

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**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.**

---

---

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

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)
-----------	-------------

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

bonds must be issued from time to time so as to meet the needs of the Economic Recovery Program and the Regional Economic Development Revolving Loan Program of the Finance Authority of Maine. The bonds, when paid at maturity or otherwise retired, may not be reissued, but may be refunded on terms more favorable to the State than those in the original issue.

**Sec. A-2. Records of bonds issued to be kept by the Treasurer of State.** The Treasurer of State shall keep an account of each bond showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

**Sec. A-3. Sale; how negotiated; proceeds appropriated.** The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Act. Any unencumbered balances remaining at the completion of the project in section 6 lapse to the debt service account established for the retirement of these bonds.

**Sec. A-4. Interest and debt retirement.** The Treasurer of State shall pay interest due or accruing on any bonds issued under this Act and all sums coming due for payment of bonds at maturity.

**Sec. A-5. Disbursement of bond proceeds.** The proceeds of the bonds must be expended as set out in section 6 under the direction and supervision of the Finance Authority of Maine.

**Sec. A-6. Allocations from General Fund bond issue; Economic Recovery Program and Regional Economic Development Revolving Loan Program.** The proceeds of the sale of bonds must be expended as designated in the following schedule.

1994-95

**FINANCE AUTHORITY OF MAINE**

**Regional Economic Development Revolving Loan Program**

\$10,000,000

Provides funds for the capitalization of the Regional Economic Development

Revolving Loan Program. The program consists of a revolving loan fund, which is used to provide loans to assist businesses to create or retain jobs. The fund and the program are administered by the Finance Authority of Maine, on behalf of local, regional and statewide economic development entities.

**Economic Recovery Program** \$5,000,000

Provides funds for the continuation of the capitalization of the Economic Recovery Program. The program is a direct lending program designed to assist small businesses in their efforts to remain viable. Priority is given to projects that demonstrate strong public benefit and leverage other sources of capital.

**FINANCE AUTHORITY OF MAINE**

**TOTAL** 

---

 \$15,000,000

**Sec. A-7. Contingent upon ratification of bond issue.** Sections 1 to 6 do not become effective unless the people of the State have ratified the issuance of bonds as set forth in this Act.

**Sec. A-8. Appropriation balances at year end.** At the end of each fiscal year, all unencumbered appropriation balances representing state money carry forward. Bond proceeds that have not been disbursed into the Economic Recovery Program Fund or the Regional Economic Development Revolving Loan Fund within 5 years after the date of the sale of the bonds lapse to General Fund debt service.

**Sec. A-9. Bonds authorized but not issued.** Any bonds authorized but not issued, or for which bond anticipation notes are not issued within 5 years of ratification of this Act, are deauthorized and may not be issued; except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds or bond anticipation notes for an additional amount of time not to exceed 5 years.

**Sec. A-10. Referendum for ratification; submission at general election; form of question; effective date.** This Part must be submitted to the legal voters of the State of Maine at the next general election in the month of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a general election, to vote on the acceptance or rejection of this Part by voting on the following question:

"Do you favor a \$15,000,000 bond issue to create and retain Maine jobs through the establishment of community, regional and state business financing programs?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if a majority of the legal votes are cast in favor of the Act, the Governor shall proclaim the result without delay, and the Act becomes effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purpose of this referendum.

## PART B

**Sec. B-1. 10 MRSA §1023-I, sub-§§3, 4 and 5,** as enacted by PL 1991, c. 849, §1 and as affected by §7, are amended to read:

**3. Application of the fund.** Money in the fund, except money in the 1994 Bond Proceeds Account, may be applied to carry out any power of the authority under or in connection with section 1026-J or to pay obligations incurred in connection with the fund. Money in the 1994 Bond Proceeds Account may be applied to carry out any power of the authority under or in connection with section 1026-J or 1026-K or to pay obligations incurred in connection with the fund. Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested in a manner permitted by law.

**4. Accounts within fund.** The authority may divide the fund into separate accounts it determines necessary or convenient for carrying out this section. Notwithstanding this subsection, the authority shall create and establish within the fund the 1992 Bond

Proceeds Account and the 1994 Bond Proceeds Account. The authority shall allocate and deposit to the 1992 Bond Proceeds Account all proceeds of bonds issued pursuant to Private and Special Law 1991, chapter 113, Part A and, subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money or any money that the authority receives in repayment of advances from the 1992 Bond Proceeds Account in the fund and shall allocate to the 1994 Bond Proceeds Account all proceeds of any bonds authorized in 1994 to be issued for the purpose of meeting the needs of the Economic Recovery Program and, subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money or any money that the authority receives in repayment of advances from the 1994 Bond Proceeds Account in the fund.

**5. Revolving fund.** The fund is a nonlapsing, revolving fund. All money in the 1992 Bond Proceeds Account of the fund must be continuously applied by the authority to carry out this section and section 1026-J and all money in the 1994 Bond Proceeds Account of the fund must be continuously applied by the authority to carry out this section and sections 1026-J and 1026-K.

**Sec. B-2. 10 MRSA §1026-L** is enacted to read:

### §1026-L. Capital Access Program

**1. Capital Access Program established.** The authority shall establish a program known as the Capital Access Program, referred to in this section as "CAP," for the benefit of each participating state bank. The Capital Access Program Fund, referred to in this section as the "fund," is established to implement the CAP. The fund must be separate and apart from all other funds of the authority and held exclusively to secure the principal of and the interest on CAP loans made by a participating state bank.

**2. Contribution limit.** The amount of the authority's contribution to the fund may not exceed 10% of the principal amount of CAP loans to be secured by the fund. As a condition of the authority making a contribution to the fund, the authority may require the borrower or the participating state bank to make a contribution to the fund and may impose other conditions the authority determines necessary. All money contributed to the fund by the authority must be held in the name of the authority. Investment earnings on the fund must be credited to the fund and periodically paid to the authority, unless a CAP participation agreement pursuant to subsection 3 provides otherwise.

**3. Bank participation; rules.** Before establishing a CAP at a participating state bank, the authority must enter into a CAP participation agreement with the participating state bank. The CAP participation agreement must specify:

A. The maximum amount of the authority's contributions to the CAP;

B. Conditions under which the authority may make contributions to the CAP;

C. Conditions under which the participating state bank may demand payment from a CAP to pay a defaulted CAP loan;

D. Minimum due diligence procedures for servicing CAP loans;

E. Conditions under which the participating state bank or a borrower may be required to contribute to the CAP;

F. Provisions for the payment of authority fees, costs and expenses from earnings on the CAP or otherwise;

G. Provisions for the termination of the CAP, in whole or in part, and disbursement of any excess funds in the CAP;

H. Criteria and procedures that qualify a loan as a CAP loan;

I. The requirement that the participating state bank report to the authority at least annually regarding outstanding balances on CAP loans, delinquent CAP loans and such other information as the authority determines appropriate;

J. Permitted investments in the CAP; and

K. Other terms and conditions the authority determines necessary.

**4. Minimum requirements.** At a minimum, CAP loans must meet the following requirements.

A. The borrower must be either a start-up business or may not have had annual sales in its most recently completed fiscal year greater than \$5,000,000.

B. The total outstanding principal amount of CAP loans to the borrower may not exceed \$500,000.

C. The proceeds of the CAP loan must be used for business purposes.

By written notice to participating state banks, the authority may impose requirements on CAP loans in

addition to those contained in this subsection or in a CAP participation agreement. Additional requirements do not apply to CAP loans already made or to CAP loans for which written commitments exist if CAP loans from these written commitments are made within 3 months after the date of the written notice.

**Sec. B-3. Application; contingent on bond issue.** This Part takes effect only if the bond issue submitted pursuant to Part A of this Act is approved by the voters of this State.

## PART C

**Sec. C-1. 10 MRSA §1026-M** is enacted to read:

### **§1026-M. Regional Economic Development Revolving Loan Program**

**1. Established.** The Regional Economic Development Revolving Loan Program, referred to in this section as the "program," is established to provide financial assistance to businesses that need assistance in order to create or retain jobs. The authority shall administer the program on behalf of eligible economic development corporations or entities. The Regional Economic Development Revolving Loan Program Fund, referred to in this section as the "fund," is established as a revolving fund, into which must be deposited all amounts appropriated to the program, interest earnings on the fund and any amounts repaid to the program by participating corporations. Amounts in the fund must be used by the authority for purposes authorized in this section.

**2. Eligible corporations.** The fund is open to local, regional and statewide nonprofit or governmental economic development corporations or entities, capable of providing financial assistance to businesses in order to create and protect jobs and referred to in this section as "corporations." To be eligible for assistance from the fund:

A. A corporation must apply to the authority to participate in the fund. The application must describe the corporation and its funding sources, the region it serves, its methods and criteria for qualifying borrowers, including any targeted lending and economic development strategies, its expertise in management assistance and financing of small and emerging businesses, the method by which it will leverage funds from other sources in an amount at least equal to 2 times the amount requested from the fund and other information the authority determines necessary;

B. A corporation must have a strategy for the creation and retention of jobs, an effective small

business marketing and technical assistance plan and enough expert assistance available to it to underwrite, document and service loans and assist its clients;

C. The corporation must be determined by the authority to be able to prudently and effectively administer a direct loan fund and to coordinate with other business assistance programs and employment training and social assistance programs; and

D. The corporation must propose performance measurements and goals and a process for monitoring compliance with proposed measurements and goals. The authority shall assist corporations in developing loan underwriting and administrative capacity and in portfolio monitoring and servicing and may establish one or more advisory boards or committees to assist corporations.

**3. Disbursements from fund.** If an application is approved, the authority shall determine the amount to be disbursed to the corporation, taking into account:

A. The size of the region served by the corporation and the expected demand for loan funds in that region;

B. The demand for funds from other eligible corporations in relation to the total amount available in the fund; and

C. Whether an eligible corporation will serve a geographic area or segment of potential business borrowers not served by other applicants.

A corporation may not receive more than \$1,250,000 from the fund. Funds must be disbursed directly to and retained by the eligible corporation in accordance with the contract between the corporation and the authority. Funds must be disbursed to the corporation in the form of a loan or a grant. The authority may, in its discretion, disburse fund amounts in one lump sum or periodic disbursements.

**4. Contract.** A corporation that has been approved for participation in the program may enter into a contract with the authority. The contract governs the administration of the program and the use of funds. The contract must provide that a corporation shall, at a minimum, conform to the following terms and conditions:

A. The corporation shall certify that it will use funds only for eligible purposes;

B. The corporation shall review applications for financial assistance, determine the feasibility of

the application and approve or deny the application, which determination is final in the case of loans under \$100,000 or in the case of denials of any amount;

C. An officer or employee of the corporation or a member of its credit committee may not participate in any way in, or have any influence over, a decision on a project in which that officer, employee or member has a direct or indirect personal financial interest;

D. If the corporation breaches its contract with the authority or ceases to operate a loan program in substantial conformance with its proposal to the authority, the authority may withhold further funding and may require repayment of any undisbursed loan funds and loan repayments to the authority; and

E. Other terms and conditions as the authority determines appropriate.

**5. Administrative costs.** A corporation may not use any money disbursed from the fund by the authority for administrative expenses, but may charge a commitment fee of up to 1% and may use interest earnings not to exceed 5% of each loan annually on loans to cover reasonable administrative and technical assistance costs. The authority shall review and approve a corporation's administrative expenses on an annual basis. The authority may establish by rule reasonable administrative fees for its administration of the fund.

**6. Financing terms and conditions.** Loans may be made from program funds under the following terms and conditions.

A. Loans may not exceed \$200,000 to a borrower, including an affiliated entity, and approval of the authority is required for any loan in excess of \$100,000.

B. Loans may not exceed 1/3 of the net new funds being provided to a borrower.

C. Each corporation shall establish interest rates, amortization schedules and repayment terms for each borrower, except that loans may not bear a rate of interest greater than the prime rate of interest plus 7% or may not be for a term longer than 20 years.

D. When necessary, a corporation may provide for flexible repayment terms and may require additional payments tied to the borrower's financial success.

E. A corporation shall require collateral for loans when available, but may subordinate to loans from other lenders.

**7. Eligible projects.** In order for a project or borrower to be eligible for financial assistance under the program, the following criteria must be met.

A. The business for which funds are requested has 50 or fewer employees or annual sales of \$5,000,000 or less, and it consists of or involves at least one of the following:

(1) Advanced manufacturing technologies, such as value-added wood products and specialty fabricated metal and electronic products;

(2) Advanced information system technologies, such as telecommunications and environmental products and services;

(3) Advanced biological and natural resource technologies, such as aquaculture, agriculture and biotechnology;

(4) A business converting from defense dependency;

(5) A business significantly engaged in export of goods or services to locations outside the State;

(6) A business that dedicates significant resources to research and development activities; and

(7) Other businesses with 5 or fewer employees.

B. The borrower is unable to obtain funding needed for the project from other public and private sources, including the personal resources of the owners of the business borrowing from the fund.

C. The borrower has committed all reasonably available resources to the project, obtained financial commitment from other sources of financing and demonstrated a reasonable likelihood that the loan can be repaid.

D. The loan is not used to make distributions to or for the benefit of an owner of the business borrowing from the fund or a related entity.

**8. Priorities.** Among eligible applicants, a corporation shall give priority to businesses with the potential of meeting one or more of the following objectives.

A. The financing will help the business pursue a business that adds significant value to raw materials or inventory.

B. The financing is likely to result in a long-term net increase in permanent, quality jobs that meet a local or regional need or the retention of jobs in jeopardy of being lost.

**9. Reports.** A corporation shall report at least semiannually to the authority on the projects the corporation funds and the administration of the program. The report must include a description of each project, the amount, type and terms of assistance the project received, the number of jobs that were created or retained and other information the authority requires. The report must contain an accounting of the loan portfolio and any loans that are in default, as well as an accounting of the corporation's administrative and technical assistance expenses incurred and charged to the program.

**10. Audit.** The authority shall review annually each corporation's participation in the program and may, in its discretion, require an independent audit at the expense of the corporation. If the authority determines that a corporation has used funds for ineligible purposes, the corporation shall repay those funds to the authority for deposit into the fund. The authority may not disburse additional funds to a corporation until the corporation has repaid the misapplied funds and has fully complied with its obligations under the contract with the authority.

**11. Written procedures.** The authority shall adopt rules governing the program pursuant to Title 5, chapter 375.

**Sec. C-2. Application; contingent on bond issue.** This Part takes effect only if the bond issue submitted pursuant to Part A of this Act is approved by the voters of this State.

Effective pending referendum.

---



---

## CHAPTER 723

H.P. 1204 - L.D. 1612

### An Act to Prohibit Dragging in Waters within the Area of an Aquacultural Lease

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

**Sec. 1. 12 MRSA §6957** is enacted to read: