

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**

**January 5, 1994 to April 14, 1994**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 14, 1994**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1993**

the duration of the Legislature to which the Legislator is elected.

The group shall advise the commissioner during the development of the 5-year monitoring plan and the annual work programs.

**2. Data management.** The commissioner shall maintain data collected under this section in a manner consistent with standards established under Title 12, chapter 218 for the State's geographic information system. All data is available to the public.

**3. Coordination of monitoring.** The commissioner shall coordinate the monitoring program established under this section with other toxics monitoring programs conducted by the department, the United States Environmental Protection Agency and other federal agencies or dischargers of wastewater.

**4. Report.** No later than January 1st of each year, the commissioner shall report on the monitoring program to the joint standing committee of the Legislature having jurisdiction over natural resource matters. This report must contain:

- A. At the start of each 5-year period, the 5-year monitoring plan;
- B. The annual work program for the past year and the current year;
- C. The commissioner's conclusions as to the levels of toxic contamination in the State's waters and fisheries; and
- D. Any trends of increasing or decreasing levels of contaminants found.

**Sec. 2. 38 MRSA §551, sub-§1,** as amended by PL 1979, c. 541, Pt. A, §268, is further amended to read:

**1. Research and development.** The Legislature may not allocate not more than \$100,000 ~~\$208,275~~ per annum of the amount then currently in the fund to be devoted to research and development in the causes, effects and removal of pollution caused by oil, petroleum products and their by-products and their impact on the marine environment. Such allocations shall must be made in accordance with section 555. This subsection is repealed July 1, 1995.

**Sec. 3. 38 MRSA §551, sub-§1-B** is enacted to read:

**1-B. Research and development.** The Legislature may allocate not more than \$100,000 per annum of the amount currently in the fund to be devoted to

research and development in the causes, effects and removal of pollution caused by oil, petroleum products and their by-products on the marine environment. Such allocations must be made in accordance with section 555. This subsection takes effect July 1, 1996.

**Sec. 4. Intent.** It is the intent of the Legislature that the activities undertaken pursuant to this Act fulfill the intent of the Maine Revised Statutes, Title 38, section 551, subsection 1 through the period ending June 30, 1996.

**Sec. 5. Allocation.** The following funds are allocated from the Maine Coastal and Inland Surface Oil Clean-up Fund to carry out the purposes of this Act.

**1994-95**

**ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

**Water Quality Protection**

All Other \$208,275

Provides for the allocation of funds for a portion of the costs of establishing an ambient water toxics program.

See title page for effective date.

**CHAPTER 721**

**H.P. 1100 - L.D. 1487**

**An Act to Improve Environmental Protection and Support Economic Development under the State's Land Use Laws**

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

**PART A**

**Sec. A-1. 30-A MRSA §4314, sub-§2,** as amended by PL 1993, c.73, §1 and c. 166, §4, is repealed and the following enacted in its place:

**2. Zoning ordinances.** Notwithstanding section 4352, subsection 2, any portion of a zoning ordinance that regulates land use beyond that required by Title 38, chapter 3, subchapter I, article 2-B and that is not consistent with a comprehensive plan

adopted under this subchapter is void 24 months after adoption of the plan or by July 1, 1994, whichever date is later.

**Sec. A-2. 30-A MRSA §4324, sub-§10** is enacted to read:

**10. Amendments to an adopted plan.** When amending an adopted comprehensive plan, a municipality shall follow the same procedures for citizen participation, public notice and public hearing that are required for adoption of a comprehensive plan.

**Sec. A-3. 30-A MRSA §4326, sub-§3, ¶A,** as amended by PL 1993, c. 166, §6, is further amended to read:

A. Identify and designate at least 2 basic types of geographic areas:

(1) Growth areas, which are those areas suitable for orderly residential, commercial and industrial development forecast over the next 10 years. Each municipality shall:

- (a) Establish standards for these developments;
- (b) Establish timely permitting procedures;
- (c) Ensure that needed public services are available within the growth area; and
- (d) Prevent inappropriate development in natural hazard areas, including flood plains and areas of high erosion; and

(2) Rural areas, which are those areas where protection should be provided for agricultural, forest, open space and scenic lands within the municipality. Each municipality shall adopt land use policies and ordinances to discourage incompatible development.

These policies and ordinances may include, without limitation: density limits; cluster or special zoning; acquisition of land or development rights; or performance standards.

A municipality is not required to identify growth areas for residential growth if it demonstrates that it is not possible to accommodate future residential growth in these areas because of severe physical limitations, including, without limitation, the lack of adequate water supply and sewage disposal services, very shallow soils or limitations imposed by protected natural re-

sources; or it demonstrates that the municipality has experienced minimal or no residential development over the past decade and this condition is expected to continue over the 10-year planning period. A municipality exercising the discretion afforded by this paragraph shall review the basis for its demonstration during the periodic revisions undertaken pursuant to section 4327;

**Sec. A-4. 30-A MRSA §4327,** as amended by PL 1991, c. 622, Pt. F, §30, is further amended to read:

**§4327. Certification; revisions**

~~A~~ Except as provided in subsection 1, certification by the office of a municipality's local growth management program under this article is valid for 5 years. To maintain certification, a municipality shall periodically review and revise its local growth management program and submit to the office in a timely manner any revisions necessary to account for changes, including changes caused by growth and development. A municipality should update its program at least once every 5 years in accordance with this section.

**1. Lack of resources to conduct recertification reviews.** Certification does not lapse in any year in which the Legislature does not appropriate funds to the office for the purposes of reviewing programs for recertification.

**Sec. A-5. 30-A MRSA c. 187, sub-c. II, art. 2-A** is enacted to read:

#### Article 2-A

#### Evaluation

#### **§4331. Evaluation**

The office shall conduct an ongoing evaluation process to determine the effectiveness of state and local efforts under this chapter to achieve the purposes and goals of this chapter. Working through the Land and Water Resources Council, the office shall seek the assistance of other state agencies. If requested, all state agencies shall render assistance to the office in this effort.

**1. Criteria.** In conducting the evaluation, the office shall develop criteria based on the goals of this chapter. The criteria must be objective, verifiable and, to the extent practicable, quantifiable.

**2. Baseline conditions.** The office shall establish a baseline of land use conditions at a level of detail sufficient to permit general comparison of state

and regional trends in future land use development patterns.

**3. Public input.** The office shall incorporate opportunities for public input and comment into the evaluation process.

**4. Level of analysis.** The office shall evaluate the program generally at a regional and statewide level. To illustrate the impact of the program, the office shall compare land use development trends and patterns in a sample of towns that have participated in the program with a matched sample of towns that have not participated.

**5. Periodic reports.** Beginning on January 1, 1995, the office shall report in writing on the results of its evaluation process every 4 years and more frequently if necessary. The office shall submit its report to the joint standing committee of the Legislature having jurisdiction over natural resource matters.

**Sec. A-6. 30-A MRSA §4345, first ¶,** as enacted by PL 1991, c. 780, Pt. E, §2, is amended to read:

Under the provisions of this article, a municipality may request financial or technical assistance from the Office of Community Development, referred to in this article as the office, for the purpose of planning ~~or and~~ implementing a local growth management program. A municipality that requests and receives a financial assistance ~~from the office in the form of a planning assistance grant or an implementation assistance grant~~ shall develop and implement its growth management program in cooperation with the office ~~under and in a manner consistent with~~ the provisions of this article.

**Sec. A-7. 30-A MRSA §4346, 2nd ¶,** as enacted by PL 1991, c. 780, Pt. E, §2, is amended to read:

The office may enter into ~~planning or implementation~~ financial assistance grants only to the extent that funds are available. ~~In awarding the grants, the office shall use the municipal priority list and funding levels developed under the former section 4344. In making grants, the office shall consider the need for planning in a municipality, the proximity of the municipality to other towns that are conducting or have completed the planning process and the economic and geographic role of the municipality within a regional context. The office may consider other criteria in making grants, as long as the criteria support the goal of encouraging and facilitating the adoption and implementation of a local growth management program consistent with the provisions of this article.~~

**Sec. A-8. 30-A MRSA §4346, sub-§1,** as enacted by PL 1991, c. 780, Pt. E, §2, is repealed.

**Sec. A-9. 30-A MRSA §4346, sub-§2,** as amended by PL 1993, c. 166, §8, is repealed.

**Sec. A-10. 30-A MRSA §4346, sub-§§2-A and 2-B** are enacted to read:

**2-A. Financial assistance grants.** A contract for a financial assistance grant must:

A. Provide for the payment of a specific amount for the purposes of planning and preparing a comprehensive plan;

B. Provide for the payment of a specific amount for the purposes of implementing that plan; and

C. Include specific timetables governing the preparation and submission of products by the municipality.

The office may not require a municipality to provide matching funds in excess of 25% of the value of that municipality's financial assistance contract.

**2-B. Use of funds.** A municipality may expend financial assistance grants for:

A. The conduct of surveys, inventories and other data-gathering activities;

B. The hiring of planning and other technical staff;

C. The retention of planning consultants;

D. Contracts with regional councils for planning and related services;

E. Assistance in the development of ordinances;

F. Retention of technical and legal expertise for permitting activities;

G. The updating of growth management programs or components of a program; and

H. Any other purpose agreed to by the office and the municipality that is directly related to the preparation of a comprehensive plan or the preparation of policies, programs and land use ordinances to implement that plan.

**Sec. A-11. 30-A MRSA §4352, sub-§6,** as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

**6. Effect on State.** Any A zoning ordinance that is not consistent with a comprehensive plan that is consistent with the provisions of section 4326 is advisory with respect to the State. Except as provided

in this section, a state agency shall comply with a zoning ordinance consistent with a comprehensive plan that is consistent with the provisions of section 4326 in seeking to develop any building, parking facility or other publicly owned structure. The Governor or the Governor's designee may, after public notice and opportunity for public comment, including written notice to the municipal officers, waive any use restrictions in those ordinances upon finding that:

A. The proposed use is not allowed anywhere in the municipality;

B. There are no reasonable alternative sites for or configurations of the project within the municipality that would achieve the necessary public purposes;

C. There are no reasonable alternatives to the project, including sites in other municipalities, that would achieve the necessary public purposes;

D. The project will result in public benefits beyond the limits of the municipality, including without limitation, access to public waters or publicly owned lands; and

E. The project is necessary to protect the public health, welfare or environment.

A decision to waive a restriction under this section may be appealed by the municipality or any aggrieved party to Superior Court.

## PART B

**Sec. B-1. 20-A MRSA §15908, sub-§4** is enacted to read:

**4. Consistent siting.** The state board shall adopt criteria governing applications under this chapter to direct construction projects for new schools to areas determined suitable under the provisions of Title 30-A, chapter 187, subchapter II, by the municipality within which the project will be located. The board may not require a minimum contiguous parcel size for the project as a condition of approval.

**Sec. B-2. 30-A MRSA §4349, sub-§2**, as amended by PL 1993, c. 166, §12, is further amended by amending the first paragraph to read:

**2. Preference.** When awarding grants or assistance under any of the following programs, state agencies shall give preference to a municipality that receives a certificate of consistency under section 4348 over a municipality that has received a planning or implementation assistance grant but has not received certification within 4 years after accepting such a grant that does not obtain the certification

within 4 years after receipt of the first installment of a financial assistance grant or rejection of an offer of financial assistance. This subsection applies to:

**Sec. B-3. 38 MRSA §1163**, as enacted by PL 1981, c. 466, §9, is repealed and the following enacted in its place:

### **§1163. Sewer extensions**

A sanitary district may not construct any sewer extension unless:

**1. Assurance.** The sanitary district acquires from any municipality through which the sewer extension will pass written assurance that:

A. Any development, lot or unit intended to be served by the sewer extension is in conformity with any adopted municipal plans and ordinances regulating land use; and

B. The sewer extension is consistent with adopted municipal plans and ordinances regulating land use.

The trustees of the district shall publish notice of the proposed extension in a newspaper having a general circulation that includes all municipalities through which the sewer extension will pass not less than 7 days prior to the meeting at which the trustees will take final action on whether or not to proceed with the extension.

**Sec. B-4. 38 MRSA §1163-A** is enacted to read:

### **§1163-A. Coordination with municipal planning**

To facilitate coordination of municipal planning and sewer extension planning:

**1. Sanitary districts.** The trustees of a sanitary district shall cooperate with municipal officials in the development of municipal growth management and other land use plans and ordinances; and

**2. Municipalities.** Municipal officers shall cooperate with the trustees of a sanitary district during the consideration of development applications that may affect the operations of the district.

**Sec. B-5. 38 MRSA §1252, sub-§7**, as enacted by PL 1981, c. 466, §13, is repealed and the following enacted in its place:

**7. Sewer extensions.** A sewer district may not construct any sewer extension unless:

A. The district acquires from any municipality through which the sewer extension will pass written assurance that:

(1) Any development, lot or unit intended to be served by the sewer extension is in conformity with any adopted municipal plans and ordinances regulating land use; and

(2) The sewer extension is consistent with adopted municipal plans and ordinances regulating land use.

The trustees of the district shall publish notice of the proposed extension in a newspaper having a general circulation that includes all municipalities through which the sewer extension will pass not less than 7 days prior to the meeting at which the trustees will take final action on whether or not to proceed with the extension.

**Sec. B-6. 38 MRSA §1252, sub-§9** is enacted to read:

**9. Coordination with municipal planning.** To facilitate coordination of municipal planning and sewer extension planning:

A. The trustees of a sewer district shall cooperate with municipal officials in the development of municipal growth management and other land use plans and ordinances; and

B. Municipal officers shall cooperate with the trustees of a sewer district during the consideration of development applications that may affect the operations of the district.

### PART C

**Sec. C-1. 5 MRSA c. 314** is enacted to read:

#### CHAPTER 314

#### COORDINATION OF LAND USE AND NATURAL RESOURCE MANAGEMENT

##### **§3331. Land and Water Resources Council**

**1. Council established; membership.** In order to facilitate more effective interagency coordination of the State's activities regarding natural resource and land use management, the Land and Water Resources Council, referred to in this chapter as the "council," is established. The chair of the council is appointed by and serves at the pleasure of the Governor. The membership of the council is as follows:

A. The Commissioner of Agriculture, Food and Rural Resources;

B. The Commissioner of Conservation;

C. The Commissioner of Environmental Protection;

D. The Commissioner of Human Services;

E. The Commissioner of Inland Fisheries and Wildlife;

F. The Commissioner of Marine Resources;

G. The Commissioner of Transportation;

H. The Commissioner of Economic and Community Development; and

I. The Director of the State Planning Office.

**2. Duties; responsibilities.** The council shall advise the Governor, the Legislature and state agencies in the formulation of policies for management of the State's land and water resources to achieve state environmental, economic and social goals pursuant to Title 30-A, section 4312. Any state, federal, regional or local agency or private organization may interact and cooperate with the council in fulfilling the goals.

Specifically, the council shall:

A. Recommend coordinated state policy regarding major programs or proposals that affect the natural environment of the State and land use management issues and that involve the concerns of more than one state agency;

B. Support the full implementation of an integrated program to provide a substantially improved land and water resources information base for planning purposes;

C. Provide direction to the State's land and water use planning and management programs and encourage coordination of these efforts through review and comment on agency program plans, specific projects and legislative proposals that involve interagency concerns;

D. Periodically evaluate, in consultation with affected interests, the State's environmental regulatory system and growth management program, including legislation, regulations and procedures, and recommend appropriate action, if any is needed to improve service to applicants and municipalities;

E. Study specific land and water resources management issues and problems of state-level significance in order to develop sound, coordinated policies; and

F. Seek cooperation from federal agencies with responsibilities for land and water resources

management to ensure that their programs and projects serve the best interests of the State.

**3. Tasks for 1994.** During the calendar year 1994, the council shall undertake the following tasks. The council shall report on its progress, together with any necessary implementing legislation as part of its January 1995 annual report.

A. In order to improve the coordination of land use programs that contain both state and locally administered elements, the council shall consider the desirability and feasibility of consolidating into a single administrative unit the growth management laws, the shoreland zoning laws, the wellhead protection laws, the nonpoint source water quality laws and the subsurface wastewater disposal laws. The council may consider incorporating other related programs. The council may include in its recommendations any statutory changes necessary to accomplish this objective.

B. To encourage orderly and sound development, the council shall design and implement a system for coordinating the programs of its member agencies with the goals under Title 30-A, section 4312.

**4. Quarterly meetings; annual report.** The council shall meet at least quarterly. In addition, the council shall prepare a work program for each year establishing priorities among its efforts. By January 15th of each year, the council shall prepare and submit to the Governor and to the joint standing committee of the Legislature having jurisdiction over natural resource matters an annual report describing its activities during the previous calendar year and an outline of anticipated activities for the current calendar year. Member agencies shall provide staff support.

**Sec. C-2. 38 MRSA §488, sub-§14** is enacted to read:

**14. Developments within designated growth areas.** The following provisions apply to developments within a designated growth area.

A. A development is exempt from review under traffic movement, flood plain, noise and infrastructure standards under section 484 if that development is located entirely within:

(1) A municipality that has adopted a local growth management program that the Department of Economic and Community Development has certified under Title 30-A, section 4348; and

(2) An area designated in that municipality's local growth management program as a growth area.

An applicant claiming an exemption under this paragraph shall include with the application a statement from the Department of Economic and Community Development affirming that the location of the proposed development meets the provisions of subparagraphs (1) and (2).

An applicant claiming an exemption under this paragraph shall publish a notice of that application in a newspaper of general circulation in the region that includes the municipality in which the development is proposed to occur. That notice must include a statement indicating the standard or standards for which the applicant is claiming an exemption.

B. The commissioner may require application of the traffic movement, noise, flood plain or infrastructure standards to a proposed development if the commissioner determines, after receipt of a petition under subparagraph (1) or on the commissioner's own initiative under subparagraph (2), that a reasonable likelihood exists that the development will have a significant and unreasonable impact on traffic movement, flood plains, infrastructure or noise beyond the boundaries of the municipality within which the development is to be located.

(1) Within 15 working days after the publication of the notice required under paragraph A, municipal officers or residents of the municipality in which the development is proposed to occur or municipal officers or residents of an abutting municipality may petition the commissioner to apply one or more of the standards for which an exemption is claimed under this subsection. A petition must be signed either by the municipal officers of the petitioning municipality or by 10% of that number of registered voters of the petitioning municipality casting ballots in the most recent gubernatorial election or 150 registered voters of the petitioning municipality, whichever is less. The petition must include the name and legal address of each signatory and must designate one signatory as the contact person. The commissioner shall notify the contact person and the applicant of the commissioner's decision within 10 working days after receipt of a petition meeting the requirements of this subsection. A decision by the commissioner under this subparagraph is appealable to the board.



(2) A decision to require the application of one or more standards made on the commissioner's own initiative must be made within 15 working days after the application is filed with the department.

Nothing in this subsection may be construed to exempt a proposed development from review for flooding potential due to increases in stormwater runoff caused by the development.

**Sec. C-3. Review of issues affecting sawmills.** In consultation with affected parties, the Commissioner of Environmental Protection shall conduct a review of issues related to licensure and relicensure of sawmill facilities under the site location of development laws. The commissioner shall investigate opportunities to use the permit-by-rule and other alternative regulatory techniques authorized under current law. On or before March 1, 1995, the commissioner shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resource matters on the results of this review, together with any recommendations for statutory change the commissioner may feel necessary.

**PART D**

**Sec. D-1. 5 MRSA §12004-I, sub-§6-D** is enacted to read:

<u>6-D.</u>	<u>Municipal</u>	<u>Not</u>	<u>30-A</u>
<u>Economic</u>	<u>Capital</u>	<u>Autho-</u>	<u>MRSA</u>
<u>Development</u>	<u>Investment</u>	<u>rized</u>	<u>§5953-C</u>
	<u>Advisory</u>		
	<u>Commission</u>		

**Sec. D-2. 30-A MRSA §5903, sub-§8-A** is enacted to read:

**8-A. Public service infrastructure.** "Public service infrastructure" means those facilities that are essential for public health, welfare and safety. Those facilities include, without limitation, sewage treatment facilities, municipal water supply and treatment facilities, solid waste facilities, fire protection facilities, roads, traffic control devices and other transportation facilities, parks and other open space or recreational areas, public access to coastal and inland waters and any other public facility that benefits the public.

**Sec. D-3. 30-A MRSA §5953-C** is enacted to read:

**§5953-C. Assistance from Municipal Infrastructure Investment Trust Fund**

**1. Application.** In addition to the other forms of financial assistance available under section

6006-D, an eligible municipality or group of municipalities may apply for a grant or loan from the Municipal Infrastructure Investment Trust Fund, in this section called the "fund," the proceeds of which must be used to acquire, design, plan, construct, enlarge, repair, protect or improve public service infrastructure owned by the applicant.

The bank, in conjunction with the Department of Economic and Community Development, may prescribe an application form or procedure for an eligible municipality or group of municipalities to apply for a grant or loan under this section. The application must include all information necessary for the purpose of implementing this section and section 6006-D.

**2. Loan; loan agreements.** Loans from the fund are subject to this subsection.

A. The bank may make loans from the fund to an eligible municipality or group of municipalities for one or more of the purposes set forth in subsection 1. Each of the loans is subject to the following conditions.

(1) The total amount of loans outstanding at any one time from the fund may not exceed the balance of the fund; the proceeds of bonds or notes of the bank deposited in the fund, revenues from other sources deposited in the fund and binding financial commitments of the United States to deposit money in the fund must be included in determining the fund balance.

(2) The loan must be evidenced by a municipal bond or other debt instrument, payable by the municipality over a term not to exceed 40 years with annual principal or interest payments commencing not later than one year after the project being financed is completed.

(3) The rate of interest charged for the loans must be at or below market interest rates.

(4) Subject to the limitations of subparagraph (3), the rate of interest charged for the loans made to municipalities under this section or the manner of determining the rate of interest must be established from time to time by direction of the bank, taking into consideration the current average rate on outstanding marketable obligations.

B. Loans made to a municipality by the bank under this section must be evidenced by and made in accordance with the terms and conditions specified in a loan agreement to be exe-

cuted by the bank and the municipality. The loan agreement must specify the terms and conditions of disbursement of loan proceeds. The loan agreement must state the term and interest rate of the loan, the scheduling of loan repayments and any other terms and conditions determined necessary or desirable by the bank.

**3. Eligibility certification.** The bank may not make a grant or loan to a municipality or group of municipalities under this section until:

A. The applicant certifies to the bank that it has secured all permits, licenses and approvals necessary to construct the improvements to be financed by the grant or loan;

B. In the case of a loan, the applicant demonstrates to the bank that it has established a rate, charge or assessment schedule that generates annually sufficient revenue to pay, or has otherwise provided sufficient assurances that it pays, the principal of and interest on the municipal bond or other debt instrument that evidences the loan made by the bank to the municipality pursuant to the loan agreement under this section and to pay reasonably anticipated costs of operating and maintaining the financed project and the system of which it is a part;

C. In the case of a loan, the applicant certifies to the bank that it has created a dedicated source of revenue that may constitute general revenues of the applicant through a general obligation pledge of the applicant for repayment of the loan; and

D. The Department of Economic and Community Development affirms that the applicant has met the conditions of this paragraph.

(1) A municipality is eligible to receive a grant or a loan, or a combination of both, if that municipality has adopted a local growth management program certified under section 4348 that includes a capital improvement program comprised of the following elements:

(a) An assessment of all public facilities and services, such as, but not limited to, roads and other transportation facilities, sewers, schools, parks and open space, fire and police;

(b) An annually reviewed 5-year plan for the replacement and expansion of existing public facilities or the construction of such new facilities as are required to meet expected growth and

economic development. The plan must include projections of when and where those facilities will be required; and

(c) An assessment of the anticipated costs for replacement, expansion or construction of public facilities, an identification of revenue sources available to meet these costs and recommendations for meeting costs required to implement the plan.

(2) A municipality is eligible to receive a loan if that municipality:

(a) Has adopted a comprehensive plan that is determined by the Department of Economic and Community Development to be consistent with section 4326, subsections 1 to 4; and

(b) The request for a loan is part of a complete application for financial assistance that is filed on or before December 31, 1998.

Subject to the limitations of this subsection, 2 or more municipalities that each meet the requirements of subparagraphs (1) or (2) may jointly apply for assistance under this section.

**4. Criteria; conditions.** The Department of Economic and Community Development, in conjunction with the bank, shall develop criteria and conditions for the award of loans and grants to eligible municipalities after consultation with the Municipal Capital Investment Advisory Commission and subject to the requirements of this section. The department shall:

A. Give priority to those municipalities that are experiencing rapid growth and possess a public service infrastructure inadequate to accommodate that growth;

B. Establish a preference for those municipalities eligible under subsection 3, paragraph D, subparagraph (1) over those municipalities eligible under subsection 3, paragraph D, subparagraph (2);

C. Establish a preference for those municipalities with higher local property tax burdens. The comparative local property tax burden must be determined under section 5681;

D. Establish a preference for capital investment projects undertaken jointly by 2 or more municipi-

palities or that provide substantial regional benefits;

E. Adopt other criteria as it determines necessary to ensure that loans and grants made under this section maximize the ability of municipalities to accommodate planned growth and economic development; and

F. Condition any loans and grants under this section on consistency with the municipality's comprehensive plan or local growth management program.

**5. Coordination.** The bank shall coordinate the loans and grants made under this section with all other community assistance loans and grants administered by the Department of Economic and Community Development and with other state assistance programs designed to accomplish similar objectives, including those administered by the Department of Education, the Department of Transportation and the Department of Environmental Protection.

**6. Municipal Capital Investment Advisory Commission.** The Municipal Capital Investment Advisory Commission is established to provide expert assistance and input to the Department of Economic and Community Development on the development of loans and grants criteria under this section. The commission is composed of 5 members who shall serve staggered 4-year terms except that the terms of the initial members are as follows: one member serves for 2 years; 2 members serve for 3 years; and 2 members serve for 4 years. The Governor shall appoint the members who must each have expertise and experience in municipal government or locally supported regional associations. The commission shall meet at least twice annually and shall review the loans and grants criteria annually.

**7. Report to the Legislature.** The bank shall report to the joint standing committee of the Legislature having jurisdiction over natural resource matters no later than January 1, 1995 and biennially thereafter on the loans and grants program. The bank may make any recommendations it finds necessary to more effectively achieve the purposes of this section, including the appropriation of any necessary additional funds.

**Sec. D-4. 30-A MRSA §5959, sub-§1, ¶A,** as enacted by PL 1991, c. 605, §11, is amended to read:

A. Implement sections 5953-A, 5953-B, 5953-C, 6006-A ~~and~~, 6006-B and 6006-D to ensure the self-sustaining nature of the funds created under sections 6006-A and 6006-B and that portion of

the fund under section 6006-D determined to be self-sustaining; and

**Sec. D-5. 30-A MRSA §6006-D** is enacted to read:

**§6006-D. Municipal Infrastructure Investment Trust Fund**

**1. Establishment; administration.** The Municipal Infrastructure Investment Trust Fund, referred to in this section as the "fund," is established in the custody of the bank as a special fund as provided in this section.

A. The purpose of the fund is to provide financial assistance under subsection 2 for the acquisition, design, planning, construction, enlargement, repair, protection or improvement of public service infrastructure.

B. The bank shall administer the fund. The fund must be invested in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury. The fund must be established and held separate from any other funds or money of the State or the bank and used and administered exclusively for the purpose of this section and section 5953-C. The fund consists of the following:

(1) Sums that are appropriated by the Legislature or transferred to the fund from time-to-time by the Treasurer of State;

(2) Principal and interest received from the repayment of loans made from the fund;

(3) Capitalization grants and awards made to the State or an instrumentality of the State by the Federal Government for any of the purposes for which the fund has been established. These amounts must be paid directly into the fund without need for appropriation by the State;

(4) Interest earned from the investment of fund balances;

(5) Private gifts, bequests and donations made to the State for any of the purposes for which the fund has been established;

(6) The proceeds of notes or bonds issued by the State for the purpose of deposit in the fund;

(7) The proceeds of notes or bonds issued by the bank for the purpose of deposit in the fund; and

(8) Other funds from any public or private source received for use for any of the purposes for which the fund has been established.

**2. Uses.** The fund may be used for one or more of the following purposes:

A. To make grants and loans to municipalities under this section and section 5953-C;

B. To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by a municipality for the purpose of financing the construction of any capital improvement described in section 5953-C, subsection 1;

C. To guarantee or insure, directly or indirectly, funds established by municipalities for the purpose of financing construction of any capital improvement described in section 5953-C, subsection 1;

D. To invest available fund balances and to credit the net interest income on those balances to the fund;

E. To invest as a source of revenue or security for the payment of principal and interest on general or special obligations of the bank if the proceeds of the sale of the obligations have been deposited in the fund or loaned to eligible participants in the programs financed with the fund, or as a source of revenue to subsidize municipal loan payment obligations; and

F. To pay the costs of the bank associated with the administration of the fund and projects financed by it as long as no more than 2% of the aggregate of the highest fund balance in any fiscal year is used for these purposes.

**3. Establishment of accounts.** The bank may establish accounts and subaccounts within the fund as it determines desirable to effectuate the purposes of this section, including, but not limited to, accounts to segregate a portion of the fund for grants and as security for bonds issued by the bank for deposit in the fund and to be invested for the benefit of specified projects receiving financial assistance from the fund.

## PART E

**Sec. E-1. 30-A MRSA §7501, sub-§5-A** is enacted to read:

**5-A. Watershed districts.** Participation in watershed management districts organized under Title 38, chapter 23:

**Sec. E-2. 38 MRSA §2001**, as amended by PL 1989, c. 106, §1, is further amended to read:

### §2001. Watershed districts authorized

Watershed districts may be created pursuant to this section to protect, restore and maintain the ~~water quality~~ natural functions and values of coastal wetlands; freshwater wetlands; rivers, streams and great ponds; coastal harbors; bays; estuaries and marine waters and to manage and conserve the land and water resources of watersheds of ~~great ponds~~ those resources within the jurisdictions of these districts. ~~The terms "watershed district" and "lake management district" are used interchangeably in this chapter. The natural functions and values of those resources include water quality, water quality maintenance, aquatic and wildlife habitat, scenic quality and flood-water storage and conveyance.~~ The term "participating water district," as used in this chapter, means a water district, as defined by Title 35-A, section 6101, subsection 3, included in the application provided for by section 2002.

**Sec. E-3. 38 MRSA §2002**, as amended by PL 1989, c. 890, Pt. A, §40 and Pt. B, §§280 to 283, is further amended to read:

### §2002. Formation

**1. Initiation.** The municipal officers of the municipality or municipalities, or portions of the municipality or municipalities, or the residents of unorganized territory who desire to form a watershed district shall file ~~an application with the Board of Environmental Protection~~ a statement of intent to organize on a form or forms to be prepared by the commissioner, setting forth the name or names of the municipality or municipalities, or portions of the municipality or municipalities or, in the case of residents of unorganized territory, the names of those residents that propose to be included in the district and they shall furnish such other data as the ~~board~~ commissioner determines necessary and proper. The application must contain, but is not limited to, a description of the territory of the proposed district, the names of water districts that utilize water from surface or ground water supplies within the territory of the proposed district, the name proposed for the district, which must include the words "watershed district" or "lake management district," ~~and a statement showing the existence in that territory of the need for a coordinated approach to lake watershed management as provided in this chapter.~~

**2. Initiation by referendum.** Residents of a municipality or municipalities, or portions thereof, that desire to form a watershed district may petition the municipal officers to file ~~an application for~~ a statement of intent to form a watershed district with

the ~~Board of Environmental Protection~~ commissioner. The petition must contain a description of the territory of the proposed district.

Upon receipt of a written petition signed by at least 10% of the number of voters voting for the gubernatorial candidates at the last statewide election in that proposed district, the municipal officers shall submit the question to the voters of the proposed district at the next general, primary or special election within the proposed district. The referendum question must read as follows:

"Shall the municipal officers representing the proposed watershed district, consisting of (describe the territory of the proposed district), ~~file an application for a watershed district with the Board of Environmental Protection on behalf of the residents of~~ initiate proceedings to form the proposed district?"

If the referendum question is approved by a majority of the legal voters voting at the election, provided that the total number of votes cast for and against the referendum question equals or exceeds 20% of the total number of votes cast in the proposed district in the last gubernatorial election, the municipal officers representing the residents of the proposed watershed district shall ~~file an application for that~~ a statement of intent to form the proposed district in accordance with subsection 1.

**3. Public hearing.** ~~Upon receipt of the application, the Board of Environmental Protection shall hold a public hearing regarding the application in one of the municipalities within the proposed district or, in the case of an application made solely by residents of unorganized territory, at some convenient place within the boundaries of the proposed district.~~

**4. Commissioner convenes joint meeting.** ~~After the public hearing on the evidence received at the hearing, the board shall make findings of fact and conclusions and determine of record whether or not the conditions requisite for the creation of a watershed district exist in the territory described in the application. If the board finds that such conditions do exist, it shall issue an order approving the proposed district as conforming to the requirements of this chapter and designating the name of the proposed district. The~~ Upon receiving a complete statement of intent to form a watershed district, the commissioner shall give notice to participating water districts, the municipal officers within the municipality or municipalities involved and, when unorganized territory is involved, to the persons signing the application described in subsection 1 and the commissioners of the county in which the unorganized territory is located of a date, time and place of a meeting of the municipal officers of the municipality or municipalities involved and,

when unorganized territory is involved, a joint meeting of all the persons signing the application described in subsection 1 and the commissioners of the county in which the unorganized territory is located. The notice must be in writing and sent by registered or certified mail, return receipt requested, to the addresses shown on the application described in subsection 1 and, in the case of county commissioners, to the addresses of those commissioners obtained from the county clerk. A return receipt properly endorsed is evidence of the receipt of notice. The notice must be mailed at least 10 days prior to the date set for the meeting.

**5. Denial of application.** ~~If the board, after that public hearing, determines that the creation of a watershed district in the territory described in the application is not warranted for any reason, it shall make findings of fact and conclusions and enter an order denying its approval. The commissioner shall give notice of that denial by mailing certified copies of the decision and order to participating water districts, the municipal officers of the municipality or municipalities involved and, when unorganized territory is involved, to the persons signing the application described in subsection 1 and the commissioners of the county in which the unorganized territory is located. No application for the creation of a watershed district, consisting of exactly the same territory, may be entertained within one year after the date of the issuance of an order denying approval of the formation of that watershed district, but this provision does not preclude action on an application for the creation of a watershed district embracing all or part of the territory described in the original application, provided that another municipality or fewer municipalities, or other or fewer sections thereof, are involved or that a different area of unorganized territory is involved or, in the case of an application made solely by residents of unorganized territory, that an allegation of change in circumstances from those existing on the date of the previous application must be furnished to the board with the resubmitted application.~~

**6. Joint meeting.** ~~The persons, other than participating water districts, to whom the notice described in subsection 3 4 is directed shall meet at the time and place appointed. When more than one municipality or unorganized territory is involved, the persons shall organize by electing a chair and a secretary. An action may not be taken at any such meeting unless, at the time the meeting is convened, there are present at least 1/2 of the total number of municipal officers eligible to attend and participate at the meeting and, when the proposed district includes or is composed solely of unorganized territory, at least 2/3 of the persons signing the application described in subsection 1 and at least 2 commissioners of the~~

county in which the unorganized territory is located, other than to report to the commissioner that a quorum was not present and to request the commissioner to issue a new notice for another meeting. ~~The purpose~~ purposes of the meeting is are to develop a declaration of district responsibilities and to determine a fair and equitable number of trustees, subject to section 2004, to be elected by and represent each participating municipality or, in the case of unorganized territory, the residents of that territory within the bounds of the proposed district. The declaration of district responsibilities must list the powers and duties of the proposed watershed district. These powers and duties are limited to those authorized under section 2007. The declaration must also include a method of determining each municipality's proportional share, and where unorganized territory is involved, that unorganized territory's share, of the proposed district's annual budget. When a decision has been reached on a declaration of district responsibilities, the number of trustees and the number to represent each municipality or the residents of the unorganized territory within the bounds of the proposed district, subject to the limitations provided, this decision must be reduced to writing by the secretary and must be approved by a 2/3 vote of those present. When 2 or more municipalities are, or unorganized territory is, involved, the vote so reduced to writing and the record of the meeting must be signed by the chair and attested by the secretary and filed with the commissioner. When a single municipality is involved, a copy of the vote of the municipal officers duly attested by the clerk of the municipality must be filed with the commissioner.

**6-A. Water district representation.** The trustees of each participating water district shall annually appoint one water district official or staff person to serve as a trustee of the watershed district for a one-year term.

**7. Submission.** When the record of the municipality or the record of the joint meeting, when municipalities are, or unorganized territory is, involved, has been received by the commissioner and found by the commissioner to be in order, the commissioner shall order the question of the formation of the proposed watershed district and other related questions to be submitted to the legal voters residing within that portion of the municipality, municipalities or unorganized territory that falls within the proposed watershed district. The order must be directed to the municipal officers of the municipality or municipalities which propose to form the watershed district and, when the proposed watershed district includes or is composed solely of unorganized territory, to the commissioners of the county in which the unorganized territory is located, directing them to call town meetings, city elections or a meeting of the residents of the unorganized territory within the bounds of the

proposed watershed district for the purpose of voting in favor of or in opposition to each of the following articles or questions, as they may apply, in substantially the following form:

A. To see if the town (or city) of (name of town or city) will vote to incorporate as a watershed district to be called (name) Watershed District;

B. To see if the residents of the following described section of the town (or city) of (name of town or city) will vote to incorporate as a watershed district to be called (name) Watershed District: (legal description of the bounds of section to be included);

C. To see if the residents of the (following described section of) (name of town or city) (unorganized territory) will vote to join with the residents of the (following described section of) (name of town or city) (unorganized territory) to incorporate as a watershed district to be called (name) Watershed District: (legal description of the bounds of the proposed watershed district, except where the district is to be composed of entire municipalities);

D. To see if the inhabitants of the following described section of that unorganized territory known as Township (number), Range (number) will vote to incorporate as a watershed district to be called (name) Watershed District: (legal description of the bounds of the proposed watershed district);

E. To see if the residents of (the above described section of) (name of town or city) will vote to approve the total number of trustees and the allocation of representation among the municipalities (and included section of unorganized territory) on the board of trustees as determined by the municipal officers (and the persons representing the included area of unorganized territory) and listed as follows:

Total number of trustees ~~shall be~~ is ..... and the residents of (the above described section of) (town or city) ~~shall be~~ are entitled to ..... trustees (and the residents of the above described section of unorganized territory ~~shall be~~ are entitled to ..... trustees); ~~and~~

F. To choose (number) trustees to represent the residents of (the above described section) of (town or city) (unorganized territory) on the board of trustees of the (name) Watershed District; and

G. To see if the residents of (the above described section of) (name of town or city or included section of unorganized territory) will vote

to adopt a declaration of district responsibilities that describes and restricts the powers of the (name) Watershed District.

At any such town meeting, city election or election by the residents of the proposed watershed district, trustees ~~shall~~ **must** be chosen to represent the municipality or the unorganized territory within the proposed watershed district in the manner provided in section 2005.

**Sec. E-4. 38 MRSA §2007, sub-§3**, as enacted by PL 1987, c. 711, is amended to read:

**3. Responsibilities.** The district ~~shall be~~ **is** responsible for those activities listed in the declaration of district responsibilities as approved in accordance with section 2002. The activities are limited to the following:

A. Initiating and coordinating research and surveys for the purpose of gathering data on ~~great ponds wetlands, water bodies,~~ related shorelands and watersheds within the territory of the district;

B. Planning ~~lake~~ natural resource restoration projects;

C. Contacting and attempting to secure the cooperation of municipal officials and state agencies for the purpose of enacting and enforcing ordinances and regulations necessary to further the purposes of the district;

D. Adopting and implementing ~~lake~~ natural resource protection, management and restoration plans; ~~and~~

E. Adopting and implementing plans and programs to facilitate coordination of water level management and surface water use on great ponds within the territory of the district; and

F. Entering into agreements with a municipality or group of municipalities that are wholly or partially within the district to administer the land use ordinances of that municipality or group of municipalities.

**Sec. E-5. 38 MRSA §2007, sub-§4**, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §287, is further amended to read:

**4. Limits on jurisdiction.** The limits on jurisdiction regarding the regulation of water level are as follows.

A. The district has no authority to set a water level regime for a body of water impounded by a dam that is exempt, under section 840, subsec-

tion 1, from the authority of the commissioner to set water level regimes.

B. The district's authority to set a water level regime for any water body within its boundaries and over any dams within its boundaries is subordinate to the authority of a municipality under Title 30-A, chapter 187, subchapter VI and to the authority of the Department of Environmental Protection under chapter 5, subchapter I, article 1, subarticle 1-B and, article 3-A and article 4.

**Sec. E-6. 38 MRSA §2008, sub-§2**, as enacted by PL 1987, c. 711, is amended to read:

**2. Voting list.** The trustees shall appoint a resident of the district to serve as registration clerk and to make and keep a voting list of all residents in the district eligible to vote. The registration clerk shall compile the district voting list from the voting lists of all municipalities and the portions of unorganized territory lying within the district. At least 14 days before any budget meeting, the registration clerk shall bring that voting list up to date by comparing the list with those voting lists found in the municipalities and the portions of unorganized territory within the district and by making such additions and deletions as necessary. ~~No additions~~ Additions or deletions may not be made within the 14-day period prior to the meeting.

**Sec. E-7. 38 MRSA §2010, sub-§1**, as amended by PL 1989, c. 106, §9, is further amended to read:

**1. Method.** Following adoption of the district budget, the trustees shall issue their warrants, in substantially the same form as the warrant of the Treasurer of State, for taxes to each participating municipality and, in the case of unorganized territory, to the commissioner's of the county within which that territory lies, requiring it to pay its proportionate part of the district budget. Each municipality's proportionate part of the budget ~~shall or, in the case of unorganized territory, each county's proportionate share,~~ must be based upon its percentage of shoreline frontage on the great ponds and marine waters within the district's territory, or an alternative method ~~unanimously agreed upon by all the municipalities as described in the declaration of district responsibilities and approved at referendum under section 2003.~~

**Sec. E-8. 38 MRSA §2010, sub-§2**, as enacted by PL 1987, c. 711, is amended to read:

**2. Fiscal year; payments.** The fiscal year of the district ~~shall be~~ **is** July 1st to June 30th. In the fiscal year in which the assessment is levied, the treasurer of each municipality and, in the case of

unorganized territory, the county treasurer, shall pay the amount of the assessment in 3 equal installments to the treasurer of the district. Installments shall must be paid by August 1st, December 1st and March 31st.

**Sec. E-9. 38 MRSA §2012** is enacted to read:

**§2012. State agency assistance**

The Department of Economic and Community Development, the Department of Environmental Protection and other state agencies with expertise in watershed management shall, to the extent practicable, develop advisory guidelines, models and other technical assistance materials on the watershed planning process for municipalities, interested citizens and others. These agencies shall, upon request and as resources allow, provide assistance to watershed districts in the development and implementation of watershed management plans.

**Sec. E-10. 38 MRSA c. 23-A**, as enacted by PL 1989, c. 900, §1, is repealed.

**PART F**

**Sec. F-1. 38 MRSA §480-C, sub-§3**, as amended by PL 1989, c. 838, §4, is repealed.

**Sec. F-2. 38 MRSA §480-Q, sub-§15**, as renumbered by RR 1993, c. 1, §119, is repealed.

**Sec. F-3. 38 MRSA §480-Q, sub-§15-A** is enacted to read:

**15-A. Subsurface wastewater disposal systems.** Installation, removal or repair of a subsurface wastewater disposal system, as long as the system complies with all requirements of the subsurface wastewater disposal rules adopted by the Department of Human Services under Title 22, section 42, subsection 3. This subsection takes effect on March 1, 1995.

**Sec. F-4. 38 MRSA §480-V** is enacted to read:

**§480-V. Applicability**

Except as provided in this section, this article applies to all protected natural resources in the State, including significant wildlife habitat that is within another protected natural resource.

**1. Exemptions.** This article does not apply to:

A. Significant wildlife habitat not within another protected natural resource, unless that significant wildlife habitat is identified on a map adopted by the board; and

B. Those portions of fragile mountain areas, deer wintering areas, seabird nesting islands and great ponds, rivers, streams and brooks within the jurisdiction of the Maine Land Use Regulation Commission under Title 12, chapter 206-A. The commission, in consultation with the department, shall periodically review land use standards adopted by the commission for these resources to ensure that the standards afford a level of protection consistent with the goals of this article, the goals of Title 12, chapter 206-A and the commission's comprehensive land use plan.

**Sec. F-5. Transition provisions.** The Department of Environmental Protection and the Maine Land Use Regulation Commission shall jointly review natural resource protection permits issued by the department prior to the effective date of this Act that regulate activities affecting fragile mountain areas, deer wintering areas, seabird nesting islands and great ponds, rivers, streams and brooks in areas of the State subject to regulation by the commission. The Maine Land Use Regulation Commission shall assume authority for regulating activities in those permits that are no longer regulated by the Department of Environmental Protection.

**PART G**

**Sec. G-1. Allocation.** Notwithstanding the Maine Revised Statutes, Title 38, section 2201, the following funds are allocated from the Maine Solid Waste Management Fund to carry out the purposes of this Act.

**1994-95**

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Division of Data Processing**

Positions	(1.0)
Personal Services	\$31,515
All Other	7,703

Provides for the allocation of funds for one Geographic Information Systems Administrator position and general operating costs for rent, electricity, telephone and computer and software maintenance. This position and these costs must be funded



by the General Fund in subsequent fiscal years.

**DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES  
TOTAL**

\_\_\_\_\_  
\$39,218

**ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF**

**Office of Community Development**

Positions	(2.0)
Personal Services	\$49,122
All Other	6,660
Capital Expenditures	5,000

Provides for the allocation of funds for one Senior Planner position, one Planner II position, operating expenses and computer equipment necessary to provide municipal technical assistance and evaluation of growth management efforts. These positions and costs must be funded by the General Fund in subsequent fiscal years.

**DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT  
TOTAL**

\_\_\_\_\_  
\$60,782

**EXECUTIVE DEPARTMENT**

**Office of Siting and Disposal Operations**

All Other	(\$100,000)
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Provides for the deallocation of funds from the Grant Assistance to Municipalities program. Any funds set aside by the Maine Waste Management Agency for the

Carpenter Ridge Landfill Project and not needed for that project must be made available for the Grant Assistance to Municipalities program to replace funds deallocated in this Act.

**EXECUTIVE DEPARTMENT  
TOTAL** \_\_\_\_\_  
(\$100,000)

**PART G  
TOTAL ALLOCATIONS** \_\_\_\_\_  
\$-0-

**PART H**

**Sec. H-1. Effective date.** This Act takes effect October 1, 1994.

Effective October 1, 1994.

**CHAPTER 722**

**H.P. 1148 - L.D. 1547**

**An Act to Authorize a General Fund Bond Issue in the Amount of \$15,000,000 to Provide Funds for Assistance to Maine Businesses**

**Preamble.** Two thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14, to authorize the issuance of bonds on behalf of the State of Maine to provide funds for the Economic Recovery Program and the Regional Economic Development Revolving Loan Program.

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

**PART A**

**Sec. A-1. Authorization of bonds to provide for the Economic Recovery Program and the Regional Economic Development Revolving Loan Program.** The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and behalf of the State in an amount not exceeding \$15,000,000 to raise funds for economic development activities as authorized by section 6. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 10 years from the date of the original issue of the bonds. At the discretion of the Treasurer of State, with the approval of the Governor, any issuance of bonds may contain a call feature. The