

# MAINE STATE LEGISLATURE

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1 (EMERGENCY)  
2 SECOND REGULAR SESSION  
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE  
5

6 Legislative Document

No. 2189

7  
8 H.P. 1550 House of Representatives, March 14, 1986  
9 Referred to the Committee on State Government. Sent up for  
concurrency and ordered printed.

10 EDWIN H. PERT, Clerk

11 Presented by Speaker Martin of Eagle Lake.

12 Cosponsored by Senator Clark of Cumberland, Representative Gwadosky  
of Fairfield and Senator Perkins of Hancock.

13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-SIX  
17

18 AN ACT to Provide for the Allocation  
19 of the State Ceiling on Bonds for  
20 Nongovernmental Purposes.  
21

22 Emergency preamble. Whereas, Acts of the Legis-  
23 lature do not become effective until 90 days after  
24 adjournment unless enacted as emergencies; and

25 Whereas, pending legislation in the United States  
26 Congress could drastically reduce the amount of tax-  
27 exempt bonds that can be issued by the State's issu-  
28 ers because of a proposed reduction in the state  
29 ceiling on so-called "nonessential purpose bonds,"  
30 which term includes certain bonds which are not cur-  
31 rently subject to any state ceiling; and

32 Whereas, the pending federal legislation includes  
33 a provision that it applies to bonds issued after De-  
34 cember 31, 1985; and

1           Whereas, the uncertainties created by the pending  
2 federal legislation have already resulted in a sub-  
3 stantially reduced level of economic development  
4 within the State and will continue to do so until the  
5 State establishes procedures for allowing issuance of  
6 bonds within acceptable limits; and

7           Whereas, in the judgment of the Legislature,  
8 there is a need to establish a mechanism for allocat-  
9 ing available state ceiling on bonds among state is-  
10 suers in a manner that provides the greatest public  
11 benefit and gives assurance to bond purchasers that  
12 the bonds will be tax exempt, thereby reducing the  
13 cost of financing and promoting economic growth  
14 through worthy housing and economic development  
15 projects; and

16           Whereas, if legislation is not immediately en-  
17 acted, economic growth may be retarded and the lim-  
18 ited state ceiling may be expended unnecessarily on  
19 projects which may provide fewer economic and other  
20 benefits than other projects; and

21           Whereas, in the judgment of the Legislature,  
22 these facts create an emergency within the meaning of  
23 the Constitution of Maine and require the following  
24 legislation as immediately necessary for the preser-  
25 vation of the public peace, health and safety; now,  
26 therefore,

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

29           Sec. 1. 10 MRSA c. 9 is enacted to read:

30   CHAPTER 9

31   ALLOCATION OF STATE CEILING ON TAX-EXEMPT BONDS

32           §361. Definitions

33           As used in this chapter, unless the context oth-  
34 erwise indicates, the following terms have the fol-  
35 lowing meanings.

36           1. Bond. "Bond" means a revenue obligation se-  
37 curity, bond, note, debenture, certificate or other

1 evidence of indebtedness of the State or any politi-  
2 cal subdivision of the State.

3 2. Carry-forward. "Carry-forward" means that  
4 portion of the state ceiling for any calendar year  
5 which is unallocated during that calendar year and  
6 which is available to be carried forward to be used  
7 in later years under applicable federal law.

8 3. Federal formula. "Federal formula" means the  
9 formula or formulas for allocation of the state ceil-  
10 ing now or hereafter established under the United  
11 States Code, Title 26.

12 4. Solid waste energy project. "Solid waste en-  
13 ergy project" means a project designed to convert  
14 solid waste to electricity or steam.

15 5. State ceiling. "State ceiling" means the an-  
16 ual dollar volume cap on the issuance of tax-exempt  
17 bonds now or hereafter imposed on the State and its  
18 agencies and governmental subdivisions by the United  
19 States Code, Title 26.

20 6. Tax-exempt bond. "Tax-exempt bond" means a  
21 bond the interest on which is exempt from federal  
22 taxation.

23 §362. Legislative purpose

24 The Legislature finds and declares that the  
25 availability of financing through use of tax-exempt  
26 bonds is an effective and necessary tool for economic  
27 development, ensuring an adequate supply of  
28 affordable housing, providing for loans for higher  
29 education and promoting and improving the health,  
30 safety, welfare and quality of life of the people of  
31 the State. Because the availability of the financing  
32 is largely determined by the United States Internal  
33 Revenue Code, to which significant changes have been  
34 proposed, and because there is a statewide need to  
35 assure that the limited amount of tax-exempt financ-  
36 ing available is used in the most efficacious manner  
37 by issuers of bonds in the State to provide the  
38 greatest benefits to the State, the Legislature de-  
39 termines that the legislative purpose of promoting  
40 the best use of a limited resource can be best met by

1 authorizing the Governor to allocate available  
2 amounts of tax-exempt bond authority among issuers.  
3 This chapter is intended to apply to the federal for-  
4 mulas in effect on the effective date of this chap-  
5 ter, as well as to any unified volume limitation that  
6 may be enacted subsequently by the United States Con-  
7 gress. Any action by the Governor pursuant to this  
8 chapter is expressly delegated to him by the Legisla-  
9 ture for purposes of determining whether such action  
10 is authorized by the United States Code, Title 26.

11 §363. Allocation by Governor

12 1. Formula and procedure. The Governor may es-  
13 tablish by Executive Order a formula and procedure  
14 for allocation of the entire amount of the state  
15 ceiling, including any amounts set aside for nonprof-  
16 it organizations and any carry-forward among issuers  
17 of tax-exempt bonds, which formula may be different  
18 from the federal formula to the extent that the  
19 United States Code, Title 26 authorizes the Governor  
20 or Legislature of the State to vary the federal for-  
21 mula, and which formula may limit allocations of the  
22 state ceiling as deemed necessary by the Governor in  
23 the event that there is pending federal legislation  
24 with retroactive effective dates which might affect  
25 the state ceiling, including, without limitation,  
26 United States House of Representatives Bill, 3838.

27 2. Allocation to Maine State Housing Authority.  
28 That portion of the state ceiling allocated by the  
29 Governor under this section for bonds for housing or  
30 housing-related purposes shall be allocated to the  
31 Maine State Housing Authority, which may establish a  
32 process that is different from the federal formula  
33 for allocating that portion of the state ceiling per-  
34 taining to bonds for housing-related projects.

35 3. Allocation to the Treasurer of State. That  
36 portion of the state ceiling allocated by the Gover-  
37 nor under this section for bonds for general obliga-  
38 tions of the State shall be allocated to the Treasur-  
39 er of State, who may further allocate such portion of  
40 the state ceiling to bonds of the State requiring an  
41 allocation in order to qualify as tax-exempt bonds.

1           4. Allocation to Finance Authority of Maine.  
2 That portion of the state ceiling allocated by the  
3 Governor for bonds for solid waste energy projects or  
4 bonds issued pursuant to chapter 110, other than for  
5 housing or housing-related purposes, shall be allo-  
6 cated to the Finance Authority of Maine, which may  
7 further allocate such portion of the state ceiling to  
8 bonds requiring an allocation in order to qualify as  
9 tax-exempt bonds.

10           5. Allocation to Maine Municipal Bond Bank.  
11 That portion of the state ceiling not allocated pur-  
12 suant to subsection 2, 3 or 4, shall be allocated to  
13 the Maine Municipal Bond Bank, which may further al-  
14 locate such portion of the state ceiling to bonds re-  
15 quiring an allocation in order to qualify as tax-  
16 exempt bonds.

17           6. Specific allocations; unused allocations.  
18 The Governor may provide that any specific alloca-  
19 tions under this section be reviewed periodically and  
20 that unused allocations be repooled for reallocation  
21 to other issuers or for carry-forward in a manner es-  
22 tablished by the Governor.

23           Sec. 2. 10 MRSA §980-A, as enacted by PL 1985,  
24 c. 344, §26, is amended to read:

25 §980-A. Allocation of federal bond ceiling

26           The authority may, by rulemaking pursuant to Ti-  
27 tle 5, chapter 375, subchapter II, establish a pro-  
28 cess that is different from the federal formula for  
29 allocating that portion of the ceiling established by  
30 the United States Code, Title 26, ~~Section 103,~~ ~~to~~  
31 ~~limit the aggregate amount of certain bonds which may~~  
32 ~~be issued or carried forward by the State and any of~~  
33 ~~its political subdivisions with respect to any one~~  
34 ~~calendar year allocated to the authority by the Gov-~~  
35 ~~ernor pursuant to section 363.~~ For purposes of this  
36 section, the authority may also limit the types of  
37 projects which are eligible to receive allocations of  
38 the ceiling and establish other requirements and lim-  
39 itations for assuring effective and efficient use of  
40 the ceiling. The authority shall include in its re-  
41 port pursuant to section 974 a description of its op-  
42 erations pursuant to this section for the most recent

1 calendar year and of its plans, if any, to revise any  
2 allocation system established pursuant to this sec-  
3 tion.

4 Sec. 3. 10 MRSA §1061-A, sub-§4 is enacted to  
5 read:

6 4. Residential property. In the case of  
7 projects consisting of multifamily or single-family  
8 residential property, the Maine State Housing Author-  
9 ity may, in lieu of the procedure established in this  
10 subchapter for approval by the authority, approve or  
11 disapprove any such projects which are subject to a  
12 volume limitation on issuance of tax-exempt bonds un-  
13 der the United States Code, Title 26, in accordance  
14 with rules adopted pursuant to the Maine Administra-  
15 tive Procedure Act, Title 5, chapter 375.

16 Sec. 4. 30 MRSA §4601-A, sub-§1, ¶R, as amended  
17 by PL 1985, c. 151, §5, is further amended to read:

18 R. Guarantee or assure the timely payment in  
19 whole or part of principal on, premium on or in-  
20 terest of any bond or of any instrument or secu-  
21 rity identified in paragraph I or O; and

22 Sec. 5. 30 MRSA §4601-A, sub-§1, ¶S, as enacted  
23 by PL 1985, c. 151, §6, is amended to read:

24 S. Purchase, sell, service, pledge, invest in,  
25 hold, trade, accept as collateral, administer or  
26 otherwise deal in, acquire or transfer, contract  
27 for benefits to recipients on behalf of the Fed-  
28 eral Government or otherwise and do those things  
29 necessary to issue or cause to be issued federal  
30 mortgage credit certificates as authorized and  
31 created by the Federal Tax Reform Act of 1984,  
32 Public Law 98-369, Section 612(a)-; and

33 Sec. 6. 30 MRSA §4601-A, sub-§1, ¶T is enacted  
34 to read:

35 T. Approve or disapprove, in accordance with  
36 rules adopted pursuant to the Maine Administra-  
37 tive Procedure Act, Title 5, chapter 375, a  
38 project which is multi-family or single-family  
39 residential property, when authorized or required  
40 by Title 10, chapter 110, subchapter IV.

1           Sec. 7. 30 MRSA §4651, sub-§11, as amended by PL  
2 1983, c. 414, §11, is further amended to read:

3           11. Mortgage credits. The state authority shall  
4 have the power to acquire from banks, life insurance  
5 companies, savings and loan associations, pension or  
6 retirement funds, any fiduciaries, the Federal Gov-  
7 ernment and other financial institutions, persons or  
8 governmental or business entities mortgage loans and  
9 notes anywhere in the State, the restriction as to  
10 the area of operation in section 4552 notwithstand-  
11 ing, and to sell mortgages and notes to insurance  
12 companies, other financial institutions, persons or  
13 governmental or business entities and the agencies of  
14 the United States of America or any fiduciaries or  
15 pension or retirement funds; ~~and~~

16           Sec. 8. 30 MRSA §4651, sub-§12, as enacted by PL  
17 1973, c. 527, is amended to read:

18           12. Mortgage assistance payments. Pursuant to  
19 the purposes of this Act to provide housing for per-  
20 sons of low income, the State Housing Authority shall  
21 have the power to make payments and binding commit-  
22 ments, subject to the authority's receipt of suffi-  
23 cient funds to honor said commitments from periodic  
24 appropriations from appropriate sources, to continue  
25 said payments if necessary over the life of the mort-  
26 gage to mortgagors or to mortgagees on behalf of low  
27 income persons to reduce interest costs on market  
28 rate mortgages to as low as 1%. No commitment made by  
29 the authority under this subsection shall be con-  
30 strued to commit the faith and credit of the State of  
31 Maine.

32           Persons benefiting from these mortgage assistance  
33 payments shall, according to guidelines to be in-  
34 cluded in said mortgage agreements, be required to  
35 pay a larger interest payment as their ability to pay  
36 increases; and

37           Sec. 9. 30 MRSA §4651, sub-§14 is enacted to  
38 read:

39           14. Allocation of federal ceilings. By  
40 rulemaking pursuant to Title 5, chapter 375, subchap-  
41 ter II, to establish a process that is different from



1 the federal formula for allocating that portion of  
2 the ceiling on the issuance of certain tax-exempt  
3 bonds established by the United States Code, Title  
4 26, which has been allocated to the state authority  
5 by the Governor pursuant to Title 10, section 363,  
6 and may also limit the types of projects which are  
7 eligible to receive allocations or carry-forward des-  
8 ignations from the state authority.

9       Sec. 10. 30 MRSA §4651, last ¶, as enacted by PL  
10 1985, c. 151, §8, is amended to read:

11       The director of the state authority shall serve  
12 as the state's designee to certify to the United  
13 States Secretary of the Treasury that ~~qualified mort-~~  
14 ~~gage bonds housing-related bonds~~ issued in the State  
15 satisfy the applicable ceiling requirements of the  
16 United States Internal Revenue Code, ~~Section 103A(g)~~  
17 ~~(4)~~.

18       Sec. 11. 30 MRSA §4751, 5th ¶, as enacted by PL  
19 1983, c. 589, is repealed.

20       Sec. 12. 30 MRSA §5166-A is enacted to read:

21 §5166-A. Allocation of state ceiling

22       By rulemaking pursuant to Title 5, chapter 375,  
23 subchapter II, the bank may establish a process for  
24 allocation and carryforward of that portion of the  
25 state ceiling on issuance of tax-exempt bonds allo-  
26 cated to the bank by the Governor pursuant to Title  
27 10, chapter 9.

28       Emergency clause. In view of the emergency cited  
29 in the preamble, this Act shall take effect when ap-  
30 proved.

1

STATEMENT OF FACT

2           The purposes of this bill are stated in the emer-  
3           gency preamble. The bill is intended to allow the  
4           Governor to take such actions as may be necessary to  
5           ensure the most effective use of the applicable state  
6           ceiling on issuance of certain tax-exempt bonds and  
7           to allow the Governor to vary the federal formulas  
8           where the Governor or Legislature is permitted to do  
9           so under applicable law. The Governor may allocate  
10          portions of the state ceiling to the Maine State  
11          Housing Authority, Treasurer of State, Finance Au-  
12          thority of Maine and Maine Municipal Bond Bank, each  
13          of which may further allocate portions of the state  
14          ceiling to specific issuers for bonds requiring an  
15          allocation in order to be tax exempt.

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