

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 1199

S.P. 405

In Senate, March 6, 2003

### **An Act To Establish the Lincoln and Sagadahoc Multicounty Jail Authority**

(EMERGENCY)

---

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in black ink, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator MAYO of Sagadahoc.  
Cosponsored by Representative WATSON of Bath and  
Senator: HALL of Lincoln, Representatives: EARLE of Damariscotta, GROSE of Woolwich,  
HUTTON of Bowdoinham, LESSARD of Topsham, PERCY of Phippsburg, RINES of  
Wiscasset, TRAHAN of Waldoboro.

2 **Mandate preamble.** This measure requires one or more local  
units of government to expand or modify activities so as to  
4 necessitate additional expenditures from local revenues but does  
not provide funding for at least 90% of those expenditures.  
6 Pursuant to the Constitution of Maine, Article IX, Section 21,  
2/3 of all of the members elected to each House have determined  
it necessary to enact this measure.

8  
10 **Emergency preamble. Whereas.** Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

12  
14 **Whereas,** Lincoln County and Sagadahoc County have been  
exploring the concept of a common jail for many months; and

16 **Whereas,** Lincoln County and Sagadahoc County may soon need  
to begin making binding commitments regarding a common jail; and

18  
20 **Whereas,** in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
22 necessary for the preservation of the public peace, health and  
safety; now, therefore,

24  
26 **Be it enacted by the People of the State of Maine as follows:**

28 **Sec. 1. 30-A MRSA c. 17** is enacted to read:

30 **CHAPTER 17**

32 **LINCOLN AND SAGADAHOC MULTICOUNTY JAIL AUTHORITY**

34 **SUBCHAPTER 1**

36 **GENERAL PROVISIONS**

38 **§1801. Short title**

40 This chapter may be known and cited as "the Lincoln and  
Sagadahoc Multicounty Jail Authority Act."

42 **§1802. Definitions**

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

46  
48 **1. Authority.** "Authority" or "jail authority" means the  
authority formed under this chapter and Title 13-B.

50

2           **2. Commissioner.** "Commissioner" or "county commissioner"  
3 means a person elected or appointed to the Lincoln County or  
4 Sagadahoc County board of commissioners.

5           **3. Consent of county.** "Consent of county" means a vote  
6 taken pursuant to section 122.

7           **4. Director.** "Director" and "board of directors" means the  
8 directors of the jail authority.

9           **5. Jail facility.** "Jail facility" or "jail" means any land  
10 area, structure, location or equipment, or combination of them,  
11 used for the confinement of prisoners.

12           **6. Municipality.** "Municipality" means a city or town.

13           **7. Municipal officers.** "Municipal officers" means the  
14 municipal officers or councillors of a town or the mayor and  
15 municipal officers or councillors of a city.

16           **8. Operating and governance agreement.** "Operating and  
17 governance agreement" means the documents that set the terms of  
18 the jail authority operations and structure for governance.

19           **9. Revenues.** "Revenues" means the proceeds of bonds, all  
20 revenues, rates, tolls, assessments, rents, transportation  
21 charges, reimbursement from the State, including community  
22 corrections money, boarding fees and inmate-related medical  
23 reimbursements, and other charges and receipts derived by the  
24 jail authority from the operation of a multicounty jail,  
25 including, but not limited to, investment earnings and the  
26 proceeds of insurance, condemnation, sale or other disposition of  
27 properties, and must include proceeds from assessments when the  
28 power of assessment has been granted to the jail authority under  
29 sections 1952 and 1953.

### 30 **§1803. Relationship to other laws**

31           This chapter provides an alternative method for carrying out  
32 the purposes of this chapter and is supplemental to powers  
33 conferred by other laws, and is not in derogation of any existing  
34 powers.

### 35 **§1804. Exemption from taxation**

36           **1. Exemption.** The property, both real and personal, rights  
37 and franchises of the jail authority formed under this chapter  
38 are exempt from taxation.

2           2. Payments in lieu of taxes. The jail authority may elect  
3           to make payments in lieu of taxes to communities in which its  
4           property is located or utilized.

6                               **SUBCHAPTER 2**

8                               **ORGANIZATION**

10           **§1851. Formation**

12           The formation of the multicounty jail authority must be in  
13           accordance with this subchapter.

14           1. Commissioners; meeting. The commissioners shall meet to  
15           consider all available information regarding the jail authority.  
16           Notwithstanding section 122, the commissioners shall consider a  
17           site or sites for the multicounty jail. The site or sites are  
18           not required to be in the county seat of either county. If the  
19           commissioners vote to proceed with the formation of the jail  
20           authority, which vote requires a majority vote of the  
21           commissioners of each county, they shall hold public hearings  
22           pursuant to the provisions of subsection 2.

24           2. Public hearing. A public hearing must be held in  
25           Lincoln County and Sagadahoc County. The notice of public hearing  
26           must contain the name of the proposed authority; the territory of  
27           the proposed authority, which must be within the borders of  
28           Lincoln County and Sagadahoc County; the locations identified as  
29           potential sites for the multicounty jail; and any other  
30           information the commissioners determine relevant. The public  
31           hearing must be held at a convenient place within the counties.  
32           Notice of the public hearing must be given to the municipal  
33           officers of each municipality within Lincoln County and Sagadahoc  
34           County and must be published at least once in a newspaper of  
35           general circulation in each county 14 days prior to the date of  
36           the public hearing.

38           3. Organizational meeting. If after the public hearings  
39           the commissioners desire to form a jail authority, they shall  
40           call an organizational meeting. Notice of the meeting must be  
41           published and the meeting held in the same manner as provided in  
42           subsection 2. A majority of the commissioners from each county  
43           shall attend the organizational meeting, and the vote to form a  
44           multicounty jail authority requires a majority vote of the  
45           commissioners of each county. At the organizational meeting, the  
46           commissioners shall discuss the terms of an operating and  
47           governance agreement among the participating counties. The  
48           operating and governance agreement determines:

50           A. The number and qualifications of the directors;

2           B. The terms of the directors, including provisions for  
3           initial terms and ongoing terms; and

4           C. Provisions similar to paragraphs A and B regarding an  
5           advisory committee.

6           The commissioners shall also agree upon contracts between the  
7           authority and the counties regarding cost-sharing and the  
8           placement of prisoners.

9           **§1852. Transfer of property and assets**

10           The directors shall determine what property or properties,  
11           if any, owned by Lincoln County and Sagadahoc County may be  
12           necessary to perform the functions of the jail authority and may  
13           request in writing that the commissioners convey title to the  
14           property to the jail authority, and the commissioners may make  
15           the conveyance. The jail authority shall pay fair compensation  
16           for the property or properties. Any request by the directors must  
17           be in writing within 2 years of the date of the certificate of  
18           organization. The authority shall provide a right of first  
19           refusal to the county in which the property is located should the  
20           property no longer be needed by the authority.

21           **§1853. Directors**

22           1. Authorization. All of the affairs of the jail authority  
23           are managed by a board of directors that consists of not less  
24           than 12 directors. The initial board consists of 6 public  
25           members, one from each of the commissioners' districts; 4 county  
26           commissioners, 2 from each county and 2 sheriffs, one from each  
27           county. The exact number of directors must be determined by the  
28           operating and governance agreement. Each director is entitled to  
29           one vote. The jail authority may alter the number of its  
30           directors by amending the operating and governance agreement. A  
31           quorum of the directors may conduct the affairs of the jail  
32           authority even if there is a vacancy on the board of directors.  
33           A quorum is a simple majority of eligible and appointed  
34           directors, as long as each county is represented. A simple  
35           majority of directors voting, either in person or by written  
36           consent, may conduct the affairs of the jail authority.

37           2. Term. The duration of terms is determined by the  
38           operating and governance agreement. Directors shall serve until  
39           their successors are appointed and qualified. Any director may  
40           be appointed to successive terms without limit.

41           3. Vacancy. Any vacancy on the board of directors must be  
42           filled within 30 days after the vacancy occurs by appointment of

2 the commissioners of the county that the director is to  
3 represent. An appointee to a vacancy serves until the expiration  
4 of the term of the director for whose position the appointment  
5 was made, and may be reappointed.

6 **§1854. Appointment of director; organizational meeting**

8 **1. Appointment of directors.** Directors are appointed by  
9 the commissioners of the county they represent, except that any  
10 host county director must be appointed by all the commissioners  
11 of the counties in the jail authority. Alternate directors may  
12 be appointed by the commissioners to act in the absence of a  
13 director. The operating and governance agreement defines the  
14 specific process for appointing directors. To the extent  
15 possible, the board of directors shall include a mix of  
16 individuals with sufficient managerial, technical, financial or  
17 corrections experience to execute their duties efficiently and  
18 effectively. Appointments must be by vote of the commissioners,  
19 attested to by the county clerk, and presented to the clerk of  
20 the jail authority, once selected. The commissioners, by  
21 majority vote, may remove their appointed directors during their  
22 term for cause after notice and hearing.

24 **2. First meeting.** Upon receipt of the names of all the  
25 directors, the commissioners shall set a time, place and date for  
26 the first meeting of the directors. Notice of the meeting must  
27 be given to the directors by certified or registered mail, return  
28 receipt requested, and mailed at least 10 days prior to the date  
29 set for the meeting.

30 **3. Elect officers.** The directors shall elect from their  
31 own members a chair, vice-chair, treasurer and clerk. They shall  
32 choose, employ and fix the stipend of any other necessary  
33 officers and agents who serve at the directors' pleasure. They  
34 shall adopt a corporate seal. Prior to the election of the  
35 officers, each director shall be sworn to the faithful  
36 performance of the director's duties by the respective county  
37 clerk.

38 **4. Bylaws.** The directors may from time to time adopt,  
39 establish and amend bylaws consistent with this subchapter and  
40 the laws of the State that are necessary or reasonable for the  
41 proper management of the affairs of the jail authority and  
42 perform any other acts within the powers delegated to them by law.

43 **5. Annual meeting.** After the meeting of the board of  
44 directors, the directors shall meet annually at a time determined  
45 by their bylaws for the purpose of electing a chair, vice-chair,  
46 treasurer and clerk to serve until the next annual election and  
47 until their successors are appointed and qualified. To the  
48 extent possible, the annual meeting shall be held in the county  
49 where the majority of the directors reside.  
50 Notwithstanding the foregoing, the annual meeting may be held

2 extent possible, the treasurer shall be chosen based on financial  
3 skills. The treasurer shall furnish bond in such sum and with  
4 such sureties as the directors shall approve, but not less than  
5 50% of the anticipated annual revenues of the jail authority, the  
6 cost to be paid by the authority, unless the treasurer has no  
7 official role in the receipt and disbursement of money. The  
8 directors shall make and publish an annual report, including a  
9 report of the treasurer.

10 6. **Employed by jail authority.** A member of the board of  
11 directors of the jail authority may not be employed for  
12 compensation as an employee or in any other capacity by the jail  
13 authority.

14 7. **Committee.** The board of directors may establish an  
15 advisory committee pursuant to the operating and governance  
16 agreement under section 1851, subsection 3 and grant authority as  
17 it determines necessary. The board of directors may establish  
18 any and all committees as it determines necessary.

19 **§1855. Assumption of responsibilities**

20 The jail becomes the responsibility of the jail authority  
21 when its board of directors declares the multicounty jail  
22 operational.

23 **§1856. Agreement to provide limited services**

24 Before the board of directors declares a multicounty jail  
25 operational, the jail authority may contract with either Lincoln  
26 County or Sagadahoc County to provide for services related to the  
27 counties' obligations under chapter 13.

28 **§1857. Withdrawal of counties**

29 Lincoln County or Sagadahoc County may withdraw from the  
30 jail authority at any time prior to the commitment by the jail  
31 authority, or either county on behalf of the jail authority, to  
32 issue any instrument of indebtedness, including, but not limited  
33 to, bonds and notes. The date upon which the jail authority or  
34 either county is committed to issue the debt is established by a  
35 majority vote of the board of directors at least 90 days in  
36 advance of that date. At the time of withdrawal, the withdrawing  
37 county remains liable for its proportionate share of jail  
38 authority debts and withdrawal expenses incurred prior to the  
39 date of withdrawal and shall make provisions satisfactory to the  
40 board of directors and the commissioners to pay its share of the  
41 debt outstanding at the time of withdrawal.



2 If a county withdraws from the jail authority or if the jail  
3 authority is dissolved, all of the responsibilities granted to  
4 the jail administrator are assumed by the sheriffs of the  
5 respective counties.

6 After issuance of instruments of indebtedness with a  
7 maturity of one year or more, neither Lincoln County nor  
8 Sagadahoc County may withdraw from the jail authority while the  
9 indebtedness remains outstanding without the approval of 2/3 of  
10 the board of directors and a majority vote of the commissioners  
11 from each county. A withdrawing county shall make provisions  
12 satisfactory to 2/3 of the board of directors and a majority of  
13 the commissioners from each county to pay its share of debt  
14 outstanding at the time of withdrawal.

15 In considering the request of a county to withdraw, the  
16 board of directors and the commissioners shall consider the  
17 effect of the proposed withdrawal on the ability of the jail  
18 authority to continue operating the multicounty jail in a manner  
19 and at a cost to the remaining county that is reasonable.

20 If the withdrawal causes the costs of the other county to  
21 increase as a condition of withdrawal the withdrawing county may  
22 be required by the board of directors and the commissioners  
23 either to secure an alternate and equivalent source of prisoners  
24 for the reasonable life of the jail facility or to execute an  
25 agreement to make payments to the jail authority following  
26 withdrawal that maintains the costs of the other county to remain  
27 constant when adjusted annually for the effect of all other  
28 factors on the costs until an alternate and equivalent source of  
29 prisoners is secured or results from the nonwithdrawing county's  
30 population.

31 Subject to any required approval by the board of directors  
32 and the commissioners of each county, withdrawal by a county may  
33 be accomplished by a vote of the commissioners.

### 34 **§1858. Dissolution**

35 1. Method. In the event both counties vote to withdraw  
36 pursuant to section 1857, the board of directors shall vote to  
37 dissolve the jail authority. The board of directors may, at any  
38 time by 2/3 vote, recommend to the counties that the jail  
39 authority be dissolved. If such a recommendation is made, the  
40 commissioners in each county shall vote on the question of  
41 dissolving the jail authority. If the commissioners in each of  
42 the counties vote to dissolve the jail authority, the jail  
43 authority must be dissolved by the board of directors at a time  
44 fixed by the board of directors.

2 2. Assets and liabilities. Upon dissolution, the directors  
3 shall conclude the affairs of the jail authority and shall  
4 liquidate the jail authority's assets and liabilities by:

5 A. Paying all expenses and paying or securing the payment  
6 of all debts of the jail authority in a manner permissible  
7 by the debt instruments; and

8 B. Distributing all assets and all liabilities in a manner  
9 permissible by the debt instruments proportionately between  
10 the counties in accordance with any formula contained in  
11 section 1954 for guarantees and assessments.

12 3. Filing of articles of dissolution. A copy of the  
13 articles of dissolution must be filed with the Secretary of State  
14 by the board of directors.

### 15 SUBCHAPTER 3

#### 16 POWERS

##### 17 §1901. Powers

18 The power and authority of the jail authority formed under  
19 this chapter and the administration and the general supervision  
20 of all affairs of the authority are vested in the directors. The  
21 jail authority has the power, within the counties, to provide for  
22 the planning, construction, equipping, operation and maintenance  
23 of a common facility for corrections; to generate revenues from  
24 those activities and incur expenses from those activities,  
25 including reimbursement to Lincoln County and Sagadahoc County  
26 for organizational costs, and make contracts with persons, firms,  
27 corporations, partnerships, limited partnerships and other  
28 entities, whether private, public or municipal, as may be  
29 necessary or proper; and, in general, to do any or all other  
30 things necessary or incidental for the exercise of its powers or  
31 to the accomplishment of the purposes of the jail authority.

32 When the board of directors declares the jail facility  
33 operational any powers and duties necessary to the operation of  
34 the Lincoln and Sagadahoc Multicounty Jail facility under this  
35 chapter are assumed by the administrator of the multicounty jail  
36 facility.

37 The power to make contracts includes, but is not limited to:

38 1. Experts. Contracting with architects, engineers,  
39 financial and legal consultants and other experts for services;  
40

2           **2. Operation.** Contracting with persons, firms,  
corporations, limited partnerships, partnerships, associations,  
4 authorities and agencies for the operation of the multicounty  
jail and for services relating to the operation of the  
6 multicounty jail;

8           **3. Corrections.** Contracting for corrections with Lincoln  
County, Sagadahoc County and other governmental agencies,  
10 including other counties;

12           **4. Government.** Contracting with State Government, the  
Federal Government or any subdivision or agency of the State or  
14 the United States for services;

16           **5. County employee services.** Contracting with Lincoln  
County or Sagadahoc County for the services of any officers or  
18 employees of either county;

20           **6. Counties.** Contracting with Lincoln County and Sagadahoc  
County to reimburse organizational costs;

22           **7. Real and personal property.** Purchasing, selling,  
leasing, acquiring, conveying, mortgaging, improving and using  
24 real and personal property in connection with the purposes of the  
jail authority;

26           **8. Staff; employment.** Employing and establishing salaries  
and qualifications for such professional, clerical and  
28 administrative staff personnel as may be necessary or convenient  
to the operation of the jail authority; and

30           **9. Use of bidding processes.** Making contracts, issuing  
bonds, notes or other debt instruments under subchapter 4 and  
32 dealing generally with 3rd parties, including the power to use a  
negotiated or competitive bidding process or any other process  
34 that may be advantageous to the jail authority. The  
determination of the process to be used is made by and at the  
36 discretion of the directors.

38  
40           **§1902. Real and personal property; right of eminent domain**

42           The jail authority formed under this chapter may acquire and  
44 hold real and personal property that the jail authority considers  
46 necessary for its purposes and is granted the right of eminent  
48 domain. The jail authority may take and hold, either by  
exercising its right of eminent domain or by purchase, lease or  
otherwise, for public uses any land, real estate, easements or  
interest in land, real estate or easements necessary for  
construction and operating the multicounty jail.

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**§1903. Procedure in exercise of right of eminent domain**

The right of eminent domain granted in section 1902 may only be exercised after complying with the following procedures.

1. Notice to owner. The jail authority shall provide notice to the owner of property subject to seizure as follows.

A. The owner or owners of record shall be:

(1) Notified that the directors are exercising the right of eminent domain;

(2) Provided with a description and scale map of the land or easement to be taken;

(3) Presented with the final amount offered for the land or easement to be taken, based on the fair market value as estimated by the jail authority; and

(4) Notified of the time and place of the hearing under subsection 4.

B. Notice may be made:

(1) By personal service in hand by an officer duly qualified to serve civil process in this State; or

(2) By certified mail, return receipt requested, to the last known address of the owner or owners.

C. If the owner or owners are not known or if the owner or owners can not be notified by personal service or certified mail, notice may be given by publication in the same manner under subsection 4.

2. Notice to tenant. Notice under subsection 1 must be given to any tenants in the same manner as for the owner of the property.

3. Notice to the affected municipality. Notice under subsection 1 must be given to the municipality in which the property to be acquired is located in the same manner as for the owner of the property and must be addressed to the municipal officers.

4. Hearing. The directors shall hold a public hearing on the advisability of the proposed exercise of the right of eminent domain. Notice of the hearing must be made by publication in a newspaper of general circulation in the area of the taking and

2 must be given once a week for 2 successive weeks, the last  
3 publication to be at least 2 weeks prior to the time appointed in  
4 the hearing. The hearing notice must include:

5 A. The time and place of the hearing;

6 B. A description of the land or easement proposed to be  
7 taken; and

8 C. The name of the owners, if known.

9  
10  
11 **§1904. Condemnation proceedings**

12  
13 The jail authority formed under this chapter, in exercising  
14 the right of eminent domain conferred upon it by section 1902  
15 shall file in the office of the commissioners of the county in  
16 which the property to be taken is located and cause to be  
17 recorded in the registry of deeds in the county plans of the  
18 location of all lands, real estate, easements or interest in  
19 lands, real estate or easements, with an appropriate description  
20 and the names of the owners, if known. When for any reason the  
21 jail authority fails to acquire property that the jail authority  
22 is authorized to take and that is described in that location, or  
23 if the description of the location so recorded is defective and  
24 uncertain, the authority may, at any time, correct and perfect  
25 the description of the location and file a new description. In  
26 that case, the jail authority is liable in damages only for  
27 property for which the owner had not previously been paid, to be  
28 assessed as of the time of the original taking, and the jail  
29 authority is not liable for any acts that would have been  
30 justified if the original taking had been lawful. Entry may not  
31 be made on any private lands, except to make surveys, until the  
32 expiration of 10 days from the filing, at which time possession  
33 may be had of all the lands, real estate, easements or interests  
34 in lands, real estate or easements and other property and rights  
35 to be taken, but title may not vest in the jail authority until  
36 payment for the property.

37  
38 **§1905. Appeal**

39  
40 If a person sustaining damages by the taking by the jail  
41 authority under section 1903 does not agree with the jail  
42 authority upon the sum to be paid, either party, upon petition to  
43 the superior court of the county in which the property is  
44 located, may have the damages assessed by the superior court.  
45 The procedure and all subsequent proceedings and right of appeal  
46 must be under the same restrictions, conditions and limitations  
47 as are or may be by law prescribed in the case of damages by the  
48 laying out of highways by the commissioners, except that title to  
49 the lands, real estate, easements or interests in lands, real  
50

2 estate or easements and other property and rights to be taken may  
3 not vest in the jail authority until payment to the owner of the  
4 amount awarded for the taking or, if the payment is refused upon  
5 tender, until tender is made to the owner. The amount awarded  
6 must be escrowed at interest for the benefit of the owner,  
7 pending final determination of the amount to which the owner is  
8 entitled.

10 **§1906. Rules**

12 The directors may adopt rules to regulate the corrections  
13 activities within the jail authority consistent with the  
14 provisions of the operating and governance agreement. Rules  
15 adopted pursuant to this section are routine technical rules as  
16 defined in Title 5, chapter 375, subchapter 2-A.

18 **§1907. Setting fees and other charges**

20 The directors may establish and adjust a structure for fees,  
21 including penalty charges, for correction services on behalf of  
22 or under contract with, the jail authority.

24 **§1908. Annual audit**

26 Each year an audit must be made of the accounts of the jail  
27 authority, and for this purpose authorized agents of a certified  
28 public accounting firm appointed by the directors have access to  
29 all necessary papers, books and records. Upon the completion of  
30 each audit, a report must be made to the chair of the jail  
31 authority board of directors and a copy must be sent to the  
32 commissioners of each county. The audit must be completed within  
33 60 days of the end of the authority's fiscal year.

34 **§1909. Surplus revenues**

36 If, at the end of any fiscal year, the jail authority has  
37 realized a surplus from operations for the fiscal year after  
38 payment of or provision for all current expenses, current  
39 maintenance, repairs and replacements, current debt service on  
40 all outstanding bonds and notes of the jail authority, all  
41 reserves for debt service, repairs and replacements, costs or  
42 current expenses as may be required by a trust agreement or  
43 resolution securing bonds or notes or as may otherwise be  
44 maintained by the jail authority, and any other amounts that the  
45 jail authority may be obligated by law or contract to pay or  
46 provide for, the jail authority may:

48 1. **Reduction in charges.** Apply the surplus in the  
following fiscal year to a reduction in the rates, fees, rents or

2 other charges established by the jail authority for services  
3 provided;

4 2. Reduction of capital debt. Apply the surplus to the  
5 reduction of its outstanding capital debt, or to a reserve  
6 account for that purpose if the financing documents do not allow  
7 debt reduction; or

8 3. Refunds. Make a proportional refund to the counties.

10  
11  
12 **SUBCHAPTER 4**

13  
14 **BONDS AND NOTES**

15 **§1951. Jail authority bonds and notes**

16  
17 1. Authorization of bonds. Subject to the limitations in  
18 this subchapter, the jail authority may provide by resolution of  
19 its board of directors and commissioners and with consent of the  
20 counties for the borrowing of money and the issuance from time to  
21 time of bonds and notes for any of its corporate purposes,  
22 including, but not limited to:

23  
24 A. Paying and refunding its indebtedness;

25  
26 B. Paying any necessary expenses and liabilities incurred  
27 under this chapter, including organizational and other  
28 necessary expenses and liabilities, whether incurred by the  
29 jail authority or any county in the jail authority. The jail  
30 authority may reimburse either county in the jail authority  
31 for any such expenses incurred or paid by that county;

32  
33 C. Paying costs directly or indirectly associated with  
34 acquiring properties, paying damages, constructing,  
35 maintaining and operating correctional facilities; and  
36 making renewals, additions, extensions and improvements to  
37 the property or facilities; and covering interest payments  
38 during the period of construction and for such period as the  
39 directors and commissioners may determine;

40  
41 D. Providing such reserves for debt service, repairs and  
42 replacements or other capital or current expenses as may be  
43 required by a trust agreement or resolution securing bonds  
44 or notes;

45  
46 E. Financing all or part of a correctional facility for a  
47 user. The term "user," as used in this section, means one  
48 or more persons or entities, other than a jail authority,

2           acting as lessee, purchaser, mortgagor, borrower or  
3           contracting party; and

4           F. Any combination of these purposes.

6           Bonds may be issued by the jail authority under this chapter as  
7           general obligations of the jail authority or as special  
8           obligations payable solely from particular funds. The principal,  
9           premium and interest on all bonds must be payable solely from the  
10           funds provided for that purpose from revenues. All bonds issued  
11           by the jail authority under this chapter are legal obligations of  
12           the jail authority and the jail authority is declared to be a  
13           quasi-municipal corporation within the meaning of section 5701.  
14           Bonds may be issued under this chapter without obtaining the  
15           consent of any commission, board, bureau or agency of the State.  
16           Bonds issued by the authority under this section are a municipal  
17           security as defined by section 5903 and are eligible for purchase  
18           by the Maine Municipal Bond Bank. Except as provided in this  
19           subchapter, bonds issued under this chapter by the jail authority  
20           do not constitute a debt or liability of the State or of either  
21           county in the jail authority or a pledge of the faith and credit  
22           of the State or either county, and a statement to that effect  
23           must be recited on the face of the bonds.

24           2. Notes. The jail authority may also provide by  
25           resolution of its board of directors for the issuance from time  
26           to time of:

28           A. Notes in anticipation of bonds authorized under this  
29           chapter; or

31           B. Notes in anticipation of the revenues to be collected or  
32           received in any year.

34           Notes in anticipation of the receipt of federal or state grants  
35           or other aid. The issuance of these notes is governed by the  
36           applicable provisions of this chapter relating to the issuance of  
37           bonds, as long as notes in anticipation of revenue mature no  
38           later than one year from those notes' respective dates of  
39           issuance. Notes issued in anticipation of federal or state  
40           grants or other aid and renewals of grants or aid must mature no  
41           later than the expected date, as determined by the board of  
42           directors, of receipt of those grants or aid. The board of  
43           directors may adjust the maturity date of notes issued in  
44           anticipation of federal or state grants or other aid to reflect  
45           changes in the expected date of receipt. Notes in anticipation  
46           of revenue issued to mature less than one year from dates of  
47           issuance of the notes may be renewed from time to time by the  
48           issuance of other notes, except that the period from the date of  
49           an original note to the maturity of any note issued to renew or  
50



2 pay the original note or the interest on the original note may  
3 not exceed one year.

4 The jail authority may enter into agreements with the State  
5 Government or Federal Government, or any agency of either, or any  
6 county, corporation, commission or board authorized to grant or  
7 loan money or to otherwise assist in the financing of projects of  
8 the type that the jail authority is authorized to carry out. The  
9 jail authority may also accept grants and borrow money from the  
10 State Government or the Federal Government or any agency of  
11 either, or any county, corporation, commission or board  
12 authorized to grant or loan money as may be necessary or  
13 desirable to accomplish the purposes of the jail authority.

14 **3. Maturity; interest; form; temporary bonds.** The bonds  
15 issued under this chapter must be dated, must mature at such time  
16 or times not exceeding 40 years from their date or dates of  
17 issuance and must bear interest at such rate or rates as may be  
18 determined by the board of directors or determined pursuant to a  
19 formula approved by the board of directors or by a 3rd party  
20 rate-setting agent selected by the board of directors. The bonds  
21 may be made redeemable before maturity, at the option of the jail  
22 authority, at such price or prices and under such terms and  
23 conditions as may be fixed by the board of directors prior to the  
24 issuance of the bonds. The board of directors shall determine the  
25 form of the bonds including any interest coupons to be attached,  
26 and the manner of execution of the bonds, and shall fix the  
27 denomination or denominations of the bonds and the place or  
28 places of payment of principal and interest, which may be at any  
29 financial institution having trust powers inside or outside the  
30 State. Bonds must be executed in the name of the jail authority  
31 by the manual or facsimile signature of such officer or officers  
32 as may be authorized in the resolution to execute the bonds, but  
33 at least one signature on each bond must be a manual signature.  
34 Coupons, if any, attached to the bonds must be executed with the  
35 facsimile signature of the officer or officers of the jail  
36 authority designated in the resolution. If an officer whose  
37 signature or facsimile signature appears on any bonds or coupons  
38 ceases to hold that office before the delivery of the bonds, the  
39 signature or its facsimile is valid and sufficient for all  
40 purposes, as if the officer had remained in office until the  
41 delivery.

42 Notwithstanding any other provisions of this chapter or any  
43 recitals in any bonds issued under this chapter, all such bonds  
44 are deemed to be negotiable instruments under the laws of this  
45 State. The bonds may be issued in coupon or registered form, or  
46 both, as the board of directors may determine, and provision may  
47 be made for the registration of any coupon bonds as to principal  
48 alone and as to both principal and interest, and for the  
49 delivery.

2 reconversion into coupon bonds of any bonds registered as to both  
3 principal and interest. The board of directors may sell the  
4 bonds in the manner, either at public or private sale, and for  
5 such price as they may determine to be for the best interests of  
6 the jail authority. The proceeds of the bonds of each issue must  
7 be used solely for the purpose for which those bonds have been  
8 authorized and must be disbursed in such manner and under such  
9 restrictions as the board of directors may provide.

10 The resolution providing for the issuance of bonds, and any trust  
11 agreement securing the bonds, may contain such limitations upon  
12 the issuance of additional bonds as the board of directors may  
13 determine proper, and these additional bonds must be issued under  
14 such restrictions and limitations as may be prescribed by that  
15 resolution or trust agreement. Prior to the preparation of  
16 definitive bonds, the board of directors may, under like  
17 restrictions, issue interim receipts or temporary bonds, with or  
18 without coupons, exchangeable for definitive bonds when those  
19 bonds are executed and are available for delivery. The board of  
20 directors may provide for the replacement of any bond that is  
21 mutilated, destroyed or lost.

22  
23 **4. Pledges; covenants; trust agreement.** In the discretion  
24 of the board of directors, each or any issue of bonds may be  
25 secured by a trust agreement by and between the jail authority  
26 and a corporate trustee, which may be any financial institution  
27 having trust powers inside or outside the State.

28  
29 The resolution of the directors authorizing the issuance of the  
30 bonds or the trust agreement may pledge or assign, in whole or in  
31 part, the revenues and other money held or to be received by the  
32 jail authority and any accounts and contracts or other rights to  
33 receive the revenues or money, whether existing or coming into  
34 existence and whether held or acquired by the jail authority and  
35 the proceeds of the bonds, and may convey or mortgage the  
36 multicounty jail or any other properties of the jail authority.  
37 The resolution may also contain provisions for protecting and  
38 enforcing the rights and remedies of the bondholders, including,  
39 but not limited to, covenants setting forth the duties of the  
40 jail authority and the board of directors in relation to the  
41 acquisition, construction, reconstruction, improvement, repair,  
42 maintenance, operation and insurance of the multicounty jail or  
43 any of the authority's other properties; the fixing and revising  
44 of rates, tolls, assessments, rents and transportation charges  
45 and other charges; the application of the proceeds of bonds; the  
46 custody, safeguarding and application of revenues; the defining  
47 of defaults and providing for remedies in the event of defaults,  
48 which may include the acceleration of maturities, the  
49 establishment of reserves and the making and amending of  
50 contracts. The resolution or trust agreement may set out the

2 rights and remedies of the bondholders and of the trustee, if  
3 any, and may restrict the individual right of action by  
4 bondholders as is customary in trust agreements or trust  
5 indentures securing bonds or debentures of corporations. The  
6 resolution or trust agreement may contain such other provisions  
7 as the board of directors may determine reasonable and proper for  
8 the security of the bondholders, including means by which the  
9 resolution or trust agreement may be amended.

10 All expenses incurred in carrying out the resolution or trust  
11 agreement may be treated as a part of the cost of operation. The  
12 pledge by any such resolution or trust agreement is valid and  
13 binding and is deemed continuously perfected for the purposes of  
14 the Uniform Commercial Code from the time when the pledge is  
15 made. All revenues, money, rights and proceeds so pledged and  
16 received by the jail authority are immediately subject to the  
17 lien of the pledge without any physical delivery or segregation  
18 or further action under the Uniform Commercial Code or otherwise,  
19 and the lien of the pledge is valid and binding as against all  
20 parties having claims of any kind in tort, contract or otherwise  
21 against the jail authority irrespective of whether those parties  
22 have notice of the lien of the pledge.

23 The resolution authorizing the issuance of bonds under this  
24 chapter, or any trust agreement securing those bonds, may provide  
25 that all or a sufficient amount of revenues and assessments,  
26 after providing for the payment of the cost of repair,  
27 maintenance and operation and reserves for the cost of repair,  
28 maintenance and operation as may be provided in the resolution or  
29 trust agreement, must be set aside at such regular intervals as  
30 may be provided in the resolution or trust agreement and  
31 deposited in the credit of a fund for the payment of the interest  
32 on and the principal of bonds issued under this chapter as the  
33 bonds become due, and the redemption price or purchase price of  
34 bonds retired by call or purchase. The use and disposition of  
35 money in or to the credit of the fund is subject to such  
36 regulations as may be provided in the resolution authorizing the  
37 issuance of the bonds or in the trust agreement securing the  
38 bonds and, except as may otherwise be provided in the resolution  
39 or trust agreement, the fund is a fund for the benefit of all  
40 bonds without distinction or priority of one over another.

41 **5. Trust funds.** All money set aside for payment of the  
42 bonds, or other purposes pursuant to the provisions of any trust  
43 agreement securing the bonds, is deemed to be a trust funds to be  
44 held and applied as provided by the trust agreement; except that  
45 investment or deposit of those funds is subject to the provisions  
46 applicable to municipal funds under chapter 223, subchapter 3-A.  
47 The resolution authorizing the issuance of bonds or the trust  
48 agreement securing the bonds must provide that any officer of a  
49 trustee shall not be held liable for any act or omission in the  
50 exercise of his or her duties as trustee or officer of a trustee

2 bank or trust company or other financial institution or fiscal  
3 agent to which money is paid shall act as trustee of the money  
4 and shall hold and apply the money for the purposes pursuant to  
5 this subsection, subject to any regulations as may be provided in  
6 the resolution or trust agreement or as may be required by this  
7 chapter.

8 **6. Remedies.** Any holder of bonds issued under this chapter  
9 or of any of the coupons attached to those bonds, and the trustee  
10 under any trust agreement, except to the extent the rights given  
11 may be restricted by the resolution authorizing the issuance of  
12 those bonds or trust agreement, may, either at law or in equity,  
13 by suit, action, mandamus or other proceeding, including  
14 proceedings for the appointment of a receiver to take possession  
15 and control of the properties of the jail authority, protect and  
16 enforce any and all rights under the laws of the State or granted  
17 under this chapter or under the resolution or trust agreement. A  
18 holder of bonds or a trustee may enforce and compel the  
19 performance of all duties required by this chapter or by the  
20 resolution or trust agreement to be performed by the jail  
21 authority or by any officer of the jail authority, including the  
22 fixing, charging and collecting of rates, fees and charges for  
23 the use of or for the services and facilities furnished by the  
24 jail authority, or if applicable, the making of any assessments  
25 against the counties under section 1952.

26 **7. Refunding bonds.** The jail authority formed under this  
27 chapter by resolution of its board of directors without consent  
28 of either county may issue refunding bonds for the purpose of  
29 paying any of its bonds at maturity or upon acceleration of  
30 maturity or redemption of those bonds. The refunding bonds may be  
31 issued at such time prior to the maturity or redemption of the  
32 refunded bonds as the board of directors determines to be in the  
33 public interest. The refunding bonds may be issued in sufficient  
34 amounts to pay or provide the principal of the bonds being  
35 refunded, together with any redemption premium on the bonds, any  
36 interest accrued or to accrue to the date of payment of those  
37 bonds, the expenses of issuance of the refunding bonds, the  
38 expenses of redeeming the bonds being refunded and such reserves  
39 for debt service or other capital or current expenses from the  
40 proceeds of the refunding bonds as may be required by the trust  
41 agreement or resolution securing bonds. The issuance of  
42 refunding bonds, the maturities and other details of the issuance  
43 of refunding bonds, the security for the issuance of refunding  
44 bonds, the rights of the holders of the issuance of refunding  
45 bonds and the rights, duties and obligations of the jail  
46 authority in respect of the same is governed by the applicable  
47 provisions of this chapter relating to the issuance of bonds.

2 8. Tax exemption. All bonds, notes or other evidences of  
3 indebtedness issued under this chapter, and their transfer and  
4 the income from bonds, notes or other evidences of indebtedness,  
5 including any profit made on the sale of bonds, notes or other  
6 evidences of indebtedness, are at all times free from taxation  
7 inside the State.

8 9. Bonds declared legal investments. Bonds and notes  
9 issued by the jail authority under this chapter are securities in  
10 which: all public officers and public bodies of the State and  
11 its political subdivisions; all insurance companies and  
12 associations and other persons carrying on an insurance business;  
13 trust companies, banks, bankers, banking associations, savings  
14 banks and savings associations, including savings and loan  
15 associations, credit unions, building and loan associations,  
16 investment companies, executors, administrators, trustees and  
17 other fiduciaries of pension, profit-sharing, retirement funds;  
18 other persons carrying on a banking business; and all other  
19 persons who are now, or may be, authorized to invest in bonds or  
20 other obligations of the State, may properly and legally invest  
21 funds, including capital in their control or belonging to them.  
22 The bonds and notes are made securities that may properly and  
23 legally be deposited with and received by any state, municipal or  
24 public officer, or any agency or political subdivision of the  
25 State, for any purpose for which the deposit of bonds or other  
26 obligations of the State is now or may be authorized by law.

27 10. Certain bond issues; notice; special meeting; vote. In  
28 the event that the directors vote to authorize bonds or notes for  
29 any of the corporate purposes of the jail authority, excluding  
30 notes payable within one year or notes in anticipation of the  
31 revenues to be collected or received in any year or notes in  
32 anticipation of bonds that have already been authorized in  
33 accordance with this chapter or notes in anticipation of the  
34 receipt of approved federal or state grants, the authorized  
35 amount of which, singly or in the aggregate included in any one  
36 financing, is 10% or less of the operating budget, the directors  
37 do not need consent of the counties, but shall provide notice to  
38 the general public:

39 A. Of the proposed bond or note issue and the purposes for  
40 which the debt is being incurred; and

41 B. Of a special jail authority meeting for the purpose of  
42 permitting the collection of testimony from the public  
43 concerning the amount of the debt so authorized.

44 Notice of the proposed bond or note issue, the purposes for which  
45 the debt is being issued and the call of the special meeting must

2 be published at least once in a newspaper having general  
3 circulation in the 2 counties.

4 11. Negotiated or competitive bidding process. Any notes,  
5 bonds or other instruments of indebtedness may be the subject of  
6 a negotiated or competitive bidding process or any other process  
7 that may be advantageous to the jail authority. Determination of  
8 the process to be used must be made by and at the discretion of  
9 the directors.

10 **§1952. Charges**

11 All persons, firms and corporations, whether public or  
12 private, shall pay to the treasurer of the jail authority formed  
13 under this chapter the rates, tolls, assessments, rents,  
14 transportation charges and other charges established by the  
15 directors for services provided by the jail authority. In this  
16 subchapter, the words "other charges" include, but are not  
17 limited to, interest on delinquent accounts at a rate not to  
18 exceed the highest lawful rate set by the Treasurer of State for  
19 municipal taxes. The jail authority may submit periodic bills  
20 directly to individual users or to the counties as determined by  
21 the directors.

22 The jail authority may establish schedules of charges by any  
23 method determined by the directors.

24 The rates, tolls, assessments, rents, transportation charges  
25 and other charges must be so established as to provide revenue at  
26 least sufficient, together with any other money available, to:

27 1. Current operating expenses. Pay the current expenses of  
28 operating and maintaining the multicounty jail facility;

29 2. Unanticipated operating expenses. Create and maintain a  
30 reserve not to exceed 3.5% of the operating budget for  
31 unanticipated operating expenses;

32 3. Payment of interest and principal. Pay the principal,  
33 premium and interest on all bonds and notes issued by the jail  
34 authority under this chapter when due and payable;

35 4. Payments into reserve funds. Create and maintain such  
36 reserves as may be required by any trust agreement or resolution  
37 securing bonds and notes;

38 5. Repairs, replacements and renewals. Provide funds for  
39 paying the cost of all necessary repairs, replacements and  
40 renewals of the multicounty jail facilities; and

2           6. Payment of obligations. Pay or provide for any and all  
3 amounts that the jail authority may be obligated to pay or  
4 provide for by law or contract, including any resolution or  
5 contract with or for the benefit of the holders of its bonds and  
6 notes and including payment of organizational costs to Lincoln  
7 County and Sagadahoc County.

8           **§1953. Collection of unpaid charges**

9           The treasurer of the jail authority may collect the rates,  
10 tolls, assessments, rents, transportation charges and other  
11 charges established by the jail authority and those charges are  
12 committed to the treasurer. The treasurer may, after demand for  
13 payment, sue in the name of the jail authority in a civil action  
14 for any rate, toll, rent, assessment, transportation charge or  
15 other charges remaining unpaid in any court of competent  
16 jurisdiction. In addition, the treasurer may order the  
17 termination of service for nonpayment of any amount owed to the  
18 jail authority. The treasurer may also collect rates, tolls,  
19 assessments, rents, transportation charges or other charges  
20 remaining unpaid pursuant to Title 36, section 891.

21           **§1954. Guarantee by counties of jail authority bonds and notes**

22           Subject to the consent of the counties, the board of  
23 directors and a majority of the commissioners of each county may  
24 provide by resolution for the issuance, at one time or from time  
25 to time, of guaranteed notes and bonds of the jail authority for  
26 any purpose for which the jail authority may issue debt. Bonds  
27 issued by the authority under this section are a municipal  
28 security as defined by section 5903 and are eligible for purchase  
29 by the Maine Municipal Bond Bank. Except as otherwise provided,  
30 notes and bonds issued by the jail authority in accordance with  
31 this section must be authorized, issued and sold in the same  
32 manner as and subject to the other provisions of this subchapter  
33 relating to notes and bonds. The principal, premiums, if any,  
34 and interest on notes and bonds issued under this section must be  
35 guaranteed by the counties of the jail authority and the full  
36 faith and credit of the counties must be pledged for the  
37 guarantee provided in this section. The share of liability of  
38 each county for the guaranteed notes and bonds must be  
39 established in accordance with the method established in the  
40 operating and governance agreement.

41           **§1955. Bonds issued by counties**

42           For the purpose of assisting the jail authority in financing  
43 the multicounty jail authorized by this chapter, and  
44 notwithstanding any other provision of law, with consent of the  
45 counties, Lincoln County and Sagadahoc County may issue general

2 obligation bonds backed by the full faith and credit of the  
3 counties. Proceeds of the bonds or any part of the bonds may be  
4 either loaned or contributed to the jail authority. The issuance  
5 of the bonds and the loaning or contributing of funds to the jail  
6 authority formed under this chapter constitute a valid purpose  
7 for which either county may raise or appropriate money. General  
8 obligation bonds issued by either county under this section are  
9 municipal securities as defined in section 5903, and are eligible  
10 for purchase by the Maine Municipal Bond Bank. A county issuing  
11 bonds under this section and the jail authority receiving the  
12 proceeds of the bonds may enter into such contracts and  
13 agreements as they may agree upon, both with each other and 3rd  
14 parties, establish trust or enterprise funds to provide for  
15 timely payment of the bonds, employ a trustee and do all things  
16 that may be necessary or convenient to the jail authority or the  
17 county to make use of the bonds as may be determined by the board  
18 of directors and the county commissioners of the county issuing  
19 bonds.

20  
21 **Emergency clause.** In view of the emergency cited in the  
22 preamble, this Act takes effect when approved.

23  
24  
25 **SUMMARY**

26  
27 This bill establishes the Lincoln and Sagadahoc Multicounty  
28 Jail Authority.