 whichever is greater.

19 §2702. Personnel records

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

24 A. Working papers, research materials, resumes,
25 records and the examinations prepared for and used
26 specifically in the examination or evaluation of
27 applicants for employment by that municipality;

28 B. Municipal records pertaining to an
29 identifiable employee and containing the following:

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

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

1 (3) Information pertaining to the credit
2 worthiness of a named employee;

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

6 (5) Complaints, charges or accusations of
7 misconduct, replies to those complaints,
8 charges or accusations and any other
9 information or materials that may result in
10 disciplinary action. If disciplinary action
11 is taken, the final written decision relating
12 to that action is no longer confidential
13 after it is completed. The decision shall
14 state the conduct or other facts on the basis
15 of which disciplinary action is being imposed
16 and the conclusions of the acting authority
17 as to the reasons for that action; and

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

20 2. Employee right to review. On written request
21 from an employee or former employee, the municipal
22 official with custody of the records shall provide the
23 employee, former employee or authorized representative
24 with an opportunity to review the employee's personnel
25 file, if the municipal official has a personnel file
26 for that employee. These reviews shall take place
27 during normal office hours at the location where the
28 personnel files are maintained. For the purposes of
29 this subsection, a personnel file includes, but is not
30 limited to, any formal or informal employee
31 evaluations and reports relating to the employee's
32 character, credit, work habits, compensation and
33 benefits which the municipal official may possess.
34 The records described in subsection 1, paragraph B,
35 may also be examined by the employee to whom they
36 relate, as provided in this subsection.

37 §2703. Residency requirement; ordinances and
38 collective bargaining

1 A municipality may not enact any ordinance which
2 requires employees to reside within the boundaries of
3 the municipality as a condition of employment, nor may
4 collective bargaining agreements contain these strict
5 requirements. A municipality may negotiate collective
6 bargaining agreements or, if the municipality does not
7 engage in collective bargaining, enact ordinances that
8 require employees to reside within a specified
9 distance or a specific response time of a facility
10 where those provisions represent a legitimate job
11 requirement, and provided that the ordinances do not
12 apply to employees already employed when the ordinance
13 takes effect.

14 This section applies only to public employees, as
15 defined in Title 26, section 962, subsection 6.

16 §2704. Mandatory retirement age prohibited

17 1. Legislative findings and intent. The
18 legislative findings and intent for this section are
19 the same as the findings and intent specified in Title
20 5, section 4575, subsection 1.

21 2. Prohibition. A municipality may not enact any
22 ordinance or adopt any regulation which requires a
23 municipal employee, as a condition of employment, to
24 retire at or before a specified age or after
25 completion of a specified number of years of service.

26 3. Criteria and standards. A municipality may
27 establish reasonable criteria and standards of job
28 performance to be used for the purpose of determining
29 when the employment of municipal employees should be
30 terminated. These criteria and standards are subject
31 to all of the provisions included under Title 5,
32 section 4575, subsection 2.

33 4. Normal retirement age. This section shall not
34 be construed to prohibit the use of a "normal
35 retirement age," as defined in the United States
36 Employee Retirement Income Security Act of 1974,
37 Public Law 93-406, as amended, in computing pension or
38 retirement benefits, provided that normal retirement
39 age and the accrual or awarding of pension or
40 retirement benefits may not be used in any way to

1 require the retirement of an employee or to deny
2 employment to a person.

3 5. Federal requirements. This section shall not
4 be construed to affect or limit any power or duty
5 relating to pension or retirement plans which the
6 Federal Government reserves to itself.

7 CHAPTER 125

8 MUNICIPAL RECORDS

9 §2751. Short title

10 This chapter shall be known and may be cited as
11 the "Municipal Records Law."

12 §2752. Definitions

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

16 1. Record. "Record" means all documentary
17 material, regardless of media or characteristics, made
18 or received and maintained by a municipality in
19 accordance with law or regulation or in the
20 transaction of its official business.

21 §2753. General requirements

22 The following provisions apply to municipal
23 records.

24 1. Omissions or errors corrected. When omissions
25 or errors exist in municipal or school district
26 records, they shall be corrected under oath by the
27 person whose duty it was to make them correct, whether
28 or not that person remains in office.

29 2. Safe or vault for preservation. Each
30 municipality shall provide a fireproof safe or vault
31 for the preservation of all completed record books.
32 When a record book is completed, the clerk shall

1 deposit it in the safe or vault where it shall be
2 kept, except when required for use.

3 3. Attestation. The records of the clerk may be
4 attested by volume. Each document is sufficiently
5 attested when the volume in which it is recorded bears
6 the attestation with the written signature of the
7 clerk.

8 4. Delivery to successor in office. Municipal
9 officials shall deliver the records of their office to
10 their successors in office when their terms expire.

11 5. Records available for public use. Each
12 municipal official shall make records under the
13 official's supervision available for public use at
14 reasonable times unless the use of the records is
15 otherwise restricted by law.

16 6. Protection of records. Municipal officials
17 shall carefully protect and preserve the records of
18 their office from deterioration, mutilation, loss or
19 destruction.

20 7. Disposition of records. No municipal official
21 may destroy or otherwise dispose of any record, except
22 as provided by the Municipal Records Board. Records
23 which have been determined by the board to possess
24 sufficient archival value to warrant their permanent
25 preservation shall be preserved by the municipality or
26 deposited with the State Archivist.

27 8. Rules of Municipal Records Board. Each
28 municipal official shall comply with the standards,
29 procedures and rules adopted by the Municipal Records
30 Board.

31 §2754. Municipal Records Board

32 1. Composition of board; terms; compensation.
33 The Municipal Records Board, as authorized by Title 5,
34 chapter 379, shall consist of the State Archivist, who
35 is chairman, the State Registrar of Vital Statistics
36 and 3 municipal officials.

1 A. The Governor shall appoint the 3 municipal
2 officials for terms of 3 years upon the
3 recommendation of the governing board of the Maine
4 Municipal Association. One of the municipal
5 officials must represent a municipality with a
6 population of not more than 3,500 persons.

7 B. Any person appointed to fill a vacancy in the
8 membership of the board shall serve for the
9 remainder of the term for which the person's
10 predecessor was appointed.

11 C. Appointive members shall be compensated
12 according to the provisions of Title 5, chapter
13 379.

14 2. Meetings. The board shall meet at the call of
15 the chairman, but not less than 4 times during each
16 calendar year. Three members of the board constitute
17 a quorum.

18 §2755. Powers and duties of board

19 The Municipal Records Board shall establish
20 standards, procedures and rules for the effective
21 management of municipal records. These standards,
22 procedures and rules, as far as practical, shall
23 follow the program established under the "Archives and
24 Records Management Law" to govern the creation,
25 utilization, maintenance, retention, preservation and
26 disposal of state records, except as otherwise
27 provided in this chapter. The board may revise the
28 standards, procedures and rules as it considers
29 necessary. Administrative services shall be provided
30 by the Maine State Archives which shall serve as
31 secretariat of the board.

32 §2756. Assistance to municipalities

33 The State Archivist shall provide advice and
34 assistance to municipalities in the establishment and
35 administration of municipal archival programs. The
36 State Archivist shall provide program services to
37 municipalities similar to those furnished the agencies
38 of State Government to the extent considered desirable

1 in the administration of the state program and
2 facilities. The State Archivist may acquire and
3 maintain sufficient microfilm equipment and supplies
4 to microfilm records that the board may order
5 microfilmed in accordance with section 2755. These
6 services shall be furnished to municipalities at cost.

7 §2757. Violation

8 Notwithstanding Title 17-A, section 4-A, whoever
9 violates this chapter or rules of the Municipal
10 Records Board adopted under section 2755 is guilty of
11 a Class E crime and shall be punished by a fine of not
12 less than \$100 nor more than \$500, or by imprisonment
13 for not more than 90 days, or both.

14 CHAPTER 127

15 MUNICIPAL REPORTS

16 §2801. Annual report

17 The officers of each municipality shall publish
18 annually a complete report subject to the following
19 provisions.

20 1. Record of financial transactions. The report
21 shall contain a record of all financial transactions
22 of the municipality during the last municipal year.
23 It may include an itemized list of receipts and
24 disbursements indicating to whom and for what purpose
25 each amount was paid.

26 2. Statement of assets and liabilities;
27 delinquent taxpayers. The report shall contain a
28 detailed statement of the assets and liabilities of
29 the municipality including a list of all delinquent
30 taxpayers and the amount due from each. It shall also
31 contain any engineering and survey reports relating to
32 the boundaries of the municipality and all related
33 proceedings and actions of the municipal officers,
34 together with any other information that the municipal
35 officers consider to be of historical significance.

1 3. Postaudit report. The report shall contain
2 the statement that the complete postaudit report for
3 the last municipal year is on file at the municipal
4 office and the following excerpts from the report:

5 A. Name and address of the auditor;

6 B. Auditor's comments and suggestions for
7 improving the financial administration;

8 C. Comparative balance sheet; and

9 D. Statement of departmental operations.

10 4. Copies for distribution. Copies of the report
11 shall be deposited in the municipal office or a
12 convenient place of business for distribution to the
13 voters at least 3 days before the annual meeting.

14 5. Copies open for inspection. Copies of the
15 report and all municipal records shall be kept in the
16 municipal office, or in the office of the clerk, and
17 are open to the inspection of voters during usual
18 business hours.

19 6. Penalty. If any municipal official refuses or
20 neglects to perform any duty required by this section,
21 the municipal official commits a civil violation for
22 which a fine of \$50 for each offense may be adjudged.

23 §2802. Reports by sworn officials

24 A municipal official who has been sworn to the
25 faithful performance of the official's duty need not
26 swear to any report, account or statement to be filed
27 with any of the state departments.

28 CHAPTER 129

29 TOWN LINES

30 §2851. Identification of boundary lines

1 Boundary lines between municipalities shall be
2 perambulated once every 5 years to determine whether
3 the boundary location is apparent within 5 meters.
4 The following procedures apply.

5 1. Notice. The municipal officers shall give a
6 10-day written notice to the officers of the adjoining
7 municipalities advising them of the time and place of
8 meeting for perambulation.

9 2. Failure to appear. If the officers of any
10 municipality fail to appear in person, or by
11 representative, at the time and place appointed for
12 the required perambulation, the municipality which
13 complies with its duty may perambulate the line and
14 charge the other municipality for 1/2 the expense
15 incurred.

16 3. Expense. Each municipality shall pay an equal
17 share of the expense of perambulation.

18 4. Unorganized area. Where a municipality
19 adjoins an unorganized area, the county in which this
20 area is located has the duties of a municipality for
21 the purpose of perambulating its boundary lines and
22 paying its share of the expense of the perambulation.
23 The county commissioners shall perform the duties
24 required of municipal officers.

25 5. Record of observations. The adjoining
26 municipalities shall record:

27 A. The dates and times when the perambulation
28 took place;

29 B. The names of the municipal officers
30 participating; and

31 C. Either:

32 (1) A certification by the participants that
33 they were able to identify all monuments
34 described in the legislated definition of the
35 boundary and that the boundary location was
36 apparent within 5 meters at all locations
37 along its length; or

1 (2) A statement of the deficiencies found
2 and a record of the action taken to correct
3 those deficiencies.

4 6. Deficiencies. If all monuments are found in
5 place and apparently undisturbed, but the boundary
6 location is in doubt because of obstructions to
7 visibility between monuments occurring since the last
8 perambulation, the municipal officers shall have the
9 line cleared of obstructions. If monuments have been
10 disturbed or destroyed, or for some other reason it is
11 necessary to precisely locate the boundary line, the
12 municipal officers shall locate and monument the line,
13 so that the certification required by subsection 5 may
14 be completed.

15 7. Monumentation and record. Municipal
16 boundaries need not be perambulated more often than
17 once every 10 years if:

18 A. Monuments of granite or other material of
19 comparable life and resistance to movement are
20 located at all angle points and at intervals not
21 exceeding 500 meters along straight boundaries,
22 except for water crossings which exceed that
23 interval;

24 B. Monuments have drill holes or punch marks in
25 inserts not exceeding one centimeter in diameter,
26 indicating the point on the monument to be used as
27 the boundary; and

28 C. Boundaries are shown to scale on a plan filed
29 at the offices of the adjoining municipalities and
30 at the registry of deeds of the county, or
31 adjoining counties, in which the municipalities
32 are located, and that plan includes:

33 (1) The location of all monuments together
34 with dimensions by which those monuments may
35 be found and checked for accuracy; and

36 (2) A certification by a qualified and
37 registered land surveyor that the surveyor
38 has examined the records of the legislative

1 action which created that boundary, verified
2 the location of the boundary monuments on the
3 ground and finds agreement, subject to any
4 minor discrepancies that have been noted on
5 the plan.

6 §2852. Disputed boundary lines

7 When a controversy over a boundary line exists
8 between adjoining municipalities, either may file a
9 complaint with the Superior Court stating the facts
10 and requesting that the line be run.

11 1. Commissioners appointed. The court, after due
12 notice to all parties, shall appoint 3 commissioners.

13 2. Ascertain and describe line. The
14 commissioners, after giving the interested municipal
15 officers at least 10 days' written notice of the time
16 and place of meeting, shall ascertain the line and
17 describe it by courses and distances.

18 3. Temporary markers. The commissioners shall
19 set temporary markers to indicate the established line.

20 4. Report. The commissioners shall report their
21 proceedings to the court.

22 5. True line. When the court accepts the report,
23 the line established by the commissioners becomes the
24 true line for every municipal purpose, and the court
25 shall order the interested municipalities to replace
26 the temporary markers with monuments as provided in
27 section 2851, subsection 7.

28 6. Expense. Each municipality shall pay an equal
29 share of the expense of erecting monuments.

30 7. Compensation of commissioners. The court
31 shall allow the commissioners a proper compensation
32 for their services and issue a warrant for its
33 collection from the interested municipalities in equal
34 proportions.

35 CHAPTER 131

36 HISTORY AND OBSERVANCES

1 §2901. Decoration of veterans' graves on Memorial
2 Day; erection of flagpoles

3 1. Decoration of veterans' graves. Each
4 municipality, as directed by its municipal officers,
5 shall annually decorate on May 30th the graves of
6 veterans of the Armed Forces of the United States of
7 America with an American flag and appropriate floral
8 decorations.

9 2. Erection of flagpole as alternative.. When
10 authorized by the municipal officers, any group of
11 citizens or any veterans' organization of that
12 municipality may erect a flagpole of durable material
13 in any cemetery within the municipality in which at
14 least 25 veterans of the Armed Forces of the United
15 States are interred. The American flag may be flown
16 from this pole between the dates of April 20th and May
17 10th of each year, or on any day officially designated
18 to commemorate veterans of the Armed Forces of the
19 United States. The display of a flag under this
20 subsection satisfies the requirements of subsection 1.

21 3. No effect on individuals' right to decorate.
22 This section does not in any way affect the right of
23 any friend or relative of a deceased veteran to
24 decorate the grave.

25 §2902. Old Home Week

26 The week beginning with the 2nd Sunday in August
27 of each year, or any other week designated by the
28 municipality's legislative body, is designated and set
29 apart as Old Home Week.

30 SUBPART 4

31 ORDINANCE AUTHORITY AND LIMITATIONS

32 CHAPTER 141

33 ORDINANCES

1 §3001. Ordinance power

2 Any municipality, by the adoption, amendment or
3 repeal of ordinances or bylaws, may exercise any power
4 or function which the Legislature has power to confer
5 upon it, which is not denied either expressly or by
6 clear implication, and exercise any power or function
7 granted to the municipality by the Constitution of
8 Maine, general law or charter.

9 1. Liberal construction. This section, being
10 necessary for the welfare of the municipalities and
11 their inhabitants, shall be liberally construed to
12 effect its purposes.

13 2. Presumption of authority. There is a
14 rebuttable presumption that any ordinance enacted
15 under this section is a valid exercise of a
16 municipality's home rule authority.

17 3. Standard of preemption. The Legislature shall
18 not be held to have impliedly denied any power granted
19 to municipalities under this section unless the
20 municipal ordinance in question would frustrate the
21 purpose of any state law.

22 4. Penalties accrue to municipality. All
23 penalties established by ordinance shall be recovered
24 on complaint to the use of the municipality.

25 §3002. Enactment procedure

26 Unless otherwise provided by charter or law, a
27 municipality must enact ordinances by the following
28 procedure.

29 1. Posted. The proposed ordinance must be
30 attested and posted in the manner provided for town
31 meetings.

32 2. Certification. The municipal officers shall
33 certify one copy of the proposed ordinance to the
34 municipal clerk at least 7 days before the day of
35 meeting. The clerk shall keep that copy as a public

1 record and shall make copies available for
2 distribution to the voters from the time of
3 certification. Copies shall be made available at the
4 town meeting.

5 A. No ordinance of any municipality subject to
6 this subsection may be held invalid due to the
7 municipality's failure to comply with this
8 subsection unless the plaintiff is prejudiced or
9 harmed by that failure.

10 3. Question. The subject matter of the proposed
11 ordinance shall be reduced to the question: "Shall an
12 ordinance entitled ' ' be enacted?" and shall be
13 submitted to the town meeting for action either as an
14 article in the warrant or a question on a secret
15 ballot.

16 4. Application. Subsections 1, 2 and 3 do not
17 apply to ordinances which may be enacted by the
18 municipal officers.

19 §3003. Adoption of codes by reference

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

23 A. "Code" means any published compilation of
24 regulations or enforceable standards which has
25 been prepared by any association or organization
26 that is nationally recognized for establishing
27 standards in the areas set out below, or any
28 department or agency of the Federal Government or
29 the State, and includes:

30 (1) Building codes;

31 (2) Plumbing codes;

32 (3) Electrical wiring codes;

33 (4) Health or sanitation codes;

34 (5) Fire prevention codes;

1 (6) Inflammable liquids codes; and

2 (7) Any other code which embraces
3 regulations pertinent to a subject which is a
4 proper municipal legislative matter.

5 B. "Published" means printed or otherwise
6 reproduced.

7 2. Adoption and amendment of codes by reference.
8 Any ordinance adopted or repealed by a municipality
9 under its home rule authority may incorporate by
10 reference any code or portions of any code, or any
11 amendment of such a code, properly identified as to
12 date and source, without setting forth the provisions
13 of the code in full.

14 A. At least 3 copies of the code, portion or
15 amendment, which is incorporated or adopted by
16 reference, shall be filed in the office of the
17 municipal clerk and kept there available for
18 public use, inspection and examination. The
19 required copies of the codes, portion or amendment
20 or public record must be filed with the municipal
21 clerk for 30 days before the adoption of the
22 ordinance which incorporates the code, portion or
23 amendment by reference.

24 B. If such a code, portion or amendment is
25 promulgated by a metropolitan or regional agency,
26 the adopting municipality must be within the
27 territorial boundaries of the agency.

28 C. The filing requirements for ordinances adopted
29 under Title 38, sections 435 to 447, are deemed to
30 be met if the codes are on file in the clerk's
31 office by July 1, 1974.

32 3. Posting and publication of adopting
33 ordinance. This section does not relieve any
34 municipality of the requirement of posting or
35 publishing in full the ordinance which adopts a code,
36 portion or amendment by reference. All provisions
37 applicable to that publication shall be fully and
38 completely carried out as if no code, portion or
39 amendment were incorporated in the ordinance.

1 4. Adoption of penalty clauses. Any ordinance
2 adopting a code, portion or amendment by reference
3 shall state the penalty for violating the code,
4 portion or amendment separately. No part of any such
5 penalty may be incorporated by reference.

6 §3004. Revision, codification and publication

7 A municipality may revise, codify and publish from
8 time to time in book or pamphlet form all or part of
9 its ordinances arranged in appropriate classifications
10 excluding the titles, signatures and other formal
11 parts of the enacting legislation for the purpose of
12 producing a complete, accurate code of the ordinances
13 in force.

14 1. Enactment. The revised code shall be enacted
15 by one ordinance entitled "An ordinance to revise and
16 codify ordinances of the City (or Town) of

17 2. Repeals; vested rights. The revised code is a
18 repeal of all ordinances in conflict with it, but all
19 ordinances in force before its adoption continue in
20 force for the sole purpose of preserving vested rights
21 acquired under the former provisions.

22 3. Admissible in evidence; revision. When
23 adopted, the revised code becomes law and is
24 admissible in all courts without further proof as
25 prima facie evidence of its existence and validity.

26 4. Revision of ordinance. In the process of
27 codifying a municipality's ordinances, an ordinance
28 may be revised only by following the procedure
29 required for its original enactment. This subsection
30 does not require the individual enactment of changes
31 in each ordinance which is to be codified by a
32 municipality except when the enactment procedure to be
33 followed requires it.

34 §3005. Ordinances available

35 Every ordinance of a municipality shall be on file
36 with the municipal clerk and shall be accessible to
37 any member of the public. Copies shall be made

1 available to any member of the public, at reasonable
2 cost, at the expense of the person making the
3 request. Notice that the ordinances are available
4 shall be posted.

5 §3006. Proof of ordinances

6 The submission to any court or administrative
7 tribunal of a municipal ordinance, bylaw, order or
8 resolve of the legislative body or municipal officers
9 of a municipality, when the ordinance, bylaw, order or
10 resolve has been certified over the signature of the
11 municipal clerk, is prima facie proof of the validity
12 of that ordinance, bylaw, order or resolve.

13 §3007. Specific ordinance provisions

14 The power to enact ordinances under section 3001
15 is subject to the following provisions.

16 1. Limitation on affecting municipal officials.
17 No change in the composition, mode of election or
18 terms of office of the municipal legislative body, the
19 mayor or the manager of any municipality may be
20 accomplished by bylaw or ordinance.

21 2. Buildings, structures, trailers and equipment
22 ordinances. The following provisions apply to any
23 ordinance enacted by a municipality concerning
24 buildings, structures, trailers and equipment.

25 A. Any building, structure, trailer parking
26 facility or equipment existing in violation of
27 such an ordinance is a nuisance.

28 3. Falling ice and snow. The following
29 provisions apply to any ordinance enacted by a
30 municipality to protect persons and property from
31 injury by requiring building owners or lessees, to
32 install roof guards to prevent the fall of snow and
33 ice from the roofs of their buildings.

34 A. The municipal officers shall send a written
35 notice to the owner or lessee who fails to comply
36 with such an ordinance.

1 B. If the owner or lessee does not install
2 effective roof guards within 14 days after notice
3 is sent, the owner or lessee is strictly liable
4 for all injury caused by failure to do so.

5 C. After the 14-day period expires, the municipal
6 officers may have proper roof guards installed at
7 the municipality's expense, the reasonable charges
8 for which may be recovered from the owner or
9 lessee by special assessment as provided by Title
10 25, section 2393.

11 D. Any building existing in violation of such an
12 ordinance is a nuisance.

13 4. Pension system. The following provisions
14 apply to any ordinance enacted by a municipality to
15 establish and maintain a general system of
16 contributory pensions for the benefit of its officials
17 and employees.

18 A. Money appropriated by any municipality for the
19 operation of a pension system together with money
20 contributed by any person eligible to participate
21 in the system shall be administered by a board
22 created for that purpose and shall be kept in a
23 separate fund to be invested and disbursed by the
24 board.

25 B. A municipality which establishes such a system
26 may contract with any insurance company licensed
27 to do business in the State for the payment of
28 pension benefits.

29 C. Any pension funds held by a municipality or by
30 a board established by it are exempt from
31 attachment or trustee process.

32 §3008. Cable television ordinances

33 1. State policy. It is the policy of this State,
34 with respect to cable television:

35 A. To affirm the importance of municipal control
36 of franchising and regulation in order to ensure
37 that the needs and interests of local citizens are
38 adequately met;

1 B. That each municipality, when acting to
2 displace competition with regulation in the area
3 of cable television, shall proceed according to
4 the judgment of the municipal officers as to the
5 type and degree of regulatory activity considered
6 to be in the best interests of its citizens; and

7 C. To provide adequate statutory authority to
8 municipalities to make franchising and regulatory
9 decisions to implement this policy and to avoid
10 the costs and uncertainty of lawsuits challenging
11 that authority.

12 2. Ordinances. A municipality may enact any
13 ordinances, not contrary to this chapter, governing
14 franchising and regulation of cable television systems
15 using public ways. Systems located in accordance with
16 those ordinances, franchises and regulations are not
17 defects in public ways.

18 The municipal officers of municipalities have the
19 exclusive power to enact all ordinances authorized by
20 this section. They shall give 7 days' notice of the
21 meeting at which those ordinances are to be proposed
22 in the manner provided for town meetings. Those
23 ordinances take effect immediately.

24 3. General requirements. The following
25 requirements apply generally to cable television
26 systems governed by this section.

27 A. Any cable television system must be
28 constructed and operated in accordance with
29 Federal Communications Commission regulations.

30 B. Notwithstanding any provision in a franchise,
31 no cable television company may abandon service or
32 a portion of that service without having given 6
33 months' prior written notice to the franchising
34 municipality, if any, and to the municipalities
35 affected by that abandonment. When abandonment of
36 any service is prohibited by a municipal
37 franchise, no cable television company may abandon
38 that service without written consent of the
39 municipal officers. Any cable television company

1 which violates this paragraph commits a civil
2 violation for which a fine of \$50 a day for each
3 day that the violation continues may be adjudged.

4 C. Neither the cable television company whose
5 facilities are used to transmit a program produced
6 by a person other than the cable television
7 company, under Federal Communications Commission
8 regulations or municipal ordinance, nor the
9 officers, directors or employees of any such cable
10 television company are liable for damages arising
11 from any obscene or defamatory statements or
12 actions or invasion of privacy occurring during
13 any program when that company does not originate
14 or produce the program.

15 D. Notwithstanding any other provisions of this
16 chapter, any permit to provide a cable television
17 system issued before July 1, 1965, without a fixed
18 termination date, is deemed to expire on September
19 18, 1996, unless an earlier expiration date is
20 mutually agreed upon by the municipality and the
21 permit holder. These cable television systems, as
22 a condition of franchise, shall be operated in
23 such a manner as to provide a safe, adequate and
24 reliable service to subscribers.

25 E. A municipality is entitled to injunctive
26 relief in addition to any other remedies available
27 by law to protect any rights conferred upon the
28 municipality by this section or any ordinances
29 enacted under this section.

30 4. Franchise procedures. Pursuant to subsection
31 2, a municipality may enact ordinances governing the
32 procedures for granting cable television franchises.
33 These ordinances must be enacted before granting any
34 such franchise or franchises and shall be designed to
35 ensure that the terms and conditions of a franchise
36 will adequately protect the needs and interests of the
37 municipality. The ordinances shall include, but are
38 not limited to, provisions for the following:

39 A. A mechanism for determining special local
40 needs or interests before issuing a request for
41 proposals, whether by actively seeking to

1 determine those needs or interests or by allowing
2 a period for public comment on a proposed request
3 for proposals;

4 B. The filing of franchise applications and
5 related documents as public records, with
6 reasonable notice to the public that the records
7 are open to inspection during reasonable hours;

8 C. A reasonable opportunity for public input
9 before granting franchises; and

10 D. The assessment of reasonable fees to defray
11 the costs of public notice, advertising and other
12 expenses incurred by the municipality in acting
13 upon applications.

14 5. Franchise agreements or contracts. The State
15 specifically authorizes municipal officers pursuant to
16 ordinances to contract on such terms and conditions
17 and impose such fees as are in the best interests of
18 the municipality, including the grant of exclusive or
19 nonexclusive franchises for a period not to exceed 15
20 years, for the placing and maintenance of cable
21 television systems and appurtenances, or parts
22 thereof, along public ways and including contracts
23 with cable television companies which receive the
24 services of television signal transmission offered by
25 any public utilities using public ways for such
26 transmission. No public utility may be required to
27 contract with the municipal officers under this
28 subsection. Each franchise must contain the following
29 provisions:

30 A. The area or areas to be served;

31 B. A line extension policy;

32 C. A provision for renewal, the term of which may
33 not exceed 15 years;

34 D. Procedures for the investigation and
35 resolution of complaints by the cable television
36 company; and

37 E. Any other terms and conditions that are in the

1 best interests of the municipality.

2 6. Current ordinances and agreements. This
3 section shall not be construed to invalidate any
4 ordinance, franchise or agreement in effect or under
5 consideration on July 25, 1984.

6 §3009. Authority of municipal officers to enact
7 ordinances

8 1. Exclusive authority. The municipal officers
9 have the exclusive authority to enact all traffic
10 ordinances in the municipality, subject to the
11 following provisions.

12 A. The municipal officers may regulate pedestrian
13 traffic in the public ways, including, but not
14 limited to, setting off portions of a
15 municipality's public ways for sidewalks and
16 regulating their use; providing for the removal of
17 snow and ice from the sidewalks by the owner,
18 occupant or agent having charge of the abutting
19 property; and establishing crosswalks or safety
20 zones for pedestrians.

21 (1) The violation of any ordinance
22 authorized by this paragraph is a traffic
23 infraction.

24 (2) The municipal officers may establish a
25 method by which pedestrians charged with the
26 violation of regulations for their protection
27 on the public ways may waive all court action
28 by payment of specified fees within stated
29 periods of time.

30 B. The municipal officers may regulate the
31 operation of all vehicles in the public ways and
32 on publicly owned property.

33 (1) The violation of any ordinance
34 authorized by this paragraph is a traffic
35 infraction.

36 C. The municipal officers may regulate the
37 parking of motor vehicles on any public way or

1 public parking area, including, but not limited
2 to, providing for the installation of parking
3 meters, providing the fact that any vehicle is
4 illegally parked or is in a metered space when the
5 time signal on the parking meter for that space
6 indicates no parking permitted without the deposit
7 of a coin or coins is prima facie evidence that
8 the vehicle has been parked illegally by the
9 person in whose name the vehicle is registered,
10 and establishing reasonable charges for metered
11 parking.

12 (1) Illegal parking of a vehicle in
13 violation of any ordinance authorized by this
14 paragraph is a traffic infraction.

15 (2) The municipal officers may establish a
16 method by which persons charged with the
17 violation of parking regulations may waive
18 all court action by payment of specified fees
19 within stated periods of time.

20 (3) The revenue collected from parking
21 meters shall be used:

22 (a) To purchase, maintain and police
23 the meters;

24 (b) To construct and maintain public
25 ways;

26 (c) To acquire, construct, maintain and
27 operate public parking areas; and

28 (d) For no other purpose.

29 (4) Any motor vehicle or motorcycle
30 registered by a handicapped person is exempt
31 from any parking meter fare when that vehicle
32 properly displays special designating plates
33 or a placard issued under Title 29, sections
34 252, 252-A and 252-C, and may park a length
35 of time which does not exceed twice the time
36 limit otherwise applicable.

37 D. The following provisions apply to any

1 ordinance enacted by the municipal officers
2 providing for the establishment of parking spaces
3 for handicapped persons.

4 (1) The municipality must post any of the
5 following signs adjacent to and visible from
6 each handicapped parking space:

7 (a) A sign consisting of a profile view
8 of a wheelchair with an occupant in
9 white on a blue background with a
10 printed inscription. The inscription
11 shall read: "Handicapped Parking:
12 Special Plate Required. Unauthorized
13 vehicles are subject to a fine;" or

14 (b) A sign consisting of a profile view
15 of a wheelchair with an occupant in
16 white on a blue background which may
17 bear an inscription.

18 (2) Any new sign erected or any sign
19 replaced after April 11, 1983 must conform to
20 the signs described in subparagraph (1). Any
21 existing posted signs that do not comply with
22 subparagraph (1) and which were erected
23 before April 11, 1983 are valid for
24 enforcement purposes.

25 (3) Any vehicle or motorcycle parked in a
26 clearly marked parking space designated as a
27 handicapped parking space that does not bear
28 a special registration plate or placard
29 issued under Title 29, sections 252, 252-A
30 and 252-C, or a similar plate issued by
31 another state, shall be cited for a penalty
32 of not less than \$50 unless otherwise
33 established by ordinance.

34 (4) Owners of off-street parking shall
35 arrange for private enforcement or shall
36 enter into agreements with local or county
37 law enforcement agencies for the policing of
38 stalls and spaces dedicated for handicapped
39 persons' vehicles, under which agreements
40 unauthorized vehicles will be tagged. Where

1 service facilities are established on the
2 Maine Turnpike and on the interstate highway
3 system in this State, the State Police shall
4 enforce any handicapped parking restrictions
5 at those facilities. "Clearly marked"
6 includes painted signs on pavement, vertical
7 standing signs or barriers which are visible
8 in existing weather conditions.

9 Under such agreements, public law enforcement
10 officials may exercise their vested authority
11 to ensure that parking spaces designated for
12 the handicapped are utilized appropriately by
13 handicapped persons, irrespective of whether
14 the designated handicapped parking spaces are
15 located on public or private lots open to the
16 public.

17 E. The municipal officers may provide for the
18 regulation of motor vehicles as defined in Title
19 29, section 1, subsection 7, on icebound inland
20 lakes during the hours from sunset to sunrise of
21 the following day. The Maine Land Use Regulation
22 Commission shall regulate motor vehicles on
23 icebound inland lakes which are completely
24 encompassed by unorganized territories. Motor
25 vehicles on icebound inland lakes which are
26 abutted by an unorganized territory and either one
27 or more municipalities, village corporations or
28 plantations, in any combination, shall be
29 regulated by those municipalities, village
30 corporations or plantations, as provided in
31 subparagraphs (1) and (2).

32 No ordinance authorized by this paragraph is valid
33 unless:

34 (1) Each municipality abutting a lake has
35 enacted an identical local ordinance, in
36 which case the ordinance of any municipality
37 is in effect on the entire lake and any law
38 enforcement officer from any of those
39 municipalities may enforce the ordinance on
40 any portion of the lake; or

41 (2) In cases where a lake is divided by an

1 easily identifiable boundary into 2 or more
2 nearly separate bodies, each municipality
3 abutting one of the distinguishable portions
4 of the lake has enacted an identical local
5 ordinance. The ordinance of any municipality
6 is in effect only on that distinguishable
7 portion of the lake and any law enforcement
8 officer from any of those municipalities may
9 enforce the ordinance anywhere on that
10 portion of the lake.

11 F. The municipal officers may regulate or
12 establish a licensing authority which may regulate
13 rates of fare, routes and standing places of
14 vehicles for hire, except where jurisdiction rests
15 with the Public Utilities Commission and may
16 require an owner or operator of a vehicle for hire
17 to carry a liability insurance policy in amount
18 and form satisfactory to the licensing authority
19 as a condition precedent to the granting of a
20 license to operate.

21 2. Powers of village corporation. The officers
22 of a village corporation have the same powers and
23 duties as municipal officers under this section.

24 3. Method of enactment; effective date. When
25 enacting ordinances under this section, the municipal
26 officers shall give 7 days' notice of the meeting at
27 which the ordinances are to be proposed in the manner
28 provided for town meetings. Unless otherwise
29 provided, these ordinances take effect immediately.

30 SUBPART 5

31 HEALTH, WELFARE AND IMPROVEMENTS

32 CHAPTER 151

33 HEALTH, WELFARE AND IMPROVEMENTS

34 §3101. Eminent domain power

1 A municipality may acquire real estate or
2 easements for any public purpose by using the
3 condemnation procedure for town ways, as provided in
4 Title 23, chapter 304, subject to the following
5 provisions.

6 1. Owner resides on land. The municipality may
7 not take any land without the consent of the owner if,
8 at the time of the taking, the owner or the owner's
9 family resides in a dwelling house located on the land.

10 2. Limitation on use. Except as provided in
11 paragraph A, land taken under this section may not be
12 used for any purpose other than the purposes for which
13 it was originally taken.

14 A. Land in any municipality which is taken for a
15 public park may, by authority of a majority vote
16 of the municipal legislative body, be conveyed to
17 the Federal Government to become part of a
18 national park.

19 §3102. Improvement of navigation and prevention of
20 erosion

21 A municipality may acquire real estate or
22 easements by the condemnation procedure for town ways,
23 as provided in Title 23, chapter 304, and may contract
24 with the State Government and Federal Government to
25 comply with requirements imposed by the Federal
26 Government in authorizing any project which has been
27 approved by the Governor for improving harbor and
28 river navigation or preventing property damage by
29 erosion or flood.

30 1. Municipalities may act jointly. Two or more
31 municipalities may act jointly in performing the
32 operations authorized by this section.

33 2. Governor's power. With regard to such a
34 project, the Governor may:

35 A. Designate a state agency to make any
36 investigation considered necessary;

1 B. Provide for the State's payment of up to 1/2
2 of the contribution required by the Federal
3 Government, when the Legislature has made an
4 appropriation for it; and

5 C. Make an agreement with the Federal Government
6 to hold and save it harmless from resulting claims.

7 §3103. Natural gas systems

8 1. Order. To protect the health and safety of
9 the public, municipalities which have natural gas
10 distribution systems may, without hearing, order the
11 gas company or natural gas pipeline company which
12 distributes natural gas to shut down all or part of
13 that system in any emergency. The municipality shall,
14 by ordinance, set the procedure to be followed in
15 ordering the shutdown.

16 2. Refusal. If the distributing utility refuses
17 to carry out the order given under authority of
18 subsection 1, then the municipal officers may take
19 appropriate action to ensure that the system or any
20 part of the system is shut down. The municipal
21 officers may prescribe criminal penalties for
22 violation of the order.

23 §3104. Abatement of nuisances

24 The municipal officers of a municipality may, in
25 the municipality's name, file a complaint in any court
26 of competent jurisdiction requesting the abatement of
27 any public nuisance within the municipality.

28 CHAPTER 153

29 MUNICIPAL FIRE PROTECTION

30 §3151. Definitions

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

1 1. Municipal fire department. "Municipal fire
2 department" means an organized firefighting unit
3 established under municipal charter, ordinance or
4 bylaw to prevent and extinguish fires.

5 2. Municipal firefighter. "Municipal
6 firefighter" means an active member, whether
7 full-time, part-time or on call, of a municipal fire
8 department, who aids in the extinguishment of fires or
9 an individual who receives compensation from the
10 municipality for aiding in the extinguishment of fires.

11 3. Volunteer fire association. "Volunteer fire
12 association" means an organized firefighting unit
13 incorporated under Title 13, chapter 81, or Title
14 13-B, and which is officially recognized by the
15 municipality.

16 A. Any volunteer fire association incorporated
17 under either Title 13, chapter 81, or Title 13-B,
18 on or after January 1, 1978, shall be considered
19 incorporated for the purposes of this section.

20 B. The appropriation of money by a municipality
21 toward the support of an organized firefighting
22 unit incorporated under Title 13, chapter 81, or
23 Title 13-B, is prima facie evidence of official
24 recognition.

25 4. Volunteer firefighter. "Volunteer
26 firefighter" means an active member of a volunteer
27 fire association who receives no compensation from the
28 municipality other than injury and death benefits.

29 §3152. Fire protection

30 1. Methods of protection. A municipality may
31 provide fire protection by:

32 A. Maintaining a municipal fire department;

33 B. Supporting a volunteer fire association; or

34 C. Contracting with other governmental units for
35 fire protection services.

1 2. Fire protection zones. A municipality may
2 establish administrative areas of the municipality for
3 firefighting and fire protection purposes, to be
4 served by one fire department or volunteer fire
5 association, which shall be called "fire protection
6 zones." Fire protection zones must be established by
7 the vote of the municipal legislative body or by
8 regulations adopted by the municipal officers if the
9 municipal legislative body so provides.

10 §3153. Fire chiefs

11 Notwithstanding the method of fire protection
12 services provided by a municipality, a fire chief
13 shall be appointed in each municipality, unless the
14 municipality provides by vote of its legislative body
15 for the election of a municipal fire chief by the
16 members of the municipal fire department or volunteer
17 association, or provides that the voters of the
18 municipality will elect a municipal fire chief at the
19 regular municipal election or town meeting.

20 In municipalities served by more than one
21 volunteer association or municipal fire department,
22 the municipality may by vote of its legislative body
23 provide for the election of a fire chief by the
24 members of each fire department or association of the
25 municipality, but no more than one fire chief may be
26 elected within each fire protection zone. When more
27 than one fire chief is provided for in a municipality,
28 each fire chief shall exercise in the fire chief's
29 fire protection zone all powers and duties of a
30 municipal fire chief and shall control and direct all
31 municipal and volunteer firefighters in the
32 performance of firefighting operations within the fire
33 chief's fire protection zone, except as provided in
34 this chapter.

35 1. Term; compensation. Unless otherwise provided
36 by contract, charter or ordinance, fire chiefs shall
37 be appointed for an indefinite term. The municipal
38 officers shall determine the compensation of the fire
39 chief.

40 2. Duties. The fire chief shall:

1 A. Direct and control all municipal and volunteer
2 firefighters in the performance of firefighting
3 operations within the municipality except as
4 provided in Titles 12 and 25;

5 B. Provide a training program for firefighters
6 within the municipality in cooperation with
7 appropriate governmental agencies;

8 C. Provide for the maintenance of all fire
9 equipment owned by the municipality and buildings
10 used by the municipal fire department;

11 D. Prepare and submit annually to the chief
12 administrative official of the municipality a
13 budget relating to fire protection activities; and

14 E. Suppress disorder and tumult at the scene of a
15 fire and generally direct all operations to
16 prevent further destruction and damage.

17 3. Powers. The fire chief may:

18 A. Unless otherwise provided by charter or
19 ordinance, employ all municipal firefighters,
20 appoint a deputy and other officers in a municipal
21 fire department and remove them for cause after
22 notice and hearing;

23 B. With the approval of the municipal officers,
24 adopt administrative regulations relating to
25 municipal fire protection, consistent with this
26 chapter and municipal ordinances;

27 C. Obtain assistance from persons at the scene of
28 a fire to extinguish the fire and protect persons
29 and property from injury; and

30 D. Pull down and demolish structures and
31 appurtenances if the fire chief judges it
32 necessary to prevent the spread of fire.

33 §3154. Firefighters

34 1. Duties. Firefighters are under a duty to
35 extinguish all fires to which they are called, to

1 protect lives and property endangered by fires and to
2 carry out all other related activities as directed by
3 the fire chief.

4 A. A firefighter may use a reasonable degree of
5 nondeadly force when the firefighter reasonably
6 believes that this force is necessary to carry out
7 the duties under this subsection.

8 2. Training. All firefighters shall attend
9 training sessions as scheduled by the fire chief.

10 3. Medical examinations. No person hired after
11 June 28, 1974 may serve as a full-time member of a
12 municipal fire department unless the person has
13 undergone a complete preemployment medical
14 examination; nor may the person serve as a full-time
15 member of a municipal fire department if, in the
16 opinion of competent medical authority after
17 examination, the person is not capable of performing
18 the required duties.

19 §3155. Municipal liability

20 1. Demolished buildings. If the pulling down or
21 demolition of any structure or appurtenance, except
22 that in which the fire originated, is used to stop the
23 spread of fire, the owner of that structure or
24 appurtenance may recover reasonable compensation for
25 its destruction from the municipality in a civil
26 action.

27 §3156. Fire aid to other municipalities

28 Unless otherwise provided by charter or ordinance,
29 the municipal officers may authorize the municipal
30 fire department to aid in extinguishing fires in other
31 municipalities. Municipal and volunteer firefighters
32 when assisting other municipalities have the same
33 privileges and immunities as when acting in their own
34 municipality. Any municipality may compensate an
35 aiding municipality or volunteer fire association for
36 damage to the aiding department or association's
37 property and to any firefighter or to the
38 firefighter's widow or dependents because of injury or
39 death sustained in the course of rendering aid to that
40 municipality.

1 §3157. Automotive fire apparatus

2 All new automotive fire apparatus purchased by
3 municipal fire departments or volunteer fire
4 associations with public money must be constructed and
5 equipped in conformance with the standards set forth
6 in the edition of National Fire Protection, Pamphlet
7 #1901, Standards for Automotive Fire Apparatus, which
8 is in effect on the date of the purchase agreement.

9 A municipality or volunteer fire association which
10 receives delivery of automotive fire apparatus not in
11 conformance with these standards may, in addition to
12 its other remedies, recover in a civil action a
13 penalty from the seller in an amount equal to 10% of
14 the purchase price of the apparatus.

15 CHAPTER 155

16 MUNICIPAL FORESTS

17 §3201. Municipal forests

18 Under its home rule authority, a municipality may
19 acquire lands for the purpose of forestation or for
20 reclaiming and planting forest trees on such lands.

21 §3202. National forest funds; use for schools and
22 roads

23 All sums received by the State from the Federal
24 Government on account of the national forests in the
25 State established under the "Weeks Act," Public Law
26 61-435, and amendments to that Act, shall be
27 distributed as follows.

28 1. Apportionment and payment. The Treasurer of
29 State shall first apportion these funds among the
30 municipalities and unorganized places in which the
31 national forest is located, in proportion to the area
32 of the national forest in each, as determined by the
33 Forest Service of the United States Department of
34 Agriculture. The Treasurer of State shall pay the
35 apportioned sums, within 60 days of receipt of the

1 funds, to the treasurers of the appropriate
2 municipalities.

3 2. Expenditure by municipalities. All sums
4 apportioned and paid to municipalities under
5 subsection 1 must be expended for the benefit of the
6 public schools and public roads of the municipality,
7 in addition to the sums required by law to be raised
8 for those purposes, in the manner determined by
9 appropriations made by the municipal legislative body.

10 3. Expenditures by counties. All sums
11 apportioned paid to unorganized places under
12 subsection 1 must be expended for the benefit of
13 public schools and public roads in the counties in
14 which those places are located, in the manner
15 determined by the Governor.

16 §3203. Profits from state-owned land

17 In municipalities where the State owns land
18 acquired through the use of federal aid funds under
19 the United States Code, Title 16, Chapter 5-B, and
20 upon which natural products are sold or leased, the
21 State shall pay 50% of the net profits which it
22 receives from the sale or lease of such natural
23 products to the municipality in which the land is
24 located.

25 CHAPTER 157

26 PARKS, TREES AND PLAYGROUNDS

27 SUBCHAPTER I

28 GENERAL PROVISIONS

29 §3252. Preservation of trees along public ways and
30 water

31 1. Creation of preserved lands. For the purpose
32 of preserving and increasing the growth of trees on

1 land abutting any public way or located on uplands
2 adjoining any river or other body of water,
3 municipalities and municipal officers, acting under
4 section 3101, may set aside and define such land, not
5 exceeding 5 rods in width. Any municipality may
6 appropriate money for the purposes of this section.

7 2. Regulation of lands. All trees and shrubs
8 growing on the land set aside under subsection 1 shall
9 be held as for park purposes. Except as provided in
10 this section, no owner in fee of this land or any
11 other person may injure, remove or destroy these trees
12 or shrubs. Municipal officers may grant written
13 license to the owner to do cutting and clearing on the
14 land when consistent with the preservation and general
15 improvement of the growth on the land.

16 Except as provided, this section does not restrict the
17 owner's use and enjoyment of the land or authorize any
18 person to enter on the land, except for municipal
19 officers and conservation commissioners and their
20 agents for the purposes of this section.

21 3. Proceedings; compensation. All proceedings
22 relating to estimating and awarding damages under this
23 section are governed by section 3101.

24 4. Public ways, private ways and buildings.
25 Provided the written consent of the municipal officers
26 is obtained first, this section does not:

27 A. Prevent the taking and clearing of any of the
28 land set aside under subsection 1 that is
29 necessary for public ways; nor

30 B. Abridge the right of the owner or the owner's
31 tenant to lay out a private way across that land
32 or to clear and improve any of the land that is
33 necessary for actual building purposes.

34 (1) If the municipal officers refuse to give
35 consent for laying out a private way or for
36 cutting and clearing any of the land that is
37 necessary for immediate building purposes,
38 when requested to do so in writing, that
39 refusal is ground for a further award of

1 damages to the owner as provided in
2 subsection 3.

3 5. Violation. Whoever violates this section:

4 A. Commits a civil violation for which a
5 forfeiture of not more than \$100 may be adjudged;
6 and

7 B. Is liable to a civil action, brought by the
8 conservation commissioners or by a taxpayer in the
9 name and for the benefit of the municipality in
10 which the offense is committed, for all damages
11 sustained.

12 SUBCHAPTER II

13 CONSERVATION COMMISSIONERS

14 §3261. Conservation commissions

15 Unless otherwise provided under their home rule
16 authority, municipalities may establish conservation
17 commissions as provided in this section.

18 1. Appointment of commissioners. The municipal
19 officers may appoint at least 3, but not more than 7,
20 conservation commissioners. Members shall initially
21 be appointed for terms of one, 2 and 3 years, such
22 that the terms of approximately 1/3 of the members
23 will expire each year. Their successors shall be
24 appointed for terms of 3 years each. Members shall
25 serve until the appointment of their successors.

26 The commission may recommend to the municipal officers
27 that associate members be appointed to assist the
28 commission as the commission requires. Associate
29 members are nonvoting members. Their terms of office
30 shall be for one, 2 or 3 years.

31 2. Duties of commission. The commission shall:

32 A. Keep records of its meetings and activities
33 and make an annual report to the municipality;

1 B. Conduct research, in conjunction with the
2 planning board, if any, into the local land areas;

3 C. Seek to coordinate the activities of
4 conservation bodies organized for similar
5 purposes; and

6 D. Keep an index of all open areas within the
7 municipality, whether publicly or privately owned,
8 including open marshlands, swamps and other
9 wetlands, for the purpose of obtaining information
10 relating to the proper protection, development or
11 use of those open areas. The commission may
12 recommend to the municipal officers or any
13 municipal body or board, or any body politic or
14 public agency of the State, a program for the
15 better protection, development or use of those
16 areas, which may include the acquisition of
17 conservation easements.

18 (1) Any body politic or public agency of the
19 State conducting planning operations with
20 respect to open areas within a municipality
21 having a conservation commission shall notify
22 that conservation commission of all plans and
23 planning operations at least 30 days before
24 implementing any action under that plan.

25 3. Powers of commission. The commission may:

26 A. Advertise, prepare, print and distribute
27 books, maps, charts, plans and pamphlets which it
28 considers necessary;

29 B. Have the care and superintendence of the
30 public parks and, subject to the approval of the
31 municipal officers, direct the expenditure of all
32 money appropriated for the improvement of those
33 parks;

34 C. Acquire land in the municipality's name for
35 any of the purposes set forth in this section with
36 the approval of the municipal legislative body; and

37 D. Receive gifts in the municipality's name for

1 any of the commission's purposes and shall
2 administer the gift for those purposes subject to
3 the terms of the gift.

4 4. Park commission under previous law. This
5 section does not require a municipality which has
6 previously created a park commission under prior law
7 to establish a conservation commission. Any such park
8 commission previously created may continue to operate
9 as originally established.

10 §3262. Failure to elect; function of municipal
11 officers

12 If any municipality fails to appoint a board of
13 conservation commissioners, the municipal officers
14 shall have and exercise all the powers and duties of
15 the commissioners, except as provided in sections 3263
16 and 3264 and subchapter IV.

17 §3263. Supervision of shade trees

18 All public shade trees may be under the care and
19 control of conservation commissioners in
20 municipalities which appoint those commissioners under
21 this subchapter. The conservation commissioners may
22 have the powers and duties of tree wardens in regard
23 to those trees.

24 §3264. Park commissioners

25 1. Park commissioners; appointment. Notwith-
26 standing section 3261, municipalities may elect or
27 appoint 5 park commissioners, initially to hold office
28 for one, 2, 3, 4 and 5 years, respectively. Their
29 successors shall be appointed for terms of 5 years
30 each. Members shall serve until the appointment of
31 their successors.

32 2. Duties. The park commissioners shall:

33 A. Have the care and superintendence of the
34 public parks; and

35 B. Subject to the approval of the municipal
36 officers, direct the expenditure of all money
37 appropriated or available for the improvement of
38 those parks.

1 SUBCHAPTER III

2 ENERGY COMMISSIONERS

3 §3271. Energy commissions

4 Unless otherwise provided under their home rule
5 authority, municipalities may establish energy
6 commissions as provided in this section.

7 1. Appointment of commissioners. The municipal
8 officers may appoint at least 3, but not more than 7,
9 energy commissioners. Members shall initially be
10 appointed for terms of one, 2 and 3 years, such that
11 the terms of approximately 1/3 of the members will
12 expire each year. Their successors shall be appointed
13 for terms of 3 years each. Members shall serve until
14 the appointment of their successors.

15 2. Combination with conservation commission.
16 Notwithstanding sections 3261 to 3264, municipal
17 officials may combine the duties of a municipal energy
18 commission with those of an existing conservation
19 commission to create an entity with responsibilities
20 for a wide range of energy and conservation issues.

21 §3272. Purpose; activities

22 1. Purposes. The purposes of the municipal
23 energy commission may include the following:

24 A. To study and recommend energy policies to the
25 municipal officers, body or board and to the
26 planning board, if any;

27 B. To reduce energy consumption in the
28 municipality by encouraging energy conservation
29 and better energy management;

30 C. To promote efforts to increase community
31 energy self-sufficiency through the development of
32 safe, efficient and renewable energy resources;

33 D. To provide leadership and direction for local
34 energy conservation education;

- 1 E. To work with other public and private
2 organizations to secure funding and other
3 resources for local energy projects and employment;
- 4 F. To coordinate their efforts with those of
5 other local, regional and state organizations; and
- 6 G. To serve other purposes related to energy as
7 specified by the municipality.
- 8 2. Activities. The commission may undertake the
9 following activities.
- 10 A. The commission may seek technical assistance
11 from the Office of Energy Resources. That office
12 shall notify local energy commissions, in writing,
13 of plans and projects that may affect those
14 commissions, if the commission so requests.
- 15 B. In conjunction with the planning board, if
16 any, the commission may promote and conduct
17 research, in furtherance of its purposes, in the
18 following areas:
- 19 (1) Public transportation;
- 20 (2) Van pools and car pools;
- 21 (3) Recycling;
- 22 (4) Solar power;
- 23 (5) Cogeneration;
- 24 (6) Hydro-electric power;
- 25 (7) Energy audits;
- 26 (8) Energy conservation; and
- 27 (9) Other activities that will make the
28 municipality more energy self-sufficient
29 through the use of renewable energy resources.
- 30 3. Notice of formation; records; annual report.

1 The commission shall notify the Office of Energy
2 Resources of its formation. The commission shall keep
3 records of its meetings and activities and shall make
4 an annual report to the municipality.

5 SUBCHAPTER IV.

6 PUBLIC SHADE TREES

7 §3281. Public shade trees

8 All trees within or upon the limits of any highway
9 are public shade trees.

10 §3282. Appointment and duties of tree wardens

11 The municipal officers of municipalities which
12 have not appointed conservation commissioners under
13 subchapter II may annually appoint one or more tree
14 wardens who have the care and control of all public
15 shade trees upon and along the highways and in the
16 parks of the municipality and all streets within any
17 village limits. They shall enforce all laws relating
18 to the preservation of those trees.

19 §3283. Removal of trees

20 Public shade trees may be trimmed, cut down or
21 removed by the owner of the land only with the consent
22 of a tree warden or the conservation commission.
23 Public shade trees may be trimmed, cut down or removed
24 by a tree warden or conservation commissioner only
25 with the consent of the landowner.

26 1. Trimming, cutting or removal authorized. This
27 section does not prevent the trimming, cutting or
28 removal of trees when the trimming, cutting or removal
29 is ordered by proper authority to:

30 A. Lay out, alter or widen the location of
31 highways;

32 B. Lessen the danger of travel on highways; or

33 C. Suppress tree pests or insects.

1 §3284. Injury or destruction to trees; penalty

2 Whoever trims, cuts or otherwise damages or
3 destroys a public shade tree commits a civil violation
4 for which a forfeiture of not less than \$5 nor more
5 than \$25 may be adjudged. The forfeiture shall be
6 paid to the municipality in which the offense is
7 committed and expended by that municipality for the
8 purposes specified in this subchapter and section 3263.

9

SUBCHAPTER V

10

FUNDS

11

§3291. Planting of trees

12

13 A road commissioner may, under the direction of
14 the municipal officers, expend funds to plant trees
15 about public cemeteries, squares and ways, if the
16 municipal legislative body authorizes it by vote.

16

§3292. Cutting and removal of trees and brush

17

18 1. Initial cutting by municipality. A
19 municipality may each year set aside a portion of the
20 money raised and appropriated for ways and bridges, to
21 be used to cut and remove all trees, shrubs and
22 useless fruit trees, bushes and weeds, except shade
23 trees, timber trees, cared-for fruit trees and
24 ornamental shrubs growing between the road limit and
25 the wrought part of any highway or town way, until all
26 the trees, shrubs and worthless fruit trees, bushes
27 and weeds have been once removed from the limits of
28 the highway or town way.

28

29 2. Maintenance of cleared land. After the land
30 has been initially cleared, the owner of the land
31 adjoining the highway or town way shall each year,
32 before the first day of October, remove all bushes,
33 weeds, worthless trees and grass from the roadside
34 adjoining the owner's cultivated or mowing fields.
35 The municipality shall care for all other land, except
36 wild land.

36

37 3. Violation. If any owner of land required to
be maintained under subsection 2 fails to do so before

1 the first day of October of each year, the municipal
2 officers of the municipality in which the land is
3 located shall have the bushes, weeds, worthless trees
4 and grass cut and removed. The actual expense of this
5 cutting and removal shall be a lien upon the land
6 adjoining the highway or town way and shall be
7 assessed and collected as a tax on that land.

8 CHAPTER 159

9 PUBLIC DUMPS

10 §3351. Acquisition

11 Any municipality may, by action of its legislative
12 body, direct its municipal officers to take suitable
13 lands for public dumping grounds. When so directed,
14 the municipal officers shall follow the condemnation
15 procedure for town ways, as provided in Title 23,
16 chapter 304.

17 1. Acceptance. The public dumping ground is not
18 established until it has been accepted, as laid out,
19 by the municipal legislative body.

20 2. Disposal. Any public dumping ground that
21 ceases to be useable as such may be disposed of in the
22 same manner as other lands owned by the municipality.

23 3. Application. Public dumping grounds
24 established under this section are subject to Title
25 12, chapter 807, subchapter IV, article 1.

26 §3352. Prohibited dumping

27 1. Prohibited dumping. Notwithstanding Title
28 17-A, section 4-A, whoever personally or through the
29 agency of another leaves or deposits any offal, filth
30 or other noisome substance in any public dumping
31 ground, except in the manner prescribed by the local
32 health officer, is guilty of a Class E crime and shall
33 be punished by a fine of not less than \$10 nor more
34 than \$100, or by imprisonment for not more than 3
35 months.

36 2. Civil action. A municipality may recover any

1 expenses incurred in abating the nuisance caused by
2 the violation in a civil action brought in the name of
3 the municipality against the guilty party. If
4 requested and the violation merits it, the court in
5 its discretion may award double damages in the action.

6 §3353. Rat control

7 Whenever a municipality maintains public dumping
8 grounds, its municipal officers shall have the dumping
9 grounds treated, when needed, with proper rat
10 exterminating agents. These agents must be applied by
11 competent persons properly certified for their use.

12 At the request of the municipal officers of any
13 municipality, the Board of Pesticides Control shall
14 provide information on the most effective methods and
15 materials for the purpose of carrying out this section.

16 CHAPTER 161

17 SEWERS AND DRAINS

18 SUBCHAPTER I

19 GENERAL PROVISIONS

20 §3401. Preexisting drains

21 All drains previously made at a municipality's
22 expense shall be maintained, managed, controlled and
23 entered the same as if made under this chapter and
24 Title 23, section 3251, subject to the rights that
25 private persons have in those drains.

26 §3402. Construction of drains; expense and control;
27 notice; damages

28 1. Construction of sewers and drains. The
29 municipal officers of a municipality, or a committee
30 duly chosen by the municipality, may construct public
31 drains or sewers, sewer systems or sewage disposal
32 systems at the municipality's expense, along or across
33 any public way in the municipality and through or upon
34 any lands of persons when they consider it necessary
35 for public convenience or health. Neither the

1 municipal officers nor such a committee may construct
2 any public sewer, sewer system or sewage disposal
3 system in the municipality until that sewer is
4 authorized by vote of the municipal legislative body
5 and an appropriation made for the purpose. When
6 constructed, these sewers, sewer systems or sewage
7 disposal systems are under the control of the
8 municipal officers.

9 2. Taking of land. Before the land is taken for
10 the construction of any sewer, notice shall be given
11 and damages assessed and paid for the land as is
12 provided for the location of town ways under Title 23,
13 chapter 304.

14 §3403. Proper maintenance of drains required

15 After a public drain has been constructed and any
16 person has paid for connecting with it, the
17 municipality shall maintain and keep it in repair to
18 afford sufficient and suitable flow for all drainage
19 entitled to pass through it, but its course may be
20 altered or other sufficient and suitable drains may be
21 substituted in its place. If the municipality does
22 not so maintain and keep it in repair, any person
23 entitled to drainage through it may have an action
24 against the municipality for damages sustained by the
25 municipality's neglect.

26 §3404. Record of proceedings; prosecutions

27 All proceedings of municipal officers under this
28 chapter must be at their legal meetings. A suitable
29 record shall be made of all permits issued under this
30 chapter, describing the persons and lands to which
31 they apply. The municipal officers have the exclusive
32 direction, on behalf of their municipality, of all
33 prosecutions under this chapter.

34 §3405. Sewer connections

35 If required by municipal ordinance, the owner of
36 each lot or parcel of land upon which a building has
37 been constructed which abuts upon a street or public
38 way containing a sewer shall connect that building
39 with the sewer and shall cease using any other method

1 for the disposal of waste water. All such connections
2 must comply with the applicable municipal ordinance,
3 which may provide for a reasonable charge for making
4 the connections.

5 §3406. Service charges for sewage disposal

6 The municipal officers may establish a schedule of
7 service charges from time to time upon improved real
8 estate connected with a municipal sewer or disposal
9 system for the use of the system. These service
10 charges shall include reserve fund contributions.

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

15 2. Lien. There shall be a lien on real estate
16 served or benefited by a municipal sewer or sewer
17 disposal system to secure the payment of service
18 charges and interest on delinquent accounts
19 established under this chapter. This lien takes
20 precedence over all other claims on the real estate,
21 excepting only claims for taxes.

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

28 §3407. Damage to public drains

29 Whoever willfully or negligently damages or
30 obstructs a public drain or its outlet, or any street
31 or highway culvert leading into it, is liable to the
32 municipality where it is located in a civil action for
33 double the amount of damages caused by that action, in
34 addition to all other legal penalties for that action.

35 §3408. Crossing railroad right-of-way

36 Whenever a public drain or sewer is located and
37 about to be constructed across the right-of-way of any

1 railroad, the Public Utilities Commission shall
2 determine the place, manner and conditions of the
3 crossing upon petition of either party and after
4 notice and hearing, unless the municipal officers or
5 committee of the municipality which located the drain
6 or sewer agrees with the corporation operating the
7 railroad as to the place, manner and conditions of the
8 crossing. All the work within the limits of the
9 railroad location shall be done under the supervision
10 of the officers of the corporation operating the
11 railroad and to the satisfaction of the commission.
12 The municipality in which the drain or sewer is
13 located shall bear the expense of the work. Any
14 additional expense in the construction of that part of
15 the sewer or drain within the limits of the railroad's
16 right-of-way caused by the commission's determination
17 shall be borne by the railroad company or by the
18 municipality in which the drain or sewer is located,
19 or shall be apportioned between the company and the
20 municipality as the commission determines. The
21 commission shall make a report of their decision in
22 the same manner as in the case of highways located
23 across railroads and subject to the same right of
24 appeal.

25 §3409. Consent for highway opening

26 Whoever digs up the ground in a highway or street
27 to lay or repair any drain or common sewer without the
28 written consent of the municipal officers commits a
29 civil violation for which a forfeiture of \$100 may be
30 adjudged for each offense.

31 SUBCHAPTER II

32 PRIVATE DRAINS

33 §3421. Private drains connected to public drains

34 1. Acceptance by municipality. This section does
35 not apply to any municipality until it is accepted by
36 the municipality's legislative body.

37 2. Connection before completion of drain. While
38 a public drain or common sewer is under construction
39 and before it is completed and the assessments made,

1 any person may connect the person's private drain with
2 the public drain or common sewer after obtaining a
3 written permit from the municipal officers or the
4 sewer board in charge of the construction of the
5 public drain or common sewer.

6 3. Connection after completion of drain. After
7 the public drain or common sewer is completed and the
8 assessments made, no person may connect the person's
9 private drain with the public drain or common sewer
10 until that person has paid an assessment and obtained
11 a written permit from the municipal treasurer, by
12 authority of the municipal officers.

13 4. Permits recorded. The municipal clerk shall
14 record all permits given to connect with any such
15 drain or sewer before issuing the permit.

16 §3422. Connection of private drains; permits;
17 regulations

18 1. Connection of private drains; application.
19 Abutters upon the line of a public drain existing in
20 any municipality which has not accepted sections 3421,
21 and 3441 to 3445, and abutters upon the line of a
22 public drain constructed before a municipality accepts
23 those sections, and the owner of contiguous private
24 drains may enter and connect with the public drain on
25 written application to the municipal officers
26 distinctly describing the land to which the
27 application applies and paying a fee determined by the
28 municipal officers.

29 2. Permit issued. Upon application, the
30 municipal officers shall give the applicant a written
31 permit to enter and connect with the public drain.
32 This permit is available to the owner of the land
33 described in the application, the owner's heirs and
34 assigns, and shall run with the land without any other
35 or subsequent charge or payment.

36 3. Regulations. The municipal officers shall
37 establish any other regulations and conditions for
38 connecting with public drains that they consider
39 expedient.

1 §3423. Connection without permit

2 If any person connects a private drain with a
3 public drain or enters it by a side drain without a
4 permit, the municipal officers may immediately destroy
5 the connection. That person commits a civil violation
6 for which a forfeiture of not more than \$200 may be
7 adjudged, to be paid to the municipality where the
8 offense is committed.

9 §3424. Adjustment of amounts paid for permits

10 1. Arbitration of permit fee. Any person who is
11 dissatisfied with the fee required to connect with a
12 public drain may, within 10 days after notice of that
13 amount, make a written request to the municipal
14 officers to have the amount of the fee determined by
15 arbitration. The municipal officers shall nominate 6
16 persons. The applicant shall select 2 of these
17 persons and a 3rd person who was not nominated by the
18 municipal officers to act as arbitrators. These 3
19 persons may fix the amount of the fee. The
20 arbitrators shall report their findings to the
21 municipal clerk who shall record them with the
22 proceedings of the municipal officers in establishing
23 the drains.

24 2. Payment of fees. By paying the amount set by
25 the arbitrators and the fees of the arbitrators, the
26 applicant shall receive a permit. The municipal
27 officers may determine the fees of the arbitrators,
28 which shall be paid in advance, if required.

29 3. Failure to pay for permit. If any person
30 neglects to pay the fee determined by arbitration
31 under subsection 1 and the fees of the arbitrators,
32 within 60 days after notice of that fee, that person
33 shall have no benefit of that determination or of that
34 person's permit.

35 §3425. Pro rata payments for use of private drain

36 1. Creation of drain or sewer. When a person
37 pays the expenses of laying a common drain or sewer,
38 all persons who join or connect with it shall pay
39 their proportion of that expense.

1 2. Repairs. All persons benefited by the drain
2 or sewer shall pay the expense of opening and
3 repairing the drain or sewer.

4 A. Before a common drain is opened for repairs
5 under this subsection, all interested persons must
6 have 7 days' notice of the repairs, given as the
7 municipal officers direct. If anyone objects and
8 the municipal officers find the objection
9 reasonable, the person objecting is not liable for
10 any expense for the repairs. If the municipal
11 officers find the objection to be unreasonable or
12 if no objection is made within 3 days, the
13 municipal officers may give written permission to
14 proceed.

15 B. The municipal officers shall determine the
16 amount of the payment under this subsection in
17 each case, subject to appeal to the county
18 commissioners. The municipal officers shall
19 notify each person of the amount to be paid and to
20 whom. If not paid in 10 days, double the amount
21 with cost shall be paid.

22 §3426. Repair of private drain on owner's neglect

23 If a private drain becomes so obstructed or out of
24 repair as to damage any street or highway, and the
25 persons using the drain, after notice by the road
26 commissioners, unreasonably neglect to repair the
27 drain and the damage to the street or highway, the
28 municipality shall repair the drain and the damage to
29 the street or highway. The municipality may recover
30 the expense of these repairs in a civil action against
31 any one or more of the persons using the drain.

32 §3427. Violation of permit; nuisances

33 If any person willfully or negligently violates
34 any condition or regulation prescribed in the permit,
35 the municipal officers may immediately disconnect the
36 drain from the public drain and declare the permit
37 forfeited. That person, the person's heirs and
38 assigns may not connect with the public drain again
39 without a new permit. Whoever commits a nuisance by

1 the construction or use of a private drain is liable
2 for that nuisance notwithstanding this chapter.

3 §3428. Malfunctioning domestic waste water disposal
4 units; abatement of nuisance

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

11 1. Abatement procedure. Upon complaint of any
12 person or on their own information, the municipal
13 officers shall serve an order to remedy a
14 malfunctioning waste water disposal unit upon the
15 owner or occupant of any premises within that
16 municipality which has such a malfunctioning unit.

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

20 A. The date;

21 B. The fact of the malfunctioning waste water
22 disposal unit;

23 C. A notice to remedy the nuisance within 10 days
24 of service of the order; and

25 D. The signatures of the municipal officers.

26 If service is to be made upon a tenant or occupant in
27 possession, the order must be addressed to that person
28 in addition to the owner.

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

35 4. Abatement. If the nuisance is not abated

1 within the 10-day period, the municipal officers or
2 their agents may enter the premises and have the
3 malfunction adequately remedied. To recover any
4 actual and direct expenses, including reasonable
5 attorney fees if the municipality is the prevailing
6 party, incurred by the municipality in the abatement
7 of such nuisances, the municipality shall:

8 A. File a civil action against the owner. The
9 costs, including reasonable attorney fees, to
10 create and prosecute an action to collect expenses
11 following such a civil complaint, shall also be
12 recovered from the owners; or

13 B. Assess a special tax against the land on which
14 the waste water disposal unit is located for the
15 amount of the expenses. This amount shall be
16 included in the next annual warrant to the tax
17 collector of the municipality for collection in
18 the same manner as other state, county and
19 municipal taxes are collected. Interest as
20 determined by the municipality pursuant to Title
21 36, section 505, in the year in which the special
22 tax is assessed, shall accrue on all unpaid
23 balances of any special tax beginning on the 60th
24 day after the day of commitment of the special tax
25 to the collector. The interest shall be added to
26 and become part of the tax.

27 SUBCHAPTER III

28 ASSESSMENTS AND FEES

29 §3441. Applicability of provisions

30 This subchapter does not apply to any municipality
31 until it is accepted by the municipality's legislative
32 body.

33 §3442. Expense of construction

34 1. Sewer district defined. As used in this
35 section, sewer district means a quasi-municipal
36 corporation, as defined in section 2604, subsection 3,
37 established to construct and operate sewer systems to
38 assist in the abatement of the pollution of public
39 streams, lakes and inland and ocean waters.

1 2. Estimate and assessment of costs; notice.
2 When any municipality or sewer district has
3 constructed and completed a public drain or common
4 sewer, the municipal officers or sewer district
5 trustees shall determine what lots or parcels of land
6 are benefited by the drain or sewer, and shall
7 estimate and assess upon the lots and parcels of land
8 and against the owner of the land or person in
9 possession, or against whom the taxes on the land are
10 assessed, whether the person to whom the assessment is
11 so made is the owner, tenant, lessee or agent and
12 whether the land is occupied or not, the sum not
13 exceeding the benefit they consider just and equitable
14 towards defraying the expenses of constructing and
15 completing the drain or sewer, together with any
16 sewage disposal units and appurtenances that are
17 necessary and in operation after May 31, 1979. The
18 whole of the assessments may not exceed 1/2 the cost
19 of the drain or sewer and sewage disposal units. The
20 municipality or sewer district shall maintain and keep
21 the drain or sewer in repair.

22 A. Farmland, as defined by Title 36, section
23 1102, subsection 4, is exempt from assessment
24 under this subsection when no benefits are derived
25 from the common sewer or drain. The owner of the
26 farmland must notify the municipal officers or
27 sewer district trustees that farmland property may
28 qualify for this exception. The municipal
29 officers or sewer district trustees shall revise
30 the assessments against qualified farmland to
31 exempt it from assessment. Any revision of
32 assessment provided by this paragraph shall be in
33 writing and recorded by the clerk or sewer
34 district trustees.

35 When the use of the land is changed from farmland,
36 the owner shall within 60 days notify the
37 municipal officers or sewer district trustees in
38 writing of the change. The municipal officers or
39 sewer district trustees shall assess this land in
40 an amount equal to the assessment which would have
41 been due but for this subsection. The municipal
42 officers or sewer district trustees shall notify

1 the owner of the assessment due which the owner
2 shall pay within 60 days of notice or as provided
3 by the municipal officers under their authority in
4 section 3444.

5 3. Filing of assessments. The municipal officers
6 or sewer district trustees shall file with the
7 municipal clerk:

8 A. The location of the drain or sewer and sewage
9 disposal unit, with a profile description of the
10 same;

11 B. A statement of the amount assessed upon each
12 lot or parcel of land assessed under this section;
13 and

14 C. The name of the owner of the lots or parcels
15 of land or persons against whom the assessment is
16 made.

17 The municipal clerk and the sewer district trustees
18 shall record the assessment in a book kept for that
19 purpose.

20 4. Notice of assessment. Within 10 days after
21 filing occurs under subsection 3, each person so
22 assessed shall have notice of the assessment given to
23 that person or left at that person's usual place of
24 abode in the municipality.

25 A. If the person has no place of abode in the
26 municipality, then the notice shall be given or
27 left at the abode of the tenant or lessee, if
28 any. If there is no tenant or lessee in the
29 municipality, then the notice shall be given by:

30 (1) Posting it in some conspicuous place in
31 the vicinity of the lot or parcel of land so
32 assessed at least 30 days before the hearing;
33 or

34 (2) Publishing it for 3 successive weeks in
35 any newspaper having general circulation in
36 the municipality. The first publication must
37 be at least 30 days before the hearing.

1 B. The notice must contain an authentic copy of
2 the assessment, and an order of notice signed by
3 the municipal clerk or the chairman of the sewer
4 district trustees stating the time and place for a
5 hearing upon the subject matter of the
6 assessments. A return made upon a copy of the
7 notice by any constable in the municipality or the
8 production of the paper containing the notice is
9 conclusive evidence that the notice was given.

10 5. Hearing; revision of assessments. When the
11 hearing is held, the municipal officers or sewer
12 district trustees may revise, increase or diminish any
13 of these assessments. Any revision, increase or
14 diminution must be in writing and recorded by the
15 municipal clerk and the sewer district trustees.

16 §3443. Arbitration of assessment

17 Any person who is dissatisfied with the amount
18 assessed under section 3442 may, within 10 days after
19 hearing under section 3442, subsection 5, make a
20 written request to the municipal clerk to have the
21 assessment upon the lot or parcel of land determined
22 by arbitration.

23 1. Arbitrators selected. The municipal officers
24 shall nominate 6 persons who are residents of the
25 municipality. The applicant shall select 2 of these
26 persons, and these 2 persons shall select a 3rd person
27 who is a resident of the municipality and who is not
28 one of the 6 persons nominated by the municipal
29 officers.

30 2. Arbitration procedure. The 3 persons selected
31 under subsection 1 shall fix the amount to be paid by
32 the applicant. Within 30 days from the hearing before
33 the municipal officers under section 3442, the
34 arbitrators shall report their findings to the
35 municipal clerk who shall record them. The
36 arbitrators' report is final and binding on all
37 parties.

38 §3444. Collection of assessments

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

10 1. Payment over time. The legislative body of a
11 municipality may enact an ordinance generally
12 authorizing the assessors and the tax collector to
13 assess and collect those assessments and charges over
14 a period of time not exceeding 10 years, including
15 expenses involved in the municipality's abatement of
16 malfunctioning domestic waste water disposal units
17 under section 3428, subsection 4.

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

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

41 (1) Interest at the rate of 12% per year on
42 the unpaid portion of assessments and charges.

1 due the municipality shall accrue from the
2 30th day after written notice to the person
3 assessed and shall be added to and become
4 part of the special tax when committed to the
5 tax collector.

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

20 §3445. Lien for payment on lot and building;
21 enforcement

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

33 CHAPTER 163

34 TRANSPORTATION

35 §3501. Definitions

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

- 1 1. District. "District" includes:
- 2 A. A district created by vote of a single
3 municipality;
- 4 B. A district created by vote of a group of
5 municipalities;
- 6 C. A municipality voting to provide mass
7 transportation service without the creation of a
8 district; and
- 9 D. A regional transportation corporation, except
10 that sections 3510, 3512 and 3517 do not apply to
11 a regional transportation corporation.

12 2. Regional transportation corporation.
13 "Regional transportation corporation" means any
14 private, nonprofit corporation formed for the express
15 purpose of providing public transportation services to
16 more than one municipality but which is not wholly or
17 partly owned by the municipalities. The corporation
18 must be approved, for the purpose of providing public
19 transportation services, by the municipal officers of
20 each community to receive public transportation
21 services from the corporation. After being approved
22 by the municipal officers of 5 or more communities,
23 such a corporation shall be duly certified as a
24 regional transportation corporation by the Department
25 of Transportation and is subject to all applicable
26 Public Utilities Commission rules governing charter
27 and rates of fare.

28 §3502. Formation

29 1. Formation. By vote of its legislative body,
30 any municipality may by itself, or in cooperation with
31 one or more other municipalities, form a transit
32 district for the purposes provided in this chapter.

33 A. Municipalities not in the same geographic
34 public transportation region must gain approval
35 from the Department of Transportation before
36 forming a transit district under this section.

1 B. With the consent of the Department of
2 Transportation and of the municipal officers of
3 any municipality not included in a transit
4 district, a transit district may provide
5 transportation services within that municipality.

6 2. General powers; area of service. The district
7 formed under subsection 1 is a body politic and
8 corporate, and may sue, be sued, plead and be
9 impleaded, adopt a name, adopt and alter a common seal
10 and do all things necessary to furnish motor vehicle
11 mass transportation within that district, including
12 charter service, for public purposes in the interest
13 of the health, safety, comfort and convenience of the
14 inhabitants of the municipality or municipalities
15 comprising the district.

16 3. Incidental rights. All incidental powers,
17 rights and privileges necessary to accomplish the main
18 objective set forth in this chapter are granted to a
19 district created. Such a district is subject to the
20 jurisdiction of the Public Utilities Commission only
21 to the extent provided in this chapter.

22 §3503. Application for membership

23 Any municipality which is contiguous to any other
24 municipality authorized to provide transportation
25 services under this chapter or contiguous to any
26 municipality which is a member of the transit district
27 may apply to the transit district and the board of
28 directors may accept or refuse the application for
29 membership.

30 §3504. Management

31 The affairs of a district formed under section
32 3502 shall be managed by a board of directors chosen
33 from the inhabitants of the municipality or
34 municipalities comprising the district.

35 1. Number of directors. Except as provided in
36 subsection 3, each municipality is entitled to one
37 director for each 10,000 inhabitants of the
38 municipality or fraction of that number, as determined
39 by the latest Federal Decennial Census, in accordance
40 with the following schedule:

- 1 A. 0 to 10,000--1;
- 2 B. 10,001 to 20,000--2;
- 3 C. 20,001 to 30,000--3;
- 4 D. 30,001 to 40,000--4;
- 5 E. 40,001 to 50,000--5;
- 6 F. 50,001 to 60,000--6;
- 7 G. 60,001 to 70,000--7; and
- 8 H. Over 70,001--8.

9 2. Appointment; terms; quorum. The municipal
10 officers of each municipality shall appoint the
11 directors of a transit district. Initially, the
12 directors' terms of office shall be determined by lot
13 at their first organizational meeting as follows:
14 One-third of those appointed shall serve for 3 years,
15 1/3 for 2 years and the remaining number for one
16 year. All subsequent appointments are for a term of 3
17 years. Directors shall serve until their successors
18 have been appointed, with vacancies being filled for
19 the unexpired portion of the respective terms.

20 A majority of the directors constitutes a quorum for
21 the transaction of business. Action taken by 2/3 of
22 the directors present at any meeting at which a quorum
23 is in attendance is considered to be the action of the
24 full board of directors.

25 3. Greater Portland Transit District. The board
26 of directors of the Greater Portland Transit District,
27 presently comprised of the Cities of Portland and
28 Westbrook, shall consist of 5 directors appointed from
29 the City of Portland and 3 directors appointed from
30 the City of Westbrook. The Cities of Portland and
31 Westbrook may, by ordinance, provide that their
32 appointees serve at the will of the appointing power
33 or for terms which are shorter than those established
34 in subsection 2.

1 §3505. Single municipal or regional transportation
2 district

3 1. Formation of district. If a single
4 municipality votes to create a transit district, its
5 municipal officers shall appoint 5 directors from the
6 inhabitants of the municipality. These directors have
7 the same terms of office, powers, duties and
8 privileges as set forth in this chapter.

9 2. Operation without forming district. A single
10 municipality, by vote of its legislative body, or a
11 regional transportation corporation, by vote of its
12 board of directors, may be empowered to perform the
13 functions provided in this chapter without creating a
14 district. Thereafter, that single municipality or
15 regional transportation corporation has all of the
16 powers, duties and privileges established applicable
17 to a district, unless specifically excluded. The
18 municipal officers of that municipality or directors
19 of that regional transportation corporation have the
20 same powers, duties and privileges granted under this
21 chapter to the board of directors of a district.

22 §3506. Officers; meetings; employees

23 1. Officers; bylaws. The directors shall elect
24 from among their members a president, treasurer, clerk
25 and any other officers that they desire and shall
26 adopt bylaws and regulations for the conduct of the
27 district's affairs.

28 2. Meetings. The directors shall meet at least 4
29 times a year or more often if required by the bylaws,
30 and upon the call of the president. The president
31 shall call any other meetings that are requested in
32 writing directed to the president signed by at least
33 1/3 of the members of the board of directors.

34 3. District manager; employees. The directors
35 shall appoint and fix the salary of a district manager
36 who may not be a director. The district manager is
37 the chief executive officer of the district. The
38 district manager shall appoint any other employees
39 that are required for district purposes and fix the
40 salaries of those employees. The directors may, by

1 resolution, indicate which appointments by the manager
2 and salaries established by the manager will require
3 confirmation of the board of directors.

4 §3507. Interest in contracts

5 No director, officer or employee of the district
6 may be interested directly or indirectly in any
7 contract entered into by or in behalf of a district
8 for work or material, or the purchase of material, or
9 in any property acquired or to be acquired by the
10 district. All contracts made in violation of this
11 section are void.

12 §3508. Certificate of organization

13 After its organization, the district shall file a
14 certificate with the Secretary of State setting forth
15 the following information:

16 1. Name. Name of the district;

17 2. Purposes. Its purposes;

18 3. Municipalities included. Municipalities
19 included within the district;

20 4. Location. Location of the principal office;

21 5. Names of directors. Number and names of the
22 directors and their addresses; and

23 6. Names of officers. Names and addresses of the
24 officers.

25 This certificate shall be signed by the president
26 and treasurer and a majority of the directors, and the
27 president or treasurer shall swear that the signatures
28 set forth in the certificate are true. From time to
29 time as changes occur, the district shall file an
30 amended certificate with the Secretary of State
31 setting forth those changes.

32 §3509. Powers of directors

33 For the purpose of providing mass transportation

1 services wholly or partially within the municipalities
2 comprising the district, the directors of a district
3 may:

4 1. Powers over property. Take, purchase, hold,
5 maintain, operate, lease, rent, mortgage and convey
6 any real and personal property;

7 2. Leasing property. Lease or sublease any real
8 and personal property;

9 3. Private contracts. Enter into contracts with
10 private companies; or

11 4. Government contracts. Contract with the
12 Federal Government, State Government and municipal
13 governments for donations, loans, grants, gifts or
14 other assistance. The directors may agree in these
15 contracts to be bound by all applicable provisions of
16 federal, state or municipal laws, regulations and
17 rules.

18 §3510. Eminent domain; appeal

19 A district may acquire for the public purposes of
20 a district by purchase or by the exercise of the power
21 of eminent domain any and all real property of any
22 person, including the real and personal property and
23 franchise of any person operating a local mass
24 transportation service within any municipality
25 comprising a district.

26 1. Determination of damages. If the district and
27 the owner are unable to agree on a price within 60
28 days after the district has notified the owner of its
29 intention to exercise its power of eminent domain, the
30 board of directors of a district may, by resolution,
31 take and acquire all or any part of the real and
32 personal property and franchise of that owner, and
33 shall determine the amount to be paid to the owner for
34 that taking. Upon payment of this amount, or if
35 payment is refused, upon depositing this amount with
36 the treasurer of the district to be held in trust
37 separate and apart from other funds of the district,
38 the district may take and become the owner of the real
39 and personal property and franchise set forth in the
40 resolution.

1 A. Within 30 days after payment or tender, the
2 board of directors shall have recorded in the
3 registry of deeds in the county where the land and
4 property is located:

5 (1) A certified copy of the resolution; and

6 (2) A description of any real property and a
7 plan of the real property, together with a
8 description of any personal property taken
9 under this section.

10 B. The district shall have a certified copy of
11 the resolution of the board of directors and a
12 certified copy of the filing in the registry of
13 deeds either delivered personally to the owner or
14 the owner's agent or sent by registered mail to
15 the owner.

16 C. If the district acquires, by eminent domain,
17 real or personal property in connection with a
18 project involving federal participation under the
19 United States Urban Mass Transportation Act of
20 1964, Public Law 88-365, the district shall, in
21 that acquisition, comply with all of the
22 procedures established under that Act for
23 acquiring real or personal property.

24 2. Appeal to Superior Court. If the owner is
25 aggrieved at the damages awarded for a taking under
26 this section, the owner may appeal from the award to
27 the Superior Court of the county in which the property
28 lies by filing a complaint in that court and serving
29 the district with a copy of the complaint within 60
30 days from the date of the recording in the registry of
31 deeds. The complaint must set forth substantially the
32 facts, but shall not state the amount of the damages
33 previously awarded to the owner. The damages may be
34 determined in the Superior Court by a committee of
35 reference if the parties so agree, or by a verdict of
36 its jury. The committee of reference shall be allowed
37 a reasonable compensation for their services, to be
38 fixed by the court upon the presentation of their
39 report and paid from the county treasury upon the
40 certificate of the clerk of courts. If the damages

1 are increased, the district shall pay the damages and
2 costs; otherwise, the appellant shall pay the costs.

3 3. Appeal to Law Court. An appeal may be taken
4 by any party from the Superior Court's judgment to the
5 Supreme Judicial Court as in other cases.

6 §3511. Exempt from taxation; fuel tax refund

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

27 §3512. Notes; securities

28 1. Securities defined. As used in this section,
29 "securities" means negotiable bonds or notes issued by
30 the district, including temporary notes.

31 2. Notes and securities authorized. For
32 accomplishing the purposes of this chapter and for
33 paying any indebtedness and any necessary expenses and
34 liabilities incurred for that purpose, including
35 organizational and other necessary expenses, the
36 district by vote of its board of directors may:

37 A. Borrow money temporarily and issue its
38 negotiable notes for that money; and

1 B. From time to time, issue securities of the
2 district in one series or in separate series in
3 such amount or amounts, bearing interest at such
4 rate or rates and having such terms and provisions
5 as the board of directors determines. These
6 securities may be issued with or without provision
7 for calling the securities before maturity and, if
8 callable, may be made callable at par or at any
9 premium determined by the board of directors. The
10 board of directors may from time to time issue its
11 securities in one series or in separate series for
12 the purpose of paying, redeeming or refunding
13 outstanding securities.

14 3. Form of notes and securities. All negotiable
15 notes authorized for temporary borrowing shall be
16 signed on behalf of the district by its treasurer and
17 countersigned by its president. All securities shall
18 have the corporate name of the district inscribed on
19 their face, shall be signed by the treasurer and
20 countersigned by the president and, if coupon bonds
21 are issued, the interest coupons attached to the
22 securities shall bear the facsimile of the treasurer's
23 signature.

24 4. Legal obligations; investment by banks; tax
25 exempt. All securities issued by the district are
26 legal obligations of the district. The district is
27 deemed to be a quasi-municipal corporation within the
28 meaning of section 2604, subsection 3, and that
29 section applies to the district. All securities
30 issued under this section are legal investments for
31 savings banks in this State and are tax-exempt.

32 5. Sinking fund. If the securities are to be
33 payable for a specified term of years, the board of
34 directors shall establish a sinking fund for the
35 purpose of paying or redeeming the securities when
36 they become due. The board of directors shall
37 determine annually the sum, with interest, to be paid
38 into the sinking fund by each municipality comprising
39 the district. This sum shall be based on the same
40 formula used in computing the operating deficit
41 payment.

42 §3513. Collective bargaining; rights of employees

1 1. Bargaining authorized; contracts. The
2 directors of a district may bargain collectively and
3 enter into written contracts with duly authorized
4 labor organizations representing employees other than
5 executive, administrative or professional personnel.
6 These contracts may provide for wages, salaries,
7 hours, working conditions and benefits, including, but
8 not limited to, provisions pertaining to health and
9 welfare, insurance, vacations, holidays, sick leave,
10 seniority, arbitration, pensions and retirement.

11 2. Rights of employees. It is declared to be the
12 public policy of this State for the protection of the
13 public health, safety and welfare that employees
14 covered by contracts made under this section shall be
15 accorded all of the rights of labor, except for the
16 right to strike or engage in any work stoppage or
17 slowdown.

18 3. Employees of acquired transportation system.
19 Whenever a district acquires any local mass
20 transportation system under this chapter and operates
21 that system or leases or contracts for the operation
22 of that system under this chapter, the individual
23 employees of that system shall be retained in
24 positions the same as, or no worse than, their
25 positions before the district's acquisition of the
26 system to the fullest extent possible consistent with
27 sound management and to the extent required by the
28 service to be rendered from time to time by the
29 district, its lessee or contractor. Any such employee
30 not retained or laid off after retention because of
31 lack of work or curtailment of service shall be
32 assured priority of employment or reemployment when a
33 position for which that employee is qualified becomes
34 available.

35 §3514. Limitation on charter service

36 Charter service provided by the district must
37 originate or terminate at some point within that
38 district. Charter service provided by a district is
39 in all respects subject to the jurisdiction of the
40 Public Utilities Commission in the same manner and to
41 the same extent as private companies providing charter.

1 service, except that a regional transportation
2 corporation may not provide any charter service other
3 than that specifically provided for under the
4 conditions of any license granted the corporation by
5 the Public Utilities Commission.

6 §3515. Routes and fares; sinking fund

7 1. Establishment of routes and fares. Except as
8 provided in paragraphs A and B, the directors of a
9 district shall establish such routes and fix such
10 rates of fare to be charged for the mass
11 transportation service as will, to the extent
12 possible, reasonably ensure sufficient income to meet
13 the cost of the service, including, but not limited
14 to, operating expenses, insurance, taxes, rentals,
15 annual serial bond payments, interest, allocation for
16 a reserve account and an allowance for depreciation.

17 A. The directors of a district that participates
18 in a regional operations plan that has been
19 approved in accordance with Title 23, section
20 4209, shall establish routes and fixed fares in
21 accordance with the plan whenever the plan
22 requires.

23 B. The director of a regional transportation
24 corporation shall not fix any rates of fare to be
25 charged for mass transportation other than that
26 specifically provided for under the conditions of
27 any license granted the corporation by the
28 Department of Transportation.

29 2. Use of surplus; sinking fund. If, after all
30 such obligations have been met, a surplus remains, the
31 directors may deposit all or any part of the surplus
32 in a reserve account or in the sinking fund created by
33 this chapter. If all or any part of the surplus is
34 deposited in the sinking fund, the amount of the
35 annual commitment to the tax assessors of the
36 municipalities comprising the district covering
37 payments to the sinking fund shall be reduced by the
38 amount of that deposit.

39 3. Hearing required. The board of directors
40 shall hold a public hearing before making any major

1 changes in routes in the district or in the fare
2 structure of the district.

3 §3516. Estimate of expenditures; contributions;
4 budget

5 1. Estimate of expenditures and revenues. By
6 November 1st of each year, the board of directors
7 shall prepare and submit to the municipal officers of
8 the municipalities comprising the district an itemized
9 estimate of expenditures and revenues for the
10 following calendar year, which shall be the fiscal
11 year. This estimate must include the following:

12 A. An itemized estimate of anticipated revenues
13 during the ensuing fiscal year from each source;

14 B. An itemized estimate of expenditures for each
15 classification for the ensuing fiscal year,
16 including payments of principal and interest on
17 bonds or notes issued or to be issued by the
18 district;

19 C. After the first year of operation, an itemized
20 statement of all actual receipts from all sources
21 to, and including September 30th of each previous
22 fiscal year, with estimated receipts from those
23 sources shown for the balance of the year;

24 D. After the first year of operation, an itemized
25 statement of all actual expenditures, up to and
26 including September 30th of each previous fiscal
27 year, with estimated expenditures shown for the
28 balance of the year; and

29 E. An estimate of revenue surplus or deficit of
30 the district for the fiscal year for which
31 estimates are being prepared.

32 2. Determination of municipal contributions.
33 Each year, before submitting the estimates required by
34 subsection 1 to the municipal officers, the board of
35 directors of the district, by a 2/3 vote of its entire
36 membership, shall establish a formula for
37 contributions to be made by each municipality in order
38 to defray any projected deficit. This formula and

1 estimated amount of the contribution required from
2 each municipality shall be shown in the estimates
3 filed with the municipal officers of each municipality.

4 A. The formula shall be based upon such items as
5 route mileage, profit or loss resulting from the
6 service to the municipality, population and any
7 other factors that the board of directors
8 considers relevant.

9 B. If the board of directors is unable to
10 establish the formula by a 2/3 vote of its entire
11 membership, it shall, by November 1st:

12 (1) Petition the Public Utilities
13 Commission; and

14 (2) Include with its submission of the
15 estimates to the municipal officers of each
16 municipality a statement that a formula has
17 not been established but that a petition has
18 been made to the Public Utilities Commission
19 for findings and a decision with respect to a
20 formula.

21 C. If a municipality refuses to accept a formula
22 established by the board of directors and
23 submitted to it by November 1st, the municipal
24 officers of the municipality shall, within 30 days
25 after the submission, notify the board of
26 directors of their refusal. The board of
27 directors shall then, by December 15th, petition
28 the Public Utilities Commission as provided in
29 paragraph B. Upon the filing of the district's
30 petition, the Public Utilities Commission, after
31 notice to all the municipalities comprising the
32 district and a hearing, shall consider the formula
33 and make its findings and decision with respect to
34 the formula within 60 days from the filing of the
35 district's petition. The findings and decision of
36 the Public Utilities Commission are binding upon
37 the district and the municipalities. The district
38 or any municipality may appeal from the findings
39 and decision of the Public Utilities Commission in
40 accordance with Title 35-A, section 1320.

1 3. Budget; payment of allocations. By March 1st
2 of each year, the board of directors shall adopt a
3 final budget for that year which shall be itemized in
4 the same manner as the estimate of expenditures and
5 revenues under subsection 1. This budget shall be
6 submitted immediately to the municipal officers of the
7 municipalities comprising the district and the amounts
8 allocated to each municipality to defray any projected
9 revenue deficit in the budget shall be included in the
10 warrant to the assessors of each municipality as
11 provided in section 3517.

12 A. If an appeal from any findings and decision of
13 the Public Utilities Commission as provided in
14 subsection 2, paragraph C, is pending on March
15 1st, the allocations shall be made in accordance
16 with the findings and decision of the Public
17 Utilities Commission from which the appeal was
18 taken. Any adjustments to these allocations
19 required to be made in accordance with the
20 decision upon any such appeal shall be made as
21 follows.

22 (1) If the allocation to any municipality is
23 increased, the additional payment shall be
24 included in the current assessment or, if the
25 increase is made after April 1st, the
26 additional payment shall be certified to the
27 municipal officers of the municipality who
28 shall appropriate the amount of the increase
29 out of unappropriated surplus, a contingency
30 fund or shall raise that amount by issuing
31 temporary notes which must be payable within
32 one year from their dates.

33 (2) If the allocation to any municipality is
34 decreased, the amount of the decrease shall
35 be deducted from the current assessment or,
36 if the decrease is made after April 1st,
37 shall be paid by the district to the
38 treasurer of the municipality from funds
39 received from municipalities whose allocation
40 is increased.

41 §3517. Warrant for taxes

1 Before April 1st of each year, the directors shall
2 issue their warrant in the same form as the warrant of
3 the Treasurer of State for taxes, with proper changes,
4 to the assessors of the municipalities comprising the
5 district. The warrant shall require the
6 municipalities to assess the sum allocated to each
7 municipality for payment of the operating deficit and
8 the sum allocated to each municipality for payment
9 into the sinking fund, if any, upon the taxable
10 estates within those municipalities and to commit
11 their assessment to the constable or collector of the
12 municipalities. The constable or collector has all
13 the authority and powers to collect these taxes as is
14 vested by law to collect state, county and municipal
15 taxes. Within 30 days after the date fixed by the
16 municipality on which its taxes are due, the treasurer
17 of the municipality shall pay the amount of the tax
18 assessed under this section to the treasurer of the
19 district.

20 1. Failure to pay. If the treasurer of a
21 municipality fails to pay the sum assessed under this
22 section, or fails to pay any part of the sum by the
23 date set in the year in which the tax is levied, the
24 treasurer of the district may issue a warrant for the
25 amount of the tax, or so much of the tax as remains
26 unpaid, to the sheriff of the appropriate county,
27 requiring the sheriff to levy by distress and sale on
28 real and personal property of any of the inhabitants
29 of the municipality. The sheriff or any of the
30 deputies shall execute the warrant.

31 §3518. Withdrawal

32 A municipality may withdraw from the district at
33 the end of a fiscal year provided that it has given
34 the board of directors at least one year's written
35 notice of its intention to do so. The municipality
36 must pay its proportionate share of the current
37 indebtedness of the district before withdrawal and
38 must agree by appropriate written document to pay its
39 proportionate share of any long-term indebtedness of
40 the district as that indebtedness becomes due and
41 payable. During the period of notice, the withdrawing
42 municipality does not become liable for any capital
43 expenditures or borrowings which may be made by the

1 district. The proportionate share of the withdrawing
2 municipality in any current and long-term indebtedness
3 of the district shall be in accordance with the
4 formula then in effect for payment of the current and
5 long-term indebtedness.

6 §3519. Dissolution

7 At such time as a district has discharged all of
8 its obligations and paid or provided for the payment
9 of all of its bonded indebtedness, the board of
10 directors may, by 2/3 vote of its membership, dissolve
11 the district and dispose of all of its property, real
12 and personal, in the manner authorized and directed by
13 the board of directors. The treasurer may execute any
14 deeds, bills of sales or any documents required for
15 that purpose. All money, if any, remaining in the
16 hands of the treasurer of the district shall be paid
17 to the municipalities comprising the district as of
18 the date of dissolution in accordance with the formula
19 then in effect for the payment of any operating
20 deficit.

21 CHAPTER 165

22 LEASING OF AIR RIGHTS

23 §3551. Utilization of air rights

24 1. Lease authorized; proceeds. Except as
25 provided in paragraph A, any municipality may lease at
26 one time or from time to time for a term or terms not
27 to exceed 99 years, upon any terms and conditions that
28 the municipal officers consider advisable, air rights
29 over public streets and ways, parking facilities and
30 other public buildings, land and water, in which the
31 public has a right of travel or in which the
32 municipality holds less than a fee interest. These
33 leases may be made for any nonmunicipal purpose which,
34 in the opinion of the municipal officers, will not
35 impair the construction, full use, safety, maintenance
36 or repair of those streets and ways, facilities,
37 buildings, land and water. The proceeds from any
38 lease granted under this chapter shall be paid into
39 the municipal treasury.

1 A. No lease of air rights may be granted under
2 this chapter with regard to any dedicated park
3 land, including rights for support, access,
4 utilities, light and air.

5 B. Any lease granted under this chapter for air
6 rights over state and state aid highways must be
7 approved by the Department of Transportation.

8 2. Assignment, pledge or mortgage; reversionary
9 rights. Any lease granted under this chapter may,
10 with the consent of the municipal officers, be
11 assigned, pledged or mortgaged and the lien of that
12 pledge or mortgage may be foreclosed by appropriate
13 action. Any lease granted under this chapter for air
14 rights over public streets and ways in which the
15 municipalities own an easement, but not a fee
16 interest, does not affect the reversionary rights, if
17 any, of the holder of the fee in the public street or
18 way.

19 3. Fee interests unaffected. This chapter does
20 not reduce the right of a municipality holding a fee
21 interest in streets, ways, facilities, buildings, land
22 or water from conveying air rights in fee or by lease.

23 §3552. Applicability of building and other laws

24 The construction or occupancy of any structure
25 erected or affixed under any lease under this chapter
26 is subject to the building, fire, garage, health and
27 zoning ordinances, bylaws and regulations applicable
28 in the municipality. Any structure erected over or
29 affixed to any public street or way under this chapter
30 is valid and declared a legal structure.

31 §3553. Taxation

32 1. Structures taxed. Any structure erected or
33 affixed under any lease granted under this chapter
34 shall be taxed to the lessee or the assigns in the
35 same manner and to the same extent as if the lessee or
36 the assigns were the owners of the land in fee, except
37 that no part of the value of the land may be included
38 in the assessment. The municipality may exercise all
39 remedies provided generally for the collection of

1 taxes. Any such leasehold estate may be sold or taken
2 by the municipality for the nonpayment of any taxes
3 assessed under this section in the manner provided by
4 law for the sale or taking of real estate for
5 nonpayment of local taxes.

6 2. Payment instead of taxes. The municipality
7 shall include in any lease granted under this chapter
8 a provision in which the lessee agrees, if subsection
9 1 is determined by a court of competent jurisdiction
10 to be inapplicable, to pay annually to the
11 municipality a sum of money instead of the taxes which
12 would otherwise be assessed on the lease in that year.

13 §3554. Parties in interest

14 Each lease made under this chapter must require
15 that the lessee file with the municipality a statement
16 under oath containing the names and addresses of the
17 officers and directors, in the case of a corporation,
18 and, in the case of a partnership or other voluntary
19 association, the names and addresses of all persons
20 having a financial interest in the lease. A copy of
21 all leases granted by the municipality shall be kept
22 on file and shall be open to public inspection.

23 §3555. Limitations

24 Municipalities shall not execute any leases which
25 would:

26 1. Impair use of highway. Impair the use and
27 safety of any highway;

28 2. Used solely for advertising. Be solely for
29 outdoor advertising structures; or

30 3. Violate Federal Aviation Agency regulations.
31 Violate any regulations promulgated by the
32 Administrator of the Federal Aviation Agency.

33 CHAPTER 167

34 MUNICIPAL RENT CONTROL

35 §3601. Declaration of emergency

1 If a serious public housing emergency exists in a
2 municipality which would result in a shortage of
3 rental housing accommodations and abnormally high
4 rents and will produce serious threats to the public
5 health, safety and general welfare of the citizens of
6 the community unless residential rents are regulated
7 and controlled, a municipality may accept this
8 chapter, with due regard for the rights and
9 responsibilities of its citizens.

10 §3602. Acceptance

11 Rent control legislation takes effect in any
12 municipality on the 30th day following acceptance of
13 its provisions. A municipality which has accepted
14 this chapter may, in the same manner, revoke its
15 acceptance.

16 §3603. Definitions

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

20 1. Rent. "Rent" means the consideration,
21 including any bonus, benefits or gratuity demanded or
22 received for or in connection with the use or
23 occupancy of rental units or the transfer of a lease
24 of such rental units.

25 2. Rental units. "Rental units" means any
26 building, structure, or part thereof, or land
27 appurtenant thereto, or any other real or personal
28 property rented or offered for rent for living or
29 dwelling purposes, including houses, apartments,
30 rooming or boarding-house units and other properties
31 used for living or dwelling purposes, together with
32 all services connected with the use or occupancy of
33 the property, except:

34 A. Rental units which a governmental unit, agency
35 or authority either:

36 (1) Owns or operates; or

1 (2) Finances or subsidizes, if the
2 imposition of rent control would result in
3 the cancellation or withdrawal, by law, of
4 the financing or subsidy;

5 B. Rental units in cooperatives;

6 C. Rental units in any public institution or
7 college or school dormitory operated exclusively
8 for charitable or educational purposes;

9 D. Rental units in any nursing or rest homes, not
10 organized or operated for profit; and

11 E. The rental unit or units in an owner-occupied,
12 2-family or 3-family house and rental units, the
13 construction of which was completed on or after
14 the date of acceptance of rent control
15 legislation, may be exempted from the legislation
16 by the administrator or the board.

17 3. Services. "Services" means repairs,
18 replacement, maintenance, painting, providing light,
19 heat, hot and cold water, elevator service, window
20 shades and screens, storage, kitchen, bath and laundry
21 facilities and privileges, janitorial services, refuse
22 removal, furnishings and any other benefit, privilege
23 or facility connected with the use or occupancy of any
24 rental unit. Services to a rental unit shall include
25 a proportionate part of services provided to common
26 facilities of the building in which the rental unit is
27 contained.

28 §3604. Local rent board or administrator

29 1. Appointment. When rent control legislation is
30 accepted, the municipality shall also determine
31 whether the chapter will be administered by a rent
32 control board or by a rent control administrator.
33 Upon acceptance of rent control legislation and before
34 its effective date, the popularly elected mayor of a
35 city, or the council in a municipality having a
36 council-manager form of government, or the board of
37 selectmen in a town shall appoint a rent control
38 administrator or a rent control board to serve at the
39 will of the appointing authority.

1 2. Compensation. Members of rent control boards
2 shall receive no compensation for their services, but
3 shall be reimbursed by the municipality for necessary
4 expenses incurred in the performance of their duties.

5 3. Personnel. Either the rent control board,
6 referred to in this chapter as "the board," or the
7 rent control administrator, referred to in this
8 chapter as "the administrator," is responsible for
9 carrying out this chapter. The board or the
10 administrator shall:

11 A. With the approval of the appointing official
12 or officials, hire any necessary personnel;

13 B. Adopt any policies and regulations that will
14 further the provisions of this chapter; and

15 C. Recommend to the municipality for adoption any
16 ordinances and bylaws that are necessary to carry
17 out the purposes of this chapter.

18 4. Studies. The board or the administrator may
19 make such studies and investigations, conduct such
20 hearings and obtain such information considered
21 necessary in adopting any regulation or order under
22 this chapter or in administering and enforcing this
23 chapter and regulations and orders adopted under this
24 chapter. Any person who rents or offers for rent or
25 acts as broker or agent for the rental of any
26 controlled rental unit may be required to furnish any
27 information required by the board or administrator and
28 to produce records and other documents and make
29 reports. These persons have the right to be
30 represented by counsel.

31 5. Regulations. The board or administrator may
32 issue orders and adopt regulations to effectuate the
33 purposes of this chapter.

34 §3605. Maximum rent adjustment

35 1. Fair net-operating income. The board or
36 administrator shall make any individual or general
37 adjustments, either upward or downward, of the rent

1 for any rental property that is necessary to ensure
2 that rents are established at levels which yield to
3 landlords a fair net-operating income from the rental
4 units.

5 2. Determination. The following factors, among
6 other relevant factors, which the board or
7 administrator may define by regulation, shall be
8 considered in determining whether a controlled rental
9 unit yields a fair net-operating income:

10 A. Increases or decreases in property taxes;

11 B. Unavoidable increases or any decreases in
12 operating and maintenance expenses;

13 C. Capital improvement of the housing unit as
14 distinguished from ordinary repair, replacement
15 and maintenance;

16 D. Increases or decreases in living space,
17 services, furniture, furnishings or equipment;

18 E. Substantial deterioration of the housing units
19 other than as a result of ordinary wear and tear;
20 and

21 F. Failure to perform ordinary repair,
22 replacement and maintenance.

23 3. Schedule of standard rental increases or
24 decreases. For the purpose of adjusting rents under
25 this section, the board or administrator may adopt a
26 schedule of standard rental increases or decreases for
27 improvement or deterioration in specific services and
28 facilities.

29 4. Denial. The board or administrator may refuse
30 to grant a rent increase under this section, if
31 determined that:

32 A. The affected rental unit does not comply with
33 the state sanitary code and any applicable
34 municipal codes, ordinances or bylaws; and

1 B. The lack of compliance is due to the
2 landlord's failure to provide normal and adequate
3 repair and maintenance.

4 The board or the administrator may refuse to grant
5 a rent decrease under this section, if determined
6 that a tenant is behind in the payment of rent.

7 5. Termination procedure. The board or
8 administrator may adjust or eliminate rent controls if
9 it is determined that the need for continuing rental
10 levels no longer exists because of sufficient
11 construction of new rental units or because the demand
12 for rental units has been otherwise met. Any maximum
13 rental level removed under this subsection shall be
14 reimposed or adjusted and reimposed upon a finding by
15 the board or administrator that a substantial shortage
16 of rental units exists in the municipality and that
17 the reimposition of rent control is necessary in the
18 public interest. Any action under this subsection is
19 subject to the hearing and notice requirements of
20 section 3606.

21 §3606. Judicial review

22 Any person who is aggrieved by any action,
23 regulation or order of the board or administrator may
24 file a complaint against the board or administrator in
25 the District Court having jurisdiction over the area
26 in which the property is located. Upon the filing of
27 the complaint, an order or notice shall be issued by
28 the court and served on the board or administrator as
29 provided in the case of a civil action. The District
30 Court has exclusive original jurisdiction over the
31 proceedings. All orders, judgments and decrees of the
32 District Court may be appealed as is provided in the
33 case of a civil action in the District Court.

34 SUBPART 6

35 REGULATION, LICENSES AND PERMITS

36 CHAPTER 181

37 GENERAL PROVISIONS

1 §3701. Municipal licensing authority

2 The municipal officers are the licensing authority
3 of a municipality, unless otherwise provided by
4 charter, ordinance or laws.

5 §3702. Fees for licenses or permits

6 Unless otherwise provided by law, any fee
7 established by a municipality for any license or
8 permit must reasonably reflect the municipality's
9 costs associated with the license or permit procedure
10 and enforcement.

11 CHAPTER 183

12 ECONOMIC REGULATION

13 SUBCHAPTER I

14 AUTOMOBILE JUNKYARDS

15 §3751. Purpose

16 Junkyards and so-called "auto graveyards" have
17 been steadily expanding and frequently encroach upon
18 highways. These junkyards and graveyards have become
19 a nuisance and a menace to safe travel on public ways,
20 often distracting the attention of drivers of motor
21 vehicles because it appears cars are parked on the
22 highway or that an accident has occurred. It is
23 declared that such junkyards and automobile graveyards
24 are a nuisance and are properly subject to regulation
25 and control.

26 §3752. Definitions

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

30 1. Automobile graveyard. "Automobile graveyard"
31 means a yard, field or other area used to store 3 or
32 more unserviceable, discarded, worn-out or junked
33 motor vehicles as defined in Title 29, section 1,
34 subsection 7, or parts of such vehicles.

1 A. "Automobile graveyard" does not include any
2 area used for temporary storage by an
3 establishment or place of business which is
4 primarily engaged in doing auto body repair work
5 to make repairs to render a motor vehicle
6 serviceable.

7 2. Highway. "Highway" means any public way.

8 3. Interstate System. "Interstate System" means
9 those portions of the Maine Turnpike and the state
10 highway system incorporated in the National System of
11 Interstate and Defense Highways, as officially
12 designated by the Department of Transportation.

13 4. Junkyard. "Junkyard" means a yard, field or
14 other area used to store:

15 A. Discarded, worn-out or junked plumbing,
16 heating supplies, household appliances and
17 furniture;

18 B. Discarded, scrap and junked lumber;

19 C. Old or scrap copper, brass, rope, rags,
20 batteries, paper trash, rubber debris, waste and
21 all scrap iron, steel and other scrap ferrous or
22 nonferrous material; and

23 D. Garbage dumps, waste dumps and sanitary fills.

24 5. Primary System. "Primary System" means that
25 portion of the state highway system which the
26 Department of Transportation has by official
27 designation incorporated into the Federal-Aid Primary
28 System.

29 §3753. Permit required

30 No person may establish, operate or maintain an
31 automobile graveyard or junkyard without first
32 obtaining a nontransferable permit from the municipal
33 officers of the municipality in which the automobile
34 graveyard or junkyard is to be located, or from the
35 county commissioners of the county of any unorganized

1 territory in which the automobile graveyard or
2 junkyard is to be located. Permits issued under this
3 section are valid until the first day of the following
4 year.

5 §3754. Hearings

6 Municipal officers or county commissioners, as
7 provided for in section 3753, shall hold a public
8 hearing before granting a permit to establish, operate
9 or maintain an automobile graveyard or junkyard. They
10 shall post a notice of the hearing at least 7 and not
11 more than 14 days before the hearing in at least 2
12 public places in the municipality or unorganized
13 territory and publish a notice in one newspaper having
14 general circulation in the municipality or unorganized
15 territory in which the automobile graveyard or
16 junkyard is to be located. The municipal officers or
17 county commissioners shall give written notice of the
18 application to the Department of Transportation by
19 mailing a copy of the application at least 7 and not
20 more than 14 days before the hearing.

21 §3755. Limitations on permits

22 1. Highways; Interstate and Primary Systems. No
23 permit may be granted for an automobile graveyard or
24 junkyard within 1,000 feet of the right-of-way of any
25 highway incorporated in the Interstate and Primary
26 Systems or within 600 feet of the right-of-way of any
27 other highway, except for:

28 A. Those automobile graveyards or junkyards which
29 are kept entirely screened to ordinary view from
30 the highway at all times by natural objects,
31 plantings or fences;

32 (1) Screening required by this paragraph
33 must be well constructed and properly
34 maintained at a minimum height of 6 feet and
35 acceptable to the municipal officers or
36 county commissioners. It must comply with
37 the rules adopted by the Department of
38 Transportation. The permit shall specify
39 that compliance with these rules is required;
40 and

- 1 B. Those automobile graveyards or junkyards
2 located within areas which have been zoned for
3 industrial use and located more than 600 feet but
4 less than 1,000 feet from the right-of-way of any
5 highway incorporated in the Interstate and Primary
6 Systems.
- 7 2. Public facilities. No permit may be granted
8 for an automobile graveyard or junkyard which is:
- 9 A. Located within 300 feet of any public park,
10 public playground, public bathing beach, school,
11 church or cemetery; and
- 12 B. Within ordinary view from that public facility.
- 13 3. Limitation on new permits. No permit may be
14 granted for any automobile graveyard or junkyard
15 established after October 3, 1973, and located within
16 100 feet of any highway.
- 17 4. Rules. No permit may be granted for an
18 automobile graveyard or junkyard that does not comply
19 with the rules adopted under section 3759. Municipal
20 officers or county commissioners as provided for in
21 section 3753 may apply more stringent restrictions,
22 limitations and conditions in considering whether to
23 grant or to deny any permit for an automobile
24 graveyard or junkyard adjacent to any highway.
- 25 5. Local ordinances. This subchapter shall not
26 be construed to limit a municipality's home rule
27 authority to enact ordinances with respect to
28 automobile graveyards and junkyards which concern any
29 other standards that the municipality determines
30 reasonable, including, but not limited to:
- 31 A. Compliance with state and federal hazardous
32 waste regulations;
- 33 B. Fire and traffic safety;
- 34 C. Levels of noise which can be heard outside the
35 premises;

1 D. Distance from existing residential or
2 institutional uses; and

3 E. The effect on ground water and surface water,
4 provided that municipal ordinances on ground water
5 are no less stringent than or inconsistent with
6 rules adopted by the Department of Environmental
7 Protection concerning automobile graveyards and
8 junkyards.

9 Municipal officers or county commissioners shall
10 consider compliance with these local ordinances in
11 deciding whether to grant or deny a permit for any
12 automobile graveyard or junkyard and in attaching
13 conditions of approval to the grant of a permit.

14 §3756. Permit fees

15 The municipal officers or county commissioners
16 shall collect, in advance from the applicant for a
17 permit, a fee in accordance with the following
18 schedule:

19 1. More than 100 feet from highway. Fifty
20 dollars for each permit for an automobile graveyard or
21 junkyard located more than 100 feet from any highway,
22 plus the cost of posting and publishing the notice
23 under section 3754; and

24 2. Within 100 feet from highway. Two hundred
25 dollars for each permit for an automobile graveyard or
26 junkyard located within 100 feet from any highway,
27 plus the cost of posting and publishing the notice
28 under section 3754.

29 §3757. Provisions regarding nuisances unaffected

30 This subchapter shall not be construed as in any
31 way repealing, invalidating or obrogating Title 17,
32 section 2802, or limiting the right of prosecutions
33 under that section. Violation of this subchapter in
34 the establishment, maintenance or operation of any
35 automobile graveyard or junkyard constitutes prima
36 facie evidence that the yard is a nuisance as defined
37 in Title 17, section 2802.

1 §3758. Violation

2 1. Enforcement. The State Police as well as
3 local and county law officers shall enforce this
4 subchapter. Municipal officers or their designee may
5 also enforce this subchapter.

6 2. Penalties. Whoever violates this subchapter
7 or the rules of the Department of Transportation
8 adopted under section 3759 shall be penalized in
9 accordance with section 4506. Each day that the
10 violation continues constitutes a separate offense.

11 3. Revocation or suspension of permit. Violation
12 of any condition, restriction or limitation inserted
13 in a permit by the municipal officers or county
14 commissioners is cause for revocation or suspension of
15 the permit by the same authority which issued the
16 permit. No permit may be revoked or suspended without
17 a hearing and notice to the owner or the operator of
18 the automobile graveyard or junkyard. Notice of
19 hearing shall be sent to the owner or operator by
20 registered mail at least 7, but not more than 14, days
21 before the hearing. The notice must state the time
22 and the place of hearing and contain a statement
23 describing the alleged violation of any conditions,
24 restrictions or limitations inserted in the permit.

25 §3759. Rules

26 In the interest of uniformity and to establish
27 guidelines for the municipal officers and county
28 commissioners in the matter of adequate screening, the
29 Department of Transportation shall adopt rules
30 establishing minimum standards for screening of
31 automobile graveyards and junkyards.

32 §3760. Relocation, removal, disposal, compensation
33 and condemnation

34 1. Acquisition of land. If the Department of
35 Transportation determines that the topography of the
36 land adjacent to any portion of a highway incorporated
37 in the Interstate or Primary Systems will not permit
38 adequate screening, as required in sections 3751 to
39 3760, or that adequate screening would not be

1 economically feasible, it may acquire by gift,
2 purchase or condemnation any interests in property
3 that are necessary to secure the relocation, removal
4 or disposal of the automobile graveyards or junkyards.

5 2. Compensation. In the case of such
6 acquisition, just compensation shall be paid to the
7 owner for the relocation, removal or disposal of the
8 following automobile graveyards and junkyards:

9 A. Those which were operating and in existence on
10 May 11, 1966 and located in areas adjacent to any
11 portion of a highway incorporated in the
12 Interstate or Primary Systems, which exceed
13 federal restrictions and for which federal funds
14 are available to defray the costs;

15 B. Those in operation along any highway made a
16 part of the Interstate or Primary Systems on or
17 after May 11, 1966; and

18 C. Those in operation and established on or after
19 May 11, 1966.

20 3. Procedures. The purchase, condemnation,
21 negotiation, assessment of damage and appeal
22 procedures shall be in accordance with this section
23 and Title 23, sections 153 to 159.

24 4. Use of federal funds. This section does not
25 prevent the department from participating with the
26 owner when federal funds are available to defray costs
27 of screening junkyards whenever it is determined to be
28 more feasible to screen rather than to be involved in
29 the cost or impact of acquisition and relocation.

30 SUBCHAPTER II

31 CLOSING-OUT SALES

32 §3781. License requirements

33 No person may offer for sale a stock of goods,
34 wares or merchandise under the designation of
35 "closing-out sale," "going out of business sale,"
36 "discontinuance of business sale," "entire stock must

1 go," "must sell to the bare walls" or other
2 designation which states, directly or by implication,
3 an intent of that person to dispose of the entire
4 stock of goods with a view to permanently terminating
5 further business after that disposal is complete,
6 unless the person complies with the following
7 requirements.

8 1. Inventory license. Before the disposal sale
9 begins, the person must obtain a license to conduct
10 the sale from the municipal officers of the
11 municipality in which the sale will be conducted.

12 A. The person must apply to the municipal
13 officers for the license under oath. The
14 application must contain a complete inventory of
15 all items to be included in the sale and must be
16 accompanied by the payment of a license fee set by
17 the municipal officers. The applicant must
18 affirm, in writing and under oath, to the
19 municipal officers that no merchandise will be
20 included in the stock offered for sale unless the
21 merchandise is in or at the place of business
22 where the sale will take place when the sale
23 opens. Any unusual purchases and additions to the
24 stock of goods, wares or merchandise made within
25 60 days before the filing of an application for a
26 license is prima facie evidence that the purchases
27 and additions were made in contemplation of the
28 sale.

29 (1) If the applicant has been in the same
30 business for which the sale is being
31 conducted for less than 2 years of continuous
32 operation in the municipality, the applicant
33 must also affirm, in writing and under oath,
34 that none of the merchandise was purchased
35 before the sale opened for the purpose of
36 selling and disposing of that merchandise at
37 the sale.

38 B. The license is valid for 60 days from the date
39 of issuance, unless revoked under subsection 3.
40 The validity of the license may be extended for 60
41 additional days if the licensee provides an
42 affidavit to the municipal officers stating that

1 all goods, wares or merchandise listed in the
2 inventory have not been disposed of within the
3 original 60-day period.

4 2. License issued; records preserved. The
5 municipal officers shall immediately issue the license
6 upon compliance with this section. The municipal
7 officers shall preserve all applications for licenses
8 and other papers filed in connection with an
9 application as a public record in their office for 5
10 years. They shall endorse the dates of filing and the
11 granting or denial of the license on those papers and
12 shall make an abstract of any other proceedings taken
13 in connection with the application.

14 3. Revocation; prior violations; suspension. The
15 municipal officers shall revoke any license issued
16 under this subchapter if the licensee is convicted of
17 violating this section. The municipal officers may
18 refuse to issue another license to any applicant who
19 has been convicted of violating this section before
20 the date of application. If any person convicted of
21 any violation of this section appeals the decision or
22 sentence of the trial court, that person's license
23 shall be suspended while the appeal is pending in the
24 appellate court.

25 §3782. Continuation of business

26 After the termination date of the sale and any
27 extension granted under section 3781, subsection 1,
28 paragraph B, the person to whom the license was
29 granted may not continue the business under the same
30 or a different name, at the same location or elsewhere
31 in the same municipality, contrary to the designation
32 of the sale.

33 §3783. Limitations

34 This subchapter does not apply to:

35 1. Public auctions. Liquidation sales by public
36 action of not more than 3 days duration conducted by
37 a licensed auctioneer;

38 2. Sheriffs' sales. Sales conducted or made by

1 sheriffs, deputy sheriffs, constables, collectors of
2 taxes, executors, administrators, guardians,
3 conservators, receivers, assignees under voluntary
4 assignments for the benefit of creditors or insurers;
5 or

6 3. Sale of personal property. Sales by any other
7 person required by law to sell personal property.

8 §3784. Violations and penalties

9 Notwithstanding Title 17-A, section 4-A, any
10 licensee under section 3781, who fails to comply with
11 that section, or any person who conducts such a
12 disposal sale without first having obtained a license,
13 is guilty of a Class E crime and shall be punished by
14 a fine of not more than \$100 or by imprisonment for
15 not more than 30 days, or both. Each day on which a
16 sale is conducted in violation of this subchapter
17 constitutes a separate offense. In addition to the
18 penalties set forth, the Superior Court has
19 jurisdiction, upon the complaint of any person, to
20 enjoin any sale, or other acts, being performed in
21 violation of section 3781.

22 SUBCHAPTER III

23 INNKEEPERS, VICTUALERS AND LODGING HOUSES

24 ARTICLE 1. GENERAL PROVISIONS

25 §3801. Definitions

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

29 1. Innkeeper. "Innkeeper" means a person who
30 keeps an inn, hotel or motel to provide lodging to
31 travelers and others for compensation.

32 2. Licensing board. "Licensing board" means the
33 municipal officers of a municipality, as provided in
34 section 3812.

35 3. Lodging house. "Lodging house" means a house

1 where lodgings are rented, but does not include:

2 A. A house where lodgings are rented to fewer
3 than 5 lodgers;

4 (1) The term "lodger" does not include
5 persons within the 2nd degree of kindred to
6 the person operating the lodginghouse;

7 B. The dormitories of charitable, educational or
8 philanthropic institutions; or

9 C. The emergency use of private dwelling houses
10 at the time of conventions or similar public
11 gatherings.

12 4. Victualer. "Victualer" means a person who
13 serves food or drink prepared for consumption on the
14 premises by the public.

15 §3802. Posting of rates; liability for overcharge

16 1. Maximum rate schedule. Every keeper of a
17 hotel, inn, boardinghouse or lodging house shall post
18 in every bedroom:

19 A. A schedule of the maximum daily rates for that
20 room for occupancy by one or more persons; and

21 B. Any requirement for a minimum number of days
22 for which that room must be rented.

23 2. Overcharge liability. No keeper may charge or
24 collect a sum greater than the rate shown in the
25 posted schedule. Any keeper who charges or collects
26 more than the rate shown in the posted schedule is
27 liable to the person so charged or who paid the bill
28 in an amount equal to 3 times the total amount of the
29 bill collected.

30 ARTICLE 2. LICENSES

31 §3811. License required

32 No person may be a common innkeeper, victualer or
33 tavernkeeper without a license. A person who violates

1 this section commits a civil violation for which a
2 forfeiture of not more than \$50 may be adjudged.

3 1. Lodging houses; licenses. The municipal
4 officers may enact ordinances requiring lodging houses
5 to be licensed. These licenses may be issued by the
6 licensing board under section 3812 and are subject to
7 the same expiration dates provided in that section.

8 §3812. Licensing board; granting and revocation of
9 licenses

10 1. Licensing board. The municipal officers of
11 every municipality shall serve as the licensing board
12 for the issuance of innkeepers', victualers' and
13 tavernkeepers' licenses.

14 2. Meetings. The licensing board shall meet as
15 provided in this subsection.

16 A. They shall meet annually during the month of
17 May on a date and at a time and place in the
18 municipality that they determine. At least 7 days
19 before the meeting, they must post notices stating
20 the purpose of the meeting in at least 2 public
21 places in the municipality.

22 B. The licensing board may meet at any other time
23 at a meeting specially called and with public
24 notice as provided in paragraph A.

25 3. Issuance and revocation of licenses. At any
26 meeting held under subsection 2, the licensing board
27 may do the following.

28 A. The board may license as many persons of good
29 moral character to be innkeepers, victualers and
30 tavernkeepers in the municipality as they consider
31 necessary.

32 (1) The license must specify the building in
33 which the business will be conducted.

34 (2) The board may issue the license under
35 any restrictions and regulations that they
36 consider necessary.

1 B. The board may revoke any license previously
2 granted under this section as provided in section
3 3814.

4 4. License expiration. All licenses granted
5 under this section expire one year after issuance.

6 §3813. Fee

7 Every person licensed as an innkeeper, victualer
8 or tavernkeeper shall pay to the treasurer for the use
9 of the municipality a fee of \$1 and any additional
10 amount established by ordinance or bylaw of the
11 municipality.

12 §3814. Revocation or suspension of license; hearing;
13 appeal

14 1. Applicability. This section applies to all
15 licenses issued by the licensing authorities
16 authorized under this subchapter and section 3931.

17 2. Revocation or suspension of license. The
18 licensing authority designated in this subchapter and
19 section 3931 shall enforce this subchapter and section
20 3931 and shall prosecute all offenders. If the
21 licensing authority is satisfied that the licensee is
22 unfit to hold a license, it may revoke the license at
23 any time. For any cause which it considers
24 satisfactory, the licensing authority may suspend a
25 license for any period of time that it considers
26 proper.

27 3. Hearing. A license may not be revoked or
28 suspended under subsection 2 until after investigation
29 and hearing. The licensing authority shall serve
30 notice of the hearing on the licensee or leave it at
31 the licensed premises at least 3 days before the time
32 set for hearing. At the hearing, the licensee must be
33 given an opportunity to:

34 A. Hear the evidence in support of the charge
35 against the licensee and to cross-examine, alone
36 or through counsel, the witnesses; and

1 B. Be heard in the licensee's own defense.

2 4. Appeal. Appeal from the decision of the
3 licensing authority to the Superior Court in the
4 county in which the licensing authority is located may
5 be obtained in the manner provided in the Maine Rules
6 of Civil Procedure. Courts of competent jurisdiction,
7 for due cause shown, may issue temporary orders
8 restraining the enforcement of revocations or
9 suspensions, and after full hearing may vacate those
10 temporary orders or make them permanent.

11 ARTICLE 3. REGISTRATION OF GUESTS

12 §3821. Register; contents; inspection; penalty

13 1. Register of guests. Every person conducting
14 any hotel or lodging house shall have a register kept
15 and maintained in the hotel or lodging house at all
16 times. The name of every guest or person renting or
17 occupying a room or rooms in the hotel or lodging
18 house shall be written in the register. The person
19 renting the room or rooms, or someone under that
20 person's direction, shall sign the register. The
21 proprietor of the hotel or lodging house, or the
22 proprietor's agent, shall then write the number of
23 each room assigned to and occupied by each guest,
24 together with the date that room is rented, opposite
25 the name or names so registered.

26 2. Record of departures. The proprietor or the
27 proprietor's agent shall keep and maintain a record
28 showing the date when the occupant of each room
29 surrenders the room. This record may be made a part
30 of the register.

31 3. Availability for inspection. Both the
32 register and the record shall be kept for 2 years and
33 be available at all reasonable times to the inspection
34 of any lawful agent of the licensing authority or any
35 full-time law enforcement officer as defined in Title
36 25, section 2805.

37 4. Violation and penalty. Notwithstanding Title
38 17-A, section 4-A, any person who willfully violates
39 this section is guilty of a Class E crime and shall be

1 punished by a fine of not less than \$100 nor more than
2 \$500, or by imprisonment for not more than 90 days for
3 each offense, or both.

4 §3822. Register of true name

5 1. Registration required. All persons occupying
6 a room or rooms in a hotel or lodging house must
7 register or have themselves registered in the hotel or
8 lodging house register.

9 2. True name required. No person may write, or
10 have written by another person in any hotel or lodging
11 house register, any name or designation other than the
12 true name or names ordinarily used by that person. No
13 person in charge of a hotel or lodging house register
14 may knowingly permit any name or designation to be
15 written other than the true name or names in ordinary
16 use of, the person registering or being registered by
17 another person.

18 3. Penalty. Any person who violates this section
19 commits a civil violation for which a forfeiture of
20 not less than \$10 nor more than \$25 may be adjudged
21 for each offense.

22 §3823. Posting of law near register

23 The licensing authority may require all licensed
24 innkeepers and all licensees under section 3811 to
25 post a notice furnished under this section in a
26 conspicuous place near the register. The licensing
27 authority shall provide this notice which shall
28 contain the text of sections 3821 and 3822, relating
29 to the entry of names in the register, together with
30 the penalties provided in those sections for their
31 violations.

32 ARTICLE 4. DUTIES AND OBLIGATIONS

33 §3831. Innkeepers

34 Every innkeeper shall, at all times, be furnished
35 with suitable provisions and lodging for strangers and
36 travelers. The innkeeper shall grant such reasonable
37 accommodations as occasion requires to strangers,
38 travelers and others.

1 §3832. Victualers

2 Every victualer has all the rights and privileges
3 and is subject to all the duties and obligations of an
4 innkeeper, except furnishing lodging for travelers.

5 §3833. Gambling prohibited

6 1. Prohibited games and activities. No innkeeper
7 or victualer may:

8 A. Have or keep for gambling purposes about the
9 business establishment any dice, cards, bowls,
10 billiards, quoits or other implements used in
11 gambling; or

12 B. Allow any person resorting to the
13 establishment to use for gambling purposes any of
14 the games under subsection 1, or any other illegal
15 game or sport in the establishment.

16 2. Penalty. Any person who uses any game or
17 sport prohibited by this section for gambling purposes
18 in any prohibited establishment commits a civil
19 violation for which a forfeiture of \$5 may be adjudged.

20 §3834. Disorderly conduct prohibited

21 1. Prohibited conduct. No innkeeper,
22 hotelkeeper, boardinghouse keeper, lodging house
23 keeper, campground operator or keeper or victualer may
24 allow any reveling, riotous or disorderly conduct,
25 drunkenness or excess in the inn, hotel,
26 boardinghouse, lodging house, restaurant, shop or
27 other premises.

28 2. Penalty. Notwithstanding Title 17-A, section
29 4-A, whoever refuses or fails to leave any such place
30 when requested to do so by the owner, manager, clerk,
31 agent or servant of the owner or manager is guilty of
32 a Class D crime and shall be punished by a fine of not
33 more than \$1,000 or by imprisonment for not more than
34 11 months, or both.

35 §3835. Removal of hotel property

1 Notwithstanding Title 17-A, section 4-A, any
2 person who removes or attempts to remove from any
3 hotel, inn, boardinghouse, lodging house, campground
4 or restaurant any article of property belonging to or
5 in use in that establishment is guilty of a Class D
6 crime and shall be punished by a fine of not more than
7 \$1,000 or by imprisonment for not more than 11 months,
8 or both.

9 §3836. Damage to hotel property

10 Notwithstanding Title 17-A, section 4-A, any
11 guest, boarder, occupant or other person in a hotel,
12 inn, boardinghouse, lodging house, campground or
13 restaurant who intentionally destroys or damages any
14 property belonging to or in use in that establishment
15 is guilty of a Class D crime and shall be punished by
16 a fine of not more than \$1,000 or by imprisonment for
17 not more than 11 months, or both.

18 §3837. Ejection of disruptive or destructive persons;
19 damage to property

20 The owner or manager of an inn, hotel, restaurant,
21 lodging house, camping area or boardinghouse may
22 request that any person on the premises of that
23 establishment who is causing unnecessary disturbance
24 to other persons on the premises or who is damaging or
25 destroying property belonging to or in use by the inn,
26 hotel, restaurant, lodging house, camping area or
27 boardinghouse leave the premises immediately. If any
28 person who is requested to leave the premises under
29 this section fails or refuses to do so, the owner or
30 manager may use a reasonable degree of force against
31 that person to remove that person from the premises.

32 Any person who is requested to leave the premises
33 of an inn, hotel, restaurant, lodging house, camping
34 area or boardinghouse or is ejected from the premises
35 under this section, in addition to any other liability
36 or penalty, is liable for the value of any property
37 belonging to or in use by the inn, hotel, restaurant,
38 lodging house, camping area or boardinghouse which is
39 damaged or destroyed as a result of conduct while on
40 the premises or which is damaged or destroyed during
41 ejection from the premises under this section.

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ARTICLE 5. SAFEKEEPING AND LIABILITY

§3851. Liability for loss where safe provided

Except as provided in subsection 2, no keeper of any inn, hotel or boardinghouse is liable for the loss of or injury to any articles or property of the kind specified in subsection 1 if the following conditions are met.

1. Conditions. The keeper of the inn, hotel or boardinghouse must:

A. Have constantly in his inn, hotel or boardinghouse a metal safe or suitable vault in good condition and fit for the custody of:

(1) Money;

(2) Bank notes;

(3) Jewelry;

(4) Articles of gold or silver manufacture;

(5) Precious stones;

(6) Personal ornaments;

(7) Travel tickets;

(8) Negotiable or valuable papers; and

(9) Bullion;

B. Keep suitable locks or bolts on the doors of, and suitable fastenings on the transoms and windows of, the sleeping rooms used by guests; and

C. Keep a copy of this section printed in distinct type constantly and conspicuously posted in at least 10 conspicuous places in the inn, hotel or boardinghouse.

2. Exceptions. The immunity from liability under

1 subsection 1 does not apply in the following
2 situations.

3 A. The keeper of the inn, hotel or boardinghouse
4 may be held liable when the guest has offered to
5 deliver articles or property of the kind specified
6 in subsection 1 to the keeper of the inn, hotel or
7 boardinghouse for custody in the safe or vault and
8 the keeper has omitted or refused to take the
9 property and deposit it in the safe or vault for
10 custody and to give the guest a receipt for the
11 goods.

12 (1) The keeper of any inn, hotel or
13 boardinghouse is not required to receive from
14 any one guest for deposit in the safe or
15 vault any property of the kind specified in
16 subsection 1 which exceeds a total value of
17 \$300. The keeper is not liable for any
18 excess of such property, whether received or
19 not.

20 B. Every keeper of an inn, hotel or boardinghouse
21 is liable for any guest's loss of the articles or
22 property listed in subsection 1 after those
23 articles have been accepted for deposit, if the
24 loss is caused by the theft or negligence of the
25 keeper or any of the servants.

26 §3852. Special arrangements to receive deposits

27 Any keeper of an inn, hotel or boardinghouse may,
28 by special arrangement with a guest, receive for
29 deposit in the safe or vault any property upon any
30 terms that they agree to in writing.

31 §3853. Check or receipt for property delivered for
32 safekeeping

33 Every guest and every person intending to be a
34 guest of any hotel, inn or boardinghouse in this
35 State, upon delivering any baggage or other articles
36 of property of the guest to the proprietor of the
37 hotel, inn or boardinghouse or to the servants for
38 safekeeping elsewhere than in the room assigned to
39 that guest, shall demand, and the hotel or inn

1 proprietor shall give, a check or receipt for the
2 baggage or other property to evidence the fact of the
3 delivery. No proprietor is liable for the loss of or
4 injury to the baggage or other property of the guest,
5 unless the guest has actually delivered the baggage or
6 other property to the proprietor or the servants for
7 safekeeping, or unless the loss or injury occurs
8 through the negligence of the proprietor or of the
9 servants or employees in the hotel or inn.

10 §3854. Nature of liability; limit

11 The liability of the keeper of any inn, hotel or
12 boardinghouse for loss of or injury to personal
13 property placed by guests under the keeper's care,
14 other than that described in sections 3851 to 3853,
15 shall be that of a depository for hire, except that if
16 the loss or injury is caused by fire not intentionally
17 produced by the keeper or servants, the keeper is not
18 liable.

19 1. Limit on liability. In no case may liability
20 exceed the sum of \$150 for each trunk and its
21 contents; \$50 for each piece of luggage and its
22 contents; \$10 for each box, bundle or package and its
23 contents, so placed under the keeper's care; and for
24 all other miscellaneous effects, including wearing
25 apparel and personal belongings, \$50, unless the
26 keeper of the inn, hotel or boardinghouse has
27 consented in writing with the guest to assume a
28 greater liability.

29 2. Property held for person not a guest.
30 Whenever any person allows baggage or property to
31 remain in any inn, hotel or boardinghouse after
32 leaving the same as a guest and after the relation of
33 keeper and guest between the guest and the proprietor
34 of the inn, hotel or boardinghouse has ceased, or
35 forwards baggage or property to an inn, hotel or
36 boardinghouse before becoming a guest of that
37 establishment, and the baggage or property is received
38 into the inn, hotel or boardinghouse, the keeper has
39 the option of holding that baggage or property at the
40 owner's risk.

41 ARTICLE 6. LIENS

1 §3861. Lien on baggage or other property

2 The keeper of any inn, hotel or boardinghouse has
3 a lien on the baggage and other property in and about
4 the inn, hotel or boardinghouse belonging to or under
5 the control of guests or boarders, for the proper
6 charges due from those guests or boarders for the
7 accommodation, board and lodging, all money paid for
8 or advanced to them and any other extras that are
9 furnished on request. The innkeeper, hotelkeeper or
10 boardinghouse keeper may detain this baggage and other
11 property until those charges are paid. The baggage
12 and other property is exempt from attachment or
13 execution until the keeper's lien and the cost of
14 satisfying it are satisfied.

15 §3862. Enforcement of lien; notice of sale; proceeds

16 1. Sale at auction. The innkeeper, hotelkeeper
17 or boardinghouse keeper shall retain any baggage and
18 other property upon which there has been a lien for 90
19 days. At the end of the 90-day period, if the lien is
20 not satisfied, the baggage and other property may be
21 sold at public auction.

22 2. Notice required. The innkeeper, hotelkeeper
23 or boardinghouse keeper must:

24 A. Give 10 days' notice of the time and place of
25 sale in a newspaper having general circulation in
26 the county where the inn, hotel or boardinghouse
27 is located; and

28 B. Mail a copy of the notice addressed to the
29 guest or boarder at the registered place of
30 residence in the register of the inn, hotel or
31 boardinghouse.

32 3. Proceeds. After using the proceeds from the
33 sale to satisfy the lien and any costs that may
34 accrue, the keeper shall dispose of any remainder
35 according to Title 33, chapter 27.

36 ARTICLE 7. VIOLATIONS AND PENALTIES

37 §3871. Prosecutions

1 The licensing board shall prosecute for any
2 violation of sections 3811 to 3813 and 3831 to 3834
3 that comes to its knowledge, by complaint, indictment
4 or civil action. All penalties recovered shall be
5 paid to the municipality where the offense is
6 committed. Any citizen of the State may prosecute for
7 any violation of sections 3811 to 3813 and 3831 to
8 3834 in the same manner as the licensing board may
9 prosecute.

10 §3872. Record of convictions to licensing authority

11 The clerk of a court in which any person is
12 convicted of a violation of this subchapter shall
13 immediately send a copy of the record of the
14 conviction to the licensing authority in the
15 municipality where the offense occurred.

16 SUBCHAPTER IV

17 JUNK DEALERS

18 §3901. Records; definitions

19 Every dealer in junk shall keep a record of the
20 name of every person selling junk to that dealer and
21 the registration number of the motor vehicle used by
22 that seller to deliver the junk. These records shall
23 be open for the inspection of any officer of the law.
24 Whoever fails to make a record as provided by this
25 section commits a civil violation for which a fine of
26 not more than \$100 may be adjudged.

27 As used in this section, the word "junk" means old
28 iron, chains, brass, copper, tin, lead or other base
29 metals, old rope, old bags, rags, waste paper, paper
30 clippings, scraps of woolens, clips, bagging, rubber
31 and glass, and empty bottles of different kinds when
32 less than one gross, and all articles discarded or no
33 longer used as a manufactured article composed of any
34 one or more of the materials mentioned.

35 SUBCHAPTER V

36 LUNCH WAGONS

1 §3931. License; revocation; objections

2 1. Issuance of licenses. The municipal officers
3 of any municipality may license any reputable person
4 to maintain a vehicle for the sale of food in such
5 part of any public way and during such hours as the
6 licensing authority designates.

7 2. Conditions. No other license may be required
8 to operate a lunch wagon. The municipal officers may
9 set a license fee which must be paid annually before
10 the license is issued. A license may not be issued if
11 the lunch wagon will inconvenience public travel.

12 3. Revocation. For reasonable cause, the
13 licensing authority may revoke any license issued
14 under this section as provided in section 3814.

15 SUBCHAPTER VI

16 PAWNBROKERS

17 §3961: License

18 The municipal officers of any municipality may
19 grant licenses to persons of good moral character to
20 be pawnbrokers in the municipality for one year,
21 unless sooner revoked by the municipal officers for
22 violation of law. Whoever carries on such a business
23 without a license commits a civil violation for which
24 a forfeiture of not more than \$100 may be adjudged.

25 §3962. Account of business done

26 1. Account kept in book. Every pawnbroker shall
27 keep a book in which the pawnbroker shall enter:

28 A. The date, duration, amount and rate of
29 interest of every loan that is made;

30 B. An accurate account and description of the
31 property pawned; and

32 C. The name and residence of the pawner.

33 The pawnbroker shall allow the municipal officers to
34 inspect this book at all reasonable times.

1 2. Delivery to pawner. At the same time the
2 pawnbroker makes the entry required by subsection 1
3 for any transaction, the pawnbroker shall deliver to
4 the pawner a signed, written memorandum containing the
5 substance of that entry.

6 3. List filed with clerk. Before the 15th day of
7 every month, the pawnbroker shall file with the
8 municipal clerk a list of the entries required under
9 subsection 1 that were made during the preceding
10 calendar month. This list shall be available for
11 public inspection.

12 4. Violation. Any pawnbroker who violates this
13 section commits a civil violation for which a
14 forfeiture of \$20 may be adjudged for each offense.

15 §3963. Rates of interest

16 A pawnbroker may not directly or indirectly
17 receive a rate of interest greater than 25% a year on
18 a loan of \$25 or less, nor more than 6% on a larger
19 loan made upon property pawned. Any pawnbroker who
20 violates this section commits a civil violation for
21 which a forfeiture of \$100 may be adjudged for each
22 offense.

23 §3964. Time and manner of selling pawned property;
24 notice

25 A pawnbroker may not sell any property pawned
26 until it has remained in the pawnbroker's possession
27 for 3 months after the expiration of the time for
28 which it was pawned. All sales of pawned property
29 must be at public auction by a licensed auctioneer
30 after giving notice under subsection 1.

31 1. Notice of sale. Notice of the sale must be
32 given at least 2 weeks before the sale by publication
33 in a newspaper having general circulation in the
34 municipality where the property is pawned, if any,
35 and, if not, by posting a notice in 2 public places in
36 the municipality. The notice must contain:

37 A. The time and place of sale;

1 B. The name of the auctioneer; and

2 C. A description of the property to be sold.

3 2. Violation. Sales of property made in
4 violation of this section are void. Any pawnbroker
5 who violates this section commits a civil violation
6 for which a forfeiture of \$20 may be adjudged for each
7 offense.

8 §3965. Disposal of proceeds of sale

9 After deducting from the proceeds of any sale
10 under section 3964 the amount of the loan, the
11 interest then due and the proportional part of the
12 expenses of the sale, the pawnbroker shall pay the
13 balance to the person who would have been entitled to
14 redeem the property if no sale had been made. If not
15 so paid on demand, the broker forfeits double the
16 amount so retained, 1/2 to the pawner and 1/2 to the
17 State.

18 CHAPTER 185

19 REGULATION OF CONSTRUCTION AND IMPROVEMENTS

20 SUBCHAPTER I

21 REGULATION OF BUILDINGS

22 §4101. Permits for buildings

23 This subchapter applies to any municipal ordinance
24 requiring a permit in connection with:

25 1. Construction, demolition and alteration. The
26 construction, demolition, improvement or alteration of
27 any building;

28 2. Building maintenance and facilities. The
29 maintenance, repair, use, change of use, safety
30 features, light, ventilation and sanitation facilities
31 of any building;

32 3. Trailer facilities. The sanitation and
33 parking facilities for trailers;

1 4. Building equipment. The installation,
2 alteration, maintenance, repair and use of all
3 equipment in or connected to all buildings; and.

4 5. Buildings used for public assembly. The
5 operation of a building which is used occasionally or
6 regularly for public assembly.

7 A. As used in this subsection, "building used for
8 public assembly" means a room or space in or on
9 any structure which is used for the gathering of
10 100 or more persons for any purpose, and includes
11 any connecting room or space on the same level,
12 above or below, which has a common entrance.

13 §4102. Nuisance

14 Any building, structure, trailer parking facility
15 or equipment existing in violation of an ordinance
16 subject to this subchapter is a nuisance.

17 §4103. Permits

18 The provisions of this section apply to any
19 ordinance described in section 4101.

20 1. Applicability. The provisions of the
21 ordinance which pertain to buildings apply equally to
22 all structures, including wharves, piers and pilings
23 and parts of them.

24 2. Licensing authority. The building inspector
25 is the licensing authority unless otherwise provided
26 by the municipality.

27 3. Application; issuance of permit. An
28 application for a permit must be in writing and shall
29 be signed by the applicant and directed to the
30 licensing authority. The failure of the licensing
31 authority to issue a written notice of its decision,
32 directed to the applicant, within 30 days from the
33 date when the application is filed, constitutes a
34 refusal of the permit.

1 A. The licensing authority may not issue any
2 permit for a building or use for which the
3 applicant is required to obtain a license under
4 Title 38, section 413 until the applicant has
5 obtained that license.

6 B. The licensing authority may not issue any
7 permit for a building or use within a land
8 subdivision, as defined in section 4551, unless
9 that subdivision has been approved in accordance
10 with that section.

11 4. Powers and duties of enforcement officers.
12 Ordinances defining the duties of the building
13 inspector and other enforcement officers, not contrary
14 to Title 25, chapter 313, may be enacted under a
15 municipality's home rule authority. All enforcement
16 officers designated by ordinance shall be given free
17 access at reasonable hours to all parts of buildings
18 regulated by ordinance.

19 5. Appeal to municipal officers or board of
20 appeals. An appeal may be taken from any order issued
21 by the building inspector, or from the licensing
22 authority's refusal to grant a permit, to the
23 municipal officers or to a board of appeals
24 established under section 2691. If a municipality has
25 by ordinance required that all such appeals be taken
26 to a board of appeals, the procedure shall be the same
27 as in appeals directed to the municipal officers,
28 unless the municipality has provided otherwise.

29 A. On an appeal in writing to the municipal
30 officers, they shall at their next meeting affirm,
31 modify or set aside the decision of the building
32 inspector or licensing authority according to the
33 terms of the pertinent ordinance.

34 (1) The municipal officers may permit a
35 variance from the terms of an ordinance when
36 necessary to avoid undue hardship, provided
37 there is no substantial departure from the
38 intent of the ordinance.

39 (2) The municipal officers may permit an
40 exception to an ordinance only when the terms

1 of the exception have been specifically set
2 forth by the municipality.

3 B. The failure of the municipal officers to issue
4 a written notice of their decision, directed to
5 the appellant, within 30 days after the appeal is
6 filed, constitutes a denial of the appeal.

7 6. Appeal to Superior Court. A further appeal
8 may, within 30 days, be taken by any party to Superior
9 Court from any order, relief or denial in accordance
10 with the Maine Rules of Civil Procedure, Rule 80B.
11 The hearing before the Superior Court shall be a trial
12 de novo without a jury.

13 §4104. Public building violation; liability

14 1. Written order sent. The building inspector
15 shall send a written order to the owner or lessee of a
16 building used for public assembly requiring any
17 conditions which exist in violation of an ordinance to
18 be corrected within 30 days after the order is sent.

19 2. Liability. After the expiration of the 30-day
20 period, the owner or lessee is strictly liable for all
21 injury caused by failure to correct any conditions
22 cited in the order under subsection 1, and the
23 building inspector shall order the building vacated.

24 SUBCHAPTER II

25 REGULATION AND INSPECTION OF
26 ELECTRICAL INSTALLATIONS

27 ARTICLE 1. GENERAL PROVISIONS

28 §4151. Definitions

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

32 1. Electrical equipment. "Electrical equipment"
33 means all electrical conductors, fittings, devices and
34 fixtures.

1 2. Reasonably safe to persons and property.
2 "Reasonably safe to persons and property," as applied
3 to electrical installations and electrical equipment,
4 means reasonably safe to use in the service for which
5 the installation or equipment is intended without
6 unnecessary hazard to life, limb or property.

7 §4152. Applicability of provisions

8 This subchapter applies to all installations of
9 electrical equipment, made after August 6, 1949,
10 within or on public and private buildings and
11 premises, including mobile homes, with the following
12 general exceptions which apply to all of this
13 subchapter:

14 1. Under jurisdiction of certain commissions.
15 Any person under the jurisdiction of the Public
16 Utilities Commission of the State or of the Federal
17 Communications Commission;

18 2. Utility corporations. The electrical work and
19 equipment employed in connection with the
20 construction, installation, operation, repair or
21 maintenance of any utility by a utility corporation in
22 providing its authorized service, or in any way
23 incidental to providing that service;

24 3. Industrial or manufacturing plants. Any
25 electrical equipment and work, including construction,
26 installation, operation, maintenance and repair in or
27 about industrial or manufacturing plants;

28 4. Other property of industrial or manufacturing
29 plants. Any electrical equipment and work, including
30 construction, installation, operation, maintenance and
31 repair in, on or about other properties, equipment or
32 buildings, residential or of any other kind, owned or
33 controlled by the operators of industrial or
34 manufacturing plants, if the work is done under the
35 supervision of an electrical engineer employed by the
36 operator;

37 5. Mines, transportation and sound equipment.
38 The electrical work and equipment in mines, pipe line
39 systems, ships, railway rolling stock or automotive

1 equipment, or the operation of portable sound
2 equipment;

3 6. Electrical equipment in manufacturer's plant.
4 Any electrical installations or equipment involved in
5 the manufacture, test or repair of electrical
6 equipment in the manufacturer's plant; and

7 7. Certain laboratories. Installations in
8 suitable laboratories of exposed electrical wiring for
9 experimental purposes only.

10 §4153. Effect on bylaws or ordinances

11 Any bylaw or ordinance in effect in any
12 municipality on August 6, 1949 is not affected in any
13 way by this subchapter.

14 §4154. Penalties

15 Any person who violates this subchapter commits a
16 civil violation for which a forfeiture of not less
17 than \$25 nor more than \$1,000 for each offense may be
18 adjudged.

19 ARTICLE 2. STANDARDS

20 §4161. Standards; installation

21 All installations of electrical equipment must be
22 reasonably safe to persons and property and must
23 comply with the applicable laws of the State and all
24 applicable ordinances, orders and regulations of any
25 municipality, not in conflict with this subchapter.

26 Conformity of installations of electrical
27 equipment with applicable regulations set forth in the
28 National Electrical Code, National Electrical Safety
29 Code or electrical provisions of other safety codes
30 which have been approved by the American Standards
31 Association is prima facie evidence that the
32 installations are reasonably safe to persons and
33 property.

34 1. Tests of special wiring. The Commissioner of
35 Public Safety may authorize installations of special

1 wiring to obtain field experience under controlled
2 conditions in territory where electrical inspection is
3 provided.

4 §4162. Standards; equipment

5 All electrical equipment installed or used must be
6 reasonably safe to persons and property and must
7 comply with the applicable laws of the State.

8 Conformity of electrical equipment with applicable
9 standards of Underwriters' Laboratories, Inc. is prima
10 facie evidence that the equipment is reasonably safe
11 to persons and property.

12 1. Tests of special wiring. The Commissioner of
13 Public Safety may authorize installations of special
14 wiring to obtain field experience under controlled
15 conditions in territory where electrical inspection is
16 provided.

17 §4163. Standards of equipment in mobile homes

18 No person engaged in the business of selling
19 mobile homes may sell any mobile home which contains
20 electrical equipment that does not conform to the
21 standards of the National Electrical Code and of the
22 Underwriters' Laboratories, Inc.

23 ARTICLE 3. INSPECTIONS AND PERMITS

24 §4171. Local inspectors

25 A municipality may provide by resolution or
26 ordinance under its home rule authority for the
27 inspection of electrical installations within the
28 municipality and may appoint an electrical inspector
29 who shall enforce this subchapter and any applicable
30 resolution or ordinance within the inspector's
31 jurisdiction. Any municipality may join with one or
32 more other municipalities in paying for the services
33 of an electrical inspector, provided the
34 municipalities have authorized the appointment of the
35 inspector. Any ordinance or resolution must state
36 whether the electrical inspection in the municipality
37 applies to all or any of the following:

1 1. Original installations. Original
2 installations of electrical equipment;

3 2. Alterations or additions. Alteration or
4 addition to existing electrical equipment; and

5 3. Area of municipality. All the territory of
6 the municipality, or only the section or sections of
7 the municipality that are described in the ordinance
8 or resolution.

9 §4172. Inspections

10 The electrical inspectors shall examine and issue
11 certificates of acceptance of electrical installations
12 at the request or complaint of any owner, lessee,
13 tenant or municipal officer. An electrical inspector
14 may enter any building with the permission of any
15 person having control of that building or may apply to
16 a court for process to do so. If an electrical
17 inspector finds any hazardous electrical installation,
18 the inspector shall order the person having charge of
19 that installation to have it corrected immediately.
20 If that person refuses or neglects to do so, the
21 inspector may apply to an appropriate court for
22 injunctive relief.

23 §4173. Permits

24 A municipality which has provided for electrical
25 inspections under this subchapter may require that no
26 electrical equipment may be installed within or on any
27 publicly or privately owned building, structure or
28 premises, nor may any alteration or addition be made
29 in any such existing equipment without first obtaining
30 a permit for that installation or alteration from the
31 electrical inspector.

32 1. Minor repair work excluded. This section does
33 not apply to minor repair work, including, but not
34 limited to:

35 A. The replacement of fuses;

36 B. The installation of additional outlets;

1 C. The replacement of existing switches, sockets
2 and lamps;

3 D. Repairs to entrance service equipment; and

4 E. Repairs or installation of radio and low
5 voltage equipment.

6 2. Application for permit. The person performing
7 the work must apply to the electrical inspector in
8 writing for a permit. A general description of the
9 electrical work to be done must be included with the
10 application. If required by the electrical inspector,
11 the applicant must file any plans, specifications and
12 schedules that are necessary to determine whether the
13 installation, as described, will comply with this
14 subchapter.

15 3. Issuance of permit. The electrical inspector
16 shall issue the permit if the applicant has:

17 A. Complied with this subchapter; and

18 B. Paid any fee established by a municipality for
19 electrical inspections under this subchapter.

20 4. Deviation from installation described in
21 permit. No major deviation may be made from the
22 installation described in the permit without the
23 written approval of the electrical inspector.

24 5. Where permit is not required. The
25 installation or alteration of electrical equipment in
26 municipalities which do not require a permit and in
27 the unorganized territories is governed by Title 32,
28 section 1102-B.

29 §4174. Inspection and certificates of approval

30 When the installation of any electrical equipment
31 under a permit is completed, the person making the
32 installation shall notify the electrical inspector
33 having jurisdiction. The electrical inspector shall
34 inspect the work within a reasonable time.

1 1. Approval of installation. If, upon
2 inspection, the inspector finds that the installation
3 complies with this subchapter, and all applicable
4 local ordinances and regulations, the inspector shall
5 issue a certificate of approval to the person making
6 the installation.

7 2. Notice of defects. If, upon inspection, the
8 inspector finds that the installation does not comply
9 with this subchapter, and all applicable local
10 ordinances and regulations, the inspector shall
11 immediately send a written notice to the person making
12 the installation stating the defects which were found
13 to exist.

14 SUBCHAPTER III

15 REGULATION AND INSPECTION OF PLUMBING

16 ARTICLE 1. GENERAL PROVISIONS

17 §4201. Definitions

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

21 1. Commissioner. "Commissioner" means the
22 Commissioner of Human Services.

23 2. Department. "Department" means the Department
24 of Human Services.

25 3. Plumbing. "Plumbing" means the installation,
26 alteration or replacement of pipes, fixtures and other
27 apparatus for bringing in potable water, removing
28 waste water and the piping connections to heating
29 systems using water. Except for the initial connection
30 to a potable water supply and the final connection
31 that discharges indirectly into a public sewer or
32 waste water disposal system, the following are
33 excluded from this definition:

34 A. All piping, equipment or material used
35 exclusively for manufacturing or industrial
36 processes;

1 B. The installation or alteration of automatic
2 sprinkler systems used for fire protection and
3 standpipes connected to automatic sprinkler
4 systems or overhead;

5 C. Building drains outside the foundation wall or
6 structure;

7 D. The replacement of fixtures with similar
8 fixtures at the same location without any
9 alteration of pipes; or

10 E. The sealing of leaks within an existing line.

11 4. Seasonal dwelling. "Seasonal dwelling" means
12 a dwelling which was not used as a principal or
13 year-round residence during the period from 1977 to
14 1981. Evidence of use as a principal or year-round
15 residence includes, but is not limited to:

16 A. The listing of that dwelling as an occupant's
17 legal residence for the purpose of:

18 (1) Voting;

19 (2) Filing a state tax return; or

20 (3) Automobile registration; or

21 B. The occupancy of that dwelling for a period
22 exceeding 7 months in any calendar year.

23 5. Subsurface waste water disposal system.
24 "Subsurface waste water disposal system" means:

25 A. Any system for the disposal of waste or waste
26 water on or beneath the surface of the earth
27 including, but not limited to:

28 (1) Septic tanks;

29 (2) Drainage fields;

30 (3) Grandfathered cesspools;

31 (4) Holding tanks; or

1 (5) Any other fixture, mechanism or
2 apparatus used for those purposes; but

3 B. Does not include:

4 (1) Any discharge system licensed under
5 Title 38, section 414;

6 (2) Any surface waste water disposal system;
7 or

8 (3) Any municipal or quasi-municipal sewer
9 or waste water treatment system.

10 ARTICLE 2. REGULATIONS AND PERMITS

11 §4211. Plumbing regulations

12 1. Municipal ordinances. Municipalities may
13 enact ordinances under their home rule authority which
14 are more restrictive than rules governing plumbing or
15 subsurface waste water disposal systems adopted by the
16 department. The department may provide technical
17 assistance to municipalities in the development of
18 ordinances under this subchapter. The municipality
19 shall enforce any such ordinance.

20 2. State rules. No municipal ordinance may be
21 less restrictive than the rules of the department
22 relating to plumbing or subsurface waste water
23 disposal systems as adopted under Title 22, section
24 42. The department shall establish minimum permit
25 fees by rule. The rules of the department relating to
26 all plumbing or subsurface waste water disposal
27 systems have full force and effect, provided that, to
28 the extent that a municipality has enacted more
29 restrictive ordinances, the provisions of those
30 ordinances prevail.

31 3. Subsurface waste water disposal system. No
32 person may erect a structure that requires a
33 subsurface waste water disposal system until
34 documentation has been provided to the municipal
35 officers that the disposal system can be constructed
36 in compliance with rules adopted under Title 22,

1 section 42, and this section.

2 A. For the purposes of this section, "expansion"
3 means the enlargement or change in use of a
4 structure using an existing subsurface waste water
5 disposal system that brings the total structure
6 into a classification that requires larger
7 subsurface waste water disposal system components
8 under rules adopted pursuant to Title 22, section
9 42, and this section.

10 B. No person may expand a structure using a
11 subsurface waste water disposal system until
12 documentation is provided to the municipal
13 officers and has a notice of the documentation
14 recorded in the appropriate registry of deeds
15 that, in the event of a future malfunction of the
16 system, the disposal system can be replaced and
17 enlarged to comply with the rules adopted under
18 Title 22, section 42, and any municipal ordinances
19 governing subsurface waste water disposal
20 systems. No requirement of these rules and
21 ordinances may be waived for an expanded structure.

22 (1) The department shall prescribe the form
23 of the notice to be recorded in the registry
24 of deeds. The notice shall include a site
25 plan showing:

26 (a) The exact location of the
27 replacement system;

28 (b) The approximate location of lot
29 lines; and

30 (c) The exact location of existing
31 wells serving the lot on which the
32 replacement system will be located and
33 those located on abutting lots.

34 (2) The person seeking to expand a structure
35 shall send copies of the notice by certified
36 mail, return receipt requested, to all owners
37 of abutting lots.

38 (3) After the notice required by this

1 paragraph is recorded, no abutting landowner
2 may install a well on that landowner's
3 property in a location which would prevent
4 the installation of the replacement septic
5 system. The owner of the lot on which the
6 replacement system will be installed may not
7 erect any structure on the proposed site of
8 the replacement system or conduct any other
9 activity which would prevent the use of the
10 designated site for the replacement system.

11 4. Enforcement and penalty. Any person who
12 violates this section shall be penalized in accordance
13 with section 4506. The municipality or the department
14 may seek to enjoin violations of this section.

15 §4212. Department of Human Services; responsibilities

16 1. Administration of rules. The department is
17 responsible for ensuring the proper administration of
18 the plumbing and subsurface waste water disposal rules
19 by municipalities. The department shall assist
20 municipalities in complying with this subchapter and
21 with section 3428.

22 2. Review. The department shall review the
23 administration of plumbing and subsurface waste water
24 disposal rules and laws in each municipality for
25 compliance with this subchapter and with section
26 3428. This review shall be made on a regular basis
27 and may be made in response to a written complaint
28 from any person as necessary. The department shall
29 inspect the municipality's records and discuss the
30 administration of the program with the local plumbing
31 inspector. The local plumbing inspector shall be
32 available during the department's review and shall
33 cooperate in providing all necessary information. The
34 department shall report the results of its review in
35 writing to the municipality and, when applicable, to
36 the complainant. The written notice shall set forth
37 the department's findings of whether the municipality
38 is in compliance with this subchapter and section 3428.

39 3. Violation; penalty. If after review the
40 department finds any violation of this subchapter or
41 section 3428, it shall notify the municipality that it

1 has 30 days in which to take enforcement action and
2 specify what action must be taken in order to achieve
3 compliance. The municipality shall file a plan
4 acceptable to the department setting forth how it will
5 attain compliance. The department shall notify the
6 municipality that it will review the municipality for
7 compliance within 60 days of accepting the plan and
8 shall conduct that review. Any municipality which
9 fails to file an acceptable plan with the department
10 or which remains in violation at the expiration of the
11 60-day period is subject to a civil penalty of at
12 least \$500. The department shall enforce this section
13 in any court of competent jurisdiction. Every 30-day
14 period that a municipality remains in violation after
15 review and notification constitutes a separate offense.

16 §4213. Right of entry on inspection

17 The department and any duly designated
18 representative or employee of the department,
19 including the local plumbing inspector, may enter any
20 property at reasonable hours, enter any building with
21 the consent of the property owner, occupant or agent,
22 inspect the property or structure for compliance with
23 the applicable rules or investigate alleged conditions
24 which do not comply with the rules. Upon the request
25 of the occupant of the premises, the department's
26 representative or the local plumbing inspector shall
27 present proper credentials before entering the
28 premises.

29 If entry is denied, entry shall not be attempted
30 until after obtaining an order of the court.

31 §4214. Legislative intent

32 It is the intent of the Legislature that local
33 jurisdictions have primary responsibility for
34 enforcing rules adopted by the department governing
35 the installation and inspection of plumbing and
36 subsurface waste water disposal systems. The adoption
37 of rules by the department does not deny municipal
38 authority under section 3001 to adopt more restrictive
39 ordinances.

40 §4215. Permits

1 1. Permit required. A permit is required for the
2 following activities and is valid for work commenced
3 within 24 months after the permit is issued:

4 A. The installation of plumbing into a building;

5 B. The installation of a subsurface waste water
6 disposal system or components; or

7 C. The conversion of a seasonal dwelling as
8 provided in subsection 2. This paragraph may not
9 be construed to require a permit for any dwelling
10 which:

11 (1) Will be occupied seasonally;

12 (2) Is not the principal dwelling place of
13 the occupant; or

14 (3) Has the disposal system located outside
15 the shoreland zoned area.

16 2. Permit for seasonal conversion. Before
17 converting a seasonal dwelling which is located in the
18 shoreland zoning area, as defined in Title 38, section
19 435, to a year-round or principal dwelling, a
20 conversion permit must be obtained from the local
21 plumbing inspector. The inspector shall issue a
22 permit for conversion of a seasonal dwelling to a
23 year-round or principal dwelling if one of the
24 following conditions is met:

25 A. A subsurface water disposal application,
26 completed after July 1, 1974, exists indicating
27 that the dwelling's waste water disposal system
28 substantially complies with departmental rules and
29 applicable municipal ordinances, provided that the
30 disposal system was installed with the required
31 permit and certificate of approval;

32 B. A replacement for an existing waste water
33 disposal system has been constructed so that it
34 substantially complies with departmental rules and
35 applicable municipal ordinances;

1 C. The dwelling unit's waste water is connected
2 to an approved sanitary sewer system; or

3 D. A variance has been granted under this
4 paragraph. The owner of a seasonal dwelling, upon
5 application, shall be granted a variance from the
6 requirements of this subsection if, based upon the
7 site evaluation, the plumbing inspector finds that
8 in the event of a malfunction of the existing
9 system a replacement subsurface waste water system
10 can be installed which will be in substantial
11 compliance with departmental rules and applicable
12 municipal ordinances and that the new system will
13 not be likely to endanger the quality of the
14 adjacent water bodies or of adjacent private water
15 supplies.

16 (1) The applicant for a variance shall have
17 a notice documenting the finding of the
18 plumbing inspector recorded in the
19 appropriate registry of deeds and shall send
20 a copy of that notice by certified mail,
21 return receipt requested, to each owner of an
22 abutting lot. The department shall prescribe
23 the form of the notice to be used. The
24 notice shall include a site plan showing:

25 (a) The exact location of the
26 replacement system;

27 (b) The approximate location of lot
28 lines; and

29 (c) The exact location of existing
30 wells serving the lot on which the
31 replacement system will be located and
32 those located on abutting lots.

33 (2) After the notice required by
34 subparagraph (1) is recorded, an abutting
35 landowner may not install a well on property
36 in a location which would prevent the
37 installation of the replacement septic
38 system. The owner of the lot on which the
39 replacement system would be installed may not
40 erect any structure on the proposed site of

1 the replacement system or conduct any other
2 activity which would prevent the use of the
3 designated site for the replacement system.

4 (3) In the event of a malfunction of a
5 system for which a variance has been granted,
6 the owner of the converted seasonal dwelling
7 shall obtain a permit and repair or replace
8 the existing subsurface disposal system to
9 bring the system into substantial compliance
10 with departmental rules and applicable
11 municipal ordinances and ensure that the
12 system will not endanger the quality of
13 adjacent water bodies or adjacent private
14 water supplies. No variance for a new,
15 expanded or replacement subsurface disposal
16 system may be approved within the shoreland
17 zoning area which is less restrictive than
18 the requirements of this paragraph or rules
19 adopted to carry out this paragraph. A
20 seasonal conversion permit shall not be
21 approved if a holding tank is used as a means
22 of waste water disposal or storage.

23 3. Penalties. Any person who installs or orders
24 the installation of any plumbing or subsurface waste
25 water disposal system without the permit required by
26 this section or who otherwise violates this section
27 shall be penalized in accordance with section 4506.
28 The municipality or the department may seek to enjoin
29 violations of this section.

30 4. Fees. The plumbing inspector shall issue any
31 permit under this section upon receipt and approval of
32 a completed application form as prescribed by the
33 commissioner and payment by the applicant of the fee
34 established by the municipality. The fee must be at
35 least the minimum amount determined by rule of the
36 department. One-quarter of the amount of the minimum
37 fee shall be paid through the department to the
38 Treasurer of State to be maintained as a permanent
39 fund and used by the department to implement its
40 plumbing and subsurface waste water disposal rules and
41 to train and certify local plumbing inspectors. The
42 remainder of the fee shall be paid to the treasurer of
43 the municipality.

1 §4216. Transfers of shoreland property

2 Any person transferring property on which a
3 subsurface waste water disposal system is located
4 within a shoreland area, as defined in Title 38,
5 section 435, shall provide the transferee with a sworn
6 statement at the time of transfer certifying with any
7 necessary written documentation that:

8 1. Inspection. The disposal system has been
9 inspected within the preceding 180 days by a person
10 licensed pursuant to Title 22, section 42, and not
11 found to be malfunctioning; and

12 2. Showings. At least one of the following
13 conditions has been met:

14 A. The disposal system has received a permit and
15 certificate of approval from an individual
16 licensed pursuant to section 4221;

17 B. The subsurface waste water disposal system has
18 been replaced by a connection to an approved
19 sanitary sewer; or

20 C. The transferor provides documentation of an
21 application and any necessary departmental
22 approval as specified in the Maine State Plumbing
23 Code that, in the event of a future malfunction of
24 the existing system, a replacement subsurface
25 waste water disposal system can be installed to
26 serve the existing level of use.

27 ARTICLE 3. LOCAL PLUMBING INSPECTORS

28 §4221. Plumbing inspectors

29 1. Appointment, compensation, removal. In every
30 municipality, the municipal officers shall appoint one
31 or more inspectors of plumbing, who need not be
32 residents of the municipality for which they are
33 appointed. Plumbing inspectors shall be appointed
34 under section 2526, subsection 9 for a term of one
35 year. An individual properly appointed as plumbing
36 inspector and satisfactorily performing the duties may

1 continue in that capacity after the term has expired
2 until replaced. The municipal officers shall notify
3 the department of the appointment of a plumbing
4 inspector in writing within 30 days of the appointment.

5 Compensation of plumbing inspectors shall be
6 determined by the municipal officers and shall be paid
7 by the respective municipalities.

8 The municipal officers may remove a plumbing inspector
9 for cause, after notice and hearing.

10 2. Certification requirements. A person may not
11 hold the office of plumbing inspector unless currently
12 certified as qualified by the commissioner. The
13 commissioner shall establish the certification
14 standards for plumbing inspectors. Certification is
15 effective for a period of 3 years unless sooner
16 revoked or suspended by the Administrative Court upon
17 complaint by the commissioner on grounds of fraud,
18 negligence, misconduct or incompetence in the
19 performance of duties. The commissioner may grant
20 temporary certification for a period not to exceed 6
21 months.

22 A. The commissioner shall also establish
23 certification standards and a program to certify
24 familiarity with court procedures for:

25 (1) Plumbing inspectors appointed under this
26 section;

27 (2) Code enforcement officers, as set forth
28 in section 4506 and in Title 38, section 441;
29 and

30 (3) Department of Environmental Protection
31 employees, as set forth in Title 38, section
32 342, subsection 7.

33 Certification under this paragraph is effective
34 for a period of 3 years unless sooner revoked or
35 suspended by the Administrative Court upon
36 complaint by the commissioner on grounds of fraud,
37 negligence, misconduct or incompetence in the
38 performance of duties. After being certified by

1 the commissioner under this paragraph, a plumbing
2 inspector may serve civil process on persons who
3 violate the plumbing and subsurface waste water
4 disposal rules of the department. The municipal
5 officers may also authorize the inspector to
6 represent the municipality in District Court under
7 section 4506.

8 3. Duties. Plumbing inspectors shall:

9 A. Inspect all plumbing for which permits are
10 granted, within their respective municipalities,
11 to ensure compliance with state rules and
12 municipal ordinances and investigate all
13 construction or work covered by those rules and
14 ordinances;

15 B. Condemn and reject all work done or being done
16 or material used or being used which does not
17 comply with state rules and municipal ordinances,
18 and order changes necessary to obtain compliance;

19 C. Issue a certificate of approval for any work
20 that the inspector has approved;

21 D. Keep an accurate account of all fees collected
22 and transfer those fees to the municipal treasurer;

23 E. Keep a complete record of all essential
24 transactions of the office;

25 F. Perform other duties as provided by municipal
26 ordinance; and

27 G. Investigate complaints of alleged violations
28 relating to plumbing or subsurface waste water
29 disposal and take appropriate action as specified
30 by the department by rule in the State of Maine
31 Enforcement Manual, Procedures for Correcting
32 Violations to the Subsurface Waste Water Disposal
33 and Plumbing Rules.

34 \$4222. Approving own work forbidden

35 No inspector of plumbing may inspect or approve
36 any plumbing work, site evaluation or installation of

1 a subsurface disposal system, done by that inspector,
2 or by any person by whom the inspector is employed, or
3 who is employed by or with the inspector.

4 §4223. Annual reports

5 Inspectors of plumbing shall annually, before
6 February 1st, make a full report in detail to their
7 respective municipalities and to the department of all
8 their proceedings during the previous calendar year
9 under this subchapter.

10 SUBPART 7

11 PLANNING AND ZONING

12 CHAPTER 191

13 PLANNING AND ZONING

14 SUBCHAPTER I

15 GENERAL PROVISIONS

16 §4501. Definitions

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

20 1. Conditional zoning. "Conditional zoning"
21 means the process by which the municipal legislative
22 body may rezone property to permit the use of that
23 property subject to conditions not generally
24 applicable to other properties similarly zoned.

25 2. Contract zoning. "Contract zoning" means the
26 process by which the property owner, in consideration
27 of the rezoning of that owner's property, agrees to
28 the imposition of certain conditions or restrictions
29 not imposed on other similarly zoned properties.

30 3. Municipal reviewing authority. The "municipal
31 reviewing authority" means the municipal planning
32 board, agency or office or, if none, the municipal
33 officers.

1 4. Zoning. "Zoning" means the division of a
2 municipality into districts and the prescription and
3 reasonable application of different regulations in
4 each district.

5 §4502. Comprehensive plan

6 1. Definitions. As used in this chapter, unless
7 the context otherwise indicates, the following terms
8 have the following meanings.

9 A. "Comprehensive plan" means a compilation of
10 policy statements, goals, standards, maps and
11 pertinent data concerning the past, present and
12 future trends of the municipality with respect to
13 its population, housing, economics, social
14 patterns, land use, water resources and their use,
15 transportation facilities and public facilities
16 prepared by the municipal planning board, agency
17 or office.

18 (1) The comprehensive plan, being as much a
19 process as a document capable of
20 distribution, may at successive stages
21 consist of:

22 (a) Data collected;

23 (b) Preliminary plans;

24 (c) Alternative action proposals; and

25 (d) A comprehensive plan to be adopted.

26 (2) In its final stages, it may consist of a
27 series of subsidiary but interrelated plans,
28 such as, but not limited to:

29 (a) A water and sewerage system plan;

30 (b) A land use plan;

31 (c) A shoreland management plan that
32 considers functionally water-dependent
33 uses and public access to and use of the
34 shoreline;

1 (d) A community facilities plan;

2 (e) A transportation plan;

3 (f) An urban renewal or rehabilitation
4 plan;

5 (g) An air or water pollution control
6 plan; and

7 (h) A park and open space plan.

8 (3) The comprehensive plan shall include
9 recommendations for plan execution and
10 implementation, such as, but not limited to:

11 (a) A capital improvements program;

12 (b) Renewal and rehabilitation programs;

13 (c) Land use control ordinances; and

14 (d) Building, safety and housing codes.

15 (4) The comprehensive plan shall include
16 mechanisms which will ensure:

17 (a) Continual data collection;

18 (b) Reevaluation in light of new
19 alternatives; and

20 (c) Revision.

21 (5) The comprehensive plan may include
22 planning techniques, such as, but not limited
23 to:

24 (a) Planned unit development;

25 (b) Site plan approval;

26 (c) Open space zoning;

27 (d) Clustered development;

1 (e) Conditional zoning;

2 (f) Contract zoning; and

3 (g) Zoning to protect access to direct
4 sunlight for solar energy use.

5 B. "Functionally water-dependent uses" means
6 those uses that require, for their primary
7 purpose, location on submerged lands or that
8 require direct access to, or location in, coastal
9 waters and which cannot be located away from these
10 waters. These uses include, but are not limited
11 to:

12 (1) Commercial and recreational fishing and
13 boating facilities;

14 (2) Finfish and shellfish processing,
15 storage and retail and wholesale marketing
16 facilities;

17 (3) Dock and port facilities;

18 (4) Shipyards and boat building facilities;

19 (5) Marinas, navigation aids, basins and
20 channels;

21 (6) Industrial uses dependent upon
22 water-borne transportation or requiring large
23 volumes of cooling or processing water that
24 cannot reasonably be located or operated at
25 an inland site; and

26 (7) Uses which primarily provide general
27 public access to marine or tidal waters.

28 2. Public participation. The public shall be
29 given an adequate opportunity to be heard in the
30 preparation of a comprehensive plan.

31 §4503. Zoning ordinances

32 Any zoning ordinance adopted under a

1 municipality's home rule authority is subject to the
2 following provisions.

3 1. Public participation required. The public
4 shall be given an adequate opportunity to be heard in
5 the preparation of any zoning ordinance.

6 2. Relation to comprehensive plan. A zoning
7 ordinance must be pursuant to and consistent with a
8 comprehensive plan adopted by the municipal
9 legislative body.

10 3. Zoning map required. A zoning map describing
11 each zone established or modified must be adopted as
12 part of the zoning ordinance or incorporated in the
13 ordinance. Any conflict between the zoning map and a
14 description by metes and bounds shall be resolved in
15 favor of the description by metes and bounds.

16 4. Exemption for public service corporations.
17 Real estate used or to be used by a public service
18 corporation shall be wholly or partially exempted from
19 an ordinance only when on petition, notice and public
20 hearing the Public Utilities Commission has determined
21 that the exemption is reasonably necessary for public
22 welfare and convenience.

23 5. Effect on local governments. County and
24 municipal governments and districts are subject to the
25 provisions of any zoning ordinance.

26 6. Effect on State. Any zoning ordinance is
27 advisory with respect to the State.

28 7. Violation declared nuisance. Any property or
29 use existing in violation of any zoning ordinance is a
30 nuisance.

31 8. Petition for rezoning; bond. Any zoning
32 ordinance may provide that, when a person petitions
33 for rezoning of an area for the purpose of development
34 in accordance with an architect's plan, the area shall
35 not be rezoned unless the petitioner posts a
36 performance bond equal to at least 25% of the
37 estimated cost of the development. The bond shall
38 become payable to the municipality if the petitioner

1 fails to begin construction in a substantial manner
2 and in accordance with the plan within one year of the
3 effective date of the rezoning.

4 9. Conditional and contract zoning. Any zoning
5 ordinance may include provisions for conditional or
6 contract zoning. All rezoning under this subsection
7 must:

8 A. Be consistent with the municipal comprehensive
9 plan;

10 B. Establish rezoned areas which are consistent
11 with the existing and permitted uses within the
12 original zones; and

13 C. Only include conditions and restrictions which
14 relate to the physical development or operation of
15 the property.

16 The municipal reviewing authority shall conduct a
17 public hearing before any property is rezoned under
18 this subsection. Notice of this hearing shall be
19 posted in the municipal office at least 14 days before
20 the public hearing. Notice shall also be published in
21 a newspaper having general circulation in the
22 municipality at least 2 times; the date of the first
23 publication must be at least 7 days before the
24 hearing. Notice shall also be sent to the owners of
25 all property abutting the property to be rezoned at
26 their last known address. This notice shall contain a
27 copy of the proposed conditions and restrictions with
28 a map indicating the property to be rezoned.

29 §4504. Zoning adjustment

30 1. Establishment. A board of appeals is
31 established in any municipality which adopts a zoning
32 ordinance. The board of appeals shall hear appeals
33 from actions or failure to act of the official or
34 board responsible for enforcing the zoning ordinance,
35 unless only a direct appeal to Superior Court has been
36 provided by municipal ordinance. The board of appeals
37 is governed by section 2691, except that section 2691,
38 subsection 2 does not apply to boards existing on
39 September 23, 1971.

- 1 2. Powers. In deciding any appeal, the board may:
- 2 A. Interpret the provisions of the ordinance
3 which are called into question;
- 4 B. Approve the issuance of a special exception
5 permit or conditional use permit in strict
6 compliance with the ordinance; and provided that,
7 if the municipality has authorized the planning
8 board, agency or office to issue these permits, an
9 appeal from the granting or denial of such a
10 permit may be taken directly to Superior Court if
11 required by local ordinance; and
- 12 C. Grant a variance in strict compliance with
13 subsection 3.
- 14 3. Variance. The board may grant a variance only
15 where strict application of the ordinance to the
16 petitioner and the petitioner's property would cause
17 undue hardship. The term "undue hardship" as used in
18 this subsection means:
- 19 A. The land in question cannot yield a reasonable
20 return unless a variance is granted;
- 21 B. The need for a variance is due to the unique
22 circumstances of the property and not to the
23 general conditions in the neighborhood;
- 24 C. The granting of a variance will not alter the
25 essential character of the locality; and
- 26 D. The hardship is not the result of action taken
27 by the applicant or a prior owner.
- 28 Under its home rule authority, a municipality may, in
29 a zoning ordinance, adopt additional limitations on
30 the granting of a variance, including, but not limited
31 to, a provision that a variance may only be granted
32 for a use permitted in a particular zone.
- 33 4. Parties. The board shall reasonably notify
34 the petitioner, the planning board, agency or office
35 and the municipal officers of any hearing. These

1. persons shall be made parties to the action. All
2 interested persons shall be given a reasonable
3 opportunity to have their views expressed at any
4 hearing.

5 §4505. Savings provisions

6 Any planning board or district established and any
7 ordinance, comprehensive plan or map adopted under a
8 prior and repealed law shall remain in effect until
9 abolished, amended or repealed. Any property or use
10 existing in violation of such an ordinance is a
11 nuisance. Planning boards established under repealed
12 Title 30, section 4952, subsection 1, shall continue
13 to be governed by those provisions until they are
14 superseded by municipal charter or ordinance. Unless
15 a municipal charter otherwise provides, the municipal
16 officers may pay board members a set amount, not to
17 exceed \$10, for each meeting attended.

18 §4506. Enforcement of land use laws and ordinances

19 1. Enforcement. A municipal official, such as a
20 municipal code enforcement officer, local plumbing
21 inspector or building inspector, who is designated by
22 ordinance or law with the responsibility to enforce a
23 particular law or ordinance set forth in subsection 5,
24 may:

25 A. With the consent of the property owner,
26 occupant or agent, enter any property or building
27 at reasonable hours to inspect the property or
28 structure for compliance with the laws or
29 ordinances set forth in subsection 5;

30 B. Issue a summons to any person who violates a
31 law or ordinance which the official is empowered
32 to enforce; and

33 C. When specifically authorized by the municipal
34 officers, represent the municipality in District
35 Court in the prosecution of alleged violations of
36 ordinances or laws which the official is empowered
37 to enforce.

38 2. Liability for violations. Any person,

1 including, but not limited to, a landowner, the
2 landowner's agent or a contractor who violates any of
3 the laws or ordinances set forth in subsection 5 is
4 liable for the penalties set forth in subsection 3.

5 3. Civil penalties. The following provisions
6 apply to violations of the laws and ordinances set
7 forth in subsection 5. All monetary penalties are
8 civil penalties.

9 A. The minimum penalty for starting construction
10 or undertaking a land use activity without a
11 required permit is \$100, and the maximum penalty
12 is \$2,500.

13 B. The minimum penalty for a specific violation
14 is \$100, and the maximum penalty is \$2,500.

15 C. The violator may be ordered to correct or
16 abate the violations. Where the court finds that
17 the violation was willful, the violator shall be
18 ordered to correct or abate the violation unless
19 the abatement or correction will:

20 (1) Result in a threat or hazard to public
21 health or safety;

22 (2) Result in substantial environmental
23 damage; or

24 (3) Result in a substantial injustice.

25 D. If the municipality is the prevailing party,
26 it shall be awarded reasonable attorney fees,
27 expert witness fees and costs, unless the court
28 finds that special circumstances make the award of
29 these fees and costs unjust. If the defendant is
30 the prevailing party, the defendant may be awarded
31 reasonable attorney fees, expert witness fees and
32 costs as provided by court rule.

33 E. In setting a penalty, the court shall
34 consider, but is not limited to, the following:

35 (1) Prior violations by the same party;

1 (2) The degree of environmental damage that
2 cannot be abated or corrected;

3 (3) The extent to which the violation
4 continued following a municipal order to
5 stop; and

6 (4) The extent to which the municipality
7 contributed to the violation by providing the
8 violator with incorrect information or by
9 failing to take timely action.

10 F. The maximum penalty may exceed \$2,500, but may
11 not exceed \$25,000, when it is shown that there
12 has been a previous conviction of the same party
13 within the past 2 years for a violation of the
14 same law or ordinance.

15 G. The penalties for violations of waste
16 discharge licenses issued by the municipality
17 pursuant to Title 38, section 413, subsection 8,
18 is as prescribed in Title 38, section 349.

19 4. Proceedings brought for benefit of
20 municipality. All proceedings arising under locally
21 administered laws and ordinances shall be brought in
22 the name of the municipality. All fines resulting
23 from those proceedings shall be paid to the
24 municipality.

25 5. Application. The provisions of this section
26 apply to enforcement of land use laws and ordinances
27 or rules which are administered and enforced primarily
28 at the local level, including:

29 A. The plumbing and subsurface waste water
30 disposal rules adopted by the Department of Human
31 Services pursuant to Title 22, section 42,
32 including the land area of the State which is
33 subject to the jurisdiction of the Maine Land Use
34 Regulation Commission;

35 B. Laws pertaining to public water supplies,
36 Title 22, sections 2642, 2647 and 2648;

37 C. Local ordinances adopted pursuant to Title 22,
38 section 2642;

- 1 D. Laws administered by local health officers
2 pursuant to Title 22, chapters 153 and 263;
- 3 E. Laws pertaining to fire prevention and
4 protection, which require enforcement by local
5 officers pursuant to Title 25, chapter 313;
- 6 F. Laws pertaining to the construction of public
7 buildings for the physically disabled pursuant to
8 Title 25, chapter 331;
- 9 G. Local land use ordinances adopted pursuant to
10 section 3001;
- 11 H. Local building codes adopted pursuant to
12 sections 3001 and 3007;
- 13 I. Local housing codes adopted pursuant to
14 sections 3001 and 3007;
- 15 J. Local ordinances regarding automobile
16 junkyards pursuant to chapter 183, subchapter I;
- 17 K. Local ordinances regarding electrical
18 installations pursuant to chapter 185, subchapter
19 II;
- 20 L. Local ordinances regarding regulation and
21 inspection of plumbing pursuant to chapter 185,
22 subchapter III;
- 23 M. Local ordinances regarding malfunctioning
24 subsurface waste water disposal systems pursuant
25 to section 3428;
- 26 N. The subdivision law and local subdivision
27 ordinances adopted pursuant to section 3001 and
28 subdivision regulations adopted pursuant to
29 section 4551;
- 30 O. Local zoning ordinances adopted pursuant to
31 section 3001 and in accordance with section 4503;
- 32 P. Waste water discharge licenses issued pursuant
33 to Title 38, section 413, subsection 8; and

1 Q. Shoreland zoning ordinances adopted pursuant
2 to Title 38, sections 435 to 447, including those
3 which were state-imposed.

4 SUBCHAPTER II

5 SPECIFIC SUBJECTS OF REGULATION

6 §4551. Land subdivisions

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

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

14 B. "Principal structure" means any building other
15 than one which is used for purposes wholly
16 incidental or accessory to the use of another
17 building on the same premises.

18 C. "Subdivision" means the division of a tract or
19 parcel of land into 3 or more lots of less than 40
20 acres each within any 5-year period that begins
21 after September 22, 1971. This definition applies
22 whether the division is accomplished by sale,
23 lease, development, buildings or otherwise, except
24 that a division accomplished by devise,
25 condemnation, order of court, gift to a person
26 related to the donor by blood, marriage or
27 adoption, unless the intent of that gift is to
28 avoid the objectives of this section, or a
29 division accomplished by the transfer of any
30 interest in land to the owner of abutting land,
31 does not create a lot or lots for the purposes of
32 this definition. The division of a tract or
33 parcel into 3 or more lots and upon all of which
34 lots permanent dwelling structures legally existed
35 before September 23, 1971 is not a subdivision.

36 (1) In determining whether a tract or parcel
37 of land is divided into 3 or more lots, the

1 first dividing of the tract or parcel is
2 considered to create the first 2 lots and the
3 next dividing of either of these first 2
4 lots, by whomever accomplished, is considered
5 to create a 3rd lot, unless:

6 (a) Both dividings are accomplished by
7 a subdivider who has retained one of the
8 lots for the subdivider's own use as a
9 single family residence for a period of
10 at least 5 years before the 2nd dividing
11 occurs; or

12 (b) The division of the tract or parcel
13 is otherwise exempt under this section.

14 (2) Except where there are lots of 40 or
15 more acres which are located wholly or partly
16 within any shoreland zone, in which case
17 municipal review may be required by the
18 municipality, provided that the average lot
19 depth to shore frontage ratio is greater than
20 5 to one.

21 D. "Tract or parcel of land" means all contiguous
22 land in the same ownership, provided that lands
23 located on opposite sides of a public or private
24 road are considered each a separate tract or
25 parcel of land unless the road was established by
26 the owner of land on both sides of the road.

27 E. In accordance with Title 12, section 402,
28 outstanding river segments include:

29 (1) The Aroostook River from the Canadian
30 border to the Masardis and T.10, R.6,
31 W.E.L.S. town line, excluding the segment in
32 T.9, R.5, W.E.L.S.;

33 (2) The Carrabassett River from the Kennebec
34 River to the Carrabassett Valley and Mt.
35 Abram Township town line;

36 (3) The Crooked River from its inlet into
37 Sebago Lake to the Waterford and Albany
38 Township town line;

1 (4) The Damariscotta River from the Route 1
2 bridge in Damariscotta to the dam at
3 Damariscotta Mills;

4 (5) The Dennys River from the Route 1 bridge
5 to the outlet of Meddybemps Lake, excluding
6 the western shore in Edmunds Township and No.
7 14 Plantation;

8 (6) The East Machias River, including the
9 Maine River, from 1/4 of a mile above the
10 Route 1 bridge to the East Machias and T.18,
11 E.D., B.P.P. town line, from the T.19, E.D.,
12 B.P.P. and Wesley town line to the outlet of
13 Crawford Lake, and from the No. 21 Plantation
14 and Alexander town line to the outlet of
15 Pocomoonshine Lake, excluding Hadley Lake,
16 Lower Mud Pond and Upper Mud Pond;

17 (7) The Fish River from the bridge at Fort
18 Kent Mills to the Fort Kent and Wallagrass
19 Plantation town line, from the T.16, R.6,
20 W.E.L.S. and Eagle Lake town line to the
21 Eagle Lake and Winterville Plantation town
22 line, and from the T.14, R.6, W.E.L.S. and
23 Portage Lake town line to the Portage Lake
24 and T.13, R.7, W.E.L.S. town line, excluding
25 Portage Lake;

26 (8) The Kennebago River from its inlet into
27 Cupsuptic Lake to the Rangeley and Lower
28 Cupsuptic Township town line;

29 (9) The Kennebec River from Thorns Head
30 Narrows in North Bath to the Edwards Dam in
31 Augusta, excluding Perkins Township, and from
32 the Route 148 bridge in Madison to the
33 Caratunk and The Forks Plantation town line,
34 excluding the western shore in Concord
35 Township, Pleasant Ridge Plantation and
36 Carrying Place Township and excluding Wyman
37 Lake;

38 (10) The Machias River from the Route 1
39 bridge to the Northfield and T.19, M.D.,
40 B.P.P. town line;

- 1 (11) The Mattawamkeag River from the
2 Penobscot River to the Mattawamkeag and
3 Kingman Township town line, and from the Reed
4 Plantation and Bancroft town line to the East
5 Branch in Haynesville;
- 6 (12) The Narraguagus River from the ice dam
7 above the railroad bridge in Cherryfield to
8 the Beddington and Devereaux Township town
9 lines, excluding Beddington Lake;
- 10 (13) The Penobscot River, including the
11 Eastern Channel, from Sandy Point in Stockton
12 Springs to the Veazie Dam and its tributary
13 the East Branch of the Penobscot from the
14 Penobscot River to the East Millinocket and
15 Grindstone Township town line;
- 16 (14) The Piscataquis River from the
17 Penobscot River to the Monson and Blanchard
18 Plantation town line;
- 19 (15) The Pleasant River from the bridge in
20 Addison to the Columbia and T.18, M.D.,
21 B.P.P. town line, and from the T.24, M.D.,
22 B.P.P. and Beddington town line to the outlet
23 of Pleasant River Lake;
- 24 (16) The Rapid River from the Magalloway
25 Plantation and Upton town line to the outlet
26 of Pond in the River;
- 27 (17) The Saco River from the Little Ossipee
28 River to the New Hampshire border;
- 29 (18) The St. Croix River from the Route 1
30 bridge in Calais to the Calais and Baring
31 Plantation town line, from the Baring
32 Plantation and Baileyville town line to the
33 Baileyville and Fowler Township town line,
34 and from the Lambert Lake Township and
35 Vanceboro town line to the outlet of Spednik
36 Lake, excluding Woodland Lake and Grand Falls
37 Flowage;

1 (19) The St. George River from the Route 1
2 bridge in Thomaston to the outlet of Lake St.
3 George in Liberty, excluding White Oak Pond,
4 Seven Tree Pond, Round Pond, Sennebec Pond,
5 Trues Pond, Stevens Pond and Little Pond;

6 (20) The St. John River from the Van Buren
7 and Hamlin Plantation town line to the Fort
8 Kent and St. John Plantation town line, and
9 from the St. John Plantation and St. Francis
10 town line to the Allagash and St. Francis
11 town line;

12 (21) The Sandy River from the Kennebec River
13 to the Madrid and Township E town line;

14 (22) The Sheepscot River from the railroad
15 bridge in Wiscasset to the Halldale Road in
16 Montville, excluding Long Pond and Sheepscot
17 Pond, including its tributary the West Branch
18 of the Sheepscot from its confluence with the
19 Sheepscot River in Whitefield to the outlet
20 of Branch Pond in China;

21 (23) The West Branch Pleasant River from the
22 East Branch in Brownville to the Brownville
23 and Williamsburg Township town line; and

24 (24) The West Branch Union River from the
25 Route 181 bridge in Mariaville to the outlet
26 of Great Pond in the Town of Great Pond.

27 2. Municipal review and regulation. The
28 municipal reviewing authority shall review all
29 requests for subdivision approval. On all matters
30 concerning subdivision review, the municipal reviewing
31 authority shall maintain a permanent record of all its
32 meetings, proceedings and correspondence. The
33 municipal reviewing authority may, after a public
34 hearing, adopt additional reasonable regulations
35 governing subdivisions which shall control until
36 amended, repealed or replaced by regulations adopted
37 by the municipal legislative body. The municipal
38 reviewing authority shall give at least 7 days' notice
39 of this hearing.

1 A. When an application is received, the municipal
2 reviewing authority shall give a dated receipt to
3 the applicant. Within 30 days after receiving an
4 application, the municipal reviewing authority
5 shall notify the applicant in writing either that
6 the application is complete or, if the application
7 is incomplete, the specific additional material
8 needed to complete the application. After the
9 municipal reviewing authority has determined that
10 a complete application has been filed, it shall
11 notify the applicant and begin its full evaluation
12 of the proposed subdivision.

13 B. If the municipal reviewing authority decides
14 to hold a public hearing on an application for
15 subdivision approval, it shall hold the hearing
16 within 30 days of its receipt of a completed
17 application. The municipal reviewing authority
18 shall have notice of the date, time and place of
19 the hearing:

20 (1) Given to the applicant; and

21 (2) Published, at least 2 times, in a
22 newspaper having general circulation in the
23 municipality in which the subdivision is
24 proposed to be located. The date of the
25 first publication must be at least 7 days
26 before the hearing.

27 C. The municipal reviewing authority shall,
28 within 30 days of a public hearing or, if no
29 hearing is held, within 60 days of receiving a
30 completed application or within any other time
31 limit that is otherwise mutually agreed to, issue
32 an order:

33 (1) Denying the proposed subdivision;

34 (2) Granting approval of the proposed
35 subdivision; or

36 (3) Granting approval upon any terms and
37 conditions that it considers advisable to:

38 (a) Satisfy the criteria listed in
39 subsection 3;

1 (b) Satisfy any other regulations
2 adopted by the reviewing authority; and

3 (c) Protect and preserve the public's
4 health, safety and general welfare.

5 D. In all instances, the burden of proof is upon
6 the persons proposing the subdivisions. In
7 issuing its decision, the reviewing authority
8 shall make findings of fact establishing that the
9 proposed subdivision does or does not meet the
10 criteria described in paragraph C. In addition,
11 whenever the initial approval or any subsequent
12 amendment of a subdivision is based in part on the
13 granting of a variance from any of the applicable
14 subdivision approval standards, that fact shall be
15 expressly noted on the face of the subdivision
16 plan to be recorded in the local registry of deeds
17 or, in the case of an amendment if no amended plan
18 is to be recorded, a certificate indicating the
19 name of the current property owner, identifying
20 the property owner, identifying the property by
21 reference to the last recorded deed in its chain
22 of title and indicating the fact that a variance,
23 including any conditions on the variance, has been
24 granted and the date of the granting shall be
25 prepared in recordable form and shall be recorded
26 in the local registry of deeds within 30 days of
27 the final subdivision approval or the variance
28 shall be invalid. No rights may accrue to the
29 variance recipient or the recipient's heirs,
30 successors or assigns unless the recording is made
31 within the 30 days.

32 3. Guidelines. When adopting any subdivision
33 regulations and when reviewing any subdivision for

1 approval, the municipal reviewing authority shall
2 consider the following criteria and, before granting
3 approval, must determine that:

4 A. The proposed subdivision will not result in
5 undue water or air pollution. In making this
6 determination, it shall at least consider:

7 (1) The elevation of the land above sea
8 level and its relation to the flood plains;

9 (2) The nature of soils and subsoils and
10 their ability to adequately support waste
11 disposal;

12 (3) The slope of the land and its effect on
13 effluents;

14 (4) The availability of streams for disposal
15 of effluents; and

16 (5) The applicable state and local health
17 and water resource rules and regulations;

18 B. The proposed subdivision has sufficient water
19 available for the reasonably foreseeable needs of
20 the subdivision;

21 C. The proposed subdivision will not cause an
22 unreasonable burden on an existing water supply,
23 if one is to be used;

24 D. The proposed subdivision will not cause
25 unreasonable soil erosion or a reduction in the
26 land's capacity to hold water so that a dangerous
27 or unhealthy condition results;

28 E. The proposed subdivision will not cause
29 unreasonable highway or public road congestion or
30 unsafe conditions with respect to the use of the
31 highways or public roads existing or proposed;

32 F. The proposed subdivision will provide for
33 adequate sewage waste disposal;

1 G. The proposed subdivision will not cause an
2 unreasonable burden on the municipality's ability
3 to dispose of solid waste and sewage, if municipal
4 services are to be used;

5 H. The proposed subdivision will not have an
6 undue adverse effect on the scenic or natural
7 beauty of the area, aesthetics, historic sites or
8 rare and irreplaceable natural areas or any public
9 rights for physical or visual access to the
10 shoreline;

11 I. The proposed subdivision complies with a duly
12 adopted subdivision regulation or ordinance,
13 comprehensive plan, development plan or land use
14 plan, if any;

15 J. The subdivider has adequate financial and
16 technical capacity to meet the standards of this
17 subsection;

18 K. Whenever situated, in whole or in part, within
19 250 feet of any pond, lake, river or tidal waters,
20 the proposed subdivision will not adversely affect
21 the quality of that body of water or unreasonably
22 affect the shoreline of that body of water.

23 Furthermore, when lots in a subdivision have
24 frontage on an outstanding river segment, the
25 proposed subdivision plan must require principal
26 structures to have a combined lot shore frontage
27 and setback from the normal high-water mark of 500
28 feet. To avoid circumventing the intent of this
29 provision, whenever a proposed subdivision adjoins
30 a shoreland strip narrower than 250 feet which is
31 not lotted, the proposed subdivision shall be
32 reviewed as if lot lines extended to the shore.

33 (1) The frontage and set-back provisions of
34 this paragraph do not apply either within
35 areas zoned as general development or its
36 equivalent under shoreland zoning, Title 38,
37 section 442, or within areas designated by
38 ordinance as densely developed. The
39 determination of which areas are densely
40 developed must be based on a finding that

1 existing development met the definitional
2 requirements of subsection 1 on September 23,
3 1983;

4 L. The proposed subdivision will not, alone or in
5 conjunction with existing activities, adversely
6 affect the quality or quantity of ground water; and

7 M. The subdivider will determine, based on the
8 Federal Emergency Management Agency's Flood
9 Boundary and Floodway Maps and Flood Insurance
10 Rate Maps, whether the subdivision is in a
11 flood-prone area. If the subdivision, or any part
12 of it, is in such an area, the subdivider shall
13 determine the 100-year flood elevation and flood
14 hazard boundaries within the subdivision. The
15 proposed subdivision plan must include a condition
16 of plat approval requiring that principal
17 structures on lots in the subdivision will be
18 constructed with their lowest floor, including the
19 basement, at least one foot above the 100-year
20 flood elevation.

21 4. Access to direct sunlight. The municipal
22 reviewing authority may, to protect and ensure access
23 to direct sunlight for solar energy systems, prohibit,
24 restrict or control development through subdivision
25 regulations. The regulations may call for subdivision
26 development plans containing restrictive covenants,
27 height restrictions, side yard and set-back
28 requirements or other permissible forms of land use
29 controls.

30 5. Enforcement; prohibited activities. The
31 Attorney General, the municipality or the planning
32 board of any municipality may institute proceedings to
33 enjoin the violation of this section.

34 A. No person may sell, lease, develop, build upon
35 or convey for consideration, or offer or agree to
36 sell, lease, develop, build upon or convey for
37 consideration any land in a subdivision which has
38 not been approved by the municipal reviewing
39 authority of the municipality where the
40 subdivision is located and recorded in the proper
41 registry of deeds.

1 (1) No register of deeds may record any
2 subdivision plat or plan which has not been
3 approved under this section. Approval for
4 the purpose of recording must appear in
5 writing on the plat or plan. All subdivision
6 plats and plans required by this section must
7 contain the name and address of the person
8 under whose responsibility the subdivision
9 plat or plan was prepared.

10 (2) No building inspector may issue any
11 permit for a building or use within a land
12 subdivision unless the subdivision has been
13 approved under this section.

14 (3) Any person who sells, leases, develops,
15 builds upon, or conveys for consideration,
16 offers or agrees to sell, lease, develop,
17 build upon or convey for consideration any
18 land in a subdivision which has not been
19 approved under this section shall be
20 penalized in accordance with section 4506.

21 B. No person may sell or convey any land in an
22 approved subdivision unless at least one permanent
23 marker is set at one lot corner of the lot sold or
24 conveyed. The term "permanent marker" includes,
25 but is not limited to, the following:

26 (1) A granite monument;

27 (2) A concrete monument;

28 (3) An iron pin; or

29 (4) A drill hole in ledge.

30 C. No public utility, water district, sanitary
31 district or any utility company of any kind may
32 install services to any lot in a subdivision,
33 unless written authorization attesting to the
34 validity and currency of all local permits
35 required under this chapter has been issued by the
36 appropriate municipal officials. Following
37 installation of service, the company or district

1 shall forward the written authorization to the
2 municipal officials indicating that installation
3 has been completed.

4 6. Exemptions. This section does not apply in
5 the following instances.

6 A. This section does not apply to:

7 (1) Proposed subdivisions approved by the
8 planning board or the municipal officials
9 before September 23, 1971 in accordance with
10 laws then in effect;

11 (2) Subdivisions in actual existence on
12 September 23, 1971 that did not require
13 approval under prior law; or

14 (3) A subdivision, a plan of which had been
15 legally recorded in the proper registry of
16 deeds before September 23, 1971.

17 B. The dividing of a tract or parcel of land and
18 the lot or lots so made, which dividing or lots
19 when made are not subject to this section, do not
20 become subject to this section by the subsequent
21 dividing of that tract or parcel of land or any
22 portion of that parcel or lot. The municipal
23 reviewing authority shall consider the existence
24 of the previously created lot or lots in reviewing
25 a proposed subdivision created by a subsequent
26 dividing.

27 7. Revisions to existing plat or plan. Any
28 application for subdivision approval which constitutes
29 a revision or amendment to a subdivision plan which
30 has been previously approved shall indicate that fact
31 on the application and shall identify the original
32 subdivision plan being revised or amended.

33 A. If a subdivision plat or plan is presented for
34 recording to a register of deeds and that plat or
35 plan is a revision or amendment to an existing
36 plat or plan, the register shall:

1 (1) Indicate on the index for the original
2 plat or plan that it has been superseded by
3 another plat or plan;

4 (2) Reference the book and page or cabinet
5 and sheet on which the new plat or plan is
6 recorded; and

7 (3) Ensure that the book and page or cabinet
8 and sheet on which the original plat or plan
9 is recorded is referenced on the new plat or
10 plan.

11 8. Lots of 40 or more acres. Where 3 or more
12 lots of 40 or more acres are developed, a plan must be
13 filed with the registry of deeds and the municipal
14 authority responsible for reviewing subdivisions.

15 §4552. Community living arrangements

16 1. Legislative intent. It is the intent of the
17 Legislature that persons seeking to establish a
18 community living facility in a single-family
19 residential zone shall not be prohibited on the basis
20 of the disability served. It is also the intent of
21 the Legislature that community living facilities for
22 mentally handicapped and developmentally disabled
23 persons shall not be prohibited from single-family
24 residential zones in a municipality. Municipal
25 ordinances or actions which have the effect of
26 preventing or prohibiting these community living
27 facilities from single-family residential zones,
28 particularly by establishing criteria for
29 single-family residential zones in excess of the
30 criteria in subsections 4 and 5, are a violation of
31 legislative intent.

32 2. Definitions. As used in this chapter, unless
33 the context indicates otherwise, the following terms
34 have the following meanings.

35 A. "Board of appeals" means the board of appeals
36 or any other board established by a municipality
37 with the authority to hear appeals related to
38 enforcement of the zoning ordinances..

1 B. "Community living facility" means a housing
2 facility for 8 or fewer mentally handicapped or
3 developmentally disabled persons which is
4 approved, authorized, certified or licensed by the
5 State. A community living facility may include a
6 group home, foster home or intermediate care
7 facility.

8 C. "Single-family residential zone" means a
9 residential zone designated by a municipality for
10 single-family housing, except as provided in this
11 section. If there are no residential zones
12 designated or considered by a municipality as
13 single-family residential zones, all residential
14 zones in the municipality in which community
15 living facilities are not a permitted use shall be
16 deemed single-family residential zones.

17 3. Permitted or conditional community living use;
18 definition. In order to implement the policy of this
19 State that mentally handicapped or developmentally
20 disabled persons shall not be excluded by municipal
21 zoning ordinances from the benefits of normal
22 residential surroundings, a community living facility
23 shall be considered a permitted or conditional
24 single-family residential use of property for the
25 purposes of zoning.

26 4. Hearing. The municipality shall hold a public
27 hearing within 60 days of an application to establish
28 a community living use within a single-family
29 residential zone, unless a community living use is a
30 permitted use within the single-family zone. The
31 failure to hold the public hearing required by this
32 subsection within the 60-day period constitutes
33 approval of the application, unless the time period is
34 extended by mutual agreement of the parties.

35 A. The public hearing shall be conducted by the
36 body authorized by the municipality to act as a
37 zoning board of appeals, and interested parties
38 shall be notified. The notice period and
39 procedure for zoning appeals, as established by
40 the municipality, shall meet the notice
41 requirements of this section.

1 B. The board of appeals shall receive public
2 comment on the proposed community living
3 facility. The board may modify or disapprove the
4 application only upon a finding of one or more of
5 the following:

6 (1) The proposed use would create or
7 aggravate a traffic hazard;

8 (2) The proposed use would hamper pedestrian
9 circulation;

10 (3) The proposed use would not permit
11 convenient access to commercial shopping
12 facilities, medical facilities, public
13 transportation, fire protection or police
14 protection;

15 (4) The proposed use would not comply with
16 applicable building, housing, plumbing and
17 other safety codes, including municipal
18 minimum lot size and building set-back
19 requirements for new construction; or

20 (5) The proposed use would not comply with
21 the density requirements of subsection 5.

22 5. Density. Density regulation of community
23 living uses is intended to permit the location of
24 these uses within a municipality while ensuring that
25 they will not become overly concentrated in
26 neighborhoods to the detriment of either the
27 neighborhoods or those residing in the uses.

28 No state agency may approve, authorize, certify or
29 license a community living use, nor may the board of
30 appeals, pursuant to an authorized public hearing,
31 approve an application for a community living use, if:

32 A. A proposed community living use would be
33 located within 1,500 feet of an existing community
34 living use; or

35 B. A proposed community living use would result
36 in the excessive concentration of these uses
37 within the zone or municipality.

1 The board of appeals may waive density regulations for
2 adjacent community living uses providing essential
3 components of a single program.

4 6. Appeals. Any decision by the board of appeals
5 under this section may be appealed in accordance with
6 section 2691, subsection 3, paragraph G.

7 7. Applicability. Except for the density
8 requirements of subsection 5, this section does not
9 apply to:

10 A. Community living uses authorized, certified or
11 licensed before July 13, 1982;

12 B. Community living uses for which an application
13 was made before July 13, 1982; or

14 C. Facilities licensed by the Department of Human
15 Services under Title 22, section 8101, subsections
16 1 to 3, subsection 4, paragraph A and subsection 5.

17 8. Repeal of designation. If a municipality
18 repeals the designation of single-family residential
19 zones, community living facilities located in the
20 other residential zones prior to the effective date of
21 this subsection shall not be required to meet the
22 criteria of subsections 4 and 5.

23 §4553. Regulation of manufactured housing

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

27 A. "Manufactured housing" means a structural unit
28 or units designed for occupancy, and constructed
29 in a manufacturing facility and then transported
30 by the use of its own chassis, or placed on an
31 independent chassis, to a building site. The term
32 includes any type of building which is constructed
33 at a manufacturing facility and then transported
34 to a building site where it is used for housing
35 and may be purchased or sold by a dealer in the
36 interim. For purposes of this section, 2 types of
37 manufactured housing are included. They are:

1 (1) Those units constructed after June 15,
2 1976, commonly called "newer mobile homes,"
3 which the manufacturer certifies are
4 constructed in compliance with the United
5 States Department of Housing and Urban
6 Development standards, meaning structures,
7 transportable in one or more sections, which,
8 in the traveling mode, are 14 body feet or
9 more in width and are 750 or more square
10 feet, and which are built on a permanent
11 chassis and designed to be used as dwellings,
12 with or without permanent foundations, when
13 connected to the required utilities,
14 including the plumbing, heating, air
15 conditioning and electrical systems contained
16 in the unit;

17 (a) This term also includes any
18 structure which meets all the
19 requirements of this paragraph, except
20 the size requirements and with respect
21 to which the manufacturer voluntarily
22 files a certification required by the
23 Secretary of the United States
24 Department of Housing and Urban
25 Development and complies with the
26 standards established under the National
27 Manufactured Housing Construction and
28 Safety Standards Act of 1974, United
29 States Code, Title 42, Section 5401, et
30 seq.; and

31 (2) Those units commonly called "modular
32 homes," which the manufacturer certifies are
33 constructed in compliance with the National
34 Manufactured Housing Construction and Safety
35 Standards Act of 1974 and rules, meaning
36 structures, transportable in one or more
37 sections, which are not constructed on a
38 permanent chassis and are designed to be used
39 as dwellings on foundations when connected to
40 required utilities, including the plumbing,
41 heating, air-conditioning or electrical
42 systems contained in the unit.

1 B. "Mobile home park" means a parcel of land
2 under unified ownership approved by the
3 municipality for the placement of manufactured
4 housing.

5 C. "Mobile home subdivision or development" means
6 a parcel of land approved by the municipal
7 reviewing authority under section 4551, for the
8 placement of manufactured houses on individually
9 owned lots.

10 D. "Permanent foundation" means all of the
11 following:

12 (1) A full, poured concrete or masonry
13 foundation;

14 (2) A poured concrete frost wall or a
15 mortared masonry frost wall, with or without
16 a concrete floor;

17 (3) A reinforced, floating concrete pad for
18 which the municipality may require an
19 engineer's certification if it is to be
20 placed on soil with high frost
21 susceptibility; and

22 (4) Any foundation which, pursuant to the
23 building code of the municipality, is
24 permitted for other types of single-family
25 dwellings.

26 E. "Pitched, shingled roof" means a roof with a
27 pitch of 2 or more vertical units for every 12
28 horizontal units of measurement and which is
29 covered with asphalt or fiberglass composition
30 shingles or other materials, but specifically
31 excludes corrugated metal roofing material.

32 2. Location of manufactured housing.
33 Municipalities shall permit manufactured housing to be
34 placed or erected on individual house lots in a number
35 of locations on undeveloped lots where single-family
36 dwellings are allowed, subject to the same
37 requirements as single-family dwellings, except as
38 otherwise provided in this section.

1 A. For the locations required by this section,
2 municipal ordinances may not require that
3 manufactured housing on individual lots be greater
4 than 14 feet in width, although municipalities may
5 establish design criteria, including, but not
6 limited to, a pitched, shingled roof; a permanent
7 foundation; and exterior siding that is
8 residential in appearance, provided that the
9 requirements do not have the effect of
10 circumventing the purposes of this section.

11 B. Providing one or more zones or locations where
12 mobile home parks or mobile home subdivisions or
13 developments are allowed does not constitute
14 compliance with this section.

15 C. This section does not prohibit municipalities
16 from establishing controls on manufactured housing
17 which are less restrictive than are permitted by
18 this section.

19 §4554. State policy relating to municipal commercial
20 landfill facilities moratoria

21 It is the policy of this State, with respect to
22 commercial landfill facilities:

23 1. State and municipal control. To affirm the
24 importance of state and municipal control over the
25 establishment of new commercial landfill facilities
26 and over the substantial expansion of existing
27 commercial landfill facilities; and

28 2. Recognition of home rule authority. To
29 recognize that any municipality may, under its home
30 rule authority, enact a moratorium on the issuance or
31 processing of any municipal permit for a new
32 commercial landfill facility.

33 CHAPTER 193

34 RIVER CORRIDOR COMMISSIONS

35 §4601. River corridor commissions encouraged

1 1. Findings. The Legislature finds that:

2 A. The effectiveness of local governments in
3 implementing their responsibilities under
4 shoreland zoning can be enhanced by coordination
5 and cooperation among municipalities;

6 B. River corridor commissions have proven their
7 effectiveness as one mechanism to bring about such
8 coordination and cooperation;

9 C. Additional river corridor commissions are not
10 likely to be formed without state encouragement
11 and incentives; and

12 D. Such cooperation serves state interests as
13 stated in Title 12, section 402 and Title 38,
14 chapter 3, subchapter I, article 2-B.

15 2. Purpose. It is the policy of the State to
16 encourage the formation of river corridor
17 commissions. The purpose of this law is to:

18 A. Clarify the procedures for forming river
19 corridor commissions;

20 B. Delegate authority to the Commissioner of
21 Conservation to approve acceptable proposals to
22 form the river corridor commissions;

23 C. Grant additional powers to those river
24 corridor commissions beyond those provided for in
25 chapter 115; and

26 D. Provide a portion of the funding for the
27 operation of the river corridor commissions.

28 §4602. Definitions

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

32 1. Commission. "Commission" means a river
33 corridor commission granted approval by the
34 commissioner under section 4603 and authorized by

1 Title 5, chapter 379, or as established under Title
2 38, chapter 6.

3 2. Commissioner. "Commissioner" means the
4 Commissioner of Conservation.

5 3. Department. "Department" means the Department
6 of Conservation.

7 §4603. Approval of river corridor commissions

8 The commissioner may grant commission status and
9 all the privileges and powers enjoyed by the
10 commissions, as specified in this chapter, when the
11 commissioner finds that:

12 1. Occupation of shoreland by 2 or more
13 municipalities. Two or more municipalities, which
14 collectively occupy enough of the shoreland on a river
15 segment to be effective in managing the shorelands of
16 the river, have entered into an agreement under
17 chapter 115, which satisfies the requirements of
18 section 4604;

19 2. Comprehensive plan. The same municipalities
20 have prepared a comprehensive plan which satisfies the
21 requirements of section 4605;

22 3. Ordinance. The same municipalities have
23 prepared an ordinance to implement the comprehensive
24 plan which satisfies the requirements of section 4606;
25 and

26 4. Other commissions. No other commission exists
27 on the same river, or the distance between the
28 proposed and existing commissions makes the formation
29 of one larger commission impractical.

30 §4604. Interlocal agreement

31 In addition to the requirements of section 2203,
32 the interlocal agreement must be consistent with rules
33 adopted by the commissioner under the Maine
34 Administrative Procedure Act, Title 5, chapter 375.
35 These rules may include, but are not limited to:

1 1. Minimum duration. The minimum duration of the
2 agreement;

3 2. Members; appointment. How members may be
4 appointed;

5 3. Municipal responsibilities for financing.
6 What the municipalities' responsibilities for
7 financing the commission are; and

8 4. Withdrawal. How and under what circumstances
9 municipalities may withdraw from the commission.

10 §4605. Comprehensive plan

11 The comprehensive plan must be consistent with
12 rules adopted by the commissioner under the Maine
13 Administrative Procedure Act, Title 5, chapter 375.
14 These rules may include, but are not limited to:

15 1. Resources; problems. What resources or
16 problems the plan must address;

17 2. Information; analyses. Information and
18 analyses the plan must contain; and

19 3. Specificity; clarity. The degree of
20 specificity and clarity sought in the plan.

21 §4606. Ordinance

22 The ordinance to implement the plan must be at
23 least as restrictive as the State's guidelines for
24 municipal shoreland zoning ordinances and shall
25 supersede existing shoreland zoning ordinances. The
26 ordinance must contain adequate procedures for
27 processing permit requests and for considering appeals
28 of a decision made by the commission.

29 §4607. Powers of a river corridor commission

30 Notwithstanding section 2203, subsection 8, an
31 approved commission may:

32 1. Amendment to comprehensive plan. Amend the
33 comprehensive plan, after notice and hearing on the

1 proposed amendment in accordance with the Maine
2 Administrative Procedure Act, Title 5, chapter 375;

3 2. Adoption of rules or ordinances. Adopt and
4 amend rules or ordinances covering an area up to 500
5 feet from the normal high-water mark necessary to
6 implement the comprehensive plan, after notice and
7 hearing on the proposed amendment or adoption, in
8 accordance with the Maine Administrative Procedure
9 Act, Title 5, chapter 375;

10 3. Issuance of permits. Issue permits, subject
11 to reasonable conditions for activities requiring
12 permits, or may deny permits under ordinances and
13 rules adopted by the commission;

14 4. Fees. Assess fees for permit or variance
15 applications, or for any publications of the
16 commission;

17 5. Suit. Sue and be sued; and

18 6. Enforcement. Enforce the rules or ordinances
19 of the commission by instituting any lawful action,
20 injunction or other proceeding to prevent, restrain,
21 correct or abate any violation of its rules or
22 ordinances, and may impose fines as permitted under
23 Title 38, chapter 3, subchapter I, article 2-A.

24 §4608. Commission budget; financing; staff

25 The commission shall prepare and submit to the
26 commissioner a biennial budget sufficient to cover its
27 operating and other expenses. Provided the commission
28 continues to satisfy the requirements of section 4603,
29 the commissioner shall request funds to match the
30 funds raised by the commission. In no event may the
31 state contribution exceed \$25,000 for any one
32 commission in any year. The commission may accept
33 contributions of any type from any source to assist it
34 in carrying out its assigned tasks, and make any
35 agreements with respect to the administration of those
36 funds, not inconsistent with the purpose of this law,
37 that are required as conditions precedent to receiving
38 the funds, federal or otherwise. Staff of the
39 commission are not considered employees of the State.

1 §4609. Appeals to Superior Court

2 Except where otherwise specified by law, any party
3 or person aggrieved by any order or decision of the
4 commission may, within 30 days after notice of the
5 filing of that order or decision, appeal to the
6 Superior Court by filing a notice of appeal stating
7 the grounds for appeal. The appeal shall be taken
8 under Title 5, section 11001.

9 SUBPART 8

10 DEVELOPMENT

11 CHAPTER 201

12 HOUSING AUTHORITY

13 SUBCHAPTER I

14 GENERAL PROVISIONS

15 §4701. Title

16 This chapter shall be known and may be cited as
17 the "Maine Housing Authorities Act."

18 §4702. Definitions

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

22 1. Area of operation. "Area of operation" of a
23 housing authority of a town includes all of the town
24 for which it is created. Except as provided in
25 paragraphs A and B, the "area of operation" of a
26 housing authority of a city includes the city and the
27 area within 10 miles outside its territorial
28 boundaries. The "area of operation" of the Maine
29 State Housing Authority is the entire State.

30 A. No authority may operate in any area in which
31 an authority already established is operating
32 without the consent by resolution of the authority
33 already operating in that area.

1 B. The area of operation of the housing authority
2 of a city does not include any area which lies
3 within the territorial boundaries of any other
4 city nor does it include any portion of a town for
5 which a housing authority has been organized,
6 without the consent by resolution of the
7 legislative body of the other city or the
8 selectmen of the town.

9 C. The Maine State Housing Authority may not
10 operate in any area in which a municipal authority
11 already established under this chapter is
12 operating without the consent by resolution of
13 that authority.

14 (1) In the case of the Maine State Housing
15 Authority, the requirements of coordination
16 and local approval specified in sections
17 4741, subsection 10 and 4771 may be complied
18 with by the local municipal legislative
19 body's passage of the following resolution:

20 "The Maine State Housing Authority is
21 authorized to seek and may contract for
22 financial assistance from the Federal
23 Government for the purpose of providing
24 housing for low-income persons and
25 families in (Name of Municipality)."

26 Passage of this resolution is conclusive
27 evidence of compliance with sections 4741,
28 subsection 10, and 4771. The local municipal
29 legislative body may repeal the resolution,
30 provided that:

31 (a) Any contract for federal assistance
32 entered into between the Maine State
33 Housing Authority and any person in or
34 with respect to the municipality in
35 question after the original resolution
36 is passed and before it is repealed is
37 not affected by the repeal; and

38 (b) The security of the authority's
39 mortgage interest or the obligation or

1 repayment of debt to bondholders is not
2 affected by the repeal.

3 D. The authority shall meet and discuss with the
4 local municipal legislative body concerning
5 permissible and preferred developers, housing
6 management entities and sites in anticipation of a
7 preliminary designation of a proposed project.
8 When the authority has received a proposed project
9 for consideration, it shall so notify the
10 municipality in question. When the authority has
11 made a preliminary designation of a proposed
12 project, it shall so notify the municipality
13 within 30 days. If the municipal legislative body
14 disapproves of the preliminary designation, it
15 shall notify the authority of its disapproval
16 within 45 days after the authority's notice of
17 selection. The notice of disapproval has the
18 effect of repealing the consent resolution for
19 that proposed project.

20 2. Authority or housing authority. "Authority"
21 or "housing authority" means any of the public
22 corporations created or authorized to be created by
23 this chapter.

24 3. Bonds. "Bonds" means any bonds, notes,
25 interim certificates, debentures or other obligations
26 issued by an authority under this chapter.

27 4. Construction loan. "Construction loan" means
28 a loan:

29 A. For the purpose of developing, constructing,
30 reconstructing or rehabilitating a housing unit or
31 housing project; and

32 B. Which is secured in the same manner as a
33 mortgage loan is secured.

34 5. Conventional mortgage. "Conventional
35 mortgage" means an interest-bearing obligation secured
36 by a mortgage and note which are a first lien on land
37 and improvements constituting one-family to 4-family
38 housing units, which obligations are not insured or
39 guaranteed in any manner, in part or in full, by the

1 Federal Government, or by this State or any
2 instrumentality of the State.

3 6. Elderly. "Elderly" means a person or family
4 as defined in the United States Housing Act of 1937,
5 Public Law 412, 50 Stat 888, as amended.

6 7. Financial institution. "Financial
7 institution" means any bank or trust company, savings
8 bank, savings and loan association, industrial bank,
9 national banking association, federal savings and loan
10 association, mortgage banker, credit union or other
11 such institution authorized to do business in the
12 State, or a government agency which customarily
13 provides service or otherwise aids in the financing of
14 mortgage loans.

15 8. Home improvement note. "Home improvement
16 note" means an interest bearing obligation, secured in
17 whole or in part by a mortgage, insurance or otherwise
18 as may be agreed upon by the Maine State Housing
19 Authority from time to time, made to improve or
20 rehabilitate single-family or multi-unit residential
21 housing in the State.

22 9. Manufactured housing. "Manufactured housing"
23 has the same meaning as found in Title 10, section
24 9002, subsection 7.

25 10. Mortgage loan. "Mortgage loan" or "mortgage"
26 means:

27 A. An interest-bearing obligation secured by a
28 mortgage constituting a first lien on
29 single-family or multi-unit residential housing,
30 including any mortgage loan made for the purpose
31 of developing, constructing or reconstructing
32 single-family or multi-unit residential housing;

33 B. An interest-bearing obligation which is fully
34 insured under the Housing Mortgage Insurance Law,
35 if the single-family or multi-unit residential
36 housing is located on either the Passamaquoddy
37 Indian Reservation or the Penobscot Indian
38 Reservation;

1 C. A home improvement note;

2 D.. An interest-bearing obligation secured by an
3 interest in manufactured housing;

4 E. An interest-bearing obligation secured by a
5 mortgage, pledge or collateral assignment of a
6 lease of real property or a lease of air rights,
7 provided that:

8 (1) The security includes a first lien upon
9 the lease; and

10 (2) Except for mortgage loans secured by
11 manufactured housing located on leased real
12 property or air rights, the real property or
13 air rights are not subject to any prior lien;

14 F. A participation interest in a mortgage loan; or

15 G. An interest-bearing obligation secured by a
16 pledge or collateral assignment of a
17 tenant-shareholder's interest in a consumer
18 cooperative organized for housing purposes under
19 Title 13, chapter 85.

20 This definition does not preclude the requirement of
21 security in addition to that specified in this
22 subsection for any mortgage loan.

23 11. Obligee of the authority or obligee.
24 "Obligee of the authority" or "obligee" includes:

25 A. Any bondholder, agents or trustees for any
26 bondholders;

27 B. Any lessor demising to the authority property
28 used in connection with a project, or any assignee
29 or assignees of the lessor's interest or any part
30 of that interest; or

31 C. The Federal Government when it is a party to
32 any contract with the authority.

33 12. Persons of low income. "Persons of low
34 income" means persons or families, elderly or

1 otherwise, who lack the income which is necessary, as
2 determined by a housing authority, to enable them,
3 without financial assistance, to live in or purchase
4 decent, safe and sanitary dwellings, without
5 overcrowding. Financial assistance includes, but is
6 not limited to, the following kinds of assistance:

7 A. Mortgage insurance;

8 B. Interest subsidies;

9 C. Rent subsidies;

10 D. Public assistance payment or services; or

11 E. Any other assistance that may be provided by
12 the Maine State Housing Authority through the sale
13 of bonds.

14 13. Privately insured mortgage. "Privately
15 insured mortgage" means an interest-bearing obligation
16 secured by a mortgage and note which are a first lien
17 on land and improvements constituting one-family to
18 4-family units, which obligations are insured or
19 quaranteed by a private mortgage insurer which is an
20 "authorized insurer," as defined in Title 24-A,
21 section 8, and qualified to provide insurance on
22 mortgages purchased by the Federal National Mortgage
23 Association or the Federal Home Loan Mortgage
24 Corporation.

25 14. Project or housing project. "Project",
26 "housing project" or "single-family or multi-unit
27 residential housing" means any work or undertaking:

28 A. To demolish, clear or remove buildings from
29 any slum area;

30 B. To provide decent, safe and sanitary
31 dwellings, apartments or other living
32 accommodations for persons of low income. A
33 project may include dwellings, apartments or
34 accommodations occupied by persons other than
35 persons of low income, provided that in the
36 opinion of the responsible authority, a reasonable
37 number of the dwellings, apartments or

1 accommodations in the project are reserved for
2 occupancy by persons of low income. The work or
3 undertaking may include buildings, land,
4 equipment, facilities and other real or personal
5 property for necessary, convenient or desirable
6 appurtenances including private commercial
7 activity subject to the restriction in
8 subparagraph (1), streets, sewers, water service,
9 utilities, parks, site preparation, landscaping,
10 administrative, community, health, recreational,
11 welfare or other purposes;

12 (1) The work or undertaking may include
13 private commercial activity compatible with
14 residential use as determined by an
15 authority, provided that development costs
16 related to that activity do not exceed 40% of
17 the amount of debt financing provided by an
18 authority; or

19 C. To accomplish a combination of the work or
20 undertaking under paragraphs A and B.

21 The terms "project" or "housing project" may be
22 applied to the planning of the buildings and
23 improvements, the acquisition of property, the
24 demolition of existing structures, the construction,
25 reconstruction, alteration and repair of the
26 improvements and all other work in connection with
27 these activities. The term includes all other real and
28 personal property and all tangible or intangible
29 assets held or used in connection with the housing
30 project.

31 15. Selectmen. "Selectmen" means the board of
32 selectmen of the town or, if the town has no
33 selectmen, the officers charged with the duties
34 customarily imposed on the board of selectmen of a
35 town.

36 16. State public body. "State public body" means
37 any city, town, district or other political
38 subdivision of the State.

39 §4703. Declaration of necessity

1 1. Housing conditions. It is declared that:

2 A. There exists in urban and rural areas in the
3 State unsuitable, unsafe and overcrowded dwelling
4 accommodations;

5 B. In these urban and rural areas within the
6 State, there is a shortage of suitable dwelling
7 accommodations available at rents, prices or
8 financing terms which many residents of the State
9 can afford and that the shortage forces some
10 residents of the State to occupy unsuitable,
11 unsafe and overcrowded dwelling accommodations;

12 C. These conditions, and the existence of areas
13 in need of revitalization and redevelopment,
14 impair economic values and tax revenues;

15 D. These conditions contribute to the poor health
16 of the residents of these areas, cause an increase
17 in and spread of crime and constitute a menace to
18 the health, safety and welfare of the residents of
19 the State;

20 E. These conditions require excessive and
21 disproportionate expenditures of public funds for
22 crime prevention and punishment, public health and
23 safety, fire and accident protection and other
24 public services and facilities;

25 F. These areas in the State cannot be cleared,
26 nor can the shortage of suitable dwellings
27 available at affordable rents, prices or financing
28 terms be relieved solely through the operation of
29 private enterprise, and that the construction,
30 rehabilitation or improvement of dwelling
31 accommodations would therefore not be competitive
32 with private enterprise;

33 G. The construction, rehabilitation or
34 improvement of dwelling accommodations would make
35 housing available for veterans who are unable to
36 provide themselves with decent housing on the
37 basis of the benefits made available to them
38 through certain government guarantees of loans to
39 veterans for the purchase of residential property;

1 H. The clearance, planning and preparation for
2 rebuilding of these areas, the prevention or the
3 reduction of the underutilization and abandonment
4 of established commercial areas and existing
5 dwelling accommodations within the State, and the
6 providing of affordable, safe and suitable
7 dwelling accommodations for residents of the State
8 are public uses and purposes for which public
9 money may be spent and private property acquired
10 and are governmental functions of state concern;

11 I. Residential construction activity is closely
12 correlated with general economic activity and that
13 the undertakings authorized by this chapter to aid
14 the production of better housing and more
15 desirable neighborhood and community development
16 at lower costs will make possible a more stable
17 and larger volume of residential construction
18 which will assist materially in achieving and
19 maintaining full employment;

20 J. Federal programs to assist housing have
21 repeatedly changed and, in the early 1980's, the
22 Federal Government substantially reduced its
23 housing programs and other forms of housing
24 assistance;

25 K. By providing housing assistance to persons
26 other than persons of low income, provision of
27 housing assistance to persons of low income will
28 be facilitated; and

29 L. It is in the public interest that advance
30 preparations for these activities and for
31 facilitating mortgage lending on affordable terms
32 be made now, and that the necessity in the public
33 interest for the provisions enacted is declared as
34 a matter of legislative determination.

35 2. Intent. It is further declared that:

36 A. There are serious problems relating to the
37 occupants of existing substandard housing in the
38 State in both urban and rural areas and much of

1 the existing housing in the State is in immediate
2 need of major repair or replacement;

3 B. This chapter is intended to encourage all
4 existing local, state and federal agencies, public
5 and private agencies, to recognize the needs for
6 rehabilitation and new housing and to adopt such
7 action and practices as to promote a concerted
8 effort to upgrade housing conditions and standards
9 within the State; and

10 C. This chapter is intended to relieve those
11 conditions which now exist and it is the policy of
12 the State to assist in planning, coordinating and
13 carrying out all existing programs that will
14 encourage further participation by private
15 investment, private enterprise and individual
16 effort.

17 3. Shortage of funds. It is further declared
18 that:

19 A. In private banking channels there have been
20 recurrent, cyclical shortages of funds available
21 for loans to finance dwelling accommodations;

22 B. These shortages have been exacerbated more
23 recently by changes in the business of financial
24 institutions, by the high cost of funds needed for
25 loans for dwelling accommodations and by the
26 related lack of liquidity of existing and new
27 loans for dwelling accommodations;

28 C. These shortages have contributed to the
29 reduction of construction of new dwelling
30 accommodations and have hampered the
31 rehabilitation, improvement and purchase and sale
32 of existing dwelling accommodations;

33 D. These shortages can be expected to recur from
34 time to time in varying degrees of severity with
35 the adverse consequences described in this
36 section; and

37 E. The powers and duties set forth in this
38 chapter are to be carried out to assist in
39 redressing these shortages.

1 4. Objectives. It is further declared that it is
2 the policy of the State to assist its residents in
3 securing equal opportunity for the full enjoyment of
4 the following objectives:

5 A. To reside in or purchase housing which is
6 decent, safe, independently selected, designed and
7 located with reference to their particular needs
8 and available at costs which they can afford;

9 B. To have available to them a wide range of
10 privately planned, constructed and operated
11 housing;

12 C. To have available to them such additional
13 publicly planned, constructed and operated housing
14 as is needed to achieve the purposes of paragraph
15 A;

16 D. To have available from financial institutions,
17 in addition to their usually loanable resources
18 for home construction, mortgages and notes,
19 additional resources and assistance as may be
20 provided by the Maine State Housing Authority; and

21 E. To have available information and educational
22 programs, and to conduct demonstrations of housing
23 programs and techniques.

24 §4704. Planning, zoning and building laws

25 All projects of an authority are subject to the
26 planning, zoning, sanitary and building laws,
27 ordinances and regulations applicable to the area in
28 which the project is located. In the planning and
29 location of any project, an authority shall conform to
30 any larger or long-range program for the development
31 of the area in which the project is located.

32 §4705. Exemption of property from execution sale

33 All real property of an authority is exempt from
34 levy and sale by virtue of an execution, and no
35 execution or other judicial process may issue against
36 the authority's real property nor may any judgment

1 against an authority be a charge or lien upon its real
2 property.

3 1. Exceptions. This section does not apply to or
4 limit:

5 A. The right of obligees to foreclose or
6 otherwise enforce any mortgage or other security
7 of an authority;

8 B. The right of obligees to pursue any remedies
9 for the enforcement of any pledge or lien given by
10 an authority on its rents, fees or revenues; or

11 C. The right of the Federal Government to pursue
12 any remedies conferred upon it under this chapter.

13 §4706. Records confidential

14 1. Confidential information. Records containing
15 the following information are deemed confidential for
16 purposes of Title 1, section 402, subsection 3,
17 paragraph A:

18 A. Any information acquired by an authority or a
19 member, officer, employee or agent of an authority
20 from applicants for residential tenancy in housing
21 owned, financed, assisted or managed by an
22 authority or from any residential tenants of such
23 housing or from any 3rd person pertaining to any
24 applicant for tenancy or to any tenant of such
25 housing; and

26 B. Any written or recorded financial statement,
27 as determined by an authority, of an individual
28 submitted to an authority or a member, officer,
29 employee or agent of an authority, in connection
30 with an application for a mortgage or mortgage
31 insurance.

32 2. Wrongful disclosure prohibited. No member,
33 officer, employee or agent of an authority may
34 knowingly divulge or disclose information declared
35 confidential by this section, except that:

1 A. An authority may make such full and complete
2 reports concerning its administration of federal
3 housing programs as required by the Federal
4 Government;

5 B. An authority may publish statistics or other
6 information of a general nature drawn from
7 information declared confidential by this section,
8 provided that the publication is accomplished in a
9 manner which preserves confidentiality;

10 C. An authority may comply with a subpoena,
11 request for production of documents, warrant or
12 court order which appears on its face to have been
13 issued or made upon lawful authority; and

14 D. In any litigation or proceeding in which an
15 authority is a party, the authority may introduce
16 evidence based on any information which is deemed
17 confidential and which is within the control or
18 custody of the authority.

19 3. Waiver. This section shall not be construed
20 to limit in any way the right of any person whose
21 interest is protected by this section to waive, in
22 writing or otherwise, the benefits of that protection.

23 4. Penalty. A member, officer, employee or agent
24 of an authority who violates subsection 2 commits a
25 civil violation for which a forfeiture of not more
26 than \$200 may be adjudged against the member, officer,
27 employee or agent of an authority for each violation.
28 For the purpose of applying penalties under this
29 subsection, a separate violation is deemed to have
30 occurred with respect to each separate act of
31 disclosure.

32 SUBCHAPTER II

33 ESTABLISHMENT AND ORGANIZATION

34 §4721. Creation of municipal authorities

35 1. Creation of housing authorities. In each
36 municipality there is created a public body corporate
37 and politic to be known as the "Housing Authority" of

1 the municipality. This authority may not transact any
2 business or exercise its powers unless the municipal
3 legislative body declares by resolution that there is
4 a need for an authority to function in that
5 municipality.

6 A. Any housing authority created and existing
7 under Public Law 1943, chapter 260, shall,
8 notwithstanding the expiration of that chapter,
9 continue in existence for the purposes of this
10 chapter and have the powers granted by this
11 chapter, if the legislative body of the
12 municipality for which the housing authority was
13 created declares by resolution that there is a
14 need, for that housing authority to exercise the
15 powers granted by this chapter.

16 2. Procedure. The municipal legislative body
17 shall consider the need for an authority on its own
18 motion or upon the filing of a petition with the mayor
19 of the city or the selectmen of the town. This
20 petition must be signed by 25 voters of the city or
21 town and assert that there is a need for an authority
22 to function in the municipality and request that the
23 municipal legislative body declare that need.

24 3. Standard. The municipal legislative body
25 shall adopt a resolution declaring that there is a
26 need for an authority in the municipality if it finds
27 that:

28 A. Insanitary or unsafe inhabited dwelling
29 accommodations or blighted areas exist in the
30 municipality; or

31 B. There is a shortage of safe or sanitary
32 dwelling accommodations in the municipality
33 available to persons of low income at rentals or
34 prices that they can afford.

35 4. Appointment of commissioners. Upon the
36 adoption of a resolution by the municipal legislative
37 body, the mayor of the city or the selectmen of the
38 town shall appoint the commissioners of the authority
39 under section 4723, subsection 1.

1 §4722. Maine State Housing Authority established;
2 powers, duties and restrictions

3 The Maine State Housing Authority is established
4 and is a public body corporate and politic and an
5 instrumentality of the State.

6 1. Powers and duties. In addition to the powers
7 granted by section 4741, the Maine State Housing
8 Authority shall have the powers and duties to:

9 A. Gather information and statistics on housing
10 and housing-related socioeconomic conditions,
11 using existing sources and data to the fullest
12 extent possible and request reports and obtain
13 information from all state departments, agencies,
14 boards, commissions, authorities and
15 instrumentalities about their respective
16 expenditures for housing and housing-related
17 services and facilities, and about their
18 respective functions and activities related to the
19 financing, construction, leasing or regulation of
20 housing and housing-related services and
21 facilities;

22 B. Develop plans, finance, conduct and encourage
23 in cooperation with other public and private
24 national, state, regional and local agencies,
25 research and demonstration of model housing
26 programs, dealing with, but not limited to,
27 planning, styles of land use, types of building
28 design, techniques of construction, finance
29 techniques, municipal regulations and management
30 procedures;

31 C. Provide or coordinate technical assistance and
32 consultation about housing and housing-related
33 activities for or on the behalf of the
34 municipalities, private industry, municipal
35 housing authorities, nonprofit housing
36 corporations, state departments, agencies, boards,
37 commissions, authorities and instrumentalities,
38 the Judicial Department, other organizations and
39 individuals; administer or operate housing or
40 housing-related programs for or on the behalf of

1 municipalities, municipal housing authorities,
2 nonprofit housing corporations, state departments,
3 agencies, boards, commissions, authorities,
4 instrumentalities and the judicial branch and in
5 so doing comply with the programmatic, regulatory
6 or statutory standards as required by that entity,
7 which may take precedence over the authority's
8 eligibility requirements;

9 D. Prepare, publish and disseminate educational
10 materials dealing with, but not limited to, the
11 topics listed in paragraph B;

12 E. Encourage and coordinate effective use of
13 existing and new resources and available services
14 for housing;

15 F. Act as the public agency of the State for the
16 purpose of accepting federal funds or other
17 assistance, or funds or other assistance from any
18 other source, in relation to housing activity in
19 those areas and for those projects authorized
20 under section 4741, subsection 2 and other
21 relevant provisions of this chapter;

22 G. Carry out renewal projects and all other
23 powers and duties of an authority under chapter
24 203;

25 H. Issue revenue bonds as provided in this
26 chapter. The authority for the issuance of bonds
27 in any subchapter of this chapter constitutes a
28 complete, additional and alternative method for
29 the issuance of bonds authorized by that
30 subchapter. Any limitation or restriction as to
31 the use of proceeds, total authorized amount of
32 obligations or interest rate, or any other
33 limitation or restriction, applies solely to bonds
34 issued under the subchapter in which the
35 limitation or restriction appears;

36 I. Purchase, sell, service, pledge, invest in,
37 hold, trade, accept as collateral or otherwise
38 deal in, acquire or transfer, on any terms and
39 conditions that the Maine State Housing Authority
40 specifies, any mortgage loan, any mortgage

1 pass-through certificate, any pledge including any
2 pledge or mortgage revenue, any mortgage
3 participation certificate or any other
4 mortgage-backed or mortgage-related security. In
5 connection with the purchase or sale of a mortgage
6 loan or of a beneficial interest or participation
7 in a mortgage loan, the Maine State Housing
8 Authority may enter into one or more agreements
9 providing for the custody, control and
10 administration of the mortgage loan. Any such
11 agreement may provide that:

12 (1) The Maine State Housing Authority or a
13 financial institution will act as trustor,
14 trustee or custodian under the agreement; and

15 (2) With respect to mortgage loans governed
16 by the agreement, title to a mortgage loan,
17 or to a beneficial interest or participation
18 in a mortgage loan, is deemed to have been
19 transferred on terms and to the extent
20 specified in that agreement and that the
21 effect of a sale of a beneficial interest or
22 participation in a mortgage loan is the same
23 as a sale of a mortgage loan;

24 J. Adopt bylaws for the regulation of its affairs
25 and the conduct of its business;

26 K. Perform other functions necessary to the
27 powers and duties expressly stated in this chapter;

28 L. Contract with any financial institution to
29 make mortgage loans on behalf of the Maine State
30 Housing Authority. The mortgage loans shall be
31 made under one or more mortgage loan programs
32 governed by standards established in accordance
33 with the Maine Administrative Procedure Act, Title
34 5, chapter 375. The Maine State Housing Authority
35 may, without contracting with a financial
36 institution, make mortgage loans only with respect
37 to the following:

38 (1) To protect the security or likelihood of
39 repayment of any mortgage loan held by the

1 Maine State Housing Authority when such a
2 loan is not made within 10 business days of
3 application through the originating financial
4 institution on terms and conditions
5 comparable to terms and conditions available
6 from the Maine State Housing Authority; or

7 (2) In one or more areas of the State, to
8 the extent that no financial institution,
9 after both initial and such successive
10 reasonable opportunities as the Maine State
11 Housing Authority may provide, has contracted
12 with the Maine State Housing Authority to
13 participate in a mortgage loan program.

14 Any mortgage loan made under this paragraph does
15 not pledge the faith and credit of the State. Any
16 bonds issued by the Maine State Housing Authority
17 to finance mortgage loans authorized by this
18 paragraph are subject to the limitations of
19 sections 4905 and 4907;

20 M. Formulate proposed affirmative housing action
21 plans for submission to regional planning
22 commissions and local planning boards for their
23 consideration;

24 N. With respect to any bonds which the Maine
25 State Housing Authority is authorized to issue in
26 accordance with the limitations and restrictions
27 of this chapter, covenant and consent that the
28 interest on the bonds will be includable, under
29 the United States Internal Revenue Code of 1954,
30 Title 26, Section 7701(a)(29), or any subsequent
31 corresponding internal revenue law of the United
32 States, in the gross income of the holders of the
33 bonds to the same extent and in the same manner
34 that the interest on bills, bonds, notes or other
35 obligations of the United States is includable in
36 the gross income of the holders under the United
37 States Internal Revenue Code or any subsequent
38 law. The powers conferred by this paragraph are
39 not subject to any limitations or restrictions of
40 any law which may limit the Maine State Housing
41 Authority's power to so covenant and consent.

- 1 (1) Notwithstanding any other provision of
2 this chapter, proceeds of bonds issued under
3 this subsection may be used for persons other
4 than persons of low income.
- 5 (2) The income on any bonds issued by the
6 Maine State Housing Authority shall be
7 included in gross income under the Maine
8 Income Tax Law if the income on those bonds
9 is includable in the gross income of the
10 holders of the bonds under the United States
11 Internal Revenue Code of 1954, Title 26,
12 Section 7701(a)(29), or any subsequent
13 corresponding revenue law of the United
14 States;
- 15 O. Issue or cause to be issued certificates or
16 other instruments evidencing the holder's
17 fractional undivided interest in a pool of
18 mortgage loans. Whether or not the certificates
19 or instruments are of such form or character as to
20 be negotiable instruments under Title 11, article
21 8, the certificates or instruments are deemed
22 negotiable instruments within the meaning of and
23 for all the purposes of Title 11, article 8,
24 subject only to any registration requirements that
25 the Maine State Housing Authority may establish;
- 26 P. In accordance with the limitations and
27 restrictions of this chapter, cause any of its
28 powers or duties to be carried out by one or more
29 nonprofit corporations organized and operated
30 under Title 13-B;
- 31 Q. Modify or waive the requirements of section
32 4902, subsections 1 and 2, and section 4903;
- 33 R. Guarantee or ensure the timely payment in
34 whole or part of principal on, premium on or
35 interest of any bond or of any instrument or
36 security identified in paragraph I or O;
- 37 S. Purchase, sell, service, pledge, invest in,
38 hold, trade, accept as collateral, administer or
39 otherwise deal in, acquire or transfer, contract

1 for benefits to recipients on behalf of the
2 Federal Government or otherwise and do those
3 things necessary to issue or cause to be issued
4 federal mortgage credit certificates as authorized
5 and created by the Federal Tax Reform Act of 1984,
6 Public Law 98-369, Section 612(a); and

7 T. Approve or disapprove, in accordance with
8 rules adopted under the Maine Administrative
9 Procedure Act, Title 5, chapter 375, a project
10 which is multi-family or single-family residential
11 property, when authorized or required by Title 10,
12 chapter 110, subchapter IV.

13 2. Restrictions. Notwithstanding any other
14 provision of this chapter, the Maine State Housing
15 Authority may not provide funds for, finance, purchase
16 the mortgage on or otherwise assist in the
17 construction or management of:

18 A. Any housing owned, sponsored or assisted by an
19 institution of higher education in the State;

20 B. Any housing, the mortgage on which is insured
21 by any federal or state program of mortgage
22 insurance, the primary purpose of which is to
23 assist student housing; or

24 C. Any nursing home or related institution
25 licensed or subject to license by the Department
26 of Human Services under Title 22, section 1817,
27 except intermediate care facility group homes for
28 the mentally retarded and persons with related
29 conditions or the construction, substantial
30 rehabilitation or improvement of homeless shelter
31 facilities that may be related to an institution
32 licensed or subject to license by the Department
33 of Human Services under Title 22, section 1817.

34 §4723. Appointment, qualifications, tenure and
35 meetings of advisory board members,
36 commissioners and directors

37 1. Municipality. The following provisions apply
38 to municipal housing authorities.

1 A. Each authority shall have 6 commissioners
2 appointed. No commissioner may be appointed until
3 the authority is authorized to function as
4 provided in section 4721. In the case of a city
5 having a mayor-council form of government, the
6 mayor shall appoint the commissioners with the
7 advice and consent of the council. In the case of
8 a city having a manager-council form of
9 government, the council shall appoint the
10 commissioners. In the case of a town, the
11 selectmen shall appoint the commissioners.

12 Any person who resides within the authority's
13 boundaries or area, and who is otherwise eligible
14 for appointment under this chapter, may be
15 appointed as a commissioner of the authority.
16 This section does not prevent a commissioner from
17 concurrently serving as a commissioner on a
18 renewal authority established by any city with a
19 population of 20,000 or more.

20 The commissioners who are initially appointed
21 under this section shall be designated to serve
22 for terms of one, 2, 3, 4 and 5 years,
23 respectively, from the date of their appointment.
24 Thereafter, the commissioners shall be appointed
25 for a term of 5 years, except that all vacancies
26 shall be filled for the unexpired terms. All
27 subsequent appointments and appointments to fill a
28 vacancy shall be made as provided in this
29 subsection.

30 (1) In a municipality with housing which is
31 subsidized or assisted by programs of the
32 United States Department of Housing and Urban
33 Development, one of the commissioners must be
34 a resident of that housing. Where tenant
35 associations exist in the housing, the
36 appointing authority shall give priority
37 consideration to nominations made by the
38 associations. The first commissioner
39 appointed to an authority, who is a resident
40 of subsidized or assisted housing, shall be
41 designated to serve for a 4-year term from
42 the date of appointment. Thereafter, the
43 commissioner shall be appointed as provided
44 in this subsection.

1 (2) A certificate of the appointment or
2 reappointment of any commissioner shall be
3 filed with the authority. This certificate
4 is conclusive evidence of the due and proper
5 appointment of the commissioner.

6 B. A commissioner shall receive no compensation
7 for services but is entitled to the necessary
8 expenses, including travel expenses, incurred in
9 the discharge of duties. Each commissioner shall
10 hold office until a successor has been appointed
11 and has qualified.

12 C. Each authority shall elect a chairman and
13 vice-chairman from among the commissioners. An
14 authority may employ a secretary, who shall be
15 executive director, and technical experts and any
16 other officers, agents and employees that it
17 requires and shall determine their qualifications,
18 duties and compensation. An authority may employ
19 its own counsel and legal staff. It may delegate
20 to its agents or employees any powers or duties
21 that it considers proper.

22 D. The powers of an authority are vested in its
23 commissioners. Meetings of the commissioners may
24 be held anywhere within the area of operation of
25 the authority or within any additional area where
26 the authority is authorized to undertake a
27 project. Four commissioners constitute a quorum
28 of an authority for the purpose of conducting its
29 business, exercising its powers and for all other
30 purposes, notwithstanding the existence of any
31 vacancies. The authority may take action upon the
32 vote of a majority of the commissioners present,
33 unless its bylaws require a larger number.

34 2. State. The following provisions apply to the
35 state housing authority.

36 A. The Maine State Housing Authority shall have a
37 21-person advisory board, as authorized by Title
38 5, chapter 379, to be appointed by the Governor
39 representing the several aspects of the housing
40 industry. The advisory board at all times must

1 have members who represent each of the following:
2 Municipal officials, financial institutions,
3 builders, architects, labor, sponsors of housing
4 programs, administrators of local public and local
5 private housing corporations, elderly residents of
6 housing projects, low-income residents of housing
7 projects and licensed real estate brokers. There
8 must be 3 representatives of municipal officials.

9 (1) The members shall elect a president and
10 vice-president of the advisory board from
11 among the advisory board members. The
12 president of the advisory board may call such
13 meetings of the board as considered
14 necessary. The president of the advisory
15 board shall call at least one meeting of the
16 board each year at a time which will allow
17 the board to meet jointly with the
18 commissioners of the Maine State Housing
19 Authority.

20 (2) Seven advisory board members of the
21 Maine State Housing Authority constitute a
22 quorum for the purpose of conducting business
23 of the board and exercising its powers,
24 notwithstanding the existence of any
25 vacancies. The advisory board may take
26 action upon a vote of a majority of the
27 members present, unless its bylaws require a
28 larger number.

29 (3) The advisory board shall advise and
30 counsel the director and commissioners of the
31 Maine State Housing Authority on the policies
32 concerning the powers and duties of the Maine
33 State Housing Authority.

34 B. The Maine State Housing Authority, as
35 authorized by Title 5, chapter 379, shall have 7
36 commissioners, 5 of whom shall be appointed by the
37 Governor, subject to review by the joint standing
38 committee of the Legislature having jurisdiction
39 over State Government, and to confirmation by the
40 Legislature. The 6th commissioner is the
41 Treasurer of State who shall serve ex officio.

1 The Treasurer of State may designate the Deputy
2 Treasurer of State to serve in place of the
3 Treasurer of State. The 7th commissioner is the
4 director of the Maine State Housing Authority who
5 shall serve ex officio, and who is chairman of the
6 commissioners. The 5 gubernatorial appointments
7 must include, but are not limited to,
8 representatives of bankers and of low-income or
9 elderly people. One commissioner must be a
10 resident of housing which is subsidized or
11 assisted by programs of the United States
12 Department of Housing and Urban Development or of
13 the Maine State Housing Authority. In making this
14 appointment, the Governor shall give priority
15 consideration to nominations that may be made by
16 tenant associations established in the State.

17 The commissioners shall elect a vice-chairman of
18 the commissioners from among their number. The
19 commissioners of the Maine State Housing Authority
20 shall establish and revise from time to time
21 policies of the Maine State Housing Authority
22 relating to the following particular matters:

23 (1) Standards of issuing, servicing and
24 redeeming bonds;

25 (2) Purchase, sale or commitment to purchase
26 mortgages or notes;

27 (3) Initiating project construction and
28 accepting properly completed facilities;

29 (4) Setting and establishing selection and
30 evaluation standards, criteria and procedures
31 under which it will purchase, sell or agree
32 to purchase loans, notes or obligations,
33 having regard among other things to:

34 (a) Property values;

35 (b) Local economic conditions and
36 expectancy;

37 (c) Credit and employment; and

1 (d) Local housing conditions and needs
2 and the availability of credit resources
3 to meet those needs relative to similar
4 or competing conditions and needs in
5 other localities in the State;

6 (5) Setting and establishing procedures for
7 the servicing of loans, notes and obligations
8 acquired by it, including the allowance of
9 servicing fees to participating lenders to
10 whom the Maine State Housing Authority may
11 entrust such servicing;

12 (6) Setting and establishing procedures for
13 the collection of money due from persons
14 liable for payment, as to any loan, note or
15 obligation held by the Maine State Housing
16 Authority, by subrogation or otherwise, and
17 to initiate and maintain any action at law or
18 in equity, including foreclosure proceedings,
19 to enforce payment;

20 (7) Setting and establishing procedures for
21 the orderly liquidation and disposition of
22 any property acquired by the Maine State
23 Housing Authority through foreclosure or
24 otherwise in full or partial satisfaction of
25 any debt or obligation held by it; and

26 (8) Establishing and maintaining out of
27 income or otherwise any reserves that the
28 Maine State Housing Authority from time to
29 time determines to be necessary and prudent
30 in addition to those specifically required.

31 Following reasonable notice to each commissioner,
32 4 commissioners of the Maine State Housing
33 Authority constitute a quorum for the purpose of
34 conducting its business, exercising its powers and
35 for all other purposes, notwithstanding the
36 existence of any vacancies. Action may be taken
37 by the commissioners upon a vote of a majority of
38 the commissioners present, unless its bylaws
39 require a larger number.

1 C. The Maine State Housing Authority shall have a
2 director, who must be a person qualified by
3 training and experience to perform the duties of
4 the office. The Governor shall appoint the
5 director of the Maine State Housing Authority,
6 subject to review by the joint standing committee
7 of the Legislature having jurisdiction over State
8 Government, and to confirmation by the Legislature.

9 (1) The director of the Maine State Housing
10 Authority shall serve on a full-time basis
11 for a 4-year term of office, and until a
12 successor has been appointed and qualified.
13 The Governor shall establish the rate and
14 amount of compensation of the director.

15 (2) The powers and duties of the Maine State
16 Housing Authority, except those listed in
17 paragraph B, are vested solely in the
18 director of the Maine State Housing
19 Authority. The director of the Maine State
20 Housing Authority or a representative shall
21 attend all meetings of the advisory board or
22 of the commissioners.

23 (3) The director of the Maine State Housing
24 Authority may act in all personnel matters
25 and may employ technical or legal experts and
26 any other officers, agents and employees
27 required, and shall determine their
28 qualifications, duties and compensation. The
29 director may delegate to the employees and
30 agents any powers and duties considered
31 proper.

32 D. Any person may serve as a member of the
33 advisory board, and any person who, at the time of
34 appointment, is a resident of the State, may serve
35 as a commissioner, except that the director need
36 not be a resident of the State before being
37 appointed.

38 (1) Each commissioner, except for the
39 director and the Treasurer of State, and each
40 advisory board member shall serve a 4-year
41 term beginning with the expiration of the

1 term of the predecessor, except that a
2 vacancy occurring in such a position before
3 the normal expiration of the appointment
4 shall be filled as soon as practicable by a
5 new gubernatorial appointee who shall serve
6 for the remainder of the unexpired term.
7 Each advisory board member and commissioner
8 shall continue to hold office after the term
9 expires until a successor is appointed. In
10 any instance in which more than one
11 commissioner or advisory board member is
12 serving beyond the original term, any new
13 appointee is deemed to succeed the
14 commissioner or advisory board member whose
15 term expired first.

16 (2) The Secretary of State shall prepare a
17 certificate evidencing the appointment of
18 each advisory board member and commissioner.
19 An original of this certificate shall be
20 provided to the appointee. One authenticated
21 copy shall be retained by the Maine State
22 Housing Authority and one by the Secretary of
23 State. An authenticated certificate of
24 appointment is conclusive evidence of the
25 appointment.

26 E. The director is a full-time employee of the
27 authority, but may receive fees or honoraria for
28 services provided to others not in conflict with
29 full-time duties and not performed during time for
30 which the director is receiving compensation from
31 the Maine State Housing Authority. In addition to
32 any authorized compensation, the director is
33 entitled to any employee benefits that are
34 available to other employees of the Maine State
35 Housing Authority, including, but not limited to,
36 authority contributions to any retirement plan,
37 insurance plan, deferred compensation plan or
38 other similar benefits. Each commissioner and
39 advisory board member shall be compensated
40 according to the provisions of Title 5, chapter
41 379.

42 §4724. Conflict of interest

1 The provisions of this section are in addition to
2 the limitations of Title 5, section 18. Any violation
3 of this section is a Class E crime.

4 1. Present employee or commissioner;
5 participation in decision. No employee or
6 commissioner of the Maine State Housing Authority may
7 participate in any decision on any contract or project
8 entered into by the Maine State Housing Authority if
9 that employee or commissioner has any interest, direct
10 or indirect, in any firm, corporation, partnership, or
11 association which may be party to the contract or
12 financially interested in any such project.

13 2. Acquisition of interest in project; accepting
14 employment. No employee or commissioner of any
15 authority may, within 2 years of that service,
16 voluntarily acquire any interest, direct or indirect,
17 in any contract, project or property included or
18 planned to be included in any project of that housing
19 authority over which the employee or commissioner has
20 exercised responsibility, control or decisions during
21 tenure with the authority. Nor may any employee or
22 commissioner of any authority, if accepting employment
23 with any person who has an interest in any contract,
24 property or project included or planned to be included
25 in any project of that authority, may work directly on
26 that contract, project or property for that person if
27 the employee or commissioner has exercised
28 responsibility, control or decisions over that
29 contract, project or property.

30 A. This subsection does not prohibit a
31 manufactured housing inspector employed by the
32 Maine State Housing Authority from accepting
33 employment by a person to work on manufactured
34 housing which is manufactured after the date
35 employment with the Maine State Housing Authority
36 has terminated.

37 3. Limitation on application of section. This
38 section does not apply to:

39 A. The acquisition of any interest in notes or
40 bonds of the Maine State Housing Authority issued
41 in connection with any project or otherwise;

1 B. The execution of agreements by banking
2 institutions for the deposit or handling of funds
3 in connection with any project or to act as
4 trustees under any trust indenture; or

5 C. Utility services, the rates for which are
6 fixed or controlled by a governmental agency.

7 §4725. Removal of commissioners or director

8 A commissioner or director may be removed from
9 office for inefficiency, neglect of duty or misconduct
10 in office after hearing by the legislative body of a
11 city, the selectmen of a town, or the Governor, in the
12 case of the Maine State Housing Authority. The
13 commissioner or director must be given a copy of the
14 charges at least 10 days before the hearing and must
15 be given an opportunity to be heard in person or to be
16 represented by counsel. If a commissioner or a
17 director is removed, a record of the proceedings,
18 together with the charges and the findings on the
19 charges, shall be filed in the office of the clerk or,
20 in the case of the Maine State Housing Authority, in
21 the office of the Secretary of State.

22 SUBCHAPTER III

23 POWERS AND DUTIES

24 §4741. Powers generally

25 An authority constitutes a public body corporate
26 and politic, exercising public and essential
27 governmental functions, and having all the powers
28 necessary to carry out and effectuate the purposes and
29 provisions of this chapter, but not the power to levy
30 and collect taxes or special assessments, including
31 the following powers in addition to others granted:

32 1. General. To sue; to be sued on its written
33 contracts or in accordance with the Maine Tort Claims
34 Act, the Maine Administrative Procedure Act, Title 5,
35 chapter 375, in the case of the Maine State Housing
36 Authority, the Maine Rules of Civil Procedure, Rule
37 80B, or any successor rule of the Maine Rules of Civil

1 Procedure in the case of a municipal authority or
2 Title 1, section 409; to have a seal and alter it at
3 pleasure; to have perpetual succession; to make and
4 execute contracts and other instruments necessary or
5 convenient to the exercise of the authority's powers;
6 and to make and from time to time amend and repeal
7 bylaws, rules and regulations not inconsistent with
8 this chapter, to carry into effect the powers and
9 purposes of the authority;

10 2. Housing projects. Within its area of
11 operation: To prepare, carry out, acquire, lease,
12 manage, maintain or operate housing projects and to
13 provide for the construction, reconstruction,
14 improvement, extension, alteration or repair of any
15 housing project or any part of a housing project. An
16 authority may perform any of these listed functions
17 singly or in combination with other listed functions with
18 respect to any individual housing project, and may
19 perform these functions full-time, part-time or in
20 combination with other private persons, corporations
21 or government agencies or other appropriate body;

22 3. Housing needs. To undertake and carry out
23 studies and analyses of the housing needs within its
24 area of operation and of the meeting of those needs,
25 including data with respect to population and family
26 groups, and the distribution thereof according to
27 income groups, the amount and quality of available
28 housing and its distribution according to rentals and
29 sales prices, employment, wages and other factors
30 affecting the local housing needs and the meeting of
31 those needs, and to make the results of these studies
32 and analyses available to the public and the building,
33 housing and supply industries; and to engage in
34 research and disseminate information on housing;

35 4. Contract for services, other uses; wages and
36 hours of labor. To arrange or contract for the
37 furnishing by any person or agency, public or private,
38 of services, privileges, works or facilities for, or
39 in connection with, a housing project or the occupants
40 of a housing project; and, notwithstanding anything to
41 the contrary in this chapter or in any other provision
42 of law, to agree to any conditions attached to federal
43 financial assistance relating to the determination of

1 prevailing salaries or wages or payment of not less
2 than prevailing salaries or wages or compliance with
3 labor standards, in the development or administration
4 of projects, and to include in any contract let in
5 connection with a project, stipulations requiring that
6 the contractor and any subcontractors comply with
7 requirements as to minimum salaries or wages and
8 maximum hours of labor, and comply with any conditions
9 which the Federal Government has attached to its
10 financial aid of the project;

11 5. Leasing or renting; eminent domain;
12 insurance. To lease or rent any dwellings,
13 accommodations, lands, buildings, structures or
14 facilities embraced in any housing project and,
15 subject to the limitations contained in this chapter,
16 to establish and revise the rents or charges for those
17 rentals; to own, hold and improve real or personal
18 property; to purchase, lease, obtain options upon,
19 acquire by gift, grant, bequest, devise or otherwise
20 any real or personal property or any interest in real
21 or personal property; to acquire, by the exercise of
22 the power of eminent domain, any real property; to
23 sell, lease, exchange, transfer, assign, pledge or
24 dispose of any real or personal property or any
25 interest in real or personal property; to insure or
26 provide for the insurance of any real or personal
27 property or operations of the authority against any
28 risks or hazards; to procure or agree to the
29 procurement of government insurance or guarantees of
30 the payment of any bonds or parts of any bonds issued
31 by an authority, including the power to pay premiums
32 on any such insurance;

33 6. Investment of funds. To invest any funds held
34 in reserves of sinking funds or any funds not required
35 for immediate disbursement in property or securities
36 in which savings banks may legally invest funds
37 subject to their control; to redeem its bonds at the
38 redemption price established for the bonds or to
39 purchase its bonds at less than that redemption price,
40 all bonds so redeemed or purchased to be canceled;

41 7. Slum clearance. Within its area of operation:
42 To determine where slum areas exist or where there is
43 a shortage of safe and sanitary dwelling

1 accommodations for persons of low income; to make
2 studies and recommendations relating to the problem of
3 clearing, replanning and reconstructing of slum areas
4 and the problem of providing dwelling accommodations
5 for persons of low income; and to cooperate with the
6 municipality, the county, the State or any political
7 subdivision of the State in action taken in connection
8 with such problems;

9 8. Investigations and examinations. Acting
10 through one or more commissioners or other persons
11 designated by the authority: To conduct examinations
12 and investigations and to hear testimony and take
13 proof under oath at public or private hearings on any
14 matter material for its information; to administer
15 oaths, issue subpoenas requiring the attendance of
16 witnesses or the production of books and papers and to
17 issue commissions for the examination of witnesses who
18 are outside of the State or unable to attend before
19 the authority or excused from attendance; to make
20 available to appropriate agencies, including those
21 charged with the duty of abating or requiring the
22 correction of nuisances or similar conditions or of
23 demolishing unsafe or insanitary structures within its
24 area of operation, its findings and recommendations
25 with regard to any building or property where
26 conditions exist which are dangerous to the public
27 health, morals, safety or welfare;

28 9. Powers granted. To exercise all or any part
29 or combination of powers granted;

30 10. Coordination with legislative body. The
31 commissioners of a municipal authority or the director
32 of the Maine State Housing Authority shall establish
33 procedures by which the legislative body of a
34 municipality may review proposed projects and plans
35 for financing proposed projects;

36 11. Mortgage credits. The Maine State Housing
37 Authority may acquire from banks, life insurance
38 companies, savings and loan associations, pension or
39 retirement funds, any fiduciaries, the Federal
40 Government and other financial institutions, persons
41 or governmental or business entities mortgage loans
42 and notes anywhere in the State, the restriction as to

1 the area of operation in section 4702 notwithstanding,
2 and may sell mortgages and notes to insurance
3 companies, other financial institutions, persons or
4 governmental or business entities and the Federal
5 Government or any fiduciaries or pension or retirement
6 funds;

7 12. Mortgage assistance payments. Pursuant to
8 the purposes of this Act to provide housing for
9 persons of low income, the Maine State Housing
10 Authority may make payments and binding commitments,
11 subject to the authority's receipt of sufficient funds
12 to honor these commitments from periodic
13 appropriations from appropriate sources, to continue
14 these payments if necessary over the life of the
15 mortgage to mortgagors or to mortgagees on behalf of
16 low-income persons to reduce interest costs on market
17 rate mortgages to as low as 1%;

18 A. No commitment made by the authority under this
19 subsection may be construed to commit the faith
20 and credit of this State;

21 B. Persons benefiting from these mortgage
22 assistance payments shall, according to guidelines
23 to be included in the mortgage agreements, be
24 required to pay a larger interest payment as their
25 ability to pay increases;

26 13. Allocation of federal ceilings. By
27 rulemaking under Title 5, chapter 375, subchapter II,
28 the Maine State Housing Authority shall have the power
29 to establish a process that is different from the
30 federal formula for allocating that portion of the
31 ceiling on the issuance of certain tax-exempt bonds
32 established by the United States Code, Title 26, which
33 has been allocated to the Maine State Housing
34 Authority under Title 10, section 363, and may also
35 limit the types of projects which are eligible to
36 receive allocations or carryforward designations from
37 the Maine State Housing Authority; and

38 14. State housing credit agency. The Maine State
39 Housing Authority is designated the housing credit
40 agency for the State and shall have the power to
41 receive and allocate, according to a process

1 established by rulemaking pursuant to Title 5, chapter
2 375, subchapter II, the annual Maine State Housing
3 Authority credit ceiling for the low-income housing
4 credit established by the United States Code, Title 26.

5 §4742. Operation of housing not for profit

6 It is declared to be the policy of this State that
7 each authority shall manage and operate its housing
8 projects in an efficient manner to enable it to fix
9 the rentals or payments for dwelling accommodations at
10 low rates consistent with its providing decent, safe
11 and sanitary dwelling accommodations for persons of
12 low income. No authority may construct or operate any
13 housing project for profit, or as a source of revenue
14 to the municipality or the State. To this end, an
15 authority shall fix the rentals or payments for
16 dwellings in its projects at no higher rates than it
17 finds necessary to produce revenues which, together
18 with all other available money, revenues, income and
19 receipts of the authority from whatever sources
20 derived, will be sufficient:

21 1. Bond principal and interest. To pay, as the
22 sums become due, the principal and interest on the
23 bonds of the authority;

24 2. Reserves. To create and maintain such
25 reserves as are required to ensure the payment of
26 principal and interest as it becomes due on its bonds;

27 3. Cost and operating projects. To meet the cost
28 of and to provide for maintaining and operating the
29 projects, including necessary reserves for that
30 purpose and the cost of any insurance, and the
31 administrative expenses of the authority;

32 4. Payments in lieu of taxes. To make such
33 payments in lieu of taxes as it determines are
34 consistent with the maintenance of the low-rent
35 character of projects;

36 5. Property declared to be public property. The
37 property of an authority is declared to be public
38 property used for essential public and governmental
39 purposes. This property is exempt from all taxes and

1 from betterments and special assessments of the
2 municipality, the county, the State or any political
3 subdivision of the State. In lieu of taxes on its
4 property, an authority may agree to make such payments
5 to the municipality, the county, the State or any
6 political subdivision of the State as it finds
7 consistent with the maintenance of the low-rent
8 character of housing projects or the achievement of
9 the purposes of this chapter.

10 §4743. Housing rentals and tenant admissions;
11 veteran preference

12 In the operation or management of housing
13 projects, an authority shall at all times observe the
14 following duties with respect to rentals and tenant
15 admissions.

16 1. Rent to persons of low income. It shall rent
17 or lease at least 20% of the dwelling units in any
18 project only to persons or families of low income and
19 at rentals within the financial reach of persons or
20 families of low income.

21 2. Number of rooms. It may rent or lease to a
22 tenant dwelling accommodations consisting of the
23 number of rooms, but no greater number, which it
24 considers necessary to provide safe and sanitary
25 accommodations to the proposed occupants of the rooms
26 without overcrowding.

27 3. Preferences. In the selection of tenants for
28 housing projects, as among low-income families which
29 are eligible applicants for occupancy in dwellings of
30 given sizes and at specified rents, a housing
31 authority shall extend the following preferences:

32 A. First, to families which are to be displaced
33 by any low-rent housing project or by any public
34 slum-clearance or redevelopment project initiated
35 after January 1, 1947, or which were so displaced
36 within 3 years before applying to the public
37 housing agency for admission to any low-rent
38 housing. Among these families:

1 (1) First preference shall be given to
2 families of disabled veterans whose
3 disabilities have been determined by the
4 United States Veterans Administration to be
5 service-connected;

6 (2) Second preference shall be given to
7 families of deceased veterans and servicemen
8 whose deaths have been determined by the
9 United States Veterans Administration to be
10 service-connected;

11 (3) Third preference shall be given to
12 families of other veterans and servicemen;

13 B. Second, to families of other veterans and
14 servicemen. Among these families:

15 (1) First preference shall be given to
16 families of disabled veterans whose
17 disabilities have been determined by the
18 United States Veterans Administration to be
19 service-connected; and

20 (2) Second preference shall be given to
21 families of deceased veterans and servicemen
22 whose deaths have been determined by the
23 United States Veterans Administration to be
24 service-connected.

25 C. As used in this section, unless the context
26 otherwise indicates, the following terms have the
27 following meanings.

28 (1) The term "veteran" means a person who
29 has served in the active military or naval
30 service of the United States at any time on
31 or after April 6, 1917 and before November
32 11, 1918, or at any time on or after
33 September 16, 1940 and before July 26, 1947,
34 or at any time on or after June 27, 1950 and
35 before February 1, 1955, or at any time on or
36 after August 5, 1964 and before May 7, 1975,
37 and who has been discharged or released from
38 the service under conditions other than
39 dishonorable.

1 (2) The term "serviceman" means a person in
2 the active military or naval service of the
3 United States who has served in that service
4 on or after April 6, 1917 and before November
5 11, 1918, or at any time on or after
6 September 16, 1940 and before July 26, 1947,
7 or at any time on or after June 27, 1950 and
8 before February 1, 1955, or at any time on or
9 after August 5, 1964 and before May 7, 1975.

10 Notwithstanding any provisions of this section, an
11 authority may agree to conditions as to tenant
12 eligibility or preference required by the Federal
13 Government under federal law in any contract for
14 financial assistance with the authority.

15 Nothing in this section or section 4742 may be
16 construed as limiting the power of an authority to
17 vest in an obligee the right, in the event of a
18 default by the authority, to take possession of a
19 project or cause the appointment of a receiver of
20 the project, free from all the restrictions
21 imposed by this section or section 4742.

22 §4744. Dwellings for disaster victims and defense
23 workers

24 Notwithstanding the provisions of this chapter or
25 any other law relating to rentals of, preferences or
26 eligibility for admission to, or occupancy in housing
27 projects, during the period when an authority
28 determines that there is an acute need in its area of
29 operation for housing to ensure the availability of
30 dwellings for persons engaged in national defense
31 activities or for victims of a major disaster, an
32 authority may undertake the development and
33 administration of housing projects for the Federal
34 Government, and dwellings in any housing project under
35 the jurisdiction of the authority may be made
36 available to persons engaged in national defense
37 activities or to victims of a major disaster. An
38 authority may contract with the Federal Government or
39 the State or a state public body for advance payment
40 or reimbursement for the furnishing of housing to
41 victims of a major disaster, including the furnishing

1 of the housing free of charge to needy disaster
2 victims during any period covered by a determination
3 of acute need by the authority as provided.

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

7 A. The term "major disaster" means any flood,
8 drought, fire, hurricane, earthquake, storm or
9 other catastrophe which, in the determination of
10 the governing body, is of sufficient severity and
11 magnitude to warrant the use of available
12 resources of the Federal Government, State
13 Government and local governments to alleviate the
14 damage, hardship or suffering caused by the
15 disaster.

16 B. The term "persons engaged in national defense
17 activities" means persons in the Armed Forces of
18 the United States, employees of the Department of
19 Defense and workers engaged or to be engaged in
20 activities connected with national defense. The
21 term includes the families of the persons,
22 employees and workers who reside with them.

23 §4745. Cooperation between authorities

24 Any 2 or more authorities may join or cooperate in
25 the exercise of any or all of the powers conferred for
26 the purpose of financing, planning, undertaking,
27 constructing or operating a housing project or
28 projects located within the area of operation of any
29 one or more of the authorities.

30 §4746. Eminent domain

31 An authority may acquire by the exercise of
32 eminent domain any real property which it considers
33 necessary for its purposes under this chapter. The
34 authority must first adopt a resolution declaring that
35 the acquisition of the real property described in the
36 resolution is necessary for those purposes. An
37 authority shall exercise the power of eminent domain
38 in the manner provided in section 5108, but references
39 in section 5108 to an urban renewal project and a
40 renewal project area and the like do not apply.

1 §4747. Cooperation in undertaking projects

2 Any state public body, upon such terms, with or
3 without consideration, as it may determine may:

4 1. Interest in property; rights and privileges.
5 Dedicate, sell, convey or lease any of its interest in
6 any property, or grant easements, licenses or any
7 other rights or privileges in property to a housing
8 authority;

9 2. Facilities furnished. Cause parks,
10 playgrounds, recreational, community, educational,
11 water, sewer or drainage facilities, or any other
12 works which it is otherwise empowered to undertake, to
13 be furnished adjacent to or in connection with any
14 project;

15 3. Roads, streets, ways. Furnish, dedicate,
16 close, pave, install, grade, regrade, plan or replan
17 streets, roads, roadways, alleys, sidewalks or other
18 places, in or adjacent to any project;

19 4. Plans and zoning. Plan or replan, zone or
20 rezone any part of the state public body; make
21 exceptions from building regulations and ordinances;
22 any city may change its map;

23 5. Services. Cause services to be furnished to
24 the housing authority of the character which the state
25 public body is otherwise empowered to furnish;

26 6. Agreements as to buildings. Enter into
27 agreements with respect to the exercise by the state
28 public body of its powers relating to the repair,
29 closing or demolition of unsafe, insanitary or unfit
30 buildings;

31 7. Sums in lieu of taxes. Agree with the housing
32 authority with respect to the housing authority's
33 payment of such sums in lieu of taxes as the authority
34 determines to be consistent with the maintenance of
35 the low-rent character of housing projects or the
36 achievement of the purposes of this chapter;

1 8. Aid and cooperation. Do anything necessary or
2 convenient to aid and cooperate in the planning,
3 undertaking, construction or operation of such
4 projects; and

5 9. Agreements concerning action of the state
6 public body. Enter into agreements, which may extend
7 over any period, notwithstanding any provision or rule
8 of law to the contrary, with a housing authority
9 concerning action to be taken by the state public body
10 under any of the powers granted by this chapter. If
11 at any time title to, or possession of, any project is
12 held by any public body or governmental agency
13 authorized to engage in the development or
14 administration of low-rent housing or slum-clearance
15 projects, including the Federal Government, the
16 provisions of these agreements shall inure to the
17 benefit of and may be enforced by the public body or
18 governmental agency. A state public body may make any
19 sale, conveyance, lease or agreement provided for in
20 this section without public notice, advertisement or
21 public bidding, notwithstanding any other laws to the
22 contrary.

23 SUBCHAPTER IV

24 FUNDS

25 §4771. Federal aid

26 1. Purpose; contractual conditions. It is the
27 purpose and intent of this chapter to authorize every
28 authority to do all things necessary or desirable to
29 secure the financial aid or cooperation of the Federal
30 Government in the undertaking, construction,
31 maintenance or operation of any project by an
32 authority and in the authority's exercise of the other
33 powers granted to the authority in this chapter. To
34 accomplish this purpose, an authority, notwithstanding
35 any other law, may include in any contract with the
36 Federal Government for financial assistance any
37 conditions which the Federal Government attaches to
38 its financial aid of a project, not inconsistent with
39 the purposes of this chapter.

1 2. Additional powers. In addition to the powers
2 conferred upon an authority by other provisions of
3 this chapter, an authority may:

4 A. Borrow money or accept contributions, grants
5 or other financial assistance from the Federal
6 Government for or in aid of any project within its
7 area of operation;

8 B. Take over or lease or manage any project or
9 undertaking constructed or owned by the Federal
10 Government; and

11 C. For the purposes of paragraphs A and B, comply
12 with any conditions and enter into any mortgages,
13 trusts, indentures, leases or agreements that are
14 necessary, convenient or desirable.

15 3. Contracts for annual contributions. In any
16 contract with the Federal Government for annual
17 contributions to the authority, the authority may
18 obligate itself, notwithstanding any other laws, to
19 convey to the Federal Government the project to which
20 the contract relates, upon the occurrence of a
21 substantial default, as defined in the contract, with
22 respect to the covenants or conditions to which the
23 authority is subject. This obligation is specifically
24 enforceable and does not constitute a mortgage. The
25 contract may further provide that, in case of such
26 conveyance, the Federal Government may complete,
27 operate, manage, lease, convey or otherwise deal with
28 the project in accordance with the terms of the
29 contract, provided the contract requires that, as soon
30 as practicable after the Federal Government is
31 satisfied that all defaults with respect to the
32 project have been cured and that the project will
33 thereafter be operated in accordance with the terms of
34 the contract, the Federal Government will reconvey the
35 project as then constituted to the authority.

36 4. Approval of municipality necessary;
37 exceptions. Except as provided in paragraph A, no
38 authority may enter into any contract for loans,
39 grants, contributions or other financial assistance
40 with the Federal Government for any project until the
41 legislative body of the municipality where the project

1 is to be located approves the authority's entering
2 into the contract by resolution duly adopted.

3 A. No resolution is required where the contract
4 with the Federal Government involves financial
5 assistance with respect to existing housing units
6 or moderately rehabilitated housing units within
7 the municipality. The requirements of section
8 4702, subsection 1 do not apply to the Maine State
9 Housing Authority with respect to any such units.
10 With respect to a contract for any moderately
11 rehabilitated housing units, compliance by the
12 Maine State Housing Authority with the procedures
13 set forth in subparagraph 1 satisfies the
14 requirements of section 4741, subsection 10.

15 (1) The Maine State Housing Authority shall,
16 by certified mail, return receipt requested,
17 give written notice of its intention to
18 solicit proposals from owners of the units
19 located in the municipality to the city's
20 legislative body or the town selectmen. The
21 notice shall state the reasons for the
22 authority's intention to make the
23 solicitation. The Maine State Housing
24 Authority shall mail the notice at least 15
25 business days before making any such
26 solicitation and request comments from the
27 municipality. Within 10 business days after
28 receiving the notice, the legislative body or
29 the selectmen may provide the Maine State
30 Housing Authority with written comments
31 pertaining to the notice.

32 §4772. Municipal advances to housing authorities

33 The municipality for which a housing authority is
34 created may lend or donate money to the authority.
35 When such a loan is made to a housing authority to aid
36 its initial organization or its planning and
37 preparation for projects, the loan may be made upon
38 the condition that the housing authority will repay
39 the loan out of any money which becomes available to
40 it for the construction of the projects involved.

1 SUBCHAPTER V

2 LOANS TO FINANCIAL INSTITUTIONS

3 §4801. Findings and purpose

4 The Legislature finds that economic conditions
5 have, from time to time since the original enactment
6 of the Maine Housing Authorities Act, created
7 circumstances in which Maine residents have been
8 unable to support financing costs for the purchase of
9 new or substantially rehabilitated homes or for the
10 purchase of existing housing. To provide mortgage
11 funds to allow Maine citizens who are persons of low
12 income to enjoy the benefits of home ownership or
13 residency in privately owned apartments, the expansion
14 of the financial capacity of the Maine State Housing
15 Authority as a source of additional loan money for
16 housing in Maine is undertaken in this subchapter. It
17 is further declared that the purposes of this
18 subchapter are public purposes and uses for which
19 public funds may be borrowed, loaned, advanced or
20 expended.

21 §4802. Institutional loans

22 1. Loans authorized. The Maine State Housing
23 Authority may make loans to financial institutions for
24 the purpose of providing mortgage funds for the
25 financing of housing units or housing projects for
26 persons or families of low income. These loans are
27 referred to in this subchapter as "institutional
28 loans". Financial institutions receiving or to
29 receive such loans are referred to in this subchapter
30 as "participating financial institutions." A
31 participating financial institution which does not
32 maintain a regular place of business in the State must
33 contract for the origination of mortgage loans with a
34 financial institution with a regular place of business
35 in the State.

36 2. Eligible mortgage loans. Eligible mortgage
37 loans under this subchapter are mortgage loans for the
38 purpose of:

1 A. Acquiring one-family or multi-family housing
2 units, housing projects and improvements located
3 on an Indian reservation in the State;

4 B. Rehabilitating housing units or housing
5 projects or to promote the conservation of energy
6 resources;

7 C. Constructing, reconstructing or developing
8 housing units or housing projects; and

9 D. Purchasing manufactured housing.

10 §4803. Issuance of bonds; rules

11 The Maine State Housing Authority may issue bonds
12 for the purpose of making institutional loans to
13 participating financial institutions. The
14 participating financial institutions shall invest the
15 proceeds of these institutional loans in mortgage
16 loans for the financing of housing units or housing
17 projects for persons of low income.

18 1. Rules. Before making any institutional loan
19 under this section, the Maine State Housing Authority
20 shall establish rules concerning:

21 A. The interest rate and terms of institutional
22 loans to be made to participating financial
23 institutions;

24 B. The time within which participating financial
25 institutions must make commitments and
26 disbursements for mortgage loans;

27 C. The type and amount of collateral security to
28 be pledged by participating financial institutions
29 to ensure repayment of institutional loans from
30 the Maine State Housing Authority as provided in
31 section 4806;

32 D. Standards as to the construction or
33 rehabilitation for the housing units or housing
34 projects to be financed;

- 1 E. Procedures for the submission of requests or
2 the invitation of proposals for institutional
3 loans;
- 4 F. Schedules of fees and other charges to be made
5 by the Maine State Housing Authority or the
6 participating financial institution, or both, in
7 accepting, acting upon or renewing applications
8 for institutional loans or mortgage loans under
9 this section;
- 10 G. Limiting the rate of return on mortgage loans
11 made by participating financial institutions;
- 12 H. Establishing the time within which
13 participating financial institutions will invest
14 the proceeds of the institutional loans in
15 mortgage loans; and
- 16 I. Any other matters related to institutional
17 loans or mortgage loans that the Maine State
18 Housing Authority considers necessary.

19: §4804. Bonds; use of proceeds

20 Institutional loans made and rules established
21 under this subchapter shall be designed to:

22 1. Expand mortgage funds. Expand the supply of
23 funds available in the State for residential mortgage
24 loans;

25 2. Improve housing for low-income persons.
26 Provide funds to alleviate the shortage of decent,
27 safe and sanitary living accommodations in the State
28 for persons of low income; and

29 3. Improve energy conservation. In the case of
30 rehabilitated housing units or housing projects,
31 improve and promote conservation of energy resources
32 or otherwise improve the quality of existing housing.

33 §4805. Provisions of bonds

34 The indebtedness created by an institutional loan
35 to a participating financial institution is a general

1 obligation of that participating financial institution
2 and shall bear such date or dates, shall mature at
3 such time or times, shall be evidenced by such bond,
4 note or other certificate of indebtedness, may be
5 subject to prepayment with or without penalty, and
6 shall contain any other provisions consistent with
7 this section and with the rules established under this
8 section by the Maine State Housing Authority that the
9 Maine State Housing Authority considers necessary.

10 §4806. Bonds; collateral

11 The Maine State Housing Authority shall require
12 that institutional loans be secured as to payment of
13 both principal and interest by a pledge of and lien
14 upon qualified collateral security.

15 The Maine State Housing Authority may establish
16 any requirements that it considers necessary with
17 respect to the pledging, assigning, setting aside or
18 holding of this collateral and the making of
19 substitutions for or additions to the collateral and
20 the disposition of income and receipts from the
21 collateral.

22 Notwithstanding any other provision of law,
23 participating financial institutions may do any acts
24 required by this subchapter.

25 §4807. Separability

26 In accordance with section 4722, subsection 1,
27 paragraph H, the authority to issue bonds granted by
28 this subchapter and the terms, conditions, purposes
29 and uses of those bonds are separate from, and not
30 limited or restricted by, the authority to issue bonds
31 granted in the several separate subchapters of this
32 chapter. The provisions of all other subchapters of
33 this chapter apply to this subchapter except sections
34 4901 to 4907.

35 §4808. Bond rating category

36 Bonds issued under this subchapter must be rated
37 at or before issuance of the bonds in a rating
38 category of A or its equivalent or better by a
39 nationally recognized rating agency.

1 SUBCHAPTER VI

2 CONSTRUCTION LOANS

3 §4831. Findings and purpose

4 The Legislature finds that:

5 1. Shortage exists. A shortage of decent housing
6 accommodations for persons or families of low income
7 exists in the State;

8 2. Shortage of funds. A cause of the lack of new
9 construction in the State has been the recurrent
10 shortage of funds from private sources;

11 3. Hardship. The reduction in this construction
12 has caused substantial unemployment and
13 underemployment in the construction industry which
14 results in hardship, wastes human resources, impedes
15 the economic and physical development of the State,
16 causes a shortage of housing for persons of low income
17 and adversely affects the welfare and prosperity of
18 the State;

19 4. Encourage construction. A stable supply of
20 construction loan funds will encourage new housing
21 construction;

22 5. Public funds. The availability of public
23 funds will create inducements and opportunities for
24 public and private investment in new housing
25 construction; and

26 6. Public use. Providing these funds is
27 necessary for the public benefit and welfare and is a
28 public use for which funds may be borrowed, advanced,
29 loaned or expended.

30 §4832. Construction loans

31 The Maine State Housing Authority may participate
32 with financial institutions in the State in the making
33 of construction loans for the purpose of land
34 development and the construction of housing units or

1 housing projects for persons of low income, under any
2 terms and conditions that the Maine State Housing
3 Authority may establish by rule.

4 1. Participation requirements. The Maine State
5 Housing Authority may not participate in the making of
6 construction loans unless a financial institution in
7 the State agrees to participate in the loan at least
8 to the extent of 15% of the principal amount of the
9 loan. Notwithstanding any other provisions of law,
10 financial institutions in the State may act as
11 required by this subchapter.

12 2. Rules. The Maine State Housing Authority
13 shall establish rules in accordance with the Maine
14 Administrative Procedure Act, Title 5, chapter 375,
15 governing, without limitation, the following subjects
16 and procedures for participating in the making of
17 construction loans:

18 A. The submission, review and acceptance of
19 requests from borrowers for construction loans
20 under this section;

21 B. Qualifications of borrowers;

22 C. Limitation on and standards for location and
23 construction of housing units or housing projects;

24 D. Schedules of fees and other charges made by
25 the authority and the financial institution to the
26 borrower in accepting, reviewing and acting upon
27 applications for construction loans under this
28 subchapter; and

29 E. Restrictions on the interest rates charged by
30 the financial institutions and the authority on
31 the construction loans or the return on those
32 loans to be realized by the financial institution.

33 §4833. Bonds; issuance, separability of provisions

34 The Maine State Housing Authority may issue bonds
35 from time to time to carry out the purposes of this
36 subchapter. These bonds shall be secured in such
37 manner as the Maine State Housing Authority by

1 resolution may provide. The bonds shall be known as
2 construction loan bonds. The authority to issue
3 construction loan bonds under this subchapter
4 constitutes a complete, additional and alternative
5 method for the issuance of bonds from that provided in
6 any other subchapter in this chapter. No limitation
7 or restriction as to use of proceeds or total
8 authorized amount of obligations outstanding stated in
9 this subchapter applies to bonds issued under any
10 other subchapter in this chapter, nor do such
11 restrictions or limitations recited in other
12 subchapters apply to bonds issued under this
13 subchapter. Sections 4901 to 4907 do not apply to
14 bonds issued under this subchapter. The provision in
15 section 4832 restricting construction loans to housing
16 projects for persons of low income is considered
17 satisfied if at least a reasonable number of the
18 families or individuals who will occupy the mortgaged
19 premises are persons of low income. All other
20 provisions of this chapter apply to bonds issued under
21 this subchapter.

22 The Maine State Housing Authority may not at any
23 time have an aggregate principal amount of
24 construction loan bonds outstanding in excess of
25 \$25,000,000. In computing the total amount of
26 construction loan bonds of the Maine State Housing
27 Authority which is outstanding at any time, the amount
28 of the outstanding bonds refunded or to be refunded
29 from the proceeds of the sale of new bonds or by
30 exchange of new bonds shall be excluded.

31 SUBCHAPTER VII

32 HOUSING OPPORTUNITIES FOR MAINE PROGRAM

33 §4851. Legislative findings and determinations

34 1. Findings. The Legislature finds that:

35 A. Economic conditions within the State and the
36 United States have resulted in a significant
37 reduction in the construction of new housing units
38 in the State and in a significant reduction of the
39 availability of mortgages made by financial
40 institutions in the State;

1 B. The Federal Government has significantly
2 reduced the types and amounts of housing
3 assistance to citizens of the State and the United
4 States;

5 C. A substantial number of Maine's citizens
6 cannot afford housing which is decent, safe and
7 sound;

8 D. A significant number of housing units in the
9 State require repairs or improvements necessary to
10 eliminate dangers to the health or safety of the
11 occupants of those units or to ensure that those
12 units are energy-efficient;

13 E. The demand for housing is increasing more
14 quickly than the supply of housing;

15 F. The United States Mortgage Subsidy Bond Tax
16 Act of 1980, Public Law 96-499, Title XI, Subtitle
17 A; 94 Stat. 2660-2681, and conditions in national
18 financial markets have prevented the Maine State
19 Housing Authority from selling bonds to provide
20 funds for affordable mortgage loans on certain
21 owner-occupied housing; and

22 G. The adverse impact of the problems found by
23 the Legislature cannot be effectively lessened
24 without financial assistance for housing provided
25 by the State through the Maine State Housing
26 Authority.

27 2. Determination. The Legislature determines
28 that:

29 A. From time to time the Legislature should
30 appropriate money from the General Fund in order
31 to carry out the program established under this
32 subchapter; and

33 B. Upon adoption of any such appropriations act,
34 the Maine State Housing Authority shall use the
35 money to carry out the program established under
36 this subchapter.

1 §4852. Housing Opportunities for Maine Program

2 1. Operator of program. Upon a General Fund
3 appropriation of money for the Housing Opportunities
4 for Maine Fund created by section 4853, subsection 1,
5 the Maine State Housing Authority shall operate the
6 Housing Opportunities for Maine Program. This program
7 may be operated in conjunction with or as part of one
8 or more other programs of the Maine State Housing
9 Authority.

10 2. Use of money. Money in the Housing
11 Opportunities for Maine Fund shall be applied:

12 A. To reduce the rate of interest on or the
13 principal amount of such mortgage loans as the
14 Maine State Housing Authority determines, to
15 reduce payments by persons of low income for the
16 rental of single-family or multi-unit residential
17 housing or otherwise to make the costs of
18 single-family or multi-unit residential housing
19 affordable by persons of low income; or

20 B. To fund reserve funds for, to pay capitalized
21 interest on, to pay costs of issuance of, to
22 purchase mortgage loans or otherwise to secure and
23 to facilitate the sale of the Maine State Housing
24 Authority's bonds issued under this chapter.

25 If any money in the Housing Opportunities for Maine
26 Fund is used in conjunction with or as part of the
27 issuance of any mortgage purchase bonds and the
28 proceeds of the bonds are allocated by the Maine State
29 Housing Authority to assist in the acquisition of
30 housing, the Maine State Housing Authority shall
31 require that the purchaser of the housing make a down
32 payment of at least 5% of the price paid for the
33 housing; except that this requirement does not apply
34 to mortgage loans insured or guaranteed by the United
35 States Veterans Administration, the Federal Housing
36 Administration or any other agency of the Federal
37 Government that allows for a lesser down payment. The
38 Maine State Housing Authority may not limit the
39 maximum down payment that may be required.

1 3. Availability requirement. For at least 3
2 months after the date on which any appropriation is
3 first available for expenditure, at least 50% of the
4 proceeds of mortgage purchase bonds assisted under
5 subsection 2 and allocated by the Maine State Housing
6 Authority for the purchase of home improvement notes
7 for owner-occupied residential housing shall be made
8 available for persons of low income whose adjusted
9 income does not exceed 100% of the median family
10 income for the State, as developed by the Maine State
11 Housing Authority from available data or publications.

12 §4853. Fund created

13 1. Creation. There is created and established
14 under the jurisdiction and control of the Maine State
15 Housing Authority the Housing Opportunities for Maine
16 Fund.

17 2. Definitions. As used in this subchapter,
18 unless the context otherwise indicates, the term
19 "fund" means the Housing Opportunities for Maine Fund
20 created by subsection 1.

21 §4854. Sources of fund

22 There shall be paid into the fund:

23 1. Appropriations. All money appropriated from
24 the General Fund for inclusion in the fund;

25 2. Repayment of advances. Subject to any pledge,
26 contract or other obligation under section 4855, any
27 money which the Maine State Housing Authority receives
28 in repayment of advances from the fund;

29 3. Gains from investments. Subject to any
30 pledge, contract or other obligation under this
31 section, all interest, dividends and pecuniary gains
32 from the investment of money of the fund; and

33 4. Other money. Any other money available to the
34 Maine State Housing Authority and directed by the
35 Maine State Housing Authority to be paid into the fund.

36 §4855. Application of fund

1 1. Application to bonds of Maine State Housing
2 Authority. Money in the fund may, in whole or in
3 part, be pledged or transferred and deposited as
4 security for and applied in payment of principal of,
5 interest on or redemption premiums on bonds of the
6 Maine State Housing Authority issued after April 1,
7 1982, in accordance with section 4852.

8 2. Application on behalf of low-income persons.
9 Pursuant to any contract with or on behalf of persons
10 of low income, the Maine State Housing Authority may,
11 in whole or in part, apply money in the fund in
12 accordance with section 4852.

13 §4856. Accounts within fund

14 The Maine State Housing Authority may divide the
15 fund into any separate accounts that it finds
16 necessary to accomplish the purposes of this
17 subchapter.

18 §4857. Recovery of money applied from fund

19 To the extent permitted by law and to the extent
20 it is economically and socially reasonable, the Maine
21 State Housing Authority may recover amounts from any
22 person on whose behalf money from the fund has been
23 applied to carry out this subchapter and may charge
24 interest on those amounts at a rate determined by the
25 Maine State Housing Authority.

26 1. Recovery deferred. The recovery may be
27 deferred until:

28 A. The sale or refinancing of the housing;

29 B. The end of the term of the mortgage loan; or

30 C. Any other time determined by the Maine State
31 Housing Authority.

32 2. Limitation of recovery. Recourse for the
33 recovery is limited to property subject to the
34 mortgage, except in cases of fraud.

1 §4858. Revolving fund

2 The fund is a revolving fund. The Maine State
3 Housing Authority shall continuously apply all money
4 in the fund to carry out this subchapter.

5 SUBCHAPTER VIII

6 BONDS

7 §4871. Issuance and conditions

8 An authority may issue bonds from time to time in
9 its discretion for any of its corporate purposes. An
10 authority may issue refunding bonds for the purpose of
11 paying or retiring bonds previously issued by it.

12 1. Methods of repayment; security. An authority
13 may issue such types of bonds as it may determine,
14 including, but not limited to, bonds on which the
15 principal and interest are payable:

16 A. Exclusively from the income and revenues of
17 the project financed with the proceeds of those
18 bonds;

19 B. Exclusively from the income and revenue of
20 certain designated projects whether or not they
21 are financed in whole or in part with the proceeds
22 of those bonds;

23 C. From its revenues generally or exclusively
24 from the proceeds of mortgages, bonds, or notes or
25 other securities held by the authority; or

26 D. From money appropriated by the State or
27 otherwise authorized in this chapter to be applied
28 for the payment of principal, redemption price and
29 interest on the bonds.

30 Any such bonds may be additionally secured by a pledge
31 of any grant or contributions from the Federal
32 Government or other source, or a pledge of any income
33 or revenues of the authority or a mortgage of any
34 project, projects or other property of the authority.
35 These bonds may also be secured by one or more Capital
36 Reserve Funds established under section 4906.

1 2. Negotiable instruments. Whether or not the
2 bonds are of such form and character as to be
3 negotiable instruments under the Uniform Commercial
4 Code, Title 11, article 8, the bonds are hereby made
5 negotiable instruments within the meaning of and for
6 all the purposes of the Uniform Commercial Code, Title
7 11, article 8, subject only to the provisions of the
8 bonds for registration.

9 The bonds may be sold at public or private sale. Any
10 provision of any law to the contrary notwithstanding,
11 any bonds issued under this chapter shall be fully
12 negotiable.

13 3. Municipal authorities. In the case of a
14 municipal authority, no bonds may be issued, the
15 principal and interest of which are to be payable from
16 the proceeds of mortgages and notes held by the
17 authority under subchapter IX, unless:

18 A. The bonds are rated in a rating category of A,
19 its equivalent or better, by a nationally
20 recognized rating agency;

21 B. The authority has received consent to issue
22 these bonds from the legislative body of the
23 municipality in which the authority is
24 established; and

25 C. In the case of a city authority, the authority
26 has also received the consent of the legislative
27 body of any towns within the area of operation of
28 the authority in which money from the issuance of
29 the bonds may be made available.

30 Municipal authorities, considered together, may not at
31 any time have, in the aggregate principal amount of
32 the bonds outstanding, bonds described in this
33 subsection in excess of \$50,000,000.

34 4. Authorization; sale; details of bond. Bonds
35 of an authority shall be authorized by resolution and
36 may be issued in one or more series. Bonds of an
37 authority shall bear such date or dates, mature at
38 such time or times, bear interest at such rate or

1 rates, be in such denomination or denominations, be in
2 such form either coupon or registered, carry such
3 conversion or registration privileges, have such rank
4 or priority, be executed in such manner, be payable in
5 such medium of payment, at such place or places, and
6 be subject to such terms of redemption with or without
7 premium, as such resolution, its trust indenture or
8 mortgage may provide.

9 5. Signatures on bonds or coupons. If any
10 commissioner or officer of the authority whose
11 signature appears on any bonds or coupons ceases to be
12 a commissioner or officer before the bonds are
13 delivered, the signature is nevertheless valid for all
14 purposes, the same as if the commissioner or officer
15 had remained in office until the delivery.

16 6. Allocation. Seventy-five percent of the
17 aggregate amount of qualified mortgage bonds that may
18 be issued during any calendar year in accordance with
19 the United States Internal Revenue Code of 1954,
20 Section 103A(g), as amended, is allocated to the Maine
21 State Housing Authority. For calendar year 1986, the
22 allocation provisions of Title 10, chapter 9, shall
23 supersede this allocation.

24 7. No liability on bonds. Neither the
25 commissioners of an authority nor any person executing
26 the bonds may be personally liable on the bonds by
27 reason of the issuance of the bonds. The bonds and
28 other obligations of an authority shall not be a debt
29 of the municipality, the State or any political
30 subdivision of the State and neither the municipality
31 nor the State or any political subdivision of the
32 State may be liable on those bonds; the bonds and
33 obligations shall so state on their face. The bonds
34 shall not constitute an indebtedness within the
35 meaning of any constitutional or statutory debt
36 limitation or restriction. In no event may these bonds
37 or obligations be payable out of any funds or
38 properties other than those of the authority. Bonds
39 of an authority are declared to be issued for an
40 essential public and governmental purpose and to be
41 public instrumentalities and, together with interest
42 on and income from those bonds, are exempt from taxes.

43 8. Presumption of validity. In any civil action

1 or proceedings involving the validity or
2 enforceability of any bond of an authority or the
3 security for that bond, any bond reciting in substance
4 that it has been issued by the authority to aid in
5 financing the activities of the authority is deemed to
6 have been issued for that purpose, and those
7 activities are deemed to have been planned, located
8 and carried out in accordance with the purposes and
9 provisions of this chapter.

10 §4872. Provisions of bonds, trust indentures and
11 mortgages

12 In order to secure the payment of its bonds, an
13 authority in addition to its other powers may:

14 1. Pledge of assets. Pledge all or any part of
15 its gross or net rents, fees or revenues, including
16 any grants or contributions from the Federal
17 Government or other source, to which its right then
18 exists or may thereafter come into existence, except
19 the proceeds described in sections 4905 and 4906,
20 which shall be applied as described in those sections;

21 2. Mortgage property. Mortgage all or any part
22 of its real or personal property then owned or
23 thereafter acquired;

24 3. Covenants against pledging, mortgaging,
25 disposal or debts. Covenant against pledging all or
26 any part of its rents, fees and revenues, or against
27 mortgaging all or any part of its real or personal
28 property to which its right or title then exists or
29 may thereafter come into existence or against
30 permitting or suffering any lien on those revenues or
31 property; it may covenant with respect to its right to
32 sell, lease or otherwise dispose of any housing
33 project or any part of a housing project; and it may
34 covenant as to what other or additional debts or
35 obligations may be incurred by it;

36 4. Covenants against extending bond payments and
37 redemption. Covenant against extending the time for
38 the payment of its bonds or interest on the bonds, and
39 may covenant for the redemption of the bonds and may
40 provide the terms and conditions of redemption;

1 5. Procedure to amend contracts with
2 bondholders. Prescribe the procedure, if any, by
3 which the terms of any contract with bondholders may
4 be amended or abrogated, the amount of bonds the
5 holders of which must consent to that amendment and
6 the manner in which that consent may be given;

7 6. Breach of covenant. Covenant as to the
8 rights, liabilities, powers and duties arising upon
9 the authority's breach of any covenant, condition or
10 obligation; and it may covenant and prescribe as to
11 events of default and terms and conditions upon which
12 any or all of its bonds or obligations will become or
13 may be declared due before maturity, and as to the
14 terms and conditions upon which that declaration and
15 its consequences may be waived; and

16 7. General powers. Exercise all or any part or
17 combination of the powers granted; it may make any
18 other covenants and do any acts and things that are
19 necessary or desirable in order to secure its bonds
20 or, in the absolute discretion of the authority, that
21 will tend to make the bonds more marketable,
22 notwithstanding that those covenants, acts or things
23 are not enumerated.

24 It is the intention of this section that any
25 pledge made by the Maine State Housing Authority
26 concerning such bonds or notes is valid and binding
27 from the time when the pledge is made; that the money
28 or property so pledged and thereafter received by the
29 Maine State Housing Authority is immediately subject
30 to the lien of that pledge without any physical
31 delivery thereof or further act; and that the lien of
32 any such pledge is valid and binding as against all
33 parties having claims of any kind in tort, contract or
34 otherwise against the Maine State Housing Authority
35 irrespective of whether those parties have notice of
36 that lien.

37 Neither the resolution, trust indenture nor any
38 other instrument by which a pledge is created need be
39 recorded.

40 §4873. Remedies of an obligee

1 An obligee of an authority has the right in
2 addition to all other rights which may be conferred on
3 the obligee, subject only to any, contractual
4 restrictions binding upon the obligee;

5 1. Compel performance. By mandamus, civil action
6 or proceeding to:

7 A. Compel the authority and its commissioners,
8 officers, agents or employees to perform every
9 term, provision and covenant contained in any
10 contract of the authority with or for the benefit
11 of the obligee; and

12 B. Require the carrying out of any or all the
13 covenants and agreements of the authority and the
14 fulfillment of all duties imposed upon the
15 authority by this chapter; and

16 2. Enjoin. By civil action or proceeding to:

17 A. Enjoin any unlawful acts or things; or

18 B. Enjoin the violation of any of the rights of
19 the obligee of the authority.

20 §4874. Additional remedies conferrable by authority

21 An authority may by its resolution, trust
22 indenture, mortgage, lease or other contract confer
23 upon any obligee holding or representing a specified
24 amount in bonds, the right, in addition to all rights
25 that may otherwise be conferred, upon the happening of
26 an event of default as defined in the resolution or
27 instrument, by suit, action or proceeding in any court
28 of competent jurisdiction:

29 1. Cause possession of project to be
30 surrendered. Cause possession of any project or any
31 part of a project to be surrendered to any such
32 obligee;

33 2. Obtain appointment of receiver. Obtain the
34 appointment of a receiver of any project of the
35 authority or any part of a project and of the rents
36 and profits from the project; and

1 3. Require accounting. Require the authority and
2 the commissioners of the authority to account as if it
3 and they were the trustees of an express trust.

4 §4875. Bonds as legal investments and security

5 1. Purpose; application. It is the purpose of
6 this section to authorize any of the persons or
7 entities referred to in subsection 2 to use any funds
8 owned or controlled by them, including, but not
9 limited to, sinking, insurance, investment,
10 retirement, compensation, pension and trust funds, and
11 funds held on deposit, for the purchase of any bonds
12 or obligations described in subsection 2. This section
13 applies notwithstanding any restrictions on
14 investments contained in other laws.

15 2. Qualifications of bonds. The State and all
16 public officers, municipal corporations, political
17 subdivisions and public bodies, all banks, bankers,
18 trust companies, savings banks, commercial banks and
19 institutions, building and loan associations, savings
20 and loan associations, investment companies, insurance
21 companies, insurance associations and other persons
22 carrying on a banking or insurance business, and all
23 executors, administrators, guardians, trustees and
24 other fiduciaries may legally invest any sinking
25 funds, money or other funds belonging to them or
26 within their control in any bonds or other obligations
27 issued by a housing authority created by or under this
28 chapter or issued by any public housing authority or
29 agency in the United States, Puerto Rico, Guam or the
30 Virgin Islands, when those bonds or other obligations
31 are secured by:

32 A. A pledge of annual contributions or other
33 financial assistance to be paid by the Federal
34 Government; or

35 B. An agreement between the Federal Government
36 and the public housing authority in which the
37 Federal Government agrees to lend to the public
38 housing authority, before the bonds or other
39 obligations mature, money in an amount which,
40 together with any other money irrevocably

1 committed to the payment of interest on the bonds
2 or other obligations, will suffice to pay the
3 principal of the bonds or other obligations with
4 interest to maturity, which money under the terms
5 of the agreement is required to be used for that
6 purpose.

7 3. Authorized security; negotiability. Bonds and
8 other obligations described in subsection 2 are
9 authorized security for all public deposits and are
10 fully negotiable.

11 4. Duty of reasonable care not abrogated.
12 Nothing in this section may be construed as relieving
13 any person from any duty of exercising reasonable care
14 in selecting securities.

15 SUBCHAPTER IX

16 MORTGAGE CREDIT

17 §4901. Purchase and sale of mortgage loans

18 An authority may purchase or make commitments to
19 purchase mortgage loans from any financial
20 institution, pension or retirement fund, any fiduciary
21 or any other person or governmental or business
22 entity. An authority may also sell or make
23 commitments to sell mortgage loans to any pension or
24 retirement fund, any fiduciary or any other person,
25 governmental or business entity or financial
26 institution. An authority may exercise all rights and
27 powers of a holder of any such mortgage loan.

28 §4902. Lenders certification

29 A mortgage loan is not eligible for purchase or
30 commitment to purchase by an authority under this
31 subchapter unless at or before the time of transfer of
32 the loan to the authority, the originating bank, life
33 insurance company, savings and loan association, other
34 financial institution or the Federal Government
35 certifies that:

36 1. Loan a prudent investment. In its judgment
37 the mortgage loan would in all respects be a prudent
38 investment for its own account; and

1 2. Reinvestment of sale proceeds. When the
2 mortgage loan so sold is secured by land and
3 improvements constituting a one-family to 4-family
4 housing unit or has been held by the originator for
5 more than one year since the completion of the
6 construction of the securing structure, the proceeds
7 of sale or its equivalent will be reinvested in
8 residential mortgages or notes within the State, or
9 invested in short term obligations pending the
10 purchase of such residential mortgages or notes. For
11 purposes of this section and section 4903, the term
12 "residential mortgages or notes" includes, but is not
13 limited to, mortgage loans.

14 §4903. Authority not obligated

15 1. Authority may decline to purchase. The
16 authority may at any time decline to purchase or
17 decline to make commitments to purchase any mortgage
18 loan or obligation offered or submitted to it.

19 2. Reinvestment required. An authority may not
20 purchase from a seller who has previously sold to the
21 authority mortgage loans or obligations secured by
22 land and improvements constituting one-family to
23 4-family housing units, any new mortgage loan or
24 obligation secured by land and improvements
25 constituting a one-family to 4-family housing unit
26 until that seller has completed the reinvestment in
27 residential mortgages or notes or the purchase of
28 those residential mortgages or notes contemplated in
29 section 4902 and so informed the authority in writing,
30 provided that if the seller had entered into a
31 contract with the authority which provided for
32 reinvestment of the proceeds of the sale of mortgages
33 or obligations with certain restrictions within a
34 certain time period, compliance with the terms of that
35 contract constitutes compliance with this subsection.
36 Any seller who is performing within the terms of the
37 contract is deemed to have completed the reinvestment
38 requirements within the meaning of this subsection
39 with respect to mortgages or obligations subject to
40 that contract.

41 §4904. Consideration for mortgage loans purchased

1 An authority shall pay for each mortgage loan or
2 obligation purchased an amount not in excess of the
3 outstanding principal balance; discount from the
4 principal balance may be employed to effect a fair
5 rate of return, as determined by the rate of return on
6 comparable investment under market conditions existing
7 at the time of purchase. In addition to this payment
8 of outstanding principal balance, the authority shall
9 pay the accrued interest due on the date the mortgage
10 loan or obligation is delivered to the authority
11 against payment therefor.

12 §4905. Bonds; use of proceeds

13 .1. Issuance authorized. An authority may
14 authorize the issuance of its revenue bonds as
15 provided in section 4871 for any of its authorized
16 purposes including the purchase of mortgage loans or
17 evidences of mortgage loans, for residential housing
18 or a housing project in the State in accordance with
19 section 4901. These loans may include, but are not
20 limited to, loans which are insured, guaranteed or
21 assisted by the Federal Government or for which there
22 is a commitment by the Federal Government to insure,
23 guaranty or assist the loan.

24 2. Restrictions on use. The loan must be for
25 persons and families:

26 A. Deemed by the authority to require the
27 assistance made available by this chapter because
28 of low personal or family income, taking into
29 consideration:

30 (1) The amount of the total income of the
31 persons and families available for housing
32 needs;

33 (2) The size of the family;

34 (3) The eligibility of the persons and
35 families for federal housing assistance of
36 any type predicated upon a low-income basis;
37 and

1 (4) The ability of the persons and families
2 to compete successfully in the normal housing
3 market and to pay the amounts at which
4 private enterprise is providing decent, safe
5 and sanitary housing; and

6 B. Deemed by the authority therefor to be
7 eligible to occupy residential housing constructed
8 and financed, wholly or in part, with insured
9 construction loans or insured mortgages, or with
10 other public or private assistance.

11 3. Occupancy by persons of low income required.
12 An authority may not purchase a mortgage loan or
13 evidence of a loan unless at least a reasonable number
14 of the families or individuals who occupy or will
15 occupy the mortgaged premises are persons of low
16 income. The authority shall ensure that the mortgaged
17 premises is continued in use for the originally
18 planned purpose as long as that use is economically
19 and socially reasonable.

20 §4906. Application of receipts; special reserve fund

21 1. Housing Reserve Fund. The Maine State Housing
22 Authority shall establish and maintain a special fund
23 called the "Housing Reserve Fund" which consists of:

24 A. All money appropriated by the State for
25 inclusion in the fund;

26 B. All proceeds of the sale of bonds, required to
27 be deposited in the fund by the terms of the
28 resolution authorizing the sale of the bonds; and

29 C. Any other money available to the Maine State
30 Housing Authority which it determines to use for
31 this purpose.

32 All money held in the Housing Reserve Fund shall be
33 used only to retire bonds of the Maine State Housing
34 Authority issued to purchase mortgage loans or notes,
35 or to maintain the Housing Reserve Fund at an amount
36 equal to the minimum reserve established by the Maine
37 State Housing Authority. Any proceeds beyond the
38 amount necessary to this function may be used to

1 replace matured mortgage loans or notes or to purchase
2 mortgage loans or notes, or to pay any or all expenses
3 of the Maine State Housing Authority up to 1/2 of 1%
4 of the bond value outstanding each year. The minimum
5 amount of this Housing Reserve Fund shall be the
6 minimum amount of money sufficient to meet the maximum
7 payment required in the following calendar year for
8 payment of principal and interest falling due on all
9 other outstanding bonds and retiring all other bonds
10 required by their terms to be retired. These amounts
11 are referred to in this subchapter as the required
12 "minimum reserve."

13 2. Capital Reserve Fund. The Maine State Housing
14 Authority may establish and maintain one or more
15 special funds called the "Capital Reserve Fund" which
16 consists of:

17 A. All money appropriated by the State for
18 inclusion in that fund;

19 B. All proceeds of the sale of bonds, required to
20 be deposited in the fund by the terms of the
21 resolution authorizing the sale of those bonds;

22 C. All other money available to the Maine State
23 Housing Authority which it determines to use for
24 this purpose.

25 All money held in any Capital Reserve Fund shall be
26 used only to retire those bonds of the Maine State
27 Housing Authority issued to purchase mortgage loans or
28 notes or home improvement notes under the resolution
29 establishing a Capital Reserve Fund, or to maintain a
30 Capital Reserve Fund at an amount equal to the minimum
31 reserve established by the Maine State Housing
32 Authority. Any proceeds beyond the amount necessary
33 to this function may be used to replace matured
34 mortgage loans or notes or home improvement notes or
35 to purchase mortgage loans or notes or home
36 improvement notes or to pay any expenses of the Maine
37 State Housing Authority up to 1/2 of 1% of the bond
38 value outstanding each year under the resolution
39 creating a Capital Reserve Fund. The minimum amount
40 of any Capital Reserve Fund shall be equal to the
41 amounts required under the resolutions pursuant to

1 which the bonds secured by the Capital Reserve Fund
2 are issued. These amounts are referred to in this
3 subchapter as the required "minimum reserve."

4 3. Required minimum reserve. Notwithstanding any
5 other provision of this chapter, no bonds may be
6 issued by the Maine State Housing Authority unless
7 there is in the Housing Reserve Fund or Capital
8 Reserve Fund which will secure those bonds the
9 required minimum reserve for all the bonds issued and
10 to be issued which will be secured by the Housing
11 Reserve Fund or Capital Reserve Fund. The Maine State
12 Housing Authority may satisfy this requirement by
13 depositing so much of the proceeds of the bonds being
14 issued, upon their issuance, as is needed for the fund
15 to achieve the required minimum reserve.

16 A. In order to ensure the maintenance of the
17 required minimum reserve in the Housing Reserve
18 Fund and in any Capital Reserve Fund to which this
19 paragraph is stated to apply in the resolution
20 establishing the Capital Reserve Fund, there shall
21 be annually appropriated and paid to the Maine
22 State Housing Authority for deposits in those
23 funds, the sum, if any, that is certified by the
24 director of the Maine State Housing Authority to
25 the Governor as necessary to restore any such fund
26 to an amount equal to its required minimum
27 reserve. The director shall annually, by December
28 1st, make and deliver to the Governor a
29 certificate stating the sum, if any, required to
30 restore any such fund to an amount equal to its
31 required minimum reserve, and the sum or sums so
32 certified shall be appropriated and paid to the
33 Maine State Housing Authority during the then
34 current state fiscal year.

35 (1) For purposes of valuation of the Housing
36 Reserve Fund or Capital Reserve Fund to which
37 this paragraph applies, securities acquired
38 as an investment for any such fund shall be
39 valued at par or actual cost to the Maine
40 State Housing Authority, whichever value is
41 less.

1 B. For any Capital Reserve Fund to which
2 paragraph A is not stated to apply in the
3 resolution establishing the Capital Reserve Fund,
4 there shall be no certification by the director to
5 the Governor or appropriation and payment by the
6 Legislature for deposit in the fund to restore the
7 fund to an amount equal to its required minimum
8 reserve.

9 §4907. Limitations

10 1. Limitations on amount of outstanding
11 principal. The Maine State Housing Authority may not
12 at any time have an aggregate principal amount
13 outstanding, in excess of \$635,000,000 of mortgage
14 purchase bonds secured by the Housing Reserve Fund or
15 a Capital Reserve Fund to which section 4906,
16 subsection 3, paragraph A applies. Mortgage purchase
17 bonds of the Maine State Housing Authority secured by
18 capital reserve funds to which section 4906,
19 subsection 3, paragraph A does not apply, bond or
20 mortgage insurance, direct or indirect contract with
21 the United States, purchase or repurchase agreement of
22 guaranty with a banking or other financial
23 organization or other credit arrangements securing the
24 bonds may be issued up to \$100,000,000 per calendar
25 year in an aggregate principal amount not to exceed
26 \$300,000,000.

27 2. Bond rating. Mortgage purchase bonds must be
28 rated at or before issuance of the bonds in a rating
29 category of A or its equivalent or better by a
30 nationally recognized rating agency. A rating is not
31 necessary for any issue of mortgage purchase bonds
32 which:

33 A. Is not subject to section 4906, subsection 3,
34 paragraph A; and

35 B. Is sold in its entirety to one or more
36 financial institutions, insurance companies or
37 similar finance entities for its own account and
38 not with the present intention of resale.

39 §4908. Determination of outstanding obligations

1 In computing the total amount of obligations of
2 the Maine State Housing Authority which may at any
3 time be outstanding for any purpose under this chapter:

4 1. Amounts to be refunded excluded. The amount
5 of the outstanding obligations refunded or to be
6 refunded from the proceeds of the sale of new
7 obligations or by the exchange of new obligations
8 shall be excluded; and

9 2. Amounts valued at current value. The amount
10 of the outstanding obligations that have been issued
11 as capital appreciation bonds or as similar
12 instruments shall be valued as of any date of
13 calculation at their then current accreted value
14 rather than their face value.

15 §4909. Mortgages eligible for investment

16 All mortgages, bonds and obligations of the Maine
17 State Housing Authority are made legal investments for
18 all insurance companies, trust companies, banks,
19 investment companies, savings banks, savings and loan
20 associations, executors, trustees and other
21 fiduciaries, pension or retirement funds.

22 §4910. Annual report

23 The director of the Maine State Housing Authority
24 shall prepare and submit to the Governor and the bank
25 superintendent annually a complete report and a
26 complete financial report duly audited and certified
27 by the Department of Audit to be distributed in the
28 same way as state departmental reports.

29 §4911. Operating expenses

30 1. Funds available. All expenses incurred by the
31 Maine State Housing Authority to pay for the operation
32 and administration of any mortgage purchase program
33 authorized under this subchapter are payable from any
34 money available to the Maine State Housing Authority
35 from any source contemplated by this chapter,
36 including, but not limited to:

37 A. The money authorized to be applied by section
38 4906;

- 1 B. Money appropriated by the State;
2 C. Contributions, grants and other financial
3 assistance from the Federal Government or other
4 sources;
5 D. Proceeds of the sale of bonds and notes;
6 E. Income, rents and revenues of projects
7 financed with the proceeds of the bonds or notes;
8 F. Interest on any investments of the Maine State
9 Housing Authority;
10 G. Fees related to the mortgage purchase program;
11 H. Insurance premiums; and
12 I. Proceeds of mortgages or other
13 interest-bearing obligations purchased under
14 section 4901.

15 2. Budget; preparation and approval; limitation.
16 No later than January 1st in each year, the Maine
17 State Housing Authority shall prepare and file in the
18 office of the Bureau of the Budget a budget of its
19 expenses of operation and administration for any
20 mortgage purchase program for the fiscal year then
21 commencing. This budget shall also set forth service
22 fees relating to mortgages purchased. The budget may
23 be amended at any time, and the amended budget shall
24 also be filed with the office of the Bureau of the
25 Budget. The commissioners must approve the budget and
26 any amendments to it before it is filed in the office
27 of the Bureau of the Budget.

28 The expenses of operation and administration set forth
29 in each budget under this subsection may not exceed
30 the amount of money available and estimated to be
31 available from the sources listed in subsection 1,
32 after deducting from that money the aggregate amount
33 of principal and interest accrued and to accrue during
34 the fiscal year on all bonds outstanding issued to
35 finance the program authorized by this subchapter, all
36 as set forth in each budget. The Maine State Housing

1 Authority may not incur expenses of operation and
2 administration for the program in excess of the
3 amounts provided for those expenses in the budget.

4 3. Limitation on proceeds. No amount from the
5 proceeds of the sale of bonds or income derived from
6 bond proceeds in excess of 1/2 of 1% of the bond value
7 outstanding each year may be used:

8 A. To pay for the expenses of operation and
9 administration for the mortgage purchase program;
10 or

11 B. For other programs of the Maine State Housing
12 Authority.

13 4. Limitations. For the purposes of this section:

14 A. Proceeds of the sale of bonds or income
15 derived from bond proceeds does not include:

16 (1) The principal of the Housing Reserve
17 Fund or any Capital Reserve Fund established
18 under this subchapter;

19 (2) Income earned in the Housing Reserve
20 Fund or any Capital Reserve Fund; or

21 (3) The scheduled amortization payments of
22 principal and interest called for by
23 mortgages or mortgage loans purchased under
24 this subchapter; and

25 B. Expenses of operation and administration of a
26 program do not include:

27 (1) The cost of issuance of bonds; or

28 (2) Fees paid to any financial institution
29 by the Maine State Housing Authority for the
30 purpose of servicing mortgage loans.

31 5. Other limitations unaffected. The separate
32 limitations imposed by section 4906 on the use of
33 money deposited in the Housing Reserve Fund or any
34 Capital Reserve Fund are not affected by this section.

1 §4912. Eligible conservation projects

2 The Maine State Housing Authority in consultation
3 with the Office of Energy Resources shall develop
4 guidelines defining energy improvements which may be
5 made with proceeds of home improvement notes.

6 1. Affidavit required. The Maine State Housing
7 Authority shall require an affidavit in conjunction
8 with an application for a residential energy loan home
9 improvement note to ensure that the proceeds are used
10 for purposes authorized under this chapter.

11 §4913. Penalties

12 Anyone using the proceeds of a home improvement
13 note for other than authorized purposes is subject to
14 a civil penalty not to exceed \$5,000, payable to the
15 State, to be recovered in a civil action.

16 SUBCHAPTER IX-A

17 NATURAL DISASTER HOME ASSISTANCE PROGRAM

18 §4921. Natural Disaster Home Assistance Fund

19 1. Creation. The Natural Disaster Home
20 Assistance Fund is established under the jurisdiction
21 of the Maine State Housing Authority. For the
22 purposes of this subchapter, "state authority" means
23 the Maine State Housing Authority.

24 2. Sources of fund. The following shall be paid
25 into the fund:

26 A. All money appropriated for inclusion in the
27 fund;

28 B. Subject to any pledge, contract or other
29 obligation, any money which the state authority
30 receives in repayment of loans or advances from
31 the fund;

32 C. Subject to any pledge, contract or other
33 obligation, all interest, dividends or other
34 income from investment of the fund; and

1 D. Any other money, including federal money,
2 deposited in the fund to implement the provisions
3 of this subchapter.

4 3. Application of fund. The state authority may
5 apply money in the fund for purposes authorized by
6 this subchapter. Money in the fund not needed
7 currently for purposes of this subchapter may be
8 deposited with the state authority to the credit of
9 the fund or may be invested in such a manner as is
10 provided by law.

11 4. Accounts within fund. The state authority may
12 divide funds into such separate accounts as it
13 determines necessary or convenient for carrying out
14 this subchapter.

15 5. Revolving fund. The fund shall be a
16 nonlapsing revolving fund. All money in the fund
17 shall be continuously applied by the state authority
18 to carry out this subchapter.

19 §4922. Maine Natural Disaster Home Assistance Program

20 The Maine Natural Disaster Home Assistance Program
21 shall provide assistance to homeowners who are victims
22 of natural disasters which have caused the State or
23 portions of the State to be declared disaster areas by
24 the President of the United States or the President's
25 authorized representative.

26 1. Operation. The state authority shall
27 administer the Maine Natural Disaster Home Assistance
28 Program which may be operated in conjunction with
29 other programs of the state authority. Other programs
30 of the state authority may be used to supplement or be
31 used in conjunction with the Maine Natural Disaster
32 Home Assistance Program to achieve the purpose of this
33 subchapter.

34 A. Money in the fund may be used as security for
35 or be applied in payment of principal, interest,
36 fees and other charges due on loans made or
37 insured under this program.

38 B. Money in the fund may be used as grants to
39 assist homeowners who qualify for grant assistance
40 under this program.

1 C. Money in the fund may be matched with federal
2 money and money of political subdivisions of the
3 State to obtain federal natural disaster relief
4 and assistance.

5 2. Provisions governing use of money. The fund
6 shall be administered subject to the provisions in
7 this section. Priority shall be given to homeowners
8 who are not adequately assisted by federal or other
9 disaster funds and who do not have access to adequate
10 capital or credit to recover from the effects of the
11 disaster. For purposes of this subchapter, homeowner
12 includes the owner of a mobile home or manufactured
13 housing unit and the owner of rental housing.

14 A. The state authority, by rules adopted in
15 accordance with the Maine Administrative Procedure
16 Act, Title 5, chapter 375, shall establish
17 priorities of assistance to homeowners. These
18 priorities shall be based on the assets of the
19 homeowner; availability of credit or assistance or
20 income from other sources, including financial
21 institutions, federal relief programs,
22 investments, trust funds and other similar
23 sources; the degree of damage incurred; the
24 immediacy of the need for assistance; and any
25 other variables deemed important by the state
26 authority.

27 B. Grants may be provided to a homeowner if:

28 (1) The grant is essential to providing
29 housing to the homeowner;

30 (2) The income of the homeowner is
31 insufficient to repay any loan or portion of
32 a loan; and

33 (3) Grants shall not exceed \$20,000 per
34 homeowner household.

35 C. Loans from the fund shall not exceed \$45,000
36 per homeowner household at rates of interest not
37 to exceed 8% per year.

1 D. Loans from the fund may be made for periods of
2 up to 30 years. In the event that a homeowner
3 cannot repay a loan in full within the 30-year
4 period, the state authority may extend the
5 repayment period if the state authority determines
6 that the loan can be repaid during the extension
7 period. The state authority may waive the payment
8 of interest on any loan or portion of a loan for
9 which the interest payment will be an undue
10 hardship on a household.

11 E. Money in the fund may be used to reduce
12 interest rates on loans provided by financial
13 institutions located in this State to homeowners
14 who are victims of natural disasters.

15 F. The program shall be directed primarily at
16 households without access to adequate capital or
17 credit and which have experienced significant
18 damage to or loss of their housing.

19 G. Homeowners living in a designated flood plain
20 shall not be eligible for assistance under the
21 program unless they obtain flood insurance.

22 H. Applications for assistance under the program
23 by victims of the April 1987 flood must be
24 received by the state authority on or before
25 September 30, 1987, in order for such individuals
26 to be eligible for assistance.

27 3. Loan insurance. The state authority may
28 insure payments due under a loan or lease and may
29 pledge money in the fund as security for such loan or
30 lease, which may be in addition to or in lieu of
31 insurance provided under other provisions of this
32 chapter. Loans or leases shall not constitute any
33 debt or liability on the part of the state authority
34 or the State, except to the extent specifically
35 provided by contract executed by the state authority.

36 4. Use of loans and grants. Loans and grants
37 provided in this subchapter may be used for
38 refinancing mortgages, payment of interest or portion
39 of interest on loans, home construction and home
40 improvements.

1 5. Procedures. The state authority may adopt
2 rules in accordance with the Maine Administrative
3 Procedure Act, Title 5, chapter 375, by which the
4 program shall be implemented.

5 SUBCHAPTER X

6 HOUSING MORTGAGE INSURANCE LAW

7 §4931. Short title

8 This subchapter shall be known and may be cited as
9 the "Housing Mortgage Insurance Law."

10 §4932. Declaration of purpose

11 The Constitution of Maine, Article IX, Section
12 14-C, provides for insuring payment of mortgage loans
13 for Indian housing for the purpose of "fostering and
14 encouraging the acquisition, construction, repair and
15 remodeling of houses owned or to be owned by members
16 of the 2 tribes on the several Indian reservations."
17 It is the purpose of this subchapter to designate the
18 Maine State Housing Authority as the state agency
19 responsible for implementing the powers provided for
20 in the Constitution of Maine, Article IX, Section 14-C.

21 Whereas the power of the Maine State Housing
22 Authority to insure mortgages on housing, other than
23 Indian housing, needs clarification, and whereas the
24 Maine State Housing Authority is the appropriate
25 agency of the State to administer a state housing
26 mortgage insurance program and could administer it in
27 conjunction with the Indian Housing Mortgage Insurance
28 Program, it is the further purpose of this subchapter
29 to provide that clarification.

30 §4933. Definitions

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

34 1. Housing. "Housing" includes, but is not
35 limited to, any "project" or "housing project," as
36 defined in section 4702, subsection 14.

1 2. Housing Mortgage Insurance Fund. "Housing
2 Mortgage Insurance Fund" means any fund established by
3 the Maine State Housing Authority for the purpose of
4 providing insurance for the payment of mortgage loans
5 for housing in the State.

6 3. Indian Housing Mortgage Insurance Fund.
7 "Indian Housing Mortgage Insurance Fund" means any
8 Housing Mortgage Insurance Fund established by the
9 Maine State Housing Authority in cooperation with the
10 Indian Housing Authority for the purpose of providing
11 insurance for the payment of mortgage loans for
12 housing on the Indian reservations.

13 4. Indian Housing Authority. "Indian Housing
14 Authority" means any housing authority created by the
15 Indian Housing Authority.

16 5. Indian Housing Mortgage Insurance Committee.
17 "Indian Housing Mortgage Insurance Committee" means a
18 committee consisting of:

19 A. The Treasurer of State;

20 B. The director of the Maine State Housing
21 Authority;

22 C. The Commissioner of Finance; and

23 D. One person from the Passamaquoddy Tribe and
24 one person from the Penobscot Nation to be chosen
25 by the respective tribe or nation.

26 §4934. Insurance policies

27 1. Contracts. The Maine State Housing Authority
28 may:

29 A. Establish housing mortgage insurance contracts;

30 B. Charge and collect premiums;

31 C. Make appropriate payments; and

1 D. Do all other things necessary and proper to
2 administer a state housing mortgage insurance
3 program.

4 2. Procedure. When providing mortgage insurance
5 on Indian housing, the Maine State Housing Authority
6 shall develop the various contracts and other aspects
7 of the program in cooperation with the Indian Housing
8 Authority and shall deal with insurance purchases
9 exclusively through the agency of the Indian Housing
10 Authority or a person acceptable to the Indian Housing
11 Authority.

12 3. Limitation. Notwithstanding this section, the
13 Maine State Housing Authority shall not make any
14 contract or commitment of mortgage insurance without
15 the approval of a majority of the Indian Housing
16 Mortgage Insurance Committee.

17 \$4935. General obligation bonds for Indian housing
18 mortgage insurance

19 The Maine State Housing Authority may request the
20 Treasurer of State to issue up to \$1,000,000 in state
21 general obligation bonds for the purpose of providing
22 funds to pay any necessary and proper costs or charges
23 arising for any reason, including the default of any
24 policy issued under section 4934, subsection 2, and
25 incurred as a result of its insuring or undertaking to
26 insure the payment of mortgages for Indian housing on
27 an Indian reservation. Upon this request from the
28 authority, the Treasurer of State shall issue the
29 bonds as promptly as possible, but in any event not
30 later than the next regularly scheduled bond issue of
31 the State, unless prior to the issuance of the bonds,
32 the amount so requested is provided to the Maine State
33 Housing Authority by appropriation of the Legislature,
34 by transfer from the State Contingency Account or
35 otherwise.

36 1. Use of proceeds. Proceeds from the bond
37 issuance may not be used as collateral, payment or in
38 any other way to assist any insurance of mortgages on
39 other than Indian housing on Indian reservations.
40 Administrative funds used to assist in the management
41 of an Indian Housing Mortgage Insurance Fund or

1 program may be commingled with administrative funding
2 for any Housing Mortgage Insurance Fund or program
3 operated or to be operated by the Maine State Housing
4 Authority.

5 2. Accounting of proceeds. Proceeds from the
6 bond issuance shall be accounted for separately from
7 the general assets of any other housing insurance fund
8 and separately from any other funds operated at any
9 time by the Maine State Housing Authority, its
10 successors, assigns or trustees. This separate
11 accounting shall be maintained even if funds are
12 commingled for investment purposes by the authority or
13 by a trustee of any fund operated by or for the
14 authority.

15 §4936. Rulemaking

16 In order to implement and administer the Housing
17 Mortgage Insurance Law, the Maine State Housing
18 Authority may enact, amend or repeal rules under the
19 Maine Administrative Procedure Act, Title 5, chapter
20 375.

21 ARTICLE 8

22 STATE-OWNED LAND FOR HOUSING

23 §4951. State-owned land for construction of housing

24 1. Study of the inventory of state-owned land.
25 The Maine State Housing Authority, following
26 completion of the inventory of state-owned land
27 pursuant to Title 5, section 1742, subsection 23,
28 shall determine sites that will be suitable for the
29 construction of affordable housing to meet the needs
30 of the State, particularly housing for low-income
31 persons.

32 2. Develop plan. The authority shall develop a
33 plan by which the purposes in subsection 1 can be met.

34 3. Report to Legislature. The authority shall
35 report the results of its study and the plan,
36 including any necessary implementing legislation, to
37 the joint standing committee of the Legislature having

1 jurisdiction over economic development by January 6,
2 1989.

3 CHAPTER 203

4 URBAN RENEWAL

5 §5101. Definitions

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

9 1. Authority or Urban Renewal Authority.
10 "Authority" or "Urban Renewal Authority" means a
11 public body corporate, and politic, created under this
12 chapter.

13 2. Blighted area. "Blighted area" means:

14 A. An area in which there is a predominance of
15 buildings or improvements which are conducive to
16 ill health, the transmission of disease, infant
17 mortality or juvenile delinquency and crime and
18 are detrimental to the public health, safety,
19 morals or welfare because of:

20 (1) Dilapidation, deterioration, age or
21 obsolescence;

22 (2) Inadequate provision for ventilation,
23 light, air, sanitation or open spaces;

24 (3) High density of population and
25 overcrowding;

26 (4) The existence of conditions which
27 endanger life or property by fire and other
28 causes; or

29 (5) Any combination of these factors;

30 B. An area which is a menace to the public
31 health, safety, morals or welfare in its present
32 condition and use because of:

1 (1) The predominance of inadequate street
2 layout;

3 (2) Insanitary or unsafe conditions;

4 (3) Tax or special assessment delinquency
5 exceeding the fair value of the land;

6 (4) The existence of conditions which
7 endanger life or property by fire and other
8 causes; or

9 (5) Any combination of these factors;

10 C. Undeveloped vacant land as provided in section
11 5109; or

12 D. Any disaster area as provided in section 5109.

13 3. Bonds. "Bonds" means any bonds, including
14 refunding bonds, notes, interim certificates,
15 debentures or other obligations under this chapter.

16 4. Obligee. "Obligee" means:

17 A. Any bondholder or an agent or trustee for any
18 bondholders;

19 B. Any lessor who demises property used in
20 connection with an urban renewal project to the
21 authority, or any assignee of all or part of the
22 lessor's interest; and

23 C. The Federal Government when it is a party to
24 any contract with the authority.

25 5. Owner. "Owner" means a person having an
26 estate, interest or easement in real property or a
27 lien, charge or encumbrance on that property.

28 6. Public body. "Public body" means the State,
29 or any agency or instrumentality of the State, or any
30 board, commission, authority or district within the
31 territorial boundaries of the municipality.

32 7. Real property. "Real property" means:

1 A. All lands, including improvements and fixtures
2 on the land;

3 B. Property of any nature appurtenant to the land
4 or used in connection with the land; and

5 C. Every estate, interest and right, legal or
6 equitable, in the land. This includes terms for
7 years and liens by way of judgment, mortgage or
8 otherwise and the indebtedness secured by those
9 liens.

10 8. Redeveloper. "Redeveloper" means any person
11 that enters or proposes to enter into a redevelopment
12 contract.

13 9. Redevelopment contract. "Redevelopment
14 contract" means a contract entered into between the
15 authority and a redeveloper for the redevelopment of
16 an area in conformity with an urban renewal plan.

17 10. Slum area. "Slum area" means a blighted area
18 in an extreme state of deterioration and decay.

19 11. Urban renewal plan or renewal plan. "Urban
20 renewal plan" or "renewal plan" means a plan, as it
21 exists from time to time, for an urban renewal
22 project. Except as provided in section 5109, this
23 plan must conform to the comprehensive plan as set
24 forth in sections 4502, 4503 and 4551. It must be
25 sufficiently complete to indicate:

26 A. Any land acquisition, demolition and removal
27 of structures, redevelopment, improvements and
28 rehabilitation that is proposed to be carried out
29 in the urban renewal area;

30 B. Zoning and planning changes, if any, land
31 uses, maximum densities, building requirements; and

32 C. The plan's relationship to definite local
33 objectives concerning appropriate land uses,
34 improved traffic, public transportation, public
35 utilities, recreational and community facilities
36 and other public improvements.

1 12. Urban renewal project or renewal project.
2 "Urban renewal project" or "renewal project" means the
3 undertakings and activities of the authority in an
4 urban renewal area for the elimination and prevention
5 of the development or spread of slums and blight. The
6 undertaking and activities may involve slum clearance
7 and redevelopment, rehabilitation or conservation, or
8 any combination of these activities in all or part of
9 an urban renewal area in accordance with an urban
10 renewal plan. These undertakings and activities may
11 include:

12 A. Acquisition of a slum area or a blighted area
13 or portion of such an area;

14 B. Demolition and removal of buildings and
15 improvements;

16 C. Installation, construction or reconstruction
17 of streets, utilities, parks, playgrounds and
18 other improvements necessary for carrying out in
19 the urban renewal area the objectives of this
20 chapter in accordance with the urban renewal plan;

21 D. Disposition of any property acquired in the
22 urban renewal area at its fair value for uses in
23 accordance with the urban renewal plan, including
24 the sale, initial leasing or retention of property
25 by the municipality;

26 E. Carrying out plans for a program of voluntary
27 or compulsory repair and rehabilitation of
28 buildings or other improvements in accordance with
29 the urban renewal plan; and

30 F. Acquisition of any other real property in the
31 urban renewal area where necessary to eliminate
32 unhealthful, insanitary or unsafe conditions,
33 lessen density, eliminate obsolete or other uses
34 detrimental to the public welfare, or otherwise to
35 remove or prevent the spread of blight or
36 deterioration, or to provide land for needed
37 public facilities.

38 §5102. Creation of authority

1 A municipality may create an Urban Renewal
2 Authority under this chapter as follows.

3 1. Resolution. No municipality may exercise the
4 authority conferred upon municipalities by this
5 chapter until its municipal officers have adopted a
6 resolution finding that:

7 A. One or more slums or blighted areas exist in
8 the municipality; and

9 B. The rehabilitation, conservation, redevelop-
10 ment, or a combination of these activities, of the
11 area or areas is necessary in the interest of the
12 public health, safety, morals or welfare of the
13 residents of the municipality.

14 2. Question for voters. After making this
15 finding, the municipal officers may submit the
16 following question to the voters at any regular or
17 special election or town meeting in accordance with
18 the municipal charter or section 2528:

19 "Shall the municipality adopt the provisions of
20 the urban renewal law, Maine Revised Statutes,
21 Title 30-A, chapter 203, and authorize the
22 establishment of an Urban Renewal Authority?"

23 3. Favorable vote. If a majority of the ballots
24 cast on this question favor acceptance, this law
25 becomes effective immediately upon declaration of the
26 vote by the municipal officers, provided the total
27 number of votes cast for and against the acceptance of
28 the Act equals or exceeds 20% of the total votes cast
29 in the municipality for all candidates for Governor at
30 the last gubernatorial election.

31 4. Certificate of result; failure and
32 resubmission of question. The municipal officers
33 shall declare the result of this election. The
34 municipal clerk shall file a certificate of the result
35 with the Secretary of State.

36 A. Failure of approval does not prevent the
37 municipal officers from again submitting the

1 question to the voters of the municipality in the
2 manner provided.

3 §5103. Organization

4 There is created in each municipality that adopts
5 section 4802 a public body corporate and politic to be
6 known as the "Urban Renewal Authority" of the
7 municipality.

8 1. Board of trustees. The municipal officers
9 shall appoint a board of 5 trustees of the Urban
10 Renewal Authority. The term of office of a trustee is
11 5 years, but initial appointments shall be made for
12 one, 2, 3, 4 and 5 years respectively. Any person may
13 be appointed as trustee if that person resides within
14 the municipality and is otherwise eligible for
15 appointment under this chapter.

16 2. Expenses; term of office. A trustee shall
17 receive no compensation for services but is entitled
18 to the necessary expenses, including traveling
19 expenses, incurred in the discharge of duties. Each
20 trustee shall hold office until a successor has been
21 appointed and has qualified. A certificate of the
22 appointment or reappointment of any trustee shall be
23 filed with the municipal clerk. This certificate is
24 conclusive evidence of the due and proper appointment
25 of the trustee.

26 3. Quorum; powers. The trustees of the authority
27 shall exercise the powers of the Urban Renewal
28 Authority. A majority of the trustees constitutes a
29 quorum for the purpose of conducting business,
30 exercising the powers of the authority and for all
31 other purposes. The authority may take action upon a
32 vote of a majority of the trustees present.

33 4. Officers; employees. The trustees shall elect
34 a chairman and vice-chairman from among their number.
35 The authority may employ an executive director,
36 technical experts and any other agents and employees,
37 permanent and temporary, that it requires and
38 determine their qualifications, duties and
39 compensation. For any legal service that it requires,
40 the authority may employ or retain its own counsel and
41 legal staff.

1 5. Annual report. An authority authorized to
2 transact business and exercise powers under this
3 chapter shall file, with the municipal legislative
4 body, by January 31st of each year, a report of its
5 activities for the preceding calendar year. This
6 report must include a complete financial statement
7 setting forth its assets, liabilities, income and
8 operating expense as of the end of the calendar year.
9 When the report is filed, the authority shall publish
10 in a newspaper having general circulation in the
11 municipality a notice that the report has been filed
12 with the municipality and that the report is available
13 for inspection during business hours in the office of
14 the municipal clerk.

15 6. Removal from office; hearing. The municipal
16 officers may, after a hearing, remove a trustee from
17 office for inefficiency, neglect of duty or misconduct
18 in office. The trustee must be given a copy of the
19 charges at least 10 days before the hearing and an
20 opportunity to be heard in person or to be represented
21 by counsel at the hearing.

22 §5104. Powers

23 The authority shall exercise public and essential
24 governmental functions, and have all the powers
25 necessary to carry out and effectuate the purposes and
26 provisions of this chapter, including the following
27 powers in addition to others granted in this chapter:

28 1. General powers. The authority shall have the
29 following general powers:

30 A. To sue and to be sued;

31 B. To have and alter a seal at pleasure;

32 C. To have perpetual succession;

33 D. To make and execute contracts and other
34 instruments necessary or convenient to the
35 exercise of the authority's powers; and

1 E. To make and from time to time amend and repeal
2 bylaws and regulations not inconsistent with this
3 chapter, to carry out this chapter;

4 2. Plans and projects; issue bonds. To undertake
5 and carry out urban renewal plans and urban renewal
6 projects, including the authority to acquire and
7 dispose of property, to issue bonds and other
8 obligations, to borrow and accept grants from the
9 Federal Government or other source and to exercise the
10 other powers which this chapter confers on an
11 authority with respect to urban renewal projects;

12 A. In connection with the planning and
13 undertaking of any urban renewal plan or urban
14 renewal project, the authority, the municipality
15 and all public and private officers, agencies and
16 bodies have all the rights, powers, privileges and
17 immunities which they have with respect to a
18 redevelopment plan or redevelopment project, in
19 the same manner as though all of the provisions of
20 this chapter applicable to a redevelopment plan or
21 redevelopment project also applied to an urban
22 renewal plan or urban renewal project.

23 B. In addition to the surveys and plans which the
24 authority is otherwise authorized to make, the
25 authority is specifically authorized to prepare:

26 (1) Plans for carrying out a program of
27 voluntary repair and rehabilitation of
28 buildings and improvements;

29 (2) Urban renewal plans and preliminary
30 plans outlining urban renewal activities for
31 neighborhoods to embrace 2 or more urban
32 renewal areas;

33 (3) Plans for the enforcement of laws, codes
34 and regulations relating to the use of land
35 and the use and occupancy of buildings and
36 improvements, and to the compulsory repair,
37 rehabilitation, demolition or removal of
38 buildings and improvements; and

1 (4) Plans for the relocation of persons,
2 including families, business concerns and
3 others, displaced by an urban renewal
4 project, and to make relocation payments to
5 or with respect to those persons for moving
6 expenses and losses of property for which
7 reimbursement or compensation is not
8 otherwise made, including the making of those
9 payments financed by the Federal Government;

10 3. Slums and urban blight. To develop, test and
11 report methods and techniques and carry out
12 demonstrations and other activities for the prevention
13 and elimination of slums and urban blight;

14 4. Borrow money; assistance. To borrow money and
15 to apply for and accept advances, loans, grants,
16 contributions and any other form of financial
17 assistance from the Federal Government, the State, the
18 municipality or other public body, or from any
19 sources, public or private, for the purposes of this
20 chapter, to give any security that is required and to
21 enter into and carry out contracts in connection with
22 that financial assistance;

23 A. The authority may include in any contract for
24 financial assistance with the Federal Government,
25 for an urban renewal project, any conditions
26 imposed under federal law that the authority
27 considers reasonable and appropriate and which are
28 not inconsistent with the purposes of this chapter;

29 5. Surveys, appraisals, studies and plans.
30 Within its area of operation, to make or have made by
31 the planning board or other agency, public or private,
32 all surveys, appraisals, studies and plans, including
33 the preparation of a community renewal program for the
34 municipality, necessary to carry out the purposes of
35 this chapter, and to contract or cooperate with all
36 persons or agencies, public or private, in the making
37 and carrying out of these surveys, appraisals, studies
38 and plans;

39 6. Acquisition. With the approval of the
40 legislative body of the municipality, before an urban
41 renewal plan is approved, or before any modifications

1 of the plan are approved, to acquire real property, in
2 an urban renewal area, demolish and remove any
3 structures on the property and pay all costs related
4 to the acquisition, demolition or removal, including
5 any administrative or relocation expenses;

6 7. Relocation of families. To prepare plans and
7 provide reasonable assistance for the relocation of
8 families displaced from an urban renewal project area
9 to permit the carrying out of the urban renewal
10 project, to the extent essential for acquiring
11 possession of, rehabilitating and clearing the urban
12 renewal project area or parts of that area; and

13 8. Expenditures. To make any expenditures that
14 are necessary to carry out the purposes of this
15 chapter and to make expenditures from funds obtained
16 from the Federal Government, except insofar as
17 conditions are prescribed for this purpose by the
18 municipal officers.

19 §5105. Workable program

20 1. Goals of program. For the purposes of this
21 chapter, the authority may formulate for the
22 municipality a workable program for using appropriate
23 private and public resources to:

24 A. Eliminate and prevent the development or
25 spread of slums and urban blight;

26 B. Encourage needed urban rehabilitation;

27 C. Provide for the redevelopment of slum and
28 blighted areas; or

29 D. Undertake any of these activities or other
30 feasible municipal activities that are suitably
31 employed to achieve the objectives of the workable
32 program.

33 2. Provisions of program. The workable program
34 may provide for, but is not limited to:

35 A. The prevention of the spread of blight into
36 areas of the municipality which are free from

1 blight through the diligent enforcement of
2 housing, zoning and occupancy controls and
3 standards;

4 B. The clearance and redevelopment of slum and
5 blighted areas or portions of those areas; and

6 C. The rehabilitation or conservation of slum and
7 blighted areas or portions of those areas by:

8 (1) Replanning, removing congestion,
9 providing parks, playgrounds and other public
10 improvements;

11 (2) Encouraging voluntary rehabilitation; and

12 (3) Compelling the repair and rehabilitation
13 of deteriorated or deteriorating structures.

14 §5106. Preparation and approval of renewal plans

15 The authority may not acquire real property for a
16 renewal project unless the municipal officers of the
17 municipality have approved the renewal plan by
18 resolution, as prescribed in this section.

19 1. Comprehensive plan. The authority shall not
20 recommend an urban renewal plan to the municipal
21 officers until a comprehensive plan in substance for
22 the development of the municipality has been prepared
23 under chapter 191.

24 2. Urban renewal plan. The authority may prepare
25 or have prepared an urban renewal plan, or any person
26 or agency, public or private, may submit such a plan
27 to the authority. An urban renewal plan must be
28 sufficiently complete to indicate its relationship to
29 definite local objectives as to appropriate land uses,
30 improved traffic, public transportation, public
31 utilities, recreational and community facilities and
32 other public improvements and the proposed land uses
33 and building requirements in the urban renewal area,
34 and must include, but is not limited to:

35 A. The boundaries of the urban renewal area, with
36 a map showing the existing uses and conditions of
37 the real property in the urban renewal area;

1 B. A land use plan showing proposed uses of the
2 area;

3 C. Information showing the standards of
4 population densities, land coverage and building
5 intensities in the area after renewal;

6 D. A statement of the proposed changes, if any,
7 in zoning ordinances or maps, street layouts,
8 street levels or grades, building codes and
9 ordinances;

10 E. A site plan of the area; and

11 F. A statement as to the kind and number of
12 additional public facilities or utilities which
13 will be required to support the new land uses in
14 the area after redevelopment.

15 3. Recommendations by planning board. Before
16 recommending an urban renewal plan to the municipal
17 officers for approval, if the plan has not been
18 prepared by the planning board, the authority shall
19 submit the plan to the planning board for review and
20 recommendations as to its conformity with the
21 comprehensive plan. The planning board shall submit
22 its written recommendations with respect to the
23 proposed renewal plan to the authority within 45 days
24 after receiving the plan for review.

25 The authority may recommend the renewal plan to the
26 municipal officers for approval upon receipt of the
27 recommendations. If no recommendations are received
28 within the 45-day period allowed in this subsection,
29 the authority may recommend the renewal plan to the
30 municipal officers for approval without the planning
31 board's recommendations.

32 4. Whether plan accomplishes certain purposes.
33 Before recommending an urban renewal plan to the
34 municipal officers for approval, the authority shall
35 consider whether the proposed land uses and building
36 requirements in the renewal project area are designed
37 with the general purpose of accomplishing, in
38 conformity with the comprehensive plan, a coordinated,

1 adjusted and harmonious development of the
2 municipality which will, in accordance with present
3 and future needs, promote health, safety, morals,
4 order, convenience, prosperity and the general
5 welfare, as well as efficiency and economy in the
6 process of development, including, among other things,
7 adequate provision for:

8 A. Traffic and vehicular parking;

9 B. The promotion of safety from fire, panic and
10 other dangers;

11 C. Light and air;

12 D. The promotion of the healthful and convenient
13 distribution of population;

14 E. Transportation, water, sewerage and other
15 public utilities;

16 F. Schools, parks, recreational and community
17 facilities and other public requirements;

18 G. The promotion of sound design and arrangement;

19 H. The wise and efficient expenditure of public
20 funds;

21 I. The prevention of the recurrence of insanitary
22 or unsafe dwelling accommodations, slums or
23 conditions of blight; and

24 J. Adequate, safe and sanitary dwelling
25 accommodations.

26 5. Recommendation by authority accompanied by
27 recommendation of planning board. The recommendation
28 of an urban renewal plan by the authority to the
29 municipal officers shall be accompanied by:

30 A. The recommendations, if any, of the planning
31 board concerning the renewal plan;

32 B. A statement of the proposed method and
33 estimated cost of the acquisition and preparation

1 for redevelopment of the renewal project area and
2 the estimated proceeds or revenues from its
3 disposal to redevelopers;

4 C. A statement of the proposed method of
5 financing the urban renewal project; and

6 D. A statement of a feasible method proposed for
7 the relocation of families to be displaced from
8 the urban renewal area.

9 6. Public hearing; notice. The municipal
10 officers shall hold a public hearing on an urban
11 renewal plan after reasonable public notice, but not
12 less than 7 days, by publication in a newspaper having
13 general circulation in the area of operation of the
14 municipality. The notice must:

15 A. Describe the time, date, place and purpose of
16 the hearing;

17 B. Generally identify the renewal area covered by
18 the plan; and

19 C. Outline the general scope of the urban renewal
20 project under consideration.

21 7. Approval of renewal plan; disapproval.
22 Following the hearing under subsection 6, the
23 municipal officers may approve by resolution a renewal
24 plan if they find that the plan is feasible and in
25 conformity with the comprehensive plan. If the
26 planning board disapproves any renewal plan, the plan
27 must be approved by a 2/3 vote of the municipal
28 officers. A renewal plan which was not approved by
29 the municipal officers when recommended by the
30 authority may again be recommended to them with any
31 modifications considered advisable.

32 8. Modification of renewal plan. The authority
33 may modify an urban renewal plan at any time, provided
34 that, if modified after the lease or sale of real
35 property in the redevelopment project area, the
36 modification is consented to by the redeveloper or
37 redevelopers of that real property or their successor
38 or successors in interest affected by the proposed

1 modification. Where the proposed modification will
2 substantially change the urban renewal plan as
3 previously approved by the municipal officers, the
4 modification must similarly be approved by the
5 municipal officers under subsection 7.

6 §5107. General neighborhood renewal plans

7 Any authority authorized to perform planning work
8 may prepare a general neighborhood renewal plan for
9 urban renewal areas which are of such scope that urban
10 renewal activities may have to be carried out in
11 stages. A general neighborhood renewal plan must
12 conform to the comprehensive plan and the workable
13 program of the municipality.

14 1. Contents of plan. The plan may include, but
15 is not limited to, a preliminary plan which:

16 A. Outlines the urban renewal activities proposed
17 for the area involved;

18 B. Provides a framework for the preparation of
19 urban renewal plans; and

20 C. Indicates generally the land uses, population
21 density, building coverage, prospective
22 requirements for rehabilitation and improvement of
23 property and portions of the area contemplated for
24 clearance and redevelopment.

25 §5108. Eminent domain

26 The authority may acquire all or any part of the
27 real property within the renewal project area by the
28 exercise of the power of eminent domain whenever the
29 authority determines that the acquisition of the real
30 property is in the public interest or necessary for
31 the public use.

32 1. Resolution; documents filed; damages
33 determined. The necessity for this acquisition is
34 conclusively presumed upon the authority's adoption of
35 a resolution declaring that the acquisition of the
36 real property described in the resolution is in the
37 public interest and necessary for the public use and

1 that the real property is included in an approved
2 urban renewal project under this chapter.

3 A. Within 3 months after this resolution is
4 adopted, the authority shall have filed in the
5 county registry of deeds:

6 (1) A copy of the authority's resolution;

7 (2) A plat of the real property described;
8 and

9 (3) A statement, signed by the chairman of
10 the authority, that the real property is
11 taken under this chapter.

12 B. When these materials are filed, the authority
13 shall determine the damages for the real property
14 taken in the same manner as provided for land
15 taken for highway purposes under Title 23, chapter
16 3, and shall file a statement of this
17 determination in the Superior Court of the county.

18 2. Title vests in authority; bonds deposited.
19 Title to the real property shall vest in the authority
20 in fee simple absolute and the authority may take
21 possession of the real property when:

22 A. The copy of the resolution, plat and statement
23 is filed in the registry of deeds;

24 B. The statement is filed in the Superior Court;
25 and

26 C. Bonds, to the use of persons entitled to them,
27 are deposited in the Superior Court with surety
28 satisfactory to the clerk of the court in the
29 amounts that the court determines to be sufficient
30 to satisfy the claims of all persons interested in
31 the real property. The court may, in its
32 discretion, take evidence on the question to
33 determine the amounts of the bonds to be deposited.

34 3. Service on owners; nonresidents; unknown
35 owners. After the copy, plat and statement are filed,
36 a sheriff or the sheriff's deputies shall serve notice

1 of the taking of the real property upon the owners of
2 the real property by leaving a true and attested copy
3 of the description and statement with each of these
4 persons personally or at their last and usual place of
5 abode in the State or with some person living there.

6 A. If any of these persons are not residents of
7 the State, a true and attested copy of the notice
8 shall be sent by registered mail, return receipt
9 requested, to those persons at their last known
10 addresses.

11 B. If the ownership of the real property cannot
12 be ascertained after due and diligent search, an
13 award shall be made to persons unknown for the
14 value of the property and bonds for that amount
15 running to the treasurer of the county for the use
16 of persons entitled to the bonds shall be
17 deposited in the Superior Court. If, within 2
18 years after the bonds are deposited, no person has
19 been able to prove ownership of the real property,
20 the Superior Court shall order these bonds to be
21 cancelled and delivered up to the authority.

22 4. Notice published. After the resolution, plat
23 and statement are filed, the authority shall have a
24 copy of the resolution and statement published in a
25 newspaper having general circulation in the county, at
26 least once a week for 3 successive weeks. The
27 statement must set forth the names of the owners of
28 the real property to be taken and the amount awarded
29 to them.

30 5. Agreement and cancellation of bonds. When any
31 person agrees with the authority on the price of the
32 real property taken under this section and the sum
33 agreed upon is paid by the authority, the court shall
34 order the bond deposited under subsection 2, paragraph
35 C to be cancelled and delivered up to the authority.

36 6. Complaint to Superior Court; trial. Any owner
37 of any real property taken under this section, who
38 cannot agree with the authority on the price of the
39 real property in which the owner is interested,
40 within 3 months after personal notice of the taking
41 or, if the owner has no personal notice, may within

1 one year from the first publication of the copy of the
2 resolution and statement under subsection 4, apply by
3 complaint to the Superior Court in the county, setting
4 forth the taking of the real property and praying for
5 an assessment of damages by a jury or, by agreement of
6 the parties, a referee or referees appointed by the
7 court.

8 A. When this complaint is filed, the court shall
9 have 20 days' notice of the pendency of the action
10 given to the authority by serving the chairman of
11 the authority with a certified copy of the
12 complaint. The court may proceed after this
13 notice to the trial of the action. This trial
14 shall determine all questions of fact relating to
15 the value and the amount of the real property and
16 judgment shall be entered upon the verdict of the
17 jury. Execution shall be issued for that judgment
18 against the money deposited in the court under
19 subsection 2, paragraph C.

20 7. Conflicting ownership. If the authority is in
21 doubt as to conflicting ownership or interest, the
22 authority may file a complaint in the Superior Court
23 for a determination of the various rights and amounts
24 due. If 2 or more conflicting plaintiffs claim the
25 same real property or different interests in the same
26 parcel of real property, the court, upon motion, shall
27 consolidate their several complaints for trial at the
28 same time by the same jury, and may frame all
29 necessary issues for the trial of that action.

30 8. Appeal. Appeal from the decision of the
31 Superior Court may be made in the same manner as
32 provided for appeals in civil cases.

33 9. Property of infants or incapable persons. If
34 any real property, in which any infant or other person
35 not capable in law to act in their own behalf is
36 interested, is taken by an authority under this
37 chapter, the Superior Court, upon the filing of any
38 complaint by or in behalf of any infant or other
39 person, may appoint a guardian ad litem for the infant
40 or other person. This guardian may appear and be heard
41 on behalf of the infant or other person and may, with

1 the advice and consent of the Superior Court and upon
2 any terms that the Superior Court prescribes, release
3 to the authority all claims for damages for the real
4 property of the infant or other person. Any lawfully
5 appointed, qualified and acting guardian or other
6 fiduciary of the estate of any such infant or other
7 person, with the approval of the Probate Court having
8 jurisdiction to authorize the sale of real property
9 within the State of any such infant or other person,
10 may, before the filing of any such complaint, agree
11 with the authority upon the amount of damages suffered
12 by the infant or other person by any taking of real
13 property and may, upon receiving that amount, release
14 to the authority all claims for damages of the infant
15 or other person for the taking.

16 10. Expediting proceedings; taking public
17 property. In any proceedings for the assessment of
18 compensation and damages for real property taken or to
19 be taken by eminent domain by the authority, the
20 following provisions apply.

21 A. At any time during the pendency of the action
22 or proceedings, the authority or an owner may
23 apply to the court for an order directing an owner
24 or the authority to show cause why further
25 proceedings should not be expedited. Upon this
26 application, the court may order that the hearings
27 proceed and that any other steps be taken with all
28 possible expedition.

29 B. If any of the real property included within
30 the project is devoted to a public use, it may
31 nevertheless be acquired, and the taking is
32 effective, provided that no real property
33 belonging to the municipality or to any government
34 may be acquired without its consent and that no
35 real property belonging to a public utility
36 corporation may be acquired without the approval
37 of the Public Utilities Commission or other
38 officer or tribunal having regulatory power over
39 that corporation.

0 C. Any real property already acquired by the
1 authority may nevertheless be included within this
2 taking for the purpose of acquiring any
3 outstanding interests in the real property.

1 §5109. Acquisition and development of land

2 1. Acquisition of undeveloped land. If the
3 municipal officers determine by resolution that the
4 acquisition and development of undeveloped vacant
5 land, not within a slum or blighted area, is essential
6 to the proper clearance or redevelopment of slum or
7 blighted areas or a necessary part of the general
8 slum-clearance program of the municipality, the
9 acquisition, planning, preparation for development or
10 disposal of that land constitutes an urban renewal
11 project which may be undertaken by the authority,
12 provided that the area may not be so acquired unless:

13 A. If the undeveloped vacant land is to be
14 developed for residential uses, the municipal
15 officers shall determine that:

16 (1) A shortage of housing of sound standards
17 and design which is decent, safe and sanitary
18 exists in the municipality;

19 (2) The need for housing accommodations has
20 been or will be increased because of the
21 clearance of slums in other areas, including
22 other portions of the urban renewal area;

23 (3) The conditions of blight in the area and
24 the shortage of decent, safe and sanitary
25 housing cause or contribute to an increase in
26 and spread of disease and crime and
27 constitute a menace to the public health,
28 safety, morals or welfare; and

29 (4) The acquisition of the area for
30 residential uses is an integral part of and
31 essential to the program of the municipality;
32 or

33 B. If the undeveloped vacant land is to be
34 developed for nonresidential uses, the municipal
35 officers shall determine that:

36 (1) The nonresidential uses are necessary
37 and appropriate to facilitate the proper

1 growth and development of the community in
2 accordance with sound planning standards and
3 local community objectives; and

4 (2) The acquisition of the land may require
5 the exercise of governmental action, as
6 provided in this chapter, because of
7 defective or unusual conditions of title,
8 diversity of ownership, tax delinquency,
9 improper subdivisions, outmoded street
10 patterns, deterioration of site, economic
11 disuse, unsuitable topography or faulty lot
12 layouts, the need for the correlation of the
13 area with other areas of a municipality by
14 streets and modern traffic requirements, or
15 any combination of these factors or other
16 conditions which retard development of the
17 area.

18 2. Disaster areas. Notwithstanding any other
19 provisions of this chapter, where the municipal
20 officers certify that an area requires redevelopment
21 or rehabilitation because of a flood, fire, hurricane,
22 earthquake, storm or other catastrophe concerning
23 which the Governor has certified the need for disaster
24 assistance under federal law, the municipal officers
25 may approve an urban renewal plan and an urban renewal
26 project with respect to that area without regard to
27 section 5108 and the sections requiring a general plan
28 for the municipality and a public hearing on the urban
29 renewal project.

30 §5110. Authorization to issue bonds.

31 The authority may issue bonds to finance any
32 undertakings authorized by this chapter under the
33 following conditions.

34 1. Hearing held. The municipal officers must
35 certify that the hearing required by section 5106 has
36 been held.

37 2. Approval of renewal plan granted. The
38 municipal officers must certify that approval of the
39 renewal plan as required by section 5106 has been
40 granted.

1 3. Copies of certificates filed. Copies of these
2 certificates must be filed with the authority and with
3 the municipal clerk.

4 4. Reconsideration if no approval. Failure of
5 approval does not prevent the municipal officers from
6 again considering the renewal plan in the manner
7 provided.

8 §5111. Bond issues

9 The authority may issue bonds from time to time in
10 its discretion to finance the undertaking of any urban
11 renewal project under this chapter, including, but not
12 limited to, the payment of principal and interest upon
13 any advances for surveys and plans, and may issue
14 refunding bonds for the payment or retirement of bonds
15 previously issued by it. The bonds must be made
16 payable, as to both principal and interest, solely
17 from the income, proceeds, revenues and funds of the
18 authority derived from or held in connection with its
19 undertaking and carrying out of urban renewal projects
20 under this chapter, provided that payment of the
21 bonds, both as to principal and interest, may be
22 further secured by a pledge of any loan, grant or
23 contribution from the Federal Government or other
24 source, in aid of any urban renewal projects of the
25 municipality under this chapter, and by a mortgage of
26 any urban renewal projects, or any part of a project,
27 title to which is in the municipality.

28 1. Not municipal indebtedness; not taxable.
29 Bonds issued under this section do not constitute a
30 municipal indebtedness within the meaning of any
31 constitutional or statutory debt limitation or
32 restriction, and are not subject to any other law or
33 charter relating to the authorization, issuance or
34 sale of bonds. Bonds issued under this chapter are
35 declared to be issued for an essential public and
36 governmental purpose and, together with interest on
37 and income from the bonds, are exempt from all taxes.

38 2. General characteristics. Bonds authorized
39 under this section may be issued in one or more
40 series. The resolution, trust indenture or mortgage

1 under which the bonds are issued may make the
2 following provisions:

3 A. The date or dates borne by the bonds;

4 B. Whether the bonds are payable upon demand or
5 mature at a certain time or times;

6 C. The interest rate or rates of the bonds, not
7 exceeding 6% per year;

8 D. The denomination or denominations of the bonds;

9 E. The form of the bonds, whether coupon or
10 registered;

11 F. The conversion or registration privileges
12 carried by the bonds;

13 G. The rank or priority of the bonds;

14 H. The manner of execution of the bonds;

15 I. The medium and place or places of payment;

16 J. The terms of redemption of the bonds, with or
17 without premium;

18 K. The manner secured; and

19 L. Any other characteristics of the bonds.

20 3. Price sold. The bonds may be:

21 A. Sold at not less than par at public sales held
22 after notice published in a newspaper having
23 general circulation in the area of operation and
24 in any other medium of publication that the
25 authority determines;

26 B. Exchanged for other bonds on the basis of par;
27 or

28 C. Sold to the Federal Government at private sale
29 at not less than par.

1 (1) If less than all of the authorized
2 principal amount of the bonds is sold to the
3 Federal Government, the balance may be sold
4 at private sale at not less than par at an
5 interest cost to the municipality which does
6 not exceed the interest cost to the
7 municipality of the portion of the bonds sold
8 to the Federal Government.

9 4. Signatures of outgoing officers; negoti-
10 ability. If any of the officials of the authority
11 whose signatures appear on any bonds or coupons issued
12 under this chapter ceases to be an official before the
13 bonds are delivered, those signatures are,
14 nevertheless, valid for all purposes, the same as if
15 the official had remained in office until the
16 delivery. Notwithstanding any contrary provision of
17 any law, any bonds issued under this chapter are fully
18 negotiable.

19 5. Bond recitation; conclusive presumptions. In
20 any action or proceeding involving the validity or
21 enforceability of any bond issued under this chapter
22 or the security for that bond, any such bond reciting
23 in substance that it has been issued by the authority
24 in connection with an urban renewal project is
25 conclusively deemed to have been issued for that
26 purpose and the urban renewal project is conclusively
27 deemed to have been planned, located and carried out
28 in accordance with this chapter.

29 6. No personal liability; not debt of State or
30 municipality. Neither the trustees of the authority
31 nor any person executing the bonds may be liable
32 personally on the bonds by reason of the issuance of
33 the bonds. The bonds and other obligations of the
34 authority are not a debt of the municipality nor the
35 State, and neither the municipality nor the State may
36 be liable on the bonds. The bonds and obligations
37 shall so state on their face. The bonds or
38 obligations may not, in any case, be payable out of
39 any funds or properties other than those of the
40 authority acquired for the purposes of this chapter.

41 §5112. Conveyance to Federal Government on default

1 In any contract for financial assistance with the
2 Federal Government, the authority may obligate itself
3 to convey to the Federal Government possession of or
4 title to the urban renewal project and land in the
5 project to which the contract relates which is owned
6 by the authority, upon the occurrence of a substantial
7 default, as defined in the contract, with respect to
8 the covenants or conditions to which the authority is
9 subject. This obligation is specifically enforceable
10 and does not constitute a mortgage. The contracts may
11 provide that, in case of such a conveyance, the
12 Federal Government may complete, operate, manage,
13 lease, convey or otherwise deal with the urban renewal
14 project in accordance with the terms of the contract,
15 provided that the contract requires that, as soon as
16 practicable after the Federal Government is satisfied
17 that all defaults with respect to the renewal project
18 have been cured and that the urban renewal project
19 will thereafter be operated in accordance with the
20 terms of the contract, the Federal Government will
21 reconvey to the authority the urban renewal project as
22 then constituted.

23 §5113. Bonds as legal investments

24 All public officers, municipal corporations,
25 political subdivisions and public bodies, all banks,
26 trust companies, bankers, savings banks and
27 institutions, building and loan associations, savings
28 and loan associations, investment companies and other
29 persons carrying on a banking business; all insurance
30 companies, insurance associations and other persons
31 carrying on an insurance business; and all executors,
32 administrators, curators, trustees and other
33 fiduciaries may legally invest any sinking funds,
34 money or other funds belonging to them or within their
35 control in any bonds or other obligations issued by
36 the authority under this chapter. These bonds and
37 other obligations are authorized security for all
38 public deposits. It is the purpose of this section to
39 authorize any persons, political subdivisions and
40 officers, public or private, to use any funds owned or
41 controlled by them for the purchase of any such bonds
42 or other obligations. Nothing in this section with
43 regard to legal investments may be construed as
44 relieving any person of any duty or of exercising

1 reasonable care in selecting securities.

2 §5114. Exemption from taxes and execution

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

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

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

21 A. Prohibit the authority from making payments in
22 lieu of taxes to the municipality; or

23 B. Apply to or limit the right of obligees to
24 foreclose or otherwise enforce any mortgage of the
25 authority or the right of any obligee to pursue
26 any remedies for the enforcement of any pledge or
27 lien given by the authority on its rents, fees,
28 grant or revenue.

29 §5115. Transfer, sale or lease of real property in
30 urban renewal area

31 1. Sale or lease of property. The authority, for
32 the purpose of this chapter, may sell or lease for
33 such sums as may be agreed upon all or any part of a
34 renewal area to the redeveloper or, if the property is
35 to be used for public purposes, to any appropriate
36 public agency.

37 A. The authority shall determine the

1 consideration paid for the sale or lease of the
2 property, and the municipality may appropriate and
3 authorize the expenditure of money to compensate
4 for any portion of the difference between the
5 acquisition cost of the property and the sale or
6 lease price of the property at a lesser
7 consideration to the redeveloper.

8 (1) A sale or lease price may not be lower
9 than the use value of the property, unless
10 the sale or lease is to a public agency to be
11 used for public purposes.

12 B. Each contract for sale or lease to a
13 redeveloper must provide, among other things, that:

14 (1) The property transferred will be
15 developed and used in accordance with the
16 renewal plan or that plan as modified with
17 the authority's approval;

18 (2) The building of the improvements will be
19 begun within a period of time which the
20 authority fixes as reasonable; and

21 (3) All transfers of properties by the
22 redeveloper will be subject to the consent of
23 the authority until construction or
24 improvements are completed.

25 C. The municipal officers must approve any
26 contract for sale or lease before its final
27 approval by the authority.

28 2. Temporary operation by authority. The
29 authority may temporarily operate and maintain real
30 property in a renewal project area pending the
31 disposition of the property for renewal, without
32 regard to subsection 1, for any uses and purposes that
33 are considered desirable even though not in conformity
34 with the renewal plan.

35 3. Federally designated development areas.
36 Notwithstanding any other provisions of this chapter,
37 where the municipality is located in an area
38 designated as a redevelopment area under the United

1 States Area Redevelopment Act, Public Law 87-27, the
2 public body or corporation for redevelopment may, in
3 accordance with the urban renewal plan, dispose of
4 land in an urban renewal project area designated under
5 the urban renewal plan for industrial or commercial
6 uses to any public body or nonprofit corporation for
7 subsequent disposition as promptly as practicable.
8 Only the purchaser from or lessee of the public body
9 or corporation, and their assignees, is required to
10 assume the obligation of beginning the construction of
11 improvements within a reasonable time. Any
12 disposition of land to a public body or corporation
13 under this subsection must be made at its fair value
14 for uses in accordance with the urban renewal plan.

15 4. Contracts; federal conditions. The authority
16 may arrange or contract for the furnishing or repair,
17 by any person or agency, public or private, of
18 services, privileges, works, streets, roads, public
19 utilities or other facilities for or in connection
20 with a renewal project. The authority may agree to
21 any conditions that it considers reasonable and
22 appropriate attached to federal financial assistance
23 and imposed under federal law relating to the
24 determination of prevailing salaries or wages or
25 compliance with labor standards, in the undertaking or
26 carrying out of a renewal project, and may include in
27 any contract let in connection with such a project
28 provisions to fulfill any of these conditions that it
29 considers reasonable and appropriate.

30 5. Powers; contractual provisions. Within its
31 area of operation, the authority may:

32 A. Purchase, lease, obtain options upon, acquire
33 by gift, grant, bequest, devise or otherwise any
34 real or personal property, or any interest in
35 property, together with any improvements on the
36 property, necessary or incidental to a renewal
37 project;

38 B. Hold, improve, clear or prepare for urban
39 renewal any property obtained under subsection 1;

40 C. Sell, lease, exchange, transfer, assign,
41 subdivide, mortgage, pledge, hypothecate or

1 otherwise encumber or dispose of any real or
2 personal property or any interest in property;

3 D. Enter into contracts with redevelopers of
4 property containing:

5 (1) Covenants, restrictions and conditions
6 regarding the use of the property for
7 residential, commercial, industrial,
8 recreational purposes or for public purposes
9 in accordance with the renewal plan; and

10 (2) Any other covenants, restrictions and
11 conditions that the authority considers
12 necessary to prevent a recurrence of slum or
13 blighted areas or to accomplish the purposes
14 of this chapter;

15 E. Make any of the covenants, restrictions or
16 conditions of the foregoing contracts or covenants
17 running with the land, and may provide appropriate
18 remedies for any breach of these covenants or
19 conditions, including the authority's right to
20 terminate the contracts and any interest in the
21 property created under the contracts;

22 F. Insure or provide for the insurance of any
23 real or personal property or operations of the
24 authority against any risks or hazards, including
25 the power to pay premiums on any such insurance;
26 and

27 G. Enter into any contracts necessary to
28 accomplish the purposes of this chapter.

29 6. General authority. The authority may exercise
30 all or any part or combination of powers granted.

31 §5116. Investment of funds; redemption of bonds

32 The authority may:

33 1. Invest funds. Invest any funds held in
34 reserves or sinking funds or any funds not required
35 for immediate disbursement in property or securities
36 in which saving banks may legally invest funds subject
37 to their control; and

1 2. Redeem or purchase bonds. Redeem its bonds at
2 the redemption price established in the bonds or may
3 purchase its bonds at less than redemption price, all
4 bonds so redeemed or purchased to be cancelled.

5 §5117. Investigatory powers

6 Acting through one or more trustees or other
7 persons designated by the authority, examinations and
8 investigations may be conducted to:

9 1. Take testimony at hearings. Hear testimony
10 and take proof under oath at public or private
11 hearings on any matter material for its information;

12 2. Examination of unavailable witnesses.
13 Administer oaths and issue commission for the
14 examination of witnesses who are outside of the State
15 or unable to appear before the authority, or who are
16 excused from attendance; and

17 3. Make information available. Make available to
18 appropriate agencies, including those charged with the
19 duty of abating or requiring the correction of
20 nuisances or similar conditions or of demolishing
21 unsafe or insanitary structures or eliminating slums
22 or conditions of blight within its area of operation,
23 its findings and recommendations with regard to any
24 building or property where conditions exist which are
25 dangerous to the public health, safety, morals or
26 welfare.

27 §5118. Cooperation by public bodies

28 For the purpose of aiding and cooperating in the
29 planning, undertaking or carrying out of an urban
30 renewal project, the municipality or any other public
31 body, upon any terms that it may determine, with or
32 without consideration, may:

33 1. Property; use or disposal. Dedicate, sell,
34 convey or lease any of its interests in any property,
35 or grant easements, licenses or any rights or
36 privileges in that property to the authority;

1 2. Public works. Cause public buildings and
2 public facilities, parks, playgrounds, recreational,
3 community, educational, water, sewer or drainage
4 facilities, or any other works which it is otherwise
5 empowered to undertake, to be furnished or repaired in
6 connection with a redevelopment project;

7 3. Streets and walks. Furnish, dedicate, close,
8 vacate, pave, install, grade, regrade, plan or replan
9 streets, roads, sidewalks, ways or other places which
10 it is otherwise empowered to undertake;

11 4. Losses. Assume the responsibility to bear any
12 loss that may arise as the result of the exercise of
13 authority under section 5104, subsection 6, in the
14 event that the real property is not made part of the
15 urban renewal project;

16 5. Administrative or other services. Cause
17 administrative and other services to be furnished to
18 the authority of the character which the municipality
19 or other public body is otherwise empowered to
20 undertake or furnish for the same or other purposes;

21 6. Expenses. Incur the entire expense of any
22 public improvement made by the municipality or other
23 public body in exercising the powers granted in this
24 section;

25 7. Aid and cooperate. Do any things necessary to
26 aid and cooperate in the planning or carrying out of
27 an urban renewal plan;

28 8. Funds. Lend, grant or contribute funds to the
29 authority;

30 9. Bonds or other obligations. Employ any funds
31 belonging to or within the control of the municipality
32 or other public body, including funds derived from the
33 sale or furnishing of property, service or facilities
34 to the authority, to purchase the authority's bonds or
35 other obligations and, as the holder of those bonds or
36 other obligations, exercise the rights of a
37 bondholder; and

38 10. Agreements. Enter into agreements, which may

1 extend over any period, with the authority concerning
2 action to be taken by the municipality or any such
3 public body under any of the powers granted by this
4 chapter. If at any time title to, or possession of,
5 any renewal project is held by any public body or
6 governmental agency, other than the authority
7 authorized by law to engage in the undertaking,
8 carrying out administration of urban renewal projects,
9 including the Federal Government, these agreements
10 shall inure to the benefit of and may be enforced by
11 that public body or governmental agency.

12 Any sale, conveyance, lease or agreement provided
13 for in this section may be made by the municipality or
14 other public body without appraisal, public notice,
15 advertisement or public bidding.

16 §5119. Encouragement of private enterprise

17 The authority, to the greatest extent it
18 determines to be feasible in carrying out this
19 chapter, shall afford maximum opportunity, consistent
20 with the sound needs of the municipality as a whole,
21 for the rehabilitation or redevelopment of the urban
22 renewal area by private enterprise. The authority
23 shall consider this objective in exercising its powers
24 under this chapter, including the formulation of a
25 workable program, the approval of urban renewal plans,
26 the exercise of its zoning powers, codes and
27 regulations relating to the use of land and the use
28 and occupancy of buildings and improvements, the
29 disposition of any property acquired, and the
30 provision of necessary public improvements.

31 §5120. Grant of funds by municipality

32 The municipality may grant funds to the authority
33 for the purpose of aiding the authority in carrying
34 out any of its powers and functions under this
35 chapter. To obtain funds for this purpose, the
36 municipality may levy taxes and may issue and sell its
37 bonds. Any bonds issued by the municipality under
38 this section shall be issued in the manner and within
39 the limitations, except as otherwise provided,
40 prescribed by the laws of the State for the issuance
41 and authorization of bonds by the municipality for a
42 public purpose.

1 §5121. Title of purchaser

2 Any instrument executed by the authority and
3 purporting to convey any right, title or interest in
4 any property under this chapter is conclusive evidence
5 of compliance with this chapter insofar as title or
6 other interest of any bona fide purchasers, lessees or
7 transferees of the property is concerned.

8 §5122. Interest of public officials, trustees or
9 employees

10 1. Acquisition of interest. No public official
11 or employee of a municipality, or board or commission
12 of a municipality, and no trustee or employee of an
13 authority which has been vested by a municipality with
14 urban renewal project powers under this chapter may
15 voluntarily acquire any personal interest, direct or
16 indirect, in any:

17 A. Urban renewal project;

18 B. Property included or planned to be included in
19 any urban renewal project of the municipality; or

20 C. Contract or proposed contract in connection
21 with an urban renewal project.

22 When this acquisition is not voluntary, the interest
23 acquired shall be immediately disclosed in writing to
24 the municipal officers and the disclosure shall be
25 entered upon their minutes.

26 2. Present or past interest in property. If any
27 official, trustee or employee as described in
28 subsection 1 presently owns or controls, or owned or
29 controlled within the preceding 2 years, any interest,
30 direct or indirect, in any property known to be
31 included or planned to be included in an urban renewal
32 project, the official, trustee or employee shall
33 immediately disclose this fact in writing to the
34 municipal officers, and this disclosure shall be
35 entered upon their minutes. Any such official,
36 trustee or employee may not participate in any action
37 by the authority affecting that property.

1 3. Disclosure to authority. Any disclosure
2 required to be made under this section to the
3 municipal officers shall concurrently be made to the
4 authority which has been vested with urban renewal
5 project powers by the municipality under this chapter.

6 4. Incompatible offices. No trustee or other
7 officer of the authority exercising powers under this
8 chapter may hold any other public office in the
9 municipality other than the office with respect to the
10 authority.

11 5. Violation. Any violation of this section
12 constitutes misconduct in office.

13 CHAPTER 205

14 COMMUNITY DEVELOPMENT

15 §5201. Findings and declaration of necessity

16 The Legislature finds and declares that:

17 1. Existence of depressed areas. There exists in
18 the municipalities of the State deteriorating,
19 dilapidated, slum and blighted areas, dangerous
20 buildings and incompatible uses of property, which
21 constitute a serious and growing menace, injurious and
22 inimical to the public health, safety, morals and
23 welfare of the residents of the State;

24 2. Expense to public. The existence of these
25 areas, buildings and uses contribute substantially and
26 increasingly to the spread of disease and crime,
27 requiring excessive and disproportionate expenditures
28 of public funds for the preservation of the public
29 health and safety, for crime prevention, correction,
30 prosecution, punishment and treatment of juvenile
31 delinquency and for the maintenance of adequate
32 police, fire and accident protection and other public
33 services and facilities;

34 3. Effect on municipalities. These areas,
35 buildings and uses constitute an economic and social
36 liability and substantially impair or arrest the sound
37 growth of municipalities;

1 4. Not remediable by regulation or private
2 enterprise. These menaces are beyond remedy and
3 control solely by regulatory process in the exercise
4 of police power and cannot be dealt with effectively
5 by the ordinary operation of private enterprise
6 without the aids provided in this chapter;

7 5. Public purpose. The elimination of these
8 areas, buildings and uses, the acquisition and
9 preparation of land in or necessary to the
10 redevelopment and rehabilitation of the areas,
11 buildings and uses, and its sale or lease in
12 accordance with community development programs adopted
13 by municipalities, any assistance which may be given
14 by any state or federal public bodies or agencies and
15 any money raised or appropriated by municipalities in
16 connection with that activity, are public uses
17 required by the public exigencies and are purposes for
18 which public money may be expended and private
19 property acquired; and

20 6. Legislative determination. The necessity of
21 the public interest for this chapter is hereby
22 declared as a matter of legislative determination.

23 §5202. Definitions.

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

27 1. Blighted area. "Blighted area" means:

28 A. An area in which there is a predominance of
29 buildings or improvements which are conducive to
30 ill health, the transmission of disease, infant
31 mortality, juvenile delinquency or crime and are
32 detrimental to the public health, safety, morals
33 or welfare because of:

34 (1) Dilapidation, deterioration, age or
35 obsolescence;

36 (2) Inadequate provision for ventilation,
37 light, air, sanitation or open spaces;

1 (3) High density of population and
2 overcrowding;

3 (4) The existence of conditions which
4 endanger life or property by fire and other
5 causes; or

6 (5) Any combination of these factors; or

7 B. An area which is a menace to the public
8 health, safety, morals or welfare in its present
9 condition and use because of:

10 (1) The predominance of inadequate street
11 layout, insanitary or unsafe conditions;

12 (2) Tax or special assessment delinquency
13 exceeding the fair value of the land;

14 (3) The existence of conditions which
15 endanger life or property by fire and other
16 causes; or

17 (4) Any combination of these factors.

18 2. Community development program. "Community
19 development program" means a program adopted by a
20 municipality under this chapter which has as its
21 primary objective the development of a viable
22 community by providing decent housing principally for
23 persons of low and moderate incomes, or by expanding
24 economic opportunity by providing public facilities.
25 This program must conform to the municipality's
26 comprehensive plan. The program may include the
27 following specific objectives:

28 A. The identification and elimination of slums
29 and blight and the prevention of blighting
30 influences and the deterioration of property and
31 neighborhood and community facilities important to
32 the welfare of the community and principally to
33 persons of low and moderate income;

34 B. The elimination of conditions which are
35 detrimental to health, safety and public welfare

1 through code enforcement, demolition, interim
2 rehabilitation assistance and related activities;

3 C. The conservation and expansion of housing
4 stock in order to provide a decent home and a
5 suitable living environment for all persons, but
6 principally those of low and moderate income;

7 D. The expansion and improvement of the quantity
8 and quality of community services, principally for
9 persons of low and moderate income, which are
10 essential for sound community development and for
11 the development of viable urban communities;

12 E. A more rational use of land and other natural
13 resources and the better arrangement of
14 residential, commercial, industrial, recreational
15 and other needed activity centers;

16 F. The reduction of the isolation of income
17 groups within the community and surrounding
18 geographical areas and the promotion of an
19 increase in the diversity and vitality of
20 neighborhoods through the spatial deconcentration
21 of housing opportunities for persons of lower
22 income and the revitalization of deteriorating or
23 deteriorated neighborhoods in order to attract
24 persons of higher income; and

25 G. The restoration and preservation of properties
26 of special value for historic, architectural or
27 aesthetic reasons.

28 3. Disposition. "Disposition" includes the sale
29 or lease of the property to persons not necessarily
30 the original owners, or the municipality's retention
31 of the property after acquisition or after acquisition
32 and rehabilitation or demolition.

33 4. Owner. "Owner" means any person having an
34 estate, interest or easement in the property to be
35 acquired, or having a lien, charge, mortgage or
36 encumbrance on the property.

37 5. Slum area. "Slum area" means a blighted area
38 in an extreme state of deterioration and decay.

1 §5203. Municipal powers

2 1. Appropriations. A municipality may raise or
3 appropriate money and may accept and appropriate state
4 or federal grants to provide decent housing and a
5 suitable living environment and to expand economic
6 opportunities under a duly approved and adopted
7 community development program.

8 2. Community development program. The municipal
9 officers of a municipality may prepare or have
10 prepared a community development program. Before
11 recommending a community development program to the
12 municipal legislative body for approval, if the
13 program has not been prepared by the planning board,
14 the municipal officers shall submit the program to the
15 municipal planning board for review and
16 recommendations as to its conformity with the
17 comprehensive plan and any applicable zoning
18 ordinances. The planning board shall submit its
19 written recommendations to the municipal officers
20 within 45 days after receiving the program for
21 review. The municipal officers shall, after 10 days'
22 notice, hold public hearings on the plan upon receipt
23 of those recommendations or, if no recommendations are
24 received within the 45-day period, then without the
25 recommendations. After the hearings are completed,
26 the municipal officers shall submit the program and
27 any recommendations of the planning board to the
28 municipal legislative body for their approval and
29 adoption.

30 A. Notwithstanding any other provision of this
31 subsection, any community development program
32 approved by a municipal legislative body before
33 July 1, 1975, is deemed approved and adopted under
34 this section if the program conforms with the
35 municipality's comprehensive plan.

36 3. Development powers. Except as provided, the
37 municipal officers of a municipality may exercise,
38 pursuant to a duly approved and adopted community
39 development program, all appropriate and necessary
40 powers to implement and complete the program,
41 including, but not limited to:

1 A. Acquisition by purchase or by eminent domain
2 of any vacant or undeveloped land and of any
3 developed land and structures, buildings and
4 improvements existing on the land located in
5 designated slum or blighted areas for the purposes
6 of the demolition and removal or rehabilitation
7 and repair or redevelopment of property so
8 acquired;

9 B. Loaning or granting of money or the
10 guaranteeing of loans to encourage owners of
11 property to voluntarily rehabilitate and repair
12 their properties to comply with all zoning,
13 housing, building, plumbing, electrical and other
14 structural and constructional ordinances,
15 regulations and standards of the municipality or
16 State or to voluntarily demolish their properties;

17 C. Installation, construction or reconstruction
18 of streets, utilities, parks, playgrounds and
19 other improvements necessary for carrying out the
20 objectives of the community development program;

21 D. Contracting with, delegating of powers to or
22 loaning or granting of money to any other
23 political subdivision of the State,
24 quasi-municipal corporation or agency of the State
25 or its political subdivisions as may be required
26 to implement and complete all or any portion of
27 the community development program; and

28 E. The disposition of acquired property, provided
29 that the municipality may not, within 10 years of
30 the date of acquisition, sell undeveloped or
31 unrehabilitated property, in whole or in part,
32 that was acquired by eminent domain without first
33 offering it to the prior owner, owners or their
34 heirs, except as provided in subparagraph (1).
35 This offer must be kept open for at least 60 days
36 and must be at a price no more than the sum of the
37 compensation and damages given in the eminent
38 domain proceedings, any relocation payments or
39 benefits and the costs of the municipality for any
40 improvements. The offer may be limited by
41 requiring use of the property in accordance with
42 the community development program.

1 (1) When the property to be sold is one of 3
2 or more contiguous or abutting parcels or
3 lots that are to be redeveloped or
4 rehabilitated as a unit, the property may be
5 sold without first offering it to the prior
6 owner, owners or their heirs.

7 (2) Any disposition of acquired property,
8 other than to the prior owner, owners or
9 their heirs, must require use of the property
10 in accordance with the community development
11 program.

12 4. Tax increment revenues from rehabilitated or
13 developed property. The legislative body of a
14 municipality may provide that tax increment revenues
15 from property rehabilitated or developed and
16 subsequently sold by the municipality will be set
17 aside annually and deposited to the credit of a
18 sinking fund, which is pledged to and charged with the
19 payment of the interest and principal as they fall
20 due, and the necessary charges of paying agents for
21 paying interest and principal of any notes, bonds or
22 other evidences of indebtedness that were issued to
23 fund or refund the rehabilitation or development of
24 the property.

25 A. Tax increment revenues from property
26 rehabilitated or developed shall be the real
27 property tax revenues received, based on the
28 amount of valuation that exceeds the valuation of
29 the property on the April 1st immediately
30 preceding the adoption of the municipal community
31 development plan.

32 B. The sinking fund is a fund for the benefit of
33 the notes, bonds or other evidences of
34 indebtedness issued to fund or refund the
35 rehabilitation or development of the property, and
36 any money deposited in this fund shall be held and
37 applied solely for that purpose.

38 §5204. Eminent domain

39 The following provisions govern the exercise of
40 eminent domain powers by the municipal officers.

1 1. Adoption of resolution of condemnation. The
2 municipal officers shall adopt a resolution of
3 condemnation. This resolution must:

4 A. Specifically describe the property, or
5 interest in the property to be acquired, and its
6 location by metes and bounds;

7 B. Specify the name or names of the owner or
8 owners;

9 C. Set forth the amount of damages determined by
10 the municipal officers to be just compensation for
11 the property or interest in the property taken; and

12 D. Declare that the acquisition is pursuant to a
13 duly adopted community development program.

14 The resolution shall be served on the owners either
15 personally or by registered mail, and then shall be
16 submitted to the municipal legislative body for
17 approval or disapproval. The municipal legislative
18 body may not amend the resolution to decrease the
19 amount of damages to be paid.

20 2. Filing, bonds and notice. Within 3 months
21 after the municipality approves the resolution:

22 A. The municipal officers shall have a copy of
23 the resolution filed in the registry of deeds of
24 the county in which the property is located.
25 After this copy is filed, the municipal officers
26 shall have filed in the Superior Court of the
27 county in which the property is located:

28 (1) A copy of the resolution; and

29 (2) A statement of the sum of money approved
30 by the municipality as just compensation for
31 the property taken;

32 B. After the copy of the resolution has been
33 filed in the registry and the statement of
34 estimated just compensation has been filed in the
35 Superior Court, the municipal officers shall have

1 bonds deposited in the Superior Court with surety
2 satisfactory to the clerk of the court, in the
3 amounts that the court determines to be sufficient
4 to satisfy the claims of all persons interested in
5 the property. These bonds shall be deposited for
6 the use of persons entitled to them. The court
7 may, in its discretion, take evidence on the
8 question to determine:

9 (1) The amounts of the bonds to be deposited;

10 (2) Title to the property; or

11 (3) Interest in the property; and

12 C. After the copy of the resolution has been
13 filed in the registry and the statement of just
14 compensation has been filed in the Superior Court,
15 the municipal officers shall have notice of the
16 taking of the property or interest in the property
17 served upon the owners of the property by a
18 sheriff or deputies. Service shall be made by
19 leaving a true and attested copy of the resolution
20 and the statement of estimated just compensation
21 with each owner personally or at the last known
22 address in the State or with some person living at
23 that address.

24 (1) If any owner is not a resident of the
25 State, a true and attested copy of the
26 resolution and statement shall be sent by
27 registered mail, return receipt requested, to
28 the owner at the last known address.

29 (2) In addition, municipal officers shall
30 have a copy of the resolution together with
31 the names of the owners of the property and
32 the amount to be awarded to each of them,
33 published in a newspaper having general
34 circulation in the county, at least once a
35 week for 3 consecutive weeks; and

36 After the bonds are deposited in the Superior Court,
37 and notice is given, title to the property vests in
38 the municipality in fee simple absolute and the
39 municipality may take possession of the property.

1 3. Unknown ownership. If ownership of the
2 property cannot be ascertained after due and diligent
3 search, an award shall be made to persons unknown for
4 the value of the property, and bonds for that amount
5 running to the treasurer of the county for the use of
6 the persons entitled to them, shall be deposited in
7 the Superior Court. If no person has been able to
8 prove ownership of the property within 2 years after
9 the bonds are deposited, the Superior Court shall
10 order those bonds to be cancelled and delivered up to
11 the municipality.

12 4. Agreement and cancellation of bonds. When any
13 person entitled to the bonds agrees with the
14 municipality for the price of the property or interest
15 in the property so taken and the sum agreed upon is
16 paid by the municipality, the court shall order the
17 bond deposited under this section to be cancelled and
18 delivered up to the municipality.

19 5. Complaint to Superior Court; trial. Any owner
20 of the property taken under this section, who cannot
21 agree with the municipality on the price of the
22 property or interest in the property in which the
23 owner is interested, may apply by complaint to the
24 Superior Court in the county where the property is
25 located.

26 A. The complaint must be made within 3 months
27 after personal notice of the taking or, if the
28 owner has no personal notice, within one year from
29 the first publication of the copy of the
30 resolution and description required in subsection
31 2, paragraph C. It must set forth the taking of
32 the property or interest in property, and pray for
33 the assessment of damages by jury or, by agreement
34 of the parties, by a referee or referees appointed
35 by the court.

36 B. When the complaint is filed, the Superior
37 Court shall have 20 days' notice of the pendency
38 of the action given to the municipality by serving
39 the municipal clerk with a certified copy of the
40 complaint. The court may proceed after this
41 notice to obtain a trial of the action.

1 C. The trial shall determine all questions of
2 fact relating to the value of the property or
3 interest in the property and the amount of that
4 interest. Judgment shall be entered upon the
5 verdict of the jury and execution shall be issued
6 for that judgment against the money deposited in
7 the court.

8 6. Conflicting ownership. If the municipal
9 officers are in doubt as to conflicting ownership or
10 interest, the municipality may file a complaint in the
11 Superior Court for the county in which the property is
12 located for a determination of the various rights and
13 amounts due. If 2 or more plaintiffs make claims to
14 the real property, or to any interest in the property,
15 or to different interests in the same property, the
16 Superior Court, upon motion, shall consolidate their
17 several complaints for trial at the same time by the
18 same jury and may frame all necessary issues for the
19 trial of those actions.

20 7. Appeal. An appeal from the decision of the
21 Superior Court may be made in the manner provided for
22 appeals in civil cases.

23 8. Guardian ad litem. If a municipality takes
24 any real property or interest in property in which any
25 minor or other person not capable in law to act in the
26 minor's or other person's own behalf is interested,
27 the appropriate Superior Court may, upon the filing of
28 a complaint under subsection 5 by or on behalf of the
29 minor or other person, appoint a guardian ad litem for
30 the minor or other person. This guardian may appear
31 and be heard on behalf of the minor or other person
32 and may, with the advice and consent of the Superior
33 Court and upon such terms as the Superior Court
34 prescribes, release to the municipality all claims for
35 damages for the property of the minor or other person
36 or for any interest in the property.

37 Any lawfully appointed, qualified and acting guardian
38 or other fiduciary of the estate of any such minor or
39 other person, with the approval of the Probate Court
40 having jurisdiction to authorize the sale of real
41 property within this State, may, before filing any

1 complaint under this section, agree with the
2 municipality on the amount of damages suffered by the
3 minor or other person by any taking of property or of
4 interest in the property and may, upon receiving that
5 amount, release to the municipality all claims for
6 damages of the minor or other person for the taking.

7 9. Expedited proceedings; property devoted to
8 public use. In any proceedings for assessment of
9 compensation and damages for property or interest in
10 the property taken or to be taken by eminent domain by
11 the municipality, the following provisions apply.

12 A. At any time during the pendency of the action
13 or proceedings, the municipality or an owner may
14 apply to the court for an order directing the
15 owner or the municipality, as the case may be, to
16 show cause why further proceedings should not be
17 expedited. Upon this application the court may
18 make an order requiring that the hearings proceed
19 and that any other steps be taken with all
20 possible expedition.

21 B. If any property or interest in property is
22 devoted to a public use, it may nevertheless be
23 acquired and the taking is effective, provided
24 that:

25 (1) No property or interest in property
26 belonging to any governmental agency may be
27 acquired without its consent; and

28 (2) No property or interest in property
29 belonging to a public utility corporation may
30 be acquired without the approval of the
31 Public Utilities Commission or other officer
32 or tribunal having regulatory power over the
33 corporation.

34 C. Any property or interest in property
35 previously deeded to or acquired by the
36 municipality may be included within the taking for
37 the purpose of acquiring any outstanding interests
38 in the property.

39 CHAPTER 207

1 MUNICIPAL DEVELOPMENT DISTRICTS

2 §5251. Findings and declaration of necessity

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

6 A. Provide new employment opportunities;

7 B. Improve and broaden the tax base; and

8 C. Improve the general economy of the State.

9 2. Authorization. For the reasons set out in
10 subsection 1, municipalities may develop a program for
11 improving a district of the municipality:

12 A. To provide impetus for industrial or
13 commercial development, or both;

14 B. To increase employment; and

15 C. To provide the facilities outlined in the
16 development program adopted by the legislative
17 body of the municipality.

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

23 §5252. Definitions

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

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

31 2. Captured assessed value. "Captured assessed

1 value" means the valuation amount by which the current
2 assessed value of a tax increment financing district
3 exceeds the original assessed value of the district.
4 If the current assessed value is equal to or less than
5 the original there is no captured assessed value.

6 3. Development district. "Development district"
7 means a specified area within the corporate limits of
8 a municipality which has been designated and
9 separately numbered as provided under section 5253,
10 and which is to be developed by the municipality under
11 a development program.

12 4. Development program. "Development program"
13 means a statement of means and objectives designed to
14 improve the quality of life, the physical facilities
15 and structures and the quality of pedestrian and
16 vehicular traffic control and transportation within
17 the development district. The statement must include:

18 A. A financial plan;

19 B. A complete list of public facilities to be
20 constructed;

21 C. The uses of private property within the
22 district;

23 D. Plans for the relocation of persons displaced
24 by the development activities;

25 E. The proposed regulations and facilities to
26 improve transportation;

27 F. The environmental controls to be applied; and

28 G. The proposed operation of the district after
29 the planned capital improvements are completed.

30 5. Financial plan. "Financial plan" means a
31 statement of the costs and sources of revenue required
32 to accomplish the development program.

33 A. The statement must include:

34 (1) Cost estimates for the development
35 program;

1 (2) The amount of bonded indebtedness to be
2 incurred;

3 (3) Sources of anticipated revenues; and

4 (4) The duration of the program.

5 B. For a development program for a tax increment
6 financing district, the statement must also
7 include:

8 (1) Estimates of captured assessed values of
9 the district;

10 (2) The portion of the captured assessed
11 values to be applied to the development
12 program and resulting tax increments in each
13 year of the program; and

14 (3) A statement of the estimated impact of
15 tax increments financing on all taxing
16 jurisdictions in which the district is
17 located.

18 6. Maintenance and operation. "Maintenance and
19 operation" means all activities necessary to maintain
20 facilities after they have been developed and all
21 activities necessary to operate the facilities,
22 including, but not limited to, informational,
23 promotional and educational programs, and safety and
24 surveillance activities.

25 7. Original assessed value. "Original assessed
26 value" means the assessed value of the district as of
27 March 31st of the preceding tax year.

28 8. Project costs. "Project costs" means any
29 expenditures made or estimated to be made or monetary
30 obligations incurred or estimated to be incurred by
31 the municipality which are listed in a project plan as
32 costs of improvements, including public works,
33 acquisition, construction or rehabilitation of land or
34 improvements for sale or lease to commercial or
35 industrial users, within a development district plus
36 any costs incidental to those improvements, reduced by

1 any income, special assessments or other revenues,
2 other than tax increments, received or reasonably
3 expected to be received by the municipality in
4 connection with the implementation of this plan.

5 A. The term "project costs" does not include the
6 cost of buildings, or portions of buildings, used
7 predominantly for the general conduct of
8 government. These buildings include, but are not
9 limited to, city halls and other headquarters of
10 government where the governing body meets
11 regularly, courthouses, jails, police stations and
12 other State Government and local government office
13 buildings.

14 B. The term "project costs" includes, but is not
15 limited to:

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

18 (a) The actual costs of the
19 construction of public works or
20 improvements, new buildings, structures
21 and fixtures;

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

26 (c) The acquisition of equipment; and

27 (d) The clearing and grading of land;

28 (2) Financing costs, including, but not
29 limited to, all interest paid to holders of
30 evidences of indebtedness issued to pay for
31 project costs and any premium paid over the
32 principal amount of that indebtedness because
33 of the redemption of the obligations before
34 maturity;

35 (3) Real property assembly costs, meaning
36 any deficit incurred resulting from the sale
37 or lease as lessor by the municipality of

1 real or personal property within a
2 development district for consideration which
3 is less than its cost to the municipality;

4 (4) Professional service costs, including,
5 but not limited to, those costs incurred for
6 architectural, planning, engineering and
7 legal advice and services;

8 (5) Administrative costs, including, but not
9 limited to, reasonable charges for the time
10 spent by municipal employees in connection
11 with the implementation of a project plan;

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

15 (7) Organizational costs, including, but not
16 limited to, the costs of conducting
17 environmental impact and other studies and
18 the costs of informing the public about the
19 creation of development districts and the
20 implementation of project plans;

21 (8) Payments made, in the discretion of the
22 local legislative body, which are found to be
23 necessary or convenient to the creation of
24 development districts or the implementation
25 of project plans;

26 (9) That portion of the costs related to the
27 construction or alteration of sewerage
28 treatment plants, water treatment plants or
29 other environmental protection devices, storm
30 or sanitary sewer lines, water lines or
31 amenities on streets or the rebuilding or
32 expansion of which is required by the project
33 plan for a development district, whether or
34 not the construction, alteration, rebuilding
35 or expansion is within the development
36 district; and

37 (10) Training costs, including, but not
38 limited to, those costs associated with
39 providing skills development and training for

1 employees of businesses within the
2 development district. These costs may not
3 exceed 20% of the total project costs and
4 must be designated as training funds within 3
5 years of the designation of the district.

6 9. Tax increment. "Tax increment" means that
7 portion of all real and personal property taxes
8 assessed by a municipality, in excess of any state,
9 county or special district tax, upon the captured
10 assessed value of property in the development district.

11 10. Tax increment financing district. "Tax
12 increment financing district" means a type of
13 development district, or portion of a district, which
14 uses tax increment financing under section 5254.

15 §5253. Development districts; development programs
16 and ordinances

17 1. Districts. The municipal legislative body may
18 designate development districts within the boundaries
19 of the municipality. Before designating a district,
20 the municipal legislative body shall consult with the
21 municipal planning agency or department and with an
22 advisory board, if established under section 5260, and
23 shall also hold at least one public hearing. Notice
24 of the hearing shall be published at least 10 days
25 before the hearing in a newspaper of general
26 circulation within the municipality.

27 A. At least 25%, by area, of the real property
28 within a development district must meet at least
29 one of the following criteria:

30 (1) Is a blighted area;

31 (2) Is in need of rehabilitation,
32 redevelopment or conservation work; or

33 (3) Is suitable for industrial sites.

34 B. The total area of a single development
35 district may not exceed 2% of the total acreage of
36 the municipality. All development districts may
37 not exceed 5% of the total acreage of the

1 municipality. The boundaries of a district may be
2 altered only after meeting the requirements for
3 adoption under this subsection.

4 C. The aggregate value of equalized taxable
5 property of a tax increment financing district,
6 plus all existing tax increment financing
7 districts, may not exceed 5% of the total value of
8 equalized taxable property within the municipality.

9 D. The aggregate value of indebtedness financed
10 by the proceeds from tax increment financing
11 districts within any county may not exceed
12 \$50,000,000.

13 E. The designation of captured assessed value of
14 property within a tax increment financing district
15 is subject to the following limitations.

16 (1) The increase in captured assessed value
17 of property within tax increment financing
18 districts within any county may not exceed
19 the lesser of 1% of the total annual value of
20 equalized taxable property within the county
21 annually or \$20,000,000 within a 24-month
22 period. If 1% of a county's equalized
23 taxable value is less than \$5,000,000, the
24 annual limit for that county is \$5,000,000.

25 (2) The Commissioner of Economic and
26 Community Development shall adopt any rules
27 necessary to allocate or apportion the
28 designation of captured assessed value of
29 property within tax increment financing
30 districts in accordance with these
31 limitations.

32 (3) Fifteen percent of the project costs for
33 the development program must be incurred
34 within 9 months of the designation of the tax
35 increment financing district by the
36 Commissioner of Economic and Community
37 Development. The development program must be
38 completed within 5 years of the designation
39 of the tax increment financing district by
40 the Commissioner of Economic and Community
41 Development.

1 F. Before final designation of a tax increment
2 financing district, the Commissioner of Economic
3 and Community Development shall review the
4 proposal to ensure that it complies with statutory
5 requirements and shall identify tax shifts within
6 the county where the district will exist. A
7 designation under this subsection is effective
8 upon approval by the municipal legislative body
9 and, for tax increment financing districts, the
10 Commissioner of Economic and Community
11 Development. If the municipality has a charter,
12 the designation shall be done in accordance with
13 the provisions of the charter.

14 2. Program. The legislative body of a
15 municipality shall adopt a development program for
16 each development district. The program shall be
17 adopted at the same time as the district, as part of
18 the district adoption proceedings, or if at a
19 different time, in the same manner as adoption of the
20 district, with the same notice, hearing and
21 consultation requirements of subsection 1. Once
22 approved, the program may be altered or amended only
23 after meeting the requirements for adoption under this
24 subsection.

25 3. Powers. Within development districts, and
26 consistent with the development program, the
27 municipality may acquire, construct, reconstruct,
28 improve, preserve, alter, extend, operate, maintain or
29 promote development intended to meet the objectives of
30 the development program. Pursuant to the development
31 program, the municipality may acquire property, land
32 or easements through negotiation, or by using eminent
33 domain powers in the manner authorized for community
34 development programs under section 5204. The
35 municipality's legislative body may adopt ordinances
36 regulating traffic in and access to any facilities
37 constructed within the development district. The
38 municipality may install public improvements.

39 §5254. Tax increment financing

40 1. Captured assessed value. The municipality may
41 retain all or part of the tax increment of a tax

1 increment financing district for the purpose of
2 financing the development program. The amount of tax
3 increment to be retained shall be determined by
4 designating the amount of captured assessed value to
5 be retained. When a development program for a tax
6 increment financing district is adopted, the municipal
7 legislative body shall adopt a statement of the
8 percentage of captured assessed value to be retained
9 in accordance with the development program. Once
10 adopted, the percentage may only be decreased in
11 subsequent years, unless a new development program is
12 adopted, or the present plan is amended or altered
13 under section 5253. The municipal assessor shall
14 certify the amount of the captured assessed value to
15 the municipality each year.

16 A. For purposes of calculating state aid for
17 education under Title 20-A, effective for
18 districts designated after December 31, 1986, only
19 75% of the captured assessed value within the tax
20 increment financing district is excepted from the
21 equalized just valuation of a municipality as
22 defined in Title 36, section 305, subsection 1.

23 2. Original assessed value. Upon or after
24 formation of a tax increment financing district, the
25 assessor of the municipality in which it is located
26 shall, on request of the municipal legislative body,
27 certify the original assessed value of the taxable
28 real property within the boundaries of the tax
29 increment financing district. Each year thereafter
30 the municipal assessor shall certify the amount by
31 which the assessed value has increased or decreased
32 from the original value.

33 3. Development sinking fund; tax increment
34 revenues. If a municipality has elected to retain all
35 or a percentage of the retained captured assessed
36 value under subsection 1, it shall:

37 A. Establish a development sinking fund which is
38 pledged to and charged with the payment of the
39 interest and principal as they fall due, and the
40 necessary charges of paying agents for paying
41 interest and principal on any notes, bonds or
42 other evidences of indebtedness that were issued

1 to fund or refund the rehabilitation or
2 development under this chapter; and

3 B. Annually set aside all tax increment revenues
4 on retained captured assessed values payable to
5 the municipality for public purposes and deposit
6 them to the credit of the development sinking fund.

7 4. Limitations. The following limitations apply.

8 A. Nothing in this section allows or sanctions
9 unequal apportionment or assessment of the taxes
10 to be paid on real property in the State. All
11 real property within the tax increment financing
12 district shall pay real property taxes apportioned
13 equally with property taxes paid elsewhere in the
14 municipality.

15 B. The municipality shall expend the tax
16 increments received for any development program
17 only in accordance with the financing plan. These
18 revenues shall not be used to circumvent existing
19 tax laws.

20 §5255. Assessments

21 1. Assessments. The municipality may estimate
22 and assess the following assessments:

23 A. A development assessment upon lots or property
24 within the development district. The assessment
25 shall be made upon lots or property that have been
26 benefited by improvements constructed or created
27 under the development program and may not exceed a
28 just and equitable proportionate share of the cost
29 of the improvement. All revenues from assessments
30 under this paragraph shall be paid into the
31 development sinking fund;

32 B. A maintenance assessment upon all lots or
33 property within the development district. The
34 assessment must be assessed equally and uniformly
35 on all lots or property receiving benefits from
36 the development program and the continued
37 operation of the public facilities. The total
38 maintenance assessments may not exceed the cost of

1 maintenance and operation of the public facilities
2 within the district. The cost of maintenance and
3 operation must be in addition to the cost of
4 maintenance and operation already being performed
5 by the municipality within the district when the
6 development district was adopted; and

7 C. An implementation assessment upon all lots or
8 property within the development district. The
9 assessment must be assessed equally and uniformly
10 on all lots or property receiving benefits from
11 the development program. The implementation
12 assessments may be used to fund activities which,
13 in the opinion of the municipal legislative body,
14 are reasonably necessary to achieve the purposes
15 of the development program. The activities funded
16 by implementation assessments must be in addition
17 to those already conducted within the district by
18 the municipality when the development district was
19 adopted.

20 2. Notice and hearing. Before estimating and
21 assessing an assessment under subsection 1, the
22 municipality must give notice and hold a hearing.
23 Notice of the hearing must be published at least 10
24 days before the hearing in a newspaper of general
25 circulation within the municipality. The notice must
26 include:

27 A. The date, time and place of hearing;

28 B. The boundaries of the development district by
29 legal description;

30 C. A statement that all interested persons owning
31 real estate or taxable property located within the
32 district will be given an opportunity to be heard
33 at the hearing and an opportunity to file
34 objections to the amount of the assessment;

35 D. The maximum rate of assessments to be extended
36 in any one year, and may include a maximum number
37 of years the assessments will be levied; and

38 E. A proposed list of properties to be assessed
39 and the estimated assessments against those
40 properties.

1 3. Apportionment formula. A municipality may
2 adopt ordinances apportioning the value of
3 improvements within a development district according
4 to a formula that reflects actual benefits which
5 accrue to the various properties because of the
6 development and maintenance.

7 4. Increase of assessments and extension of time
8 limits. Assessments may be increased or the period
9 specified may be extended after notice and hearing as
10 required under subsection 2.

11 5. Collection. Assessments assessed under this
12 section shall be collected in the same manner as
13 municipal taxes. The constable or municipal tax
14 collector has all the authority and powers by law to
15 collect the assessments.

16 If any property owner fails to pay any assessment or
17 part of an assessment on or before the dates required,
18 the municipality has all the authority and powers to
19 collect the delinquent assessments as are vested in
20 the municipality by law to collect delinquent
21 municipal taxes.

22 §5256. Grants

23 A municipality may receive grants or gifts for any
24 of the purposes of this chapter. The tax increment
25 within a development district may be used as the local
26 match for certain grant programs.

27 §5257. Financing

28 The legislative body of a municipality may
29 authorize, issue and sell bonds, including, but not
30 limited to, general obligation or revenue bonds or
31 notes, which mature within 20 years from the date of
32 issue, to finance all project costs needed to carry
33 out the development program within the development
34 district. All revenues derived under section 5254 or
35 under section 5255, subsection 1, received by the
36 municipality shall be pledged for the payment of the
37 incurred indebtedness and used to reduce or cancel the
38 taxes, which may otherwise be required to be expended

1 for that purpose. The notes, bonds or other forms of
2 financing shall not be included when computing the
3 municipality's net debt. Nothing in this section
4 restricts the ability of the municipality to raise
5 revenue for the payment of project costs in any manner
6 otherwise authorized by law.

7 §5258. Tax exemption

8 All publicly owned parking structures and
9 pedestrian skyway systems are exempt from taxation by
10 the municipality, county and State. This section does
11 not exempt any lessee or person in possession from
12 taxes or assessments payable under Title 36, section
13 551.

14 §5259. Administration

15 The legislative body of a municipality may create
16 a department, designate an existing department,
17 office, agency, municipal housing or redevelopment
18 authority, or enter into a contractual arrangement
19 with a private entity to administer activities
20 authorized under this chapter.

21 §5260. Advisory board

22 The legislative body of a municipality may create
23 an advisory board, a majority of whose members must be
24 owners or occupants of real property located in or
25 adjacent to the development district which they
26 serve. The advisory board shall advise the
27 legislative body and the designated administrative
28 entity on the planning, construction and
29 implementation of the development program and
30 maintenance and operation of the district after the
31 program has been completed.

32 CHAPTER 209

33 RELOCATION OF UTILITY FACILITIES

34 §5301. Definitions

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

1 1. Administering authority. "Administering
2 authority" means an urban renewal authority, municipal
3 officers or any other persons or organizations
4 empowered by the provisions of chapters 203, 205 and
5 207 to implement an urban renewal plan, community
6 development program or municipal development district
7 plan.

8 2. Development plan. "Development plan" means an
9 urban renewal plan, community development program or
10 municipal development district plan as defined and
11 described in chapters 203, 205 and 207.

12 §5302. Payment of costs of relocating utility
13 facilities underground in an urban renewal
14 area

15 Any public utility, as defined in Title 35-A,
16 section 102, subsection 13, that is required to move
17 or relocate its facilities from or in any traveled way
18 because of the requirements of a development plan
19 which is approved after February 23, 1978, under the
20 procedures established for the approval of development
21 plans, may not be required to install the relocated or
22 any new facilities underground at its own expense, but
23 shall be reimbursed from federal funds provided to
24 implement these plans for the costs of placing utility
25 facilities underground. The relocation costs subject
26 to reimbursement may not exceed the cost of
27 underground installation less the cost of providing
28 the same service with the same capacity through a new
29 overhead system.

30 1. Determination of cost. In determining the
31 amount of reimbursement, in the first instance, the
32 public utility shall itemize for the administering
33 authority of the development plan, the components of
34 the utility's relocation costs and the cost of
35 providing the same service with the same capacity
36 through a new overhead system. If there is
37 disagreement with respect to the reimbursement, the
38 disagreement shall be submitted to the Public
39 Utilities Commission which, after notice and hearings,
40 shall determine the amount of the reimbursement.

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

4 1. Development plan. "Development plan" means a
5 plan proposed by an educational institution of higher
6 learning or a private redevelopment corporation for
7 the redevelopment and renewal of a project area. This
8 plan must conform to:

9 A. The municipality's comprehensive plan; and

10 B. The requirements of chapter 203 with respect
11 to the content of redevelopment or renewal plans.

12 2. Educational institution of higher learning.
13 "Educational institution of higher learning" means an
14 educational institution, no part of the net earnings
15 of which inures to the benefit of any private
16 shareholder or individual, which provides an
17 educational program for which it awards a
18 baccalaureate or more advanced degree, or provides for
19 not less than a 2-year program which is acceptable for
20 full credit towards such a degree. The institution
21 must be accredited by a national accrediting agency or
22 association or, if not so accredited, its credits must
23 be accepted, on transfer, by at least 3 accredited
24 educational institutions for credit on the same basis
25 as if transferred from an educational institution that
26 is accredited.

27 3. Hospital. "Hospital" means any public or
28 private hospital licensed by the State, no part of the
29 net earnings of which inures to the benefit of any
30 private shareholder or individual.

31 4. Hospital uses. "Hospital uses" means uses
32 related to the functions of a hospital in providing
33 care and treatment of the ill or injured, including
34 the housing, feeding and care of resident interns,
35 physicians and nurses.

36 5. Municipality. "Municipality" means any
37 municipality which is authorized under chapter 203,
38 directly or through its urban renewal authority, to
39 undertake and carry out redevelopment or renewal
40 projects.

1 6. Private redevelopment corporation. "Private
2 redevelopment corporation" means any corporation which
3 is wholly owned or controlled by one or more
4 educational institutions of higher learning or a
5 corporation which operates on behalf of an educational
6 institution on a nonprofit basis.

7 7. Project area. "Project area" means a slum
8 area or a blighted, deteriorated or deteriorating area.

9 §5353. Preparation and approval of development plans

10 The legislative body of any municipality may
11 approve, after a public hearing, a development plan
12 proposed by any educational institution of higher
13 learning or hospital located in the municipality, or
14 by a private redevelopment corporation, for the
15 redevelopment and renewal of a project area, adjacent
16 to or in the immediate vicinity of the location of
17 principal buildings of the institution or hospital, or
18 a major branch of the institution or hospital, where
19 teaching or research is done or where students or
20 faculty live, and the area of an urban renewal
21 project, assisted under the United States Housing Act
22 of 1949, Public Law 81-171, Title I, as amended, which
23 is being undertaken by the municipality or its urban
24 renewal authority. Any state educational institution
25 of higher learning, hospital or private redevelopment
26 corporation may prepare these development plans. Any
27 city may authorize any educational institution of
28 higher learning or hospital established and maintained
29 by the city to prepare development plans.

30 §5354. Public hearing

31 Before approving any development plan under
32 section 5353, the municipal legislative body or the
33 municipality's urban renewal authority shall hold a
34 public hearing on the development plan. This public
35 hearing must be held not less than 7 nor more than 14
36 days after notice of the time, place and purpose of
37 the hearing has been published in a newspaper having
38 general circulation in the municipality.

39 §5355. Cooperation in carrying out approved
40 development plan

1 communication equipment, weather stations, safety
2 equipment, terminal facilities for aircraft and
3 land vehicles, facilities for servicing aircraft
4 and for the sale of oil, gasoline, other fuels and
5 other accessories, waiting rooms, lockers, space
6 for concessions, offices; and

7 C. All facilities appurtenant to and all property
8 rights, air rights, easements and interests
9 relating thereto considered necessary for the
10 construction or operation of the airport.

11 2. Cost. "Cost," as applied to a
12 revenue-producing municipal facility, includes:

13 A. The purchase price of any such facility;

14 B. The cost of construction;

15 C. The cost of all labor, materials, machinery
16 and equipment;

17 D. The cost of improvements;

18 E. The cost of all lands, property, rights,
19 easements and franchises acquired;

20 F. Financing charges;

21 G. Interest before and during construction and,
22 if the municipal officers consider it desirable,
23 for one year after construction is completed;

24 H. The cost of plans and specifications, surveys
25 and estimates of cost and of revenues;

26 I. The cost of engineering and legal services; and

27 J. All other expenses necessary or incident to
28 determining the feasibility or practicability of
29 construction, administrative expense and any other
30 expenses necessary or incident to the financing
31 authorized in this chapter.

32 Any obligation or expenses incurred by the
33 municipality in connection with any of the items of

1 cost, including the payment in whole or in part of
2 indebtedness incurred to pay such obligations or
3 expenses and interest on those obligations or
4 expenses, may be regarded as a part of that cost and
5 reimbursed to the municipality out of the proceeds of
6 revenue bonds issued under this chapter and Title 10,
7 chapter 110, subchapter IV.

8 3. Energy facility. "Energy facility" means:

9 A. An "energy distribution system project," as
10 defined in Title 10, section 963-A, subsection 12;

11 B. An "energy generating system project," as
12 defined in Title 10, section 963-A, subsection 13;
13 or

14 C. A hydroelectric power facility.

15 This term also includes any combination or part of
16 these facilities or any equipment and structures
17 designed to distribute or transmit energy either from
18 or to these facilities.

19 4. Improvements. "Improvements" means those
20 repairs, replacements, additions, extensions and
21 betterments of and to a revenue-producing municipal
22 facility that the municipal officers consider
23 necessary to place or maintain the revenue-producing
24 municipal facility in proper condition for its safe,
25 efficient and economic operation or to meet
26 requirements for service in areas which may be served
27 by the municipality and for which no existing service
28 is being provided.

29 5. Parking facility. "Parking facility" means
30 any land or any interest in land, structure or
31 portions of structures, and improvements on land or
32 structures intended for the off-street parking of
33 motor vehicles by the public for a fee. Any such
34 structure may be either single or multi-level and
35 either at, above or below the surface. This term also
36 includes:

37 A. Facilities incident to the operation of those
38 properties for the parking of motor vehicles,

1 including, without limitation, ancillary waiting
2 rooms, lockers, space for concessions, stores and
3 offices, terminal facilities for trucks and buses,
4 facilities for servicing motor vehicles and for
5 the sale of gasoline, oil and other accessories,
6 and all facilities appurtenant to these incident
7 operations; and

8 B. All property, rights, easements and interests
9 relating to the facility that are considered
10 necessary for the construction or operation of the
11 facility.

12 6. Parking system. "Parking system" means any
13 parking facility, together with any public way or
14 public parking area designated by the municipal
15 officers as constituting part of that system on which
16 parking meters have been or may be installed or from
17 which fees or charges have been or may be collected
18 for the parking of vehicles.

19 7. Revenue-producing municipal facility.
20 "Revenue-producing municipal facility" means:

21 A. A parking facility within the corporate limits
22 of the municipality; or

23 B. Any of the following within or outside, or
24 partly within and partly outside the corporate
25 limits of the municipality:

26 (1) A water system or part of that system;

27 (2) A sewer system or part of that system;

28 (3) An airport or part of an airport;

29 (4) A telecommunications system or part of
30 that system; or

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

33 8. Sewage disposal system. "Sewage disposal
34 system" means any plant, system, facility or property
35 used or useful or having the present capacity for

1 future use in connection with the collection,
2 treatment, purification or disposal of sewage,
3 including industrial wastes resulting from any
4 processes of industry, manufacture, trade or business
5 or from the development of any natural resources.
6 This term also includes:

7 A. Any integral part of such a facility,
8 including, but not limited, to treatment plants,
9 pumping stations, intercepting sewers, trunk
10 sewers, pressure lines, mains and all necessary
11 appurtenances and equipment; and

12 B. All property, rights, easements and franchises
13 relating to the facility that the municipal
14 officers consider necessary or convenient for the
15 operation of the system.

16 9. Water system. "Water system" means all
17 plants, systems, facilities or properties used or
18 useful or having the present capacity for future use
19 in connection with the supply or distribution of
20 water. This term also includes:

21 A. Any integral part of such a facility,
22 including, but not limited to, water supply
23 systems, water distribution systems, reservoirs,
24 wells, intakes, mains, laterals, aqueducts,
25 pumping stations, standpipes, filtration plants,
26 purification plants, hydrants, meters, valves and
27 all necessary appurtenances and equipment; and

28 B. All property, rights, easements and franchises
29 relating to the facility that the municipal
30 officers consider necessary or convenient for the
31 operation of the system.

32 §5402. Declaration of public necessity

33 The Legislature finds that:

34 1. Need for water and sewer systems. The
35 maintenance of safe and pure water supplies and the
36 control of water pollution are necessary to the
37 health, safety and general welfare of the public, and
38 the people of the State require new and improved

1 water and sewer systems in order to avoid the menace
2 to public health and damage to the economy created by
3 impure water and untreated sewage;

4 2. Need for free traffic circulation. The free
5 circulation of traffic of all kinds through the
6 streets of the municipalities of the State is
7 necessary for the rapid and effective fighting of
8 fires and disposition of police forces in those
9 municipalities for the health, safety and general
10 welfare of the public, whether residing in those
11 municipalities or traveling to, through or from the
12 municipalities;

13 3. Need for parking facilities. In recent years,
14 the parking of motor vehicles of all kinds has so
15 substantially impeded the free circulation of traffic
16 as to constitute a public nuisance endangering the
17 health, safety and welfare of the general public, as
18 well as endangering the economic life of the
19 municipalities; and this traffic congestion cannot be
20 adequately abated except by provisions for sufficient
21 off-street parking facilities;

22 4. Need for airports. The establishment and
23 improvement of municipal airports are necessary for
24 the health, safety and general welfare of the public;
25 and the people of the State require new and improved
26 public airports and related facilities in order to
27 avoid and reduce the hazards of air transportation and
28 damage to the economy created by inadequate, unsafe
29 and obsolete airports and airport facilities; and

30 5. Public necessity. The enactment of laws to
31 carry out the intent and purpose of this section is
32 therefore a public necessity.

33 §5403. General grant of powers

34 A municipality may:

35 1. Revenue-producing municipal facilities.
36 Acquire, construct, reconstruct, improve, extend,
37 enlarge, equip, repair, maintain and operate any
38 revenue-producing municipal facility;

1 2. Bonds. Issue revenue bonds of the
2 municipality as provided to pay the cost of
3 acquisition, construction, reconstruction,
4 improvement, extension, enlargement or equipment;

5 3. Revenue-refunding bonds. Issue revenue-
6 refunding bonds of the municipality as provided to
7 refund any revenue bonds then outstanding which were
8 issued under this chapter;

9 4. Rates and fees. Fix and revise from time to
10 time and collect rates, fees and other charges for the
11 use of or for the services and facilities furnished by
12 any revenue-producing municipal facility;

13 5. Pledge of revenues. Pledge the revenues
14 derived from any revenue-producing municipal facility
15 to the payment of revenue or revenue-refunding bonds
16 issued with respect to that revenue-producing
17 municipal facility.

18 A. This subsection applies to any parking
19 facility or system notwithstanding section 3009,
20 subsection 1, paragraph C, subparagraph (3);

21 6. Acquisition of land or personalty. Acquire in
22 the municipality's name either by gift, purchase,
23 lease, or the exercise of the right of eminent domain
24 land, rights in land or water or air rights in
25 connection with the construction, reconstruction,
26 improvement, extension, enlargement or operation of
27 revenue-producing municipal facilities; acquire any
28 personal property, that it considers necessary in
29 connection with those activities; and hold and dispose
30 of all real and personal property under its control;

31 7. Contracts; employment of specialists. Make
32 and enter into all contracts and agreements necessary
33 or incidental to the performance of its duties and the
34 execution of its powers under this chapter, including
35 a trust agreement or trust agreements securing any
36 revenue bonds issued under this chapter; employ any
37 consulting and other engineers, attorneys,
38 accountants, construction and financial experts,
39 superintendents, managers and any other employees and
40 agents that it considers necessary; and fix their

1 compensation, provided that all such expenses are
2 payable solely from funds made available under this
3 chapter;

4 8. Jurisdiction and control. Exercise
5 jurisdiction, control and supervision over any
6 revenue-producing municipal facility owned, operated
7 or maintained by the municipality, make and enforce
8 any regulations for the maintenance and operation of
9 any such system that are, in the judgment of the
10 municipal officers, necessary or desirable for the
11 efficient operation of any such system and for
12 accomplishing the purposes of this chapter;

13 9. Right of entry; surveys. Enter on any lands,
14 water or premises located within or outside the
15 municipality to make surveys, borings, soundings or
16 examinations for the purposes of this chapter;

17 10. Use of streets and highways. Enter upon,
18 use, occupy and dig up any street, alley, road,
19 highway or other public places necessary to be entered
20 upon, used or occupied in connection with the
21 acquisition, construction, reconstruction,
22 improvement, maintenance or operation of any
23 revenue-producing municipal facility.

24 A. When highways maintained by the State are
25 affected, the municipality is subject to the same
26 statutory provisions applicable to those
27 corporations authorized to lay their pipes and
28 conduits in the public ways;

29 11. Contracts. Enter into contracts with the
30 Federal Government, with the State or any agency or
31 instrumentality of the State, or with any other
32 municipality, district, private corporation,
33 copartnership, association or individual providing for
34 or relating to the revenue-producing municipal
35 facility;

36 12. Loans and grants. Accept from any authorized
37 agency of the Federal Government or the State loans or
38 grants for the planning, construction or acquisition
39 of any revenue-producing municipal facility or part of
40 a revenue-producing municipal facility; enter into

1 agreements with that agency concerning any such loans
2 or grants; and receive and accept aid and
3 contributions from any source of money, property,
4 labor or other things of value, to be held, used and
5 applied only for the purposes for which such loans,
6 grants and contributions may be made; and

7 13. General powers. Do all acts and things
8 necessary or convenient to carry out the powers
9 expressly granted in this chapter.

10 §5404. Issuance of revenue bonds

11 1. Balloting for bonds. Subject to the
12 restriction set forth in paragraph A, the municipal
13 officers of any municipality with a population of
14 1,000 or more according to the most recent Federal
15 Decennial Census may provide by resolution, at one
16 time or from time to time, for the issuance of revenue
17 bonds of the municipality to pay the cost of
18 acquiring, constructing, reconstructing, improving,
19 extending, enlarging or equipping any
20 revenue-producing municipal facility.

21 A. No revenue bonds of a town, as distinguished
22 from a city, may be issued until the general
23 purpose for which the bonds are to be issued and
24 the maximum principal amount of the bonds to be
25 authorized have been approved by ballot by a
26 majority of the votes cast on the question. The
27 total number of votes cast must be equal to at
28 least 20% of the total vote for all candidates for
29 Governor cast in the municipality at the last
30 gubernatorial election. The ballot submitted to
31 the voters of a town to authorize the issuance of
32 revenue bonds shall state the general purpose for
33 which the proposed bonds are to be issued and the
34 maximum principal amount of the proposed bonds
35 authorized to be issued. The voting at meetings
36 held in towns shall be held and conducted in
37 accordance with sections 2528 to 2531, even if the
38 town has not accepted the provisions of section
39 2528.

40 2. Maturity; interest. The bonds of each issue
41 of revenue bonds shall:

1 A. Be dated; and

2 B. Mature at the time or times, not exceeding 30
3 years from their date or dates of issuance, and
4 bear interest at a rate or rates determined by the
5 municipal officers.

6 The bonds may be made redeemable before maturity, at
7 the municipality's option, at the price or prices and
8 under terms and conditions fixed by the municipal
9 officers before the bonds are issued.

10 Revenue bonds issued under this chapter do not
11 constitute a debt or liability of the municipality or
12 a pledge of the faith or credit of the municipality.
13 The bonds are payable solely from the funds provided
14 for that purpose. A statement to that effect shall be
15 recited upon the face of the bonds.

16 3. Form; execution. The municipal officers shall
17 determine the form of the bonds, including any
18 interest coupons to be attached to the bonds, and the
19 manner of execution of the bonds. They shall fix the
20 denomination or denominations of the bonds and the
21 place or places of payment of principal and interest.
22 The place of payment may be at any bank or trust
23 company within or outside the State. The municipal
24 officers may issue the bonds in coupon or registered
25 form, or both, as they determine. They may provide
26 for the registration of any coupon bonds as to
27 principal alone and as to both principal and interest,
28 and for the reconversion into coupon bonds of any
29 bonds registered as to both principal and interest.
30 Notwithstanding any other provision of this chapter or
31 any recitals in any bond issued under this chapter,
32 all bonds issued under this chapter are deemed to be
33 negotiable instruments issued under the laws of the
34 State.

35 A. Revenue bonds shall be executed in the name of
36 the municipality by the manual or facsimile
37 signature of the official or officials authorized
38 in the resolution to execute the bonds, but at
39 least one signature on each bond must be a manual
40 signature. Coupons, if any attached to the bonds,

1 shall be executed with the facsimile signature of
2 the officer or officers of the municipality
3 designated in the resolution.

4 (1) If any officer whose signature or a
5 facsimile of whose signature will appear on
6 any bonds or coupons ceases to be an officer
7 before the bonds are delivered, that
8 signature or facsimile is valid for all
9 purposes the same as if that officer had
10 remained in office until the delivery.

11 4. Sale; use of proceeds; additional bonds. The
12 municipal officers may sell the bonds in such manner,
13 either at public or private sale, and for such price,
14 as they determine to be for the best interests of the
15 municipality. The proceeds shall be disbursed in any
16 manner and under any restrictions, if any, that the
17 municipal officers provide in the resolution
18 authorizing the issuance of the bonds or in the trust
19 agreement under section 5408 securing the bonds.

20 A. If the proceeds of the bonds, by error of
21 estimates or otherwise, are less than the cost of
22 the facility, additional bonds may be issued in
23 like manner to provide the amount of the deficit,
24 provided the aggregate principal amount of revenue
25 bonds of a town may not exceed the amount approved
26 by the voters under subsection 1, paragraph A.
27 Unless otherwise provided in the authorizing
28 resolution or in the trust agreement securing the
29 bonds, these additional bonds are deemed to be of
30 the same issue and are entitled to payment from
31 the same fund without preference or priority of
32 the bonds first issued for the same purpose. The
33 resolution providing for the issuance of revenue
34 bonds, and any trust agreement securing the bonds,
35 may contain any limitations upon the issuance of
36 additional revenue bonds that the municipal
37 officers consider proper. Any additional bonds
38 shall be issued under the restrictions and
39 limitations prescribed by the resolution or trust
40 agreement.

41 5. Temporary bonds; replacement bonds. Before
42 the preparation of definitive bonds, the municipal

1 officers, may, under like restrictions, issue interim
2 receipts or temporary bonds, with or without coupons,
3 exchangeable for definitive bonds when those bonds are
4 executed and available for delivery. The municipal
5 officers may provide for the replacement of any bonds
6 which are mutilated, destroyed or lost.

7 6. Agency approval; additional conditions.
8 Bonds, except bonds for water system purposes, may be
9 issued under this chapter without obtaining the
10 consent of any commission, board, bureau or agency of
11 the State or of the municipality, and without any
12 other proceeding or the happening of any other
13 conditions or things than those proceedings,
14 conditions or things which are specifically required
15 by this chapter.

16 §5405. Revenues

17 1. General. The municipal officers shall fix the
18 schedule of rates, fees and other charges for the use
19 of, and for the services furnished or to be furnished
20 by any revenue-producing municipal facility. The
21 municipal officers may revise this schedule of rates,
22 fees and charges from time to time. These rates, fees
23 and charges, except rates, fees and charges for water
24 system purposes, are not subject to supervision or
25 regulation by any other commission, board, bureau or
26 agency of the municipality or of the State. The
27 municipality shall charge and collect the rates, fees
28 and charges so fixed or revised. Except as otherwise
29 provided, these rates, fees and charges, including, in
30 the case of parking facility rates, fees and charges
31 for parking on the public ways or in the public
32 parking areas included in the parking system
33 designated by the municipal officers of which the
34 parking facility is a part, shall be fixed and revised
35 to provide funds which, together with all other funds
36 available for the purpose, will be sufficient at all
37 times to pay the cost of maintaining, repairing and
38 operating the revenue-producing municipal facility and
39 parking system, including reserves for those purposes,
40 and to pay the principal of and interest on the
41 revenue bonds, as the same becomes due and payable,
42 and reserves for that purpose. The rates, fees and
43 charges must be reasonable, just and equitable.

1 2. Water and sewer system rates. The following
2 provisions govern water and sewer system rates.

3 A. In the case of a water system or a sewer
4 system, rates, fees and charges may be based or
5 computed upon:

6 (1) The quantity of water used;

7 (2) The number and size of water or sewer
8 connections;

9 (3) The number and kind of plumbing fixtures
10 in use in the premises connected to the
11 system;

12 (4) The number or average number of persons
13 residing in or working in or otherwise
14 connected with the premises;

15 (5) The type or character of the premises;

16 (6) Any other factor affecting the use of
17 the facilities furnished; or

18 (7) Any combination of these factors.

19 B. In cases where the character of the sewage
20 from any industrial or manufacturing plant,
21 building or premises is such that it imposes an
22 unreasonable burden upon the sewer system, the
23 municipal officers may:

24 (1) Impose an additional charge for that
25 sewage; or

26 (2) Require the industrial or manufacturing
27 plant, building or premises to treat the
28 sewage in a manner specified by the municipal
29 officers before discharging the sewage into
30 the sewers owned or maintained by the
31 municipality.

32 C. If it is determined to compute sewer charges
33 on the basis of the quantity of water used, any

1 water district or water company subject to
2 supervision or regulation by the Public Utilities
3 Commission shall provide the municipality with any
4 information or data that the municipality requests
5 for those purposes. The water district or water
6 company is not liable to any person for releasing
7 to the municipality any information or data that
8 the municipality requests.

9 (1) Any charges for sewer services,
10 including sewer services to manufacturing and
11 industrial plants obtaining all or a part of
12 their water supply from sources other than
13 the municipal water system, may be determined
14 by gauging or metering or in any other manner
15 approved by the municipal officers.

16 D. There shall be a lien on real estate served or
17 benefitted by a water system, sewer system or
18 water and sewer system to secure the payment of
19 rates, fees or charges established under this
20 chapter. This lien takes precedence over all
21 other claims on the real estate, excepting only
22 claims for taxes. The treasurer of the
23 municipality may collect these rates, fees and
24 charges in the same manner as provided in Title
25 38, section 1208 for treasurers of sanitary sewer
26 districts with respect to rates established and
27 due under Title 38, section 1202.

28 3. Parking system rates. In the case of a
29 parking facility and a public way or parking area,
30 whether or not included within the parking system
31 designated by the municipal officers, the rates, fees
32 or charges fixed or revised by the municipal officers
33 need not be uniform throughout the system or in all
34 parts of the municipality, but shall take into account
35 the primary purpose of relieving traffic congestion
36 and encouraging free circulation throughout the
37 municipality. In fixing or revising reasonable, just
38 and equitable rates, fees and charges under subsection
39 1 or under section 3009, subsection 1, paragraph C,
40 when adequate parking facilities for the accommodation
41 of traffic have been provided and paid for, the rates,
42 fees and charges shall be adjusted to provide funds
43 for maintenance and operation only.

1 4. Airport rates. In the case of an airport or
2 part of an airport, the rates, fees and charges may be
3 based or computed upon square footage, gross receipts,
4 landings or other basis which is reasonably related to
5 the use of or service furnished by the
6 revenue-producing facility.

7 5. Telecommunication system rates. In the case
8 of a telecommunications system or part of such a
9 system, the rates, fees and charges must be adequate,
10 just, reasonable, nondiscriminatory and uniform
11 throughout the corporate limits of the municipality.
12 They shall be based upon the extent and quality of
13 service, number of channels, hours of operation,
14 variety of programs, local coverage, safety measures,
15 installation costs and other basis which are
16 reasonably related to the use of or service furnished
17 by the telecommunications system revenue-producing
18 facility.

19 §5406. Collection of revenue-producing facilities'
20 charges

21 Any* resolution providing for the issuance of
22 revenue bonds for a revenue-producing municipal
23 facility under this chapter, or the trust agreement
24 securing the bonds, may include any or all of the
25 following provisions and may require the municipal
26 officers to adopt any resolutions or take any other
27 lawful action that is necessary to effectuate these
28 provisions that:

29 1. Deposits. The municipality may require the
30 owner, tenant or occupant of each lot or parcel of
31 land who is obligated to pay rates, fees or charges
32 for the use of or for the services furnished by any
33 revenue-producing municipal facility owned or operated
34 by the municipality to make a reasonable deposit with
35 the municipality in advance to ensure the payment of
36 the rates, fees or charges and to be subject to
37 application to the payment of those rates, fees or
38 charges if and when delinquent; and

39 2. Procedure for collection. If the rates, fees
40 or charges for the use of or for the services

1 furnished by any sewer system owned or operated by the
2 municipality by or in connection with any premises not
3 served by a water system owned or operated by the
4 municipality are not paid, those rates, fees and
5 charges will be collected in accordance with sections
6 3444, 3445 and 5405.

7 §5407. Application of revenues; annual report

8 1. Use of revenues. The resolution authorizing
9 the issuance of revenue bonds under this chapter, or
10 any trust agreement securing the bonds, may provide
11 that all or a sufficient amount of the revenues
12 derived from the revenue-producing municipal facility,
13 including any portion of the facility financed with
14 revenue bonds issued under this chapter, after
15 providing for the payment of the cost of repair,
16 maintenance and operation and reserves for those
17 purposes as may be provided in the resolution or trust
18 agreement, shall be set aside at such regular
19 intervals as may be provided in the resolution or
20 trust agreement and deposited to the credit of a
21 sinking fund to pay the interest on and the principal
22 of revenue bonds issued under this chapter as they
23 become due, and the redemption price or purchase price
24 of bonds retired by call or purchase.

25 A. The use and disposition of money to the credit
26 of the sinking fund is subject to any regulations
27 provided in the resolution authorizing the
28 issuance of the revenue bonds or in the trust
29 agreement securing the bonds. Unless otherwise
30 provided in the resolution or trust agreement, the
31 sinking fund is a fund for the benefit of all
32 bonds without distinction or priority of one over
33 another.

34 2. Annual report. At least once each year, the
35 municipality shall have a comprehensive report made of
36 the operations of the revenue-producing municipal
37 facility, including all matters relating to rates,
38 revenues, expense of repair, maintenance and operation
39 and of renewals and replacements, principal and
40 interest requirements and the status of all funds.
41 Copies of the annual report shall be filed with the
42 municipal clerk. These copies are open to the
43 inspection of all interested persons.

1 §5408. Pledges and covenants; trust agreement

2 In the discretion of the municipal officers of any
3 municipality, any issue of revenue bonds may be
4 secured by a trust agreement by and between the
5 municipality and a corporate trustee, which may be any
6 trust company within or outside the State. All
7 expenses incurred in carrying out the resolution or
8 trust agreement may be treated as a part of the cost
9 of operation.

10 1. Pledge of revenues; conveyance or mortgage
11 prohibited. The resolution authorizing the issuance
12 of the bonds or the trust agreement may pledge the
13 revenues to be received from the revenue-producing
14 municipal facility, including that portion of the
15 revenue-producing municipal facility financed with
16 revenue bonds issued under this chapter, but may not
17 convey or mortgage any revenue-producing municipal
18 facility or a portion of a revenue-producing municipal
19 facility financed with revenue bonds issued under this
20 chapter. All pledges of revenue under this chapter
21 are valid and binding from the time when the pledge is
22 made. All revenues received by a municipality after
23 being pledged are immediately subject to the lien of
24 those pledges without any physical delivery thereof or
25 further action under the Uniform Commercial Code or
26 otherwise. The lien of these pledges is valid and
27 binding against all parties having claims of any kind
28 in tort, contract or otherwise against the
29 municipality, whether or not those parties have notice
30 of the lien.

31 2. Rights and remedies of bondholders. The
32 resolution may also contain any provisions for
33 protecting and enforcing the rights and remedies of
34 the bondholders that are reasonable and proper and not
35 in violation of law, including covenants setting forth
36 the duties of the municipality and the municipal
37 officers in relation to:

38 A. The acquisition, construction, reconstruction,
39 improvement, repair, maintenance, operation and
40 insurance of any revenue-producing municipal
41 facility or related system or systems;

1 B. The fixing and revising of rates, fees and
2 charges;

3 C. The custody, safeguarding and application of
4 all money; and

5 D. The employment of consulting engineers in
6 connection with the acquisition, construction,
7 reconstruction or operation.

8 The resolution or trust agreement may contain any
9 other provisions that the municipal officers consider
10 reasonable and proper for the security of the bond
11 holders. The resolution or trust agreement may set
12 forth the rights and remedies of the bondholder and of
13 the trustee, if any, and may restrict the individual
14 right of action by bondholders as is customary in
15 trust agreements or trust indentures securing bonds or
16 debentures of corporations.

17 3. Payment of proceeds and revenues. Except as
18 provided otherwise in this chapter, the municipal
19 officers may provide:

20 A. For the payment of the proceeds of the sale of
21 the bonds and the revenues of any
22 revenue-producing municipal facility or part of
23 any revenue-producing municipal facility to any
24 officer, board or depository that they designate
25 for the custody of the proceeds and revenues; and

26 B. For the method of disbursement of the proceeds
27 and revenues, with any safeguards and restrictions
28 that they determine.

29 §5409. Trust funds

30 Notwithstanding any other law, all money received
31 under the authority of this chapter is deemed to be
32 trust funds, to be held and applied solely as provided
33 in this chapter. The resolution authorizing the
34 issuance of bonds or the trust agreement securing the
35 bonds shall provide that any officer to whom, or bank,
36 trust company or other fiscal agent to which, this
37 money is paid, act as trustee of the money and hold

1 and apply the money for the purposes of this chapter,
2 subject to any regulations provided in the resolution
3 or trust agreement or required by this chapter.

4 §5410. Remedies

5 Except to the extent that rights given are
6 restricted by the resolution authorizing the issuance
7 of the bonds or the trust agreement, any holder of
8 revenue bonds issued under this chapter or of any of
9 the coupons appertaining to those bonds and the
10 trustee under any trust agreement may by suit, action,
11 mandamus or other proceeding, either at law or in
12 equity, protect and enforce any and all rights under
13 the laws of the State or granted under this chapter or
14 under the resolution or trust agreement. The holder
15 or trustee may enforce and compel the performance of
16 all duties required by this chapter or by the
17 resolution or trust agreement to be performed by the
18 municipality, the municipal officers or any municipal
19 official, including the fixing, charging and
20 collecting of rates, fees and charges for the use of
21 or for the services and facilities furnished by the
22 revenue-producing municipal facility.

23 §5411. Revenue-refunding bonds

24 1. Issuance of refunding bonds; purposes. The
25 municipal officers may provide by resolution for the
26 issuance of revenue-refunding bonds of the
27 municipality for the purpose of:

28 A. Refunding any revenue bonds then outstanding
29 which were issued under this chapter, including
30 the payment of any redemption premium on those
31 bonds and any interest accrued or to accrue to the
32 date of redemption of those bonds; and

33 B. If considered advisable by the municipal
34 officers, constructing improvements, extensions or
35 enlargements of the revenue-producing municipal
36 facility in connection with which the bonds to be
37 refunded were issued.

38 2. Issuance of revenue bonds; purposes. The
39 municipal officers may provide by resolution for the

1 issuance of revenue bonds of the municipality for the
2 combined purpose of:

3 A. Refunding any revenue bonds or revenue-
4 refunding bonds then outstanding which were issued
5 under this chapter, including the payment of any
6 redemption premium on those bonds and any interest
7 accrued or to accrue to the date of redemption of
8 those bonds; and

9 B. Paying all or any part of the cost of
10 acquiring or constructing any additional
11 revenue-producing municipal facility or part
12 thereof, or any improvements, extensions or
13 enlargements of any revenue-producing municipal
14 facility.

15 3. Applicability of other sections. The issuance
16 of the bonds, the maturities and other details of the
17 bonds, the rights and remedies of the holders of bonds
18 and the rights, powers, privileges, duties and
19 obligations of the municipality and the municipal
20 officers with respect to the bonds, are governed by
21 sections 5401 to 5410, as applicable.

22 §5412. Authorizing resolution

23 Notwithstanding any other law or any charter or
24 charter amendment previously adopted by a
25 municipality, or any ordinance, resolution, bylaw or
26 regulation of a municipality, it is not necessary to
27 publish any resolution adopted under this chapter,
28 either before or after its final passage.

29 §5413. Exemption from taxation

30 As proper revenue-producing municipal facilities
31 are essential for the health and safety of the
32 inhabitants of the municipalities, and as the exercise
33 of the powers conferred to effect these purposes
34 constitute the performance of essential governmental
35 functions, and as municipal facilities acquired or
36 constructed under this chapter constitute public
37 property and are used for municipal purposes, no
38 municipality may be required to pay any taxes or
39 assessments upon any parking facility or system, water

1 or sewer system or telecommunications system
2 revenue-producing municipal facility, or any part of
3 such a system, whether located within or outside the
4 corporate limits of the municipality, or upon the
5 income from those facilities. Any bonds issued under
6 this chapter, and their transfer and the income from
7 the bonds, including any profit made on the sale of
8 the bonds, shall at all times be free from taxation
9 within the State, provided that nothing in this
10 section exempts any lessee or person in possession of
11 a parking facility or part of a parking facility or
12 the property so leased or possessed from taxes or
13 assessments payable under Title 36, section 551.

14 §5414. Alternative method

15 This chapter shall not be construed to limit a
16 municipality's home rule authority. Sections 5401 to
17 5413 shall be deemed to provide an additional and
18 alternative method for the doing of the things
19 described and shall be regarded as supplemental and
20 additional to powers conferred by other laws, and
21 shall not be regarded as in derogation of or as
22 repealing any powers now existing under any other law,
23 either general, special or local, provided that the
24 issuance of revenue bonds or revenue-refunding bonds
25 under these sections need not comply with the
26 requirements of any other general or special law
27 applicable to the issuance of bonds.

28 §5415. Liberal construction

29 This chapter, being necessary for the welfare of
30 municipalities and their inhabitants, shall be
31 liberally construed to effect its purposes.

32 SUBPART 9

33 FISCAL MATTERS

34 CHAPTER 221

35 MUNICIPAL TREASURER

36 §5601. Bond

1 Before assuming the duties of office, the
2 treasurer must give a surety bond to the municipality
3 subject to the following provisions.

4 1. Condition. The bond shall be conditioned on
5 the treasurer's faithful discharge of all the duties
6 of office.

7 2. Type. The bond may be a corporate surety bond
8 or an individual surety bond.

9 A. If the bond is an individual surety bond, the
10 surety shall provide the municipal officers with a
11 detailed sworn statement of the surety's personal
12 financial ability.

13 3. Amount. The bond need not be for more than
14 twice the amount of taxes to be collected during the
15 municipal year.

16 4. How paid. The municipality shall pay for the
17 bond.

18 5. Sufficiency. The municipal officers are the
19 sole judges of the sufficiency of the bond and
20 sureties.

21 6. Recorded. After the municipal officers
22 approve the bond, the clerk shall record the bond.

23 A. This record is prima facie evidence of the
24 contents of the bond.

25 B. Failure to record the bond is not a defense to
26 an action on it.

27 §5602. Notice of choice of treasurer

28 When a treasurer is qualified and chosen, the
29 clerk shall send the name to the Treasurer of State.
30 The Treasurer of State shall not send money to any
31 municipality until receiving the name of its treasurer.

32 §5603. Powers and duties

33 The treasurer has the following powers and duties.

1 1. Powers. The treasurer may:

2 A. Make deductions from the salary of a municipal
3 employee and pay the money deducted to the proper
4 payee, when the employee gives the written
5 authority to do so. The treasurer's authority to
6 make a deduction continues until:

7 (1) The employee revokes the authorization
8 in writing; or

9 (2) The treasurer knows that the reason for
10 the deduction no longer exists.

11 2. Duties. The treasurer shall:

12 A. Disburse money only on the authority of a
13 warrant drawn for the purpose by the municipal
14 officers;

15 B. Upon request, provide an account of the
16 finances of the municipality and exhibit the
17 official records to the municipal officers or to
18 any committee appointed by them to examine the
19 accounts. The municipal officers shall examine
20 the treasurer's accounts at least once every 3
21 months; and

22 C. Maintain a bank account in the municipality's
23 name for the deposit of cash receipts. The
24 treasurer shall deposit the cash balance in the
25 bank within 10 days when it exceeds \$100.

26 §5604. Payment out of treasury

27 The treasurer of any municipality shall not pay
28 out any funds for an account or claim against the
29 municipality unless the account or claim is itemized
30 and declared to be a public record. Notwithstanding
31 Title 17-A, section 4-A, violation of this section is
32 a Class E crime, punishable by a fine of not more than
33 \$300 or by imprisonment for not more than 30 days, or
34 both.

1 CHAPTER 223

2 MUNICIPAL FINANCES

3 SUBCHAPTER I

4 GENERAL PROVISIONS

5 §5651. Determination of municipal year; change

6 The municipal officers shall determine the
7 municipal fiscal year.

8 A municipality or plantation may raise one or 2
9 taxes during a single valuation if the taxes raised
10 are based on appropriations made for a municipal
11 fiscal year that does not exceed 18 months. A
12 municipal or plantation fiscal year may extend beyond
13 the end of the current tax year and the municipal
14 officers or assessors of a plantation, when changing
15 the municipality's or plantation's fiscal year, may,
16 for transition purposes, adopt one or more fiscal
17 years not longer than 18 months each.

18 §5652. Deposit or investment of funds

19 As directed by the municipal officers, the
20 treasurer shall invest all municipal funds, including
21 reserve funds and trust funds, to the extent that the
22 terms of the instrument, order or article creating the
23 fund do not prohibit the investment, as follows:

24 1. Financial institutions. In accounts or
25 deposits of institutions insured by the Federal
26 Deposit Insurance Corporation, the Federal Savings and
27 Loan Insurance Corporation, the National Credit Union
28 Share Insurance Fund or the successors to these
29 federal agencies.

30 A. Accounts and deposits exceeding an amount
31 equal to 25% of the capital, surplus and undivided
32 profits of any trust company or national bank or a
33 sum exceeding an amount equal to 25% of the
34 reserve fund and undivided profit account of a
35 mutual savings bank or state or federal savings
36 and loan association on deposit at any one time

1 shall be secured by the pledge of certain
2 securities as collateral, or fully covered by
3 insurance.

4 (1) The collateral shall be in an amount
5 equal to the excess deposit. The municipal
6 officers shall determine the value of the
7 pledged securities on the basis of market
8 value and shall review the value of the
9 pledged securities on the first business day
10 of January and July of each year.

11 (2) The collateral shall only consist of
12 securities in which savings banks may invest,
13 as provided in article 1-B. The securities
14 shall be held in a depository institution
15 approved by the municipal officers and
16 pledged to indemnify the municipalities
17 against any loss. The depository institution
18 shall notify the municipal officers of the
19 pledging when the securities are deposited
20 and shall mail a copy of the notice to the
21 Department of Audit;

22 2. Savings bank investments. According to the
23 law governing the investment of funds of savings banks
24 in article 1-B.

25 A. For the purpose of this subsection, the words
26 "deposits of a bank" or their equivalent, as used
27 in article 1-B, mean the total assets of the
28 permanent reserve fund, permanent trust fund or
29 other permanent fund being invested, but the
30 limitation concerning the maximum amount which may
31 be invested in a security or type of security
32 under article 1-B, applies only to an investment
33 in that security or type of security which exceeds
34 \$20,000;

35 3. Repurchase agreements. In repurchase
36 agreements secured by obligations of the Federal
37 Government, provided that the market value of the
38 underlying obligation is equal to or greater than the
39 amount of the municipality's investment and that the
40 municipality's security interest is perfected under
41 the terms of Title 11, article 9;

1 4. Mutual funds. In the shares of an investment
2 company registered under the United States Investment
3 Company Act of 1940, Public Law 76-768, whose shares
4 are registered under the United States Securities Act
5 of 1933, Public Law 73-22, provided that the
6 investments of the fund are limited to obligations of
7 the Federal Government, or repurchase agreements
8 secured by obligations of the Federal Government; or

9 5. Safekeeping and investment management
10 agreements. The municipal officers may enter into an
11 agreement with any financial institution with trust
12 powers authorized to do business in the State for the
13 safekeeping and investment of the reserve funds or
14 trust funds of the municipality. Services shall
15 consist of the safekeeping and investment management
16 of the funds, collection of interest and dividends,
17 periodic review of the portfolio investments and any
18 other fiscal service which is normally covered in a
19 safekeeping and investment agreement. In performing
20 services under any contract or agreement, the
21 contracting bank has all the powers and duties
22 prescribed for trust companies by Title 9-B, section
23 623, and the authority to invest funds on behalf of
24 the municipality under the rule of prudence, Title
25 18-A, section 7-302. The contracting bank shall give
26 assurance of proper safeguards, which are usual to
27 these contracts, and shall furnish insurance
28 protection satisfactory to both parties.

29 \$5653. Donation of money

30 The municipal officers may accept a donation of
31 money to the municipality to supplement a specific
32 appropriation already made, to reduce the tax
33 assessment or to reduce the permanent debt.

34 1. Reducing the tax assessment. If the assessors
35 receive written notice from the municipal officers
36 that a sum has been paid to the municipality for the
37 purpose of reducing the tax assessment, they shall
38 reduce it in that amount before establishing the tax
39 rate. If the tax rate has already been established,
40 the treasurer shall deposit the money in a bank, trust
41 company or national bank in the State, and withdraw it

1 at the proper time to reduce the tax assessment for
2 the following taxable year.

3 §5654. Gifts of money or property in trust

4 This section governs a municipality's receipt of
5 money or other property in trust for any specified
6 public purpose. The municipal officers shall serve as
7 trustees unless otherwise specified in the trust
8 instrument.

9 1. Acceptance or rejection. When the municipal
10 officers receive written notice from a prospective
11 donor or a representative of a proposed trust, they
12 shall submit the matter at the next meeting of the
13 municipal legislative body. Within 10 days after the
14 meeting, the municipal officers shall send written
15 notice of its acceptance or rejection to the donor or
16 a representative.

17 2. Deposited or invested. Unless otherwise
18 specified by the terms of the trust, the municipal
19 officers shall either deposit or invest trust funds
20 according to section 5652.

21 A. Unless the instrument or order creating the
22 trust prohibits, the municipal officers may treat
23 any 2 or more trust funds as a single fund solely
24 for the purpose of investment.

25 B. After deducting management expenses, the
26 municipal officers shall prorate any interest
27 earned or capital gains realized among the various
28 trust funds.

29 C. The municipal officers shall retain any
30 property or securities included in the corpus of a
31 trust fund where the trust instrument so provides.

32 D. Unless otherwise specified in the trust
33 instrument, the municipal officers may spend only
34 the annual income from the trust fund.

35 3. Reversion to donor. If the municipality fails
36 to comply with the terms of the trust instrument, the
37 trust fund reverts to the donor or the donor's heirs.

1 §5655. Conditional gifts

2 This section governs a municipality's receipt of a
3 conditional gift for any specified public purpose.

4 1. Acceptance or rejection. When the municipal
5 officers receive written notice from a prospective
6 donor or a representative of the proposed gift, they
7 shall submit the matter at the next meeting of the
8 municipal legislative body. Within 10 days after the
9 meeting the municipal officers shall send written
10 notice of their acceptance or rejection to the donor
11 or a representative.

12 2. Perpetually comply with conditions. When the
13 donor or a representative has completed the part of
14 the agreement concerning the execution of a
15 conditional gift, the municipality shall perpetually
16 comply with, and may raise money to carry into effect,
17 the conditions upon which the agreement was made.

18 3. Deposited or invested. Unless otherwise
19 specified by its terms, a conditional gift of money
20 may be deposited or invested according to section 5652.

21 §5656. Unconditional gifts

22 A gift without conditions, of any type of
23 property, offered to a municipality shall be accepted
24 or rejected by its legislative body.

25 SUBCHAPTER II

26 STATE FUNDS

27 §5681. State-municipal revenue sharing

28 1. Findings and purpose. The Legislature finds
29 that:

30 A. The principal problem of financing municipal
31 services is the burden of the property tax; and

32 B. To stabilize the municipal property tax burden
33 and to aid in financing all municipal services, it

1 is necessary to provide funds from the broad-based
2 taxes of State Government.

3 2. Definitions. As used in this section, unless
4 the context otherwise indicates, the following terms
5 have the following meanings.

6 A. "Population" means the population as
7 determined by the latest Federal Decennial Census
8 or the population as determined and certified by
9 the Department of Human Services, whichever is
10 later. For the purposes of this section, the
11 Department of Human Services shall determine the
12 population of each municipality at least once
13 every 2 years.

14 B. "Property tax burden" means the total real and
15 personal property taxes assessed in the most
16 recently completed municipal fiscal year, except
17 the taxes assessed on captured value within a tax
18 increment financing district, divided by the
19 latest state valuation certified to the Secretary
20 of State.

21 3. Local Government Fund. To strengthen the
22 state-municipal fiscal relationship pursuant to the
23 findings and objectives of subsection 1, there is
24 established a Local Government Fund.

25 4. Sharing the Local Government Fund. Money
26 credited to the Local Government Fund shall be
27 distributed on the basis of a formula which provides a
28 varying amount of per capita revenue sharing aid to
29 communities based upon the comparative tax burden of
30 each municipality. Those municipalities having a
31 greater property tax burden would receive a larger per
32 capita revenue-sharing distribution.

33 The portion of the Local Government Fund to be
34 distributed to each municipality shall be in
35 proportion to the product of the population of the
36 municipality multiplied by the property tax burden of
37 the municipality.

38 5. Treasurer of State. An amount equal to 5.1%
39 of the receipts from the taxes imposed under Title 36,

1 Parts 3 and 8, and credited to the General Fund, plus
2 an amount equal to \$237,000 of the receipts from the
3 tax imposed under Title 36, Part 3, shall be
4 transferred by the Treasurer of State to the Local
5 Government Fund on the first day of each month.

6 The Treasurer of State shall distribute the balance in
7 the Local Government Fund on the 20th day of each
8 month.

9 6. Unorganized territory. For purposes of
10 state-municipal revenue sharing, the unorganized
11 territory shall be treated as if it were a
12 municipality.

13 SUBCHAPTER III

14 MUNICIPAL DEBT

15 §5701. Debt liability

16 The personal property of the residents and the
17 real estate within the boundaries of a municipality,
18 village corporation or other quasi-municipal
19 corporation may be taken to pay any debt due from the
20 body corporate. The owner of property taken under
21 this section may recover from the municipality or
22 quasi-municipal corporation under Title 14, section
23 4953.

24 §5702. Debt limitation

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

28 A. "Full state valuation" means the state
29 valuation most recently certified by the State Tax
30 Assessor under Title 36, section 381, adjusted to
31 100%.

1 B. "The state reimbursable portion of school
2 debt," with respect to any municipality, means the
3 sum of the amounts determined by multiplying:

4 (1) The outstanding amount of each issue of
5 debt incurred for school purposes by the
6 municipality in connection with a project
7 which qualifies for state school construction
8 aid; and

9 (2) The percentage of the capital outlay
10 costs of that project which was applicable to
11 determine the amount of state school
12 construction aid for the project under Title
13 20-A, at the time the project was approved
14 for state school construction aid.

15 The certificate of the Commissioner of Educational
16 and Cultural Services that a project qualifies for
17 state school construction aid and certifying the
18 percentage of that aid to which a municipality was
19 entitled is conclusive evidence of those facts.

20 2. Amount of debt limitations. A municipality
21 may not incur debt which would cause its total debt
22 outstanding at any time to exceed 15% of its last full
23 state valuation. Within this limitation, a
24 municipality may incur debt:

25 A. For school purposes to an amount outstanding
26 at any time not exceeding 10% of its last full
27 state valuation;

28 B. For storm or sanitary sewer purposes to an
29 amount outstanding at any time not exceeding 7
30 1/2% of its last full state valuation;

31 C. For municipal airport and special district
32 purposes to an amount outstanding at any time not
33 exceeding 3% of its last full state valuation; and

1 D. For all debt excluding debt incurred for
2 school purposes, storm or sanitary sewer purposes,
3 energy facility purposes or municipal airport
4 purposes to an amount outstanding at any time not
5 exceeding 7 1/2% of its last full state valuation.

6 3. Records; proportional application. If a
7 particular loan is or has been incurred by a
8 municipality for school, storm or sanitary sewer,
9 municipal airport and other purposes, or any
10 combination of these, the treasurer of the
11 municipality shall make and maintain records showing
12 the proportion, if any, of the loan incurred for each
13 purpose, and the same proportions shall be applied to
14 each maturity of the loan.

15 4. Exclusions. The limitations on municipal debt
16 in this section do not apply to:

17 A. Any funds received in trust by any
18 municipality;

19 B. Any loan which has been funded or refunded;

20 C. Notes issued in anticipation of federal or
21 state aid or revenue-sharing money;

22 D. Tax anticipation loans;

23 E. Notes maturing in the current municipal year;

24 F. Indebtedness of entities other than
25 municipalities;

26 G. Indebtedness of any municipality to the Maine
27 School Building Authority;

28 H. Debt issued under chapter 213 and Title 10,
29 chapter 110, subchapter IV;

30 I. Obligations payable from revenues of the
31 current municipal year or from other revenues
32 previously appropriated by or committed to the
33 municipality;

1 J. The state reimbursable portion of school debt;
2 and

3 K. Obligations incurred by one or more
4 municipalities under Title 38, section 1304-B,
5 with respect to solid waste facilities.

6 §5703. Reporting by special districts

7 Each special district in the State, whether or not
8 its boundaries are coterminous with the boundaries of
9 a municipality, including districts established for
10 the purposes of providing water, sewer, electric,
11 educational, health, transportation, solid waste
12 management, parking or recreation services, or any
13 other public purpose, shall file an annual report of
14 its total outstanding debt.

15 1. Content. These reports shall include debts by:

16 A. Amount;

17 B. Purpose;

18 C. Creditors;

19 D. Date incurred;

20 E. Interest rate;

21 F. Amortization period;

22 G. Amount of annual principal payments and annual
23 interest payments; and

24 H. Assessments and contributions received from
25 municipalities in the district to service the
26 debts.

27 2. Filing; public records. The reports shall be
28 filed within 45 days of the end date of each fiscal
29 year. The reports shall be filed with the Maine
30 Municipal Bond Bank upon forms provided by it.
31 Information reported under this section is a public
32 record.

1 ARTICLE 1-B. INVESTMENTS IN SECURITIES

2 §5711. Investments in general

3 Municipalities may hereafter invest their funds in
4 securities in accordance with this article, subject to
5 the conditions and limitations set forth in this
6 article or the terms of the instrument, order or
7 article creating the fund being invested. Limitations
8 set forth in this article concerning the maximum
9 amount which may be invested in a security or type of
10 security shall apply only to an investment in that
11 security or type of security which exceeds \$20,000.
12 Investments made pursuant to this article shall be
13 made by the treasurer upon direction of the municipal
14 officers.

15 §5712. Government unit bonds

16 Municipalities may invest in:

17 1. United States and instrumentalities. The
18 bonds and other obligations of the United States, or
19 the bonds and other obligations or participation
20 certificates issued by any agency, association,
21 authority or instrumentality created by the United
22 States Congress or any executive order;

23 2. States. The bonds and other obligations
24 issued or guaranteed by any state or by any
25 instrumentality or agency of any state, or by any
26 political subdivision of any state, provided that the
27 securities are rated within the 3 highest grades by
28 any rating service approved by the Superintendent of
29 Banking;

30 3. Maine. The bonds and other obligations issued
31 or guaranteed by this State, or issued by any
32 instrumentality or agency of this State, or any
33 political subdivision of the State which is not in
34 default on any of its outstanding funded obligations;
35 and

36 4. Canada. The bonds and other obligations
37 issued or guaranteed by the Dominion of Canada, or
38 issued or guaranteed by any province, or political

1 subdivision of a province, provided that the
2 securities are rated within the 3 highest grades by
3 any rating service approved by the Superintendent of
4 Banking and are payable in United States funds.

5 §5713. Corporate securities

6 Municipalities may invest in:

7 1. Corporate bonds. The bonds and other
8 obligations of any United States or Canadian
9 corporation, provided that the securities are rated
10 within the 3 highest grades by any rating service
11 approved by the Superintendent of Banking and are
12 payable in United States funds. Not more than 2% of
13 the total assets of the permanent reserve fund,
14 permanent trust fund or other permanent fund being
15 invested shall be invested in the securities of any
16 one such corporation;

17 2. Maine corporate bonds. The bonds and other
18 obligations of any Maine corporation, actually
19 conducting in this State the business for which that
20 corporation was created, which, for a period of 3
21 successive fiscal years or for a period of 3 years
22 immediately preceding the investment, has earned or
23 received an average net income of not less than 2
24 times the interest on the obligations in question and
25 all prior liens or, in the case of water companies
26 subject to the jurisdiction of the Public Utilities
27 Commission, an average net income of not less than 1
28 1/2 times the interest on the obligations in question
29 and all prior liens. Not more than 20% of the total
30 assets of the permanent reserve fund, permanent trust
31 fund or other permanent fund being invested shall be
32 invested in these securities of Maine corporations and
33 not more than 2% of that fund in the securities of any
34 single corporation; and

35 3. Maine corporate stocks. Maine corporate
36 stocks which have the following characteristics.

37 A. The stock of any Maine corporation, other than
38 stock of a financial institution, actually
39 conducting in this State the business for which
40 that corporation was created, provided that the

1 corporation has, for a period of 3 years
2 immediately preceding the investment, earned and
3 received an average net income after taxes
4 equivalent to at least 6% upon the entire
5 outstanding issue of the stock in question.

6 B. Not more than 10% of the deposits of the total
7 assets of the permanent reserve fund, permanent
8 trust fund or other permanent fund being invested
9 shall be invested under this section in stocks of
10 Maine corporations and not more than 1% of the
11 total assets of the permanent reserve fund,
12 permanent trust fund or other permanent fund being
13 invested shall be so invested in the stock of any
14 single corporation. The fund shall be invested in
15 no more than 20% of the capital stock of any
16 corporation.

17 §5714. Financial institution stock and other
18 obligations

19 1. Municipalities may invest in:

20 A. The debentures of any financial institution
21 authorized to do business within this State,
22 incorporated under the laws of this State or the
23 United States and of any financial institution
24 holding company, provided that the holding company
25 is registered under the United States Bank Holding
26 Company Act of 1956, as amended, or the National
27 Housing Act, Section 408, as amended;

28 B. The capital stock, preferred stock, debentures
29 and acceptances of any insured bank not having an
30 office in this State which has total capital and
31 reserves of not less than \$50,000,000 and of any
32 bank holding company whose subsidiary banks have
33 total capital and reserves of not less than
34 \$50,000,000, provided that the holding company is
35 registered under the United States Bank Holding
36 Company Act of 1956;

37 C. Capital notes or debentures issued by any
38 municipalities chartered under the laws of any
39 state, or of the United States, or of the
40 Commonwealth of Puerto Rico, notwithstanding the

1 fact that these notes or debentures may be
2 subordinate to the claims of depositors or other
3 creditors of the issuing institution. Not more
4 than 1% of the total assets of the permanent
5 reserve fund, permanent trust fund or other
6 permanent fund being invested shall be so
7 invested; and

8 D. Obligations issued, assumed or guaranteed by
9 the International Bank for Reconstruction and
10 Development or the Inter-American Development Bank
11 or the African Development Bank.

12 2. Limitations. A municipality shall not acquire
13 or hold stock and obligations described in subsection
14 1 in excess of 30% of the total assets of the reserve
15 fund, permanent trust fund or other permanent fund
16 being invested; nor shall it acquire or hold stock and
17 obligations of any one bank or holding company not
18 operating in this State in excess of 5% of the total
19 assets of the reserve fund, permanent trust fund or
20 other permanent fund being invested; nor shall any
21 such fund be invested in that stock in excess of 10%
22 of the capital stock of any one bank or holding
23 company.

24 §5715. Other stock investments

25 Municipalities may invest in:

26 1. Preferred stock of public utilities. The
27 preferred stock of any public corporation if all of
28 the publicly issued bonds of such corporation qualify
29 as legal investments under section 5713, subsection 1
30 or 2. Not more than 10% of the permanent reserve
31 fund, permanent trust fund or other permanent fund
32 being invested shall be invested in preferred stocks
33 of public utilities, and not more than 1% of any such
34 fund may be invested in the preferred stocks of any
35 one corporation;

36 2. Bonds of nonprofit organizations. The bonds
37 or other interest-bearing obligations of any
38 religious, charitable, educational or fraternal
39 association or corporation. Not more than 10% of the
40 total assets of the permanent reserve fund, permanent

1 trust fund or other permanent fund being invested may
2 be invested in securities coming within the coverage
3 of this subsection, and not more than 1% of the total
4 assets of the permanent reserve fund, permanent trust
5 fund or other permanent fund being invested may be
6 invested in securities of any one such association or
7 corporation;

8 3. Small business investment companies. The
9 stock of small business investment companies licensed
10 under the United States Small Business Investment Act
11 of 1958, as amended, and commercially domiciled in
12 Maine and doing business primarily in Maine. Not more
13 than 1% of the total assets of the permanent reserve
14 fund, permanent trust fund or other permanent fund
15 being invested may be invested in the stock of small
16 business investment companies and any such fund shall
17 not be invested in more than 10% of the stock of any
18 one small business investment company; and

19 4. Maine Capital Corporation. The stock of the
20 Maine Capital Corporation, established under Title 10,
21 chapter 108, in an amount not to exceed 1% of the
22 total assets of the permanent reserve fund, permanent
23 trust fund or other permanent fund being invested.

24 §5716. Other prudent securities

25 Municipalities may invest in such securities as
26 the municipal officers consider to be sound, prudent
27 investments, the making of which would not otherwise
28 be legal but for this section. Not more than 10% of
29 the total assets of the permanent reserve fund,
30 permanent trust fund or other permanent fund being
31 invested may be invested in securities within the
32 coverage of this section and investments in the stock
33 of the State's financial institutions shall not be
34 considered within this section. This section does not
35 limit the authority of municipalities to invest in
36 securities specifically regulated by this article;
37 rather, this section gives additional authority to
38 invest 10% in any type of prudent security.

39 §5717. Retention of unauthorized securities

40 Municipalities may acquire and hold securities not

1 authorized by law, but which have been acquired in
2 settlements, reorganizations, recapitalizations,
3 mergers, consolidations, by receipt of stock dividends
4 or the exercise of rights applicable to securities
5 held by the municipalities and may continue to hold
6 these securities at the discretion of the municipal
7 officers. Municipalities may continue to hold at the
8 discretion of the municipal officers securities under
9 authorization of law.

10 SUBCHAPTER IV

11 EXPENDITURES

12 §5721. General authority

13 A municipality may raise or appropriate money for
14 any public purpose, including, but not limited to, the
15 purposes specified in sections 5722 to 5728.

16 §5722. Operating expenses

17 A municipality may raise or appropriate money to:

18 1. Operation. Provide for the operation of its
19 municipal government;

20 2. Pensions. Establish a contributory pension
21 system for its officials and employees, or
22 participating in an existing system;

23 3. Fire and police protection. Provide for fire
24 and police protection;

25 4. Volunteer fire department. Support an
26 incorporated volunteer fire department.

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

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

7 6. Insurance for performance of duties. Insure
8 its officers, officials and employees against any
9 personal liability which they may incur out of and in
10 the course of their acting by, for or on behalf of the
11 municipality while performing their duties as public
12 officers, officials and employees. This liability may
13 not exceed the limits of the insurance coverage or
14 \$100,000, whichever is greater;

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

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

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

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

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

1 §5723. Public works

2 A municipality may raise or appropriate money to:

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

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

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

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

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

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

25 §5724. Schools and libraries

26 A municipality may raise or appropriate money to:

27 1. Public schools. Provide for public schools
28 and libraries, including construction, extensions,
29 enlargements, repairs, improvements or maintenance to
30 buildings for which a municipality has a contract,
31 lease or agreement with the Maine School Building
32 Authority under Title 20-A, sections 15701 to 15718;

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

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

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

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

12 6. Textbooks. Provide for the purchase of those
13 secular textbooks which have been approved by the
14 school committee or board of directors for use in
15 public schools in the municipality or district and to
16 loan those textbooks to pupils or to the parents of
17 pupils attending nonpublic elementary and secondary
18 schools. The loans shall be based upon individual
19 requests submitted by the nonpublic school pupils or
20 parents. The requests shall be submitted to the
21 school committee or board of directors of the
22 administrative district in which the student resides.
23 The request for the loan of textbooks shall, for
24 administrative convenience, be submitted by the
25 nonpublic school student or parent to the nonpublic
26 school which shall prepare and submit collective
27 summaries of the individual requests to the school
28 committee or board of directors. As used in this
29 section, "textbook" means any book or book substitute
30 which a pupil uses as a text or text substitute in a
31 particular class or program in the school the pupil
32 regularly attends;

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

40 8. Tests and scoring services. Provide for the

1 use by pupils attending nonpublic elementary and
2 secondary schools within the municipality or a
3 district the standardized tests and scoring services
4 which are in use in the public schools serving that
5 municipality or district; and

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

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

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

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

39 \$5725. Health and welfare

40 A municipality may raise or appropriate money to:

- 1 1. Poor. Support the poor;
- 2 2. Hospital. Construct, maintain, operate and
3 support a hospital serving its residents;
- 4 3. Community health facility. Construct,
5 maintain, operate and support a community health
6 facility which may be used in any manner that will
7 improve health services in the community, including
8 the leasing of space at fair market rates to
9 physicians and other medical personnel;
- 10 4. Public health. Employ a public health nurse
11 and conduct a public health program;
- 12 5. Blood service. Support a blood service
13 program;
- 14 6. Dental hygienist. Employ a dental hygienist;
- 15 7. Physician. Subsidize physicians to induce
16 them to settle in the municipality;
- 17 8. Pest control. Provide for the extermination
18 and control of insect pests;
- 19 9. Ambulance. Provide for a public ambulance and
20 garage for it, or support an ambulance service serving
21 its residents;
- 22 10. Veteran rehabilitation. Provide for a local
23 program with or without state coordination for
24 rehabilitating veterans honorably discharged from the
25 Armed Forces of the United States;
- 26 11. Dutch elm disease. Determine the presence of
27 the Dutch elm disease and carry out measures for the
28 prevention or control of that disease on public or
29 private grounds;
- 30 12. Youth commission. Provide for a local youth
31 commission; and
- 32 13. Anti-poverty community action program.
33 Assist and contribute to a community action program
34 organized under the Federal Anti-Poverty Program.

1 §5726. Development

2 A municipality may raise or appropriate money to:

3 1. Board of trade. Support and guarantee
4 obligations of a chamber of commerce or board of trade
5 or a local development corporation, or a chamber of
6 commerce and a local development corporation, or a
7 board of trade and a local development corporation;

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

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

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

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

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

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

28 6. Historical society. Assist a local historical
29 society;

30 7. History. Write and publish its history;

31 8. Conventions. Assist conventions;

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

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

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

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

14 §5727. Celebrations and commemorations

15 A municipality may raise or appropriate money to:

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

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

21 3. Christmas. Decorate for Christmas;

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

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

30 §5728. General duties and operations

31 A municipality may raise or appropriate money to:

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

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

4 §5729. Federal and state grants

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

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

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

15 SUBCHAPTER V

16 TAX BASE SHARING

17 §5751. Purpose

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

23 §5752. Tax base sharing agreement

24 1. Agreement. Any 2 or more municipalities may,
25 by a vote of their legislative bodies, enter into an
26 agreement to share all or a specific part of the
27 commercial, industrial or residential assessed
28 valuation located within their respective communities.

29 2. Specifications. Any such agreement must
30 specify:

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

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

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

7 D. Any other necessary and proper matters.

8 3. Administration. The shared valuation shall be
9 assessed in the municipality in which the property is
10 located. It shall be taxed at the rate applicable in
11 that municipality. The tax so assessed shall be
12 collected by the municipality in which the property is
13 located and the share of that tax, as specified in the
14 tax base sharing agreement, shall be remitted within
15 15 days after collection to the other municipality or
16 municipalities on the basis of the terms of the
17 agreement to which they are parties.

18 §5753. Filing of agreement

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

22 SUBCHAPTER VI

23 BORROWING

24 §5771. Revenue anticipation notes; fiscal year

25 A municipality by vote of its municipal officers
26 may in any municipal year borrow money temporarily and
27 issue notes in anticipation of taxes, and state and
28 Federal revenue-sharing money.

29 1. Amount. The amount borrowed in anticipation
30 of taxes shall not exceed the total tax levy of the
31 preceding municipal year or of the 2 preceding
32 municipal years if together they do not extend beyond
33 a period of 18 months. The amount borrowed in
34 anticipation of state or federal revenue sharing shall
35 not exceed the amount of revenue-sharing entitlements
36 projected by the paying units of government for the
37 current period of entitlement.

1 2. When paid. The tax anticipation notes shall
2 be paid in the municipal year in which they were made,
3 except during a transition to a new municipal year the
4 notes shall be paid within 18 months of the first day
5 of the municipal year in which they were made. The
6 notes issued in anticipation of taxes shall be paid
7 out of money raised by taxation. The notes issued in
8 anticipation of revenue-sharing money shall be paid
9 out of money received as a result of revenue sharing.

10 §5772. General obligation securities

11 A municipality may issue general obligation
12 securities for funding or refunding all or part of its
13 debt and for any purpose for which it may raise money.

14 1. Anticipatory borrowing. The municipal
15 officers authorized to issue securities may borrow
16 money in anticipation of their sale by issuing
17 temporary notes and renewal notes.

18 A. The total face amount of temporary notes and
19 renewal notes issued under this subsection may not
20 exceed at any one time outstanding the authorized
21 amount of the securities.

22 B. The period of anticipatory borrowing under
23 this subsection shall not exceed 3 years and the
24 time within which these securities are to become
25 due shall not be extended by anticipatory
26 borrowing beyond:

27 (1) The time fixed in the vote authorizing
28 their issue; or

29 (2) If no term is specified in that vote,
30 beyond the term permitted by law.

31 2. Invalidity in original borrowing. A security
32 authorized and issued for the purpose of funding or
33 refunding a debt is not invalid because of any
34 invalidity in the original borrowing.

35 3. Annual installments. Securities may be in
36 serial form payable in annual installments, which need

1 not be equal, the total amount of which shall
2 extinguish the entire issue at maturity. The first
3 such installment must be payable within 5 years and
4 the last such installment must be payable within 30
5 years after the date the securities are issued.

6 4. Discretion in municipal officers. In the
7 absence of a contrary provision in the vote
8 authorizing the issuance of securities, the discretion
9 to fix the date, maturities, denomination, interest
10 rate, place of payment, form and other details of the
11 securities and of providing for the sale of the
12 securities is deemed to have been delegated to the
13 municipal officers.

14 5. Term securities. Term securities may be
15 issued for a period not to exceed 10 years.

16 6. Call for redemption. Securities may be issued
17 which are subject to call for redemption with or
18 without premium at the election of the municipality
19 before the date fixed for final payment of the
20 securities, provided:

21 A. Specific authority to issue callable
22 securities is contained in the vote authorizing
23 their issue; and

24 B. The securities when issued contain provisions
25 setting forth:

26 (1) The method by which the option to call
27 may be exercised;

28 (2) The procedure for payment in the event
29 of call; and

30 (3) The legal effect of making the call.

31 7. Signatures. Securities issued by a
32 municipality shall, in the absence of a contrary
33 provision in a special Act of the Legislature or in
34 the vote authorizing the securities, be signed by the
35 treasurer and countersigned by a majority of the
36 municipal officers.

1 8. At least one manual signature; validity.
2 Securities issued by a municipality and coupons, if
3 any, attached to those securities shall be executed in
4 the name of the municipality by the manual or
5 facsimile signatures of the official or officials who
6 are authorized to execute the securities, but at least
7 one signature on each bond or note must be a manual
8 signature. These securities and coupons, if properly
9 executed by the municipal officers who are in office
10 on the date the securities are actually executed, are
11 valid and binding according to their terms,
12 notwithstanding that before the securities are
13 delivered and paid for, any or all such officers have
14 ceased to hold office.

15 §5773. Borrowing in anticipation of federal or state
16 aid

17 1. Acceptance of aid. The municipal officers of
18 a municipality may contract for and accept an offer or
19 a grant of federal or state aid, or both, for any
20 purpose for which a municipality may raise or expend
21 money.

22 2. Borrowing in anticipation. Notwithstanding
23 any provisions in a charter or special Act of the
24 Legislature, but subject to the constitutional limit
25 on indebtedness, any municipality which has contracted
26 for and accepted an offer or a grant of federal or
27 state aid, or both, for a particular project, may by
28 vote of its municipal officers incur indebtedness in
29 anticipation of the receipt of that aid for the
30 particular project by issuing its general obligation
31 notes payable within one year. These notes may be
32 renewed from time to time by the issue of other notes,
33 provided that no notes may be issued or renewed in an
34 amount which at the time of the issuance or renewal
35 exceeds the unpaid amount of the federal or state aid
36 in anticipation of which the notes are issued or
37 renewed.

38 A. To any extent that the federal or state aid in
39 anticipation of which the notes were issued when
40 received exceeds the amount of the aid remaining
41 to be paid under contract or accepted offer, plus
42 the amount of any outstanding notes issued in

1 anticipation of the aid, it shall be kept in a
2 separate account and used solely for the payment
3 of any outstanding note.

4 B. Any municipal charter provision requiring the
5 publication of an ordinance, vote, order or
6 resolution of the municipal officers, the holding
7 of a public hearing on those matters or subjecting
8 an ordinance, vote, order or resolution to a
9 referendum does not apply to any borrowing
10 authorized under this section.

11 3. Funds for educational purposes. The municipal
12 officers of any municipality may borrow in
13 anticipation of any funds or reimbursements that the
14 Legislature has authorized to be paid to
15 municipalities for educational purposes during the
16 municipal year. The notes shall be paid from those
17 funds received for educational purposes from state
18 agencies during the municipal year.

19 SUBCHAPTER VII

20 RESERVE FUND

21 §5801. Establishment

22 A municipality may establish a reserve fund,
23 consisting of one or more accounts, by appropriating
24 money or by authorizing the transfer of unencumbered
25 surplus funds at the end of any fiscal year for the
26 following purposes:

27 1. Capital improvement account. Financing the
28 acquisition or reconstruction of a specific, or a type
29 of, capital improvement;

30 2. Capital equipment account. Financing the
31 acquisition of a specific item or type of capital
32 equipment;

33 3. Credit reserve account. Providing a reserve
34 which may be applied in periods of financial emergency
35 to assist in continuing its normal operation without
36 increasing the tax rate.

1 A. The annual appropriation for this purpose may
2 not exceed 5% of the current tax commitment.

3 B. When the municipal legislative body determines
4 that a financial emergency exists, it may order
5 the withdrawal of the necessary amount from the
6 account; and

7 4. Sinking fund account. Paying a funded debt.

8 A. Any assets remaining in a sinking fund
9 account, other than its own bonds, shall be
10 withdrawn from the account when the debt for the
11 payment of which it was established has been
12 refunded. The legislative body may pledge the
13 assets for payment of the new debt or may order
14 them transferred to another account.

15 §5802. Trustees

16 The municipal officers are trustees of the
17 municipal reserve fund.

18 1. Fund deposited or invested. They shall
19 deposit or invest the fund according to section 5652.

20 A. Any interest earned or capital gains realized
21 shall accrue to and become part of the fund.
22 Unless otherwise ordered by the municipal
23 legislative body, interest and capital gains shall
24 be prorated among the various accounts.

25 2. Purpose of expenditure. An expenditure from
26 any account of the fund may be made only for the
27 specific purpose for which the account was established.

28 3. Transfer of balance. The balance of any
29 account of a reserve fund may be transferred to
30 another reserve account or to surplus when the purpose
31 for which it was established has been accomplished or
32 abandoned.

33 4. Use of fund for purpose not provided for.
34 Notwithstanding Title 17-A, section 4-A, any municipal
35 official who uses the assets of any account of the
36 reserve fund in any manner or for any purpose other

1 than that provided by the municipality is guilty of a
2 Class C crime and shall be punished by a fine of not
3 more than \$2,000 or by imprisonment for not more than
4 2 years.

5 SUBCHAPTER VIII

6 ACCOUNTS AND AUDITS

7 §5821. Uniform accounting system

8 Each municipality and each quasi-municipal
9 corporation, including, but not limited to, various
10 types of districts or corporations embracing a portion
11 of a municipality, a single municipality or several
12 municipalities not under the jurisdiction of the
13 Public Utilities Commission, shall:

14 1. Accounting records. Keep its accounting
15 records in conformity with generally accepted
16 principles of municipal accounting; and

17 2. Uniform classification. Use a uniform
18 classification for revenue, expenditures and balance
19 sheet accounts.

20 §5822. Investigation of accounting and auditing
21 system

22 The State Auditor may inquire into the accounting
23 and auditing system of any municipality or any
24 quasi-municipal corporation not under the jurisdiction
25 of the Public Utilities Commission. The officers of
26 that municipality or quasi-municipal corporation shall
27 furnish information pertaining to the system in the
28 form prescribed by the State Auditor.

29 §5823. Annual postaudit

30 Each municipality and quasi-municipal corporation
31 shall have an annual postaudit made of its accounts
32 covering the last complete fiscal year by the
33 Department of Audit or by a qualified public
34 accountant elected by ballot or engaged by its
35 officers. The officers shall notify the State Auditor
36 of the name and address of the auditor within 30 days

1 after the election or engagement. The postaudit shall
2 be conducted on the basis of auditing standards and
3 procedures prescribed by the State Auditor.

4 1. New postaudit. If the voters of a
5 municipality or quasi-municipal corporation are
6 dissatisfied with the postaudit made by a public
7 accountant, they may obtain a new postaudit by filing
8 a petition with the State Auditor. The petition must
9 be signed by:

10 A. At least 10% of the voters of a municipality
11 or quasi-municipal corporation with a population
12 under 10,000; or

13 B. At least 1,000 voters in a municipality or
14 quasi-municipal corporation with a population of
15 10,000 or over.

16 Upon the filing of a valid petition, the State Auditor
17 shall order a new postaudit to be made by the
18 Department of Audit. The municipality or village
19 corporation shall pay the expense of the postaudit.

20 2. Records available to auditor. Whenever a
21 postaudit is being made, all necessary records shall
22 be made available to the auditor.

23 3. Report. After the postaudit has been
24 completed, the auditor shall submit a report to the
25 officers of the municipality or quasi-municipal
26 corporation.

27 A. The report shall contain the following items:

28 (1) A letter of transmittal;

29 (2) The auditor's comments and suggestions
30 for improving the financial administration;

31 (3) A comparative balance sheet;

32 (4) An analysis of surplus;

33 (5) A statement of departmental operations;

1 (6) A statement of cash receipts and
2 disbursements, and a bank reconciliation of
3 cash balance;

4 (7) A statement of property valuation,
5 assessment and collection of taxes; and

6 (8) A statement of public debt.

7 B. Within 30 days after the postaudit is
8 completed, the auditor shall send to the State
9 Auditor:

10 (1) A certified copy of the postaudit
11 report; and

12 (2) A certified copy of the audit procedural
13 form prescribed by the State Auditor for
14 governmental audits.

15 C. Any auditor who fails to file the copies
16 required by paragraph B commits a civil violation
17 for which a forfeiture of not more than \$100 may
18 be adjudged.

19 4. Expense. Each municipality and quasi-
20 municipal corporation shall pay the expense of its
21 postaudit.

22 A. The State Auditor shall certify to the
23 Treasurer of State for collection any unpaid
24 balance due the Department of Audit after a 90-day
25 period from the date of billing has elapsed.

26 5. Report kept. The complete report of the
27 postaudit shall be kept in the office of the
28 municipality or quasi-municipal corporation.

29 §5824. Witnesses and records

30 The State Auditor may subpoena witnesses and
31 records and may examine witnesses under oath in all
32 matters arising under sections 5821 to 5823.

33 §5825. State Auditor's report on financial matters

1 The State Auditor shall annually publish
2 statistics and other information relating to the
3 financial affairs of municipalities and
4 quasi-municipal corporations. This information may be
5 printed and distributed as a document separate from
6 the annual fiscal report.

7 §5826. Penalties

8 A public official who neglects or refuses to
9 perform any duty imposed by sections 5821 to 5823:

10 1. Civil violation. Commits a civil violation
11 for which a forfeiture of not more than \$100 may be
12 adjudged; and

13 2. Forfeiture of office. Forfeits the office.

14 CHAPTER 225

15 MAINE MUNICIPAL BOND BANK

16 SUBCHAPTER I

17 GENERAL PROVISIONS

18 §5901. Title

19 This chapter shall be known and may be cited as
20 the "Maine Municipal Bond Bank Act."

21 §5902. Declaration of necessity

22 1. Declaration of purpose. It is declared to be
23 in the public interest and to be the policy of the
24 State:

25 A. To foster and promote by all reasonable means
26 the provision of adequate capital markets and
27 facilities for borrowing money by counties,
28 municipalities, School Administrative Districts,
29 community school districts, quasi-municipal
30 corporations and for the financing of their
31 respective public improvements and other municipal
32 purposes within the State from proceeds of bonds
33 or notes issued by those governmental units;

1 B. To assist those governmental units in
2 fulfilling their needs for such purposes by use of
3 creation of indebtedness;

4 C. To the extent possible, to reduce the costs of
5 indebtedness to taxpayers and residents of the
6 State and to encourage continued investor interest
7 in the purchase of bonds or notes of those
8 governmental units as sound and preferred
9 securities for investment; and

10 D. To encourage its governmental units to
11 continue their independent undertakings of public
12 improvements and other municipal purposes and the
13 financing thereof and to assist them in those
14 activities by making funds available at reduced
15 interest costs for orderly financing of those
16 purposes, especially during periods of restricted
17 credit or money supply, particularly for those
18 governmental units not otherwise able to borrow
19 for those purposes.

20 2. Declaration of necessity. It is further
21 declared that current credit and municipal bond market
22 conditions require the exercise of state powers in the
23 interest of its governmental units to further and
24 implement these policies by:

25 A. Authorizing a state instrumentality to be
26 created as a body corporate and politic to have
27 full powers to borrow money and to issue its bonds
28 and notes to make funds available through the
29 facilities of the instrumentality at reduced rates
30 and on more favorable terms for borrowing by such
31 governmental units through the instrumentality's
32 purchase of the bonds or notes of the governmental
33 units in fully marketable form; and

34 B. Granting broad powers to the instrumentality
35 to accomplish and to carry out these policies of
36 the State which are in the public interest of the
37 State and of its taxpayers and residents.

38 §5903. Definitions

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

4 1. Bank or bond bank. "Bank" or "bond bank"
5 means the Maine Municipal Bond Bank created by section
6 5951.

7 2. Bondholder or holder or noteholder.
8 "Bondholder" or "holder" or "noteholder" or any
9 similar term when used with reference to a bond or
10 note of the bank means any person who is the bearer of
11 any outstanding bond or note of the bank registered to
12 bearer or not registered, or the registered owner of
13 any outstanding bond or note of the bank which at the
14 time is registered other than to bearer.

15 3. Bonds. "Bonds" means bonds of the bank issued
16 under this chapter.

17 4. Fully marketable form. "Fully marketable
18 form" means a municipal security duly executed and
19 accompanied by an approving legal opinion of a bond
20 counsel of recognized standing in the field of
21 municipal law whose opinions are generally accepted by
22 purchasers of municipal bonds, provided that the
23 municipal security so executed need not be printed or
24 lithographed nor be in more than one denomination.

25 5. General fund. "General fund" means the fund
26 created or established as provided in section 6007.

27 6. Governmental unit. "Governmental unit" means
28 any county, municipality, School Administrative
29 District, community school district or other
30 quasi-municipal corporation within the State.

31 7. Municipal security. "Municipal security"
32 means a bond or note or evidence of debt issued by a
33 governmental unit and payable from taxes or from
34 rates, charges or assessments, but does not include
35 any bond or note or evidence of debt issued under
36 chapter 213 or Title 10, chapter 110, subchapter IV.

37 8. Notes. "Notes" means any notes of the bank
38 issued under this chapter.

1 9. Required debt service reserve. "Required debt
2 service reserve" means the amount required to be on
3 deposit in the reserve fund as prescribed by section
4 6006.

5 10. Reserve fund. "Reserve fund" means the Maine
6 Municipal Bond Bank Reserve Fund created or
7 established as provided in section 6006.

8 11. Revenues. "Revenues" means all fees,
9 charges, money, profits, payments of principal of or
10 interest on municipal securities and other
11 investments, gifts, grants, contributions,
12 appropriations and all other income derived or to be
13 derived by the bank under this chapter.

14 §5904. Liberal construction of chapter

15 This chapter shall be construed liberally to
16 effectuate the legislative intent and the purposes of
17 this chapter as complete and independent authority for
18 the performance of each and every act and thing
19 authorized in this chapter and all powers granted in
20 this chapter shall be broadly interpreted to
21 effectuate that intent and purposes and not as a
22 limitation of powers.

23 SUBCHAPTER II

24 ESTABLISHMENT AND POWERS

25 §5951. Creation of bank and membership

26 1. Bank established. There is established a
27 public body corporate and politic to be known as the
28 "Maine Municipal Bond Bank" in accordance with Title
29 5, chapter 379. The bank is constituted as an
30 instrumentality of the State exercising public and
31 essential governmental functions. The bank's exercise
32 of the powers conferred by this chapter shall be
33 deemed and held to be an essential governmental
34 function of the State.

35 2. Board of commissioners; oath. The bank shall
36 consist of a board of 5 commissioners, including:

1 A. The Treasurer of State who serves as a
2 commissioner ex officio;

3 (1) The Deputy Treasurer of State may be
4 designated to serve in place of the Treasurer
5 of State;

6 B. The Superintendent of Banking, who also serves
7 as a commissioner ex officio; and

8 C. Three commissioners, who must be residents of
9 the State, appointed by the Governor for terms of
10 3 years.

11 Before entering upon their duties all commissioners
12 shall take and subscribe to an oath to perform the
13 duties of office faithfully, impartially and justly to
14 the best of their abilities. A record of these oaths
15 shall be filed in the office of the Secretary of State.

16 3. Terms; vacancy; removal. Each commissioner
17 shall hold office for the term of appointment and
18 until a successor has been appointed and has
19 qualified. A commissioner may be reappointed. Any
20 vacancy occurring other than by the expiration of a
21 term shall be filled by appointment for the unexpired
22 term. The Governor may remove a commissioner from
23 office for cause after a public hearing. The Governor
24 may suspend a commissioner pending the completion of
25 this hearing.

26 4. Officers of board; exercise of powers. The
27 board of commissioners shall elect one of its members
28 as chairman, one as vice-chairman and shall appoint an
29 executive director who shall also serve as both
30 secretary and treasurer. The powers of the bank are
31 vested in the commissioners of the bank in office from
32 time to time. Three commissioners of the bank
33 constitutes a quorum at any meeting of the
34 commissioners. Action may be taken and motions and
35 resolutions adopted by the bank at any meeting by the
36 affirmative vote of at least 3 commissioners of the
37 bank. A vacancy in the office of commissioner of the
38 bank does not impair the right of a quorum of the
39 commissioners to exercise all the powers and perform
40 all the duties of the bank.

1 5. Surety bonds required. Before issuing any
2 bonds or notes under this chapter, each commissioner
3 of the bank must execute a surety bond in the penal
4 sum of \$25,000 and the executive director of the bank
5 must execute a surety bond in the penal sum of
6 \$50,000. The surety bonds must be:

7 A. Conditioned upon the faithful performance of
8 the duties of the office of the commissioner or
9 executive director;

10 B. Executed by a surety company authorized to
11 transact business in the State as surety;

12 C. Approved by the Attorney General; and

13 D. Filed in the office of the Secretary of State.

14 At all times after the bank issues any bonds or notes,
15 each commissioner of the bank and the executive
16 director shall maintain the surety bonds in full force
17 and effect. The bank shall bear all the costs of
18 these surety bonds.

19 6. Compensation. Each public member of the board
20 of commissioners shall be compensated according to
21 Title 5, chapter 379. All commissioners shall be
22 reimbursed for their reasonable expenses incurred in
23 carrying out their duties under this chapter.
24 Notwithstanding any other law, no officer or employee
25 of the State may be deemed to have forfeited or may
26 forfeit their office or employment or any benefits or
27 emoluments of their office or employment due to
28 accepting the office of commissioner of the bank or
29 performed services in that office.

30 7. Employees. The executive director may employ,
31 upon approval of the board of commissioners, a general
32 counsel, architects, engineers, accountants,
33 attorneys, financial advisors or experts and any other
34 officers, agents and employees who are required and
35 determine their qualifications, terms of office,
36 duties and compensation. The board of commissioners
37 shall fix the duties and compensation of the executive
38 director.

1 §5952. Conflict of interest

2 No commissioner of the bank may participate in any
3 decision on any contract entered into by the bank, if
4 the commissioner has any pecuniary interest, direct or
5 indirect in any firm, partnership, corporation or
6 association which is or may be a party to the contract.

7 Contracts or agreements obtained through properly
8 advertised bid procedures, or the ownership of stock
9 or other interest in any firm, partnership,
10 corporation or association in which the commissioner
11 does not actively participate in day-to-day management
12 shall not be interpreted as a direct or indirect
13 pecuniary interest in violation of this chapter.

14 §5953: Lending and borrowing powers generally

15 1. Powers. For the purposes authorized by this
16 chapter, the bank may:

17 A. Lend money to governmental units through the
18 bank's purchase of municipal securities of
19 governmental units in fully marketable form;

20 B. Authorize and issue its bonds and notes
21 payable solely from the revenues or funds
22 available to the bank for that purpose; and

23 C. Otherwise assist governmental units as
24 provided in this chapter.

25 2. Payment; state not liable. Bonds and notes of
26 the bank issued under this chapter are not in any way
27 a debt or liability of the State and do not constitute
28 a loan of the credit of the State or create any debt
29 or debts, liability or liabilities on behalf of the
30 State or constitute a pledge of the faith and credit
31 of the State. All bonds and notes of the bank issued
32 under this chapter, unless funded or refunded by bonds
33 or notes of the bank, are payable solely from revenues
34 or funds pledged or available for their payment as
35 authorized in this chapter. Each bond and note shall
36 contain on its face a statement to the effect that the
37 bank is obligated to pay the principal or interest and

1 redemption premium, if any, and that neither the faith
2 and credit nor the taxing power of the State is
3 pledged to the payment of the principal of or the
4 interest on the bonds or notes.

5 3. Expenses. All expenses incurred in carrying
6 out the purposes of this chapter are payable solely
7 from revenues or funds provided under this chapter.
8 Nothing in this chapter may be construed to authorize
9 the bank to incur any indebtedness or liability on
10 behalf of or payable by the State.

11 §5954. Corporate powers

12 1. Powers. The bank is constituted a public body
13 corporate and politic and an instrumentality of the
14 State and shall have perpetual succession. For
15 carrying out the purposes of this chapter, the bank
16 may:

17 A. Sue and be sued;

18 B. Adopt and have an official seal and alter the
19 seal at pleasure;

20 C. Make and enforce bylaws and rules for the
21 conduct of its affairs and business and for the
22 use of its services and facilities;

23 D. Maintain an office at any place or places
24 within the State that it determines;

25 E. Acquire, hold, use and dispose of its income,
26 revenue, funds and money;

27 F. Acquire, rent, lease, hold, use and dispose of
28 other personal property for its purposes;

29 G. Borrow money and issue its negotiable bonds or
30 notes, provide for and secure the payment of its
31 bonds or notes, provide for the rights of the
32 holders of those bonds and notes and purchase,
33 hold and dispose of any of its bonds or notes;

34 H. Fix and revise from time to time and charge
35 and collect fees and charges for the use of its
36 services or facilities;

1 I. Accept gifts or grants of property, funds,
2 money, materials, labor, supplies or services from
3 the United States or the State or any other state
4 or agencies or departments of those entities, or
5 from any governmental unit or any person, and
6 carry out the terms or provisions or make
7 agreements with respect to any such gifts or
8 grants, and do any and all things necessary, or
9 useful, desirable or convenient in connection with
10 procuring, accepting or disposing of those gifts
11 or grants;

12 J. Do and perform any acts and things authorized
13 by this chapter under, through or by means of its
14 officers, agents or employees or by contracts with
15 any person;

16 K. Make, enter into and enforce all contracts or
17 agreements necessary, convenient or desirable for
18 the purposes of the bank or pertaining to any loan
19 to a governmental unit or any purchase or sale of
20 municipal securities or other investments or to
21 the performance of its duties and execution or
22 carrying out of any of its powers under this
23 chapter;

24 L. Purchase or hold municipal securities of
25 governmental units at such prices and in such
26 manner as the bank considers advisable, and sell
27 municipal securities acquired or held by it at
28 such prices without relation to cost and in such
29 manner as the bank considers advisable;

30 M. Invest any funds or money of the bank not then
31 required for loan to governmental units and for
32 the purchase of municipal securities in the same
33 manner as permitted for the investment of funds
34 belonging to the State or held in the State
35 Treasury, except as otherwise permitted or
36 provided by this chapter;

37 N. Fix and prescribe any form of application or
38 procedure to be required of a governmental unit
39 for the purpose of any loan or the purchase of its
40 municipal securities, and fix the terms and

1 conditions of any such loan or purchase and to
2 enter into agreements with governmental units with
3 respect to any such loan or purchase; and

4 O. Do all acts and things necessary, convenient
5 or desirable to carry out the powers expressly
6 granted or necessarily implied in this chapter.

7 §5955. Additional powers

8 In order to carry out the purposes and provisions
9 of this chapter, the bank, in addition to any powers
10 granted to it elsewhere in this chapter, may:

11 1. Loans. Consider, in connection with any loan
12 to a governmental unit:

13 A. The need, desirability or eligibility of the
14 loan;

15 B. The ability of the governmental unit to secure
16 borrowed money from other sources and the costs of
17 alternative financing; and

18 C. The particular public improvements or purpose
19 to be financed by the municipal securities to be
20 purchased by the bank;

21 2. Charges. Impose and collect charges for its
22 costs and services in review or consideration of any
23 proposed loan to a governmental unit or purchase of
24 municipal securities of the governmental unit, whether
25 or not the loan is made or the municipal securities
26 are purchased;

27 3. Purchase. Fix and establish any and all terms
28 and provisions with respect to any purchase of
29 municipal securities by the bank, including:

30 A. Dates and maturities of the bonds;

31 B. Provisions as to redemption or payment before
32 maturity; and

33 C. Any other matters in connection with the
34 bank's purchase of municipal securities which are

1 necessary, desirable or advisable in the judgment
2 of the bank;

3 4. Hearings. Conduct examinations and hearings
4 and hear testimony and take proof, under oath or
5 affirmation, at public or private hearings on any
6 matter material for its information and necessary to
7 carry out this chapter;

8 5. Subpoenas. Issue subpoenas requiring the
9 attendance of witnesses and the production of books
10 and papers relating to any hearing before the bank, or
11 before one or more of the commissioners of the bank
12 appointed by it to conduct that hearing;

13 6. Contempt. Apply to the Superior Court in
14 Kennebec County, to have punished for contempt any
15 witness who:

16 A. Refuses to obey a subpoena;

17 B. Refuses to be sworn or affirmed to testify; or

18 C. Is guilty of any contempt after summons to
19 appear;

20 7. Insurance. Procure insurance against any
21 losses in connection with its property, operations or
22 assets in such amounts, from such amounts and from
23 such insurers as it considers desirable; and

24 8. Modification. Consent to any modification
25 with respect to rates of interests, time and payment
26 of any installment of principal or interest, security
27 or any other term of bond or note, contract or
28 agreement of any kind to which the bank is a party, to
29 the extent permitted under its contracts with the
30 holders of bonds or notes of the bank.

31 §5956. State services

32 1. State assistance authorized. All state
33 officers, departments, boards, agencies, divisions and
34 commissions may provide any service to the bank that
35 is:

- 1 A. Requested by the bank; and
2 B. Within the area of their governmental
3 functions as established by law.

4 2. Study or review requests. All state officers,
5 departments, boards, agencies, divisions and
6 commissions shall promptly comply with any reasonable
7 request made by the bank under subsection 1, as to the
8 making of any study or review as to:

9 A. The desirability, need, cost or expense with
10 respect to any such public project, purpose or
11 improvement;

12 B. The financial feasibility of the project; or

13 C. The financial or fiscal responsibility or
14 ability in connection with the project of any
15 governmental unit applying to the bank for a loan
16 and for the bank's purchase of municipal
17 securities to be issued by the governmental unit.

18 3. Cost of services. At the request of the
19 officer, department, board, agency, division or
20 commission providing the service, the bank shall pay
21 the cost and expense of any services requested by the
22 bank.

23 §5957. Allocation of state ceiling

24 By rulemaking under Title 5, chapter 375,
25 subchapter II, the bank may establish a process for
26 allocation and carryforward of that portion of the
27 state ceiling on issuance of tax-exempt bonds
28 allocated to the bank under Title 10, chapter 9.

29 §5958. Prohibited acts and limitation of powers

30 The bank may not:

31 1. Loans. Make loans of money to any person
32 other than a governmental unit or purchase securities
33 issued by any person other than a governmental unit or
34 for investment, except as provided in this chapter;

1 2. Banking business. Emit bills of credit,
2 accept deposits of money for time or demand deposit,
3 administer trust, engage in any form or manner in, or
4 in the conduct of, any private or commercial banking
5 business or act as a savings bank or savings and loan
6 association; or

7 3. Bank and trust company. Be or constitute a
8 bank or trust company within the jurisdiction or under
9 the control of the Bureau of Banking, the
10 Superintendent of Banking or the comptroller of the
11 currency of the United States or the United States
12 Department of the Treasury.

13 Nothing in this chapter may be construed to
14 authorize or to empower the bank to be or to
15 constitute a dealer in securities within the meaning
16 of or subject to any securities law, securities
17 exchange law or securities dealers law of the United
18 States or of the State or of any other state or
19 jurisdiction, domestic or foreign.

20 SUBCHAPTER III

21 FINANCIAL OPERATION

22 \$6001. Budget

23 Not later than June 1st of each year the bank
24 shall prepare and file in the office of the Bureau of
25 the Budget a budget of its operating expenses for the
26 ensuing fiscal year. This budget:

27 1. Quarterly requirements. Shall be prepared on
28 the basis of quarterly requirements so that it will be
29 possible to determine from the budget the operating
30 expenses for each quarter of the year;

31 2. General categories. Shall set forth the
32 general categories of anticipated expenditures and the
33 amount on account of each;

34 3. Reserves. Shall include provisions for
35 reserve for contingencies and for overexpenditures; and.

1 4. Others. May set forth any additional material
2 that the bank determines.

3 §6002. Annual report

4 On or before the last day of December in each
5 year, the bank shall make an annual report of its
6 activities for the preceding fiscal year to the
7 Governor. This report shall set forth a complete
8 operating and financial statement covering its
9 operations during the year. The bank shall have an
10 audit of its books and accounts made at least once in
11 each year by certified public accountants. The cost
12 of the audit is considered an expense of the bank. A
13 copy of the audit shall be filed with the Treasurer of
14 State.

15 §6003. Bonds and notes of the bank

16 1. Bonds authorized. The bank may issue its
17 bonds from time to time in any principal amounts that
18 it considers necessary to provide funds for any of the
19 purposes authorized by this chapter, including:

20 A. The making of loans;

21 B. The payment, funding or refunding of the
22 principal of, or interest or redemption premiums
23 on, any bonds issued by the bank, whether the
24 bonds or interest to be funded or refunded have or
25 have not become due or subject to redemption
26 before maturity in accordance with their terms;

27 C. The establishment or increase of reserves to
28 secure or to pay bonds or interest on the bonds;
29 and

30 D. All other costs or expenses of the bank
31 incident to and necessary or convenient to carry
32 out its corporate purposes and powers.

33 2. Bonds as general obligation bonds; additional
34 security. Except as expressly provided otherwise in
35 this chapter or by the bank, every issue of bonds
36 shall be general obligations of the bank payable out
37 of any revenues or funds of the bank, subject only to

1 any agreements with the holders of particular bonds
2 pledging any particular revenues or funds. General
3 obligation bonds may be additionally secured by a
4 pledge of any grants, subsidies, contributions, funds
5 or money from the Federal Government, the State, any
6 governmental unit, any person or a pledge of any
7 income or revenues, funds or money of the bank from
8 any source.

9 3. Bank notes authorized. The bank may issue its
10 notes for any corporate purpose of the bank from time
11 to time, in any principal amounts that it considers
12 necessary and renew or pay and retire or refund the
13 notes from the proceeds of bonds or of other notes, or
14 from any other funds or money of the bank available or
15 to be made available for that purpose in accordance
16 with any contract between the bank and the
17 noteholders, not otherwise pledged.

18 A. The notes shall be issued in the same manner
19 as bonds. The notes and the resolution or
20 resolutions authorizing the notes may contain any
21 provisions, conditions or limitations which the
22 bonds or a bond resolution of the bank may contain.

23 B. Unless provided otherwise in any contract
24 between the bank and the noteholders, and unless
25 the notes have been otherwise paid, funded or
26 refunded, the proceeds of any bonds of the bank
27 issued, among other things, to fund such
28 outstanding notes, shall be held, used and applied
29 by the bank to the payment and retirement of the
30 principal of these notes and the interest due and
31 payable on the notes.

32 C. The bank may make contracts for the future
33 sale from time to time of the notes, under which
34 the purchaser is committed to purchase the notes
35 from time to time on terms and conditions stated
36 in the contracts. The bank may pay any
37 consideration that it determines proper for these
38 commitments.

39 4. Bonds and notes made negotiable instruments.
40 Whether or not the bonds or notes of the bank are of
41 such form and character as to be negotiable

1 instruments under the Uniform Commercial Code, article
2 8, the bonds and notes shall be and are made
3 negotiable instruments within the meaning of and for
4 all the purposes of the Uniform Commercial Code,
5 subject only to the provisions of the bonds, and notes;
6 for registration.

7 5. General characteristics. Bonds or notes of
8 the bank shall be authorized by resolution of the bank
9 and may be issued in one or more series. The
10 resolution or resolutions may provide:

11 A. The date or dates the bonds or notes will bear;

12 B. The time or times the bonds or notes will
13 mature;

14 C. The rate or rates of interest per year the
15 bonds or notes will bear;

16 D. The denomination or denominations of the bonds
17 or notes;

18 E. The form of the bonds or notes, either coupon
19 or registered;

20 F. The conversion or registration privileges
21 carried by the bonds or notes;

22 G. The rank or priority of the bonds or notes;

23 H. The manner of execution of the bonds or notes;

24 I. The sources, medium and place or places,
25 within or outside the State, of payment; and

26 J. The terms of redemption of the bonds or notes,
27 with or without premium.

28 6. Manner of sale. Bonds or notes of the bank
29 may be sold at public or private sale at the time or
30 times and at the price or prices determined by the
31 bank.

32 7. No further conditions required. Bonds or
33 notes of the bank may be issued under this chapter

1 without obtaining the consent of any department,
2 division, commission, board, bureau or agency of the
3 State, and without any other proceeding or the
4 happening of any other conditions or things than those
5 proceedings, conditions or things which are
6 specifically required by this chapter.

7 8. Payment of notes. The bank may from time to
8 time issue its notes as provided under this chapter
9 and pay and retire or fund or refund those notes from
10 proceeds of bonds or of other notes, or from any other
11 funds or money of the bank available or to be made
12 available for those purposes in accordance with any
13 contract between the bank and the noteholders. Unless
14 provided otherwise in any contract between the bank
15 and the holders of notes, and unless the notes have
16 been otherwise paid, funded or refunded, the proceeds
17 of any bonds of the bank issued among other things, to
18 fund those outstanding notes, shall be held, used and
19 applied by the bank to the payments and retirement of
20 the principal of the notes and the interest due and
21 payable on the notes.

22 §6004. Resolutions and indentures

23 1. Trust agreement or trust indenture
24 authorized. In any resolution of the bank authorizing
25 or relating to the issuance of any bonds or notes, the
26 bank, in order to secure the payment of those bonds or
27 notes may, by provisions in the resolution, enter into
28 any trust agreement or trust indenture with a
29 corporate trustee. That trustee may be any trust
30 company or national banking association or state bank,
31 within or outside the State, having the powers of a
32 trust company. The provisions in the resolution
33 constitute covenants by the bank and contracts with
34 the holders of the bonds or notes.

35 2. Provisions of indenture, agreement or
36 resolution. The trust agreement, indenture or the
37 resolution providing for the issuance of the bonds or
38 notes may pledge or assign the revenues of the bank,
39 and may contain any provisions for protecting and
40 enforcing the rights and remedies of the holders of
41 the bonds and notes that are reasonable and proper and
42 not in violation of law, including the custody,

1 safeguarding and application of all money. The trust
2 agreement may set forth the rights and remedies of the
3 holders of the bonds and notes and of the trustee, and
4 may restrict the individual right of action by the
5 holders. The bank may provide by the trust indenture
6 for the payment of the proceeds of the bonds and notes
7 and the revenues to the trustee under the trust
8 indenture or other depository, and for the method of
9 disbursement of those proceeds and revenues, with any
10 safeguards and restrictions that it determines.

11 3. Expenses; no separate trustee for holders.
12 All expenses incurred in carrying out a trust
13 indenture under this section may be treated as a part
14 of the operating expenses of the bank. If the bonds
15 are secured by a trust indenture, the bondholders may
16 not appoint a separate trustee to represent them.

17 §6005. Intent of pledge

18 Any pledge of revenue or other money made by the
19 bank is valid and binding when the pledge is made.
20 The revenues or other money so pledged and thereafter
21 received by the bank is immediately subject to the
22 lien of the pledge without any physical delivery of
23 the revenues or other money. The lien of any such
24 pledge is valid and binding against all parties having
25 claims of any kind in tort, contract or otherwise
26 against the bank, regardless of whether those parties
27 have notice of the pledge. Neither the resolution nor
28 any other instrument by which a pledge is created need
29 be filed or recorded, except in the records of the
30 bank.

31 §6006. Reserve fund

32 1. Reserve fund. The bank shall establish and
33 maintain a reserve fund called the "Maine Municipal
34 Bond Bank Reserve Fund" in which there shall be
35 deposited all money appropriated by the State for the
36 purpose of that fund, all proceeds of bonds required
37 to be deposited in the fund by terms of any contract
38 between the bank and its bondholders or any resolution
39 of the bank with respect to the proceeds of bonds, any
40 other money or funds of the bank which it determines
41 to deposit in the fund and any other money made

1 available to the bank only for the purposes of the
2 fund from any other source or sources.

3 A. Money in the reserve fund shall be held and
4 applied solely to the payment of the interest on
5 and principal of bonds and sinking fund payments
6 mentioned in this chapter with respect to bonds as
7 the interest, principal and sinking fund payments
8 become due and payable; and for the retirement of
9 bonds, including the payment of any redemption
10 premium required to be paid when any bonds are
11 redeemed or retired before maturity. Money may
12 not be withdrawn from the fund if the withdrawal
13 would reduce the amount in the reserve fund to an
14 amount less than the required debt service
15 reserve, except for:

16 (1) Payment of interest then due and payable
17 on bonds;

18 (2) Payment of the principal of bonds then
19 maturing and payable;

20 (3) Sinking fund payments mentioned in this
21 chapter;

22 (4) The retirement of bonds in accordance
23 with the terms of any contract between the
24 bank and its bondholders; and

25 (5) The payment for which other money of the
26 bank is not then available for payment of
27 interest, principal or sinking fund payments
28 or the retirement of bonds in accordance with
29 the terms of any such contract.

30 B. As used in this chapter "required debt service
31 reserve" means, as of any date of computation, the
32 amount or amounts required to be on deposit in the
33 reserve fund as provided by resolution of the
34 bank. The required debt service reserve shall be,
35 as of any date of computation, an aggregate amount
36 equal to at least the largest amount of money,
37 required by the terms of all contracts between the
38 bank and its bondholders to be raised in the then
39 current or any succeeding calendar year for:

1 (1) The payment of interest on and maturing
2 principal of that portion of outstanding
3 bonds, the proceeds of which were applied
4 solely to the purchase of municipal
5 securities; and
6

7 (2) Sinking fund payments required by the
8 terms of any such contracts to sinking funds
9 established for the payment or redemption of
10 those bonds.

11 The required debt service reserve shall be calculated
12 on the assumption that the bonds will cease to be
13 outstanding after the date of the computation because
14 of the payment of those bonds at their respective
15 maturities and the payments of the required money to
16 sinking funds and the application of those sinking
17 funds in accordance with the terms of all such
18 contracts to the retirement of the bonds.

19 2. Transfer: Money in the reserve fund at any
20 time in excess of the required debt service reserve,
21 whether because of investment or otherwise, may be
22 withdrawn at any time by the bank and transferred to
23 any other fund or account of the bank.

24 3. Investment. Money in the reserve fund may be
25 invested at any time in the same manner as permitted
26 for the investment of funds belonging to the State or
27 held in the treasury.

28 4. Reserve. Notwithstanding any other provision
29 of this chapter, the bank may not issue any bonds
30 unless there is in the reserve fund the required debt
31 service reserve for all bonds then issued and
32 outstanding and the bonds to be issued; provided that
33 nothing in this chapter prevents or precludes the bank
34 from satisfying this requirement by depositing so much
35 of the proceeds of the bonds to be issued, upon their
36 issuance, as is needed to achieve the required debt
37 service reserve. The bank may at any time issue its
38 bonds or notes for the purpose of providing any amount
39 necessary to increase the amount in the reserve fund
40 to the required debt service reserve, or to meet any
41 higher or additional reserve that may be fixed by the
42 bank with respect to the fund.

1 5. Restoration. In order to ensure the
2 maintenance of the required debt service reserve in
3 the reserve fund, there shall be annually appropriated
4 and paid to the bank for deposit in the fund, the sum,
5 if any, certified by the chairman of the bank under
6 paragraph A.

7 A. On or before December 1st of each year, the
8 chairman shall make and deliver to the Governor a
9 certificate stating the sum, if any, required to
10 restore the reserve fund to an amount equal to the
11 required debt service reserve and the sum or sums
12 so certified shall be appropriated and paid to the
13 bank during the then current state fiscal year.

14 6. Valuation. In computing the amount of the
15 required debt service reserve, investments held as a
16 part of the reserve shall be valued in the manner
17 provided in the bond resolution.

18 §6007. General fund

19 1. General fund established; money deposited.
20 The bank shall establish and maintain a fund called
21 the "general fund" which shall consist of and in which
22 there shall be deposited:

23 A. Fees received or charges made by the bank for
24 the use of its services or facilities;

25 B. Any money which the bank transfers to the
26 general fund from the reserve fund under section
27 6006, subsection 2;

28 C. Money received by the bank as:

29 (1) Payments of principal of or interest on
30 municipal securities purchased by the bank;

31 (2) Proceeds of the sale of any municipal
32 securities or investment obligations of the
33 bank; and

34 (3) Proceeds of the sale of bonds or notes
35 of the bank and required under the terms of

1 any resolution of the bank or contract with
2 the holders of its bonds or notes to be
3 deposited in the general fund;

4 D. Any money required under the terms of any
5 resolution of the bank or contract with the
6 holders of its bonds or notes to be deposited in
7 the general fund; and

8 E. Any money transferred to the general fund from
9 any other fund or made available by the State for
10 the purpose of the general fund or for the
11 operating expenses of the bank.

12 2. Use of general fund. Any money in the general
13 fund may, subject to any contracts between the bank
14 and its bondholders or noteholders, be transferred to
15 the reserve fund. If it is not so transferred, the
16 money shall be used to pay the principal of or
17 interest on bonds or notes of the bank when the
18 principal or interest becomes due and payable, whether
19 at maturity or upon redemption, including the payment
20 of any premium upon redemption before maturity.

21 A. Any money available in the general fund may
22 also be used for:

23 (1) The purchase of municipal securities;

24 (2) The purchase or redemption of its bonds
25 or notes. Any such bonds purchased for
26 retirement shall be thereupon cancelled; and

27 (3) All other purposes of the bank including
28 the payment of its operating expenses.

29 (a) No amount may be expended for the
30 bank's operating expenses in any year
31 out of the general fund or from any
32 account in that fund established for
33 that purpose, in excess of the amount
34 provided for the bank's operating
35 expenses by the annual budget for that
36 year or any amendment of the annual
37 budget in effect at the time of the
38 payment or expenditure for operating
39 expenses.

1 B. The bank may create and establish in the
2 general fund any accounts which in the opinion of
3 the bank are necessary, desirable or convenient
4 for the purposes of the bank under this chapter.

5 (1) The bank may establish an account in the
6 general fund for the purpose of paying its
7 operating expenses.

8 §6008. Additional reserves and funds

9 The bank may establish any additional and further
10 reserves or any other funds or accounts that are, in
11 its discretion, necessary, desirable or convenient to
12 further the accomplishment of the purposes of the bank
13 to comply with the provisions of any agreement made by
14 or any resolution of the bank.

15 §6009. Application of money

16 Money or investments in any fund or account of the
17 bank established or held for any bonds, notes,
18 indebtedness or liability to be paid, funded or
19 refunded by the issuance of bonds or notes shall,
20 unless the resolution authorizing the bonds or notes
21 provides otherwise, be applied to the payment or
22 retirement of those bonds, notes, indebtedness or
23 liability, and to no other purpose. If there is any
24 money in any such fund or account in excess of the
25 amount required for the payment, funding or refunding,
26 that money may be removed from the fund or account,
27 but only to the extent that the money or investments
28 remaining in the fund or account are not less than the
29 outstanding bonds, notes, indebtedness or liability of
30 the bank to be paid, funded or refunded and for which
31 the fund or account was established or held.

32 §6010. Purchase of bonds and notes of bank

33 The bank may purchase bonds or notes of the bank
34 out of any funds or money of the bank available for
35 that purpose. The bank may hold, cancel or resell
36 these bonds or notes subject to and in accordance with
37 agreements with holders of its bonds or notes.

1 §6011. Bonds as legal investments and security

2 Notwithstanding any restrictions contained in any
3 other law, the State and all public officers,
4 governmental units and agencies of the State, all
5 national banking associations, state banks, trust
6 companies, savings banks and institutions, building
7 and loan associations, savings and loan associations,
8 investment companies and other persons carrying on a
9 banking business, all insurance companies, insurance
10 associations and other persons carrying on an
11 insurance business, and all executors, administrators,
12 guardians, trustees and other fiduciaries, may legally
13 invest any sinking funds, money or other funds
14 belonging to them or within their control in any bonds
15 or notes issued by the bank under this chapter. These
16 bonds or notes are authorized security for any and all
17 public deposits.

18 §6012. Tax exemptions

19 All property of the bank and all bonds and notes
20 issued under this chapter are deemed to constitute
21 essential public and governmental purposes and the
22 property and the bonds and notes so issued, their
23 transfer and the income from those bonds and notes,
24 including any profits made on the sale of the bonds or
25 notes, are at all times exempt from taxation within
26 the State.

27 §6013. Insurance or guaranty

28 1. Insurance or guaranty authorized. The bank
29 may obtain any insurance or guaranty from any
30 department or agency of the United States or
31 nongovernmental insurer, as to, or of, or for, the
32 payment or repayment of, interest or principal, or
33 both, or any part of the interest and principal on:

34 A. Any bonds or notes issued by the bank; or

35 B. Any municipal securities of governmental units
36 purchased or held by the bank under this chapter.

37 2. Contracts and agreements for insurance.
38 Notwithstanding any other provisions of this chapter,

1 the bank may enter into any agreement or contract with
2 respect to any insurance or guaranty under this
3 section, except to the extent that the agreement or
4 contract would in any way impair or interfere with the
5 bank's ability to perform and fulfill the terms of any
6 agreement made with the holders of the bonds or notes
7 of the bank.

8 §6014. Federal aid

9 The Treasurer of State may receive from the
10 Federal Government any amount of money as
11 appropriated, allocated, granted, turned over or in
12 any way provided for the purposes of the bank or this
13 chapter. Unless otherwise directed by federal
14 authority, these amounts shall be credited to and
15 deposited in the General Fund and are available to the
16 bank.

17 The Treasurer of State shall pay and deposit in
18 the General Fund and make available to the bank, any
19 funds or money in the Treasurer's of State custody or
20 control whether the funds or money is available
21 because of any grant, allocation or appropriation by
22 the Federal Government or the State or any state
23 agency to assist any governmental unit in paying its
24 municipal securities owned or held by the bank, or
25 required by the terms of any other law to be paid to
26 holders or owners of municipal securities upon failure
27 or default of a governmental unit to pay the principal
28 of or interest on its municipal securities when due
29 and payable, to the extent that any such funds or
30 money is applicable with respect to municipal
31 securities of a particular governmental unit which are
32 then owned or held by the bank and as to which that
33 governmental unit has failed or defaulted to make
34 payment of principal or interest as and when due and
35 payable.

36 To the extent that the Treasurer of State is the
37 custodian of any funds or money due or payable to a
38 governmental unit at any time after written notice to
39 the Treasurer of State from the bank to the effect
40 that the governmental unit has not paid or is in
41 default as to the payment of principal of or interest
42 on any municipal securities of that governmental unit

1 then held or owned by the bank, the Treasurer of State
2 shall withhold the payment of such funds or money from
3 the governmental unit until the amount of the
4 principal or interest then due and unpaid has been
5 paid to the bank, or the Treasurer of State has been
6 advised that arrangements, satisfactory to the bank,
7 have been made for the payment of the principal and
8 interest.

9 §6015. Undertakings of depositories

10 1. Undertakings; securities as collateral. All
11 national banking associations or state banks, trust
12 companies, savings banks, investment companies and
13 other persons carrying on a banking business may give
14 to the bank a good and sufficient undertaking with
15 sureties approved by the bank to the effect that the
16 national banking association or state bank or banking
17 institution, as described, will faithfully keep and
18 pay over to the order of or upon the warrant of the
19 bank or its authorized agent, all the funds deposited
20 with it by the bank and agreed interest on those funds
21 under this chapter, at such times or upon such demands
22 as are agreed with the bank.

23 A. Instead of those sureties, the national
24 banking association or state bank or banking
25 institution as described may deposit with the bank
26 or its authorized agent or any trustee for the
27 bank or for the holders of any bonds, as
28 collateral, any securities approved by the bank.

29 2. Deposit agreement. The deposits of the bank
30 may be evidenced by an agreement in the form and upon
31 the terms and conditions agreed upon by the bank and
32 the national banking association or state bank or
33 banking institution.

34 §6016. Purchase of municipal securities

35 1. Contracts with bank; interest; terms; fees.
36 Notwithstanding any general law or special Act
37 applicable to or constituting any limitation on the
38 maximum rate of interest per year payable on bonds or
39 notes, or as to annual interest cost to maturity of
40 money borrowed or received upon issuance of bonds or

1 notes, a governmental unit may contract to pay
2 interest on, or an interest cost per year for, money
3 borrowed from the bank and evidenced by its municipal
4 securities purchased by the bank. Every governmental
5 unit may contract with the bank concerning the terms
6 and conditions of the loan or purchase. Every
7 governmental unit may pay fees and charges required to
8 be paid to the bank for its services.

9 2. Bonds and notes; sale; general
10 characteristics. Notwithstanding any general or
11 special Act or other statute applicable to or
12 constituting any limitation on the sale of bonds or
13 notes, any governmental unit may sell bonds or notes
14 to the bank without limitation as to denomination. As
15 provided in the proceedings of the governing body of
16 the governmental unit under which the bonds and notes
17 are authorized to be issued, those bonds and notes may:

18 A. Be fully registered, registerable as to
19 principal only or in bearer form;

20 B. Bear interest at the rate or rates that are
21 determined in accordance with this section;

22 C. Be evidenced in any manner that is determined;

23 D. Contain other provisions not inconsistent with
24 this section; and

25 E. Be sold to the bank without advertisement at
26 any price or prices that are determined.

27 3. Exchange of bonds. The following provisions
28 apply to the exchange of bonds.

29 A. Subject to the limitations in paragraphs B and
30 C, the governing body of the governmental unit may
31 provide for the exchange, in the manner provided
32 in the proceedings authorizing the issuance of
33 bonds, of:

34 (1) Coupon bonds for fully registered bonds;

35 (2) Fully registered bonds for coupon bonds;
36 and

1 (3) Any such bonds after issuance for bonds
2 of larger or smaller denominations.

3 B. The bonds in changed form or denominations
4 must:

5 (1) Be exchanged for the surrendered bonds
6 in the same aggregate principal amounts and
7 in such manner that no overlapping interest
8 is paid; and

9 (2) Bear interest at the same rate or rates
10 and mature on the same date or dates as the
11 bonds for which they are exchanged.

12 C. When any exchange is made under this section
13 the bonds surrendered by the holders at the time
14 of the exchange shall be cancelled. The exchange
15 shall be made only at the request of the holders
16 of the bonds to be surrendered. The governmental
17 unit may require the bondholders to pay all
18 expenses incurred in connection with the
19 exchange. If any of the officers whose signatures
20 appear on the bonds or coupons cease to be
21 officers before the bonds are delivered, the
22 signatures are valid for all purposes, the same as
23 if they had remained in office.

24 §6017. Remedies on default of municipal securities

25 If a governmental unit defaults in the payment of
26 interest on or principal of any municipal securities
27 owned or held by the bank when due and payable by the
28 governmental unit, the bank shall proceed to enforce
29 payment under applicable provisions of law of the
30 interest or principal or other amounts then due and
31 payable.

32 §6018. Purchase of anticipation notes

33 The bank may purchase notes of any governmental
34 unit issued in anticipation of the sale of municipal
35 securities in an amount not exceeding at any one time
36 outstanding the authorized amount of those municipal
37 securities. The issue and sale of those anticipation

1 notes must be in accordance with the laws applying to
2 the governmental unit issuing the notes. In
3 connection with any such purchase of anticipation
4 notes, the bank may by agreement with the governmental
5 unit impose any terms, conditions and limitations that
6 in its opinion are proper in the circumstances and for
7 the purposes and security of the bank and the holders
8 of its bonds or notes. The bank shall enforce all the
9 rights, remedies and provisions of law that it has
10 under this section or provided elsewhere in this
11 chapter or as otherwise provided by law.

12 §6019. Agreements with financial institutions

13 1. Agreements. The bank may enter into any
14 agreements or contracts with any commercial banks,
15 trust companies, banking or other financial
16 institutions within or outside the State that are
17 necessary, desirable or convenient in the opinion of
18 the bank for the following purposes:

19 A. To provide services to the bank in connection
20 with the care, custody or safekeeping of municipal
21 securities or other investments held or owned by
22 the bank;

23 B. To provide services to the bank in connection
24 with the payment or collection of amounts due and
25 payable as to principal or interest;

26 C. To provide services to the bank in connection
27 with the delivery to the bank of municipal
28 securities or other investments purchased by it or
29 sold by it; and

30 D. To pay the cost of services provided under
31 this section.

32 2. Requiring security. The bank may, in
33 connection with any of the services provided by
34 commercial banks, trust companies or banking or other
35 financial institutions, as to the custody and
36 safekeeping of any of its municipal securities or
37 investments, require security in the way of collateral
38 bonds, surety agreements or security agreements in the
39 form and amount that, in the opinion of the bank, is
40 necessary or desirable for the purpose of the bank.

1 §6020. Form of municipal securities and investments

2 All municipal securities or other investments of
3 money of the bank permitted or provided for under this
4 chapter shall at all times be purchased and held in
5 fully marketable form, subject to provision for any
6 registration in the name of the bank. All municipal
7 securities at any time purchased, held or owned by the
8 bank must upon delivery to the bank be accompanied by
9 documentation including:

10 1. Bond opinion. Approving bond opinion;

11 2. Signature certification. Certification and
12 guaranty as to signatures;

13 3. Litigation certification. Certification as to
14 the absence of litigation; and

15 4. Other documentation. Any other or further
16 documentation that is required from time to time in
17 the municipal bond market.

18 §6021. Presumption of validity

19 After issuance, all bonds or notes of the bank are
20 conclusively presumed to be fully authorized and
21 issued under the laws of the State, and any person or
22 governmental unit is estopped from questioning their
23 authorization, sale, issuance, execution or delivery
24 by the bank.

25 To the extent that this chapter is inconsistent
26 with or in conflict with any private or special Act or
27 the charter of any district or other quasi-municipal
28 corporation, this chapter shall be effective and such
29 other private or special Act or charter of any
30 district or other quasi-municipal corporation does not
31 apply. This chapter is not intended to affect the
32 general laws relating to municipalities, Part 2, in
33 any way.

34 §6022. Exemption of property from execution sale

35 All property of the bank is exempt from levy and

1 sale by virtue of an execution. No execution or other
2 judicial process may issue against the bank's property
3 nor may any judgment against the bank be a charge or
4 lien upon its property, provided that nothing in this
5 chapter may apply to or limit the rights of the holder
6 of any bonds or notes to pursue any remedy for the
7 enforcement of any pledge or lien given by the bank on
8 its revenues or other money.

9 1. Action on resolution. Any action or
10 proceeding in any court to set aside a resolution
11 authorizing the bank's issuance of bonds or notes
12 under this chapter or to obtain any relief upon the
13 ground that the resolution is invalid must be
14 commenced within 30 days after the bank adopts the
15 resolution. After this period of limitation expires,
16 no right of action or defense founded upon the
17 invalidity of the resolution or any of its provisions
18 may be asserted nor may the validity of the resolution
19 or any of its provisions be open to question in any
20 court on any ground.

21 §6023. Remedies of holders of bonds and notes

22 1. Trustee. If the bank defaults in the payment
23 of principal of or interest on any issue of bonds
24 after the principal and interest become due, whether
25 at maturity or upon call for redemption, and that
26 default continues for a period of 30 days, or if the
27 bank fails or refuses to comply with this chapter or
28 defaults in any agreement made with the holders of any
29 issue of bonds, the holders of 25% in aggregate
30 principal amount of bonds then outstanding, by
31 instrument or instruments filed in the office of the
32 clerk of courts of the County of Kennebec and proved
33 or acknowledged in the same manner as a deed to be
34 recorded, may appoint a trustee to represent the
35 bondholders for the purposes provided.

36 2. Duties of trustee. The trustee appointed
37 under subsection 1 may, and upon written request of
38 the holders of 25% in principal amount of all such
39 bonds then outstanding shall, in the trustee's or the
40 bank's own name:

1 A. By mandamus or other suit, action or
2 proceeding at law or in equity, enforce all rights
3 of the bondholders, including the right to require
4 the bank to collect rates, charges and other fees;
5 and to collect interest and amortization payments
6 on municipal securities held by it adequate to
7 carry out any agreement as to, or pledge of, those
8 rates, charges and other fees and of such interest
9 and amortization payments; and to require the bank
10 to carry out any other agreements with the
11 bondholders and to perform its duties under this
12 chapter;

13 B. Bring suit upon the bonds;

14 C. By action or suit, require the bank to account
15 as if it were the trustee of an express trust for
16 the bondholders; and

17 D. By action or suit in equity, enjoin any acts
18 or omissions which may be unlawful or in violation
19 of the rights of the bondholders.

20 3. Additional powers of trustee. The trustee
21 shall also have all of the powers necessary or
22 appropriate for the exercise of any functions
23 specifically set forth in this chapter or incident to
24 the general representation of bondholders in the
25 enforcement and protection of their rights.

26 4. Jurisdiction. The Superior Court has
27 jurisdiction of any suit, action or proceeding by the
28 trustee on behalf of the bondholders. The venue of
29 any such suit, action or proceeding shall be laid in
30 the County of Kennebec.

31 5. Notice. Before declaring the principal of
32 bonds due and payable, the trustee shall first give 30
33 days' notice in writing to the bank.

34 §6024. Personal liability

35 Neither the commissioners of the bank nor any
36 person executing bonds or notes issued under this
37 chapter may be liable personally on those bonds or
38 notes by reason of the issuance of the bonds or notes.

1 CHAPTER 229

2 MUNICIPAL FINANCE BOARD

3 §6101. Membership

4 The Board of Emergency Municipal Finance, as
5 authorized by Title 5, chapter 379, subsection 8, and
6 referred to in this chapter as the "board," shall be
7 composed of the 3 persons who hold the offices of the
8 Commissioner of Finance, Treasurer of State and State
9 Tax Assessor. The successor of any person to any of
10 these offices immediately becomes a member of the
11 board and the person who formerly held that office
12 ceases to be such a member. The person holding the
13 office of State Tax Assessor is the chairman of the
14 board. The members of the board shall be compensated
15 according to the provisions of Title 5, chapter 379.

16 §6102. Purpose

17 The purpose of establishing the board is to enable
18 municipalities that have fallen into financial
19 difficulties to receive assistance from the State and
20 to be reestablished on a sound financial basis and to
21 assure the State of the collection of the taxes due
22 from those municipalities to the State.

23 §6103. General powers; construction

24 1. General powers. All powers and duties
25 necessary to carry out the purposes set forth in this
26 chapter are conferred on the board.

27 2. Liberal construction. This chapter shall be
28 liberally construed to carry out the intent expressed
29 in section 6102.

30 §6104. Availability of state funds for public
31 assistance programs

32 1. Application for funds. Any municipality,
33 which is financially unable to provide for its direct
34 relief and work programs or its contributory share of
35 public assistance programs of any nature, may apply to

1 the Department of Human Services for funds from the
2 State for that purpose. The municipal officers shall
3 apply in writing and shall send a copy of the
4 application to the Board of Emergency Municipal
5 Finance.

6 2. Determination of eligibility. When the
7 application is received, the Department of Human
8 Services and the State Auditor shall determine if the
9 municipality or unorganized territory is unable to
10 provide for its direct relief and work programs or its
11 contributory share of public assistance programs of
12 any nature.

13 3. Provision of state funds. Through the
14 Department of Human Services, the State may provide
15 for direct relief and work programs or the necessary
16 share for the municipality of its contributory share
17 of public assistance programs of any nature in the
18 municipality. No such funds may be expended until the
19 Board of Emergency Municipal Finance takes over the
20 municipality's affairs.

21 §6105. Audit

22 If a municipality falls one year and 6 months
23 behind in the payment of its taxes to the State in
24 full or in part, or defaults on any bond issue or
25 payment of interest due on a bond issue, or neglects
26 to pay school and other salaries due and has received
27 funds from the State in support of its poor, the board
28 may:

29 1. Audit or investigation. Have an audit made of
30 the financial condition of the municipality at the
31 municipality's expense, or an investigation of the
32 financial affairs of the municipality that will reveal
33 whether or not its affairs are in such condition that
34 the interest of the State and public necessity
35 require, in the board's judgment, that its affairs be
36 taken over and administered under this chapter; and

37 2. Other investigation. Make any other
38 investigation of the affairs of that municipality that
39 it considers wise to determine the reason for the
40 failure to pay such taxes and indebtedness and the
41 reason for the need for state relief of its poor.

1 Whenever any municipality applies to the State
2 under section 6104 for funds in support of its poor,
3 the board shall have the audit and investigation
4 provided for in this section performed.

5 §6106. Board may take over local government

6 1. Board may take over local government. If,
7 after having made the audit or investigation provided
8 for in section 6105, the board decides by a majority
9 vote that the delinquency is not due to disbursements
10 for emergency relief which could not reasonably be
11 anticipated or to other unavoidable misfortune, the
12 board may take over and regulate the administration of
13 the government of the municipality and the management
14 of the municipality's financial affairs and administer
15 the municipality's government and financial affairs to
16 the exclusion of or in cooperation with any other
17 local government or governmental agency, as otherwise
18 provided by law.

19 2. Appointment of commissioner or commissioners.
20 For municipalities with a population under 5,000, the
21 board may appoint one man as commissioner. For
22 municipalities with a population of 5,000 or over, the
23 board may appoint 3 persons as commissioners, one of
24 whom the board shall designate as chairman. The
25 commissioner or commissioners shall act under the
26 direction of the board with relation to the government
27 and management of the governmental and financial
28 affairs of the municipality and are responsible to the
29 board.

30 §6107. Powers and duties of commissioners

31 1. Employees; compensation; appropriation. The
32 commissioner or commissioners appointed under section
33 6106 may employ any experts, counsel and other
34 assistants and incur any other expenses that they
35 consider necessary, subject to the control of the
36 board. The municipality shall:

37 A. Appropriate each year a sum sufficient to
38 cover those expenses and a reasonable
39 compensation, set by the board, for the
40 commissioner or commissioners; and

1 B. Pay this sum upon requisition of the
2 commissioner or commissioners.

3 The commissioner or commissioners have the same right
4 to incur expenses in anticipation of its appropriation
5 as if it were a regular department of the
6 municipality. If no such appropriation is made, the
7 commissioner or commissioners may expend the amount
8 found necessary under this section. That payment is a
9 lawful obligation of the municipality.

10 2. Supervision of financial affairs. The
11 commissioner or commissioners shall supervise the
12 municipality's financial affairs. No appropriation
13 may be made and no debt incurred, except with the
14 written approval or upon the written recommendation or
15 requisition of the commissioner or commissioners. No
16 department or officer of the municipality may expend
17 any money or incur any liability, except with the
18 written approval of the commissioner or
19 commissioners. The commissioner or commissioners may
20 from time to time authorize in writing any department
21 or officer of the municipality to make expenditures or
22 incur liabilities without the commissioner or
23 commissioners' written approval until further notice.
24 The commissioner or commissioners may make
25 recommendations in writing to any department or
26 officer of the municipality.

27 §6108. Temporary officials

28 1. Appointment by commissioners. The
29 commissioner or commissioners may declare the offices
30 of auditor, treasurer, collector and assessors or any
31 other offices in the municipality vacant temporarily
32 and appoint successors to any of the offices to serve
33 at the will of the commissioner or commissioners. The
34 appointees shall receive the compensation set by the
35 commissioner or commissioners and the former
36 incumbents shall receive no compensation during their
37 absence from office.

38 2. Appointment by board. The choice of managers,
39 officers and agents shall be and remain with the board
40 and their compensation shall be set by the board, any

1 other law to the contrary notwithstanding. The former
2 incumbents shall receive no compensation during their
3 absence from office. The board may appoint the
4 commissioner or commissioners to serve as any official
5 in the municipalities and fix the compensation for
6 servng in that capacity. If the board considers it
7 advisable, the board may appoint one officer,
8 commissioner or agent to administer 2 or more
9 municipalities.

10 §6109. Loans and assessments

11 1. Loan; commissioners' certificates; borrowing
12 from the State. After having taken over the
13 administration of government and control of the
14 financial affairs of any municipality under section
15 6106, the board, through the commissioner or
16 commissioners in charge of that municipality, may make
17 temporary loans to the extent of the constitutional
18 debt limit of the municipality. The commissioner or
19 commissioners may:

20 A. Issue negotiable commissioners' certificates
21 which shall be a preferred claim against the
22 assets of the municipality operated by the
23 commissioner or commissioners; and

24 B. Borrow from the State, if and when an
25 amendment to the Constitution of Maine is adopted
26 authorizing the loan, in an amount sufficient:

27 (1) To pay the outstanding state taxes of
28 the municipality;

29 (2) To pay any expenses of the board that
30 are allocated to the municipality; and

31 (3) For other lawful purposes.

32 These obligations must be signed by the commissioner
33 or commissioners and otherwise shall be issued in the
34 same manner and form as provided by law upon the terms
35 determined by the board, and thereby to become the
36 valid debt of the municipality.

37 2. Commissioners' authority. In issuing

1 temporary commissioners' certificates or any other
2 acts pursuant to their duties in connection with the
3 government of any municipality, the board has the same
4 authority as is vested in the municipal officers and
5 shall further have the right to issue its certificates
6 as if authorized by the vote of the inhabitants of any
7 such municipality at a regular election called for
8 that purpose.

9 3. Assessments and collection; statute of
10 limitations tolled. The board may make assessments
11 upon the property in the municipality and may collect
12 the same to pay deficiencies and accounts previously
13 contracted by the municipality.

14 During the period of the control by the commissioner
15 or commissioners, the statute of limitations shall not
16 run on any obligations of the municipality.

17 §6110. Duration of power of board

18 The board shall continue in charge of the
19 government and financial affairs of the municipality
20 until:

21 1. Obligations paid. Its taxes due the State, or
22 loans made to pay those taxes, or expenses or
23 obligations incurred by the commissioner or
24 commissioners appointed under section 6106 or the
25 board, have been paid; and

26 2. Municipality may resume control. In the
27 opinion of the commissioner or commissioners or the
28 board, the financial affairs of the municipality may
29 be resumed under local control.

30 §6111. Complaint; notice

31 1. Commissioners may file complaint. If the
32 commissioner or commissioners who are in charge of the
33 affairs of any municipality under this chapter believe
34 that the municipality has incurred, prior to the date
35 on which the board took over the administration of the
36 municipality's affairs, debts and obligations in
37 excess of the debt limit fixed by the Constitution of
38 Maine for the municipality, and, except for section

1 6109 the municipality would be subjected to a
2 multiplicity of actions, the commissioner or
3 commissioners may bring a complaint in the name of the
4 inhabitants of the municipality in the Superior Court
5 in the county in which the municipality is located
6 against all of the known persons holding any debts or
7 obligations against the inhabitants of the
8 municipality, to have the validity of all the debts
9 and obligations of the municipality determined.

10 2. Attorney General to represent petitioners.
11 The Attorney General shall appear for and on behalf of
12 the petitioner in these proceedings. The commissioner
13 or commissioners in charge of the municipality's
14 affairs shall pay the expense of the Attorney
15 General's representation from any funds in their
16 control.

17 3. Filing deadline; notice. The court may fix a
18 time within which all persons holding claims or
19 demands against the inhabitants of the municipality
20 must file their claim or demand for adjudication of
21 its validity as an obligation of the municipality.
22 The court shall order public notice to be given to
23 creditors of the inhabitants of the municipality to
24 file their claims within the time specified. The
25 notice must be published in a newspaper of general
26 circulation in the county in which the municipality is
27 located, and if no newspaper is circulated in that
28 county, then in the state paper, for at least 3
29 successive weeks. The last publication must be at
30 least 30 days before the final date set by the court
31 for filing claims against the inhabitants of the
32 municipality. The court, in its discretion, may order
33 any additional notice to be given that is proper and
34 necessary.

35 4. Hearing. After notice has been given under
36 subsection 3 and before the period for filing claims
37 against the inhabitants of the municipality has
38 expired, the court shall fix the time for hearing upon
39 the claims so filed to determine the validity and
40 amount of the obligation. This hearing may be
41 adjourned from time to time.

42 5. Appeal to Law Court. Any party aggrieved by

1 the finding of the Superior Court may appeal within 30
2 days to the Supreme Judicial Court. The judgment of
3 the Superior Court is binding upon all parties unless
4 appealed under this subsection.

5 6. Effect of judgment. All obligations
6 determined by the court not to be valid claims against
7 the inhabitants of the municipality shall be forever
8 barred in any action against the inhabitants of the
9 municipality. The court's finding may be pleaded as a
10 bar to any action brought upon the claim or claims.

11 All indebtedness adjudicated to be valid against the
12 inhabitants of the municipality by the finding of the
13 Superior Court or on appeal, if an appeal is taken by
14 either party, shall be thereafter considered as a
15 valid outstanding indebtedness against the inhabitants
16 of the municipality.

17 §6112. Voluntary compromise settlements

18 1. Settlement offers authorized. The board, when
19 it considers it advisable to do so for the purpose of
20 reestablishing upon a sound financial basis any
21 municipality under its control, may at any time in
22 behalf of the municipality offer compromise
23 settlements to any of its creditors upon:

24 A. Claims, demands or obligations of whatever
25 nature which accrued before the board assumed
26 control; and

27 B. Upon all interest, whenever accrued, on those
28 claims, demands or obligations.

29 2. Offers to the State. An offer may be made to
30 the State under this section upon obligations due the
31 State, whether arising from taxes, bonds, notes or
32 otherwise by presentation to the Treasurer of State.
33 Upon recommendation, certification and approval in the
34 manner prescribed in Title 5, section 1504, the
35 Treasurer of State shall accept and give a receipt for
36 the sum or sums so offered in full and final
37 settlement. The balance of any such obligation shall
38 be charged off the books of account of the State.

1 3. Offers to a county. With respect to
2 obligations due any county, whether arising from
3 taxes, bonds, notes or otherwise, an offer may be made
4 to its county commissioners and upon acceptance of
5 that offer and tender of the sum agreed upon, the
6 county treasurer shall accept and give a receipt for
7 the sum or sums so offered in full and final
8 settlement. The balance of any such obligation shall
9 be charged off the books of account of the county.

10 4. Creditor or holders' remedies unaffected.
11 This section shall not be construed to require any
12 creditor or the holder of any obligation of the
13 municipality to accept any offer of settlement made
14 under this section, nor shall the refusal to accept
15 diminish the existing rights or remedies in any manner.

16 5. Acceptance and discharge. A creditor's
17 acceptance of any offer made under this section and
18 payment of the sum agreed upon shall in all cases
19 constitute a full and complete discharge of any such
20 claim, demand or obligation, whether arising from
21 taxes, bonds, notes or otherwise. No attachment,
22 levy, action or other process or proceeding may
23 thereafter be commenced, maintained or prosecuted for
24 the collection of any part of the claim, demand or
25 obligation.

26 SUBPART 10

27 VILLAGES

28 CHAPTER 241

29 VILLAGES

30 §6301. Meetings

31 When its legislative body has so provided, the
32 meetings of a village corporation may be announced by
33 having an attested copy of the warrant posted in a
34 conspicuous, public place within the corporate limits
35 at least 7 days before the meeting, instead of in the
36 manner provided by its charter.

37 §6302. Ordinance authority

1 A village corporation or its officers have the
2 same powers and duties which a municipality or its
3 municipal officers have under sections 3002, 3005, and
4 3007 to 3009.

5 §6303. Zoning and planning

6 A village corporation may enact planning and
7 zoning ordinances, subject to the same guidelines and
8 standards which apply to municipalities in chapter
9 191. When there is a conflict between the zoning
10 provisions of a village corporation and those of the
11 municipality of which it is a part, the zoning
12 provisions of the municipality prevail.

13 §6304. Parks

14 Village corporations may take and hold lands by
15 devise or gift, in trust for playground or park
16 purposes, and may expend not more than 10% of the
17 money apportioned to the village corporation, under
18 its charter, for the improvement and care of that land.

19 1. Park commissioners. A village corporation has
20 the powers of a municipality under section 3264,
21 regarding the appointment of park commissioners.

22 PART 3

23 PLANTATIONS AND UNORGANIZED

24 PLACES

25 CHAPTER 301

26 PLANTATIONS

27 SUBCHAPTER I

28 ORGANIZATION

29 §7001. Organization of unincorporated townships

30 1. Census. Any unincorporated township may, by
31 petition of 20% or more of the voters of the township,

1 require the county commissioners to determine from the
2 Federal Decennial Census or by actual enumeration
3 whether the township has 200 inhabitants or more. The
4 county commissioners shall report the result of the
5 census to the Secretary of State who shall record it.

6 2. Organization of township with population of
7 200 or more. IF the report made under subsection 1
8 indicates that the township has a population of 200 or
9 more, the county commissioners shall, with the consent
10 of a majority of the petitioners under subsection 1,
11 issue their warrant to an inhabitant of the
12 unincorporated township, commanding that inhabitant to
13 notify the voters of the unincorporated township, to
14 assemble on a day and at a place named in the warrant,
15 to choose a moderator, clerk, 3 assessors, treasurer,
16 collector of taxes, constable, school committee and
17 other necessary plantation officers.

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

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

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

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

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

19 (1) The petition, if any;

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

23 (3) The record of the organizational
24 meeting; and

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

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

31 §7002. Organized plantations to consist of one
32 township

33 Organized plantations may not be composed of more
34 than one township, and when organized under section
35 7001, former organizations cease.

36 §7003. Plantations reorganized

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

4 §7004. Annual meeting

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

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

13 2. Road commissioners. When money is raised for
14 the repair of ways and bridges, the assessors of the
15 plantation shall choose one or more road commissioners
16 as selectmen of towns do.

17 §7005. Officers' names sent to Secretary of State

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

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

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

1 §7006. Town law applies to officers

2 1. Plantation meetings and officers. The
3 following provisions apply to plantations and their
4 officers, so far as applicable, except when
5 specifically provided otherwise:

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

8 B. Laws relating to the election, appointment,
9 qualification, duties, powers, compensation,
10 liabilities and penalties for official neglect and
11 misconduct of town officers, including, but not
12 limited to, constables.

13 2. Unlawful voting. Voters in plantations are
14 liable to the same penalties for unlawful voting as
15 voters in towns.

16 §7007. Duties of officers

17 Assessors of plantations shall be considered the
18 selectmen of the plantation for the purpose of
19 performing the duties performed by the selectmen of
20 towns. Treasurers, collectors and constables of
21 plantations must give the same bond as similar
22 officers of towns are required to give, to be approved
23 in the same manner. The valuation of property for the
24 assessment of taxes in plantations, as well as the
25 assessment, collection and disposal of taxes, shall be
26 the same as in towns.

27 §7008. Inventory of estates; basis of taxation; money
28 for ways

29 The assessors first chosen in plantations
30 organized under section 7001 shall immediately
31 ascertain and list the value of the property in the
32 plantation, in the same manner as done in towns. They
33 shall return this list to the county commissioners of
34 their county on or before the 15th day of May
35 following the election of the assessors. The county
36 commissioners may examine and correct the list so as
37 to make it conform to the last state valuation, and

1 return a copy of this corrected valuation to the
2 Treasurer of State. When this copy is returned to the
3 Treasurer of State, the plantation's ratable
4 proportion according to the corrected valuation of all
5 state and county taxes shall be assessed on the
6 plantations in the same manner as on towns.

7 1. Money for ways. Such plantations, and any
8 other plantations that are required by special order
9 of the Legislature to pay state or county taxes, may
10 raise money by taxation for making and repairing ways
11 in compliance with Title 23, sections 2001 and 3302.

12 2. When valuation is taken. The valuation of
13 property in any plantation shall be taken as required
14 under this section, corrected and returned to the
15 Treasurer of State, whenever required.

16 §7009. Incorporation into town; first valuation

17 When towns are incorporated, the assessors of the
18 town shall return to the county commissioners of their
19 county the original valuation first taken in their
20 towns, on or before the 15th day of May following the
21 town's incorporation. The county commissioners shall
22 examine and correct this valuation and return a copy
23 of the valuation to the Treasurer of State. This
24 corrected valuation shall be the basis of state and
25 county taxes in the same manner as the valuations of
26 plantations under section 7008.

27 §7010. Failure to make and return valuation

28 If the valuation required by section 7008 or 7009
29 is not made and returned by any town or plantation,
30 which is not within a primary assessing district or is
31 not itself a primary assessing district, within the
32 time specified, the county commissioners shall appoint
33 3 suitable persons of the county to be assessors in
34 that town or plantation. These persons shall be sworn
35 and make and return the valuation required within the
36 time fixed by the commissioners. The county
37 commissioners shall examine and correct this valuation
38 and return a copy of the valuation to the Treasurer of
39 State. This corrected valuation shall be the basis
40 for the assessment of state and county taxes, in the

1 same manner as if the valuation had been taken by the
2 assessors chosen by the town or plantation.

3 1. Assessors paid by county commissioners.
4 Assessors appointed under this section shall be paid
5 from the county treasury a reasonable compensation, to
6 be determined by the county commissioners, for their
7 services. Any sum paid to the assessors for
8 compensation under this section shall be added to the
9 county tax apportioned to the town or plantation and
10 shall be collected and paid into the treasury in the
11 same manner as county taxes.

12 SUBCHAPTER II

13 POWERS AND DUTIES

14 §7051. General powers and duties

15 Plantations have the same powers and duties, and
16 are subject to the same restrictions, as a
17 municipality under the following provisions of this
18 Title:

- 19 1. History and observances. Chapter 131;
20 2. Health, welfare and improvements. Chapter 151;
21 3. Municipal fire protection. Chapter 153;
22 4. Municipal forests. Chapter 155;
23 5. Parks, trees and playgrounds. Chapter 157;
24 6. Public dumps. Chapter 159;
25 7. Sewers and drains. Chapter 161;
26 8. Leasing of air rights. Chapter 165;
27 9. Regulations, licenses and permits. Subpart 6;
28 and
29 10. Tax base sharing. Chapter 223, subchapter V.

30 §7052. Perambulation of boundary lines

1 Sections 2851 and 2852, which contain
2 perambulation provisions for town lines, apply equally
3 to plantations.

4 §7053. Vehicles on icebound inland lakes

5 For the purposes of regulating motor vehicles on
6 icebound inland lakes, plantations have the same
7 powers as municipalities under section 3009,
8 subsection 1, paragraph E.

9 §7054. Recreation

10 A plantation may acquire and maintain real estate
11 and personal property for recreational purposes and
12 may establish and conduct a recreational program.

13 1. Joint operation. A plantation may act jointly
14 with another plantation or a municipality to establish
15 and conduct a recreational program and may contract
16 with another plantation or a municipality for its
17 operation.

18 §7055. Employment of historian

19 A plantation may appoint a historian and determine
20 the historian's duties and compensation.

21 §7056. Plantation forest

22 A plantation may acquire land by purchase, gift or
23 bequest for the purpose of forestation or to reclaim
24 and plant forest trees upon that land. The assessors
25 may appoint a forester whose duties are to make and
26 enforce all necessary regulations and to care for and
27 maintain the land as a forest producing area. A
28 plantation may establish a plantation forest reserve
29 account to fund the operation and maintenance of the
30 forest in accordance with sections 5801 and 5802.

31 §7057. Devises and gifts for open areas, public park
32 and playground

33 Any plantation may receive, hold and manage
34 devises, bequests or gifts for the establishment,

1 increase or maintenance of public parks and
2 playgrounds and open areas, as defined in section
3 2001, subsection 13, by plantation meeting vote. If
4 any plantation receives any such bequest or gift, and
5 that plantation is later incorporated into a town, the
6 bequests and gifts and their proceeds fully vest in
7 that town.

8 §7058. Conservation and energy commissions

9 Plantations may provide for a conservation
10 commission or an energy commission as described in
11 sections 3261 and 3271.

12 §7059. Planning, zoning and subdivision control

13 Plantations may enact planning and zoning
14 ordinances, subject to the same guidelines and
15 standards which apply to municipalities in chapter
16 191, and shall adopt ordinances or regulations
17 necessary to exercise and enforce these powers,
18 including the enactment of ordinances providing for
19 the regulation of buildings and equipment. These
20 ordinances must comply with section 7060.

21 §7060. Buildings and equipment

22 1. Ordinances regulating buildings and equipment
23 required. Plantations adopting planning and zoning
24 shall adopt ordinances:

25 A. Regulating the design, construction materials
26 and construction of new buildings and additions to
27 and alterations of existing buildings; regulating
28 the alteration, demolition, maintenance, repair,
29 use, change of use, safety features, light,
30 ventilation and sanitation facilities of all
31 buildings; regulating the installation,
32 alteration, maintenance, repair and use of all
33 equipment in or connected to all buildings; and
34 requiring permits and establishing reasonable
35 permit fees for all of the operations mentioned in
36 this paragraph; and

37 B. Establishing adequate standards for all
38 features of means of exit, fire protection, fire

1 prevention, accident prevention and structural
2 safety of buildings which are used occasionally or
3 regularly for public assembly; compelling the
4 owners to make improvements to bring these
5 buildings up to the established standards;
6 requiring the owner or lessee of a building used
7 for public assembly which is regulated by an
8 ordinance authorized by this section and operated
9 with the intent of financial gain to obtain a
10 permit for which a fee may be imposed commensurate
11 with its size or capacity; and requiring the owner
12 or lessee of such a building to file a plan
13 showing all safety features as a condition
14 precedent to the issue of a permit or the further
15 use of one already issued.

16 (1) The building inspector shall send a
17 written order to the owner or lessee of a
18 building used for public assembly requiring
19 any conditions which exist in violation of an
20 ordinance to be corrected within 30 days
21 after the order is sent.

22 (2) After the 30-day period expires, the
23 owner or lessee is strictly liable for all
24 injury caused by the failure to correct the
25 violations and the building inspector shall
26 order the building vacated.

27 (3) As used in this section, "building used
28 for public assembly" means a room or space in
29 or on any structure which is used for the
30 gathering of 100 or more persons for any
31 purpose and includes any room or space on the
32 same level, above or below, which has a
33 common entrance.

34 2. Additional provisions. The provisions of this
35 subsection apply to subsection 1.

36 A. The provisions pertaining to buildings apply
37 equally to all structures and parts of them,
38 including mobile and modular homes.

39 B. The building inspector is the licensing
40 authority, unless otherwise provided by the
41 plantation.

1 C. Ordinances defining the duties of the building
2 inspector and other enforcement officers, not
3 contrary to Title 25, chapter 313, may be
4 enacted. All enforcement officers designated by
5 ordinance shall be given free access at reasonable
6 hours to all parts of buildings regulated by
7 ordinance.

8 D. An application for a permit must be in writing
9 and must be signed by the applicant and directed
10 to the building inspector. The failure of the
11 building inspector to issue a written notice of
12 the decision, directed to the applicant within 30
13 days from the filing of the application,
14 constitutes a refusal of the permit. The building
15 inspector shall not issue any permit:

16 (1) For a building or use for which the
17 applicant is required to obtain a license
18 under Title 38, section 413, until the
19 applicant has obtained that license; nor.

20 (2) For a building or use within a land
21 subdivision, as defined in section 4551,
22 unless that subdivision has been approved in
23 accordance with that section.

24 E. An appeal may be taken from any order issued
25 by the building inspector or from the licensing
26 authority's refusal to grant a permit.

27 (1) A person aggrieved by an order of the
28 building inspector or a permit applicant may
29 appeal in writing to the plantation
30 officers. At their next meeting following
31 receipt of the appeal, the plantation
32 officers shall affirm, modify or set aside
33 the decision of the building inspector
34 according to the terms of the pertinent
35 ordinance. They may permit a variation from
36 the terms of an ordinance when necessary to
37 avoid undue hardship, provided that there is
38 no substantial departure from the intent of
39 the ordinance. They may permit an exception
40 to an ordinance only when the terms of the

1 apply for, accept and appropriate federal or state
2 grants for any purpose which they are authorized by
3 law to perform, either directly or through the State
4 or a state agency.

5 1. Borrowing in anticipation. Notwithstanding
6 any provisions in a charter or special Act of the
7 Legislature, but subject to the constitutional limit
8 on indebtedness, any plantation organized before
9 November 1, 1977, which has contracted for and
10 accepted an offer or a grant of federal or state aid,
11 or both, for a particular project, may by vote of its
12 assessors incur indebtedness in anticipation of the
13 receipt of that aid for the particular project by
14 issuing its general obligation notes payable in not
15 more than one year. These notes may be renewed from
16 time to time by the issue of other notes, provided
17 that no notes may be issued or renewed in an amount
18 which at the time of the issuance or renewal exceeds
19 the unpaid amount of the federal or state aid in
20 anticipation of which the notes are issued or renewed.

21 A. To any extent that the federal or state aid in
22 anticipation of which the notes were issued when
23 received exceeds the amount of the aid remaining
24 to be paid under contract or accepted offer, plus
25 the amount of any outstanding notes issued in
26 anticipation of the aid, the remaining aid shall
27 be kept in a separate account and used solely for
28 the payment of any outstanding note.

29 2. Funds for educational purposes. The assessors
30 of any plantation organized before November 1, 1977,
31 may borrow in anticipation of any funds or
32 reimbursements that the Legislature has authorized to
33 be paid to plantations organized before November 1,
34 1977, for educational purposes during the municipal
35 year. The notes shall be paid from those funds
36 received for educational purposes from state agencies
37 during the municipal year.

38 §7104. Accounting and postaudit provisions

39 Sections 5821 to 5824 and 5826, which contain
40 accounting and postaudit provisions for
41 municipalities, apply equally to plantations.

1 A. Subject to the restriction in subparagraph
2 (1), sell or otherwise dispose of any property
3 which the municipality or plantation holds title
4 to at the time of deorganization or may receive
5 title to after deorganization. When disposing of
6 property, the State Tax Assessor shall ensure that
7 the interests of the residents of the unorganized
8 territory are the most important consideration.

9 (1) In the case of school property, the
10 State Tax Assessor shall consult with the
11 Commissioner of Educational and Cultural
12 Services; and

13 B. Assess taxes any time after the act
14 terminating the organization of the municipality
15 or plantation takes effect by making assessment
16 once a year under the laws relating to the
17 assessment of property taxes in unorganized
18 territory.

19 (1) The State Tax Assessor may make
20 additional assessments in the same manner
21 against the property owners in the
22 deorganized municipality or plantation to
23 provide funds to pay the debts of the
24 municipality or plantation.

25 2. Use of money. All money received under this
26 section shall be applied:

27 A. To pay the necessary expenses of the State Tax
28 Assessor in making assessments under subsection 1;

29 B. To pay any obligation of the municipality or
30 plantation outstanding at the time its
31 organization is terminated;

32 C. To pay taxes assessed against the municipality
33 or plantation; and

34 D. To complete any public works of the
35 municipality or plantation already begun.

36 3. Surplus funds and property. At the end of the
37 5-year period, or when in the judgment of the State

1 Tax Assessor final payment of all known accounts
2 against the municipality or plantation has been made,
3 any funds which have not been expended shall be
4 deposited with the county commissioners as undedicated
5 revenue for the unorganized territory fund of that
6 county. Any property of the municipality or
7 plantation which has not been sold shall be held by
8 the State in trust for the unorganized territory or
9 transferred to the county to be held in trust for the
10 unorganized territory. Income from the sale or use of
11 the property shall be used as described in Title 36,
12 section 1604.

13 §7305. Cemetery trust funds

14 The State Tax Assessor may transfer any cemetery
15 trust funds held by a municipality at the time of
16 deorganization to a cemetery association, provided
17 that association is formed under the laws of the
18 State. If no such association exists, the State Tax
19 Assessor may transfer the funds to the county
20 commissioners. These funds are to be retained for the
21 purpose of allowing the interest only to be used in
22 the same manner and for the same purposes for which
23 the fund was originally accepted by the deorganized
24 municipality. If the funds are in the care and
25 custody of the county commissioners and a cemetery
26 association is subsequently formed, the county
27 commissioners may transfer the funds to the cemetery
28 association.

29 CHAPTER 305

30 MUNICIPAL SERVICES IN UNORGANIZED AREAS

31 §7501. Municipal services authorized

32 The county commissioners of each county may
33 provide or contract for the provision of the following
34 municipal services for the residents of the
35 unorganized territory in their county:

36 1. Fire protection. Fire protection other than
37 forest fires;

38 2. Dumps. Public dumps;

1 3. Roads and bridges. Construction, repair and
2 maintenance, including snow removal on roads and
3 bridges, except that the county commissioners may not
4 expend money for improvements, maintenance or snow
5 removal on any privately owned road within the
6 unorganized territory in which the county has not
7 acquired any property interest;

8 4. Polling places. Establishment of polling
9 places under Title 21-A, section 632;

10 5. Administrative services. Coordination of
11 services provided, payment of expenses, administration
12 of the unorganized territory fund. The amount charged
13 for administrative services may not exceed 5% of the
14 budget for the unorganized territory established under
15 section 7503 for the year; and

16 6. Other services. Any other service which a
17 municipality may provide for its inhabitants and which
18 is not provided by the State.

19 §7502. Unorganized territory funds

20 1. Fund established. There is established in
21 each county, one unorganized territory fund into which
22 shall be credited all receipts under Title 12, section
23 7824 and Title 36, sections 1489 and 1606 and all
24 other receipts which are allocated for municipal
25 services in the unorganized territory, and from which
26 all disbursements for municipal services in the
27 unorganized territory shall be made.

28 2. Prior receipts and surpluses. All money
29 received by the county for municipal services for the
30 unorganized territory before September 23, 1983, and
31 remaining unspent shall be deposited into the fund.
32 Any surplus in revenue remaining in the fund at the
33 end of the year, not including amounts allocated to
34 the contingent account or set aside in capital reserve
35 accounts established after November 1, 1983, which is
36 in excess of 10% of the amount of expenditures for
37 that year, shall be used to reduce the amount to be
38 collected in taxes during the next year.

1 3. Commingling; interest. This fund shall be
2 accounted for separately from the funds raised for
3 countywide activities. The return on investment of
4 unorganized territory funds shall be credited to those
5 funds and shall be used only for the unorganized
6 territories. No countywide funds, nor return on
7 investments of countywide funds, may be used to fund
8 expenditures for services that a county is providing
9 to unorganized territories in place of municipal
10 government.

11 4. Uses of the fund. The fund may be used for
12 any of the services authorized in section 7501 in any
13 area of the unorganized territory of the county.

14 5. Contingent account. The county commissioners
15 may establish within the fund a contingent account not
16 to exceed \$25,000. Funds within the contingent
17 account may be transferred to any other account within
18 the fund when those accounts are not sufficient to
19 meet the needs for municipal services to the
20 unorganized territory of the county.

21 6. Capital reserve accounts. The county
22 commissioners may establish capital reserve accounts
23 by following the procedures specified in section 921.

24 §7503. Budget

25 Before November 7th of each year, the county
26 commissioners of each county shall provide to the
27 members of the county legislative delegation a
28 preliminary budget for the services to be provided
29 under this chapter to the unorganized territory in the
30 next year. These preliminary budgets shall be
31 provided in a form that shows how the funds are to be
32 spent for each category of service identified in
33 section 7501 and any projected surplus for the year of
34 unorganized territory funds held by the county. The
35 county commissioners shall provide an opportunity for
36 public comment on the preliminary budget at the same
37 time as a public hearing is held on the county budget,
38 as provided under Part 1, chapter 3, subchapter I.
39 The budget for the unorganized territory shall be
40 finalized at the same time as the regular county
41 budget. A copy of the finalized budget and an

1 accurate identification of any surplus which can be
2 used to reduce the amount needed to be collected in
3 taxes shall be submitted to the State Tax Assessor and
4 to the fiscal administrator of the unorganized
5 territory by January 1st of each year.

6

PART B

7

8

Sec. 1. 10 MRSa c. 951, sub-c. VII is enacted
to read:

9

SUBCHAPTER VII

10

REGULATION OF MOBILE HOME PARKS;

11

LANDLORD AND TENANT

12

§9091. Definitions

13

14

15

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

16

17

1. Mobile home. "Mobile home" means a structure,
transportable in one or more sections, which:

18

19

A. Is 8 body feet or more in width and 32 body
feet or more in length;

20

B. Is built on a permanent chassis;

21

22

23

C. Is designed to be used as a dwelling with or
without a permanent foundation when connected to
the required utilities; and

24

25

26

D. Includes the plumbing, heating, air-
conditioning and electrical systems contained in
the structure.

27

28

29

30

2. Mobile home park. "Mobile home park" means
any parcel of land under single or common ownership or
control which contains, or is designed, laid out or
adapted to accommodate 2 or more mobile homes.

31

32

3. Normal wear and tear. "Normal wear and tear"
means that deterioration which occurs, without

1 negligence, carelessness, accident or abuse of the
2 premises or equipment by the tenant, members of the
3 tenant's household or their invitees or guests. The
4 term does not include sums or labor expended by the
5 landlord in removing articles abandoned by the tenant,
6 such as trash, from the premises.

7 4. Security deposit: "Security deposit" means
8 any advance or deposit of money, the primary function
9 of which is to secure the performance of a rental
10 agreement for a mobile home, including premises used
11 solely for the storage or display of mobile homes.

12 5. Tenant. "Tenant" means a mobile home owner
13 who rents a parcel of land in a mobile home park.

14 §9092. Purchase of equipment

15 No mobile home park owner or operator may require
16 a resident of the park to purchase from the owner or
17 operator any underskirting, equipment for tying down
18 mobile homes or any other equipment required by law,
19 local ordinance or rule of the mobile home park.

20 1. Permitted regulations. The park operator may
21 determine by rule the style or quality of the
22 equipment which the tenant purchases from a vendor
23 selected by the tenant.

24 §9093. Fees; charges; assessments; rules

25 1. Duty to disclose. A mobile home park owner or
26 operator shall disclose fully in writing all fees,
27 charges, assessments and rules before a mobile home
28 dweller assumes occupancy in the park.

29 2. Increases or changes. The park owner or
30 operator must give at least 30 days' written notice to
31 all tenants before changing any rules or increasing
32 any fees, charges or assessments.

33 3. Failure to disclose charges. If the park
34 owner or operator fails to fully disclose any fees,
35 charges or assessments, those fees, charges or
36 assessments may not be collected. The owner or
37 operator may not use the mobile home dweller's refusal

1 to pay any undisclosed charge as a cause for eviction
2 in any court.

3 §9094. Restrictions on disposal of mobile homes

4 1. Park acting as agent; advertising. No mobile
5 home park may exact a commission or fee with respect
6 to the price realized by the seller of a mobile home,
7 unless the park owner or operator has acted under a
8 written contract as an agent for the mobile home owner
9 in the sale. No mobile home park owner or operator
10 may require as a condition of tenancy or continued
11 tenancy that a mobile home owner designate the park
12 owner or operator, or any other individual or agent,
13 to act as an agent for the mobile home owner in the
14 sale of the home owner's mobile home. No mobile home
15 park may restrict in any manner the reasonable
16 advertising for sale of any mobile home in that park.

17 2. Rules. No mobile home owner or operator may
18 require a mobile home owner to remove the owner's
19 mobile home from the park, except under a rule
20 contained in the written copy of the park rules given
21 to the tenant under section 9097, subsection 5. The
22 rules must clearly describe the specific circumstances
23 under which the park owner or operator may require a
24 tenant to remove the tenant's mobile home from the
25 park.

26 A. In the case of a rule governing the
27 circumstances under which a park owner or operator
28 may require a mobile home owner to remove that
29 mobile home from the park because of the age or
30 condition of the mobile home, the park owner or
31 operator must obtain approval of the rule by the
32 Manufactured Housing Board before including the
33 rule in the written copy of the park rules given
34 to the tenant. After approval by the board, such
35 a rule remains in effect until the board approves
36 a rule submitted to it by the park owner or
37 operator to replace that rule.

38 B. Nothing in this subsection may be construed to
39 require a park owner or operator to obtain the
40 approval of the Manufactured Housing Board before
41 including a rule in the park rules, except as
42 provided in paragraph A.

1 §9095. Restrictions on the purchase of fuel oil or
2 bottled gas

3 Except as provided in subsection 1, no mobile home
4 park owner or operator may require, as a condition of
5 tenancy or continued tenancy, that a mobile home owner
6 or dweller purchase fuel oil or bottled gas from any
7 particular fuel oil or bottled gas dealer or
8 distributor.

9 1. Centralized distribution system. This section
10 does not apply to a mobile home park owner or operator
11 who provides a centralized distribution system for
12 fuel oil or bottled gas, or both, for residents in the
13 park. No mobile home park owner or operator who
14 provides such a centralized distribution system may
15 charge residents more than the average retail price
16 charged by other retail distributors for fuel oil or
17 bottled gas in the county in which the mobile home
18 park is located.

19 §9096. Space for purchaser of mobile home from owner
20 of park

21 A tenancy or other estate at will or lease in a
22 mobile home park may not be terminated solely for the
23 purpose of making the tenant's space in the park
24 available for a person who purchased a mobile home
25 from the owner of the mobile home park or the owner's
26 agents.

27 §9097. Terms of rental agreement

28 1. Eviction of tenant. A tenancy may be
29 terminated by a park owner or operator only for one or
30 more of the following reasons:

31 A. Nonpayment of rent, utility charges or
32 reasonable incidental service charges, provided
33 that no action for possession may be maintained
34 if, prior to the expiration of a notice to quit,
35 the tenant pays or tenders all arrearages due plus
36 5% of the outstanding rent or a maximum of \$5 as
37 liquidated damages;

- 1 B. Failure of the tenant to comply with local
2 ordinances or state or federal law, rules or
3 regulations relating to mobile homes or mobile
4 home parks, provided that the tenant first is
5 given written notice of failure to comply with
6 those restrictions and a reasonable opportunity to
7 comply with the restrictions;
- 8 C. Damage by the tenant to the demised property,
9 except for reasonable wear and tear;
- 10 D. Repeated conduct of the tenant upon the mobile
11 home park premises which disturbs the peace and
12 quiet or safety of other tenants in the mobile
13 home park;
- 14 E. Failure of the tenant to comply with
15 reasonable written rules of the mobile home park
16 as established by the park owner or operator in
17 the rental agreement at the beginning of the
18 tenancy or as subsequently amended, provided that
19 the tenant first is given written notice of
20 failure to comply and a reasonable opportunity to
21 comply with those rules;
- 22 F. Condemnation or change of use of the mobile
23 home park;
- 24 G. Renovation or reconstruction of any portions
25 of the park, provided that 60 days' notice, in
26 addition to any other notice required by this
27 section, is given in writing to the tenant;
- 28 H. Under terms and expressed conditions in the
29 original lease or rental agreement which is
30 entered into by the tenant and landlord; or
- 31 I. Violation by a tenant of paragraph A, B or E,
32 3 or more times in a 12-month period,
33 notwithstanding the fact that the tenant in each
34 case corrected the violation after being notified
35 of the violation by the park owner or operator.
36 For purposes of termination under this paragraph,
37 the tenant must have engaged in at least 3
38 separate instances of misconduct.

1 2. Notice. A tenancy in a mobile home park may
2 be terminated only by:

3 A. The tenant giving at least 45 days' notice of
4 termination to the park owner; or

5 B. The park owner entitled under subsection 1 to
6 the mobile home space giving at least 45 days'
7 notice of termination in writing to the tenant.
8 In the event that the landlord or the landlord's
9 agent has made at least 3 witnessed good faith
10 efforts made on 3 separate days to serve the
11 tenant, service may be accomplished by both
12 mailing the notice by first class mail to the
13 tenant's last known address and by leaving the
14 notice at the tenant's space in the park.

15 (1) In cases where the reason for eviction
16 is nonpayment of rent, the tenancy may be
17 terminated by 30 days' notice given in the
18 same manner.

19 3. Fees. The owner of a mobile home park or the
20 owner's agents may not charge any fees to tenants
21 other than charges for rent, utilities, incidental
22 service charges, entrance fees or security deposits,
23 unless otherwise provided for in the original lease or
24 agreement. The owner of a mobile home park or the
25 owner's agents may not charge any entrance fee to a
26 tenant who is moving into a mobile home currently in
27 the park which is greater than 4 times the amount of
28 the monthly rent.

29 4. Rules. A mobile home park owner may adopt
30 reasonable rules governing the conduct of tenants, if
31 the rules are reasonably related to preserving the
32 order and peace of other tenants and the mobile home
33 park. No park rule may be unreasonable, unfair or
34 unconscionable. Any rule or change in rent which does
35 not apply uniformly to all park tenants creates a
36 rebuttable presumption that the rule or change in rent
37 is unfair. Any park rule which does not comply with
38 this section is void.

39 5. Tenant to be given copy of rules and
40 applicable laws. Before any rental agreement is

1 entered into, the owner must provide each tenant who
2 resides in the park and all prospective tenants with:

3 A. A written copy of the rules of the mobile home
4 park; and

5 B. A written copy of this subchapter.

6 6. Enforcement. In addition to any other remedy
7 under this subchapter, any mobile home park resident
8 may sue to enforce any provision of this section and
9 the court may award damages or grant injunctive or
10 other appropriate relief.

11 7. Waiver prohibited. No lease or rental
12 agreement, oral or written, may contain any provision
13 by which the tenant waives any rights under this
14 subchapter. Any such waiver is contrary to public
15 policy and unenforceable.

16 8. Written or oral rental agreement. Nothing in
17 this section may be construed to permit a park owner
18 or operator to vary the terms of a written or oral
19 rental agreement without the express written consent
20 of the tenant.

21 9. Rental agreements involving children. The
22 following provisions govern mobile home park rental
23 agreements involving children.

24 A. If, at the beginning of a tenancy for a space
25 in a mobile home park, the park owner or operator
26 and a mobile home owner who has children enter
27 into an oral or written rental agreement that
28 allows the tenant and the tenant's children to
29 rent that space, the park owner or operator may
30 not terminate the tenancy on the sole basis that
31 the tenant has children residing in the mobile
32 home.

33 B. Except as provided in subparagraph (1), if a
34 tenant sells the mobile home and, at the time of
35 sale, the tenant has at least one child age 18
36 years or under residing in the mobile home, the
37 park owner or operator may not refuse to rent a
38 space to the person who purchases that mobile home

1 from the tenant on the sole basis that the
2 purchaser has children who will reside in the
3 mobile home. The park owner or operator may not
4 terminate the tenancy with the purchaser on the
5 sole basis that the purchaser has children
6 residing in the mobile home.

7 (1) If the park owner or operator discloses
8 to the tenant an intention to do so at the
9 beginning of tenancy, the park owner or
10 operator may refuse to enter into a tenancy
11 with a person who purchases the mobile home
12 from the tenant on the basis that the
13 purchaser has children who will reside in the
14 mobile home.

15 C. This subsection does not apply when:

16 (1) A mobile home park owner or operator
17 rents a space to a tenant under an agreement
18 that the space is to be occupied only by
19 adults; or

20 (2) A park owner or operator rents a space
21 normally designated as an adult site to a
22 tenant with children under an agreement that
23 the tenancy is against normal park procedures
24 and only temporary.

25 §9098. Security deposits

26 1. Maximum security deposit. No lessor of a
27 mobile home park lot may require a security deposit
28 greater than 3 months' rent.

29 2. Return of security deposit. The following
30 provisions apply to the retention and return of a
31 security deposit.

32 A. A security deposit or any portion of a
33 security deposit may not be retained to pay for
34 normal wear and tear.

35 B. A mobile home park operator shall return to a
36 tenant the full security deposit deposited with

1 the landlord by the tenant, plus 4% annual
2 interest or, if there is actual cause for
3 retaining the security deposit or any portion of
4 it, the mobile home park operator shall provide
5 the tenant with a written statement, itemizing the
6 reasons for the retention of the security deposit
7 or any portion of it, within 21 days after the
8 termination of the tenancy or the surrender and
9 acceptance of the premises, whichever occurs first.

10 (1) The written statement itemizing the
11 reasons for the retention of any portion of
12 the security deposit must be accompanied by a
13 full payment of the difference between the
14 security deposit and the amount retained.

15 (2) The mobile home park operator is deemed
16 to have complied with this section if the
17 operator mails the statement and any payment
18 required to the tenant's last known address.

19 (3) Nothing in this section precludes the
20 mobile home park operator from retaining the
21 security deposit for nonpayment of rent or
22 nonpayment of utility charges which the
23 tenant was required to pay directly to the
24 mobile home park operator.

25 C. If a mobile home park operator fails to
26 provide a written statement or to return the
27 security deposit within the time specified in
28 paragraph B, the park owner or operator forfeits
29 the right to withhold any portion of the security
30 deposit.

31 3. Wrongful retention; damages; burden of proof.
32 The following provisions apply to the wrongful
33 retention of a security deposit by a mobile home park
34 operator.

35 A. If the mobile home park operator fails to
36 return the security deposit and provide the
37 itemized statement within 21 days as specified in
38 subsection 3, paragraph B, the tenant must notify
39 the mobile home park operator of the intention to

1 bring a legal action at least 7 days before
2 commencing the action. If the mobile home park
3 operator fails to return the entire security
4 deposit within the 7-day period, it is presumed
5 that the landlord is willfully and wrongfully
6 retaining the security deposit.

7 B. A mobile home park operator who willfully
8 retains a security deposit in violation of this
9 subchapter is liable for double the amount of that
10 portion of the security deposit wrongfully
11 withheld from the tenant, together with reasonable
12 attorney's fees and court costs.

13 C. In any court action brought by a tenant under
14 this section, the mobile home park operator has
15 the burden of proving that the operator's
16 withholding of the security deposit, or any
17 portion of it, was not wrongful.

18 §9099. Implied warranty and covenant of habitability

19 1. Implied warranty of fitness for human
20 habitation. In any written or oral agreement for
21 rental of a space in a mobile home park, the park
22 owner or operator is deemed to covenant and warrant
23 that the space and its associated facilities are fit
24 for human habitation.

25 2. Complaints. If a condition exists in a space
26 which renders the space unfit for human habitation, a
27 tenant may file a complaint against the park owner or
28 operator in the District Court or Superior Court. The
29 complaint must state that:

30 A. A condition, which must be described,
31 endangers or materially impairs the health or
32 safety of the tenants;

33 B. The condition was not caused by the tenant or
34 another person acting under the tenant's control;

35 C. Written notice of the condition was given
36 without unreasonable delay to the park owner or
37 operator or to the person who customarily collects
38 rent on behalf of the park owner or operator.

1 (1) This notice requirement may be satisfied
2 by actual notice to the person who
3 customarily collects rents on behalf of the
4 park owner or operator;

5 D. The park owner or operator unreasonably failed
6 under the circumstances to take prompt, effective
7 steps to repair or remedy the condition; and

8 E. The tenant was current in rental payments
9 owing to the park owner or operator when written
10 notice was given.

11 3. Remedies. If a complaint is filed under this
12 section, the court shall enter any temporary
13 restraining orders that are necessary to protect the
14 health or well-being of tenants or of the public. If
15 the court finds that the allegations in the complaint
16 are true, the park owner or operator is deemed to have
17 breached the warranty of fitness for human habitation
18 established by this section as of the date when actual
19 notice of the condition was given to the park owner or
20 operator. In addition to any other relief or remedies
21 which may otherwise exist, the court may take one or
22 more of the following actions.

23 A. The court may issue appropriate injunctions
24 ordering the park owner or operator to repair all
25 conditions which endanger or materially impair the
26 health or safety of the tenant.

27 B. The court may determine the fair value of the
28 tenant's use and occupancy of the space from the
29 date when the park owner or operator received
30 actual notice of the condition until the time that
31 the condition is repaired and further declare
32 what, if any, money the tenant owes the park owner
33 or operator or what, if any, rebate the park owner
34 or operator owes the tenant for rent paid in
35 excess of the value of use and occupancy. In
36 making this determination, there is a rebuttable
37 presumption that the rental amount equals the fair
38 value of the space free from any condition
39 rendering it unfit for human habitation.

1 C. The court may authorize the tenant to
2 temporarily vacate the space if the space must be
3 vacant during necessary repairs. No use and
4 occupation charge may be incurred by a tenant
5 until the tenant resumes occupation of the space.
6 If the park owner or operator offers reasonable
7 alternative housing accommodations, the court may
8 not surcharge the park owner or operator for
9 alternate tenant housing during the period of
10 necessary repairs.

11 D. The court may enter any other orders that it
12 considers necessary to accomplish the purposes of
13 this section. The court may not award
14 consequential damages for breach of the warranty
15 of fitness for human habitation.

16 4. Waiver. A written agreement under which the
17 tenant accepts specified conditions which may violate
18 the warranty of fitness for human habitation in return
19 for a stated reduction in rent or other specified fair
20 consideration is binding on the tenant and the park
21 owner or operator.

22 Any agreement, other than as provided in this
23 subsection, by a tenant to waive any of the rights or
24 benefits provided by this section is void.

25 5. Municipal ordinance or rule. Municipalities
26 may adopt or retain, by ordinances or rules, standards
27 more stringent than those provided in this section.
28 Any less restrictive municipal ordinance or rule
29 establishing standards is invalid and suspended by
30 this section.

31 §9100. Violations

32 A violation of this subchapter is a violation of
33 Title 5, chapter 10, the unfair trade practices laws.

34 Sec. 2. 12 MRSA c. 202-B is enacted to read:

35 CHAPTER 202-B

36 PUBLIC RESERVED LOTS

1 §581. Public reserved lands; location

2 1. Public reserved lands. In every township, or
3 plantation existing on October 3, 1973, or organized
4 after that date, there shall be reserved, as the
5 Legislature directs, 1,000 acres of land, and in the
6 same proportion in all tracts less than a township,
7 for the exclusive benefit of the State. This land
8 must be of average quality, situation and value as to
9 timber and minerals as compared to other lands in the
10 township or plantation. Title to these reserved
11 public lots is in the State. All future earnings
12 attributable to those public lots belong to the State
13 to be used for the management and preservation of the
14 public lots as state assets.

15 2. Location by agreement. In townships or tracts
16 sold and not incorporated, the public reserved lots
17 may be selected and located by the Commissioner of
18 Conservation and the proprietors by a written
19 agreement describing the reserved lands by metes and
20 bounds, signed by the parties and recorded in the
21 commissioner's office. The plan or outline of the
22 lands so selected shall be:

23 A. Entered on the plan of the township or tract
24 in the commissioner's office; and

25 B. Recorded in the registry of deeds in the
26 county in which the township is located.

27 3. Location without agreement. When the
28 commissioner and proprietors of a tract or township
29 described in subsection 1 cannot agree on the location
30 of the public reserved lands, the commissioner may
31 petition the Superior Court in the county where the
32 land lies to appoint a committee of 3 disinterested
33 persons. The court shall issue a warrant under the
34 seal of the court to these persons, requiring them to
35 locate the public reserved lot or lots in the township
36 or tract as soon as possible. The public reserved lot
37 or lots must be of average quality as compared to
38 other lands in the tract or township.

39 A. Before taking any action, the members of the
40 committee formed under this subsection must be

1 sworn before a notary public. A certificate of
2 the swearing shall be endorsed on the court's
3 warrant.

4 B. At least 30 days before their first meeting,
5 the members of the committee shall announce their
6 appointment and the time and place of their
7 meeting to perform their duties by:

8 (1) Publishing a notice in a newspaper in
9 the State, to be designated by the court; and

10 (2) If ordered by the court to do so,
11 posting written notification in 2 or more
12 public places in the same plantation or town.

13 C. The members of the committee shall make a
14 signed return of the court's warrant and their
15 activity under it to the Superior Court when they
16 have completed their service. Upon acceptance by
17 the court and after being recorded in the registry
18 of deeds in the county or registry district where
19 the land is located, within 6 months, the public
20 reserved lot or lots shall be legally assigned and
21 located.

22 D. In a proceeding for the location of public
23 reserved lots under this subsection, an appeal may
24 be taken to the Law Court as in other actions.

25 §582. Subdivided lands

26 When portions or lots are reserved for public uses
27 in a tract of land to be divided, they shall first be
28 set out, of an average quality and situation, and a
29 return made of that reserved land to the
30 commissioner's office, with a description of its
31 quality and location. The commissioner's return of
32 partition, accepted and recorded as provided, is a
33 valid location of the reserved lands.

34 §583. Incorporation into town; location

35 When, in the grant of any townships or parts of
36 townships, certain portions are reserved for public
37 uses and those portions have not been located in

1 severalty before the townships or parts are
2 incorporated into a town, the Superior Court in the
3 county where the land lies, on application of the
4 assessors of the town, may appoint a committee of 3
5 disinterested persons of the county. The court shall
6 issue a warrant under seal of the court to these
7 persons, requiring them to locate the reserved portion
8 according to the terms of the grant as soon as
9 possible. If the use or purpose of the reservation is
10 prescribed in the grant, they shall set off and locate
11 the lots accordingly.

12 1. Members sworn. Before taking action under the
13 warrant, the members of a committee formed under this
14 section must be sworn to the faithful discharge of the
15 duty assigned them. A certificate of the swearing
16 shall be endorsed on the court's warrant.

17 2. Notice. At least 30 days before locating the
18 reserved portions, the members of the committee shall
19 announce their appointment and the time and place of
20 their meeting to perform their duties by:

21 A. Publishing a notice in a newspaper in the
22 State, to be designated by the court; and

23 B. Posting written notices in 2 or more public
24 places in the same town.

25 3. Return; location of lands. The members of the
26 committee shall make a return of the court's warrant
27 and their activity under it to the Superior Court when
28 they have completed their duties. Upon acceptance by
29 the court and after being recorded in the registry of
30 deeds in the county or registry district where the
31 land is located, within 6 months, the reserved
32 portions shall be legally assigned and located.

33 §584. Criteria for location

34 Whenever land reserved for public use is located
35 under this chapter and the commissioner makes the
36 return of partition under section 582, the
37 determination as to what lands are of an average
38 quality, situation and value with the other lands in
39 the township shall include, but not be limited to,
40 appropriate consideration of the following criteria:

1 1. Contiguousness. Contiguousness to other
2 public lands;

3 2. Recreational needs. Public recreational needs;

4 3. Accessibility to transportation. Acces-
5 sibility to roads, highways and other transportation;

6 4. Proximity to population. Proximity to centers
7 of population;

8 5. State needs. Needs of state agencies;

9 6. Scenic quality. Scenic quality;

10 7. Mineral value. Value as to minerals;

11 8. Timber value. Value as to timber;

12 9. Resource preservation. The preservation of
13 significant natural, recreational and historic
14 resources, including wildlife habitat and other areas
15 critical to the ecology of the State; and

16 10. Management plan. The provisions of any
17 applicable comprehensive or long-range management plan
18 for the use of public lands.

19 §585. Management of public reserved lands

20 1. Purpose. The Legislature finds that:

21 A. It is in the public interest and for the
22 general benefit of the people of this State that
23 title, possession and the responsibility for the
24 management of the public reserved lands contained
25 within the unincorporated areas of the State be
26 vested and established in an agent of the State
27 acting on behalf of all of the people of the State;

28 B. It is in the public interest that the public
29 reserved lands be managed under the principles of
30 multiple use to produce a sustained yield of
31 products and services and that this management
32 should be effected by the use of both prudent

1 business practices and the principles of sound
2 planning; and

3 C. It is in the public interest that the lands be
4 managed to demonstrate exemplary land management
5 practices, including silvicultural wildlife and
6 recreational management practices, as a
7 demonstration of state policies governing
8 management of forested and related types of lands.

9 2. Definitions. As used in this section, unless
10 the context otherwise indicates, the following terms
11 have the following meanings.

12 A. "Multiple use" means:

13 (1) The management of all of the various
14 renewable surface resources of the public
15 reserved lots, including outdoor recreation,
16 timber, watershed, fish and wildlife and
17 other public purposes;

18 (2) Making the most judicious use of the
19 land for some or all of these resources over
20 areas large and diverse enough to provide
21 sufficient latitude for periodic adjustments
22 in use to conform to changing needs and
23 conditions;

24 (3) That some land will be used for less
25 than all of the resources; and

26 (4) Harmonious and coordinated management of
27 the various resources, each with the other,
28 without impairing the productivity of the
29 land, with consideration being given to the
30 relative values of the various resources and
31 not necessarily the combination of uses that
32 will give the greatest dollar return or the
33 greatest unit output.

34 B. "Public reserved lands" means:

35 (1). All the public reserved lots of the
36 State, including any ministerial and school
37 lands in the unincorporated areas of the
38 State;

1 (2) All lands acquired with proceeds from
2 the sale of those reserved lands;

3 (3) All lands received by the State in
4 exchange for or pursuant to relocation of
5 those reserved lands; and

6 (4) All lands purchased by the State and
7 expressly designated as public reserved lands.

8 C. "Sustained yield" means the achievement and
9 maintenance in perpetuity of a high-level regular
10 periodic output of the various renewable resources
11 of the public reserved lots without impairing the
12 productivity of the land.

13 3. Responsibility. The commissioner has the
14 care, custody, control and responsibility for the
15 management of the public reserved lands in the
16 unincorporated areas of the State. The commissioner
17 shall prepare, revise from time to time and maintain a
18 comprehensive management plan for the management of
19 the public reserved lands in accordance with the
20 guidelines in this chapter. The management plan must
21 provide for a flexible and practical approach to the
22 coordinated management of the public reserved lands.
23 In preparing, revising and maintaining this management
24 plan, the commissioner, to the extent practicable,
25 shall compile and maintain an adequate inventory of
26 the public reserved lands, including not only the
27 timber on those lands but also the other multiple use
28 values for which the public reserved lands are
29 managed. In addition, the commissioner shall consider
30 all criteria listed in section 584 for the location of
31 public reserved lands in developing the management
32 plan. The commissioner is entitled to the full
33 cooperation of the Maine Geological Survey, Department
34 of Inland Fisheries and Wildlife, Bureau of Parks and
35 Recreation, Maine Land Use Regulation Commission and
36 State Planning Office in compiling and maintaining the
37 inventory of the public reserved lands. The
38 commissioner shall consult with those agencies as well
39 as other appropriate state agencies in the preparation
40 and maintenance of the comprehensive management plan
41 for the public reserved lands. This plan shall

1 provide for the demonstration of appropriate
2 management practices that will enhance the timber,
3 wildlife, recreation, economic and other values of the
4 lands. When prepared, all management of the public
5 reserved lands, to the extent practicable, shall be in
6 accordance with this management plan.

7 Within the context of the comprehensive management
8 plan, the commissioner, after adequate opportunity for
9 public review and comment, shall adopt specific action
10 plans for each of the units of the public reserved
11 lands system. Each action plan shall include
12 consideration of the related systems of silviculture
13 and regeneration of forest resources and shall provide
14 for outdoor recreation, including remote, undeveloped
15 areas, timber, watershed protection, wildlife and
16 fish. The commissioner shall complete the action
17 plans no later than December 31, 1989, and shall
18 revise them from time to time as necessary. The
19 commissioner shall provide adequate opportunity for
20 public review and comment on any substantial revision
21 of an action plan. Management of the public reserved
22 lands before the action plans are completed must be in
23 accordance with all other provisions of this section.

24 4. Actions. The Director of the Bureau of Public
25 Lands may take the following actions on the public
26 reserved lands consistent with the management plans
27 for those lands and upon such terms and conditions and
28 for such consideration as the director considers
29 reasonable:

30 A. Grant permits and enter into contracts to cut
31 timber, harvest grass and wild foods, tap maple
32 trees for sap and cultivate and harvest crops,
33 provided that these permits and contract rights
34 create revocable licenses to the permittee or
35 party to the contract and do not create any real
36 property interest in the public reserved lands or
37 any other public lands;

38 B. Sell sand and gravel existing in the soil for
39 the construction of public roads or for any other
40 purposes which the director considers consistent
41 with the purposes of this chapter;

1 C. Lease the right, for a term not exceeding 25
2 years, to:

3 (1) Set and maintain or use poles, electric
4 power transmission and telecommunication
5 transmission facilities, roads, bridges and
6 landing strips;

7 (2) Lay and maintain or use pipelines and
8 railroad tracks; and

9 (3) Establish and maintain or use other
10 rights-of-way;

11 D. Lease campsites, garages, depots, warehouses
12 and other structures, or sites for the same, for a
13 term not exceeding 5 years, and also do the
14 following:

15 (1) Grant options to renew these leases for
16 a further term not to exceed 15 years in the
17 case of a commercial use which in the opinion
18 of the director requires the option to secure
19 adequate financing for the maintenance or
20 improvement of facilities located upon public
21 reserved land;

22 (2) In the case of leases acquired by the
23 State on lands exchanged for public reserved
24 lands, the director shall authorize, upon
25 reasonable terms and conditions, the transfer
26 of leasehold interests from a lessee of a
27 residential campsite to another; and

28 (3) Sell storehouses and other structures
29 and fixtures that are surplus to the needs of
30 the bureau;

31 E. Construct and maintain overnight campsites and
32 other camping and recreational facilities and
33 charge reasonable fees to defray the cost of
34 constructing and maintaining these facilities;

35 F. Grant the right to construct and maintain
36 public roads;

1 G. With the consent of the Governor, lease mill
2 privileges and other rights in land for industrial
3 and commercial purposes, dam sites, dump sites,
4 the rights to pen, construct, put in, maintain and
5 use ditches, tunnels, conduits, flumes and other
6 works for the drainage and passage of water,
7 flowage rights and other rights of value in the
8 public reserved lands for a term not exceeding 10
9 years;

10 H. With the consent of the Governor, lease to the
11 Federal Government the right to use public
12 reserved lands;

13 I. Sell severed timber and other products,
14 including, but not limited to, wood and timber
15 necessary to be used in the operation of a mine,
16 severed grass and other wild foods, maple sap and
17 syrup, crops and sand and gravel;

18 J. Lease the right to use parcels of land, except
19 submerged lands, to municipalities and other
20 agencies or political subdivisions of the State,
21 and to private, nonprofit organizations, for a
22 period not exceeding 25 years, for purposes of
23 protecting, enhancing or developing the natural,
24 scenic or wilderness qualities or recreational,
25 scientific or educational uses of the lands under
26 the care, custody and control of the Bureau of
27 Public Lands, provided that each such lease
28 contains a provision authorizing the State to
29 terminate the lease at any time when the State, in
30 its sole discretion, determines that termination
31 is in the best interests of the State. No
32 adjustment or compensation may be due to any
33 lessee under this section on account of that
34 termination; and

35 K. Lease to incorporated towns the right to
36 manage timber on all or part of the public
37 reserved lands within the boundaries of the towns
38 in accordance with multiple use management plans,
39 subject to the following conditions:

40 (1) Public reserved lands acquired through
41 land exchanges may not be leased under this
42 paragraph;

1 (2) A management plan submitted to the
2 director by a town shall be approved or
3 disapproved by the director within 60 days of
4 submission or the plan is deemed approved.
5 The director shall conduct the same
6 interagency reviews and apply the same
7 standards in evaluating these management
8 plans as are being applied in formulating the
9 bureau's own management plans as of the date
10 of submittal;

11 (3) The leases shall be for a period not
12 exceeding 15 years and may be renewed if the
13 director determines that the management plans
14 have been implemented and substantially
15 complied with in a professionally acceptable
16 manner;

17 (4) The director may terminate the lease at
18 any time, without adjustment or compensation
19 due any lessee, if the termination is in the
20 best interests of the State. The director
21 shall give 30 days' written notice before
22 termination. The director shall hold a
23 public hearing, if requested by the lessee
24 within 30 days of that notice. The director
25 shall issue written notice of a final
26 decision within 30 days of the hearing. This
27 decision may be appealed to the Superior
28 Court;

29 (5) Public access to lands leased under this
30 paragraph may not be unreasonably denied; and

31 (6) No lease may convey any interest in
32 lands affected other than those permitted by
33 this section.

34 5. Transfer of responsibility. Whenever a
35 particular portion of the public reserved lands is to
36 be used, under the management plan, for a dominant use
37 which is within the particular expertise of another
38 agency of the State, the commissioner, with the
39 consent of the Governor and the state agency involved,
40 may transfer to that other state agency the

1 responsibility for the management of that particular
2 portion of the public reserved lands.

3 6. Application. Nothing in this section may be
4 construed to require the location of unlocated public
5 reserved lands. The commissioner shall determine the
6 desirability of locating unlocated public reserved
7 lands in the preparation and maintenance of the
8 management plan for the public reserved lands. The
9 commissioner shall take appropriate steps to ensure
10 that, in those townships in which public reserved
11 lands remain unlocated, the State receives its
12 proportionate share of common income and that the
13 lands are not subjected to waste by the other
14 cotenants.

15 7. Bond; stumpage or other rights of value.
16 Persons, corporations or other legal entities
17 obtaining permits or contracts to sever or extract
18 materials upon the public reserved lands under this
19 section shall give bond to the director with
20 satisfactory sureties for the payment of stumpage or
21 other rights of value and the performance of all
22 conditions of the permit or contract. All timber cut
23 or other material taken under permits or contracts is
24 the property of the State until the stumpage or other
25 rights are paid in full.

26 8. Persons with residential leasehold interests
27 in public lands on October 1, 1975. With respect to
28 persons with residential leasehold interests in public
29 reserved lands on October 1, 1975, or on lands
30 exchanged for public reserved lands, the director
31 shall enter into new leasehold agreements with those
32 persons, and thereafter shall renew those leases on
33 what from time to time may be reasonable terms and
34 conditions, as long as the lessee complies with the
35 terms and conditions of the leases and with all
36 applicable laws and rules of the State.

37 9. Lease rates. The annual fee for camp leases
38 under subsection 4 shall not exceed 10% of the fair
39 market value of the land, as determined once during
40 each 5-year lease term by the State Tax Assessor.
41 Notwithstanding this subsection, there shall be a
42 minimum annual camp lease fee of \$150.

1 §586. Funds from public reserved lands

2 1. Fund established. All income received by the
3 director from the public reserved lands, except income
4 provided for in section 588, shall be deposited with
5 the Treasurer of State, to be credited to the Public
6 Reserved Lands Management Fund which is established as
7 a nonlapsing fund. Any interest earned on this money
8 shall also be credited to the fund.

9 2. Expenditures from fund. Expenditures from the
10 fund are subject to legislative approval in the same
11 manner as appropriations from the General Fund. No
12 money may be expended without allocation by the
13 Legislature. The joint standing committee of the
14 Legislature having jurisdiction over appropriations
15 and financial affairs must approve the allocations.

16 §587. Unorganized Territory School Fund

17 1. Fund; unexpended income. The Unorganized
18 Territory School Fund, which includes the existing
19 principal of that fund arising from the public
20 reserved lots before October 3, 1973, and any accrued
21 but unexpended income from the fund since that date,
22 shall continue in existence.

23 2. Administration; annual income. The Treasurer
24 of State shall hold and administer the fund. The
25 income of the fund shall be credited on December 31st
26 annually to the Unorganized Territory Education and
27 Services Fund established by Title 36, chapter 115,
28 and used to reduce the amount determined to be the
29 municipal cost components for the next fiscal year.

30 §588. Organized Townships Fund

31 1. Fund; continued existence. The Organized
32 Townships Fund, which includes the existing principal
33 of the fund arising from the public reserved lots
34 before October 3, 1973, and any accrued but unexpended
35 income of the fund since that date, shall continue in
36 existence. The income of the fund shall be credited
37 to the fund annually as earned.

1 2. Administration; income; incorporation into
2 town. The Treasurer of State shall hold and
3 administer the fund. The income of the fund shall be
4 added to the principal of the funds, until the
5 inhabitants of the township or tract are incorporated
6 into a municipality, unless previously expended
7 according to law. When any such tract or township is
8 incorporated as a town, the Treasurer of State shall
9 pay the funds belonging to it to the treasurer of the
10 town. The funds shall be added to the funds of that
11 corporation and held and managed as other school funds
12 of that town are required to be held and managed.

13 3. Income from camps; payment for school
14 support. Notwithstanding subsections 1 and 2, 75% of
15 any income from residential leasehold camps, excluding
16 any income or proceeds from the sale, exchange or
17 relocation of any of these camps under section 590,
18 and 25% of any other income arising from activities
19 under section 585, subsection 4, on public reserved
20 lands located in townships or tracts organized into
21 plantations as of March 1, 1974, shall be held by the
22 Treasurer of State in the Organized Townships Fund.
23 The Treasurer of State shall pay annually the income
24 from that portion of the fund belonging to each such
25 plantation to the treasurer of the plantation to be
26 applied toward the support of schools according to the
27 number of students in each school. The Treasurer of
28 State shall compute this income on January 1st of each
29 year. The Commissioner of Educational and Cultural
30 Services shall file in the office of the State
31 Controller a list of these plantations with the amount
32 due for income for the preceding year according to a
33 record of those amounts to be furnished to the
34 commissioner by the Treasurer of State. The
35 Commissioner of Educational and Cultural Services must
36 be satisfied that the plantations are organized, that
37 schools have been established in the plantations
38 according to law, that assessors are sworn and
39 qualified and that the treasurers of the plantations
40 have given bonds as required by law. The State
41 Controller shall insert the name and amount due the
42 plantations in one of the first warrants drawn in that
43 year.

1 A. The amount due Lakeville Plantation, Penobscot
2 County, annually under this section shall be
3 expended in accordance with this section. Any
4 excess shall be used, under the supervision and
5 direction of the superintending school committee
6 of Lakeville Plantation, be used to establish
7 scholarship aid for students of Lakeville
8 Plantation to receive post high school education.

9 §589. Trespass; duty of assessors

10 The assessors in the organized plantations shall
11 help police the public reserved lots within the
12 boundaries of their respective plantations without any
13 expense to the Bureau of Public Lands. They shall
14 immediately report any cutting or removal of timber or
15 other materials of value to the director in writing.

16 The assessors in plantations organized before
17 March 1, 1974, may review and comment before final
18 actions taken by the commissioner under section 585,
19 subsection 4, on the public lots located within their
20 respective plantations.

21 §590. Public reserved land acquisition, sale,
22 exchange or relocation

23 1. Recommendations to the Legislature. The
24 director may make recommendations to the Legislature
25 for the sale, exchange or relocation of public
26 reserved lands. Except as provided in subsection 2,
27 the director may sell, exchange or relocate those
28 lands only after the approval of the Legislature.

29 2. Sale of small parcels. The director, after
30 review by the joint standing committee of the
31 Legislature having jurisdiction over state and local
32 government and subsequent approval by the Governor,
33 may sell any parcel of public reserved land not
34 exceeding 1/4 acre in size, provided that:

35 A. The parcel is sold to the owner of private
36 land which adjoins the parcel;

37 B. The director determines that public ownership
38 of the parcel, because of its size, shape and

1 location, has no use or value except as an adjunct
2 to the adjoining private property; and

3 C. The sale is for fair market value of the
4 parcel as determined by the director, taking into
5 account factors including the effect of ownership
6 of the parcel upon the value of the adjoining
7 private property.

8 Before making any sale, the director shall make a
9 written finding with respect to the requirements of
10 this subsection. The written finding shall be
11 available for public inspection at the director's
12 office during regular working hours.

13 It is the policy of the State that the requirements of
14 this subsection be strictly applied and that sale of
15 any parcel of a public reserved lot be discouraged,
16 except in compliance with this subsection.

17 3. Notice of sales, exchanges and relocations.
18 Before requesting approval under subsection 1 or
19 review under subsection 2, the director shall give
20 notice of the proposed sale, exchange or relocation
21 and may hold a public hearing, provided that the
22 director shall hold a public hearing if requested by
23 any party.

24 4. Public Reserved Lands Acquisition Fund. To
25 accomplish the purposes of this chapter, there is
26 established the Public Reserved Lands Acquisition
27 Fund. Notwithstanding section 586, all income or
28 proceeds received by the Bureau of Public Lands from
29 the sale, exchange or relocation of any public
30 reserved lands shall be recorded on the books in a
31 separate account and shall be deposited with the
32 Treasurer of State to be credited to the Public
33 Reserved Lands Acquisition Fund. Any interest earned
34 on this money shall also be credited to the fund.

35 5. Expenditures of fund. All money credited to
36 the fund shall be used exclusively to purchase and
37 assemble quantities of land of such size and location
38 as the director determines best fulfill the purposes
39 of this chapter. Lands acquired with this money are
40 deemed to be public reserved lands. The State shall

1 hold and manage these lands, subject to the same terms
2 and conditions that apply to other public reserved
3 lands. There is appropriated to pay for this property
4 so much of the funds raised from income designated in
5 subsection 4 and paid into the State Treasury as
6 necessary to pay for the purchase of real property to
7 be held and managed as public reserved lands. The
8 director, with the prior approval of the commissioner
9 and the Governor, shall authorize the State Controller
10 to draw the director's warrant for such a purchase at
11 any time. Any remaining balance shall continue from
12 year to year as a fund available only for the purposes
13 of this section.

14 PART C

15 Sec. 1. 1 MRSA §72, sub-§13, as repealed and
16 replaced by PL 1981, c. 698, §1, is amended to read:

17 13. Municipality. "Municipality" includes cities,
18 towns and plantations, except that "municipality" does
19 not include plantations in Title 10, chapter 110,
20 subchapter IV; Title 30, chapters 201 to 213, 235,
21 239, subchapters I-A, I-B, II, III, III-A and IV; and
22 chapters 240, 241 and 243 to 245 or Title 30-A, Part
23 2.

24 Sec. 2. 4 MRSA §152, sub-§6, as repealed and
25 replaced by PL 1987, c. 192, §1, is repealed and the
26 following enacted in its place:

27 6. Land use laws. Original jurisdiction,
28 concurrent with that of the Superior Court, to grant
29 equitable relief in proceedings involving alleged
30 violations of a local land use ordinance or regulation
31 or a state land use law or rule, including, but not
32 limited to, the following:

33 A. The laws pertaining to the Maine Land Use
34 Regulation Commission, Title 12, chapter 206-A;

35 B. The minimum lot size law, Title 12, sections
36 4807 to 4807-G;

- 1 C. Shoreland zoning ordinances enacted under
2 Title 30-A, section 3001, and in accordance with
3 Title 12, sections 4811 to 4817;
- 4 D., The alteration of rivers, streams and brooks
5 laws, Title 38, sections 425 to 431;
- 6 E. The plumbing and subsurface waste water
7 disposal rules adopted by the Department of Human
8 Services under Title 22, section 42;
- 9 F. Laws pertaining to public water supplies,
10 Title 22, sections 2642, 2647 and 2648;
- 11 G. Local ordinances enacted under Title 22,
12 section 2642, and in accordance with Title 30-A,
13 section 3001;
- 14 H. Local land use ordinances enacted under Title
15 30-A, section 3001;
- 16 I. Local building codes adopted pursuant to Title
17 30-A, section 3001, and in accordance with Title
18 30-A, chapter 185, subchapter I;
- 19 J. Automobile junkyards, Title 30-A, chapter 183,
20 subchapter I;
- 21 K. Regulation and inspection of plumbing, Title
22 30-A, chapter 185, subchapter III;
- 23 L. Malfunctioning domestic waste water disposal
24 units, Title 30-A, section 3428;
- 25 M. The subdivision law, Title 30-A, section 4551;
26 local subdivision ordinances enacted under Title
27 30-A, section 3001; and subdivision regulations
28 adopted under Title 30-A, section 4551;
- 29 N. Local zoning ordinances enacted under Title
30 30-A, section 3001, and in accordance with Title
31 30-A, section 4503;
- 32 O. The great ponds program, Title 38, sections
33 386 to 396;

1 P. Laws pertaining to the discharge of wastes,
2 Title 38, sections 413, 414, 417, 418 and 420;

3 Q. The alteration of coastal wetlands laws, Title
4 38, sections 471 to 476 and 478;

5 R. The site location of development laws, Title
6 38, sections 481 to 485 and 488 to 490; and

7 S. The oil discharge prevention and pollution
8 control laws, Title 38, sections 543, 545 and 560.

9 Sec. 3. 4 MRSA §301, 2nd ¶ is amended to read:

.0 Judges of probate in the several counties shall
.1 receive annual salaries as set forth in Title 307
.2 30-A, section 2.

.3 Sec. 4. 4 MRSA §807, first ¶, as repealed and
.4 replaced by PL 1987, c. 402, Pt. A, §8, is repealed
5 and the following enacted in its place:

6 No person may practice law or hold that person out
7 to practice law within the State or before its courts,
8 or demand or receive any remuneration for those
9 services rendered in this State, unless that person
0 has been admitted to the bar of this State and has
1 complied with section 806-A, or unless that person has
2 been admitted to try cases in the courts of this State
3 under section 802. Any person who practices law in
4 violation of these requirements is guilty of the
5 unauthorized practice of law, which is a Class E
6 crime. This section shall not be construed to apply
7 to practice before any Federal Court by any person
8 admitted to practice therein; nor to a person pleading
9 or managing that person's own cause in court; nor to
0 the officer or employee of a corporation, partnership,
1 sole proprietorship or governmental entity, who is not
2 an attorney, but is appearing for that organization in
3 an action cognizable as a small claim under Title 14,
4 chapter 738; nor to a person who is not an attorney,
5 but is representing a municipality under Title 30-A,
6 section 2671, subsection 3; section 4221, subsection
7 2; section 4506, subsection 1; or Title 38, section
8 441, subsection 2; nor to a person who is not an
9 attorney, but is representing the Department of

1 Environmental Protection under Title 38, section 342,
2 subsection 7; nor to a person who is not an attorney,
3 but is representing the Bureau of Employment Security
4 or the Bureau of Taxation under section 807-A. In all
5 proceedings, the fact, as shown by the records of the
6 Board of Overseers of the Bar, that that person is not
7 recorded as a member of the bar shall be prima facie
8 evidence of nonmembership of the bar licensed to
9 practice law in the State.

10 Sec. 5. 5 MRSA §243, sub-§2, as amended by PL
11 1979, c. 541, Pt. A, §21, is further amended to read:

12 2. Accounting systems for counties. To install
13 uniform accounting systems and perform annual
14 postaudits of all accounts and other financial records
15 of the several counties or any departments or agencies
16 thereof, the expenses of such audits to be paid by the
17 counties and reports of such audits shall accompany
18 the county estimates submitted to the Legislature as
19 provided by Title 307, section 253 30-A, chapter 3,
20 subchapter I, and shall be published in the county
21 reports next following the completion of such audits;

22 Sec. 6. 5 MRSA §243, sub-§3 is amended to read:

23 3. Accounting systems for municipalities. To
24 install uniform accounting systems and perform audits
25 for cities, towns and villages as required by Title
26 307-sections-5251-to-5253 30-A, sections 5821 to 5823;

27 Sec. 7. 5 MRSA §1816, sub-§2, ¶A, as amended by
28 PL 1985, c. 222, §1, is further amended to read:

29 A. The procurement of services, supplies,
30 materials and equipment required involves the
31 expenditure of less than \$250 or \$1,000 or less
32 for purchases by county commissioners pursuant to
33 Title 307, section 304 30-A, section 124, and
34 the interests of the State would best be served
35 thereby;

36 Sec. 8. 5 MRSA §3305, sub-§1, ¶D, as amended by
37 PL 1985, c. 765, §1, is further amended to read:

1 D. Upon request provide technical assistance to
2 local and regional planning groups in the fields
3 of planning, public housing and urban renewal. The
4 State Planning Office may assist in forming
5 regional planning commissions and councils of
6 governments and may assist with financing the cost
7 of operation of such regional planning
8 commissions established under Title 30, chapter
9 204-A, subchapter III, and of councils of
10 governments empowered under Title 30, chapter
11 204-A, subchapter II 30-A, chapter 119,
12 subchapter I. Participation shall be limited to
13 half of the nonfederal share of a federally
14 assisted project or 1/3 of a nonfederally assisted
15 planning operation;

16 Sec. 9. 5 MRSA §5005, sub-§1, ¶N, as amended by
17 PL 1985, c. 481, Pt. A, §16, is further amended to
18 read:

19 N. In cooperation with the Office of the State
20 Fire Marshal and other interested parties, prepare
21 proposed standards for the installation of stoves
22 designed exclusively to burn wood for the purposes
23 of heating or cooking, but shall not include wood
24 stoves designed as furnaces attached to a central
25 heating system. A hearing shall be held, preceded
26 by reasonable notice to the public, on these
27 proposed standards and they shall be modified as
28 deemed necessary in response to the public
29 hearing. The Office of Energy Resources shall make
30 these standards available to those municipalities
31 which desire to regulate the installation of wood
32 stoves, pursuant to their powers as expressed in
33 Title 30, section 2151 30-A, section 3001;

34 Sec. 10. 5 MRSA §12004, sub-§7, ¶A, sub-¶¶(6)
35 and (9), are amended to read:

36 (6) Maine State Housing	Legisl-	30-MRSA-§4601-A
37 Authority	ative	30-A MRSA §4722
38	Per	
39	Diem	

1	(9)	Maine Municipal	Legisl-	30-MRSA-§5164
2		Bond Bank, Board	ative	<u>30-A MRSA §5951</u>
3		of Commissioners	per	
4			diem	
5			<u>Per Diem</u>	

6 Sec. 11. 5 MRSA §12004, sub-§8, ¶A, sub-¶¶(8)
7 and (11) are amended to read:

8	(8)	Environ-	(General)	Not Autho-	30-MRSA
9		ment/	River Cor-	rized	1961
10		Natural	ridor Com-		30 MRSA
11		Resources	mission		<u>\$4601</u>

12	(11)	Finance	Board of	Expenses	30-MRSA
13			Emergency	Only	\$5301
14			Municipal		30-A MRSA
15			Finance		<u>\$6101</u>

16 Sec. 12. 5 MRSA §12004, sub-§10, ¶A, sub-¶¶(29),
17 (50) and (51), are amended to read:

18	(29)	Housing	Advisory	Expenses Only	30-MRSA
19			Board to		\$4602
20			the Maine		30-A MRSA
21			State		<u>\$4723</u>
22			Housing		
23			Authority		

24	(50)	Local and	County Rec-	Not Author-	30-MRSA
25		County	ords Board	rized	\$347
26		Govern-			30-A MRSA
27		ment			<u>\$554</u>

28	(51)	Local and	Municipal	Not Author-	30-MRSA
29		County	Records	rized	\$2214
30		Govern-	Board		30-A MRSA
31		ment			<u>\$2754</u>

32 Sec. 13. 8 MRSA §502, 2nd ¶, as amended by PL
33 1987, c. 264, is further amended to read:

34 No traveling circus, traveling amusement show or
35 amusement device may operate or exhibit any parade,
36 show or entertainment in this State without first

1 paying a license fee for each calendar year.
2 Application for the license shall be made to the
3 Commissioner of Public Safety and shall contain the
4 name of the person or corporation using or operating
5 the traveling circus, traveling amusement show or
6 amusement device, and a statement of proposed
7 territory within the limits of the State, and names of
8 the cities and towns in which the traveling circus,
9 traveling amusement show or amusement device is to
10 operate or exhibit. No traveling circus or traveling
11 amusement show or amusement device may exhibit any
12 parade, show or entertainment in this State without
13 first furnishing the Commissioner of Public Safety, in
14 an amount to be determined by him, a certificate of
15 public liability insurance issued by an authorized
16 insurer or approved surplus lines insurer pursuant to
17 Title 24-A or any risk retention group licensed in any
18 state pursuant to the United States Code, Title 15,
19 Chapter 65, or through a purchasing group licensed in
20 any state pursuant to the United States Code, Title
21 15, Chapter 65. Upon receipt of the application,
22 accompanied by a certificate of public liability
23 insurance and upon payment of the required fee, a
24 license shall be issued. For amusement shows,
25 carnivals, thrill shows, ice shows, rodeos or similar
26 types of performances which are held indoors or
27 outdoors the fee shall be \$250. For circuses which are
28 held outdoors or under tents or similar temporary
29 cover or enclosure the fee shall be \$500. For circuses
30 held indoors in an auditorium, arena, civic center or
31 similar type building the fee shall be \$250. For
32 circuses produced in their entirety by a nonprofit,
33 charitable organization a license is required but no
34 fee may be charged. The amusement device license fee
35 shall be \$25 per amusement device. A traveling
36 amusement show, having amusement devices and having
37 secured a traveling amusement show license, shall pay
38 an additional amusement device license fee for each
39 amusement device over 8 rides. "Amusement device"
40 means a device by which a person is conveyed, where
41 control by the rider over the speed or direction of
42 travel is incomplete. It does not include a vehicle or
43 device, the operation of which is regulated as to
44 safety by any other provision of law, except a
45 municipal ordinance under Title 30, section 2151
46 30-A, section 3001, or any coin-operated kiddie

1 amusement device on a nonmoving base which is designed
2 to accommodate one child.

3 Sec. 14. 10 MRSA §1041, sub-§3, as amended by PL
4 1985, c. 344, §58, is further amended to read:

5 3. Acquire securities. Issue revenue obligation
6 securities to acquire one or more issues of revenue
7 obligation securities issued by municipalities or to
8 acquire any other bond not eligible for purchase
9 pursuant to Title 30, chapter 241, subchapter II,
10 Article 3-A 30-A, chapter 225. Any single issue of
11 securities may provide funds for the acquisition of
12 revenue obligation securities of one or more
13 municipalities or of bonds for one or more projects
14 which may be separate, unconnected, distinct and
15 unrelated in purpose;

16 Sec. 15. 10 MRSA §1043, sub-§4, as amended by
17 PL 1985, c. 344, §63, is further amended to read:

18 4. Exception. This section and section 1044,
19 subsection 2, shall not apply in the case of issue by
20 the authority of revenue obligation securities for the
21 purpose of acquiring one or more issues of outstanding
22 revenue obligation securities issued by municipalities
23 or one or more issues of any other bond not eligible
24 for purchase pursuant to Title 30, chapter 241,
25 subchapter II, Article 3-A 30-A, chapter 225.

26 Sec. 16. 11 MRSA §9-203, sub-§(4), as enacted
27 by PL 1977, c. 696, §127, is amended to read:

28 (4) A transaction, although subject to this
29 Article, is also subject to the applicable provisions
30 of Title 9-A, or to Title 30, section 3051 and
31 sections 3151 to 3155 30-A, sections 3961 and 3965,
32 and in the case of conflict between the provisions of
33 this Article and any such statute the provisions of
34 such statute control. Failure to comply with any
35 applicable statute has only the effect which is
36 specified therein.

37 Sec. 17. 12 MRSA §552, sub-§1, 1B, as enacted
38 by PL 1975, c. 339, §6, is amended to read:

1 B. Prepare for review by the Commissioner of
2 Conservation, revise from time to time and
3 maintain plans for the management of such land in
4 accordance with the principles of multiple use as
5 defined in Title 307, section 41627, 12, section
6 585, subsection 2, paragraph A.

7 Sec. 18. 12 MRSA §552, sub-§2, ¶¶A and E, as
8 enacted by PL 1975, c. 339, §6, are amended to read:

9 A. The Bureau of Public Lands may employ or
10 retain such expert and professional consultants,
11 and contract for such research and development
12 projects, as it deems necessary within the limits
13 of funds available and consistent with the
14 purposes of this chapter and Title 307, chapter
15 233 12, chapter 202-B.

16 E. The bureau, at the expense of the State, may
17 cause copies of sections or parts of sections of
18 this chapter or Title 307, chapter 233 12,
19 chapter 202-B, and of other laws of the State
20 relating to the administration of public lands to
21 be printed and freely distributed. The bureau may
22 prepare tracts or circulars of information on the
23 administration of public lands which shall be
24 available for distribution.

25 Sec. 19. 12 MRSA §553, sub-§3, ¶C, as amended
26 by PL 1985, c. 299, §1, is further amended to read:

27 C. Make a written report on or before the 30th
28 day of the first regular legislative session to
29 the joint standing committee of the Legislature
30 having jurisdiction over natural resources,
31 containing a complete accounting of the income and
32 expenditures of the Bureau of Public Lands during
33 the biennium ending on the 31st day of December
34 next preceding the convening of such session. The
35 report shall also contain a summary of the
36 bureau's management activities during the past
37 year regarding timber, recreation, wildlife and
38 other subjects as appropriate. The director shall
39 also report on any gates or other constructed
40 barriers to public access by motor vehicle to any

1 public reserved lands, when these block the sole
2 or primary motor vehicle access, whether or not
3 these barriers are located on public or private
4 land and whether or not they are owned by the
5 State or private parties. The director shall also
6 report on any campsite or recreational facility
7 fees charged under Title 30~~7~~ section 4162~~7~~ 12,
8 section 585, subsection 4, paragraph E;

9 Sec. 20. 12 MRSA §554, as enacted by PL 1975,
10 c. 339, §6, is amended to read:

11 §554. Management of public lands

12 The Director of the Bureau of Public Lands shall
13 have the same powers, subject to the same conditions,
14 with respect to the management of all the lands under
15 the care, custody, control or management of the Bureau
16 of Public Lands as he has with respect to the public
17 reserved lands as set forth in Title 30~~7~~ section
18 4162~~7~~ 12, section 585, subsections 4 and 7.

19 Sec. 21. 12 MRSA §557, sub-§3, as repealed and
20 replaced by PL 1985, c. 506, Pt. A, §11, is amended to
21 read:

22 3. Compensation to municipalities. Notwith-
23 standing the other provisions of this section, 25% of
24 the net revenues from any public lands, excluding
25 submerged lands, public reserved lands and lands held
26 under section 560, and excluding proceeds from the
27 sale of land, located in municipalities and managed by
28 the Bureau of Public Lands, shall be returned by the
29 Treasurer of State to the municipality wherein the
30 land generating the income is located, to be used for
31 municipal purposes. With respect to those public
32 reserved lands which were located in townships or
33 tracts organized into plantations as of March 1, 1974,
34 when any such plantation, subsequent to that date,
35 becomes incorporated into a town, 75% of any income
36 from residential leasehold camps, excluding any income
37 or proceeds from the sale, exchange or relocation of
38 any of these camps under Title 30~~7~~ section 4169 12,
39 section 590, and 25% of any other income from

1 such public reserved land shall be returned by the
2 Treasurer of State to the municipality wherein such
3 public reserved land is located, to be used for
4 municipal purposes. With respect to stumpage income
5 from timber located on public reserved lands and
6 leased pursuant to Title 307, section 41627,
7 subsection 47, paragraph B 12, section 585, subsection
8 4, paragraph K, 50% of the income shall be returned by
9 the Treasurer of State to the lessee for its own
10 purposes. The director may approve the handling of
11 income from sales or permits for up to \$500 by the
12 lessees. The lessees shall submit a semiannual
13 accounting of this income and payment for the State's
14 share of the income.

15 Sec. 22. 12 MRSA §685-A, sub-§4, as repealed
16 and replaced by PL 1985, c. 506, Pt. A, §12, is
17 amended to read:

18 4. Land use standards considered as minimum
19 requirements. Land use standards shall be interpreted
20 and applied by the commission as minimum requirements,
21 adopted to reasonably and effectively promote health,
22 safety and general welfare and insure compliance with
23 state plans and policies.

24 Whenever the requirements of the adopted land use
25 standards are at variance with the requirements of any
26 other lawfully adopted rules, regulations, standards,
27 ordinances, deed restrictions or covenants, the more
28 protective of existing natural, recreation and
29 historic resources shall govern.

30 Any portion of a land use district which subsequently
31 becomes an organized municipality or part of an
32 organized municipality or any plantation which adopts
33 planning, zoning and subdivision control as provided
34 in Title 307, section 5621: 30-A, section 7059, shall
35 continue to be regulated by the Maine Land Use
36 Regulation Commission pursuant to this chapter until
37 such time as the municipality or plantation of which
38 the regulated district is then a part shall adopt land
39 use plans and regulations not less protective of the
40 existing natural, recreational or historic resources
41 than those adopted by the commission.

1 A. Any municipality organized after September 23,
2 1971, or any plantation which adopts planning,
3 zoning and subdivision control as provided in
4 Title 307, section 5622 30-A, section 7059, may
5 submit to the commission and receive the approval
6 of the commission of the following:

7 (1) A comprehensive land use plan for that
8 plantation or proposed city or town;

9 (2) Standards for determining land use
10 district boundaries and uses permitted within
11 the districts in that plantation or proposed
12 city or town;

13 (3) A land use district boundary map for
14 that plantation or proposed city or town; and

15 (4) Such other proposed regulations or
16 standards as the commission deems to be
17 necessary to achieve the purpose, intent and
18 provisions of this chapter.

19 Upon request of the municipality or plantation,
20 the commission shall prepare such plans, maps,
21 regulations and standards as it may deem necessary
22 to meet minimum planning and zoning standards for
23 its approval of those standards.

24 Upon obtaining approval, the plantation, city or
25 town shall thereafter adopt, administer and
26 enforce the approved plans, maps, regulations and
27 standards.

28 B. From time to time, the commission may review
29 the administration and enforcement of local land
30 use plans and regulations by plantations and
31 municipalities which have adopted land use plans,
32 maps, regulations and standards approved by the
33 commission. IF, following the review, the
34 commission finds that any of the following have
35 occurred, the commission may reestablish its
36 jurisdiction over that plantation or municipality:

37 (1) A plantation or municipality has
38 repealed the land use plan, maps, standards

1 or regulations necessary to satisfy the
2 requirements of this subsection or has
3 substantially modified the land use plan,
4 maps, standards or regulations so that the
5 resources of the plantation or municipality
6 are not reasonably protected;

7 (2) A plantation or municipality has
8 abolished or does not have functioning the
9 administrative bodies and officers necessary
10 to implement the land use program as approved
11 by the commission, normally a planning board,
12 board of appeals and code enforcement officer
13 are included, but this may vary depending on
14 the local program; or

15 (3) A plantation or municipality has not
16 administered or enforced its land use plan,
17 maps, standards or regulations in a manner
18 which reasonably protects the resources in
19 the plantation or municipality involved.

20 The action by the commission shall conform with the
21 provisions for rulemaking of the Maine Administrative
22 Procedure Act, Title 5, chapter 375.

23 Action taken by the commission to reestablish its
24 jurisdiction over a plantation or municipality shall
25 be effective immediately, but shall be submitted to
26 the current or next regular session of the Legislature
27 for approval. If the Legislature fails to act, the
28 action shall continue in effect.

29 Sec. 23. 12 MRSA §7824, sub-§3, 1A, as amended
30 by PL 1987, c. 88, §2, is further amended to read:

31 A. The registration fee for residents shall be
32 credited as follows:

33 (1) \$4.75 of each fee shall be credited to
34 the department;

35 (2) \$5.25 of each fee shall be credited to
36 the Snowmobile Trail Fund of the Bureau of
37 Parks and Recreation; and

1 (3) \$6 of each fee shall be annually
2 distributed to the municipality of the
3 owner's residence as shown on his
4 registration certificate, except that in
5 unorganized territory, \$6 of each fee shall
6 be annually distributed to the county of the
7 owner's residence as shown on his
8 registration certificate and credited to the
9 unorganized territory fund of that county
10 established in Title 30, section 5902
11 30-A, section 7502.

12 Sec. 24. 13 MRSA §1223 is amended to read:

13 §1223. Investment of funds.

14 Cemetery trust funds of any cemetery corporation
15 or association, trust company, church, religious or
16 charitable society, or other trustee, shall be
17 invested in the manner provided in Title 30, section
18 5051 30-A, section 5652, and, unless the instrument
19 or order creating the trusts prohibits, may be
20 combined with other similar trust funds in the manner
21 provided in Title 30, section 1903 30-A, section
22 5654, and the annual income only shall be expended in
23 performance of the requirements of the trust.

24 Sec. 25. 13 MRSA §1261 is amended to read:

25 §1261. Authority to hold

26 Any person owning or interested in a lot or lots
27 in a public burying ground of a city or town may
28 deposit with the treasurer of such city or town a sum
29 of money for the purpose of providing for the
30 preservation and care of such lot or lots, or their
31 appurtenances, which sum shall be entered upon the
32 books of the treasurer and invested and held in
33 accordance with Title 30, section 5051 30-A,
34 section 5652.

35 Sec. 26. 13 MRSA §3165 is amended to read:

36 §3165. Investment of funds

37 As soon as may be the corporation shall invest the

1 proceeds of sale in the manner provided in Title 30,
2 section-505; 30-A, section 5652.

3 Sec. 27. 14 MRSA §8102, sub-§1, as amended by
4 PL 1987, c. 218, §1, and c. 386, §1, is repealed and
5 the following enacted in its place:

6 1. Employee. "Employee" means a person acting
7 on behalf of the governmental entity in any official
8 capacity, whether temporarily or permanently, and
9 whether with or without compensation from local, state
10 or federal funds, including elected or appointed
11 officials, volunteer firefighters as defined in Title
12 30-A, section 3151, emergency medical service
13 personnel, Maine National Guardsmen while receiving
14 state active duty pay under Title 37-B, section 143,
15 in accordance with Title 37-B, sections 181 to 183 and
16 742, and while engaged in the Domestic Action Program,
17 but the term "employee" shall not mean a person or
18 other legal entity acting in the capacity of an
19 independent contractor under contract to the
20 governmental entity.

21 Sec. 28. 14 MRSA §8102, sub-§3, as amended by
22 PL 1987, c. 386, §3, is further amended to read:

23 3. Political subdivision. "Political subdivision"
24 means any city, town, plantation, county,
25 administrative entity or instrumentality created
26 pursuant to Title 30, chapters 203 and 204-A 30-A,
27 chapters 115 and 119, quasi-municipal corporation and
28 special purpose district, including, but not limited
29 to, any water district, sanitary district, hospital
30 district, school district of any type, any volunteer
31 fire association as defined in Title 30, section
32 377; 30-A, section 3151, and any emergency medical
33 service.

34 Sec. 29. 15 MRSA §1702, as amended by PL 1987,
35 c. 45, Pt. B, §2, is further amended to read:

36 §1702. No punishment until conviction; costs;
37 concurrent or consecutive sentences

38 No person shall may be punished for an offense
39 until convicted thereof in a court having jurisdiction
40 of the person and case. In all cases where a fine is
41 imposed he may be sentenced to pay the costs of

1 prosecution, except before the District Court in which
2 court he may be sentenced to pay a fine sufficient to
3 cover said costs as provided in Title 4, section 173;
4 and except before a District Court for violations of
5 Title 28-A, sections 2078, 2080, 2223 and 2225, and
6 Title 307, chapter 215, subchapter IV 26, chapter 7,
7 subchapter I-B, he shall be sentenced to pay such
8 costs.

9 Sec. 30. 17-A MRSA §1253, sub-§2, as repealed
10 and replaced by PL 1985, c. 285, §1, is amended to
11 read:

12 2. Each person sentenced to imprisonment who has
13 previously been detained for the conduct for which the
14 sentence is imposed in any state correctional facility
15 or county institution or facility or in any local
16 lockup awaiting trial, during trial, post-trial
17 awaiting sentencing or post-sentencing prior to the
18 date on which the sentence commenced to run either to
19 await transportation to the place of imprisonment
20 specified, or pursuant to court order, and not in
21 execution of any other sentence of confinement, shall
22 be entitled to receive a day-for-day deduction from
23 the total term of imprisonment required under that
24 sentence. Each person shall be entitled to receive
25 the same deduction for any such period of detention in
26 any federal, state or county institution, local lockup
27 or similar facility in another jurisdiction, including
28 any detention resulting from being a fugitive from
29 justice, as defined by Title 15, section 201,
30 subsection 4, unless he is simultaneously being
31 detained for non-Maine conduct.

32 For the purpose of calculating the day-for-day
33 deduction specified by this subsection, a "day" means
34 24 hours.

35 The total term required under the sentence of
36 imprisonment shall be reduced by the total deduction
37 of this subsection prior to applying any of the other
38 deductions specified in this section or in Title 307
39 section 1006 30-A, section 1606.

40 The attorney representing this State shall furnish the
41 court, at the time of sentencing or within 10 days

1 thereafter, a statement showing the total deductions
2 of this subsection, to that point in time, and the
3 statement shall be attached to the official records of
4 the commitment.

5 The sheriff or other person upon whom the legal duty
6 is imposed to deliver a sentenced person who is
7 entitled to a deduction for a period of detention
8 post-sentencing shall, at the time of delivery,
9 furnish to the custodian a statement showing the
10 length of that post-sentencing detention. In
11 addition, the transporter shall furnish to the
12 sentencing court the same statement which shall be
13 attached to the official records of the commitment.

14 Sec. 31. 17-A MRSA §1253, sub-§6-A, as enacted
15 by PL 1985, c. 285, §3, is amended to read:

16 6-A. When a judgment of conviction involving a
17 term of imprisonment is vacated or a sentence
18 involving a term of imprisonment is revised or
19 reviewed and a new sentence involving a term of
20 imprisonment is thereafter imposed upon the person for
21 the same offense, day-for-day credit shall be accorded
22 on the new sentence both for each day the person
23 served in execution of the initial sentence and for
24 all previously earned deductions specified in
25 subsections 4 and 5 and Title 30, section 1006
26 30-A, section 1606. Prior to the day-for-day credit
27 being given on the new sentence, the new sentence
28 shall, after first having been reduced by any
29 deductions specified in subsection 2 previously or
30 subsequently received, have applied to it the
31 controlling deduction specified in either subsection 3
32 or 3-B.

33 Sec. 32. 17-A MRSA §1330, sub-§1, as repealed
34 and replaced by PL 1983, c. 793, §2, is amended to
35 read:

36 1. Work program; payment of restitution. No
37 prisoner who has been ordered to pay restitution may
38 be released pursuant to a work program administered by
39 the Department of Corrections under Title 34-A,
40 section 3035, or a sheriff under Title 30, section
41 1004 30-A, section 1605, unless he consents to pay at

1 least 25% of his gross weekly wages to the victim
2 until such time as full restitution has been made.
3 The chief administrative officer of the correctional
4 facility where the prisoner is incarcerated shall
5 collect and disburse to the victim or victims that
6 portion of the prisoner's wages agreed to as payment
7 of restitution. If the victim or victims ordered by
8 the court to receive restitution have died or cannot
9 be located, the correctional facility shall inform the
10 court that ordered restitution. The court shall
11 determine the distribution of these funds.

12 Sec. 33. 18-A MRSA §1-501, as enacted by PL
13 1979, c. 540, §1, is amended to read:

14 §1-501. Election; bond; salaries; copies

15 Registers of probate are elected or appointed as
16 provided in the Constitution. Their election is
17 effected and determined as is provided respecting
18 county commissioners by Title 307, chapter ~~1~~ 30-A,
19 chapter 1, subchapter II, and they enter upon the
20 discharge of their duties on the first day of January
21 following; but the term of those appointed to fill
22 vacancies commences immediately. All registers, before
23 acting, shall give bond to the treasurer of their
24 county with sufficient sureties in the sum of \$2,500,
25 except that this sum shall be \$10,000 for Cumberland
26 County. Every register, having executed such bond,
27 shall file it in the office of the clerk of the county
28 commissioners of his county, to be presented to them
29 at their next meeting for approval. After the bond has
30 been so approved, the clerk shall record it and
31 certify the fact thereon, and retaining a copy
32 thereof, deliver the original to the register, who
33 shall deliver it to the treasurer of the county within
34 10 days after its approval, to be filed in his office.

35 Registers of probate in the several counties shall
36 receive annual salaries as set forth in Title 307
37 section-2 30-A, section 2.

38 The salaries of the registers of probate shall be
39 in full compensation for the performance of all duties
40 required of registers of probate. They may make copies
41 of wills, accounts, inventories, petitions and decrees

1 and furnish the same to persons calling for them and
2 may charge a reasonable fee for such service, which
3 shall be deemed a fee for the use of the county.
4 Exemplified copies of the record of the probate of
5 wills and the granting of administrations,
6 guardianships and conservatorships, copies of
7 petitions and orders of notice thereon for personal
8 service, appeal copies and the statutory fees for
9 abstracts and copies of the waiver of wills and other
10 copies required to be recorded in the registry of
11 deeds shall be deemed to be official fees for the use
12 of the county.

13 Nothing in this section shall may be construed
14 to change or repeal any provisions of law requiring
15 the furnishing of certain copies without charge.

16 Sec. 34. 18-A MRSA §1-506, first ¶, as amended
17 by PL 1981, c. 394, §1, is further amended to read:

18 Any register of probate in this State may appoint
19 a deputy register of probate for the county, subject
20 to the requirements of Title 30, section 64-A 30-A,
21 section 501. The deputy may perform any of the duties
22 prescribed by law to be performed by the register of
23 probate. His signature as the deputy shall have the
24 same force and effect as the signature of the
25 register. The deputy shall give bond to the county for
26 the faithful discharge of his duties in such sum and
27 in the same manner as the register of probate. The
28 deputy register shall act as register in the event of
29 a vacancy or absence of the register, until the
30 register resumes his duties or another is qualified as
31 register. The deputy register shall receive an annual
32 salary as established by the register and approved by
33 the county commissioners.

34 Sec. 35. 20-A MRSA §1004, as enacted by PL
35 1981, c. 693, §§5 and 8, is amended to read:

36 §1004. Conflict of interest; contracts

37 A contract made by a school board shall follow the
38 requirement of Title 30, section 2251 30-A, section
39 2605.

1 Sec. 36. 20-A MRSA §1202, sub-§5, ¶A, as
2 enacted by PL 1981, c. 693, §§5 and 8, is amended to
3 read:

4 A. Municipalities voting on the questions of
5 district formation under Title 307, sections 2061
6 to 2064 30-A, sections 2528 to 2531, shall open
7 the polls at 10 a.m. and shall close the polls at
8 7 p.m.

9 Sec. 37. 20-A MRSA §1253, first ¶, as enacted
10 by PL 1981, c. 693, §§5 and 8, is amended to read:

11 For the purpose of nominations, school directors
12 shall be considered municipal officials and shall be
13 nominated in accordance with Title 307, chapter 207
14 30-A, chapter 121, or with a municipal charter,
15 whichever is applicable.

16 Sec. 38. 20-A MRSA §1253, sub-§2, ¶B, as
17 enacted by PL 1981, c. 693, §§5 and 8, is amended to
18 read:

19 B. Under Method C:

20 (1) Nominations for directors shall be made
21 on petitions provided by the district
22 secretary. The petitions shall be signed as
23 provided in Title 307, section 2061,
24 subsection 3 30-A, section 2528, subsection
25 4, or if the candidate is a voting resident
26 in a municipality having less than 200
27 population, signed by at least 20% of the
28 registered voters of that municipality;

29 (2) The petitions shall be submitted to the
30 registrar of voters in the respective
31 municipalities for certification of the
32 voting residence of the director nominated
33 and of the voters signing the petition;

34 (3) The registrar of voters shall return the
35 certified petitions to the district secretary
36 not later than 30 days prior to the date of
37 the annual election to be held in the
38 municipality;

1 (4) The ballot shall be prepared and
2 distributed by the district secretary. It
3 shall give the number of offices to be filled
4 and list the candidates by municipalities or
5 subdistricts in which they are resident;

6 (5) Notwithstanding any other provision of
7 law, school directors shall be elected by
8 secret ballot;

9 (6) If all member municipalities do not
10 conduct the election for directors on the
11 same date, then all ballots cast in the
12 elections shall be impounded by the clerk of
13 each municipality:

14 (a) After all municipalities have
15 voted, the clerks and one or more
16 election supervisors designated by the
17 municipal officers of each municipality
18 shall meet at an agreed upon location
19 and tally the ballot;

20 (b) The tally shall be completed within
21 one day of the last member municipality
22 election;

23 (c) The election supervisors shall
24 select from among their members a
25 chairman who shall supervise the tally
26 of ballots; and

27 (d) The clerk of each municipality
28 shall as promptly as possible after the
29 election certify to the board of
30 directors the result of the voting in
31 that municipality; and

32 (7) Any recount petitions shall be filed
33 with the secretary of the board of directors
34 and recounts shall be conducted in each
35 member municipality in accordance with the
36 applicable laws.

1 Sec. 39. 20-A MRSA §1256, sub-§7, ¶B, as
2 amended by PL 1983, c. 806, §18, is further amended to
3 read:

4 B. If the gift is in trust, the board shall
5 deposit or invest those trust funds according to
6 Title 30, ~~section 505~~; 30-A, section 5652.

7 (1) Unless prohibited by a trust instrument,
8 the district may treat any 2 or more trust
9 funds as a single fund for the purposes of
10 investment.

11 (2) After deduction for management expenses,
12 any interest earned or capital gains realized
13 shall be prorated among the various trust
14 funds.

15 (3) Property or securities included in the
16 corpus of a trust fund shall be retained
17 where the trust instrument so provides.

18 (4) Unless otherwise specified in the trust
19 instrument, only the annual income from the
20 trust fund may be spent.

21 (5) If the district fails to comply with the
22 terms of the trust instrument, the trust fund
23 reverts to the donor or the donor's heirs.

24 Sec. 40. 20-A MRSA §1256, sub-§7, ¶C, as
25 enacted by PL 1981, c. 693, §§5 and 8, is amended to
26 read:

27 C. If the money or other property is a
28 conditional gift for any specified benevolent or
29 educational purpose, the following shall apply.

30 (1) Prior to the acceptance of a gift the
31 board of directors shall obtain approval of
32 the legislative body of the school
33 administrative district.

34 (2) When the donor's part of the agreement
35 respecting the execution of the conditional
36 gift has been completed, the district shall

1 perpetually comply with, and may raise money
2 to carry into effect, the conditions upon
3 which it was made.

4 (3) Unless otherwise specified by its terms,
5 a conditional gift of money shall be
6 deposited or invested according to Title
7 ~~307-section-5051~~ 30-A, section 5652.

8 Sec. 41. 20-A MRSA §1311, sub-§5, as enacted by
9 PL 1981, c. 693, §§5 and 8, is amended to read:

10 5. District status. Notes and bonds, and loans
11 to pay current operating expenses, contracts, leases
12 and agreements with the Maine School Building
13 Authority, shall be legal obligations of the
14 district. The district shall be a quasi-municipal
15 corporation within the meaning of Title ~~307~~ section
16 ~~5053~~ 30-A, section 5701 and all the provisions of
17 that section shall be applicable to them.

18 Sec. 42. 20-A MRSA §1312, sub-§2, as repealed
19 and replaced by PL 1983, c. 98, §1, is amended to
20 read:

21 2. Deposit or investment. All district funds,
22 including Reserve Funds and Trust Funds to the extent
23 that the terms of the instrument or vote creating the
24 fund do not prohibit, shall be deposited or invested
25 by the treasurer under the direction of the board of
26 directors according to the requirements for the
27 deposit or investment of municipal funds contained in
28 Title ~~307-section-5051-A~~ 30-A, section 5652.

29 Sec. 43. 20-A MRSA §1353, sub-§2, ~~¶A,~~ as
30 amended by PL 1985, c. 797, §16, is further amended to
31 read:

32 A. The voting at referendum held in towns shall
33 be held and conducted in accordance with Title
34 ~~307 sections 2054, 2061 to 2065~~ 30-A, sections
35 2524 and 2528 to 2532, even though the town has
36 not accepted the provisions of Title 307
37 sections 2061 and 2062 30-A, sections 2524 and
38 2525. The facsimile signature of the clerk under
39 Title 307 section 2061, subsection 5, paragraph
40 F 30-A,

1 section 2528, subsection 6, paragraph F, shall be
2 that of the chairman of the board of directors.
3 If a district referendum is called to be held
4 simultaneously with any statewide election, the
5 voting in towns shall be held and conducted in
6 accordance with Title 21-A, except that the duties
7 of the Secretary of State shall be performed by
8 the board. The absentee voting procedure of Title
9 21-A shall be used, except the duties of the
10 Secretary of State shall be performed by the
11 board.

12 Sec. 44. 20-A MRSA §1403, sub-§1, ¶B, as
13 amended by PL 1987, c. 395, Pt. A, §59, is further
14 amended to read:

15 B. The petition must be approved by secret ballot
16 by a 2/3 vote of the voters present and voting
17 before it may be presented to the board of
18 directors and the commissioner. Voting in towns
19 shall be conducted in accordance with Title 307,
20 sections 2061 and 2062 30-A, sections 2528 and
21 2529, even if the towns have not accepted the
22 provisions of Title 307, section 2061 30-A,
23 section 2528, and voting in cities shall be
24 conducted in accordance with Title 21 21-A.

25 Sec. 45. 20-A MRSA §1403, sub-§6, ¶B, as
26 amended by PL 1983, c. 364, §1, is further amended to
27 read:

28 B. Except as otherwise provided in this section,
29 the voting at the meetings held in towns shall be
30 conducted in accordance with Title 307, sections
31 2061 and 2062 30-A, sections 2528 and 2529, even
32 if the towns have not accepted the provisions of
33 Title 307-section-2061 30-A, section 2528.

34 Sec. 46. 20-A MRSA §1403, sub-§6, ¶C, as
35 amended by PL 1983, c. 364, §1, is further amended to
36 read:

37 C. The voting at the meeting held in cities shall
38 be conducted in accordance with Title 21 21-A.

1 Sec. 47. 20-A MRSA §1403, sub-§8, as amended by
2 PL 1983, c. 364, §1, is further amended to read:

3 8. Ballots; posting of agreement. The
4 dissolution agreement need not be printed on the
5 ballot. Copies of the agreement shall be posted in
6 each participating municipality in the same manner as
7 specimen ballots are posted under Title 307, chapter
8 207 30-A, section 2528.

9 Sec. 48. 20-A MRSA §1653, sub-§1, ¶B, as amended
10 by PL 1983, c. 806, §21, is further amended to read:

11 B. In a district which includes grades one to 12,
12 the member towns shall elect their representatives
13 directly to the district's school committee as
14 follows.

15 (1) For the purpose of nominations, the
16 members of the school committee shall be
17 considered municipal officers and shall be
18 nominated in accordance with Title 307
19 chapter 207 30-A, chapter 121, or in
20 accordance with a municipal charter,
21 whichever is applicable.

22 (2) Upon the election of the members to the
23 school committee, the clerks of the several
24 municipalities within the district shall
25 forward the names of the members of the
26 committee elected by each municipality to the
27 secretary of the district's school committee.

28 (3) The terms of office shall be determined
29 by lot as follows: One-third of the members
30 of the school committee shall serve one-year
31 terms; 1/3 shall serve 2-year terms; and 1/3
32 shall serve 3-year terms. In the event the
33 number of members is not evenly divisible by
34 3, the terms of the members represented by
35 the integer obtained by dividing the number
36 of members by 3 shall be determined by the
37 preceding sentence; if one member remains,
38 that member shall serve a 3-year term; if 2
39 members remain, one shall serve a 3-year
40 term; and one shall serve a 2-year term, to

1 be determined by lot. The members of the
2 school committee shall serve their terms as
3 determined and an additional period until the
4 next regular election of the municipalities.
5 Thereafter, their terms of office shall date
6 from the time of each municipality's regular
7 election. In a city where elections are held
8 biennially, the term of each member shall be
9 for 4 years, dating from the time of the
10 regular city election and, following the
11 initial election, the members shall choose by
12 lot to see who will serve for 4 years and who
13 will serve for 2 years. Thereafter, each
14 member shall be elected to serve for 4 years.

15 Sec. 49. 20-A MRSA §1702, sub-§5, as enacted by
16 PL 1981, c. 693, §§5 and 8, is amended to read:

17 5. Status. A community school district shall be
18 a quasi-municipal corporation within the meaning of
19 Title 307, section 5053 30-A, section 5701. The
20 provisions of Title 307, section 5053 30-A, section
21 5701, shall be applicable to it.

22 Sec. 50. 20-A MRSA §1705, sub-§1, ¶B, as
23 enacted by PL 1981, c. 693, §§5 and 8, is amended to
24 read:

25 B. If the gift is in trust the committee shall
26 either deposit or invest trust funds according to
27 Title 307-section-5053 30-A, section 5652.

28 Sec. 51. 20-A MRSA §2301, as repealed and
29 replaced by PL 1985, c. 506, Pt. A, §29, is amended to
30 read:

31 §2301. Applicability of provisions to certain towns
32 or cities

33 Sections 2302, 2303 and 2305 do not apply to
34 municipalities whose charters specify the methods of
35 selection, recall and term of office of a school
36 committee, nor to municipalities who revise their
37 charters or adopt new charters under the "home rule"
38 provisions of Title 307, chapter 201-A 30-A, chapter
39 111, with specifications for method of selection,

1 recall and term of office of a school committee, nor
2 to municipalities authorized by private and special
3 laws to otherwise choose a school committee.

4 Sec. 52. 20-A MRSA §2303, sub-§1, ¶B, as
5 enacted by PL 1981, c. 693, §§5 and 8, is amended to
6 read:

7 B. At a special town meeting held at least 30
8 days before the annual meeting, if a municipality
9 has accepted Title 90, section 2061 30-A,
10 section 2528, relative to secret ballot.

11 Sec. 53. 20-A MRSA §4102, sub-§4, ¶B, as
12 amended by PL 1985, c. 161, §2, is further amended to
13 read:

14 B. Secondary schools in school administrative
15 districts and community school districts and
16 either elementary or secondary schools in other
17 school administrative units may be closed without
18 voter approval, unless the school board is
19 presented with a written petition, within 30 days
20 of the board's decision to close the school, by
21 10% of the number of voters in the school
22 administrative unit who voted at the last
23 gubernatorial election, then a special referendum
24 shall be called pursuant to:

25 (1) Section 1351 for school administrative
26 districts;

27 (2) Title 90, sections 2061 to 2065 30-A,
28 sections 2528 to 2532, for community school
29 districts, except the school board shall
30 issue a warrant specifying that the
31 municipalities within the district place the
32 petitioned article on the ballot, and shall
33 prepare and furnish the required number of
34 ballots for carrying out the election; and

35 (3) Title 21-A and Title 90 30-A,
36 respectively, for cities and towns,

37 Sec. 54. 20-A MRSA §8307, sub-§4, as amended by
38 PL 1985, c. 161, §3, is further amended to read:

1 4. Referendum. After the public hearing, the
2 school board of the school administrative unit or
3 units requesting a change shall submit the proposal to
4 the voters in their school administrative unit or
5 units in accordance with the relevant provisions for
6 holding elections in sections 1351 to 1354 and in
7 Titles 21-A and 30 30-A.

8 Sec. 55. 20-A MRSA §8455, as enacted by PL
9 1981, c. 693, §§5 and 8, is amended to read:

10 §8455. Vocational region considered a political
11 subdivision

12 A. vocational region shall be a political
13 subdivision within the meaning of Title 5, section
14 1222, subsection 6, and a quasi-municipal corporation
15 within the meaning of Title 30, section 5053 30-A,
16 section 5701, and all the provisions of that section
17 shall be applicable to them.

18 Sec. 56. 20-A MRSA §12712, sub-§7, 18B, as
19 enacted by PL 1985, c. 695, §11, is amended to read:

20 B. The board of trustees may adopt the provisions
21 of Title 30, section 2151, subsection 3,
22 paragraph A 30-A, section 3009, subsection 1,
23 paragraph C, relating to prima facie evidence and
24 the establishment of a waiver of court action by
25 payment of specified fees.

26 Sec. 57. 20-A MRSA §15613, sub-§4, 11A and D,
27 as enacted by PL 1983, c. 859, Pt. G, §§2 and 4, are
28 amended to read:

29 A. Notwithstanding any other provision of this
30 chapter, if students attend nonpublic schools that
31 are not operated for profit in whole or in part,
32 the commissioner shall reimburse 50% of the
33 expenditures of the base year for providing
34 services to these nonpublic school students as
35 authorized by Title 30, section 5104 30-A,
36 section 5724, subsections 5 to 8. Municipal
37 officers shall report these expenditures to the
38 commissioner on forms provided by the
39 commissioner.

1 D. The commissioner may adopt or amend rules to
2 assure that:

3 (1) All sums reimbursed were utilized and
4 actually expended for programs authorized
5 pursuant to Title 307, section 5104 30-A,
6 section 5724, subsections 5 to 8;

7 (2) No municipality receives reimbursement
8 for a student who attends school at public
9 expense; and

10 (3) All services provided to nonpublic
11 school students that require professional
12 personnel are provided by public employees.

13 Sec. 58. 20-A MRSA §15617, sub-§§4 and 5, as
14 enacted by PL 1983, c. 859, Pt. G, §§2 and 4, are
15 amended to read:

16 4. Budget format; town or city charter. In a
17 municipality where the responsibility for final
18 adoption of the school budget is vested by municipal
19 charter in a council, the school budget format may be
20 changed through amendment of the charter under the
21 home rule procedures of Title 307, sections 1911 to
22 1920 30-A, chapter 111, except that the amendment
23 shall be approved by a majority of voters in an
24 election in which the total vote is at least 20% of
25 the number of votes cast in the municipality in the
26 last gubernatorial election.

27 5. Budget format; town meeting. When the final
28 budget authority is vested in a town meeting operating
29 under the general enabling procedures of Title 30
30 30-A, the format of the school budget may be
31 determined by the town meeting or under the procedures
32 of Title 307, section 2053 or 2061 30-A, section
33 2522 or 2528.

34 Sec. 59. 20-A MRSA §15617, sub-§6, ¶B, as
35 enacted by PL 1983, c. 859, Pt. G, §§2 and 4, is
36 amended to read:

1 B. The article containing the budget format may
2 be voted on by secret ballot at an election
3 conducted in accordance with Title 30, sections
4 2061 to 2065 30-A, sections 2528 to 2532.

5 Sec. 60. 20-A MRSA §15904, sub-§1, as repealed
6 and replaced by PL 1987, c. 402, Pt. A, §131, is
7 repealed and the following enacted in its place:

8 1. Municipal schools. In a municipality where the
9 responsibility for final adoption of the school budget
10 is vested in a municipal council by municipal charter
11 or in a town meeting, the vote shall be by referendum
12 in accordance with the appropriate provisions set
13 forth in Title 21-A and Title 30-A, except that the
14 filing requirement contained in Title 30-A, section
15 2528, subsection 5, does not apply.

16 Sec. 61. 20-A MRSA §15904, sub-§3, as amended
17 by PL 1985, c. 506, Pt. B, §§15 and 18, is further
18 amended to read:

19 3. Community school districts. In a community
20 school district, the vote shall be conducted in
21 accordance with Title 30, sections 2061 to 2065
22 30-A, sections 2528 to 2532. The return and counting
23 of votes shall be conducted in accordance with the
24 procedures established in section 1353, subsection 3.
25 The district school committee shall:

26 A. Issue a warrant ordering the municipalities
27 within the district to place the school
28 construction article on the ballot; and

29 B. Prepare and furnish the required number of
30 ballots for carrying out the vote.

31 Sec. 62. 21-A MRSA §101, sub-§3, as enacted by
32 PL 1985, c. 161, §6, is amended to read:

33 3. Oath required. Before assuming the duties of
34 office, he must be sworn and the fact of his oath
35 recorded as provided in Title 30, section 2060,
36 30-A, section 2526, subsection 9.

1 Sec. 63. 21-A MRSA §356, sub-§2, ¶F, as enacted
2 by PL 1985, c. 161, §6, is amended to read:

3 F. Only a voter of the county establishing a
4 charter commission may challenge the nomination
5 petition for county charter commission member.
6 The challenge must be in writing and must set
7 forth the reasons for the challenge. The
8 challenge must be filed in the office of the
9 Secretary of State before 5 p.m. on the 55th day
10 following the order of the county officers under
11 Title 307, section 15517, 30-A, section 132,
12 subsection 1, or the receipt of a certificate of
13 sufficiency under Title 307, section 15517,
14 Title 30-A, section 1321, subsection 4.

15 Sec. 64. 22 MRSA §42, sub-§3, as amended by PL
16 1985, c. 612, §1, is further amended to read:

17 3. Plumbing and subsurface waste water disposal.
18 The department shall adopt minimum rules relating to
19 plumbing and subsurface sewage disposal systems and
20 the installation and inspection thereof consistent
21 with Title 307, chapter 215, subchapter 30-A,
22 chapter 185, subchapter III, and Title 32, chapter 49,
23 but this does not preempt the authority of
24 municipalities under Title 307, section 1917 30-A,
25 section 3001, to adopt more restrictive ordinances;
26 and shall hold hearings on the first Tuesday of
27 February of each year for the purpose of considering
28 changes in the rules pertaining to plumbing and
29 subsurface sewage disposal systems and the
30 installation and inspection thereof. These rules may
31 regulate the location of water supply wells to provide
32 minimum separation distances from subsurface sewage
33 disposal systems. The department may require a deed
34 covenant or deed restriction when determined
35 necessary.

36 Any person who violates the rules adopted under this
37 subsection, or who violates a municipal ordinance
38 adopted pursuant to Title 307, section 32217, 30-A,
39 sections 4201 and 4211 or uses a subsurface waste
40 water disposal system not in compliance with rules
41 applicable at the time of installation or modification
42 shall be penalized in accordance with Title 307
43 section-4966 30-A, section 4506. Enforcement of

1 the rules shall be the responsibility of the
2 municipalities rather than the department. The
3 department or a municipality may seek to enjoin
4 violations of the rules or municipal ordinances. In
5 the prosecution of a violation by a municipality, the
6 court shall award reasonable attorney's fees to a
7 municipality if that municipality is the prevailing
8 party, unless the court finds that special
9 circumstances make the award of these fees unjust.

10 Sec. 65. 22 MRSA §2655, sub-§1, as enacted by
11 PL 1983, c. 463, §4, is amended to read:

12 1. Circulation. Any time the issue of whether to
13 fluoridate a public water supply is submitted to the
14 voters in multiple community water districts pursuant
15 to petition, the petition or petitions shall be
16 circulated and signed in the manner prescribed by
17 Title 30, section 5353, 30-A, section 2503,
18 subsection 3, paragraph B, subparagraphs (2) and (3),
19 and shall be dated and gathered within the time frame
20 prescribed by the Constitution of Maine, Article IV,
21 Part 3rd Third, Section 18, subsection
22 Subsection 2.

23 Sec. 66. 22 MRSA §4322, first ¶, as amended by
24 PL 1983, c. 697, §4, is further amended to read:

25 Any person aggrieved by a decision, act, failure
26 to act or delay in action concerning his application
27 for general assistance under this chapter shall have
28 the right to an appeal. If a person's application has
29 been approved, there shall be no revocation of general
30 assistance during the period of entitlement until that
31 person has been provided notice and an opportunity for
32 hearing as provided in this section. Within 5 working
33 days of receiving a written notice of denial,
34 reduction or termination of assistance, in accordance
35 with the provisions of section 4321, or within 10
36 working days after any other act or failure to act by
37 the municipality with regard to an application for
38 assistance, the person may request an appeal. A
39 hearing shall be held by the fair hearing authority
40 within 5 working days following the receipt of a
41 written request by the applicant for an appeal. The
42 hearing may be conducted by the municipal officers, a
43 board of appeals, created under Title 30, section
44 2411 30-A, section 2691, or one or more persons.

1 appointed by the municipal officers to act as a fair
2 hearing authority. In no event may an appeal be held
3 before a person or body responsible for the decision,
4 act, failure to act or delay in relating to the
5 applicant.

6 Sec. 67. 23 MRSA §153, sub-§5, as amended by PL
7 1987, c. 267, §1, is further amended to read:

8 5. Automobile graveyards. Secure the relocation,
9 removal or disposal of automobile graveyards and
10 junkyards which are not in conformity with Title 30,
11 sections-2451-to-2459 30-A, chapter 183, subchapter I;

12 Sec. 68. 23 MRSA §1802, sub-§1, as enacted by
13 PL 1981, c. 492, Pt. C, §26, is amended to read:

14 1. Population. "Population" means the population
15 as determined by the latest Federal Decennial Census
16 or the population as determined and certified by the
17 Department of Human Services in accordance with the
18 requirements of Title 30, section 5055, subsection
19 4, 30-A, section 5681, subsection 2, paragraph A,
20 whichever is later.

21 Sec. 69. 25 MRSA §2803, sub-§11, as enacted by
22 PL 1985, c. 155, §3, is amended to read:

23 11. Provide assistance and materials. May
24 provide to municipal and county officers and municipal
25 and county law enforcement officers any assistance or
26 instructional materials the board deems necessary to
27 fulfill the purposes of this chapter and Title 30,
28 sections-951-and-2365 30-A, sections 381 and 2671.

29 Sec. 70. 26 MRSA §962, sub-§6, ¶B, as amended
30 by PL 1981, c. 698, §117, is further amended to read:

31 B. Appointed to office pursuant to statute,
32 ordinance or resolution for a specified term of
33 office by the executive head or body of the public
34 employer, except that appointees to county offices
35 shall not be excluded under this paragraph unless
36 defined as a county officer under Title 30,
37 section-1502 30-A, section 1302; or

1 Sec. 71. 26 MRSA §1043, sub-§28, as repealed
2 and replaced by PL 1977, c. 585, §1, is amended to
3 read:

4 28. Governmental entity. "Governmental entity"
5 means the State of Maine, its instrumentalities,
6 political subdivisions and school administrative units
7 as represented by their elected or appointed governing
8 bodies and shall include, without limitation, city and
9 town councils, boards of selectmen, boards of county
10 commissioners, municipally owned and operated
11 hospitals and administrative entities formed under
12 Title 30, chapter 203 30-A, chapter 115. In the
13 case of school administrative units, governing bodies
14 shall include, without limitation, municipal school
15 committees, school administrative district directors,
16 community school district school committees and school
17 unions formed under Title 20, chapter 17 20-A,
18 chapter 109. In the case of special purpose districts,
19 governing bodies shall include, without limitation,
20 boards of directors or trustees.

21 Sec. 72. 29 MRSA §2020, first ¶, as amended by
22 PL 1979, c. 2, is further amended to read:

23 School buses which are operated by a motor carrier
24 holding a certificate of public convenience from the
25 Public Utilities Commission, while transporting school
26 children, shall comply with all of the requirements of
27 school buses, except that they shall be exempted from
28 the vehicle color requirements. School buses which are
29 operated by a transit district, as defined in Title
30 30, section 4977 30-A, section 3501, subsection 1,
31 shall be exempted from the school bus marking,
32 emergency door, lateral seating and color requirements
33 of this subchapter, except that the school buses shall
34 continue to use signal lamps as required by section
35 2012, subsection 1, paragraph D.

36 Sec. 73. 32 MRSA §1102-B, sub-§5, ¶D, as
37 amended by PL 1981, c. 543, §1, is further amended to
38 read:

39 D. Installations or alterations for which a
40 permit and inspection are required by municipal

1 resolution or ordinance under Title 307, section
2 2557 30-A, section 4173;

3 Sec. 74. 33 MRSA §604, first ¶ is amended to
4 read:

5 Registers of deeds in the several counties shall
6 receive annual salaries as set forth in Title 307,
7 30-A, section 2.

8 Sec. 75. 33 MRSA §605, first ¶, as amended by
9 PL 1981, c. 698, §167, is further amended to read:

10 Each register shall appoint a deputy register of
11 deeds subject to the requirements of Title 307,
12 section 64-A 30-A, section 501; the deputy register
13 shall be sworn. He shall give bond to the county for
14 the faithful discharge of his duties in such sum as
15 the county commissioners order and with such sureties
16 as they approve in writing thereon. The premium of the
17 bond shall be met by the county. The deputy register
18 shall receive an annual salary as established by the
19 register and approved by the county commissioners. In
20 case of sickness, absence or any temporary disability
21 of the register, such deputy shall make and sign for
22 him all certificates and make all entries and minutes
23 required to be signed or made by the register. Such
24 certificates, entries and minutes shall be as valid as
25 if made by the register.

26 Sec. 76. 33 MRSA §1601-106, as amended by PL
27 1987, c. 322, is further amended to read:

28 §1601-106. Applicability of local laws and
29 regulations

30 A zoning, subdivision, building code or other real
31 estate use law, ordinance or regulation may not
32 prohibit the condominium form of ownership.
33 Otherwise, no provision of this Act invalidates or
34 modifies any provision of any zoning, subdivision,
35 building code or other real estate use law, ordinance
36 or regulation. No county, municipality, village
37 corporation or other political subdivision, whether or
38 not acting under the municipal home rule powers
39 provided for under the Constitution of Maine, Article
40 VIII, Part Second or

1 Title 307, sections 1911 through 1920 30-A, chapter
2 111, and section 3001, or any other authority from
3 time to time, may adopt or enforce any law, ordinance,
4 rule, regulation or policy which conflicts with the
5 provisions of this Act.

6 Sec. 77. 36 MRSA §314, sub-§2, as amended by PL
7 1975, c. 545, §11, is further amended to read:

8 2. Tenure. A chief assessor having tenure may be
9 removed for cause by the executive committee on the
10 form and manner provided for the removal of town
11 managers in Title 307, section 2313 30-A, section
12 2633. The chief tax assessor shall hold office for an
13 indefinite term unless otherwise specified by
14 contract.

15 Sec. 78. 36 MRSA §714, as enacted by PL 1971, c.
16 478, §2, is amended to read:

17 §714. State-municipal revenue-sharing aid.

18 The assessors shall deduct from the total amount
19 required to be assessed an amount equal to the amount
20 that the municipal officers estimate will be received
21 under Title 307, section 5055 30-A, section 5681,
22 during the municipal fiscal year.

23 Sec. 79. 36 MRSA §892-A, as amended by PL 1983,
24 c. 595, is further amended to read:

25 §892-A. Interest on delinquent county taxes

26 Interest shall accrue on all unpaid balances of
27 the county tax that are then due, beginning on the
28 60th day after the date for payment set by the county
29 commissioners under Title 307, section 254 30-A,
30 section 706. County taxes, not paid prior to the 60th
31 day after the date for payment, are delinquent.

32 The rate of interest shall be specified by vote of
33 the county commissioners and a notification of this
34 rate shall be included in the warrant to assessors
35 required under Title 307, section 254 30-A, section
36 706. The rate of interest may not exceed the rate of
37 interest established by the State Tax Assessor under

1 section 186. Interest may not be charged a
2 municipality before the latest date, set by the
3 municipality under section 505 for charging interest
4 on delinquent taxes, which falls within the county's
5 fiscal year to which the delinquent tax is to apply.
6 The specified rate of interest shall apply to
7 delinquent taxes committed during the taxable year
8 until those taxes are paid in full, and the interest
9 shall be added to and become part of the taxes.

10 Sec. 80. 36 MRS §1603, sub-§1, ¶C, as amended
11 by PL 1983, c. 471, §17, is further amended to read:

12 C. The cost of reimbursement by the State for
13 services a county provides to the unorganized
14 territory in accordance with Title 307, chapter
15 407 30-A, chapter 305. No county may be
16 reimbursed for services provided on or after
17 January 1, 1979, unless a legislative allocation
18 is obtained pursuant to this chapter.

19 Sec. 81. 36 MRS §1605, sub-§1, as enacted by
20 PL 1977, c. 698, §8, is amended to read:

21 1. Fund established. The Legislature hereby
22 creates the Unorganized Territory Education and
23 Services Fund. The State Tax Assessor shall deposit in
24 the fund all Unorganized Territory Educational and
25 Services Tax moneys money and county tax moneys
26 money, assessed pursuant to Title 307, section 254
27 30-A, section 706, which he collects.

28 Sec. 82. 36 MRS §1760, sub-§37, as enacted by
29 PL 1977, c. 342, §2, is amended to read:

30 37. Regional planning commissions and councils of
31 government. Sales to regional planning commissions and
32 councils of government, which are established in
33 accordance with Title 30 30-A.

34 Sec. 83. 36 MRS §4641-B, last ¶, as enacted by
35 PL 1985, c. 381, §2, is amended to read:

36 The State Tax Assessor shall pay all net receipts
37 to the Treasurer of State, who shall credit 1/2 of the
38 revenue to the General Fund and who shall monthly pay

1 the remaining 1/2 to the Maine State Housing
2 Authority, which shall deposit the funds in the
3 Housing Opportunities for Maine Fund created in
4 Title 307, ~~section-4733~~ 30-A, section 4853.

5 Sec. 84. 38 MRSA §438, sub-§2, ¶A, as enacted
6 by PL 1985, c. 481, Pt. A, §91, is amended to read:

7 A. Prepared a comprehensive plan adequate to
8 comply with the requirements of Title 307
9 section 4962 30-A, section 4502, and this chapter
10 and notified the State Planning Office; and

11 Sec. 85. 38 MRSA §439, 3rd ¶, as reallocated by
12 PL 1985, c. 481, Pt. A, §27, is amended to read:

13 Zoning ordinances adopted pursuant to this chapter
14 need not depend upon the existence of a zoning
15 ordinance for all of the land and water area within a
16 municipality, despite the provisions of Title 307
17 section 4962 30-A, section 4503, to the contrary, it
18 being the intention of the Legislature to recognize
19 that it is reasonable for municipalities to treat
20 specially with shoreland areas and to choose to
21 immediately zone around water bodies rather than to
22 wait until such time as it enacts zoning ordinances
23 for all of the land within its boundaries. However,
24 the provisions of ordinances, which zone shoreland
25 areas only, must relate solely to measures necessary
26 to protect and enhance water quality, preserve and
27 enhance the aesthetics of water bodies and views
28 therefrom, protect shoreland areas from erosion,
29 protect and preserve that vegetation and wildlife
30 which is more indigenous to shoreland areas than areas
31 not associated with water bodies, avoid the problems
32 associated with floodplain development and use and to
33 encourage and insure the integrity of points of access
34 to water bodies.

35 Sec. 86. 38 MRSA §440, 3rd ¶, as reallocated by
36 PL 1985, c. 481, Pt. A, §28, is amended to read:

37 Zoning ordinances adopted or extended pursuant to
38 this section need not depend upon the existence of a
39 zoning ordinance for all of the land and water area
40 within a municipality, despite the provisions of Title

1 307, section 4962 30-A, section 4503, to the
2 contrary, provided such ordinances are required for
3 entrance of the municipality into the Federal Flood
4 Insurance Program. Ordinances or amendments adopted by
5 authority of this section shall not extend beyond an
6 area greater than that necessary to comply with the
7 requirements of the Federal Flood Insurance Program.

8 Sec. 87. 38 MRSA §441, sub-§§1 and 2, as
9 reallocated by PL 1985, c. 481, Pt. A, §29, are
10 amended to read:

11 1. Appointment. In every municipality, the
12 municipal officers shall annually by July 1st appoint
13 or reappoint a code enforcement officer, whose job may
14 include being a local plumbing inspector or a building
15 inspector and who may or may not be a resident of the
16 municipality for which he is appointed. The municipal
17 officers may appoint the planning board to act as the
18 code enforcement officer. The municipal officers may
19 remove a code enforcement officer for cause, after
20 notice and hearing. This removal provision shall only
21 apply to code enforcement officers who have completed
22 a reasonable period of probation as established by the
23 municipality pursuant to Title 307, section 2256
24 30-A, section 2701. If not reappointed by a
25 municipality, a code enforcement officer may continue
26 to serve until a successor has been appointed and
27 sworn.

28 2. Certification; authorization by municipal
29 officers. No person may serve as a code enforcement
30 officer who is authorized by the municipal officers to
31 represent the municipality in District Court unless he
32 is currently certified under Title 307, section
33 32227, 30-A, section 4221, subsection 2, as being
34 familiar with court procedures.

35 Upon written authorization by the municipal officers,
36 a certified code enforcement officer may serve civil
37 process on persons whom he determines to be in
38 violation of ordinances adopted pursuant to this
39 chapter and, if authorized by the municipal officers,
40 may represent the municipality in District Court in
41 the prosecution of violations of ordinances adopted
42 pursuant to this chapter.

1 Sec. 88.. 38 MRSA §451-A, sub-§1, 1C, as
2 repealed and replaced by PL 1975, c. 209, is amended
3 to read:

4 C. Beginning on October 1, 1976, the municipality
5 shall collect, from each discharger into its
6 sewage system and each discharger not connected to
7 the sewage system which has signed an approved
8 agreement with the municipality pursuant to
9 subsection 2, a fee sufficient to equal their
10 proportionate share of the actual current cost of
11 operating the sewage system for which preliminary
12 plans have been completed and approved pursuant to
13 paragraph B. Actual current costs shall include,
14 but not be limited, to preliminary plans, final
15 design plans, site acquisition, legal fees,
16 interest fees, sewer system maintenance and
17 rehabilitation and other administrative costs. A
18 municipality may provide, when permitted under the
19 federal construction grant program, that in lieu
20 of such annual fees paid by dischargers, the
21 municipality may apportion an appropriate amount
22 from general revenues to cover that share of fees
23 to be paid by dischargers.

24 The funds collected or apportioned pursuant to
25 this paragraph and interest collected thereon
26 shall be invested and expended pursuant to Title
27 ~~307--chapter-241~~ 30-A, subpart 9.

28 Any funds paid by a discharger or discharger not
29 connected to the sewage system pursuant to this
30 paragraph may be credited to the account of the
31 discharger if the municipality is subsequently
32 reimbursed by the federal construction grant
33 program. The credit arrangement shall be
34 determined by agreement between the municipality
35 and the discharger.

36 Sec. 89. 38 MRSA §451-A, sub-§5, as enacted by
37 PL 1975, c. 209, is amended to read:

38 5. Fees. Municipalities and quasi-municipal
39 entities shall assess and collect the fees to be
40 charged pursuant to this section in accordance with

1 the provisions of chapter 11, and Title 307, chapters
2 235-and-237 30-A, chapters 161 and 213.

3 Sec. 90. 38 MRSA §482, sub-§5, ¶B, as amended
4 by PL 1981, c. 227, §1, is further amended to read:

5 B. All the lots are at least 5 acres, and the
6 municipality has adopted additional regulations
7 governing subdivisions pursuant to Title 307,
8 section 4956 30-A, section 4551, and the lots
9 less than 10 acres are of such dimensions as to
10 accommodate within the boundaries of each a
11 rectangle measuring 200 feet and 300 feet, which
12 abuts at one point the principal access way or the
13 lots have at least 75 feet of frontage on a
14 cul-de-sac which provides access;

15 Sec. 91. 38 MRSA §489, sub-§1, as enacted by PL
16 1975, c. 447, is amended to read:

17 1. Municipal application for review power. A
18 municipality may apply to the Board of Environmental
19 Protection, on forms provided by the board, for
20 authority to substitute permits issued pursuant to
21 Title 307, section 4956 30-A, section 4551, for
22 permits required by section 483 for subdivisions more
23 than 20 acres but less than 100 acres. The board shall
24 grant such authority if it finds that the municipality
25 has:

26 A. Established a planning board;

27 B. Developed a suitable application;

28 C. Made provisions by ordinance or regulation for
29 prompt notice to the board upon receipt of the
30 application, written notification to the applicant
31 and the board of the issuance of or denial of a
32 permit, stating the reason therefor, public notice
33 and satisfactory hearing procedures.

34 In the event that the board finds that a municipality
35 has failed to satisfy one or more of the above listed
36 criteria, it shall notify the municipality accordingly
37 and make recommendations through which it may
38 establish compliance. The municipality may then submit

1 a modified application for approval.

2 If at any time the board determines that a
3 municipality has failed to exercise its permit
4 granting authority in accordance with its approved
5 procedures or the purposes of this Article article
6 as embodied in the standards set forth in section 484
7 and Title 307, section 4956 30-A, section 4551, it
8 shall notify the municipality of the specific alleged
9 deficiencies and shall order a public hearing, of
10 which adequate public notice shall be given, to be
11 held in the municipality, to solicit public or
12 official comment thereon. Following such hearing, if
13 it finds that such deficiencies will persist, it shall
14 revoke the municipality's permit granting authority.

15 In the event that a municipality has the authority
16 granted by this Act revoked by the board, it may
17 reapply to the board for such authority at any time.

18 Sec. 92. 38 MRSA §837, sub-§6, ¶B, as enacted
19 by PL 1983, c. 417, §6, is amended to read:

20 B. To a river corridor commission, lake or
21 watershed district, dam commission or other
22 similar agency created by Act of the Legislature
23 or by an agreement among municipalities or other
24 public agencies under the interlocal cooperation
25 laws, Title 307-chapter-203 30-A, chapter 115;

26 Sec. 93. 38 MRSA §1105, first ¶, as amended by
27 PL 1971, c. 618, §12, is further amended to read:

28 Trustees shall be nominated and elected in the
29 same manner as municipal officers are nominated and
30 elected under Title 30 30-A, or in accordance with
31 a municipal charter, whichever is applicable; or, in
32 the case of unorganized territory, in accordance with
33 the procedure for the organization of larger townships
34 set forth in Title 307, section 5602 30-A, section
35 7001, subsection 2. Upon receipt of the names of all
36 the trustees, the Board of Environmental Protection
37 shall set a time, place and date for the first meeting
38 of the trustees, notice thereof to be given to the
39 trustees by certified or registered mail, return
40 receipt requested, mailed at least 10 days prior to

1 the date set for the meeting, to determine the length
2 of their terms. The terms shall be determined by lot
3 in accordance with the following table:

4	TERM			
5	Total number	1 year	2 years	3 years
6	of Trustees			
7	5	1	2	2
8	6	2	2	2
9	7	2	2	3
10	8	2	3	3
11	9	3	3	3
12	10	3	3	4
13	11	3	4	4
14	12	4	4	4
15	13	4	4	5
16	14	4	5	5
17	15	5	5	5
18	16	5	5	6
19	17	5	6	6
20	18	6	6	6

21 The trustees shall enter on their records the
22 determination so made. The trustees shall serve their
23 terms as determined at the organizational meeting,
24 except that in the case of trustees representing a
25 municipality, such trustees shall serve an additional
26 period until the next regular election of the
27 municipality, and thereafter such trustees' terms of
28 office shall date from the time of each regular
29 municipal election; and except that in the case of
30 trustees representing residents of unorganized
31 territory, such trustees shall serve until an election
32 to fill the vacancy caused by the expiration of their
33 terms shall be called by the county commissioners; and
34 such commissioners shall call such election in the
35 same manner as is provided for the initial election of
36 trustees and cause the same to be held on a date as
37 closely following the date upon which such terms
38 expire as may be.

39 Sec. 94. 38 MRSA §1201, sub-§1, as amended by
40 PL 1985, c. 506, Pt. B, §35, is further amended to
41 read:

1 1. Authorization of bonds. Any sanitary district
2 formed under this chapter may provide by resolution of
3 its board of trustees, without district vote, except
4 as provided in subsection 10, for the borrowing of
5 money and the issuance from time to time of bonds for
6 any of its corporate purposes, including, but not
7 limited to:

8 A. Paying and refunding its indebtedness;

9 B. Paying any necessary expenses and liabilities
10 incurred under this chapter, including
11 organizational and other necessary expenses and
12 liabilities, whether incurred by the district or
13 any municipality therein or any person residing in
14 unorganized territory encompassed by the district,
15 the district being authorized to reimburse any
16 municipality therein or any person residing in
17 unorganized territory encompassed by the district
18 for any such expenses incurred or paid by it or
19 him;

20 C. Paying costs directly or indirectly associated
21 with acquiring properties, paying damages, laying
22 sewers, drains and conduits, constructing,
23 maintaining and operating sewage and treatment
24 plants, or systems, and making renewals,
25 additions, extensions and improvements to the
26 same, and to cover interest payments during the
27 period of construction and for such period
28 thereafter as the trustees may determine;

29 D. Providing such reserves for debt service,
30 repairs and replacements or other capital or
31 current expenses as may be required by a trust
32 agreement or resolution securing bonds; and

33 E. Any combination of these purposes.

34 Bonds may be issued under this chapter as general
35 obligations of the district or as special obligations
36 payable solely from particular funds. The principal
37 of, premium, if any, and interest on all bonds shall
38 be payable solely from the funds provided for that
39 purpose from revenues. For purposes of this chapter,

1 the term "revenues" means and includes the proceeds of
2 bonds, all revenues, rates, fees, entrance charges,
3 assessments, rents and other receipts derived by the
4 district from the operation of its sewer system and
5 other properties, including, but not limited to,
6 investment earnings and the proceeds of insurance,
7 condemnation, sale or other disposition of properties.
8 All bonds issued by a district under this chapter
9 shall be legal obligations of the district, and all
10 districts formed under this chapter are declared to be
11 quasi-municipal corporations within the meaning of
12 Title 307, section 5053 30-A, section 5701. Bonds
13 may be issued under this chapter without obtaining the
14 consent of any commission, board, bureau or agency of
15 the State or of any municipality encompassed by the
16 district, and without any other proceedings or the
17 happening of other conditions or things other than
18 those proceedings, conditions or things which are
19 specifically required by this chapter. Bonds issued
20 under this chapter do not constitute a debt or
21 liability of the State or of any municipality
22 encompassed by the district or a pledge of the faith
23 and credit of the State or any such municipality, but
24 the bonds shall be payable solely from the funds
25 provided for that purpose, and a statement to that
26 effect shall be recited on the face of the bonds.

27 Sec. 95. 38 MRSA §1304-B, sub-§5, as amended by
28 PL 1985, c. 593, §9, is further amended to read:

29 5. Public waste disposal corporations.
30 Notwithstanding any law, charter, ordinance provision
31 or limitation to the contrary, pursuant to any
32 interlocal agreement entered into in accordance with
33 Title 307, chapter 203 30-A, chapter 115, any 2 or
34 more municipalities may organize or cause to be
35 organized or may participate in one or more
36 corporations organized as nonprofit corporations under
37 Title 13, chapter 81, or Title 13-B for the purpose,
38 among other permissible purposes, of owning or
39 operating any one or more waste facilities described
40 in subsection 4, paragraph A, and a subscribing
41 municipality may agree in any such interlocal
42 agreement to pay fees, assessments or other payments
43 as described in subsection 4, paragraph B, for such
44 term of years and on such other terms as the

1 interlocal agreement may provide and may pledge the
2 full faith and credit of the municipality to the same
3 extent provided in subsection 4, paragraph C. The
4 applicable interlocal agreement or the articles of
5 incorporation or bylaws of the corporation shall
6 provide that:

7 A. The corporation shall be organized and
8 continuously thereafter operated as a nonprofit
9 corporation, no part of the net earnings of which
10 may inure to the benefit of any member, director,
11 officer or other private person;

12 B. The directors of the corporation shall be
13 elected by the municipal officers of the
14 municipalities participating in the corporation;
15 and

16 C. Upon dissolution or liquidation of the
17 corporation, title to all of its property shall
18 vest in one or more of the municipalities
19 participating in the corporation.

20 Any interlocal agreement complying with the
21 requirements of this subsection and subsection 6 shall
22 be a properly authorized, legal, valid, binding and
23 enforceable obligation of the municipality, regardless
24 of whether the agreement was authorized, executed or
25 delivered prior to or after the effective date of this
26 subsection. Any corporation organized in a manner
27 which satisfies the requirements set forth in this
28 subsection and subsection 6, whether organized prior
29 to or after the effective date of this subsection,
30 shall be deemed for all purposes as organized pursuant
31 to this subsection. If so provided in the applicable
32 interlocal agreement, any such corporation shall have
33 the power, in addition to any other powers which may
34 be delegated under Title 30, chapter 203 30-A,
35 chapter 115, to issue, on behalf of one or more of the
36 municipalities participating in the corporation, in
37 order to finance the facilities, revenue obligation
38 securities issued in accordance with Title 10, chapter
39 110, subchapter IV, and any other bonds, notes or debt
40 obligations which municipalities are authorized to
41 issue by applicable law. For these purposes, the term
42 "municipal officers" as used in Title 10, chapter 110,

1 subchapter IV, means the board of directors of any
2 corporation described in this subsection. Title 10,
3 section 1064, subsection 6, shall not be construed to
4 prohibit the assignment or pledge as collateral
5 security of any contract of a municipality authorized
6 by this section or of any or all of the payments under
7 this section, regardless of whether the provisions of
8 subsection 4, paragraph C, are applicable to the
9 contract or payments.

10 Sec. 96. 38 MRSa §1304-B, sub-§6, as repealed
11 and replaced by PL 1985, c. 593, §10, is amended to
12 read:

13 6. Relationship to other laws. The obligation of
14 a municipality to pay any fees, assessments or other
15 payments in accordance with any agreement entered into
16 pursuant to subsection 4 or any interlocal agreement
17 referred to in subsection 5 shall not constitute a
18 "debt" or "indebtedness" of the municipality within
19 the meaning of any statutory, charter or ordinance
20 provision limiting the incurrence or the amount of
21 municipal indebtedness nor shall the authorization or
22 incurrence of the obligation or any municipal action
23 to raise funds to meet the obligation by any means set
24 forth in subsection 4, paragraph C, require or be
25 subject to any voter referendum or approval under any
26 law or any charter or ordinance provision.

27 A. A municipality may agree to make payments in
28 accordance with subsection 4, paragraph B, or in
29 accordance with the provisions of any interlocal
30 agreement referred to in subsection 5 with regard
31 to all or any portion of debt incurred or to be
32 incurred for the financing of one or more waste
33 facilities, provided that no such payments shall
34 be made with respect to debt or any portion of
35 debt which, when incurred, would cause the total
36 principal balance of all then outstanding debt or
37 portions of debt to which the payments apply to
38 exceed:

39 (1) Three percent of the last full state
40 valuation of the municipality; minus

1 (2) The municipality's then obtaining
2 allocable share of any debt or portions of
3 debt described in paragraph B with regard to
4 which it is obliged to make payments.

5 B. Notwithstanding paragraph A, 2 or more
6 municipalities may agree to make payments in
7 accordance with subsection 4, paragraph B, or in
8 accordance with any interlocal agreement referred
9 to in subsection 5 with regard to all or any
10 portion of debt incurred or to be incurred for the
11 financing of one or more waste facilities,
12 provided that no such payments may be made with
13 respect to debt or any portions of debts which,
14 when incurred, would cause the total principal
15 balance of all then outstanding debt or portions
16 of debt to which the payments apply to exceed:

17 (1) Three percent of the sum of the last
18 full state valuation of all municipalities so
19 agreeing; minus

20 (2) Any amounts of debt or portions of debt
21 described in paragraph A in connection with
22 which any such municipality is obliged to
23 make payments.

24 The limitations set forth in paragraphs A and B
25 shall only apply to agreements by which a
26 municipality or group of municipalities have
27 agreed to make payments directly based, among
28 other things, on a facility owner's costs of debt
29 service and other costs of financing and shall not
30 be construed to apply to contract payments
31 calculated on any other basis, even if the
32 facility owner uses the payments to meet its debt
33 service obligations.

34 The obligation of the municipality to pay fees,
35 assessments and other payments in accordance with
36 subsection 4 or any interlocal agreement referred to
37 in subsection 5 shall be binding upon and enforceable
38 against the municipality without regard to whether all
39 or any one or more of the waste facilities referred to
40 in subsection 4, paragraph B, subparagraph (1),
41 becomes operational or was or will be in operation

1 during the period for which the fees, assessments or
2 other payments are so charged.

3 No contract entered into in accordance with subsection
4 4 nor any ordinance adopted under the authority of
5 subsection 2 may be deemed a contract in restraint of
6 trade or otherwise unlawful under Title 10, chapter
7 201.

8 Notwithstanding any law, charter or ordinance
9 provisions to the contrary, the powers conferred upon
10 a municipality pursuant to subsections 4 and 5 and
11 this subsection may be exercised by the municipal
12 officers as defined in Title 307, section 1901 30-A,
13 section 2001, including the assessors of a plantation,
14 only when authorized, in the case of a municipality
15 with a city or town council, by action of the council
16 and, in the case of a municipality without such a
17 council, by action of the town meeting. This paragraph
18 shall apply whether or not the action of the city
19 council, town council or town meeting was taken before
20 or after the effective date of this subsection
21 March 21, 1986.

22 Nothing in this section may be construed to be a
23 limitation on the Home Rule powers granted to
24 municipalities under Title 307, section 1917 30-A,
25 section 3001, or on the ability of communities to
26 jointly exercise their powers as is recognized in
27 Title 307, section 1951 30-A, section 2201. This
28 section provides an additional and alternative method
29 for carrying out this subchapter.

30 Sec. 97. 38 MRSA §1305, sub-§5, as enacted by
31 PL 1973, c. 387, is amended to read:

32 5. Municipal permits. All permits issued
33 pursuant to Title 307, sections 2451 to 2460 30-A,
34 chapter 183, subchapter I, shall, in addition to
35 requirements imposed by those sections, be conditioned
36 on compliance with rules and regulations adopted by
37 the board concerning the operation of solid waste
38 disposal facilities. Copies of permits issued by the
39 municipality shall be submitted to the department
40 within 30 days of issue.

1 Sec. 98. 38 MRSA §1705, sub-§9, as enacted by
2 PL 1983, c. 820, §2, is amended to read:

3 9. Municipal officer. "Municipal officer" means
4 municipal officer as defined in Title 30, section
5 ~~190~~ 30-A, section 2001, and includes the assessors
6 of a plantation.

7 Sec. 99. 38 MRSA §1751, sub-§§1 and 5, as
8 enacted by PL 1983, c. 820, §2, are amended to read:

9 1. Authorization of bonds. Subject to the
10 limitations in subsection 10 and sections 1754 and
11 1755, any district formed under this chapter may
12 provide by resolution of its board of directors,
13 without district vote, for the borrowing of money and
14 the issuance from time to time of bonds and notes for
15 any of its corporate purposes, including, but not
16 limited to:

17 A. Paying and refunding its indebtedness;

18 B. Paying any necessary expenses and liabilities
19 incurred under this chapter, including
20 organizational and other necessary expenses and
21 liabilities, whether incurred by the district or
22 any municipality in the district. The district
23 may reimburse any municipality in the district for
24 any such expenses incurred or paid by it;

25 C. Paying costs directly or indirectly associated
26 with acquiring properties, paying damages,
27 constructing, maintaining and operating waste
28 facilities, and making renewals, additions,
29 extensions and improvements to the property or
30 facilities, and covering interest payments during
31 the period of construction and for such period as
32 the directors may determine;

33 D. Providing such reserves for debt service,
34 repairs and replacements or other capital or
35 current expenses as may be required by a trust
36 agreement or resolution securing bonds or notes;

37 E. Financing all or part of a waste facility for
38 a user. The term "user," as used in this section,

1 means one or more persons or entities, other than
2 a district, acting as lessee, purchaser, mortgagor
3 or borrower or contracting party; and

4 F. Any combination of these purposes.

5 Bonds may be issued by a district under this chapter
6 as general obligations of the district or as special
7 obligations payable solely from particular funds. The
8 principal, premium and interest on all bonds shall be
9 payable solely from the funds provided for that
10 purpose from revenues. All bonds issued by a district
11 under this chapter shall be legal obligations of the
12 district, and all districts formed under this chapter
13 are declared to be quasi-municipal corporations within
14 the meaning of Title 30, section 5053 30-A, section
15 5701. Bonds may be issued under this chapter without
16 obtaining the consent of any commission, board, bureau
17 or agency of the State or of any municipality
18 encompassed by the district and without any other
19 proceedings or the happening of other conditions or
20 things other than those proceedings, conditions or
21 things which are specifically required by this
22 chapter. Except as provided in this subchapter, bonds
23 issued by a district under this chapter do not
24 constitute a debt or liability of the State or of any
25 municipality encompassed by the district or a pledge
26 of the faith and credit of the State or any such
27 municipality, and a statement to that effect shall be
28 recited on the face of the bonds.

29 5. Trust funds. Notwithstanding any other
30 provision of law, all moneys money set aside for
31 payment of the bonds, or other purposes pursuant to
32 the provisions of any trust agreement securing the
33 bonds, shall be deemed to be trust funds, to be held
34 and applied as provided by the trust agreement;
35 provided that investment or deposit of those funds
36 shall be subject to the provisions applicable to
37 municipal funds under Title 30, section 5051-A
38 30-A, section 5652. The resolution authorizing the
39 issuance of bonds or the trust agreement securing the
40 bonds shall provide that any officer to whom, or bank,
41 trust company or other financial institution or fiscal
42 agent to which, those moneys money shall be paid
43 shall act as trustee of those-moneys money and

1 shall hold and apply the same for the purposes hereof,
2 subject to such regulations as may be provided in the
3 resolution or trust agreement or as may be required by
4 this chapter.

5 Sec. 100. 38 MRSA §1757, as enacted by PL 1983,
6 c. 820, §2, is amended to read:

7 §1757. Bonds issued by municipalities

8 For the purpose of assisting a district in
9 financing any solid waste facility authorized by this
10 chapter, and notwithstanding any other provision of
11 law, any individual municipality may issue general
12 obligation bonds backed by the full faith and credit
13 of the municipality. Proceeds of the bonds or any
14 part thereof may be either loaned or contributed to a
15 district of which a municipality is a member. The
16 issuance of the bonds and the loaning or contributing
17 of funds to a district formed under this chapter shall
18 constitute a valid purpose for which a municipality
19 may raise or appropriate money under Title 307
20 sections 5101 to 5108 30-A, sections 5721 to 5728.
21 General obligation bonds issued by a municipality
22 under this section shall be a municipal security as
23 defined in Title 307, section 5169 30-A, section
24 5903, and shall be eligible for purchase by the Maine
25 Municipal Bond Bank. Nothing in this section may be
26 read or construed to prohibit a municipality acting
27 under this section from levying user fees and charges
28 and discharging its debt out of the funds generated by
29 the fees and charges. A municipality issuing bonds
30 under this section and a district receiving the
31 proceeds of the bonds may enter into such contracts
32 and agreements as they may agree upon, both with each
33 other and 3rd parties, establish trust or enterprise
34 funds to provide for timely payment of the bonds,
35 employ a trustee and do all things which may be
36 necessary or convenient to the district or the
37 municipality to make use of the bonds, as may be
38 determined by the board of directors of the district
39 and the municipal officers of the municipality.

40 Sec. 101. 39 MRSA §2, sub-§5, VA, as amended by
41 PL 1987, c. 409, §1, is further amended to read:

1 A. "Employee" includes officials of the State,
2 counties, cities, towns, water districts and all
3 other quasi-public corporations of a similar
4 character, every duly elected or appointed
5 executive officer of a private corporation, other
6 than a charitable, religious, educational or other
7 nonprofit corporation, and every person in the
8 service of another under any contract of hire,
9 express or implied, oral or written, except:

10 (1) Persons engaged in maritime employment
11 or in interstate or foreign commerce, who are
12 within the exclusive jurisdiction of
13 admiralty law or the laws of the United
14 States; and persons operating as sternmen as
15 defined in Title 36, section 5102, subsection
16 8-A;

17 (2) Firefighters, including volunteer
18 firefighters who are active members of a
19 volunteer fire fighters' association, as
20 defined in Title 38, section 3771 30-A,
21 section 3151; volunteer emergency medical
22 services' persons, as defined in Title 32,
23 section 83, subsection 12; and policemen
24 shall be deemed employees within the meaning
25 of this Act. In computing the average weekly
26 wage of an injured volunteer firefighter or
27 volunteer emergency services' person, the
28 average weekly wage shall be taken to be the
29 earning capacity of the injured employee in
30 the occupation in which he is regularly
31 engaged. Employers who hire workmen within
32 this State to work outside the State may
33 agree with such workmen that the remedies
34 under this Act shall be exclusive as regards
35 injuries received outside this State arising
36 out of and in the course of that employment;
37 and all contracts of hiring in this State,
38 unless otherwise specified, shall be presumed
39 to include such an agreement. Any reference
40 to an employee who has been injured shall,
41 when the employee is dead, include his legal
42 representatives, dependents and other persons
43 to whom compensation may be payable;

1 (3) Notwithstanding any other provisions of
2 this Act any charitable, religious,
3 educational or other nonprofit corporation
4 that may be or may become an assenting
5 employer under this Act may cause any duly
6 elected or appointed executive officer to be
7 an employee of the corporation by
8 specifically including the executive officer
9 among those to whom the corporation secures
10 payment of compensation in conformity with
11 subchapter II; and the executive officer
12 shall remain an employee of the corporation
13 under this Act while such payment is so
14 secured. With respect to any corporation that
15 secures compensation by making a contract of
16 workers' compensation insurance, specific
17 inclusion of the executive officer in the
18 contract shall cause the officer to be an
19 employee of the corporation under this Act;

20 (4) Any person who states in writing to the
21 commission that he waives all the benefits
22 and privileges provided by the workers'
23 compensation laws, provided that the
24 commission shall have found that person to be
25 a bona fide owner of at least 20% of the
26 outstanding voting stock of the corporation
27 by which he is employed and that this waiver
28 was not a prerequisite condition to
29 employment.

30 Any person may revoke or rescind his waiver
31 upon 30 days' written notice to the
32 commission and his employer. The parent,
33 spouse or child of a person who has made a
34 waiver under the previous sentence may state,
35 in writing, that he waives all the benefits
36 and privileges provided by the workers'
37 compensation laws if the commissioner finds
38 that the waiver is not a prerequisite
39 condition to employment and if the parent,
40 spouse or child is employed by the same
41 corporation which employs the person who has
42 made the first waiver;

1 (5) The parent, spouse or child of a sole
2 proprietor who is employed by that sole
3 proprietor or the parent, spouse or child of
4 a partner who is employed by the partnership
5 of that partner may state, in writing, that
6 he waives all the benefits and privileges
7 provided by the workers' compensation laws if
8 the commission finds that the waiver is not a
9 prerequisite condition to employment;

10 (6) Employees of an agricultural employer
11 when harvesting 150 cords of wood or less
12 each year from farm wood lots, provided that
13 the employer is covered under an employer's
14 liability insurance policy as required in
15 subsection 1-A;

16 (7) An independent contractor; or

17 (8) If a person employs an individual
18 contractor, any employee of the independent
19 contractor is not considered an employee of
20 that person for the purposes of this Act.
21 The person who employs an independent
22 contractor is not responsible for providing
23 workers' compensation insurance covering the
24 payment of compensation and benefits to the
25 employees of the independent contractor. No
26 insurance company may charge a premium to any
27 person for any employee excluded by this
28 subparagraph.

29 Sec. 102. 39 MRSA §64-B, first ¶, as amended by
30 PL 1975, c. 480, §10, is further amended to read:

31 If any person has been an active member of a
32 municipal fire department or of a volunteer fire
33 fighters' association, as defined in Title 30,
34 section 3771:30-A, section 3151, for at least 2 years
35 prior to a cardiovascular injury or the onset of a
36 cardiovascular disease or pulmonary disease and if
37 said the disease has developed or the injury has
38 occurred within 6 months of having participated in
39 fire fighting or training or drill which actually
40 involves fire fighting, there shall be a rebuttable
41 presumption that the employee received the injury or
42 contracted the disease arising out of and in the

1 course of his employment, that sufficient notice of
2 the injury or disease has been given, and that the
3 injury or disease was not occasioned by the willful
4 intention of the employee to injure himself or
5 another.

6 Sec. 103. 39 MRSA §64-C, first ¶, as amended by
7 PL 1975, c. 480, §10, is further amended to read:

8 If any person had been an active member of a
9 municipal fire department or of a volunteer fire
10 fighters' association, as defined in Title 30,
11 section 3771 30-A, section 3151, for at least 2 years
12 prior to a cardiovascular injury or the onset of a
13 cardiovascular disease or pulmonary disease and
14 provided that the person had developed the disease or
15 had suffered the injury which resulted in death within
16 6 months of having participated in fire fighting or
17 training or drill which actually involves fire
18 fighting, there shall be a rebuttable presumption that
19 the person received the injury or disease arising out
20 of and in the course of his employment, that
21 sufficient notice of the injury or disease was given,
22 and that the injury or disease was not occasioned by
23 the willful intention of the employee to injure
24 himself or another.

25 Sec. 104. Transition clause. The following
26 provisions apply to the transition from the Maine
27 Revised Statutes, Title 30 to Title 30-A.

28 1. Personnel. This Act does not affect the term
29 or appointment of any officer, official, employee or
30 other personnel of any county, municipality,
31 plantation, village, quasi-municipal corporation or
32 any state agency, department or board governed by the
33 Maine Revised Statutes, Title 30-A.

34 2. Agreements, leases, contracts, authorizations
35 or bonds. All agreements, leases, contracts,
36 authorizations, notes or bonds issued under the Maine
37 Revised Statutes, Title 30, before the effective date
38 of this Act shall continue to be valid under the terms
39 of issuance until they expire or are rescinded,
40 amended or revoked.

1 3. Ordinances, rules and regulations. All
2 ordinances, rules and regulations enacted or adopted
3 by any county, municipality, plantation, village,
4 quasi-municipal corporation or any state agency,
5 department or board under the authority of the Maine
6 Revised Statutes, Title 30, shall continue in force
7 until they are repealed, rescinded, amended or
8 revoked.

9 4. Dedicated revenues. This Act shall not be
10 construed to change the status of any dedicated
11 revenues. All dedicated revenues existing prior to
12 this Act shall not lapse because of this Act, but
13 shall be transferred to the funds of the same name
14 which are created by this Act.

15 Sec. 105. Legislative intent. It is the intent
16 of the Legislature that this Act shall be considered a
17 revision of the laws governing local government in the
18 State.

19 STATEMENT OF FACT

20 This bill is a result of a legislative study
21 conducted by the Joint Standing Committee on State and
22 Local Government to revise the local government laws.
23 It repeals all of the laws contained in the Maine
24 Revised Statutes, Title 30, that regulate the conduct
25 of local government and reenacts them in revised form
26 as the Maine Revised Statutes, Title 30-A. The sole
27 exception to this revision is the Indian Claims Act
28 which remains unchanged in Title 30. The bill also
29 amends several laws outside of the Maine Revised
30 Statutes, Title 30, to correct cross references to
31 laws within the new Title 30-A.

32 No attempt was made to change the substance of the
33 laws in this revision and no such change is intended
34 by this bill. This bill is intended solely to clarify
35 existing law and to make it easier to use and
36 understand the laws governing local government in the
37 State. The bill rewrites archaic or confusing language
38 in plain English wherever possible, reorganizes the

1 laws into a more logical organization and corrects
2 ambiguities or conflicts within the laws.

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