

MAINE STATE LEGISLATURE

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(EMERGENCY)
(New Draft of S.P. 444, L.D. 1358)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1819

S.P. 618

In Senate, June 11, 1987

Reported by Senator Gould of Waldo for the Committee on State and Local Government and printed under Joint Rule 2. Original Bill sponsored by President Pray of Penobscot. Cosponsored by: Speaker Martin of Eagle Lake, Senator Perkins of Hancock

JOY J. O'BRIEN, Secretary of the Senate

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**
3 **Private-activity 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. Carryforward. "Carry-forward Carryforward"**
21 **means that portion of the state ceiling for any cal-**
22 **endar year which is unallocated to specific bond**
23 **issues during that calendar year and which is availa-**
24 **ble to be carried forward to be used in later years**
25 **under applicable-federal-law the United States Code,**
26 **Title 26.**

27 **Sec. 2. 10 MRSA §361, sub-§6, as enacted by PL**
28 **1985, c. 594, §1, is amended to read:**

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

34 **Sec. 3. 10 MRSA §362, as enacted by PL 1985, c.**
35 **594, §1, is amended to read:**

36 **§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 and the following enacted in its
37 place:

38 §363. Allocation of the state ceiling

39 1-A. 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
43 state ceiling to the specific issuers designated in

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

23 2-A. Recommendation of Governor and issuers. At
24 any time action of the Legislature under subsection
25 1-A is necessary or desirable, the Governor shall
26 recommend to the appropriate committee of the Legis-
27 lature a proposed allocation or reallocation of all
28 or part of the state ceiling. This recommendation
29 shall be considered by the Legislature prior to tak-
30 ing any such action. In recommending any allocation
31 or reallocation of the state ceiling to the Legisla-
32 ture, the Governor shall consider the requests and
33 recommendations of those issuers of bonds within the
34 State designated in this section and shall explain
35 the basis of any recommendation which varies from the
36 requests and recommendation of those issuers.

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

1 5. 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 6. 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 7. 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 8. 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 9. Use of carryforward. In the event that any
39 issuer has made a carryforward 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
43 carryforward was elected, the carryforward 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. 5. 30 MRSA §4651, sub-§14, as enacted by PL**
5 **1985, c. 594, §9, is amended to read:**

6 **14. Allocation of federal ceilings.** By
7 rulemaking pursuant to Title 5, chapter 375, subchap-
8 ter II, to establish a process that is different from
9 the federal formula for allocating that portion of
10 the ceiling on the issuance of certain tax-exempt
11 bonds established by the United States Code, Title
12 26, which has been allocated to the state authority
13 pursuant to Title 10, section 363, and may also limit
14 the types of projects which are eligible to receive
15 allocations or ~~carry-forward~~ carryforward designa-
16 tions from the state authority.

17 **Sec. 6. 30 MRSA §5166-A, as enacted by PL 1985,**
18 **c. 594, §12, is amended to read:**

19 §5166-A. Allocation of state ceiling

20 By rulemaking pursuant to Title 5, chapter 375,
21 subchapter II, the bank may establish a process for
22 allocation and ~~carry--forward~~ carryforward of that
23 portion of the state ceiling on issuance of tax-
24 exempt bonds allocated to the bank pursuant to Title
25 10, chapter 9.

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

31 **Sec. 8. Allocation to the Finance Authority of**
32 **Maine.** The \$58,000,000 of the state ceiling for the
33 calendar year 1987 is allocated to the Finance Au-
34 thority of Maine to be used in accordance with the
35 Maine Revised Statutes, Title 10, section 363, sub-
36 section 6, provided that prior to any reallocation of
37 this amount permitted under the Maine Revised Stat-
38 utes, Title 10, section 363, this amount shall be
39 used only for solid waste energy projects. Amounts
40 previously allocated to the Finance Authority of

1 Maine may be allocated by the authority to any bond
2 issue for which the authority may issue allocations.
3 The \$25,000,000 of the state ceiling for calendar
4 year 1988 is allocated to the Finance Authority of
5 Maine to be used in accordance with the Maine Revised
6 Statutes, Title 10, section 363, subsection 6.

7 **Sec. 9. Allocation to the Maine Municipal Bond**
8 **Bank.** The \$12,000,000 of the state ceiling for cal-
9 endar year 1988 is allocated to the Maine Municipal
10 Bond Bank to be used in accordance with the Maine Re-
11 vised Statutes, Title 10, section 363, subsection 7.

12 **Sec. 10. Allocation to the Maine Educational**
13 **Loan Marketing Corporation.** The \$60,000,000 of the
14 state ceiling for calendar year 1987 is allocated to
15 the Maine Educational Loan Marketing Corporation to
16 be used in accordance with the Maine Revised Stat-
17 utes, Title 10, section 363, subsection 8. No por-
18 tion of the calendar year 1988 state ceiling is allo-
19 cated to the Maine Educational Loan Marketing Corpo-
20 ration.

21 **Sec. 11. Allocation to the Maine State Housing**
22 **Authority.** No portion of the state ceiling for cal-
23 endar year 1988 is allocated to the Maine State Hous-
24 ing Authority.

25 **Sec. 12. Unallocated state ceiling.** The
26 \$93,000,000 of the state ceiling for calendar year
27 1988 is unallocated and shall be reserved for future
28 allocation in accordance with applicable law.

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

1

STATEMENT OF FACT

2 This new draft makes the following changes from
3 the original bill.

4 1. It makes use and spelling of term
5 "carryforward" consistent with use in Internal Revenue
6 Code.

7 2. Instead of repealing the Maine Revised Stat-
8 utes, Title 10, section 363 and enacting section
9 363-A, it reworks section 363 to maintain consistency
10 with Public Law 1987, chapter 3, which provided for
11 allocations to various issuers to be used in accord-
12 ance with applicable provisions of section 363. Pub-
13 lic Law 1987, chapter 3, allocations for 1987 were as
14 follows.

15	MSHA	\$ 50,000,000
16	Treasurer	\$ 20,000,000
17	FAME	\$ 50,000,000
18	Bond Bank	\$ 12,000,000
19	Unallocated	\$118,000,000

20 3. It clarifies that the allocation to the Maine
21 Municipal Bond Bank may be used for 3 categories of
22 bonds:

23 A. General obligations of issuers other than the
24 State;

25 B. Bonds included in bond bank issues; and

26 C. "Qualified redevelopment bonds" as defined in
27 the Internal Revenue Code. .

28 4. It corrects statutory references to refer to
29 appropriate subsections of Title 10, section 363.

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