

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 scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

L.U.O.

LAND FOR MAINE'S FUTURE PROGRAM
MAINE STATE PLANNING OFFICE
Government Evaluation Act



REPORT TO THE JOINT STANDING COMMITTEE ON
AGRICULTURE, CONSERVATION & FORESTRY
123rd MAINE LEGISLATURE, SECOND REGULAR SESSION

January 25, 2008

KF
4943
.Z99
M34
2007i

CONTENTS

Executive Summary	3
1. Program Description and History	6
2. Program Information.....	13
A. Constituents Served	13
B. Performance Criteria and Assessment	14
C. Interagency Coordination.....	17
D. Emerging Issues	19
3. General Information.....	27
A. Organizational Structure and Position Classification Listing.....	27
B. 10-year Financial Summary	31
C. Alternate Delivery Systems.....	33
D. Statutes, Rules, Policy, and Compliance	33
Appendices.....	37
1. Land for Maine’s Future Board. <i>Land for Maine's Future Program Proposal Workbook</i> . “Board Adopted Policy and Guidelines” (including guidelines for working forest easements). 37	
2. Land for Maine’s Future Board. <i>Biennial Summary Report, 2007</i>	37
3. Land Acquisition Priorities Advisory Committee, <i>Final Report, 1997</i>	37
4. Model Project Agreement used with Cooperating Entities.	37
5. Governor’s Council on Maine’s Quality of Place. <i>People, Place, and Prosperity</i> , Executive Summary, December 2007.	37
6. New England Environmental Finance Center, Edmund S. Muskie School of Public Service, University of Southern Maine and the Margaret Chase Smith Center for Public Policy, University of Maine. <i>Increasing Return on a Sound Investment</i> , January 2004.	37
7: Enabling Statutes and Other Legal Provisions	38

Executive Summary

HISTORY AND ACHIEVEMENTS

The Land for Maine's Future (LMF) Program was established in 1987 when Maine voters overwhelmingly approved a \$35 million bond to purchase lands of state significance for recreation and conservation. Quoting from the program's enabling statute:

"The Legislature declares that the future social and economic well-being of the citizens of this state depends upon maintaining the quality and availability of natural areas for recreation, hunting and fishing, conservation, wildlife habitat, vital ecologic functions and scenic beauty and that the state, as the public's trustee, has a responsibility and a duty to pursue an aggressive and coordinated policy to assure that this Maine heritage is passed on to future generations." (5 M.R.S.A. sec. 6200)

The concept behind the program is simple; certain lands rise above the rest because of their exceptional natural values. These lands deserve permanent protection through public acquisition or through conservation easements. As the state's population spreads out, the use of land changes and Maine risks losing these "special places" forever. The role of the LMF program is to coordinate and support the efforts of the departments of Conservation, Inland Fisheries and Wildlife, Agriculture, and Marine Resources, and the state's many conservation partners in the municipal and nonprofit sector to identify and protect lands with special values.

Since its inception, the program has protected more than 490,000 acres of conservation lands through direct purchase and the acquisition of conservation easements. Almost 1,000 miles of shoreline have been protected along Maine's rivers, lakes, and coast creating new public access points for Maine citizens. Critical wildlife and fisheries habitat supports Maine's diverse ecosystems. Prime agricultural soils support farmers' efforts to keep land in production. Other lands provide numerous recreational opportunities for citizens and visitors.

The program has a long history of bipartisan support including strong leadership from all governors since the program's creation. The program has also received continuous, bipartisan support from the Maine Legislature as evidenced by the approval of several bond proposals over the years and a substantial general fund appropriation in 1998. The most recent bond issue in 2007 was approved by Maine voters with 63% of the vote. It carried in all 16 counties and was approved by 80% of Maine towns.

The Land for Maine's Future program is one of Maine's most significant conservation achievements. After twenty years it has assembled an array of public lands and other protected properties that form a core element of the state's heritage. Maine citizens and visitors share an investment which is permanent, increasing in value and that touches all corners of the state.

THE CHANGING FACE OF MAINE¹

Maine's vast, forested, and largely privately-owned landscape is unique in the nation. Yet, the face of our landscape is changing. With the spreading out of homes across the countryside, the arrival of large-scale national retailers, the decline of agriculture, and the selling off of our industrial forests, large portions of our most cherished lands are being divided and developed.

- *Land Development:* The population is spreading out consuming Maine's rural areas. Between 1970 and 1990, land development in Maine occurred at four times the rate of population growth. More than 20,000 homes are located in unorganized territories, twice the number in 1970. In 1960, almost 60% of Maine residents lived in service center communities. By 2000, only 44% did.
- *Loss of Farmland:* Development hits our productive crops lands hard. Between 1997 and 2002, Maine lost 40,000 acres of cropland or 7.5% of the total.
- *Forest Lands Ownership:* 50% of Maine's industrial forestlands have changed ownership since 2000. Forest lands today have more value as house lots than for the forest products they generate.
- *Coastal Access:* Just 19 miles of Maine's 5300 mile coastal has public access. Barely twenty miles of remain available as working waterfront.
- *Conservation Lands:* Just 8% of Maine's land base is in full conservation ownership — less than that of other northern New England and peer states across the country.
- *Changing Economy:* Jobs in natural resources, paper, and wood products are less than three percent of Maine's employment rolls. Jobs in professional, business, and financial services comprise 14%, up from 3% in 1990.²

We are losing what is special about Maine. But not only is it special, it is our economic future. In its 2006 report, *Charting Maine's Future*, the Brookings Institution says

Accessible wild places and tranquil country farms, human-scaled Main streets, and working waterfronts; these are what differentiate Maine from other places and in many respects drives its economy. Yet these assets are at risk. Development is encroaching on Maine's coastal (waters) and inland lakes, limiting access. Rising land prices are motivating farmers to sell out. And closer in, the state's longstanding centers —its regional hubs and their downtowns —cannot often stem the flow of suburbanization to truly revitalize themselves. These centers — like the green landscape — cry out for investment. And so Maine should protect (both) these assets and invest in them as sources of economic advantage.

The Governor's Council on Maine's Quality of Place goes even further. It says that Maine's natural and built landscapes are not only economic assets; they are Maine's *chief* economic assets.

¹ Governor's Council on Maine's Quality of Place. *People, Place, and Prosperity*, December 4, 2007.

² Source: State Planning Office, based on data from the US Census Bureau, October 2007.

The council calls on the state to protect these threatened regional landscapes that are essential to our competitive advantage.

EMERGING ISSUES

Increasing Use of Conservation Easements

In the last decade, the use of conservation easements to protect the public interest in conservation, recreational, farm and forest lands has grown substantially. In Maine today, the acreage under conservation easements, held by both the state and private land trusts, exceeds the amount of conservation land held in fee. These easements are valuable tools for providing lasting protection of important lands and landscapes while leaving the land under private management for economically important uses including forestry and farming. However, the state needs to assure these public easements are effectively monitored, enforced, and maintained. The state has made progress in fulfilling its stewardship responsibilities but more remains to be done.

Conserving Regional Landscapes

Conservation efforts in Maine are increasingly viewed in large, regional contexts. Today, the program works in this environment of “landscape” conservation as opposed to “parcel” conservation. Some recent projects are of a scale that Maine has not often seen in the past century. The project goals are more expansive, the stakeholders more numerous, and the negotiations more complex. The program is a critical player in leveraging funding and fostering relationships and will need to continue to adapt and mature to support these regional landscape conservation efforts.

Assuring Public Access

Public lands and private lands, including those under easement, all make up Maine’s exceptional recreational land base. There is a great demand for access to recreational lands while, at the same time, traditional access patterns are shifting and, in some areas, diminishing. As private land is developed, as parcels change hands, as land is posted, public access changes and conflicts arise. The need to promote and manage public access is increasingly important and challenging. The LMF program continues to work with landowners, management agencies, funders, and recreational groups and to participate in state policy discussions to assure continued public access for recreation into the future.

Continuing Process Excellence

Finally, the success of the LMF program is due in large part to the quality and commitment of its board and staff. The workload continues to grow and new efforts, such as the working waterfront program and a new conservation easement registry, has created additional load. Maintaining program excellence in the future and avoiding burn-out is essential.

These issues are discussed more fully in Section 2.D of this report.

1. Program Description and History

Established in 1987, the Land for Maine's Future Fund is managed by an 11-member board. Collectively, the fund, the board, and its staff are referred to as the "program." The concept behind the program is simple; certain lands, because of the exceptional natural values they possess, rise above the rest and deserve permanent protection through public acquisition or conservation easement. As noted in the executive summary, the LMF enabling legislation specifically finds that the "state, as the public's trustee, has a responsibility and a duty to pursue an aggressive and coordinated policy to assure that this Maine heritage is passed on to future generations."

The LMF program is housed within the State Planning Office, which provides staff and administrative support services. The organization of the program is described further in Section 3.A. The program staff work closely with key personnel in the departments of Agriculture, Conservation, Inland Fisheries and Wildlife, and Marine Resources, along with many conservation partners in the nonprofit and municipal sectors. The key to the program's success over the past 20 years lies in the wealth of these cooperative relationships.

General Description of LMF Land Conservation Process

The board has established a process for the public and state agencies to nominate lands for conservation. This process includes a scoring system to evaluate each proposal based on criteria in keeping with the program's enabling legislation. There are three basic categories of projects: 1) farmland protection, 2) conservation and recreation, and 3) water access. Proposals within each of these categories are evaluated and managed separately. The conservation and recreation projects are evaluated and managed in three project subgroups: a) statewide, b) regionally-significant, and c) locally-significant. Funding for most projects comes from the Land for Maine's Future Fund. The Legislature also established a separate fund in 1993, the Public Access to Maine Waters Fund, to support acquisitions to increase public access to the state's waterways. Bond revenues provide money for both of these funds. A new pilot effort was established in 2005 to protect working waterfronts used by the commercial fishing industry. Working waterfront and water access proposals are considered in different processes described later.

Conservation and Farmland Project Selection. Since 1999, the program has conducted five rounds of funding, considered 153 applications in this category, and has selected 138 proposals as finalists. A new funding round is underway at this writing.

The basic selection process is as follows. The program issues a request for conservation/recreation and farmland proposals annually when funds are available. The program provides a workbook to guide applicants in the development of these proposals (see Appendix 1). LMF and agency staff advise and assist as requested by applicants. Each application must be accompanied by a letter of endorsement from a sponsoring state agency (DOC, DOA, DMR, or DIF&W) along with a letter from the landowner(s) of any parcels described in the application indicating their willingness to have their lands considered.

Each proposal is reviewed by staff to identify questions and possible areas for follow-up. The board's scoring committee then evaluates and scores each individual project. Farmland proposals are considered as a distinct group as are the statewide, regional and local conservation/recreation applications. The scoring process, which is described in detail in Appendix 1, is designed to

differentiate the proposals on the basis of the natural, agricultural, and recreational values the project intends to conserve along with a wide range of other considerations including community support and previously identified statewide conservation priorities established in 1997 (see Appendix 3 and discussion of LAPAC below).

Following the scoring of projects, the board's nominating committee reviews the proposals and their scores and then forwards a list of recommended projects and funding allocations to the full board for consideration.

The full board considers the recommendations of these committees at a public meeting and selects finalists for further work. The board may attach conditions to these finalist designations to ensure that the program's purposes are clearly reflected in the final project. It is these finalists that become the focus of activity by the LMF staff, state agency partners, the applicants, and other cooperating entities. Unsuccessful applications are returned to the applicants. In some cases, feedback during an unsuccessful application has led to an improved and successful application in a subsequent round of funding.

Project Development. Following selection as a finalist, the project proceeds through a process of negotiation, appraisal, and various elements of "due diligence" typical of any real estate transaction. Because of the importance of using public funds wisely, the board's appraisal review committee oversees the valuation of each project using independent, professional appraisers. These appraisals, whether provided by the applicant or contracted for directly by LMF, must be accepted by the committee prior to use as the basis of a final grant of LMF funds. During this process, the LMF staff and applicants also work to ensure that the LMF funds used to support the project will be matched by a sufficient amount of other value. Since 1999, the LMF bonds explicitly call for one dollar of "match" for every two dollars of LMF funding overall. In practice, LMF has been able to leverage more than four dollars for every dollar of LMF funding.

When a value for the transaction has been established and reviewed by the board's appraisal committee, the full board considers the committee's recommendation along with a report on the status of any conditions attached by the board at the time the project was selected as a finalist. If satisfied, the board then authorizes staff to move the project to closure. This decision is taken at a public meeting after opportunity for public comment. Ten-day prior public notice is published in newspapers with circulation in the area of the project. The last period in the project's "life" following this approval may still require final negotiations along with survey and legal work, archeological and ecological review, and an environmental site assessment.

If the real estate interest in the project in question will not be held directly by a state agency, the LMF staff also execute a contract, called a project agreement (see Appendix 4), with the entity that will own the interest. The purpose of this agreement is to protect the state's investment in the conservation purposes for which the funds have been provided. The agreement provides a legal avenue for the state to ensure that the property is managed as has been agreed and also provides, as a last resort, several mechanisms by which the state could recover the funds invested.

Water Access. As noted above, projects to enhance public access to the state's waters are developed and considered through a separate process. Because of the intense demand for coastal and shoreline properties in precisely the same areas that are frequently most in need of enhanced public access, the board realized that the sometimes lengthy process it uses to develop projects was

unlikely to serve the program's mission well. In response, the member agencies of the LMF board have undertaken several research projects to identify those lakes, ponds, rivers and coastal areas most in need of enhanced public access. Proposals that will address these identified priorities and that are endorsed by one or more of the relevant state agencies (departments of Conservation, Inland Fisheries & Wildlife, or Marine Resources) may be considered by the board at any time following appraisal review and the usual ten-day public notice. In other respects the water access process is similar to the regular process. To date the board has funded 35 water access projects.

Working Waterfronts. The Legislature created the Working Waterfront Protection Pilot program in 2005 (see Appendix 7). With only 25 miles of working waterfront left on the 5,300-mile Maine coast, and more being sold daily, the working waterfront program is an important new tool in Maine's efforts to secure the state's more than 39,000 fishing and related jobs and the \$740 million in state revenue those jobs provide.

Project selection criteria are drawn directly from the enabling legislation. The project selection process is somewhat different than the regular LMF process. Instead of scoring and nominating committees, the enacting legislation calls for a review panel, selected by the commissioner of the Department of Marine Resources, comprised of knowledgeable representatives of the commercial fishing industry. This panel assists in the development of the review criteria and the overall application process. The panel reviews applications and makes recommendations to the commissioner who, after considering this advice, makes recommendations to the full LMF board. The due diligence process following application acceptance is very similar to the regular LMF process. To date, the DMR commissioner and the board have solicited applications and are now working on six active projects. The first project closings are expected early in 2008.

Recent History of Program

Until 2000, the board's mandate, based on the original \$35 million bond legislation in 1987, was to acquire natural lands of state significance, improve water access, and protect farmland. All protected lands were held directly by the state.

Land Acquisition Priorities. In 1996, with funds dwindling and further land conservation needs evident, public interest started to build in a new round of funding and a new, expanded focus for the program. In January of that year, Governor King created a Land Acquisition Priority Advisory Committee (LAPAC) with broad public representation. Specifically, Governor King asked the committee to:

1. identify the types of land or interests in land that should be prioritized for acquisition by public and private conservation agencies;
2. review current public land ownership and protection to assess the geographic distribution, conservation and recreation values, and carrying costs of public lands;
3. establish statewide and regional goals for future acquisition;
4. consider whether a few large acquisitions are preferable to more numerous smaller acquisitions; and
5. recommend one or more funding sources for land acquisition.

In response, the committee developed an extensive set of goals and recommendations (see

Appendix 3). Key among these were the need for additional funding via a bond issue and the creation of a continuing funding mechanism to ensure that the state would always have the basic resources need to protect its natural heritage. The LAPAC recommendations also included a new set of statewide priorities to guide the LMF program. These priorities were subsequently incorporated into the LMF project scoring system. These included as first priorities:

- access to water;
- southern Maine conservation lands;
- ecological reserves (pursuant to statute);
- river systems; and
- undeveloped coastline.

As second tier priorities, the LAPAC identified:

- northern forest conservation lands;
- municipal and urban open space;
- trail systems;
- farmland;
- regional parks;
- mineral collecting sites;
- islands, and
- significant mountains.

In 1998, the Legislature appropriated \$3 million to restart the program (although approximately \$1 million of this appropriation was eventually deappropriated after the downturn in the economy started in 2000). After thorough debate, the Legislature approved and, in November 1999, the state's voters ratified a \$50 million general fund bond to finance acquisition of lands and interests in lands for conservation, water access, outdoor recreation, wildlife and fish habitat, and farmland. Key elements of this bond legislation include:

- a matching funds requirement, including a clarification that federal funds can be used as matching funds;
- 10% of bond total allocated to the Public Access to Maine Waters Fund and a second 10% set aside to protect farmland;
- sites of local and regional significance to be considered and payments made directly to cooperating entities with title remaining with the cooperating entities, subject to terms and conditions enforceable by the state to ensure use of the properties for the purposes for which they were acquired;
- a requirement that hunting, fishing, trapping, and public access not be prohibited on land acquired with bond proceeds, except to the extent of applicable state, local, or federal laws and regulations;³ and
- approval by the county commissioners is required if land proposed to be acquired under a bond issue within the unorganized territory in a county constitutes more than 1% of the

³ Note: This provision was slightly amended in 2007 to exempt farm and working waterfront projects from this requirement.

state valuation within the county or if land is taken by eminent domain in certain situations.⁴

Apart from the actual dollar amounts, these basic requirements have been reiterated in the LMF bond issues passing in 2005 and 2007.

Working Waterfronts. In 2005, for the first time, voters approved funds to try to stem the loss of commercial fishing access to coastal waters. Two million dollars of the Land for Maine's Future bond in that year funded a pilot program to provide grants to commercial fishing businesses (fishermen and fishing cooperatives) to help them retain ownership and use of piers, wharves, and other working waterfront properties. The funds were intended to bridge the gap between what fishermen can finance and what the market demands for this prime real estate. This pilot program is managed by the Department of Marine Resources working closely with the LMF program.

Because the enabling legislation called for permanent protection of the working waterfronts receiving these funds, program staff worked with the Legislature in 2006 to enact a "working waterfront covenant" enabling statute modeled on similar legislation for conservation easements and affordable housing covenants. In addition, program staff worked with the Legislature to enact measures to protect proprietary business information that is required in the application process.

In January 2007, the Land for Maine's Future board selected six working waterfront projects to receive bond funds under this pilot. Later that year, one project was withdrawn and one new project was added. Current projects include:

- Perio Point Shellfish in the town of Beals to permanently protect this important fishing facility that supports a broad array of fishing activities in the Jonesport-Beals area.
- The Port Clyde Fisherman's Coop to permanently protect the coop's current site. The Coop intends to expand its facilities to accommodate the local ground fishing fleet as well as to better serve its own members.
- The Spruce Head Fishermen's Coop in South Thomaston to complete the purchase of the property that they have leased for over 30 years.
- The Boothbay Region Land Trust to complete the purchase of a property that will now be assured to continue providing critical access to local fishermen.
- The Holbrook's Community Foundation and the Trust for Public Land to complete the Foundation's purchase of Holbrook's Wharf on Cundy's Harbor in Harpswell, an historically active pier in the midst of a working harbor with potential for future growth.
- The Town of Isle Au Haut to protect and renovate their Town Pier and to ensure its viability and availability to the year-round fishermen who are at the core of the permanent community there.

In 2007, the Legislature and voters approved a bond issue that includes an additional \$3 million for working waterfronts. Drawing on these funds, two new rounds of proposals are planned for 2008.

⁴ Note: This was modeled on a similar, existing statutory provision that requires municipal approval in the same situations. Also note: the board strictly adheres to a willing buyer-willing seller policy.

While the board and program staff are still learning from the first-ever round of working waterfront projects, a number of challenges remain:

- need to develop suitable appraisal techniques for these highly specialized properties and new conservation instruments;
- unfamiliarity with permanent land protection tools in the fishing industry;
- lack of public understanding of the program purposes;
- need to understand and apply the new working waterfront covenant; and
- confidentiality issues around proprietary financial aspects.

LMF and DMR anticipate evaluating the pilot program over the next year to allow the Legislature to consider the appropriate steps necessary for the program to become an on-going effort.

Significant Archeological Sites and Public Drinking Water Supply Protection. In 2007, the Legislature authorized the Land for Maine's Future program to consider projects whose principal value was the protection of significant undeveloped archeological sites. The same session of the Legislature authorized LMF to consider the value of conserving lands that protect public drinking water supply so long as the management of these lands was consistent with other LMF objectives (e.g. public access for outdoor recreation).

Lands Protected to Date

A complete description of the properties protected through the Land for Maine's Future program can be found in the periodic reports submitted to the Legislature since the program's inception in 1987. The most recent report is included as Appendix 2 with this report.

By the end of 2007, the program had protected more than 490,000 acres of land throughout the state in its 20-year history. The map provided to the committee separately shows the locations of these lands. Of this acreage, approximately 287,000 acres is in the form of conservation easements with the bulk of that total comprised of the Katahdin Forest Project to the west and south of Baxter State Park. Over 1,000 miles of lake, river, and coastal shoreline have been protected. Roughly 160 miles of rail-to-trail corridors have been acquired preserving key links in the state's ITS snowmobile recreational networks. Many projects have also included hiking and cross-country trail systems. The vast majority of all these projects (>80%) also had the advantage of creating new opportunities for public access to state water bodies.

The overwhelming majority of the LMF-protected lands are owned and managed by the Department of Conservation through its Bureau of Parks and Lands. The Department of Inland Fisheries and Wildlife also holds and manages a substantial portion of the remaining acreage. The Department of Agriculture has responsibility for stewardship of easements and project agreements on more than 5,300 acres of active farmland funded under LMF. The Atlantic Salmon Commission (now part of the Department of Marine Resources) also has holdings along the Machias and Denny's rivers.

Among the several important conservation purposes, one goal of the LMF program has been to protect access to lands and waters of the state for hunting and fishing. As noted earlier, the 1999 bond legislation incorporated language that states, "Hunting, fishing, and public access may not be prohibited on land acquired with bond proceeds, except to the extent of applicable state, local or

federal laws or regulations” (P.L. 1999, c. 514, Part A-6). Consistent with this direction, properties acquired with LMF funds and overseen by the Department of Conservation are managed according to the rules and policies of the department for hunting or fishing on public lands. More than 99% of LMF lands overseen by the department are open to hunting and fishing. To date, no properties acquired with LMF funds and overseen by the Department of Inland Fisheries & Wildlife are closed to hunting or fishing.

Summary

The fruit of the program’s activity over the past 20 years is a rich collection of outstanding examples of the very best of Maine’s natural resources with striking parcels along its long ocean coast and signature landmarks like Mt Kineo. Numerous opportunities for recreation of all sorts have been brought closer to Maine citizens. Assets important to Maine’s tourism economy have been protected. Key natural resource systems have been preserved as educational and research opportunities. Wildlife and fisheries habitat have been protected. Farmland protection efforts are increasing.

At the same time, pressures on Maine’s natural resource heritage are also increasing. In southern Maine and along the coast, land development continues to fragment holdings that are the key to the quality of life in those areas and, in many cases, to their economic well being. These same pressures threaten the viability of many farming operations. Access to opportunities for hunting, fishing, and boating access are increasingly limited especially but not exclusively in southern Maine. In the northern forest, substantial changes in the ownership of vast stretches of timberland raise questions about the long-term management of these lands and the resources and activities they support. As the program continues to implement the mandate established by the Legislature and endorsed by Maine citizens, many pressing needs and exciting opportunities remain.

2. Program Information

A. Constituents Served

The Land for Maine's Future program serves a wide range of constituencies. Along with the general public, the program has specific constituencies that include:

- landowners, including woodland owners, farmers, commercial fishermen, and other private citizens;
- hunters, anglers, boaters, outdoor recreation enthusiasts, and other recreationists;
- guides, outfitters, trappers and a wide range of other citizens working in the tourism industry whose livelihood benefits from access to conserved land;
- local land trusts;
- nonprofit conservation organizations;
- city, town, and county governments; and
- state agencies (see Section 2.C).

A key constituency is the conservation-minded, private landowner. The program's success rests on the willingness of private landowners to sell their properties or their development interests to the state. In many instances, significant bargain sales have been realized resulting in even greater public benefit. The LMF board adopted and has consistently maintained a 'willing buyer-willing seller' policy, specifically to protect this essential relationship with the private landowners in the state. The board remains firmly committed to this policy.

Through the efforts of the Land Acquisition Priorities Advisory Committee (LAPAC) described earlier, the program's constituents and their role have evolved. Prior to passage of the 1999 bond, the program's direct constituencies were primarily state agencies because state ownership was the exclusive vehicle for conservation efforts and most interests were held in fee. In addition, there were no "earmarks" for specific categories of projects under the original legislation. The role of most constituents therefore was limited to the input they provided on the relative merits of specific projects identified for state acquisition. In some cases, private conservation groups played key roles in identifying opportunities and facilitating conservation efforts – a role that continues today.

Two changes resulting from the LAPAC initiative (to add projects of local and regional significance and to enter into agreements with cooperating entities) redefined the program's relationship with many of its constituencies, as they moved from being observers and advisors to being full partners. In many cases these key players now execute land protection projects directly and raise substantial sums of matching funds to leverage LMF resources. The program's experience with these partners has been positive, even resulting in large increases in the level of matching funds (now exceeding a three-to-one ratio). The state has also been able to take advantage of the land management capacity of the many conservation organizations, land trusts, and municipalities that have undertaken successful projects. The conservation lands held by these entities pose only a limited demand on state agency staff resources.

In addition to the changes brought about by LAPAC, new legislative provisions have added constituencies. Funds targeted to provide water access, for farmland protection and, most recently, earmarked for working waterfront projects to serve commercial fishing constituencies increased

the number and types of people involved in land conservation in Maine. Farmers, shoreland owners, and commercial fishing interests are served by the program and supported by its funds.

While the program is always likely to have a broad constituency given the nature of its mission, the relationships with some of these constituencies can be expected to change over time as conservation opportunities evolve.

B. Performance Criteria and Assessment

As the administering agency and consistent with its statutory public purpose, the State Planning Office established a goal, objective, and performance measures for each of its programs, including, the Land for Maine's Future program, as part of its 2004 strategic plan. These performance measures are tied to the fundamental purpose of protecting the state's natural heritage and the ecological and economic assets these lands represent.

SPO Goal: To be a catalyst for the wise development of the state's economy and the conservation of its natural resources.

Objective: Improve Mainers' economic well-being with no measurable deterioration in its healthy natural resources.

LMF Performance Measures

1. The average number of acres per year of special, significant lands protected with the help of Land for Maine's Future funds.
2. The average dollars leveraged from public, private, and nonprofit entities with Land for Maine's Future bond funds.

Assessment of Progress

Acres of Land Conserved. Over the past 20 years, the Land for Maine's Future program has preserved access for hunting, fishing, snowmobiling, boating and swimming. It has conserved lands for tourism, supported rural communities by stabilizing productive natural resource lands, and protected Maine's heritage for future generations. Its successes include:

- 490,000 acres of land conserved
- Over 1000 miles of shoreline conserved
- 158 miles of vital snowmobile routes protected
- 32 water access sites acquired
- 20 working farms conserved
- 5 state and regional parks expanded

A listing of all completed LMF projects has been included in the appendices.

Funding. The program’s ability to undertake its mission is directly tied to available funding. Since 1987, Mainers have approved \$107 million in bonds for the Land for Maine’s Future program. In addition, in 1998, the Legislature appropriated \$3 million for LMF from general fund revenues, bringing the total for LMF over the last two decades to \$110 million as follows.⁵

1987	\$ 35,000,000
1998	\$ 3,000,000
1999	\$ 50,000,000
2005	\$ 12,000,000
2007	\$ 20,000,000
Total	\$120,000,000 ⁶

Since 2000:

- 195 proposals have been considered;
- 180 projects have been selected as finalists;
- 156 projects have been completed or withdrawn; and
- 24 projects are still underway.

If past experience and early indications are good guides, there could be as many as 35 or more new applications submitted this year. Available funds are expected to be far short of the funding requested to complete these new efforts.

Dollars Leveraged. The program routinely garners match on projects that exceed a three-to-one ratio. This is well in excess of the two-to-one ratio required by the Legislature.

Looking Ahead. Based on its past activity and the trends of the real estate market, the Land for Maine’s Future program estimates that the level of need continues to escalate, as follows:

- **Purchasing power:** Widespread and rapid increases in land prices have significantly eroded the buying power of the \$50 million authorized in 1999. To have the same purchasing power today would require a bond of between \$80-100 million.
- **Funding requests:** Between 1999 and 2007, LMF has held five funding rounds in addition to the ongoing water access program. Funding requests routinely exceed available funds. Through 2005, LMF was only able to meet approximately 70% of the funding requests. In 2006, LMF did not meet even 50% of the requested conservation funds.⁷
- **Ongoing inquiries and public interest:** Despite the widespread coverage of the limited LMF bond funds available prior to the November 2007 vote, the program and its sister agencies continue to receive a steady stream of inquiries from landowners, towns, land trusts, and general citizens seeking support for important land conservation opportunities.
- **Need for multi-year commitment:** Land conservation transactions require lengthy negotiations. Many play out over 3-5 years. Project fundraising takes time (LMF is often not

⁵ Note: Subsequently, \$1 million of the LMF general fund appropriation was cut to cover budget shortfalls.

⁶ Of this total, \$5 million is actually earmarked for the Working Waterfront Protection Pilot Program led by the Department of Marine Resources.

⁷ Note: In the winter 2006, LMF received requests for project funds exceeding \$21 million with only \$10 million available.

the only funding partner) and there are frequently technical and legal issues to resolve. Most landowners need to be assured that the core funding is available before they will start serious negotiations. This means that LMF must have the ability to commit funds a year or more in advance of closure.⁸

Taken together, these factors provide ample justification for an annual commitment of between \$15-20 million for a minimum of five years. This figure would simply maintain the level of commitment established in 1999 for recreational lands and trails, public access to Maine waters, farmland preservation, working forest easements, and other conservation lands and keeps pace with escalation in today's competitive land market.

Other Evaluative Processes

Legislative Oversight: In addition to the GEA review, the Land for Maine's Future board reports to the Legislature's joint standing committee on Agriculture, Conservation and Forestry on January 1st of every odd-numbered year on expenditures from the Land for Maine's Future Fund and the Public Access to Maine Waters Fund and revisions to its strategies and guidelines. In addition, the board has been included in the initial stages of a review of all state boards and commissions currently underway by the Legislature's Office of Program Evaluation and Government Accountability.

External Evaluations: In 2004, an independent evaluation of the LMF program was conducted by the Margaret Chase Smith Center for Public Policy at the University of Maine and the New England Environmental Finance Center at the Edmund S. Muskie School of Public Service at the University of Southern Maine. The executive summary of this report, *Increasing Return on a Sound Investment*, is included as Appendix 6.

This evaluation concluded that, "There continues to be urgent need for a state-funded land conservation effort in Maine, for which there is broad public support; that LMF both deserves and needs to continue its efforts for the foreseeable future, with the timely improvements recommended below; and that new funding is needed at this time, to continue this most important effort." The evaluators went on to make recommendations for increased outreach to the tourism sector; revisions to the scoring process to emphasize regional benefit and economic opportunities; continued "targeted collaboration" with the Department of Agriculture on farmland protection; and exploration of alternative revenue sources. Each of these recommendations has been acted on and where appropriate incorporated into ongoing LMF operations. The question of alternative revenue sources has been raised again recently by the Governor's Council on Maine's Quality of Place and will be revisited over the coming year.

Land Acquisition Priorities Advisory Committee: As previously discussed, Governor King established by Executive Order in 1996 the Land Acquisition Priorities Advisory Committee to assess past public land acquisition efforts and identify needs to be addressed in the coming years. The Governor appointed a diverse group of 15 Maine citizens representing a range of interests, including outdoor recreation, farming, forestry, land conservation, and large and small landowners. In addition, representatives from SPO and the departments of Conservation and Inland Fisheries and Wildlife served on the committee. The task force held a total of 14 meetings over one year's

⁸ Glidden, T. William. Presentation to the Legislature's Agriculture, Conservation, and Forestry Committee, Augusta ME, March 2005.

time, as well as seven forums around the state for public comment. The quantity and quality of public input were impressive. The task force took verbal comment from 193 people and written input from 211 people. The public input set the tone for the task force's work and helped them refine their recommendations. In November 1997, the task force delivered its report to the Governor reaffirming the need to protect lands of special significance and recommending 14 priorities for land acquisition in Maine. It also recommended that additional public and private funding be provided for land acquisition. These recommendations are described further in Section 1, Program History, and in Appendix 3.

Awards: In addition to the program awards noted in the 2001 GEA report, LMF received the 2004 Environmental Merit Award from the U.S. Environmental Protection Agency for program excellence in preserving the New England environment. In 2007, LMF and its project partners received the National Preservation Award from the National Trust for Historic Preservation for LMF's support and work on the Shaker Village & Farm Project in New Gloucester.

C. Interagency Coordination

The Land for Maine's Future program has a comprehensive and long-standing process that stresses coordination, collaboration, and the establishment of partnerships with "cooperating entities." This term encompasses other state and federal agencies, municipalities, conservation commissions, and land trusts.

One of the program's essential purposes is to coordinate most of the state's direct effort in land conservation and acquisition, which had previously happened through the independent efforts of individual state agencies. Ongoing conversation with these agencies also ensures the conservation initiatives undertaken with LMF funding complement their efforts that may be undertaken without LMF funding.

The program is designed to be conservatively staffed and to utilize state agencies and other resources to fill gaps in expertise and to meet project needs including planning, negotiations, and legal work. The program continues to seek out opportunities for cooperation wherever and whenever they facilitate its work. This section provides an overview of these relationships. Examples of the array of cooperating entities and their role in individual projects can be found in the program's biennial reports (see <http://www.maine.gov/spo/lmf/publications/>).

State Natural Resource Management Agencies: The departments of Agriculture, Conservation, Inland Fisheries and Wildlife, and Marine Resources are all actively engaged in identifying potential projects and submitting project applications. These agencies often provide staff time to coordinate and negotiate projects. Additionally, they may also bring their own matching funds to a project along with federal grant funds. At times they also provide services such as timber cruises, land surveys, appraisals, etc. depending on the nature and level of involvement of other cooperating entities making up a project partnership.

These agencies are also active participants, through their commissioners and staff in assisting the Land for Maine's Future board to develop program policy and process. This occurs through

participation in a variety of board-initiated activities including committees established by the board, public outreach, and public input meetings, and by providing topic analysis.

For example, with financial assistance from the State Planning Office and participation of the LMF staff along with a wide range of agricultural stakeholders, the Department of Agriculture developed and now maintains a strategic plan for farmland protection to establish priorities and to make efficient and equitable use of available LMF funds. Other recent activities involving agency participation include the *Guidance for Working Forest Easements*, *Working Farm Value - Approach to Preserving Farmland in Maine*, *Appraisal Standards for Fee and Easement Acquisitions*, and project agreement language for cooperating entities.

Finally, and by no means least, the commissioners of the agencies listed above are *ex-officio*⁹ members of the LMF board itself. As members, these commissioners invest substantial personal time and effort in the smooth and efficient functioning of the board. Their perspective as the executives of their agencies ensures that the goals and direction of the LMF program are well coordinated with the overall effort by state government to conserve and manage the natural heritage of Maine for the benefit of its citizens.

Department of Transportation: The Department of Transportation (DOT), through a long-standing agreement, provides legal staff to the board. Currently, the DOT has two lawyers under contract who assist the program by completing all legal work required to bring projects to closure. Paralegal support is also provided. Their activities include title work, drafting legal documents (such as purchase and sale contracts, options, conservation easements, and boundary agreements), reviewing legal documents, and representing the program at closings. In addition to these tasks, DOT legal staff assists program staff and the board in drafting board policy to ensure that it conforms to the LMF statute. This last activity also receives review through the Attorney General's Office.

Department of Environmental Protection: The board requires that all projects undergo an environmental site assessment. The DEP staff frequently conduct these assessments for the program. In some cases, where a significant amount of time is involved or where a higher-level assessment is required, the program may contract this activity directly with a consultant, or a cooperating entity may choose to provide their own professional assessment.

State Planning Office: There is one general fund position dedicated to the Land for Maine's Future program. The State Planning Office supports a staff position to direct the program although that person also has other responsibilities within the Office not related to the LMF program. Through a team approach, approximately two full-time equivalents are also provided by utilizing existing State Planning Office staff for project management, mapping, geographic information services, secretarial services, and contract administration.

Attorney General's Office: The Attorney General's Office provides the board with interpretations, guidance, and advice regarding all aspects of the board's application of its statutory mandate.

Maine Natural Areas Program: The Maine Natural Areas Program performs most of the ecological inventories conducted on lands using Land for Maine's Future bond funds.

⁹ Note: the term "ex-officio" means the commissioners are members by virtue of their office. They are full voting members.

Maine Historic Preservation Commission: The Maine Historic Preservation Commission performs all of the archeological inventories conducted on lands purchased using Land for Maine's Future bond funds.

Federal Agencies: Federal agencies are frequently involved in supporting the efforts and outcomes of the program. This involvement comes in several ways including:

- technical expertise in defining and identifying critical habitat for wildlife and fisheries;
- federal funds as match to state Land for Maine's Future fund dollars for farmland protection, wetland acquisitions, working forest easements, and boat access projects, among other purposes; and
- GIS mapping services such as those provided through the Gulf of Maine Program and U.S. Fish & Wildlife Service.

Other Cooperating Entities: The program also coordinates efforts with a wide and diverse range of groups including approximately 100 local land trusts, as well as municipalities, conservation commissions, private landowners, local community-based project groups, and water districts. They bring all manner of support to LMF projects ranging from cash match, donated land, legal services, technical expertise, project coordination, land surveys, environmental hazards assessment, ecological and archeological assessments, negotiation skills, management and stewardship funds, and local project support. Collectively, they bring the largest element of financial and project activity support to the program.

Looking to the Future

After 20 years of operation, the program continues to rely heavily on cooperative arrangements. While many have been established and continue in force, there are always new opportunities emerging. Program staff are currently working with the GIS staff of the other natural resource agencies to maintain the statewide data on conserved lands held by all agencies. This will provide more readily available mapping of the state's conservation lands. Staff is also continuing to work with the departments of Conservation and Inland Fisheries and Wildlife along with support from Maine Coast Heritage Trust and The Nature Conservancy to establish regular and consistent monitoring of the state's conservation easements. At the direction of the 2007 Legislature, LMF staff is also developing a database to support a registry of all conservation easements held in Maine. Preliminary design work is underway and the registry is expected to be operational later in 2008.

D. Emerging Issues

During the last review of LMF under the Governmental Evaluation Act in 2001, the emerging issues were:

- protecting the state's investments in conservation and working landscape easements;
- developing a framework for large-scale working forest easements; and
- managing program workload.

The following discussion reviews developments in these areas since the last GEA report and discusses two new issues:

- conserving regional landscapes, and
- assuring public access.

INCREASING USE OF CONSERVATION EASEMENTS

1. State-held Conservation Easements

The use of conservation easements is a land protection tool that is growing in popularity. In Maine today, the land acreage under conservation easements held by both the state and private land trusts already exceeds the amount of conservation land held in fee.

With more than 300,000 acres of land in state-held conservation easements (from all funding sources), the state has a considerable job to provide suitable stewardship. Adequate monitoring continues to be a challenge, but procedures implemented over the past several years have resulted in progress. Since 2001, LMF and its partner agencies have successfully completed baseline documentation reports on all state-held easements. Procedures are now in place to ensure the completion of baseline documentation of all new conservation easements funded with LMF support. On large easement acquisitions, endowments are now included as part of fundraising for the original acquisition effort. These endowments provide the necessary resources to conduct the monitoring and stewardship needed for responsible easement ownership. In addition, in 2007, the Legislature overhauled the enabling legislation for conservation easements. These changes more clearly define the procedures and requirements for monitoring, amendment, and enforcement and should improve the public interest terms of conservation easements. In the same legislation, the Legislature established a requirement for registry of all conservation easements held in Maine. The State Planning Office is now in the process of working with affected stakeholders to develop and implement the registry. Implementation is expected later in 2008.

2. Agricultural Easements

The use of conservation easements to protect farmland has increased. It has become an important tool for farmers to hold on to family farms, productive fields, and a way of life. As of this writing, the Department of Agriculture has conserved more than 5,300 acres of active farmland with LMF support. On an ongoing basis, LMF continues to work closely with the Department of Agriculture on the selection of new farm protection projects. The Department has developed a thorough pre-application screening process, based on LMF criteria, by which it coordinates the development of new project applications and the allocation of federal matching funds. Recently, responding to a proposal from the Department of Agriculture, LMF supported its first regional farmland protection effort. This is now underway in the towns of Unity, Freedom and Albion. The project objectives are to protect a core of productive farmlands including a number of separate farmland owners in a region with an active agricultural sector.

3. Working Forest Easements

Since the 2001 report, LMF has adopted a set of policies, procedures and a model for large-scale working forest easements. This was accomplished through an open, stakeholder process that included input from landowners, conservation interests, state agencies, and the Attorney General's Office. Another development since 2001 has been that the Department of Conservation now routinely raises stewardship endowment funds as part of these large easement projects. As noted earlier this greatly facilitates proper stewardship and easement management.

Using the policy and model easement, LMF has now assisted in the completion of such easements on five projects totaling more than 254,000 acres of productive working timberland that remains under private management but with public access guaranteed and with assurances of sustainable forestry. Three additional projects are currently under development with LMF support which would provide protection and public access guarantees for an additional 85,000 acres.

Table 2a-1. Working Forest Conservation Easement Projects w/ LMF Support

CONSERVATION/RECREATION Project Name COMPLETED	Year	County	Ease (acres)	Agency	Shoreline (Miles)
Nicatous & West Lakes*	2000	Hanc	21,901	DOC	30.0
Jugtown Plains	2002	Cumb	3,281.0	DOC	1.0
Leavitt Plantation Forest	2003	York	8,603.0	DOC	0.0
Machias River - Phase 1	2003	Wash	7,405.0	ASC/DOC	184.0
Mattawamkeag Lake	2003	Aroos	3,026.0	DOC	11.6
Katahdin Forest Project	2006	Pisc/Pen	194,751.0	DOC	190.0
Katahdin Iron Works	2007	Pisc	37,000.0	DOC	**
<i>Subtotal</i>			278,967.0		416.6
PENDING					
Great Pond Lower Penobscot		Hanc	25,945.0	DOC	**
Big Spruce & Saddleback		Pisc	32,000.0	DOC	**
Machias River Phase III		Wash	27,164.0	DOC	**
<i>Subtotal</i>			85,109.0		
Grand Total			364,076.0		

* Completed prior adoption of guidelines ** Not yet determined

These efforts are consistent with the direction provided by the Legislature during the debates over the LMF bond in 2005. At that time the Legislature directed LMF to emphasize the use of conservation easements in the working forests of northern Maine so as to minimize any negative effects of land conservation on the supply of wood fiber in this region. The experience of the past five years indicates that publicly funded easements are not suitable for all landowners. Nevertheless, they remain a valuation tool for the conservation of the public interest in and the protection of working forests and helps maintain traditional public access to these lands.

Conclusion

In the last decade, the use of conservation easements to protect the public interest in conservation, recreational, farm and forest lands is greater than it ever has been before. In Maine today, the number of conservation easements held by both the state and private land trusts exceeds the amount of conservation lands held in fee. These easements are valuable tools for providing lasting protection of important lands and landscapes. However, the state needs to assure these public

easements are effectively monitored, enforced, and maintained. The state has made progress in fulfilling its own stewardship responsibilities, but more remains to be done.

PROGRAM WORKLOAD

1. Board Level

The LMF program relies heavily on its board (six public citizens and five agency heads — Agriculture, Conservation, Inland Fisheries & Wildlife, Marine Resources and State Planning) to carry a significant portion of the program's workload. This workload of regular conservation, recreation, and farm protection projects grew substantially from 2000 through 2004 and has leveled off since then. However, the addition of the new working waterfront protection pilot program in 2005 makes new demands on the board. The capacity of the board to maintain this workload needs to be reviewed on a regular basis.

During the past several years, the board held bi-monthly board meetings (either full- or half-day meetings depending on the workload), as well as occasional special meetings as required. The board receives meeting packets one week before each meeting. Over the past year, some board meeting packets have contained well over 100 pages of detailed material that members must read and digest to prepare for the meeting (including draft board minutes, summary documents, draft easements, water access proposals, policy and legal documents, and maps).

In addition to regularly scheduled bi-monthly meetings, the LMF board members sit on four permanent subcommittees that meet as needed. In addition to the permanent committees, the board chairman appoints working groups as necessary to address special concerns and policy issues. The four standing committees are:

1. *The Scoring Committee* has the task of finalizing the numeric score of proposals that come to the board for funding. During the most recent round of funding in 2006, this work required one full-day session in Augusta. As a result of greater familiarity with the scoring process and more efficient staff work this level of effort has actually been substantially reduced from the six half-day sessions in Augusta required to review proposals in 2000.
2. *The Nominations Committee* reviews the scoring committee's work and selects proposals to bring before the entire board. In 2006, this committee met for one full day to accomplish this task. Again, as a result of familiarity and efficient staff work, this is a reduction from the three days of meetings required in 2000-1.
3. *Appraisal Review Committee* reviews independent real estate appraisals for each parcel of land that is slated for LMF funding and recommends an allocation of funds to the full board. This task is of central importance to ensure that the board fulfills its fiduciary responsibility to Maine taxpayers for the careful expenditure of LMF funds. This review ensures that transactions are fair, makes certain that the public is not paying any unnecessary costs, and safeguards against the possibility that state conservation projects have a distorting effect on real estate markets. With many projects including multiple parcels – each requiring a separate appraisal – the committee has reviewed literally hundreds of appraisals over the past five years.

4. *Working Forest Easement Committee* reviews such easements before they are presented to the board. If necessary, this subcommittee also serves as a forum for public comment in addition to the opportunity for comment at the full board meetings. The committee reviews draft easements against its model version and approves any variances or requests revisions if it feels such are need to meet LMF objectives.

Conclusion

The success of the LMF program is due in large part to the quality and commitment of its board. The skills and perspectives that each board member brings to the program could not be easily duplicated at the staff level. Maintaining this excellence in the future and avoiding board member burn-out will be essential.

2. Staff Level

Even with the program's heavy reliance on cooperating state agencies and partners to achieve the mission, the LMF staff workload has grown substantially in the past five years. The flow of applications and project work has continued to grow overall in response to the addition of new program responsibilities. In addition, other aspects of staff workload have also increased.

Historical perspective: The initial funding for LMF of \$35 million in 1987 resulted in 50 projects over seven years with two staff loaned by the State Planning Office. These staff also fulfilled other duties at SPO.

In 1997, the Legislature allocated \$3 million for land acquisition that resulted in 18 projects chosen for funding. Between 1994 and the fall of 2000 the LMF program operated with one staff person (who also had other leadership and management responsibilities within the State Planning Office). In addition, State Planning has provided limited project staff support from the Maine coastal program for water access issues since 2003; a planner for special assignments and project management; and shared a secretary (approximately 1/2 time).

In 1997, LAPAC recommended returning staffing to the level that existed during the program's peak activity during the late 1980s with funding provided through a General Fund appropriation. The stated goal was to provide staffing levels "sufficient to maintain a proactive and results-oriented program."

After the passage of the \$50 million land bond in the fall of 1999, the Legislature approved one dedicated position that was funded through the Land for Maine's Future credit card revenues. This position was created in anticipation of an increased workload over the next 5-7 years, which has in fact occurred. In 2005, that position was converted to a General Fund position as workload continued to grow and the LMF credit card program ended.¹⁰

The four funding rounds supported by the 1999 bond (2001-2004) resulted in a dramatic increase in workload in comparison with the original \$35 million effort. In 2005, the rate of new applications leveled off with no new funding, but was followed by a substantial round of new applications in 2006. Since 2000, a total of 195 applications have been filed and 180 selected as

¹⁰ Program staff explored restarting an "affiliate card" program to generate an alternative revenue stream. Industry sources advise that this market has changed and is now saturated with affiliate programs that provide more tangible rewards to cardholders (cash refunds, air miles etc). In addition, the potential pool of LMF card holders is too small to attract the interest of card-issuing banks.

finalists. These projects involved more than 230 separate parcels of land each representing a separate land transaction. Twenty-four projects are still underway. A new call for proposals has been issued with a deadline of April 1, 2008.

Impact of New Working Waterfront Pilot. The enactment of the new working waterfront protection pilot program in 2005 added a significant element to the program's workload, particularly at the staff level. Six projects are now underway with closings anticipated on the first projects in the first half of 2008. The 2007 bond authorized new funds to extend the pilot effort. DMR and LMF plan two new rounds of funding in 2008. By partnering with the Department of Marine Resources, which has lead responsibility for this effort, LMF staff has been able to manage the new demands for the time being. The coastal program at SPO has been able to provide the equivalent of 0.5 FTE of staffing effort to assist in the management of all LMF projects in the coastal zone, including the working waterfront projects. Through this partnership, DMR staff are developing capacity to evaluate and manage the unique challenges posed by land conservation projects in this setting.

The board and program staff are still learning from the first-ever round of working waterfront projects and, as mentioned earlier, a number of challenges remain that will require staff time to address.

Conclusion

The LMF staff workload continues to grow. As more cooperative entities are funded, the number of project agreements grows and the number of ongoing relationships managed by staff rises. As noted above, the new working waterfront program has added significant workload. And the establishment of the new conservation easement registry mandated by the Legislature has also created additional load. The level of effort for effective registry maintenance is not yet clear. The program director is seeking project management efficiencies on an ongoing basis within the State Planning Office and other partner agencies. If these prove insufficient, other options including contracted support will be exercised.

CONSERVING REGIONAL LANDSCAPES

As Maine's landscape changes, the Land for Maine's Future program needs to adapt and protect the investments it has made on behalf of the state's citizens. The program is designed to be nimble. It responded first in 1987 to the need to protect the jewels of state-wide significance. After 1999, additional objectives were added including farmland, water access, working forests, and now working waterfronts. Today, conservation efforts are viewed in a much larger regional context. They involve citizens, governments, the private sector, and nonprofit organizations. They span whole ecosystems, river corridors, and large swaths of working forest. For example:

- One comprehensive vision for land protection in York County encompasses a 48,000-acre project area stretching from Mount Agamenticus to the tidal estuaries of Brave Boat Harbor and Gerrish Island. Ten local, regional, and statewide conservation entities and six municipalities are working collaboratively to achieve this ambitious "Mount A-to-the-Sea" initiative.

- Recognizing threats of development in the 1990s, Washington County residents in and around Grand Lake Stream worked with government, timber companies, land trusts, and private foundations to form the Downeast Land Trust that today, with its partners, has conserved 342,000 acres, 60 lakes and ponds, and 1,500 miles of riverfront.
- Multiple conservation partners have joined forces to establish the River-Link corridor, a 10-mile stretch of protected freshwater and tidal streams, forests, shorelands, and trails connecting the Sheepscot and Damariscotta rivers; a rapidly growing area with a tourism focus and statewide significant ecological areas on two estuaries.

Conclusion

Today, the program works in an environment of “landscape” conservation as opposed to parcel conservation. These projects are of a scale that Maine has not seen before. The program is a critical player in leveraging funding and fostering relationships and will need to continue to adapt and mature to support these regional landscape conservation efforts.

ASSURING PUBLIC ACCESS

The state manages almost a million acres of public reserve and nonreserve lands, state parks, wildlife management areas, and ecological reserves. More than 99% of state lands are open to hunting, fishing, and trapping. There are also more than 300,000 acres of land held by the state under conservation easement, most of which are open to public recreational use. In addition, vast tracks of privately-owned land provide resources for hunting, fishing, canoeing, hiking, riding, and wildlife watching.

However, the management of public recreational uses of lands continues to be a challenge for all of Maine’s land management agencies. In recent years, as the level and diversity of recreation demand changes and grows, conflicts and competition among different users has arisen.¹¹ Despite efforts of state landowner relation programs, private land owners, concerned about damage and clean-up costs, have posted an increasing amount of land restricting public access especially in southern Maine.

While LMF does not have land management responsibilities, assuring public access to conserved recreational lands is a tenet of the Land for Maine’s Future program. Further, its acquisition funding decisions are guided by the need to maintain a balanced portfolio of various forms of recreational opportunities in the state and region, along with many other considerations.

In 2007, Governor Baldacci created the Governor’s Task Force Regarding the Management of Public Lands and Publicly-held Easements in Maine to ensure that public lands meet the needs of the full array of recreational interests in the state. At this writing the task force is finalizing its findings and recommendations. The board will closely consider any and all recommendations that affect LMF operations and priorities.

In addition, The Governor’s Council on Maine’s Quality of Place is considering means to help private landowners to allow continuing public access to their lands.

¹¹ Baldacci, Governor John E. An Order Creating the Task Force Regarding the Management of Public Lands and Publicly-held Easements in Maine, February 20, 2007

Conclusion

Public lands and private lands, including those under easement, all make up Maine's exceptional recreational land base. There is great demand for access to recreational lands while, at the same time, traditional access patterns are shifting and, in some areas, diminishing. As private land is developed, as parcels change hands, as land is posted, public access changes and conflicts arise. The need to promote and manage public access is increasingly important and challenging. The LMF program continues to work with landowners, management agencies, funders, and recreational groups and to participate in state policy discussions to assure continued public access for recreation into the future.

3. General Information

A. Organizational Structure and Position Classification Listing

BOARD COMPOSITION AND STAFF

Board

The eleven-member board consists of six private citizens appointed by the Governor and four commissioners (Agriculture, Conservation, Inland Fisheries and Wildlife, and Marine Resources) along with the Director of the State Planning Office. Citizen members are appointed by the Governor and confirmed by the Legislature, based on a broad geographic representation. The basic structure of the program is presented in Figure 3-1.

The current citizen members of the board and their terms of service are:

Diane Doyle
Saco, Maine
Term: 4/30/2007 – 1/31/2010

Carole Dyer
Bowdoinham, Maine
Term: 9/7/2000 – 11/13/2003
11/13/2003 – 11/13/2007 (*-serving until replaced*)

Ben Emory
Salisbury Cove, Maine
Term: 4/30/2007 – 1/31/2010

Leon Gorman
Yarmouth, Maine
Term: 6/2/2003 – 1/31/2007
2/1/2007 – 1/31/2011

Jeanne Mattson
Hallowell, Maine
Term: 5/8/2007 – 1/31/2008

Jeff Thaler
Portland, Maine
Term: 4/13/04 – 1/31/2008

The current agency representatives are:

Seth Bradstreet, Commissioner
Dept. of Agriculture, Food & Rural Resources
State House Station # 28
Augusta, Maine 04333

Martha Freeman, Director
State Planning Office
State House Station # 38
Augusta, Maine 04333

George Lapointe, Commissioner & **Board Chair**
Department Marine Resources
State House Station # 21
Augusta, Maine 04333

R. Dan Martin, Commissioner
Dept. Inland Fisheries & Wildlife
State House Station # 41
Augusta, Maine 04333

Patrick McGowan, Commissioner
Department of Conservation
State House Station # 22
Augusta, Maine 04333

Staff

The program is supported by a small core staff that administers the project management and approval process, which can, on occasion, include all aspects of negotiation, due diligence, baseline evaluation, and project development related to real estate transactions. This staff also provides support to the board and its working committees. The efforts of program staff are highly leveraged through partnerships with key personnel in other state agencies. Each of the agencies represented on the board have designated staff to partner with LMF staff in the development of land protection proposals and to harmonize their agencies' other land conservation initiatives with those of the program. These partnerships are the most effective way to ensure coordinated program implementation and to make the most efficient use of state, federal, and private dollars available for land conservation. In addition, the program makes extensive use of contracted services where those services can be most efficiently provided through the private sector including surveying and appraisal services, among others.

As shown in Table 3-1, only one of these staff is dedicated exclusively to the LMF program. The other staff, including the Director, are loaned to the program by the State Planning Office and all are called upon to fulfill other duties within the Office. The current program staff are:

- Tim Glidden, Program Director
- Steve Brooke, Senior Planner
- Jim Connors, Senior Planner
- R. Collin Therrien, Senior Planner
- Aline A. LaChance, Administrative Support

An organizational chart is provided in Figure 3-1. A position classification listing is provided in Table 3-1.

Figure 3-1. Land for Maine's Future Program

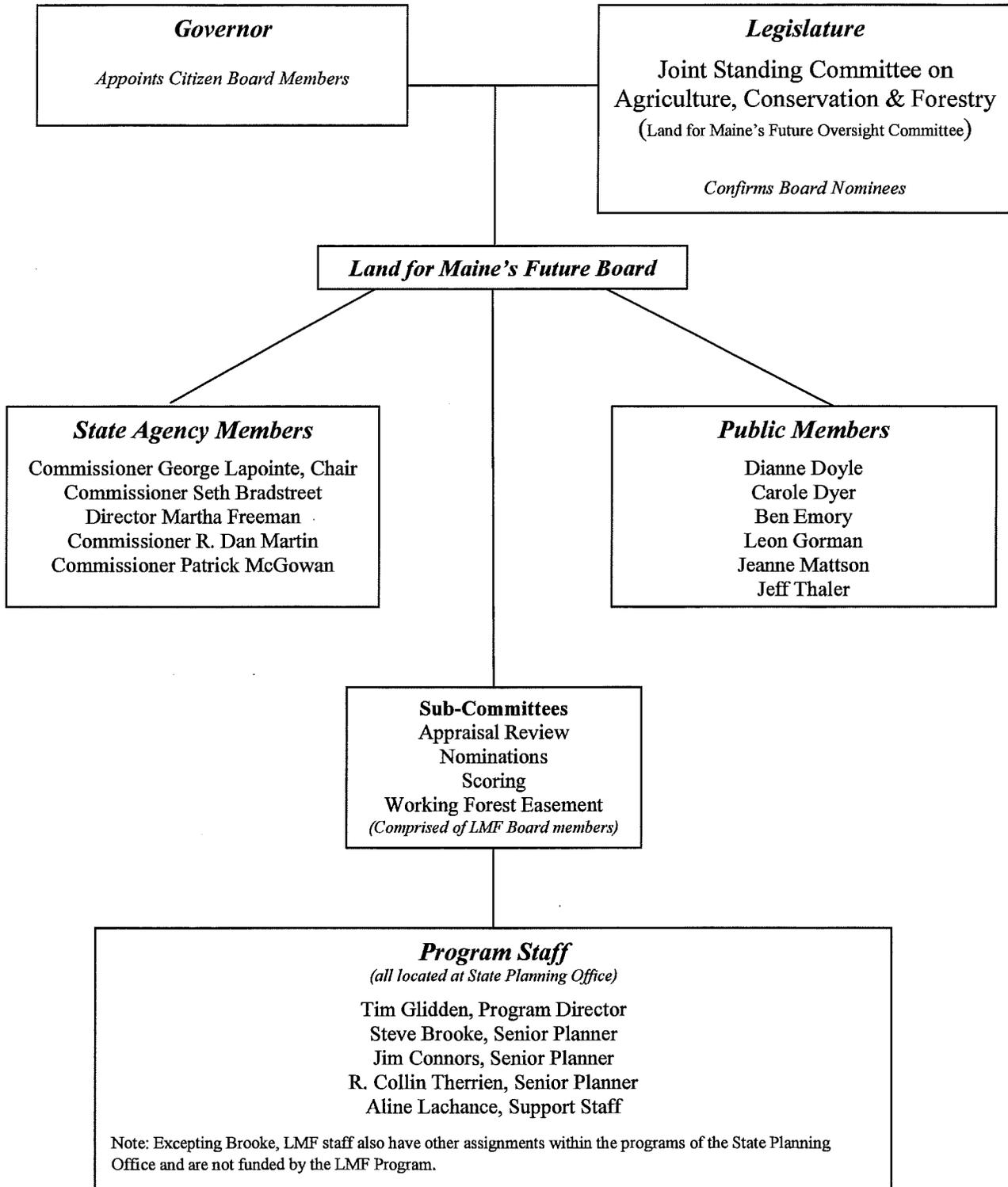


Table 3-1 – Position Classification Listing

**Maine State Planning Office
As of October 1, 2007**

Program 0060 - LMF - has only one position

JOB_CLASS_TITLE	FUND	ORG	HOURS	POSITION
SENIOR PLANNER	010	60	80	95101139

Program 0082 - State Planning Office - positions support LMF

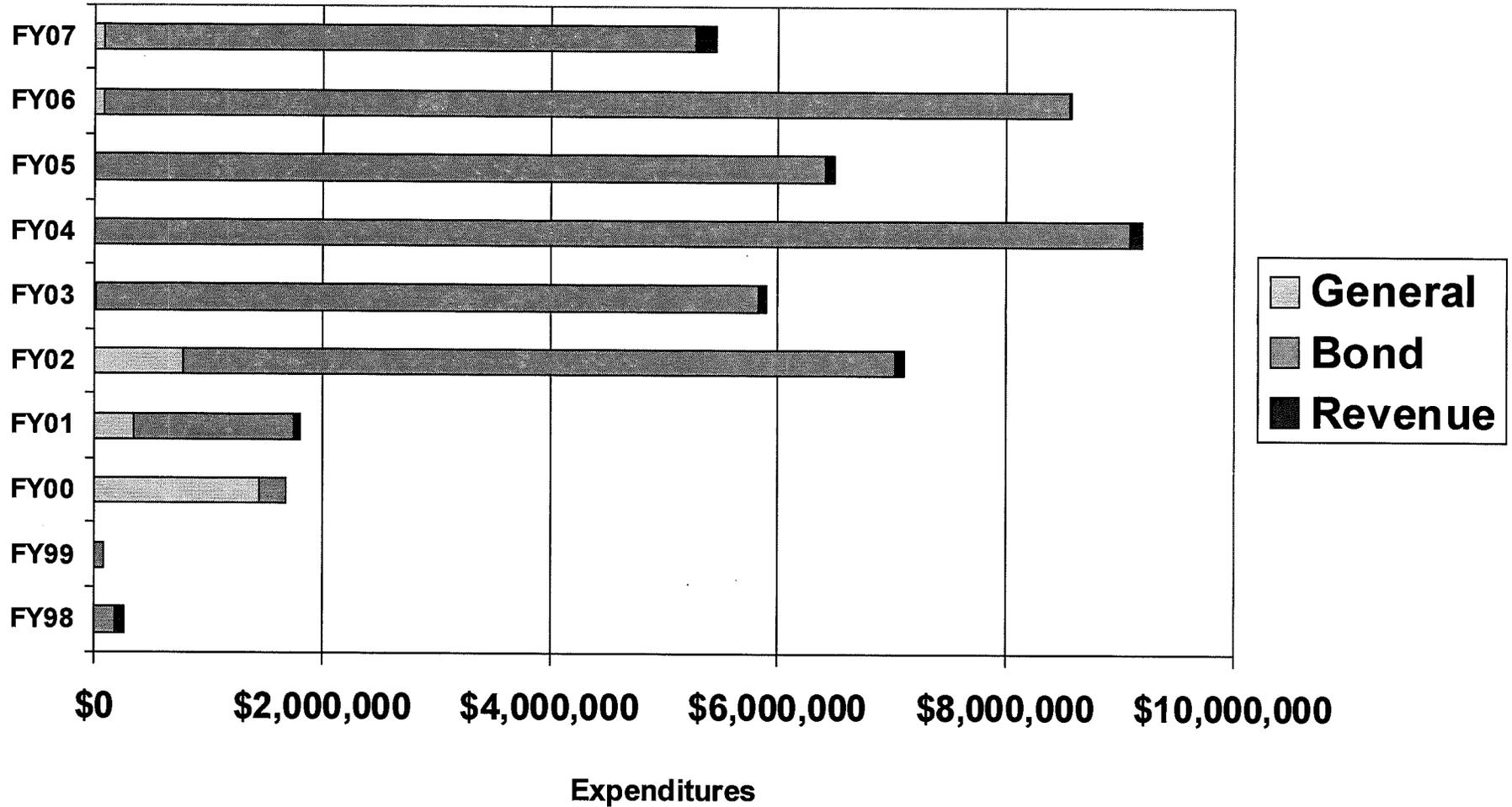
JOB_CLASS_TITLE	FUND	ORG	HOURS	POSITION
POLICY & PROGRAM COORD-ST PLNG	010	82	80	95100001
SENIOR PLANNER	013	82	80	95101019
SENIOR PLANNER	010	82	80	95101016
SECRETARY	013	82	80	95100031

B. 10-year Financial Summary

**Maine State Planning Office
Program 0060 Land for Maine's Future Board
Positions, Allocation, Appropriations & Expenditures**

	FY98	FY99	FY00	FY01	FY02	FY03	FY04	FY05	FY06	FY07
<u>General Fund</u>										
Positions	0	0	0	0	0	0	0	0	1	1
Appropriation	\$ -	\$ 3,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 75,667	\$ 75,848
Expenditure	\$ -	\$ -	\$ 1,440,568	\$ 347,033	\$ 771,306	\$ 9,391	\$ -	\$ -	\$ 76,142	\$ 75,098
<u>Bond Fund</u>										
Positions	0	0	0	0	0	0	0	0	0	0
Allocation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Expenditure	\$ 181,046	\$ 81,988	\$ 241,526	\$ 1,406,647	\$ 6,251,653	\$ 5,815,432	\$ 9,080,852	\$ 6,412,213	\$ 8,483,139	\$ 5,196,846
<u>Special Revenue Fund</u>										
Positions	0	0	0	1	1	1	1	1	0	0
Allocation	\$ 200,000	\$ 275,000	\$ -	\$ 52,815	\$ 101,183	\$ 104,800	\$ 115,976	\$ 117,780	\$ 51,146	\$ 397,998
Expenditure	\$ 80,900	\$ -	\$ -	\$ 49,292	\$ 90,281	\$ 77,434	\$ 113,188	\$ 77,637	\$ 18,405	\$ 180,377
<u>Total All Funds</u>										
Positions	0	0	0	1	1	1	1	1	1	1
Appropriation/Allocation	\$ 200,000	\$ 3,275,000	\$ -	\$ 52,815	\$ 101,183	\$ 104,800	\$ 115,976	\$ 117,780	\$ 126,813	\$ 473,846
Expenditure	\$ 261,946	\$ 81,988	\$ 1,682,094	\$ 1,802,972	\$ 7,113,241	\$ 5,902,256	\$ 9,194,039	\$ 6,489,850	\$ 8,577,685	\$ 5,452,321

LMF Expenditures by Fund Type, 1998-2007



C. Alternate Delivery Systems

The Land for Maine's Future program is housed at the State Planning Office. The Office uses a variety of delivery systems to streamline processes, leverage funds, save time and money, and reach more people. Alternatives to traditional delivery systems include: contracting with others to provide services, using volunteers, interns, and research fellows, partnering with other organizations, sharing resources, and using electronic mechanisms.

Examples of successful alternative delivery systems include:

Contracts for Services

For some very specialized services, LMF contracts with subject matter experts for delivery. For example, the program contracts with lawyers, archeologists, environmental engineers, and surveyors to ensure that the due diligence work necessary on each state-acquired parcel is completed.

Web-based Technology

The program uses telecommunications technology to improve services and achieve efficiencies. For example, the program uses the Internet to disseminate much of its public information, posting meeting notices and minutes, reports and publications, and information about newsworthy projects. The new LMF proposal workbook is also now available on-line. Another new tool is the Land for Maine's Future database, an on-line project directory with maps, photos, and information about how to access public LMF properties. Additionally, landowners will be able to file their information for the new statewide easement registry electronically (see explanation of PL 2007, c. 412 elsewhere in this report).

Use of Interns

The Office routinely hosts talented young people through state internship programs. In summer 2006, an intern updated the state's conservation lands data for use in GIS mapping. With this assistance, the state is developing a full set of electronic data for each state-owned conservation parcel for use by all state agencies and, eventually, the public.

D. Statutes, Rules, Policy, and Compliance

Enabling Legislation

The Land for Maine's Future program is governed by its original enabling legislation, as amended, and the various provisions of specific bond language. These provisions can be found in Appendix 7.

Rule-making

The Land for Maine's Future board has rule-making authority under its enabling statute (5 M.R.S.A. §6205, sub-§2). However, the board has not exercised this authority but instead has chosen to establish policies and guidelines as a more flexible approach to administering their statutory duties. Public input is an essential element in developing these policies and guidelines. In some instances, a working group of stakeholders is established to solicit public input and expertise. In all cases when guidelines and policies are developed, public input is sought and discussion is held during public board meetings before board action. The *Land for Maine's Future Program Proposal Workbook* (Appendix 1) is the comprehensive record of all of the board's policies and guidelines currently in place. A list of the statutory requirements and principal policies and guidelines adopted by the board is summarized below.

Board Policies and Statutory Guidelines

- **Willing sellers only.** A board policy since 1987. The board requires signed consent from the owner(s) of land being proposed for consideration in advance of any board discussion of a property.
- **Public Notice of Intent to Purchase.** The board publishes a ten-day advance notice of every vote to acquire property or interest in property. Notices are placed in a general circulation newspaper and a local newspaper describing the property to be voted on and inviting all members of the public to submit comments in writing or to appear before the board with comments about the proposed acquisition. Similar notice is also sent to elected officials representing the town in which the proposed project is located.
- **Public Participation Encouraged at All Meetings.** All board meetings are open, almost always attended by members of the public, and frequently include public input. Public notice is published in advance of all board meetings and a mailing is made to a list of interested parties.
- **Municipal & County Approval.** LMF statute requires approval of the elected municipal officials when property representing more than 1% of a municipality's state valuation is considered for acquisition. Board policy is to seek municipal input on all acquisitions. A similar provision applies to counties and county commissioners if the properties to be acquired are in unorganized townships.
- **Purchase Price Determined by Appraised Value.** Board policy is to determine land values through independent, professional appraisals and to base acquisition price on appraised value. Purchase price may be reduced through matching funds and landowner contributions.
- **Providing Public Access.** Public access is a core purpose of the LMF program. Five percent (5%) of the appraised value of any project (acquisition) is made available to the title holding agency to develop public access including trails, boat access, camping, and picnicking facilities.
- **No Fee Acquisition of Timber Production Lands.** LMF is prohibited by statute from acquiring land for which the primary use value has been and will be as commercially harvested or harvestable forest land. This does not prohibit the acquisition of conservation easements on

working forest lands which allow for timber production while securing public access and the conservation of other natural resource values.

- Hunting and Fishing. All LMF lands managed by Inland Fisheries and Wildlife are open to hunting and fishing. 99.8% of LMF lands managed by the Bureau of Parks and Lands are open to hunting and fishing. Collectively, 99.9% of all land acquired by LMF is open to hunting and fishing. All lands acquired with LMF support since 1999 are open to public recreational access.
- Water Access Lands. Eighty-seven percent (87%) of all lands acquired through the Land for Maine's Future program involve water access. Increasing coastal and inland access to water is one of LMF's priorities when evaluating proposals.
- Addressing Land Management Costs. When matching funds are available from sources other than a state bond, up to 20% of the appraised value of acquired land may be put into the stewardship account of the state agency holding title to the land. Such a contribution can be used as matching funds in the LMF funding process.
- Farmland Protection. LMF is the only state program with a mandate to protect productive farmland.
- Farm Business Plans and Capitol Improvements. Five percent (5%) of the appraised value of development rights purchased on farmland may be made available directly to the farmer to support the establishment of a business plan and capital improvements to support continued use as a working farm.
- Value Added to Public Dollars. A two-to-one match is required which means that for every two dollars coming from the LMF fund, one dollar in private or other match must be present. In practice, the program is increasingly successful in attracting matching funds well in excess of this requirement.
- Working Forest Easements. The board has established guidance for the development of conservation easements that incorporate protection of the property's potential for sustainable forestry (see complete policy in the workbook – Appendix 1).
- Contracts with cooperating entities. With passage of the 1999 bond, the LMF board was authorized to fund land conservation projects in which the interests would be held by "cooperating entities" – typically land trusts or municipalities. To safeguard the state's investment of public dollars, the board has developed a standard project agreement that is executed with the cooperating entity holding the interest. A complete copy of the agreement is included as Appendix 4.

Compliance with State Health & Safety Laws

The Bureau of Financial and Personnel Services within the Department of Administrative and Financial Services has the responsibility of overseeing and administering the State Planning Office's (including the Land for Maine's Future program) human resources. They serve as human

resources director and EEO officer. They administer payroll, recruitment and training (including sexual harassment training), workers' compensation, and health and safety laws.

The State Planning Office sought and received the following statement of compliance from the Department:

“This is to confirm that the State Planning Office is in compliance with federal and state health and safety laws, including the Americans with Disabilities Act, the federal Occupational Safety and Health Act, affirmative action requirements and workers' compensation.”

PATRICIA L. BEAUDOIN
DIRECTOR OF HUMAN RESOURCES
BUREAU OF FINANCIAL AND PERSONNEL SERVICES

Comparison of Federal and State Laws

There are no federal laws or regulations that conflict with the state laws governing the Land for Maine's Future program.

Protection of Personal Information

The Land for Maine's Future board collects very little personal information. What it does collect is protected by state human resource and IT systems.

Human Resources

The Land for Maine's Future board would from time-to-time have on hand personal information from employee records or recruitment records. These are managed in accordance with guidelines set forth by the Department of Administrative Affairs and Financial Services (DAFS). SPO does not retain any personal information, rather these are housed at DAFS. Recruitment records, such as resumes, job applications, and references are destroyed in accordance with DAFS guidelines.

Information Technology

The Land for Maine's Future board complies with the state's information technology policies, which includes a privacy policy.

Public Filings

P.L. 2007 c. 412 changes the state's enabling legislation for conservation easements. It calls for the State Planning Office to create and maintain a statewide registry of conservation easements and directs all parties that own (or "hold") conservation easements to register the easement with SPO and to report annually on any transfers of ownership or amendments to the easement. SPO is in the process of designing a reporting system (see explanation of PL 2007, c. 412 elsewhere in this report).

Appendices (1-6 provided separately)

1. Land for Maine's Future Board. Land for Maine's Future Program Proposal Workbook. "Board Adopted Policy and Guidelines" (including guidelines for working forest easements).

See: <http://www.maine.gov/spo/lmf/publications/workbook2007/WKBK2007.pdf>

2. Land for Maine's Future Board. Biennial Summary Report, 2007.

See: <http://www.maine.gov/spo/lmf/publications/>

3. Land Acquisition Priorities Advisory Committee, Final Report, 1997.

See: <http://www.maine.gov/spo/lmf/publications/origpdf/pdf/lapac.pdf>

4. Model Project Agreement used with Cooperating Entities.

See: <http://www.maine.gov/spo/lmf/publications/workbook2007/WKBK2007-Appendices.pdf>

5. Governor's Council on Maine's Quality of Place. People, Place, and Prosperity, Executive Summary, December 2007.

See: <http://www.maine.gov/spo/qualityofplace/executive%20summ%20final%2012-05-07.pdf>

6. New England Environmental Finance Center, Edmund S. Muskie School of Public Service, University of Southern Maine and the Margaret Chase Smith Center for Public Policy, University of Maine. Increasing Return on a Sound Investment, January 2004.

See: http://www.maine.gov/spo/lmf/publications/FinalReport_forWEB.pdf

Appendix 7: Enabling Statutes and Other Legal Provisions

Land for Maine's Future Enabling Statute

5 MRSA §6200. Findings

The Legislature finds that Maine is blessed with an abundance of natural resources unique to the northeastern United States; that these natural resources provide Maine residents and visitors to the State with an unparalleled diversity of outdoor recreation opportunities during all seasons of the year and a quality of life unmatched in this nation; that the continued availability of public access to these recreation opportunities and the protection of the scenic and natural environment are essential for preserving the State's high quality of life; that public acquisition programs have not kept pace with the State's expanding population and changing land use patterns so that Maine ranks low among the states in publicly owned land as a percentage of total state area; that rising land values are putting the State's real estate in shoreland and resort areas out of reach to most Maine citizens and that sensitive lands and resources of statewide significance are currently not well protected and are threatened by the rapid pace of development; and that public interest in the future quality and availability for all Maine people of lands for recreation and conservation is best served by significant additions of lands to the public domain.

The Legislature further finds that Maine's private, nonprofit organizations, local conservation commissions, local governments and federal agencies have made significant contributions to the protection of the State's natural areas and that these agencies should be encouraged to further expand and coordinate their efforts by working with state agencies as "cooperating entities" in order to help acquire, pay for and manage new state acquisitions of high priority natural lands.

The Legislature declares that the future social and economic well-being of the citizens of this State depends upon maintaining the quality and availability of natural areas for recreation, hunting and fishing, conservation, wildlife habitat, vital ecologic functions and scenic beauty and that the State, as the public's trustee, has a responsibility and a duty to pursue an aggressive and coordinated policy to assure that this Maine heritage is passed on to future generations.

§6201. Definitions

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

1. Appraised value. "Appraised value" means the fair market value of property without the consideration of the effect, if any, of dedication or other preservation-related restrictions.

2. Cooperating entities. "Cooperating entities" means those private nonprofit organizations, municipal conservation commissions, local governments, federal agencies or other bodies designated by the Land for Maine's Future Board pursuant to section 6203, as able to assist the State in the acquisition or management of conservation lands.

3. Matching funds. "Matching funds" means any combination of public and private funds used in conjunction with the Land for Maine's Future Fund or the Public Access to Maine Waters Fund for the purpose of this chapter, including, but not limited to: private contributions of cash or securities; money from municipal or other public agencies; money from a federal matching program, subject to the limitations of applicable federal and state laws, in an amount authorized by the federal program; contributions of real property, or interest in real property, that serves the acquisition needs of the State as determined by the Land for Maine's Future Board; in-kind contributions; or any combination of those funds. Contributions of land or interest in land must be valued, for purposes of this section, in the amount of their appraised value.

4. Stewardship account. "Stewardship account" means an account held separate and apart from all other money, funds and accounts of a state agency for the purposes of management of land owned in fee or less-than-fee simple meeting the criteria established in section 6207.

§6202. Land for Maine's Future Board

The Land for Maine's Future Board, as established in chapter 379, shall be an Executive Department Board and

shall be referred to in this chapter as the "board."

§6203. Land for Maine's Future Fund

1. Fund established. There is established the Land for Maine's Future Fund that is administered by the board. The Land for Maine's Future Fund consists of the proceeds from the sale of any bonds authorized for the purposes set forth in subsection 3 and any funds received as contributions from private and public sources for those purposes. The Land for Maine's Future Fund must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the Land for Maine's Future Fund become part of the assets of that fund. Any balance remaining in the Land for Maine's Future Fund at the end of any fiscal year must be carried forward for the next fiscal year.

2. Fund available. The Land for Maine's Future Fund is available to state agencies and designated cooperating entities upon authorization of the board for the purposes identified in subsection 3.

3. Fund proceeds. The proceeds of the Land for Maine's Future Fund may be applied and expended to:

A. Acquire property or an interest in property that is determined by the board to be of state significance under the guidelines of this chapter;

B. Fund minor capital improvements on lands acquired by proceeds from the Land for Maine's Future Fund to improve accessibility, as long as these improvements do not exceed 5% of the appraised value of the acquired property; and

C. When interest in farmland is acquired, fund the development of a business plan and capital improvements to provide for the land's continuing use as a working farm, as long as these improvements do not exceed 5% of the appraised value of the acquired property.

§6203-A. Public Access to Maine Waters Fund

1. Fund established. There is established the Public Access to Maine Waters Fund that is administered by the board. The Public Access to Maine Waters Fund consists of the proceeds from the sale of bonds authorized for the purposes set forth in subsection 3 and funds received as contributions from private and public sources for those purposes. The Public Access to Maine Waters Fund must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the Public Access to Maine Waters Fund become part of the assets of that fund. Any balance remaining in the Public Access to Maine Waters Fund at the end of a fiscal year must be carried forward for the next fiscal year.

2. Fund available. The Public Access to Maine Waters Fund is available to state agencies and designated cooperating entities upon authorization of the board for the purposes identified in subsection 3.

3. Fund proceeds. The proceeds of the Public Access to Maine Waters Fund may be applied and expended to:

A. Acquire property or interests in property abutting fresh or coastal waters when public access to those waters does not exist or when the board determines that existing points of public access are not sufficient; and

B. Provide minor capital improvements on lands acquired by proceeds from the Public Access to Maine Waters Fund to provide public access or improve accessibility, as long as these improvements do not exceed 5% of the appraised value of the acquired property.

§6204. Board composition

1. Composition. The board consists of 11 members, 6 who are private citizens and 5 who are permanent members. The permanent members are the Commissioner of Conservation; the Commissioner of Inland Fisheries and Wildlife; the Commissioner of Marine Resources; the Commissioner of Agriculture, Food and Rural Resources; and the Director of the State Planning Office.

2. Appointments. The 6 private citizens are appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over matters pertaining to state parks and public lands and to confirmation by the Legislature.

3. Qualifications. The 6 private citizens must be selected for their knowledge of the State's natural resources and

landscape and their demonstrated commitment to land conservation. Appointments must provide broad geographic representation.

4. Terms; compensation. The appointed private citizen members are appointed to staggered 4-year terms. The initial appointments are: Two members for 2-year terms; 2 members for 3-year terms; and 2 members for 4-year terms. Appointed private citizen members may not serve more than 2 consecutive 4-year terms. The appointed members receive the legislative per diem pursuant to chapter 379.

5. Chair. The Governor shall appoint the chair of the board.

6. Assistance. The Department of Conservation; the Department of Inland Fisheries and Wildlife; the Department of Transportation; the Department of Agriculture, Food and Rural Resources; the State Planning Office; and all other state agencies shall provide staff support and assistance considered necessary by the board to fulfill the objectives of this chapter. If agency assistance is not available, consultants may be hired from the proceeds of either the Land for Maine's Future Fund or the Public Access to Maine Waters Fund to assist the board in carrying out its responsibilities.

§6205. Board meetings; rules and administrative proceedings

1. Meetings. The board shall meet at least 4 times each year. The chair shall call the meetings of the board.

2. Rules. The board, acting in accordance with section 8052, may adopt rules it considers necessary for the conduct of its business.

3. Compensation. Appointed members are entitled to receive compensation equal to legislative per diem and travel expenses as allowed under section 12004-G, subsection 29 while engaged in board activities.

4. Quorum. A quorum of the board for the transaction of business is 7 members.

5. Personal bias. If a charge of bias or personal financial interest, direct or indirect, is filed against a member requesting that member to withdraw from a proceeding of the board, that member shall determine whether or not to withdraw and shall make that determination part of the record of that proceeding.

§6206. Board responsibilities

1. Responsibilities. The board shall:

A. Complete an assessment of the State's public land acquisition needs and develop a strategy and guidelines, based on that assessment, for use in allocating the proceeds of the Land for Maine's Future Fund and the Public Access to Maine Waters Fund. Both the assessment and the development of a strategy and guidelines must be conducted with opportunities for participation by interested state agencies and the public;

B. [Repealed 1993, c. 728, §8]

C. Receive and review funding requests from state agencies and cooperating entities for acquisition projects meeting state guidelines;

D. In accordance with the strategy and guidelines developed under paragraph A, authorize distribution of proceeds from the Land for Maine's Future Fund and the Public Access to Maine Waters Fund for acquisitions of property or interests in property; and

E. On January 1st of every odd-numbered year, report to the joint standing committee of the Legislature having jurisdiction over matters pertaining to state parks and public lands on expenditures from the Land for Maine's Future Fund and the Public Access to Maine Waters Fund and revisions to the strategies and guidelines. This report must include a description of access to land and interest in land acquired during the report period. If an acquisition has been made that does not include guaranteed public vehicular access to the land acquired, the board must provide justification for that acquisition and a plan for continuing efforts to acquire guaranteed public access to the land. This report must include a summary of the board's experience during the reporting period with projects funded pursuant to section 6203 or 6203-A and in which the land or interest in land is acquired by a cooperating entity. This report must also include on a county-by-county basis a summary of the expenditures made by the board and acreage conserved through acquisition of fee or less-than-fee interest by the board during the report period. Each report must include cumulative totals by county of acreage conserved through acquisition of fee or less-than-fee interest through action by

the board.

The report must include maps based on available information and at a statewide level that show federal, state and other public lands and permanent interests in lands held for conservation purposes. The maps must also provide a representation of the amount of land affected by conservation easements under Title 33, chapter 7, subchapter 8-A. Other state agencies holding conservation lands and interests in lands held for conservation purposes shall assist in the preparation of the maps.

§6206-A. Nominations

Prior to taking an action to designate land for negotiation for acquisition, the board shall send by certified mail or otherwise deliver a notice of this intention to the owner or owners of land within the area proposed by the board for acquisition, as the identity and address of such owner or owners is shown on the tax maps or other tax records of the municipality in which the land is located. If the land is located within the unorganized territory, notice must be sent to the owner or owners as shown on the tax maps or other tax records of the State Tax Assessor. After the completion of negotiations, the board shall publish a notice of its intent to designate land for acquisition in a newspaper or newspapers of general circulation that identifies the land proposed by the board for acquisition and that notifies the residents of the area that the board will accept public comments on the proposed acquisition.

Any owner of land that has been nominated for acquisition and is subject to the notice requirements of this section may submit a properly sworn affidavit to the board indicating the owner's unwillingness to sell. The affidavit is notice to the board that continued evaluation of that land is inappropriate and, unless the board intends to acquire an interest in the land through the use of eminent domain pursuant to section 6207-A, the board may not consider that land for acquisition.

§6207. Acquisition criteria

1. Distribution of funds. The board shall authorize the distribution of funds from the Land for Maine's Future Fund and the Public Access to Maine Waters Fund to state agencies and cooperating entities for the acquisition of natural lands that meet the criteria set forth in this chapter.

2. Determination of state significance. In determining whether a proposed acquisition must be funded, in full or in part, by the Land for Maine's Future Fund or the Public Access to Maine Waters Fund, the board shall consider whether the site is of state significance and:

A. Contains recreation lands, prime physical features of the Maine landscape, areas of special scenic beauty, farmland or open space, undeveloped shorelines, significant undeveloped archeological sites, wetlands, fragile mountain areas or lands with other conservation, wilderness or recreation values;

B. Is habitat for plant or animal species or natural communities considered rare, threatened or endangered in the State;

C. Provides nonmotorized or motorized public access to recreation opportunities or those natural resources identified in this section; or

D. Provides public water supply protection when that purpose is consistent and does not conflict with the natural resource conservation and recreation purposes of this chapter.

3. Priorities. Whenever possible, the Land for Maine's Future Fund and the Public Access to Maine Waters Fund must be used for land acquisition projects when matching funds are available from cooperating entities, provided that the proposed acquisition meets all other criteria set forth in this chapter. For acquisitions funded by the Land for Maine's Future Fund, the board shall give priority to projects that conserve lands with multiple outstanding resource or recreation values or a single exceptional value, provide geographic representation and build upon or connect existing holdings.

When acquiring land or interest in land, the board shall examine public vehicular access rights to the land and, whenever possible and appropriate, acquire guaranteed public vehicular access as part of the acquisition.

4. Nonqualifying expenditures. The board may not fund:

A. Facilities for organized recreational activities, including, but not limited to, ballparks, tennis courts or playgrounds;

B. Except as provided in section 6203, subsection 3, paragraph B and section 6203-A, subsection 3, paragraph B, capital improvements on any publicly owned facilities; and

C. The acquisition of land of which the primary use value has been and will be as commercially harvested or harvestable forest land.

5. Estimation of monitoring and management costs. Prior to final approval of a project under this chapter, a person submitting a proposal to acquire property or an interest in property with funding from the Land for Maine's Future Fund or the Public Access to Maine Waters Fund shall provide:

A. A description of the management envisioned for the property for the first 10 years following acquisition. When the application proposes acquiring an interest in property, the application must provide a description of the anticipated management responsibilities retained by the landowner and those to be assumed by the State or a cooperating entity;

B. Preliminary estimates of the costs to the State or a cooperating entity of managing the land for the uses proposed in the application; and

C. Preliminary estimates of the costs associated with monitoring compliance with an easement when an interest in land is acquired.

§6207-A. Use of eminent domain

The board may expend funds to acquire an interest in land obtained by the use of eminent domain only if the acquisition has been approved by the Legislature or is with the consent of the owner or owners of the land, as the identity and address of the owner or owners is shown on the tax maps or other tax records of the municipality in which the land is located. If the land is located within the unorganized territory, for purposes of this section the identity of the owner or owners must be as shown on the tax maps or other tax records of the State Tax Assessor.

§6208. Municipal approval

1. Approval. Approval by the elected municipal officials is required when more than 1% of a municipality's state valuation is considered for acquisition under a bond issue.

2. Transactions. Any acquisition by eminent domain funded by the board, when the land exceeds either 50 acres or \$100,000 in assessed value, is subject to the approval of the municipality in which the land is located. That approval may be obtained either from the elected municipal officials or, if those officials do not approve, by vote of the town meeting or by referendum of the electorate. If the land involved is located within the unorganized territory, this requirement does not apply.

§6208-A. Unorganized territory; county approval

1. Approval. Approval by the county commissioners is required if land proposed to be acquired under a bond issue within the unorganized territory in a county constitutes more than 1% of the state valuation within the county.

2. Transactions. Any acquisition of land within an unorganized territory by eminent domain funded by the board, when the land exceeds either 50 acres or \$100,000 in assessed value, must be approved by the county in

which the land is located. That approval may be obtained either from the county commissioners or, if they do not approve, by referendum of the legal voters within the county.

§6209. Ownership; title; management

1. Uses of funds. The board may use the Land for Maine's Future Fund and the Public Access to Maine Waters Fund to acquire real property in both fee and less-than-fee simple interest, including, but not limited to, conservation easements, access easements, scenic easements, other permanent interests in land and long-term leases of at least 99 years, provided that those acquisitions are primarily natural lands meeting the criteria set forth in this chapter.

2. Title. Title to all lands acquired pursuant to this chapter must be vested solely in the State. Management responsibilities for the acquired lands may be contracted by the land-owning state agency to cooperating entities, subject to appropriate lease arrangements, upon the recommendation of the agency's commissioner and approval of the board.

3. Matching funds. When matching funds for a project include cash not derived from a bond request, an allocation of up to 20% of the appraised value of the acquired land or the amount of cash, whichever is less, may be put into the stewardship account of the state agency holding title to the land.

4. Payments. Payments from the fund may be made to cooperating entities for qualifying lands acquired on behalf of the State, provided that a state agency has issued to the cooperating entity a letter of intent requesting assistance in the acquisition. Upon submission to the state agency of a cooperating entity's direct expenses for acquisition and related costs of an authorized acquisition, the board shall authorize payment of those expenses, provided that the total of all expenses does not exceed the appraised value of the acquired property. Expenses must be paid at intervals during the acquisition process, as determined by the board.

5. Land evaluated. All lands acquired with money from the Land for Maine's Future Fund or the Public Access to Maine Waters Fund must be evaluated for rare, threatened or endangered species of plants and animals, exemplary natural communities, features of historic significance and other high priority natural features and ecologic functions as determined by the board, with reference to the best inventory data available to the State. Subsequent management by state agencies holding properties found to have such important features and functions must reflect the objective of maintaining and protecting those features and functions.

6. Legislative approval. Land acquired under this chapter may not be sold or used for purposes other than those stated in this chapter, unless approved by a 2/3 majority of the Legislature.

§6210. Data sharing

If the board transfers in writing to any local or federal agency any written information acquired by the board under this chapter concerning any land, the board shall, upon transfer, notify the landowner of the transfer by certified mail.

§6211. Land for Maine's Future Board-sponsored credit card

1. Land for Maine's Future Board-sponsored credit card. The Land for Maine's Future Board may enter into an agreement with a financial institution, as defined in Title 9-B, section 131, subsection 17, a credit union, as defined in Title 9-B, section 131, subsection 12, or other credit card issuer to issue a credit card for the benefit of the Land for Maine's Future Board.

2. Agreement. If the Land for Maine's Future Board enters into an agreement with a financial institution, credit union or other credit card issuer in accordance with subsection 1, the Land for Maine's Future Board shall negotiate the most favorable agreement for the Land for Maine's Future Board, considering such factors as:

- A. The rate for the Land for Maine's Future Board's fee by a credit card issuer;
- B. The ability of the financial institution or other credit card issuer to market the card successfully; and
- C. Customer service offered by the financial institution or other credit card issuer.

3. Distribution of proceeds. Funds received by the Land for Maine's Future Board under the agreement with the financial institution, credit union or other credit card issuer must be deposited in a separate, interest-bearing account within the Land for Maine's Future Fund. The account must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the account become part of the assets of the account. Any balance remaining in the account at the end of any fiscal year must be carried forward to the next fiscal year. Notwithstanding section 6203, subsection 3, the board may expend funds deposited in the account pursuant to this section to cover administrative costs and for staff support and consulting services, as determined necessary by the board to carry out its duties under this chapter.

2007 Bond proposal

Public Law 2007, chapter 39 (Part E relevant portions)

Sec. E-1. Authorization of bonds. The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding \$35,500,000 for the purposes described in section 5 of this Part and to access at least \$21,875,000 in matching contributions from public and private sources. 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.

Sec. E-2. Records of bonds issued kept by 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. E-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 Part. Any unencumbered balances remaining at the completion of the project in this Part lapse to the debt service account established for the retirement of these bonds.

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

Sec. E-5. Disbursement of bond proceeds. The proceeds of the bonds must be expended as set out in this Part under the direction and supervision of the Executive Department, Land for Maine's Future Board, the Department of Agriculture, Food and Rural Resources, the Department of Conservation and the Department of Economic and Community Development. The proceeds of the bonds to be administered by the Land for Maine's Future Board must be expended for acquisition of land and interest in land for conservation, water access, outdoor recreation, wildlife and fish habitat, farmland preservation in accordance with the provisions for such acquisitions under the Maine Revised Statutes, Title 5, chapter 353 and working waterfront preservation in accordance with the terms of this Part, including all costs associated with such acquisitions, except that use of the proceeds of these bonds is subject to the following conditions and requirements.

1. Hunting, fishing, trapping and public access may not be prohibited on land acquired with bond proceeds, except to the extent of applicable state, local or federal laws and regulations and except for working waterfront projects and farmland protection projects.

2. Payment from bond proceeds for acquisitions of local or regional significance, as determined by the Land for Maine's Future Board, may be made directly to cooperating entities as defined in Title 5, section 6201, subsection 2 for acquisition of land and interest in land by cooperating entities, subject to terms and conditions enforceable by the State to ensure its use for the purposes of this Part. In addition to the considerations required under Title 5, chapter 353, the board shall give a preference to acquisitions under this subsection that achieve benefits for multiple towns and that address regional conservation needs including public recreational access, wildlife, open space and farmland.

3. The bond funds expended for conservation, recreation, farmland and water access must be matched with at least \$8,500,000 in public and private contributions. Seventy percent of that amount must be in the form of cash or other tangible assets, including the value of land and real property interest acquired by or contributed to cooperating entities when property interests have a direct relationship to the property proposed for protection, as determined by the Land for Maine's Future Board. The remaining 30% may be matching contributions and may include the value of project-related, in-kind contributions of goods and services to and by cooperating entities as defined in Title 5, section 6201, subsection 2.

4. Of the bond proceeds allocated to the Land for Maine's Future Board, \$1,700,000 must be made available to acquire public access to water in accordance with Title 5, section 6203-A.

5. Of the bond proceeds allocated to the Land for Maine's Future Board, \$1,700,000 must be made available to protect farmland in accordance with Title 5, section 6207.

6. Of the bond proceeds allocated to the Land for Maine's Future Board, \$3,000,000 must be made available to protect working waterfront properties in accordance with Public Law 2005, chapter 462, Part B, section 6.

7. To the extent the purposes are consistent with the disbursement provisions in this Part, 100% of the bond proceeds may be considered as state match for any federal funding to be made available to the State.

Sec. E-6. Allocations from General Fund bond issue. The proceeds of the sale of the bonds authorized under this Part must be expended as designated in the following schedule.

(note: LMF portion only)

EXECUTIVE DEPARTMENT

State Planning Office

Land for Maine's Future Board

Provides funds in order to leverage \$17,000,000
\$8,500,000 in other funds to be used for the acquisition of land and interest in land for conservation; water access, which must receive \$1,700,000; outdoor recreation; wildlife and fish habitat; and farmland preservation, which must receive \$1,700,000.

Provides funds to be used for working waterfront preservation in order to leverage \$3,000,000
\$3,000,000 in other funds.

Sec. E-7. Contingent upon ratification of bond issue. Sections 1 to 6 do not become effective unless the people of the State ratify the issuance of the bonds as set forth in this Part.

Sec. E-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 expended within 10 years after the date of the sale of the bonds lapse to General Fund debt service.

Sec. E-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 Part, 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. E-10. Referendum for ratification; submission at election; form of question; effective date. This Part must be submitted to the legal voters of the State at a statewide election held in the month of November following the 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 statewide election, to vote on the acceptance or rejection of this Part by voting on the following question:

"Do you favor a \$35,500,000 bond issue to invest in land conservation, water access, wildlife habitat, outdoor recreation opportunities, including hunting and fishing, farmland and working waterfront and to invest in state parks, historic sites and riverfront, community and farm infrastructure to be matched by at least \$21,875,000 in private and public contributions?"

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. If a majority of the legal votes are cast in favor of this Part, the Governor shall proclaim the result without delay and this Part 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 Part necessary to carry out the purposes of this referendum.

2005 Bond Issue – Working Waterfront Access Pilot Protection Program

In the 2005, the Legislature enacted and the voters approved a “Working Waterfront Access Pilot Protection Program” as part of the LMF bond in that year. The language below was incorporated by reference in the 2007 bond to continue this effort and it continues to serve as the basis of the program.

Public Law 2005, chapter 462 Part B sec B-6 (selection)

Sec. B-6. Maine working waterfront protection pilot program.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Board" means the Land for Maine's Future Board.
- B. "Commercial fisheries business" means any enterprise directly or indirectly concerned with the commercial harvest of wild or aquacultured fish or shellfish. Commercial fisheries businesses include without limitation commercial fishermen, aquaculturists, individuals and businesses providing direct services to commercial fishermen and aquaculturists, fishermen's cooperatives and municipal and private piers and wharves operated to provide waterfront access to commercial fishermen and aquaculturists.
- C. "Commissioner" means the Commissioner of Marine Resources.
- D. "Department" means the Department of Marine Resources.
- E. "Pilot program" means the Maine Working Waterfront Access Pilot Program.

2. Pilot program established; administration. The Maine Working Waterfront Access Pilot Program is established to provide protection to strategically significant working waterfront properties whose continued availability to commercial fisheries businesses is essential to the long-term future of this economic sector. The department shall administer the pilot program either directly or by contract with a suitable organization.

3. Review panel. The department shall organize a review panel to advise the commissioner in the operation of the pilot program, including without limitation evaluating and recommending to the department applicants for participation in the pilot program.

4. Selection criteria. The department shall develop selection criteria with which to evaluate applications for investment in protected working waterfront properties. The selection criteria must include, without limitation:

- A. The economic significance of the property to the commercial fisheries industry in the immediate vicinity and in the State as a whole;
- B. The availability of alternative working waterfront properties in the same vicinity;
- C. The degree of community support for the proposed investment;
- D. The level of threat of conversion to uses incompatible with commercial fisheries businesses; and
- E. The utility of the proposed protected property for commercial fisheries business uses in terms of its natural characteristics and developed infrastructure.

5. Interests acquired; permanence. The board may acquire real estate interests in accordance with this section directly from willing property owners and may make acquisition grants to local governments, to organizations qualified to hold conservation easements under the Maine Revised Statutes, Title 33, chapter 7, subchapter 8-A and to organizations determined by the board to be capable of holding other less-than-fee interests that are designed to protect access to working waterfront properties. Grants made pursuant to this section are for the purpose of acquiring real property in both fee and less-than-fee simple interest, including, but not limited to, conservation easements, access easements and other permanent interests in land. The board shall include as a condition of any acquisition and grant made under this section the requirement that the protected property may not be used, altered or developed in a manner that precludes its use by commercial fisheries businesses. As an additional condition, the board must retain a permanent right of first refusal on any property acquired in fee or protected by conservation easement or other less-than-fee interests. Exercise of the right of first refusal must be at a price determined by an independent professional appraiser based on the value of the property to a commercial fisheries business at the time of exercise of the right. The board may assign this right to a commercial fisheries business or to a local government if, in the board's judgment, such an assignment is consistent with the purposes of this section. To the extent permissible by law, if the board determines that the public purposes of a grant made under this section are no longer served, the board in its sole discretion may terminate a grant agreement made under this section conditional on repayment of the original grant amount or an amount equal to that proportion of the then-current value of the protected real estate that represents that the ratio of the original grant amount to the original fee interest value at the time of the grant. Any funds recovered under this subsection may be expended only for the purposes of this section.

6. Matching funds. For each grant made under this section, the board shall require that the grant recipient provide matching funds at least equal to the amount of the grant.

7. Interdepartmental coordination. The commissioner may request technical assistance from the Executive Department, State Planning Office and the Department of Transportation in the development and implementation of the pilot program.

8. Rulemaking. The commissioner may adopt rules necessary for the implementation and administration of the pilot program. Rules adopted under this subsection are routine technical rules under the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.