

# MAINE STATE LEGISLATURE

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(Emergency)  
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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1358

S.P. 444 In Senate, April 28, 1987  
Approved for Introduction by a Majority of the Legislative  
Council pursuant to Joint Rule 27.

Reference to the Committee on Appropriations and Financial  
Affairs suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by President PRAY of Penobscot.

Cosponsored by Speaker MARTIN of Eagle Lake, Senator  
PERKINS of Hancock.

STATE OF MAINE

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

1 AN ACT to Provide a Mechanism for Allocations  
2 of the State Ceiling on Private-activity  
3 Bonds.  
4

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

8 Whereas, the Maine Revised Statutes, Title 10,  
9 section 363, as enacted by Public Law 1985, chapter  
10 594, and amended by Public Law 1987, chapter 3, makes  
11 a partial allocation of the state ceiling on  
12 private-activity bonds to some issuers, but leaves a  
13 portion of the state ceiling unallocated and does not  
14 provide sufficient allocations for certain types of  
15 issues of private-activity bonds, particularly

1 student-loan bonds, which may require an allocation  
2 prior to the effective date of this Act if not en-  
3 acted on an emergency basis; and

4 Whereas, if such bond issues must be delayed due  
5 to lack of available state ceiling, the rates and  
6 terms under which such bonds may be issued may be ad-  
7 versely affected, resulting in increased costs to  
8 beneficiaries, including students, or even unavaila-  
9 bility of financing for student loans; and

10 Whereas, in the judgment of the Legislature,  
11 these facts create an emergency within the meaning of  
12 the Constitution of Maine and require the following  
13 legislation as immediately necessary for the preser-  
14 vation of the public peace, health and safety; now,  
15 therefore,

16 Be it enacted by the People of the State of Maine as  
17 follows:

18 **Sec. 1.** 10 MRSA §361, sub-§2, as enacted by PL  
19 1985, c. 594, §1, is amended to read:

20 2. Carry-forward. "Carry-forward" means that  
21 portion of the state ceiling for any calendar year  
22 which is unallocated to specific bond issues during  
23 that calendar year and which is available to be car-  
24 ried forward to be used in later years under applica-  
25 ble-federal-law the United States Code, Title 26.

26 **Sec. 2.** 10 MRSA §361, sub-§6, as enacted by PL  
27 1985, c. 594, §1, is amended to read:

28 6. Tax-exempt bond. "Tax-exempt bond" means a  
29 bond the interest on which is ~~exempt--from--federal~~  
30 ~~taxation~~ not included in the gross income of the own-  
31 ers for federal income tax purposes pursuant to the  
32 United States Code, Title 26, Section 103.

33 **Sec. 3.** 10 MRSA §362, as enacted by PL 1985, c.  
34 594, §1, is amended to read:

35 §362. Legislative purpose

1           The Legislature finds and declares that the  
2 availability of financing through use of tax-exempt  
3 bonds is an effective and necessary tool for economic  
4 development, ensuring an adequate supply of  
5 affordable housing, providing for loans for higher  
6 education and promoting and improving the health,  
7 safety, welfare and quality of life of the people of  
8 the State. Because the availability of the financing  
9 is largely determined by the United States Internal  
10 Revenue Code, ~~to which significant changes have been~~  
11 ~~proposed,~~ and because there is a statewide need to  
12 assure that the limited amount of tax-exempt financ-  
13 ing available is used in the most efficacious manner  
14 by issuers of bonds in the State to provide the  
15 greatest benefits to the State, the Legislature de-  
16 termines that the legislative purpose of promoting  
17 the best use of a limited resource can be best met by  
18 authorizing the Governor and Legislature and certain  
19 designated issuers of bonds to allocate available  
20 amounts of tax-exempt bond authority among issuers.  
21 This chapter is intended to apply to the federal for-  
22 mulas in effect on the effective date of this chap-  
23 ter, as well as to any unified volume limitation that  
24 may be enacted subsequently by the United States Con-  
25 gress. Any action by the Governor designated issuers  
26 pursuant to this chapter is expressly delegated to  
27 him those issuers by the Legislature for purposes of  
28 determining whether such action is authorized by the  
29 United States Code, Title 26.

30           ~~For the purpose of expeditiously allocating tax~~  
31 ~~exempt bond authority among issuers for 1986 only,~~  
32 ~~the Legislature authorizes the Governor to allocate~~  
33 ~~the state ceiling in accordance with section 363,~~  
34 ~~subsection 1.~~

35           Sec. 4. 10 MRSA §363, as enacted by PL 1985, c.  
36 594, §1, is repealed.

37           Sec. 5. 10 MRSA §363-A is enacted to read:

38           §363-A. Allocation of the state ceiling

39           1. Procedure. For calendar year 1987 and each  
40 subsequent calendar year, the Legislature may estab-  
41 lish a procedure for allocation of the entire amount  
42 of the state ceiling by allocating an amount of the

1 state ceiling to the specific issuers designated in  
2 this section for further allocation by each specific  
3 issuer to itself or to other issuers for specific  
4 bond issues requiring an allocation of the state  
5 ceiling or for carry-forward. This procedure shall  
6 supersede the federal formula to the full extent that  
7 the United States Code, Title 26, authorizes the Leg-  
8 islature to vary the federal formula. Allocations  
9 may be reviewed by the Legislature periodically and  
10 unused allocations may be reallocated to other issu-  
11 ers, provided that, notwithstanding the existence of  
12 legislation allocating or reallocating all or any  
13 portion of the state ceiling, at any time during the  
14 period from November 1st, to and including December  
15 31st, of any calendar year, the issuers specifically  
16 identified in subsections 3 to 7 may, by unanimous  
17 written agreement executed by representatives of each  
18 of the issuers, allocate amounts not previously allo-  
19 cated and reallocate unused allocations from one of  
20 the specific issuers designated in this section to  
21 another specific issuer for further allocation or  
22 carry-forward, with respect to the state ceiling for  
23 that calendar year only.

24 2. Recommendation of Governor and issuers. At  
25 any time action of the Legislature under subsection 1  
26 is necessary or desirable, the Governor shall recom-  
27 mend to the appropriate committee of the Legislature  
28 a proposed allocation or reallocation of all or part  
29 of the state ceiling. This recommendation shall be  
30 considered by the Legislature prior to taking any  
31 such action. In recommending any allocation or real-  
32 location of the state ceiling to the Legislature, the  
33 Governor shall consider the requests and recommenda-  
34 tions of those issuers of bonds within the State des-  
35 ignated in this section and shall explain the basis  
36 of any recommendation which varies from the requests  
37 and recommendation of those issuers.

38 3. Allocation to Maine State Housing Authority.  
39 That portion of the state ceiling allocated under  
40 this section to the category of bonds for housing or  
41 housing-related purposes shall be allocated to the  
42 Maine State Housing Authority, which may further al-  
43 locate that portion of the state ceiling to bonds for  
44 housing-related projects which require an allocation  
45 in order to qualify as tax-exempt bonds.

1           4. Allocation to the Treasurer of State. That  
2 portion of the state ceiling allocated under this  
3 section to the category of general obligations bonds  
4 of the State shall be allocated to the Treasurer of  
5 State, who may further allocate that portion of the  
6 state ceiling to bonds of the State requiring an al-  
7 location in order to qualify as tax-exempt bonds.

8           5. Allocation to the Finance Authority of Maine.  
9 That portion of the state ceiling allocated to the  
10 category of bonds which are limited obligations of  
11 the issuer payable solely from the revenues of the  
12 projects financed with the proceeds of the bonds,  
13 other than for housing-related projects or issues in-  
14 cluded in an issue of the Maine Municipal Bond Bank,  
15 shall be allocated to the Finance Authority of Maine,  
16 which may further allocate that portion of the state  
17 ceiling to bonds requiring an allocation in order to  
18 qualify as tax-exempt bonds.

19           6. Allocation to the Maine Municipal Bond Bank.  
20 That portion of the state ceiling allocated to the  
21 category of bonds which are general obligations of  
22 issuers within the State, other than the State, which  
23 are included in bond issues of the Maine Municipal  
24 Bond Bank, or which are qualified redevelopment bonds  
25 as defined in the United States Code, Title 26, shall  
26 be allocated to the Maine Municipal Bond Bank, which  
27 may further allocate that portion of the state ceil-  
28 ing to bonds requiring an allocation in order to  
29 qualify as tax-exempt bonds.

30           7. Allocation to the Maine Educational Loan Mar-  
31 keting Corporation. That portion of the state ceil-  
32 ing allocated to the category of bonds providing  
33 funds for student loans shall be allocated to the  
34 Maine Educational Loan Marketing Corporation, which  
35 may further allocate that portion of the state ceil-  
36 ing to student-loan bonds requiring an allocation in  
37 order to qualify as tax-exempt bonds.

38           8. Use of carry-forward. In the event that any  
39 issuer has made a carry-forward election under the  
40 United States Code, Title 26, Section 146(f), as  
41 amended, the issuer shall use, to the extent possible  
42 and consistent with the purpose for which the carry-  
43 forward was elected, the carry-forward for issues

1 subject to the state ceiling prior to allocating any  
2 portion of the state ceiling for the applicable cal-  
3 endar year to the issue.

4       **Sec. 6. Allocation to the Treasurer of State.**  
5 The \$20,000,000 of the state ceiling for calendar  
6 year 1988 is allocated to the Treasurer of State to  
7 be used in accordance with the Maine Revised Stat-  
8 utes, Title 10, section 363-A, subsection 4.

9       **Sec. 7. Allocation to the Finance Authority of**  
10 **Maine.** The \$58,000,000 of the state ceiling for the  
11 calendar year 1987 is allocated to the Finance Au-  
12 thority of Maine to be used in accordance with the  
13 Maine Revised Statutes, Title 10, section 363-A, sub-  
14 section 5, provided that prior to any reallocation of  
15 this amount permitted under the Maine Revised Stat-  
16 utes, Title 10, section 363-A, this amount shall be  
17 used only for solid waste energy projects. Amounts  
18 previously allocated to the Finance Authority of  
19 Maine may be allocated by the Authority to any bond  
20 issue for which the Authority may issue allocations.  
21 The \$25,000,000 of the state ceiling for calendar  
22 year 1988 is allocated to the Finance Authority of  
23 Maine to be used in accordance with the Maine Revised  
24 Statutes, Title 10, section 363-A, subsection 5.

25       **Sec. 8. Allocation to the Maine Municipal Bond**  
26 **Bank.** The \$12,000,000 of the state ceiling for cal-  
27 endar year 1988 is allocated to the Maine Municipal  
28 Bond Bank to be used in accordance with the Maine Re-  
29 vised Statutes, Title 10, section 363-A, subsection  
30 6.

31       **Sec. 9. Allocation to the Maine Educational Loan**  
32 **Marketing Corporation.** The \$60,000,000 of the state  
33 ceiling for calendar year 1987 is allocated to the  
34 Maine Educational Loan Marketing Corporation to be  
35 used in accordance with the Maine Revised Statutes,  
36 Title 10, section 363-A, subsection 7. No portion of  
37 the calendar year 1988 state ceiling is allocated to  
38 the Maine Educational Loan Marketing Corporation.

39       **Sec. 10. Allocation to the Maine State Housing**  
40 **Authority.** No portion of the state ceiling for cal-  
41 endar year 1988 is allocated to the Maine State Hous-  
42 ing Authority.





1 among themselves on and after November 1st of each  
2 calendar year, but only if all 5 issuers are in  
3 agreement. The issuers may not allocate state ceiling  
4 for future calendar years. Allocations or  
5 reallocations by the specified issuers will supersede  
6 allocations provided in any legislation effective as  
7 of the date of the allocation or reallocation by the  
8 specified issuers.

9 Sections 5 to 9 of the bill make specific allocations  
10 of the remaining unallocated portion of the  
11 1987 state ceiling and a portion of the \$150,000,000  
12 state ceiling for 1988. New allocations for 1987  
13 include \$60,000,000 for student loan bonds and  
14 \$58,000,000 for solid waste energy projects. Allocations  
15 for 1988 are made in order that bonds may be  
16 issued in early 1988 before new legislation can be  
17 enacted allocating the 1988 state ceiling. Section  
18 10 of the bill provides that \$93,000,000 of the 1988  
19 state ceiling will remain unallocated at present.

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