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**STATE OF MAINE  
120TH LEGISLATURE  
FIRST REGULAR SESSION**

**Final Report  
of the**

**JOINT STUDY COMMITTEE TO STUDY  
GROWTH MANAGEMENT**

**December 2001**

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## TABLE OF CONTENTS

	Page
<b>Executive Summary .....</b>	<b>i</b>
<b>I. Introduction.....</b>	<b>1</b>
<b>II. Background Information and Overview of Issues.....</b>	<b>1</b>
<b>III. Establishment of Priorities for the 120<sup>th</sup> Legislature, Second Regular Session .....</b>	<b>5</b>
<b>IV. Findings and Recommendations.....</b>	<b>6</b>

### Appendices

- A. Authorizing Joint Order**
- B. Membership list, Joint Study Committee to Study Growth Management**
- C. Meeting Summaries**
- D. Summary of smart growth initiatives enacted by the 119<sup>th</sup> Legislature**
- E. Summary of growth management measures enacted by the 120<sup>th</sup> Legislature, First Regular Session**
- F. Draft legislation implementing the recommendations of the Committee**



## EXECUTIVE SUMMARY

The Joint Study Committee to Study Growth Management was established in the First Regular Session of the 120<sup>th</sup> Legislature by Joint Order H.P. 1330 and Senate Amendment A (S-371) to H.P. 1330. The Committee was co-chaired by Senator Lynn Bromley and Representative Ted Koffman and was composed of 9 members of the Legislature. The Committee was charged with studying the issues related to sprawl and growth management in Maine.

The Committee convened in October of 2001 to begin considering ways to improve the State's laws that address the issues of planning for growth in Maine. The Committee took testimony from agencies and groups involved with planning for growth in Maine, reviewed 4 bills that H.P. 1330 identified for study, reviewed agency proposals relating to land use policy, transportation policy and affordable housing policy and received a presentation on transferable development rights.

The Committee identified the following 4 priority issues relating to planning for growth for the 120<sup>th</sup> Legislature, Second Regular Session: 1. establishing an ongoing advisory committee; 2. encouraging regionalism; 3. funding the Municipal Investment Trust Fund; and 4. not discouraging affordable housing.

At its last meeting, the Committee made the following recommendations:

- 1. Recommendation:** In order for the Legislature to meet the challenges of community preservation with consistency and flexibility, the Committee recommends that the Legislature establish the Community Preservation Advisory Committee. The advisory committee should be directed to review and make recommendations on: emerging policy concerns or on adjustments to existing programs related to community preservation; the State's fiscal, transportation, education funding, school-siting and land use policies that impact service center communities, rural lands and development sprawl; tax policy as it affects land use decisions; the role of state office buildings in the continued viability of downtown service centers within the State and the impact of growth-related capital investments and location decisions by the State; the coordination of state and local urban transportation planning and the streamlining of local and state land use rules and regulations to permit and encourage efficient neighborhood and economic development in growth areas.
- 2. Recommendation:** The Committee recommends that the Legislature amend 30-A MRSA, chapter 187 (commonly referred to as the Growth Management Act) to clarify that towns can work together to plan for growth. The Legislature should amend the law by replacing the term "municipality" with the terms "multimunicipal region" and "planning district".

3. **Recommendation:** The Committee recommends that the Legislature authorize a general fund bond issue in the amount of \$8,000,000 to provide revolving low-interest loans from the Municipal Investment Trust Fund to municipalities for the planning and development of village and downtown infrastructure improvements.
- 4-A. **Recommendation:** The Committee recommends that the Legislature amend the definition of affordable housing in the State law that addresses planning for growth and development.
- 4-B. **Recommendation:** The Committee recommends that the Legislature establish a State Affordable Neighborhood Development Review Board and direct affordable housing development in municipalities where affordable housing is a particular challenge. The Review Board membership should consist of representatives of the Maine State Housing Authority, the State Planning Office, the Department of Environmental Protection, a landscape architect, a town or city planner and an elected municipal official. The Review Board should be responsible for certifying plans that meet the criteria and design guidelines for an affordable neighborhood development, as adopted by the State Planning Office and approved by the Legislature. The regulation of affordable neighborhood developments should only apply in municipalities that are part of a labor market area and in which the median income for the labor market area is not sufficient to purchase a median priced home. In those affected municipalities, requirements for lot size, dwelling units per acre and dimensional standards for single-family house lots and multifamily lots within a precertified affordable neighborhood development would be regulated.
- 5-A. **Recommendation:** The Committee recommends that the Legislature amend the subdivision review criteria for traffic to require a determination that a proposed subdivision will not reduce the speed of a mobility arterial.
- 5-B. **Recommendation:** The Committee recommends that the State Planning Office be directed to work with the Department of Transportation to incorporate Access Management, the Sensible Transportation Policy Act, and other relevant transportation laws, rules and policies into the rule for local comprehensive planning.
- 5-C. **Recommendation:** The Committee recommends that the Department of Transportation be directed to review implementation of the Access Management Rules to determine whether the rules lead to sprawl. By January 5, 2003, the department should submit its findings to the Community Preservation Advisory Committee (or to the Joint Standing Committee on Natural Resources and the Joint Standing Committee on Transportation if the Community Preservation Advisory Committee is not established).
6. **Recommendation:** The Committee recommends that the Legislature clarify the use of municipal rate of growth ordinances. The Legislature should enact legislation that addresses temporary rate of growth ordinances, permanent rate of growth ordinances in

designated growth areas and permanent rate of growth ordinances in designated rural areas. The legislation should provide that:

- A temporary growth rate ordinance could be enacted only for a definite term, not to exceed 2 years, and to slow development while a community works toward solving the problems necessitating the growth rate ordinance. A municipality should not be able to enact a temporary growth rate ordinance more than once during any 10-year period.
- A permanent growth rate ordinance should be allowed inside a designated growth area only if the town has adopted a comprehensive plan and the number of building permits issued annually under the ordinance is determined according to a formula specified in rules adopted by the State Planning Office and approved by the Legislature.
- A permanent growth rate ordinance should be allowed inside a designated rural area only if the ordinance is recommended in the municipality's comprehensive plan as a mechanism for guiding growth and the comprehensive plan lays out policies and strategies for accommodating most of the community's future growth in designated growth areas.

7. **Recommendation:** The Committee recommends that the Legislature establish a pilot project program to provide incentives for multimunicipal development. The Legislature should direct the Land and Water Resources Council to set up a pilot project program to provide incentives for towns to work together on development issues by giving them the opportunity to share costs and benefits of development. Towns that are certified by the Land and Water Resources Council as meeting the requirements of the pilot program should be eligible to receive priority in state transportation funding, land use planning funding, Municipal Investment Trust Fund grants and CDBG grants
8. **Recommendation:** The Committee recommends that the Legislature authorize the transfer of development rights.
- 9-A. **Recommendation:** The Committee recommends that the Legislature amend the site selection criteria for State facilities. Site selection criteria for State facilities should require on-site parking only if it is necessary to meet critical program needs and to ensure reasonable access for agency clients and persons with disabilities. Employee parking that is within reasonable and walkable proximity should be permitted to be located off-site.
- 9-B. **Recommendation:** The Committee recommends that the Bureau of General Services be directed to provide an annual report to the Community Preservation Advisory Committee (or to the Joint Standing Committee on Natural Resources and the Joint Standing Committee on State and Local Government if the Community Preservation Advisory Committee is not established) that documents all state facility siting decisions made in the prior year, including the agency involved, the number of employees, the



average number of client visits per month, square feet of space, location of building in relation to any historic downtown district, and parking availability to employees. The first report should be provided by January 5, 2003.

- 10. Recommendation:** The Committee recommends that the Legislature amend the law on State capital investments to include all quasi-public facilities that receive State or State passed-through Federal funds.
- 11. Recommendation:** The Committee recommends that the Legislature support the development of a statewide Geographic Information System.

## **I. INTRODUCTION**

### **A. Establishment and Charge to the Committee**

The Joint Study Committee to Study Growth Management was established in the First Regular Session of the 120<sup>th</sup> Legislature by Joint Order H.P. 1330 and Senate Amendment A (S-371) to H.P. 1330. A copy of the Joint Order and Amendment A are attached as Appendix A.

The Committee was composed of 9 members: 3 members from the Senate and 6 members from the House of Representatives. Senator Lynn Bromley served as the Senate chair and Representative Ted Koffman served as the House chair. A list of Committee members is included as Appendix B.

The charge to the Committee was specified in the Joint Order. The duty of the Committee was to study issues related to sprawl and growth management in Maine, including, but not limited to, the issues addressed in L.D. 1478, L.D. 1643, L.D. 1693 and L.D. 1444.

### **B. Meetings**

The Committee was convened on October 2, 2001. In addition to this first meeting, the Committee held 3 other meetings. These meetings were held on October 23<sup>rd</sup>, November 8<sup>th</sup> and November 29<sup>th</sup>. Committee meeting summaries are included as Appendix C.

### **C. Report and Legislation**

Joint Order H.P. 1330 established December 5, 2001 as the date by which the Committee was to complete its work and submit its report to the Legislature. However, the Committee requested and received authorization from the Legislative Council to extend the reporting date to December 19, 2001. Joint Order H.P. 1330 authorized the Committee to introduce legislation related to its report to the Legislature at the time of submission of its report.

## **II. BACKGROUND INFORMATION AND OVERVIEW OF ISSUES**

### **A. Prior Legislative Action**

The 119<sup>th</sup> Legislature enacted several laws dealing with land use, transportation and tax issues. The land use initiatives included state investment policy, downtowns, service centers and rural lands. The transportation initiatives enacted by the 119<sup>th</sup> Legislature included access management, planning, transit funding and innovative transportation projects. Tax issues that were considered by the 119<sup>th</sup> Legislature included tax policies that tend to push rural lands into development and to place unintended burdens on service center communities. A summary of the initiatives enacted in the 119<sup>th</sup> Legislature is attached as Appendix D.

The 120<sup>th</sup> Legislature, in its First Regular Session, also enacted several measures that addressed planning for growth and development. The laws enacted by the 120<sup>th</sup> Legislature included measures dealing with impact fees, building rehabilitation, statewide GIS, the subdivision law, comprehensive plans and ordinances, school siting and highway access. A summary of the measures enacted by the 120<sup>th</sup> Legislature, First Regular Session is attached as Appendix E.

## **B. Testimony to the Committee**

The Committee acknowledged early in its planning process that a great deal of work has already been done by numerous agencies and associations to identify issues relating to planning for growth and development in Maine that may need to be addressed by the Legislature. Therefore, the Committee sought and received information on concerns and observations from participants involved with these issues in Maine.

### **State Planning Office**

Beth Della Valle provided the Committee with several actions the Committee might consider taking, including:

- Equipping municipalities with additional tools to stimulate growth in designated growth areas by supporting LD 1643, An Act to Provide Criteria for the Municipal Use of Rate of Growth Ordinances and amending the statute governing impact fees (Title 30-A, section 4354) to allow municipalities to assess an impact fee outside of growth areas;
- Linking smart growth concepts with affordable housing (one component of LD 1478);
- Encouraging growth and redevelopment in downtowns by supporting service center communities and by developing and endorsing a model building rehabilitation code; and
- Closing some of the loopholes in PL 1999, ch. 775 regarding the location of nonprofit organizations that receive State funds.

### **Maine Municipal Association**

Kirsten Hebert explained that when dealing with towns and growth, one size does not fit all. For some slower growing communities and communities faced with decline, restricted growth does not make sense. She also explained that the State's growth management goals are too broad for most towns to work with. The 10 goals listed in the current law simply encourage or promote certain outcomes. It is then up to the municipalities to implement unpopular restrictions which limit or encourage development. Additionally, municipalities do not have the resources to implement the goals. The modest planning grants do not begin to cover the costs of creating effective growth areas or the fulfillment of the 10 goals.

### **Maine State Chamber of Commerce**

Chris Hall explained that the State should emphasize a regional approach to planning for growth in Maine. Land use, transportation, and taxation planning cannot be combined effectively on a municipal level. Also, some towns will have difficulties integrating their land use plans with the Department of Transportation's Access Management program. He also stated the Chamber's support for the Legislature further exploring the option of creating a joint standing committee having jurisdiction over issues relating to planning for growth and development.

### **Maine Department of Transportation**

Kathy Fuller provided the Committee with an update on MDOT's Access Management Program and how it promotes safety and speed preservation. Additional educational outreach to municipalities is currently being undertaken. The department is considering changes to the Traffic Movement Permit regulations and is developing planning guidelines for municipalities.

### **Maine State Housing Authority**

Peter Merrill urged the Committee that care should be taken that policies relating to growth and development do not preclude opportunities for affordable housing. He provided the Committee with a proposal to change the definition of affordable housing in the growth management law. Mr. Merrill acknowledged that regional planning is an important focus but is difficult to achieve. He also commented that legislators should acknowledge that "NIMBYism" is a problem that makes the development of affordable housing difficult.

### **Natural Resources Council of Maine**

Tim Glidden, on behalf of the Natural Resources Council of Maine, commented that the Legislature should encourage regional planning by giving preferential access to State investment funds. An approach needs to be developed that encourages towns to share in the costs and benefits of development. A pilot project could be implemented that connects land use, taxation, and transportation planning.

### **Maine Audubon Society**

Jenn Burns commented that the problem of liquidation harvesting, an issue the Joint Standing Committee on Agriculture, Conservation and Forestry is studying, is a part of the sprawl issue.

### **Maine Association of Realtors**

Ed Suslovic addressed the Committee on behalf of the Maine Association of Realtors. He explained that the Legislature should propose one statewide standard for local subdivision ordinances. He acknowledged that regional planning is an important focus but difficult to achieve. He also observed that “one size fits all” is not the case when 2/3 of the state is coping with “decline management”. Finally, efforts aimed at planning for growth and development cannot be effectively dealt with sporadically through various study committees. The Legislature should consider the possibility of a joint standing committee that deals with these issues.

### **Service Center Community Coalition**

Ed Barrett, Bangor City Manager addressed the Committee on behalf of service center communities. Service center communities have special issues related to tax rates, land and infrastructure costs, and affordable housing. He urged the Legislature to look at the overall tax rate in Maine. Building rehabilitation in service center communities should be emphasized through TIFs and loan programs and regional planning should be emphasized.

### **C. Presentation by the National Conference of State Legislatures on transferable development rights (TDRs) and tax-base revenue sharing**

Larry Morandi, Director of the Environment, Energy & Transportation Program at the National Conference of State Legislatures, provided the Committee with general information and examples of transferable development rights. In order for TDRs to be successful, government must be willing to preserve land and work regionally. There must also be a market for the development rights. If there is not a strong market for development rights, a government may purchase the development right. This is known as a PDR – purchasable development right. A government entity may choose to create a bank to fund the purchase of these development rights. Pennsylvania passed legislation to allow municipalities to work together on TDRs. Maryland has a State fund for municipalities to use for the purchase of development rights. Many states have enabling legislation for TDRs but fewer have more detailed implementing legislation.

The Committee discussed the possibility of Land for Maine’s Future functioning as a TDR bank. The Committee discussed some of the challenges in Maine for implementing TDRs including difficulties on the receiving side of a TDR due to costs of development pressures and skepticism and suspicion on the sending side (especially among smaller land owners).

Mr. Morandi also addressed the issues of tax-base and revenue sharing. Models for tax-base sharing have not been as successful due to the complicated nature of administration and possible inequities between participating municipalities. Revenue sharing is more flexible and easier to implement.

### **III. ESTABLISHMENT OF PRIORITIES FOR THE 120<sup>TH</sup> LEGISLATURE, SECOND REGULAR SESSION**

#### **A. Ongoing advisory committee**

Throughout the study process, the predominant theme emphasized by the Committee as well as the interested parties was the need to establish an entity that can, on a more consistent basis, confront issues dealing with planning for growth and preserving the character of Maine communities. Although the last few legislative studies on growth management have yielded invaluable legislation and policies, it becomes more difficult for the Legislature to carry this effort forward due to the uncertainty of the study process. Therefore, the Committee established the need for an ongoing Community Preservation Advisory Committee as the Committee's first priority for the Legislature next session. The ongoing advisory committee would allow the Legislature to meet the challenges of planning for the impacts of growth and development in Maine with more consistency, yet it would be structured to allow flexibility and to promote new ideas.

#### **B. Encourage regionalism**

The committee recognizes the interdependence of all local land use decisions. When local jurisdictions compete against each other the common good of the region may suffer. When municipalities work together they may be able to, among other things, avoid redundant infrastructure investments and coordinate initiatives to take account of common regional needs. Maine's law that deals with municipal planning for growth does not explicitly encourage towns to cooperatively plan their growth. Therefore, the Committee established the need to encourage towns to plan on a regional basis as the Committee's second priority for the Legislature next session.

#### **C. Municipal Investment Trust Fund**

In 1994, the Legislature created, but did not fund, the Municipal Investment Trust Fund (Title 30-A MRSA sec. 5953-D). The fund was designed to provide grants and loans to eligible municipalities or groups of municipalities to acquire, design, plan, construct, enlarge, repair, protect or improve public infrastructure. The fund was intended to serve as an incentive for municipalities to undertake land use and capital improvement planning consistent with the ten state goals that provide direction to state and municipal agencies affecting natural resource management, land use and development. Since 1994, individual legislators and several study committees have proposed financing the fund.

In the First Regular Session of the 120<sup>th</sup> Legislature, a \$300,000 bond issue for grants and loans to municipalities for public infrastructure through the Municipal Investment Trust Fund was passed by the Legislature and approved by voters in the November, 2001 election.

To encourage municipalities to undertake land use and capital improvement planning that is consistent with State goals, the Committee established funding of the Municipal Investment Trust Fund as the Committee's third priority for the next legislative session.

#### **D. Affordable Housing**

Affordable housing is an important component of an effective strategy for planning for growth and development, yet if not implemented with care, some tools that are used for planning for growth may actually discourage the development of affordable housing.

- Restrictions on growth without careful planning can drive affordable housing out of a community and create additional housing development pressures in neighboring towns.
- Overly restrictive and exclusionary zoning can create insurmountable financial obstacles for affordable housing development.
- Unpredictable and inconsistent land use planning adds time and money to the development process and causes housing costs to escalate.

Because of its vital role in any State policy on planning for growth and community preservation, the Committee established the affordable housing proposal in this report as the Committee's fourth priority for the Legislature next session.

### **IV. FINDINGS AND RECOMMENDATIONS**

- 1. Finding:** The Committee finds that previous short-term legislative studies, while resulting in valuable legislation and policy direction, have not been effective in dealing with the wide range of issues and the long-term impacts that may result from efforts to plan for growth in the State. Therefore, the Committee finds that the formation of a long-term, ongoing advisory committee is necessary. The Committee also finds that the term "growth management" does not properly define the subject area that the advisory committee should review. Instead, the Committee believes the advisory committee's work should be geared toward "community preservation" - preserving the character of communities in Maine, while planning for growth and development. A long-term, ongoing advisory committee would allow the Legislature to meet the challenges of community preservation with consistency and flexibility.

**Recommendation:** In order for the Legislature to meet the challenges of community preservation with consistency and flexibility, the Committee recommends that the Legislature establish the Community Preservation Advisory Committee. The advisory committee should be directed to review and make recommendations on: emerging policy concerns or on adjustments to existing programs related to community preservation; the State's fiscal, transportation, education funding, school-siting and land use policies that impact service center communities, rural lands and development sprawl; tax policy as it affects land use decisions; the role of state office buildings in the continued viability of downtown service centers within the State and the impact of

growth-related capital investments and location decisions by the State; the coordination of state and local urban transportation planning and the streamlining of local and state land use rules and regulations to permit and encourage efficient neighborhood and economic development in growth areas. (Draft legislation that implements this recommendation is included as Appendix F-1.)

2. **Finding:** The Committee finds that coordinated land use, transportation, and fiscal planning are best achieved when towns within a region work together on those issues.

**Recommendation:** The Committee recommends that the Legislature amend 30-A MRSA, chapter 187 (commonly referred to as the Growth Management Act) to clarify that towns can work together to plan for growth. The Legislature should amend the law by replacing the term “municipality” with the terms “multimunicipal region” and “planning district”. (Draft legislation that implements this recommendation is included as Appendix F-2.)

3. **Finding:** The Committee finds that the State should provide municipalities with financial incentives to develop public infrastructure in downtown and village areas to increase the vitality of these areas.

**Recommendation:** The Committee recommends that the Legislature authorize a general fund bond issue in the amount of \$8,000,000 to provide revolving low-interest loans from the Municipal Investment Trust Fund to municipalities for the planning and development of village and downtown infrastructure improvements. (Draft legislation that implements this recommendation is included as Appendix F-3.)

4. **Finding:** The Committee finds that some tools that are used to plan for growth, if not implemented with care, discourage the development of affordable housing. State law should provide guidance for housing development in municipalities within which affordable housing is a particular challenge.

**A. Recommendation:** The Committee recommends that the Legislature amend the definition of affordable housing in the State law that addresses planning for growth and development. (Draft legislation that implements this recommendation is included as Appendix F-4.)

**B. Recommendation:** The Committee recommends that the Legislature establish a State Affordable Neighborhood Development Review Board and direct affordable housing development in municipalities where affordable housing is a particular challenge. The Review Board membership should consist of representatives of the Maine State Housing Authority, the State Planning Office, the Department of Environmental Protection, a landscape architect, a town or city planner and an elected municipal official. The Review Board should be responsible for certifying plans that meet the criteria and design guidelines for an affordable neighborhood development, as adopted by the State Planning Office and approved by the Legislature. The regulation



of affordable neighborhood developments should only apply in municipalities that are part of a labor market area and in which the median income for the labor market area is not sufficient to purchase a median priced home. In those affected municipalities, requirements for lot size, dwelling units per acre and dimensional standards for single-family house lots and multifamily lots within a precertified affordable neighborhood development would be regulated. (Draft legislation that implements this recommendation is included as Appendix F-4.)

- 5. Finding:** The Committee finds that land use planning and transportation planning are often in conflict or inconsistent. The Department of Transportation's Access Management Program and the Sensible Transportation Policy Act are major statewide transportation planning policies designed to promote safety, speed preservation, and balanced long-range planning. While recognizing that the Access Management Rules may unintentionally lead to sprawl, Maine's land use and comprehensive planning laws and policies should be coordinated with these transportation policies.

**A. Recommendation:** The Committee recommends that the Legislature amend the subdivision review criteria for traffic to require a determination that a proposed subdivision will not reduce the speed of a mobility arterial. (Draft legislation that implements this recommendation is included as Appendix F-5.)

**B. Recommendation:** The Committee recommends that the State Planning Office be directed to work with the Department of Transportation to incorporate Access Management, the Sensible Transportation Policy Act, and other relevant transportation laws, rules and policies into the rule for local comprehensive planning.

**C. Recommendation:** The Committee recommends that the Department of Transportation be directed to review implementation of the Access Management Rules to determine whether the rules lead to sprawl. By January 5, 2003, the department should submit its findings to the Community Preservation Advisory Committee (or to the Joint Standing Committee on Natural Resources and the Joint Standing Committee on Transportation if the Community Preservation Advisory Committee is not established). (Draft legislation that implements this recommendation is included as Appendix F-1.)

- 6. Finding:** The Committee finds there is no State guidance regarding the parameters within which a municipality may adopt a rate of growth ordinance.

**Recommendation:** The Committee recommends that the Legislature clarify the use of municipal rate of growth ordinances. The Legislature should enact legislation that addresses temporary rate of growth ordinances, permanent rate of growth ordinances in designated growth areas and permanent rate of growth ordinances in designated rural areas. The legislation should provide that:

- A temporary growth rate ordinance could be enacted only for a definite term, not to exceed 2 years, and to slow development while a community works

toward solving the problems necessitating the growth rate ordinance. A municipality should not be able to enact a temporary growth rate ordinance more than once during any 10-year period.

- A permanent growth rate ordinance should be allowed inside a designated growth area only if the town has adopted a comprehensive plan and the number of building permits issued annually under the ordinance is determined according to a formula specified in rules adopted by the State Planning Office and approved by the Legislature.
- A permanent growth rate ordinance should be allowed inside a designated rural area only if the ordinance is recommended in the municipality's comprehensive plan as a mechanism for guiding growth and the comprehensive plan lays out policies and strategies for accommodating most of the community's future growth in designated growth areas.

(Draft legislation that implements this recommendation is included as Appendix F-6.)

7. **Finding:** The Committee finds there is a lack of incentives for municipalities to participate in innovative multimunicipal development projects.

**Recommendation:** The Committee recommends that the Legislature establish a pilot project program to provide incentives for multimunicipal development. The Legislature should direct the Land and Water Resources Council to set up a pilot project program to provide incentives for towns to work together on development issues by giving them the opportunity to share costs and benefits of development. Towns that are certified by the Land and Water Resources Council as meeting the requirements of the pilot program should be eligible to receive priority in state transportation funding, land use planning funding, Municipal Investment Trust Fund grants and CDBG grants. (Draft legislation that implements this recommendation is included as Appendix F-7.)

8. **Finding:** The Committee finds that State law does not explicitly enable municipalities to transfer development rights.

**Recommendation:** The Committee recommends that the Legislature authorize the transfer of development rights. (Draft legislation that implements this recommendation is included as Appendix F-8.)

9. **Finding:** The Committee finds that Maine's law on State capital investments directs State growth-related capital investments into areas such as downtowns and designated growth areas. Some municipalities have raised concerns that leases have been offered in these areas to State agencies but have been rejected due to parking requirements of the agencies.

**A. Recommendation:** The Committee recommends that the Legislature amend the site selection criteria for State facilities. Site selection criteria for State facilities should require on-site parking only if it is necessary to meet critical program needs and

to ensure reasonable access for agency clients and persons with disabilities. Employee parking that is within reasonable and walkable proximity should be permitted to be located off-site. (Draft legislation that implements this recommendation is included as Appendix F-9.)

**B. Recommendation:** The Committee recommends that the Bureau of General Services be directed to provide an annual report to the Community Preservation Advisory Committee (or to the Joint Standing Committee on Natural Resources and the Joint Standing Committee on State and Local Government if the Community Preservation Advisory Committee is not established) that documents all state facility siting decisions made in the prior year, including the agency involved, the number of employees, the average number of client visits per month, square feet of space, location of building in relation to any historic downtown district, and parking availability to employees. The first report should be provided by January 5, 2003. (Draft legislation that implements this recommendation is included as Appendix F-1).

- 10. Finding:** The Committee finds that Maine’s law on State capital investments does not apply to all facilities, such as hospitals and other quasi-public facilities, that receive State or State passed-through Federal funds.

**Recommendation:** The Committee recommends that the Legislature amend the law on State capital investments to include all quasi-public facilities that receive State or State passed-through Federal funds. (Draft legislation that implements this recommendation is included as Appendix F-10.)

- 11. Finding:** The Committee finds that a statewide Geographic Information System (GIS) would provide municipalities and the State with a vital planning and economic development tool and would provide Maine’s citizens with more access to the planning process.

**Recommendation:** The Committee recommends that the Legislature support the development of a statewide Geographic Information System.

**APPENDIX A**

**Authorizing Joint Order**

## H.P. 1330

### JOINT STUDY ORDER ESTABLISHING THE JOINT STUDY COMMITTEE TO STUDY GROWTH MANAGEMENT

**ORDERED**, the Senate concurring, that the Joint Study Committee to Study Growth Management is established as follows.

**1. Committee established.** The Joint Study Committee to Study Growth Management, referred to in this order as the "committee," is established.

**2. Membership.** The committee consists of 9 members appointed as follows. The President of the Senate shall appoint 3 members from the Senate and the Speaker of the House shall appoint 6 members from the House of Representatives. Of these members, at least 3 must be members of the Joint Standing Committee on Natural Resources and the remaining members must be members of the Joint Standing Committee on Transportation, the Joint Standing Committee on Agriculture, Conservation and Forestry, the Joint Standing Committee on Taxation, the Joint Standing Committee on State and Local Government, the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Inland Fisheries and Wildlife.

**3. Committee chairs.** The first named Senator is the Senate chair of the committee and the first named member of the House is the House chair of the committee.

**4. Appointments; convening of committee; number of meetings.** All appointments must be made no later than 30 days following the effective date of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When the appointment of all members has been completed, the chairs of the committee shall call and convene the first meeting of the committee, which may be no later than August 1, 2001. The committee may not meet more than 3 times.

**5. Duties.** The committee shall study issues related to sprawl and growth management in Maine, including, but not limited to, the issues addressed in L.D. 1478, "An Act to Amend Maine's Growth Management Law and Related Laws"; L.D. 1643, "An Act to Provide Criteria for the Municipal Use of Rate of Growth Ordinances"; L.D. 1693, "An Act to Amend the Comprehensive Planning and Land Use Regulation Laws"; and L.D. 1444, "An Act to Enhance Local Accountability."

**6. Staff assistance.** Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the committee.

**7. Compensation.** Members of the committee are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses for attendance at authorized meetings of the committee.

**8. Report.** The committee shall submit its report that includes its findings and recommendations, including suggested legislation, to the Second Regular Session of the 120th Legislature no later than December 5, 2001. The committee is authorized to

introduce legislation related to its report to the Second Regular Session of the 120th Legislature at the time of submission of its report.

**9. Extension.** If the committee requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension. Upon submission of its required report, the committee terminates.

**10. Committee budget.** The chairs of the committee, with assistance from the committee staff, shall administer the committee's budget of \$3,635. Within 10 days after its first meeting, the committee shall present a work plan to the Legislative Council for its approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget. Upon request from the committee, the Executive Director of the Legislative Council or the executive director's designee shall provide the committee chairs and staff with a status report on the committee's budget, expenditures incurred and paid and available funds.

**Passed by the Senate June 20, 2001 and the House of Representatives  
June 20, 2001.**

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DATE: June 19, 2001

(Filing No. S-371)

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE  
SENATE  
120TH LEGISLATURE  
FIRST REGULAR SESSION

SENATE AMENDMENT "A" to H.P. 1330, "Joint Study Order to Establish a Committee to Study Growth Management"

Amend the order by striking out all of subsection 2 and inserting in its place the following:

'2. **Membership.** The committee consists of 9 members appointed as follows. The President of the Senate shall appoint 3 members from the Senate and the Speaker of the House shall appoint 6 members from the House of Representatives. Of these members, at least 3 must be members of the Joint Standing Committee on Natural Resources and the remaining members must be members of the Joint Standing Committee on Transportation, the Joint Standing Committee on Agriculture, Conservation and Forestry, the Joint Standing Committee on Taxation, the Joint Standing Committee on State and Local Government, the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Inland Fisheries and Wildlife.'

Further amend the order by striking out all of subsection 4 and inserting in its place the following:

'4. **Appointments; convening of committee; number of meetings.** All appointments must be made no later than 30 days following the effective date of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When the appointment of all members has been completed, the chairs of

SENATE AMENDMENT "A" to H.P. 1330

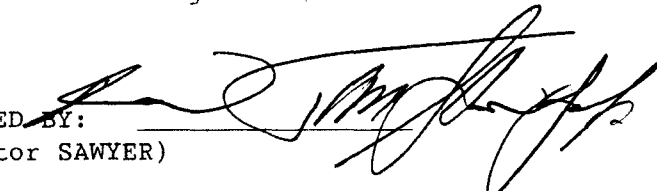
the committee shall call and convene the first meeting of the committee, which may be no later than August 1, 2001. The committee may not meet more than 3 times.'

Further amend the order by striking out all of subsection 10 and inserting in its place the following:

**10. Committee budget.** The chairs of the committee, with assistance from the committee staff, shall administer the committee's budget of \$3,635. Within 10 days after its first meeting, the committee shall present a work plan to the Legislative Council for its approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget. Upon request from the committee, the Executive Director of the Legislative Council or the executive director's designee shall provide the committee chairs and staff with a status report on the committee's budget, expenditures incurred and paid and available funds.'

#### SUMMARY

This amendment reduces the cost of the joint order by: reducing the membership of the Joint Study Committee to Study Growth Management from 13 to 9 members; restricting the number of meetings of the committee to no more than 3; and specifying that the committee's budget is \$3,635.

SPONSORED BY:   
(Senator SAWYER)

COUNTY: Penobscot



**APPENDIX B**

**Membership list, Joint Study Committee to Study Growth Management**

**JOINT STUDY COMMITTEE TO STUDY GROWTH MANAGEMENT**

**Joint Order, H.P. 1330**

**Appointment(s) by the President**

Sen. Lynn Bromley                      **Chair**  
102 Mitchell Road  
South Portland, ME. 04106  
(207)-799-2065

Sen. Christine R. Savage  
504 Barrett Hill Road  
Union, ME 04862  
(207)-785-4632

Sen. Sharon Anglin Treat  
28 Kingsbury Street  
Gardiner, ME 04345  
(207)-582-6702

**Appointment(s) by the Speaker**

Rep. Theodore Koffman                      **Chair**  
8 Mill Brook Road  
Bar Harbor, ME 04609

Rep. Scott W. Cowger  
RR 1 Box 1145  
Hallowell, ME 04347  
(207)-622-2708

Rep. Anita P. Haskell  
92 Gould's Ridge Road  
Greenbush, ME. 04418  
(207)-827-7296

Rep. Boyd P. Marley  
11 Maplewood Street  
Portland, ME. 04103  
(207)-878-3224

Rep. Janet L. McLaughlin  
23 Old Colony Lane  
Cape Elizabeth, ME. 04107  
(207)-799-6190

Rep. David L. Tobin  
58 Main Street  
Windham, ME 04062  
(207)-892-4620

Staff: Todd Jorgenson, OPLA, 287-1670  
Susan Johannesman (OPLA) - 287-1670

**APPENDIX C**

**Meeting Summaries**

**Meeting Summary**  
**Joint Study Committee to Study Growth Management**  
**Tuesday, October 2, 2001**  
**Room 437, State House**

**Members attending:** Sen. Lynn Bromley; Rep. Theodore Koffman; Sen. Sharon Treat; Sen. Christine Savage; Rep. Anita Haskell; Rep. Boyd Marley; Rep. David Tobin; Rep. Scott Cowger.

**Guests:** Beth Della Valle, State Planning Office; Kirsten Hebert, Maine Municipal Association; Chris Hall, Maine State Chamber of Commerce; Kathy Fuller, Department of Transportation; Peter Merrill, MSHA; Tim Glidden, Natural Resources Council of Maine; Jenn Burns, Maine Audubon Society; Ed Suslovic; Maine Association of Realtors; Ed Barrett, Bangor City Manager.

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**Options for Study:**

- Review 4 bills identified in Study Order and make recommendations
- Establish ongoing vehicle to deal with growth management issues

**Legislative History of Growth Management:**

- 118<sup>th</sup> Legislative Task Force
- 119<sup>th</sup> Legislative Task Force

**Suggestions for Committee Consideration**

- Beth Della Valle, State Planning Office:
  - Equip municipalities with additional tools to stimulate growth in designated growth areas by:
    - ✓ Supporting LD 1643 An Act to Provide Criteria for the Municipal Use of Rate of Growth Ordinances
    - ✓ Amending the statute governing impact fees (Title 30-A, section 4354) to allow municipalities to assess an impact fee outside of growth areas
  - Linking smart growth concepts with affordable housing (one component of LD 1478)
  - Encourage growth and redevelopment in downtowns by:
    - ✓ Supporting service center communities
    - ✓ Developing and endorsing a model building rehabilitation code
  - Close some of the loopholes in PL 1999, ch. 776 regarding the location of nonprofit organizations that receive State funds.
- Kirsten Hebert, Maine Municipal Association:
  - One size does not fit all. For some slower growing communities and communities faced with decline, restricted growth does not make sense.

- State's goals are too broad to work with. The 10 goals listed in the current law simply encourage or promote certain outcomes. It is then up to the municipalities to implement unpopular restrictions which limit or encourage development.
- Municipalities do not have the resources to implement growth management goals. The modest planning grants do not begin to cover the costs of creating effective growth areas or the fulfillment of the 10 goals.
- Chris Hall, Maine State Chamber of Commerce:
  - Emphasize regional approach. Land use, transportation, and taxation planning cannot be combined effectively on a municipal level.
  - Some towns will have difficulties integrating their land use plans with the Department of Transportation's Access Management program.
  - Legislature should further explore the option of creating a joint standing committee having jurisdiction over growth management issues.
- Kathy Fuller, Department of Transportation:
  - Access Management program promotes safety and speed preservation.
  - Additional educational outreach to municipalities is currently being undertaken.
  - Department is considering changes to the Traffic Movement Permit regulations.
  - Department is developing planning guidelines for municipalities.
- Peter Merrill, Maine State Housing Authority:
  - Care should be taken that growth management policies do not preclude opportunities for affordable housing.
  - MSHA will propose a change to the definition of affordable housing.
  - Regional planning is an important focus but difficult to achieve.
  - Legislators should acknowledge that "NIMBYism" is a problem that makes the development of affordable housing difficult.
- Tim Glidden, Natural Resources Council of Maine:
  - Concept of outcome-based approach helps resolve the problem of the disconnect between land use, taxation, and transportation planning.
  - Legislature should encourage regional planning by giving preferential access to State investment funds. An approach needs to be developed that encourages towns to share in the costs and benefits of development.
  - A pilot project could be implemented that connects land use, taxation, and transportation planning.
- Jenn Burns, Maine Audubon Society:
  - Problem of liquidation harvesting is a part of the sprawl issue.
- Ed Suslovic, Maine Association of Realtors:
  - Legislature should propose one statewide standard for local subdivision ordinances.
  - Regional planning is an important focus but difficult to achieve.

- One size fits all is not the case when 2/3 of the state is coping with “decline management.”
- Growth management efforts cannot be effectively dealt with sporadically through various study committees. The legislature should consider the possibility of a joint standing committee that deals with growth management issues.
- Ed Barrett, Bangor City Manager:
  - Service center communities have special issues related to tax rates, land and infrastructure costs, and affordable housing.
  - Legislature should look at the overall tax rate in Maine.
  - Rehabilitation in service center communities should be emphasized through TIFs and loan programs.
  - Regional planning should be emphasized.
- Discussion:
  - The committee had questions that elicited more detail on points made above.
- Brainstorming:
  - Core themes:
    - ✓ Regional planning
    - ✓ Avoiding unintended consequences
    - ✓ Fiscal policy
    - ✓ Long-term standing entity for oversight
    - ✓ Pilot demonstration projects
    - ✓ One size fits all paradox
  - Possible committee actions:
    - ✓ Review bills
    - ✓ Review municipal infrastructure trust fund
    - ✓ Consider vocabulary of “sensible growth” or “community preservation”
    - ✓ Consider pilot projects
    - ✓ Identify barriers to smart growth
    - ✓ Review statewide definition of subdivision
    - ✓ Encourage agency rules and guidelines (such as MDOT planning guidelines)
    - ✓ Revisit PL 1999 ch. 776 implementation and compliance
    - ✓ Redefine affordable housing
    - ✓ Review the allocation of benefits and costs (such as TDR options)
    - ✓ “Incent” regionalism to preserve communities
    - ✓ Build support for recommendations through education efforts
- **Next Steps:**
  - Staff will provide matrix analysis of core themes in the four LDs.
  - Agencies will provide model language proposed in this meeting.
  - Staff will provide examples of other long-term standing entities as an alternative to a joint standing committee.

- **Next Meeting:**

- The next meeting will be held from 11 AM to 4 PM on Tuesday, October 23, 2001 in Room 437 of the State House.

*For further information, please contact Susan Johannesman or Todd Jorgensen, Office of Policy and Legal Analysis, at (207) 287-1670 or email at [susan.johannesman@state.me.us](mailto:susan.johannesman@state.me.us) or [todd.jorgensen@state.me.us](mailto:todd.jorgensen@state.me.us)*

**Meeting Summary**  
**Joint Study Committee to Study Growth Management**  
**Tuesday, October 23, 2001**  
**Room 437, State House**

**Members attending:** Sen. Lynn Bromley; Rep. Theodore Koffman; Sen. Sharon Treat; Sen. Christine Savage; Rep. Anita Haskell; Rep. David Tobin; Rep. Scott Cowger, Rep. Boyd Marley; Rep. Janet McLaughlin.

**Guests:** Beth Della Valle, State Planning Office; Peter Merrill, MSHA; Ed Suslovic, Maine Association of Realtors.

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- **Committee Members' Goals for Study:**

- Enhance Municipal Investment Trust Fund
- Establish future direction for growth management issue
- Make recommendations regarding affordable housing
- Establish long-term oversight entity for growth management
- Encourage a regional approach
- Initiate an innovative pilot project
- Educate municipalities

- **Agency Proposals:**

- MDOT
  - ✓ MDOT will work with SPO to revise SPO Chapter 202 Rules for comprehensive planning to include recent changes in transportation policy such as the Sensible Transportation Policy Act and Access Management.
  - ✓ Amend subdivision law in Title 30-A, section 4404 to include recent changes in Access Management.
  - ✓ Increase funding for the Municipal Investment Trust Fund to provide loans to municipalities for downtown infrastructure improvements.
  - ✓ State office building location issue discussed by committee. Some downtowns have offered office space to State agencies only to be rejected because of parking requirements. Bureau of General Services (BGS) will be invited to discuss this problem with the committee.



- SPO
  - ✓ Amend impact fee law in Title 30-A, section 4345 to encourage municipalities to recognize the true cost of development through the use of impact fees outside growth areas.
  - ✓ Amend PL 776 to close a loophole so private and nonprofit entities that use State funds would be included under requirements for growth-related capital investment.
  - ✓ Amend LD 1693 to bring back elements lost in the final version. SPO particularly wants to establish framework for multimunicipal planning efforts and to establish an expiration date for a consistency finding on a comprehensive plan.
  - ✓ Members of the committee raised concerns that some municipalities that are currently working on comprehensive plans will be delayed by current changes being discussed.
- MSHA
  - ✓ Amend affordable housing definition to include  $\leq 80\%$  median income rather than 150%.
  - ✓ Support affordable housing bond.
  - ✓ Amend LD 1643 to address affordable housing.
  - ✓ State could provide fiscal incentives for towns that address affordable housing.
  - ✓ Ed Suslovic recommended exempting affordable housing projects from impact fees and growth caps. SPO will work with Ed Suslovic to develop changes to LD 1643 that would accommodate affordable housing.

- **Matrix of Core Themes:**

- Regional Planning
  - LD 1643:
    - ✓ Draft committee bill that includes concepts in LD 1643, but exempt affordable housing.
    - ✓ If affordable housing is exempted, there needs to be a mechanism to ensure permanent affordability.
    - ✓ Many times, a town needs a temporary moratorium to address an emergency.
    - ✓ Affordable housing could be exempt from a permanent growth ordinance.

LD 1693:

- ✓ Incorporate regionalism concepts from LD 1693 into committee bill.
- Long-standing Oversight Entity
  - ✓ Staff provided 2 models for advisory committees for the committee to review. Three important elements for a good model include legislative membership, policy advisory capacity, and regular reporting to the Legislature.
  - ✓ This entity should include a majority of its members as legislators and they should represent the Natural Resources, State and Local Government, Taxation, Transportation, Education, and Business and Economic Development committees. Specific duties should be listed in the legislation.
  - ✓ Another model that was suggested would include all legislative members. This model may be more difficult to accomplish for political and budgetary reasons.
- **TDR:**
  - SPO gave criteria for success:
    - ✓ Real estate market must be healthy.
    - ✓ Pricing must be accurate.
    - ✓ Implementation must be across municipal boundaries.
    - ✓ Implementing agency must have capacity and expertise.
    - ✓ Funding must be available.
  - Ed Suslovic shared Scarborough example with the committee.
    - ✓ Developer is building a 400 unit mixed-use development. Current zoning allows only 65 units on 2-acre lots.
    - ✓ Scarborough could downzone areas where it wants to discourage growth. These landowners could then sell development rights to the housing development to allow the additional density necessary.
    - ✓ This could be a model for a pilot project. The pilot project could be required to use tools such as TDR, impact fees, regional planning, etc. As an incentive, the State could provide town/project with priority for such programs as CDBG, TIF, Municipal Investment Trust Fund, etc.
- **Next Steps:**
  - Staff will draft suggested legislation.

- BGS representative will be invited to the next meeting to discuss State office building location and parking issues.
- Larry Morandi from NCSL will be invited to the next meeting to discuss TDRs and other fiscal tools.
- The committee discussed the possibility of asking leadership for an extension and one additional meeting.
- **Next Meeting:**
  - The next meeting has been rescheduled and will be held at 9:30 AM on Thursday, November 8, 2001 in Room 436 of the State House.

*For further information, please contact Susan Johannesman or Todd Jorgensen, Office of Policy and Legal Analysis, at (207) 287-1670 or email at [susan.johannesman@state.me.us](mailto:susan.johannesman@state.me.us) or [todd.jorgensen@state.me.us](mailto:todd.jorgensen@state.me.us)*

**Meeting Summary**  
**Joint Study Committee to Study Growth Management**  
**Thursday, November 8, 2001**  
**Room 436, State House**

**Members attending:** Sen. Lynn Bromley; Rep. Theodore Koffman; Sen. Sharon Treat; Sen. Christine Savage; Rep. Anita Haskell; Rep. David Tobin; Rep. Scott Cowger, Rep. Janet McLaughlin.

**Guests:** John Conrad, Director of Leased Space, Bureau of General Services (BGS); Larry Morandi, Director, Environment, Energy & Transportation Program, National Conference of State Legislatures (NCSL).

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• **State Office Building Location and Parking:**

- John Conrad provided the committee with background information on the Space Management program.
  - ✓ Since the passage of PL 776, Division of Leased Space has updated its policies and now takes into account priority areas such as downtowns and growth areas in its lease selection process.
  - ✓ Copies of the Division's policy on leased space were provided as well as data on leases sorted by location.
  - ✓ Leases in downtown locations account for 54,274 square feet (3%), leases in growth areas account for 16,303 square feet (1%), and all other locations account for 1,525,340 square feet (96%) of space. All other locations may include locations in downtowns or growth areas but were leased before a determination was made regarding whether or not the leases was located within downtown or growth area boundaries. BGS is working with SPO and municipalities to acquire maps and determine this information.
- On-site parking and the high costs of renovation were cited by BGS as impediments to selecting leased sites in downtowns.
  - ✓ Some municipalities have raised concerns that leases have been offered in downtowns and growth areas to BGS but have been rejected due to parking requirements of BGS and/or the agencies.
  - ✓ Parking needs are determined by the agency and vary according to the level of client contact.
  - ✓ The committee will look at methods to promote flexibility in parking requirements and methods to better distinguish between client and employee parking in the lease selection process.

- **Regionalism, Transferable Development Rights (TDRs), Tax-Base Revenue Sharing:**
  - TDRs
    - ✓ Larry Morandi provided the committee with general information and examples of TDRs.
    - ✓ In order for TDRs to be successful, government must be willing to preserve land, work regionally, and there must be a market for the development rights (also called receiving areas).
    - ✓ If there is not a strong market for development rights, a government may purchase the development right. This is known as a PDR – purchasable development right. A government entity may choose to create a bank to fund the purchase of these development rights.
    - ✓ Pennsylvania passed legislation to allow municipalities to work together on TDRs.
    - ✓ Maryland has a State fund for municipalities to use for the purchase of development rights.
    - ✓ Many states have enabling legislation for TDRs and fewer have more detailed implementing legislation.
    - ✓ The committee discussed the possibility of Land for Maine’s Future functioning as a TDR bank.
    - ✓ The committee discussed some of the challenges in Maine for implementing TDRs including difficulties on the receiving side of a TDR due to costs of development pressures and skepticism and suspicion on the sending side (especially among smaller land owners).
  - Tax-Base and Revenue Sharing
    - ✓ Models for tax-base sharing have not been as successful due to complicated nature of administration and possible inequities between participating municipalities.
    - ✓ Revenue sharing is more flexible and easier to implement.
- **Legislative Proposals for Committee Discussion:**
  - Subdivision Law and Traffic Access, Municipal Investment Trust Fund Bond Issue; Ongoing Oversight Committee for Growth Management; Rate of Growth Ordinances; Affordable Housing Definition; Impact Fee Exemption for Affordable Housing; Regionalism; Pilot Project
    - ✓ The committee directed staff to make changes to legislative proposals and bring back a draft for the next meeting.
  - Other Legislative Proposals

- ✓ Enabling legislation for TDR
- ✓ Enabling legislation for Land for Maine's Future to serve as a TDR bank
- ✓ Parking flexibility for State office building location
- **Next Meeting:**
  - The next meeting will be held at 9:00 AM on Thursday, November 29, 2001 in Room 437 of the State House.

*For further information, please contact Susan Johannesman or Todd Jorgensen, Office of Policy and Legal Analysis, at (207) 287-1670 or email at [susan.johannesman@state.me.us](mailto:susan.johannesman@state.me.us) or [todd.jorgensen@state.me.us](mailto:todd.jorgensen@state.me.us)*

**Meeting Summary**  
**Joint Study Committee to Study Growth Management**  
**Thursday, November 29, 2001**  
**Room 437, State House**

**Members attending:** Sen. Lynn Bromley; Rep. Theodore Koffman; Sen. Christine Savage; Rep. David Tobin; Rep. Scott Cowger.

**Guests:** Tim Glidden, Land For Maine's Future; Ed Suslovic; Evan Richert, State Planning Office.

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- **TDR Bank:**

- Tim Glidden discussed the proposal that Land for Maine's Future implement a TDR program and become a state TDR bank.
  - ✓ This sort of structure makes sense for the Maine market.
  - ✓ It is important to conduct a careful analysis first. Such an undertaking is significantly complex.
  - ✓ Questions arose as to who would conduct such a study. In the current fiscal context, SPO may not have the resources. The legislature could convene a study committee or this could be added to the duties of the proposed Community Preservation Advisory Committee.
  - ✓ The first step is to make the proposed change to the law to enable the transfer of development rights.

- **GIS Steering Committee Update:**

- Ed Suslovic provided the committee with an update on the activities of the State's GIS Steering Committee.
  - ✓ The committee will be appearing before the Natural Resources Committee in January with an update.
  - ✓ The committee has been in the process of gathering information on GIS activities of various municipalities and other entities in the state.
  - ✓ GIS is seen as a good tool for "citizen planners" as a way to make the planning process more accessible.
  - ✓ Many municipalities have been actively involved with GIS but there is no statewide standardization. That is the goal of the committee.

- ✓ Part of the committee's presentation to the Natural Resources Committee will be a proposal for a bond issue to fund capital aspects of the statewide GIS effort. This could be as much as \$8 M. It will also be a challenge to fund the operating side of the effort. There are Federal dollars available that could be used for this.
- ✓ GIS is not just a tool for fast-growing areas of the state. Rural areas of the state can use it as an economic development tool.
- ✓ The committee is also attempting to address privacy concerns associated with GIS.
- ✓ There is a concern that the GIS system already implemented by some municipalities will not be compatible with the new statewide system. Most of these problems can be overcome.

- **SPO Affordable Housing Proposal:**

- Evan Richert presented SPO's proposal, An Act to Provide Livable, Affordable Neighborhoods
- Two major problems are associated with the affordable housing situation in Maine.
  - ✓ Exclusionary nature of many local land use ordinances. Zoning requirements such as minimum lot sizes, setbacks and frontages all contribute to higher costs of housing.
  - ✓ Unpredictable nature of local development review process. Lengthy review processes make housing development costly.
- This proposed bill would do the following:
  - ✓ It applies only to municipalities in a labor market area where median income is less than the median price of a home.
  - ✓ It establishes a State Affordable Neighborhood Review Board that would review potential affordable housing projects. Municipalities in applicable areas must allow development proposals certified through this program. The Board would also devise design guidelines for affordable housing development.
  - ✓ Certain restrictions apply to municipalities in applicable areas. These municipalities may not enact ordinances restricting frontage, setbacks, lot sizes, and densities as prescribed by the proposal.

- **Legislative Proposals for Committee Discussion:**

- Subdivision Law and Traffic Access, Municipal Investment Trust Fund Bond Issue; Ongoing Oversight Committee for Growth Management; Rate of Growth Ordinances; Affordable Housing; Impact Fee Exemption for Affordable Housing; Regionalism; Pilot Project; TDR Enabling; TDR Bank; Site Selection Criteria for State Facilities;



Applicability of Law Regarding State Capital Investments to Private and Nonprofit Entities that Receive State Funds; and Statewide Definition of Subdivision.

- ✓ The committee discussed the above legislative proposals and suggested revisions. The committee chose not to pursue the impact fee exemption for affordable housing and the statewide definition of subdivision. The committee decided to add the study of the establishment of a state TDR bank to the list of duties for the proposed ongoing oversight committee and to support the SPO affordable housing proposal.

- **Finalize Committee Findings and Recommendations:**

- The committee finalized and prioritized the findings and recommendations. The first four priorities are as follows:
  1. Establish of the Community Preservation Advisory Committee.
  2. Encourage regionalism in municipal growth management.
  3. Authorize a general fund bond issue for \$8 M to make public infrastructure improvements.
  4. Support the SPO affordable housing proposal.
- Staff will make the necessary revisions to the proposals and findings and recommendations, and send out a draft of the report to committee members and interested parties within two weeks.

*For further information, please contact Susan Johannesman or Todd Jorgensen, Office of Policy and Legal Analysis, at (207) 287-1670 or email at [susan.johannesman@state.me.us](mailto:susan.johannesman@state.me.us) or [todd.jorgensen@state.me.us](mailto:todd.jorgensen@state.me.us)*

**APPENDIX D**

**119<sup>th</sup> Initiatives**

Date: May 12, 2000

Re: Smart Growth Initiatives in the 119<sup>th</sup> Maine Legislature

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Following is an overview of the various initiatives relating to smart growth/sprawl that were considered by the 119<sup>th</sup> Legislature.

### Land Use Issues

Several issues relating to land use, including state investment policy, downtowns, service centers and rural lands, were considered by different committees. Initiatives were enacted that address all of these issues, but some failed as well.

**State capital investment:** LD 2600<sup>1</sup> requires certain state growth-related capital investments (construction or extension of utility lines, development of industrial or business parks, public service infrastructure and public facilities, state office buildings, state courts and other state civic buildings, newly constructed multifamily rental housing) to be located in locally designated growth areas as identified in local comprehensive plans, or if there is no comprehensive plan, in areas with public sewers capable of handling the development, in areas identified as census-designated places or in compact areas of urban compact municipalities. There are exceptions to this requirement.

**State facilities:** LD 2600 requires the Bureau of General Services to develop site selection criteria for state facilities that give preference to priority locations in service centers and downtowns. LD 2600 also establishes, but does not fund, the Downtown Leasehold Improvement Fund to assist state agencies in securing suitable space in downtowns by providing for capital improvements to real property leased by the State in downtowns.

**School siting:** LD 2600 requires the State Board of Education to adopt rules by February 1, 2001 relating to siting of new school construction projects that receive state funding. Such rules are major substantive rules and will be reviewed by the Legislature prior to final adoption. A proposal to require municipalities to consider priority locations when selecting sites for new school construction projects was not enacted.

**Service center communities:** LD 2510<sup>2</sup> provides for additional state-municipal revenue sharing for municipalities with a higher-than-average property tax burden. It appropriates \$3.6 million in one-time funds to be distributed in June 2001 to municipalities with disproportionate tax burdens.

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<sup>1</sup> LD 2600 was enacted as P.L. 1999, chapter 776. Please note that several errors in that law were corrected by LD 2334, Part R.

<sup>2</sup> LD 2510 was enacted as P.L. 1999, chapter 731.

**Downtowns:** LD 2600 establishes the Maine Downtown Center to encourage downtown revitalization. It appropriates \$100,000 to provide matching funds for grants to be used to revitalize downtowns. LD 2600 also establishes, but does not fund, a downtown improvement loan program for municipalities. It also requires the Department of Economic and Community Development to develop an investment policy that will provide means to improve the condition of downtown properties and infrastructure to meet the multiple-use needs of downtowns.

**Comprehensive planning:** LD 2510 appropriates \$1.7 million for planning grants to municipalities, grants to regional councils to provide technical assistance to municipalities, grants to municipalities for plan implementation and plan updates and alternative growth management initiatives and pilot projects. LD 2600 requires the State Planning Office to develop model land use ordinances that accommodate smart growth design standards and provide for flexibility in zoning regulations to allow for traditional, compact development in designated growth areas and to preserve and revitalize existing neighborhoods.

**Farmland:** LD 2510 reduces the withdrawal penalty under the Farmland Tax Law to the minimum required by the Constitution of Maine. A proposal to reimburse municipalities an amount equal to 90% of the tax revenue lost as a result of valuing farmland at its current use was not enacted. LD 2596<sup>3</sup> strengthens the Right-to-Farm Law. A proposal to require disclosures to be made to purchasers of land abutting farmland (LD 449) was not enacted.

**Other growth management:** Senate Paper 1090, a joint order, establishes the Task Force to Study Growth Management. The task force will review the growth management laws with the goal of improving the laws to make them more responsive to the issues of sprawl. The task force will also look at the State's enabling legislation for impact fees and the municipal subdivision law.

- LD 449 –ONTP
- LD 544 –ONTP, but farmland tax issues were incorporated into LD 2510
- LD 1080 –ONTP, but state investment issues were incorporated into LD 2600
- LD 1414 –ONTP, but downtown revitalization issues were incorporated into LD 2600
- LD 2510 – Enacted \$1.7 million funding for planning grants to municipalities, grants to regional councils, grants for plan implementation and plan updates and alternative growth management initiatives; and reduced the withdrawal penalty under the Farmland Tax Law
- LD 2596 – Enacted right to farm provisions
- LD 2600 – Enacted several land use provisions

### Transportation Issues

The transportation issues include access management, planning, transit funding and innovative transportation projects.

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<sup>3</sup> LD 2596 was enacted as P.L. 1999, chapter 723.

**Access management:** LD 2550<sup>4</sup> establishes a new process for permitting new driveways, entrances and approaches on Maine's major highways.

**Planning assistance to municipalities:** LD 2550 requires the Department of Transportation to provide assistance to municipalities on road planning, road maintenance, sidewalks and neighborhood involvement to assist them in addressing smart growth issues by preserving traditional downtowns, walkable communities and compact neighborhoods.

**Transit projects:** LD 2550 requires the Department of Transportation to begin a strategic planning process relating to transit, including marketing of transit, innovative financing of transit projects, connectivity to airports and rail and other issues. LD 2550 also requires the department to work with other agencies to identify funding sources for innovative transit and transportation projects that address sprawl and air quality issues.

- LD 2550 – Enacted access management provisions
- LD 2601 - ONTP, but access management issues were incorporated into LD 2550

### Taxation Issues

Tax issues relating to sprawl that were considered by the Legislature include tax policies that tend to push rural lands into development and to place unintended burdens on service center communities.

**Rural lands:** LD 2510 enacted provisions relating to the Farmland Tax Law (see above). LD 2669<sup>5</sup> provides for a refund of sales tax paid on electricity purchased for use in commercial agricultural production, commercial fishing and commercial aquaculture production.

**Service centers:** LD 2510 enacted provisions relating to state-municipal revenue sharing (see above).

- LD 544 - ONTP (see above)
- LD 2510 – Enacted additional state-municipal revenue-sharing for municipalities with a higher-than-average property tax burden
- LD 2669 – Enacted refund for sales tax on electricity purchased for use in commercial agricultural production, commercial fishing and commercial aquaculture production.

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<sup>4</sup> LD 2550 was enacted as P.L. 1999, chapter 676.

<sup>5</sup> LD 2669 was enacted as P.L. 1999, chapter 757.

**APPENDIX E**

**120<sup>th</sup> Initiatives**

## **Summary of Growth Management Measures Enacted by the 120<sup>th</sup> Legislature – 1<sup>st</sup> Session**

### Impact Fees

**Public Law 2001, chapter 38** (LD 346) clarifies that communities that are part of a school administrative district or other single or multicomunity school district may deposit the proceeds of school impact fees in a trust fund to be used to pay their proportionate share of anticipated school capital costs.

### Building Rehabilitation

**Resolve 2001, chapter 29** (LD 1331) directs the State Planning Office, with assistance from the Maine Building Rehabilitation Code Advisory Council, to develop a model building rehabilitation code for Maine, develop options for providing fiscal incentives for municipalities to adopt the model code and, to the extent funding is available, provide technical assistance and training in connection with the model code. It also creates the Maine Building Rehabilitation Code Advisory Council for the limited purpose of assisting the State Planning Office in developing the model code. It also directs the State Planning Office to develop the code by January 15, 2002 and report back to the Joint Standing Committee on Natural Resources by February 15, 2002.

### Statewide GIS

**Resolve 2001, chapter 23** (LD 578) directs the State Planning Office to convene a steering committee to study and design a statewide geographic information system that can be utilized for a variety of planning purposes. It requires the steering committee to submit a report to the Joint Standing Committee on Natural Resources by January 15, 2002 and authorizes the Joint Standing Committee on Natural Resources to introduce legislation to the Second Regular Session of the 120th Legislature.

### Subdivision Law

**Public Law 2001, chapter 359** (LD 1278) amends the subdivision law. It amends the definition of subdivision. It also provides that a municipality may not enact an ordinance that expands the definition of subdivision except as provided in the law and it repeals this provision as of October 1, 2002. Chapter 359 also requires the State Planning Office to study the status of municipal subdivision ordinances and to report to the Joint Standing Committee on Natural Resources before December 15, 2001. The joint standing committee is authorized to submit legislation to the Second Regular Session of the 120th Legislature based on that study. Chapter 359 applies retroactively to June 1, 2001.

### Comprehensive Plans; Ordinances

**Public Law 2001, chapter 406** (LD 1693) amends the comprehensive planning and land use regulation laws in the following ways.

1. It authorizes the State Planning Office within the Executive Department to adopt rules.
2. It clarifies that if a town wants to have a shoreland zone larger than Department of Environmental Protection guidelines, then the shoreland zone ordinance must be based on a comprehensive plan. If the ordinance is not consistent with a comprehensive plan within 24 months after adoption of the plan, the ordinance will no longer be in effect.
3. It provides that after January 1, 2003, rate of growth, zoning and impact fee ordinances must be consistent with a comprehensive plan.

4. It provides that only those portions of a rate of growth, zoning or impact fee ordinance that are not consistent with a comprehensive plan are subject to being deemed no longer in effect.
5. It temporarily exempts from the consistency requirement ordinances of a town that is in the process of preparing a comprehensive plan or implementation program and ordinances that conflict with a newly adopted comprehensive plan or plan amendment.
6. It temporarily exempts from the consistency requirement ordinances of a town that previously requested planning or implementation grants but was denied due to lack of state funds.
7. It exempts slow growing municipalities from having to establish residential, commercial or industrial growth areas.
8. It exempts certain financial assistance programs from rules adopted by the Department of Administrative and Financial Services for use in the purchase of services and the awarding of grants and contracts.
9. It allows the State Planning Office to require a higher matching requirement for grants to update comprehensive plans.
10. It requires a recipient of a financial assistance grant to cooperate with the State Planning Office in performing program evaluations.
11. It requires coordination among state agencies.
12. It amends the comprehensive plan and growth management program review process undertaken by the State Planning Office.
13. It provides that the State Planning Office's decision on consistency of a comprehensive plan or growth management program constitutes final agency action.
14. It authorizes the State to make growth-related capital investments in a designated growth area if it is identified in a certified growth management program.
15. It deletes the definition of "service center" from the growth management laws.
16. It requires state agencies to contribute to the implementation of comprehensive plans and growth management programs by making investments, delivering programs and awarding grants in a manner that reinforces the policies and strategies within the comprehensive plans or growth management programs.

#### School Siting

**Resolve 2001, chapter 47** (LD 1783) approves Chapter 60: New School Siting Approval, a major substantive rule of the State Board of Education.

The rule applies to the siting of all new school construction projects that receive state funding. School administrative units requesting site approval for construction projects must submit application materials described in Maine Department of Education Reg. 61, Rules for School Construction Projects, Section 4 to the State Board of Education for review.



In addition to other site characteristics, if the request for site approval is for a new school on a new site, the State Board of Education must consider the preferred areas for school siting. A preferred area is:

- a locally designated growth area identified in the municipality's comprehensive plan adopted pursuant to the Maine Revised Statutes, 30-A, chapter 187, subchapter II; and
- in the absence of a comprehensive plan:
  - an area that, if served by a public sewer system, has the capacity for the school construction project;
  - an area identified by the latest Federal Decennial Census as a census-designated place; or
  - a compact area of an urban compact municipality.

When a site is requested that is not a preferred area as defined above, the school administrative unit must provide a written explanation of its site selection for State Board of Education consideration.

When considering a request for site approval, the State Board of Education will involve all appropriate federal, state and local agencies. However, the decision regarding final site approval rests entirely with the State Board of Education.

#### Highway Access

**Resolve 2001, chapter 46** (LD 1774) authorizes final adoption of Chapter 299: Highway Driveway and Entrance Rules, Parts A and B, a major substantive rule of the Department of Transportation.

The rule implements Title 23 § 704, the Access Management Law. It limits the number, spacing, design, location and construction of driveways, entrances or approaches on retrograde arterials that lie outside of an urban compact municipality to maintain existing posted speeds and to ensure safe travel.

**APPENDIX F**  
**Draft Legislation**

**APPENDIX F-1**

(Draft legislation establishing an on-going advisory committee)

## An Act to Establish the **Community Preservation** Advisory Committee

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

Sec. 1. 5 MRSA § 12004-I, subsection 24-F is enacted to read:

<b>24-F.</b>	<b>Community</b>	Legislative Per Diem	30-A MRSA §4350
Environment: Natural	<b>Preservation</b> Advisory	and Expenses for	
Resources	Committee	Legislators and	
		Expenses Only for	
		Certain Members	

Sec. 2. 30-A MRSA c. 187, sub-c. II, art. 3-B is enacted to read:

### **“ARTICLE 3-B**

#### **COMMUNITY PRESERVATION ADVISORY COMMITTEE**

##### **§ 4350. Community Preservation Advisory Committee.**

**1. Establishment; purpose.** The **Community Preservation** Advisory Committee, established by Title 5, section 12004-I, subsection 24-F and referred to in this section as the “committee,” shall advise the Governor, the Legislature, the office and other pertinent state agencies and entities on matters relating to **community preservation**.

**2. Membership; appointment.** The committee consists of 13 members, appointed as follows:

**A. The Director of the State Planning Office, or the director’s designee;**

**B. Three members from the Senate appointed by the President of the Senate, at least one belonging to the political party holding the largest number of seats in the Senate and at least one belonging to the political party holding the 2<sup>nd</sup> largest number of seats in the Senate. When making the appointments, the President of the Senate shall give preference to members from the joint standing committees of the Legislature having jurisdiction over natural resources matters; state and local government matters, education matters, transportation matters, taxation matters or business and economic development matters. Also when making the appointments, the President of the Senate shall consider appointing**

a member who represents a rural community, a member who represents a fast-growing community and a member who represents a service center community;

C. Four members from the House of Representatives appointed by the Speaker of the House, at least one belonging to the political party holding the largest number of seats in the House of Representatives and at least one belonging to the political party holding the 2<sup>nd</sup> largest number of seats in the House of Representatives. When making the appointments, the Speaker of the House shall give preference to members from the joint standing committees of the Legislature having jurisdiction over natural resources matters; state and local government matters, education matters, transportation matters, taxation matters or business and economic development matters. Also when making the appointments, the Speaker of the House shall consider appointing a member who represents a rural community, a member who represents a fast-growing community and a member who represents a service center community;

D. One member representing a statewide housing authority, appointed by the President of the Senate;

E. One member representing an environmental organization, appointed by the Speaker of the House;

F. Two members representing municipal interests, one who represents rural municipal interests and one who represents service center municipal interests, appointed by the President of the Senate; and

G. One member representing the real estate or development industry, appointed by the Speaker of the House.

**3. Terms.** Except for the Legislators, who serve terms coincident with their legislative terms, all members are appointed for 3-year terms. A vacancy must be filled by the same appointing authority that made the original appointment. Appointed members may not serve more than 2, 3-year terms. Members may continue to serve until their replacements are designated.

**4. Compensation.** Legislative members are entitled to receive the legislative per diem, as defined in Title 3, section 2, and to reimbursement for expenses according to Title 5, section 12004-I, subsection 24-A. Public members not otherwise compensated by their employers or other entities that they represent are entitled to reimbursement of necessary expenses incurred for their attendance at authorized meetings of the committee.

**5. Quorum; actions.** A quorum is a majority of the members of the committee. An affirmative vote of the majority of the members present at a meeting is required for any action. Action may not be considered unless a quorum is present.

6. Chairs. The first-appointed Senate member is the Senate chair of the committee and the first-appointed House of Representatives members is the House chair of the committee.

7. Meetings. The committee shall meet at least 4 times per year and at any time at the call of the chairs or upon written request to the chairs by 4 of the voting members.

8. Staff assistance. The office shall provide the committee with staff assistance. The Legislative Council may provide staff assistance with the preparation of recommended legislation as requested by the chairs of the committee. The assistance provided by the Legislative Council may only be provided when the Legislature is not in session.

9. Duties. The committee shall:

A. Submit an annual report of the committees activities to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the joint standing committee of the Legislature having jurisdiction over natural resource matters by December 1<sup>st</sup> of each year;

B. Provide assessment, advice and recommendations on emerging policy concerns or on adjustments to existing programs related to growth management;

C. Review and make recommendations on the State's fiscal, transportation, education funding, school-siting and land use policies that impact service center communities, rural lands and development sprawl;

D. Review tax policy as it affects land use decisions and make recommendations with a goal of promoting smart growth land use patterns;

E. Provide assessment, advice and recommendations on the role of state office buildings in the continued viability of downtown service centers within the State and the impact of growth-related capital investments and location decisions by the State;

F. Provide assessment, advice and recommendations on the coordination of state and local urban transportation planning and streamlining of local and state land use rules and regulations to permit and encourage efficient neighborhood and economic development in growth areas; and

G. Review options for establishing a State transferable development rights bank.

10. Repeal date. This section is repealed June 1, 2008.”

Sec. 3. **Department of Transportation report.** The Department of Transportation shall review implementation of the Access Management Rules to determine whether the rules lead to sprawl. By January 5, 2003, the department shall submit its findings to the Community Preservation Advisory Committee.

Sec. 4. **Bureau of General Services report.** The Bureau of General Services shall provide an annual report to the Community Preservation Advisory Committee that documents all state facility siting decisions made in the prior year, including the agency involved, the number of employees, the average number of client visits per month, square feet of space, location of building in relation to any historic downtown district, and parking availability to employees. The first report must be submitted by January 5, 2003.

### **SUMMARY**

This bill establishes the Community Preservation Advisory Committee as an on-going entity to advise the Governor, the Legislature and the State Planning Office on matters relating to community preservation. The committee membership includes the Director of the State Planning Office, legislators and public members. Staff is provided by the State Planning Office and the Legislative Council at the request of the chairs of the committee. The bill also directs the Department of Transportation to review implementation of the Access Management Rules to determine whether the rules lead to sprawl. It also directs the Bureau of General Services to provide an annual report that documents all state facility siting decisions made in the prior year.

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**APPENDIX F-2**



*(Draft legislation to encourage multimunicipal planning)*

## **An Act to Encourage Regionalism in Municipal Growth Management**

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

**Sec. 1. 30-A MRSA §4301, sub-§2** is amended to read:

**2. Coastal area.** "Coastal ~~areas~~ area" means ~~all municipalities and a municipality or unorganized townships~~ township contiguous to tidal waters and all coastal islands. The inland boundary of the coastal area is the inland line of any coastal town line.

**Sec. 2. 30-A MRSA §4301, sub-§§4-A and 4-B** are enacted to read:

**4-A. Critical rural area.** "Critical rural area" means a rural area specifically identified and designated by a planning district's comprehensive plan as deserving maximum protection from development to preserve natural resources and related economic activities that may include, but are not limited to, significant farmland, forest land or mineral resources, high-value wildlife or fisheries habitat, scenic areas, public water supplies, scarce or especially vulnerable natural resources or open lands functionally necessary to support a vibrant rural economy.

**4-B. Critical waterfront area.** "Critical waterfront area" means a shorefront area characterized by functionally water-dependent uses, as defined in Title 38, section 436-A, subsection 6, and specifically identified and designated by a planning district's comprehensive plan as deserving maximum protection from incompatible development.

**Sec. 3. 30-A MRSA §4301, sub-§6-C** are enacted to read:

**6-C. Growth area.** "Growth area" means an area designated in a planning district's comprehensive plan as suitable for orderly residential, commercial or industrial development, or any combinations of those types of development, and into which most development forecast over 10 years is directed.

**Sec. 4. 30-A MRSA §4301, sub-§9,** is amended to read:

**9. Growth management program.** "~~Local growth~~ Growth management program" means a document containing the components described in section 4326, including the implementation program, ~~which that~~ is consistent with the goals and guidelines established by subchapter II and which regulates land use beyond that required by Title 38, chapter 3, subchapter I, article 2-B.

**Sec. 5. 30-A MRSA §4301, sub-§10** is amended to read:

**10. Planning committee.** "~~Local planning~~ Planning committee" means the committee established by the municipal officers of a municipality or combination of municipalities ~~which that~~ has the general responsibility established under sections 4324 and 4326.

**Sec. 6. 30-A MRS §4301, sub-§§11-A, 13-A and 14-A to 14-E** are enacted to read:

**11-A. Multimunicipal region.** "Multimunicipal region" is a region made up of 2 or more municipalities that work together to cooperatively establish a growth management program or independent growth management programs that are unified with respect to the implementation of the state goal identified in section 4312, subsection 3, paragraph A. The several municipalities in a multimunicipal region may establish the region pursuant to section 4326-A or chapter 115.

**13-A. Planning district.** "Planning district" means a municipality, multimunicipal region, and, where applicable, regional council.

**14-A. Rural area.** "Rural area" means a geographic area identified and designated in a planning district's comprehensive plan as an area deserving of some level of regulatory protection from unrestricted development for purposes that may include, but are not limited to, supporting agriculture, forestry, mining, open space, wildlife habitat, fisheries habitat or scenic lands, and away from which most development forecast over 10 years is diverted.

**14-E. Transitional area.** "Transitional area" means an area designated in a planning district's comprehensive plan as suitable for a share of forecasted residential, commercial or industrial development, but that is neither intended to accept the amount or density of development appropriate for a growth area nor intended to provide the level of protection for rural resources afforded in a rural or critical rural area.

**Sec. 7. 30-A MRS §4312, sub-§2, ¶E-1** is enacted to read:

E-1. Encourage the development and implementation of multimunicipal growth management programs;

**Sec. 8. 30-A MRS §4312, sub-§3, ¶A** is amended to read:

A. To encourage orderly growth and development in appropriate areas of each community and region, while protecting the State's rural character, making efficient use of public services and preventing development sprawl;

**Sec. 9. 30-A MRS §4314** is amended to read:

**§4314. Transition; savings clause**

**1. Comprehensive plan.** A municipal comprehensive plan adopted or amended by a municipality under former Title 30, chapter 239, subchapter V or VI remains in effect until amended or repealed in accordance with this subchapter.

**2. Shoreland zoning ordinances.** Notwithstanding section 4352, subsection 2, any portion of a zoning ordinance that regulates land use beyond the area required by Title 38, chapter 3, subchapter I, article 2-B and that is not consistent with a comprehensive plan adopted under this subchapter is no longer in effect 24 months after adoption of the plan.

**3. Rate of growth, zoning and impact fee ordinances.** After January 1, 2003, any portion of a ~~municipality's~~ planning district's rate of growth, zoning or impact fee ordinance must be consistent with a comprehensive plan adopted under this subchapter. The portion of a rate of growth, zoning or impact fee ordinance that is not consistent with a comprehensive plan is no longer in effect unless:

A. (repealed)

B. (repealed)

C. The ordinance or portion of the ordinance is exempted under subsection 2;

D. The ~~municipality~~ planning district is under contract with the office to prepare a comprehensive plan or implementation program, in which case the ordinance or portion of the ordinance remains valid for up to 4 years after receipt of the first installment of its first planning assistance grant or for up to 2 years after receipt of the first installment of its first implementation assistance grant, whichever is earlier;

E. The ordinance or portion of the ordinance conflicts with a newly adopted comprehensive plan or plan amendment adopted under this subchapter, in which case the ordinance or portion of the ordinance remains in effect for a period of up to 24 months immediately following adoption of the comprehensive plan or plan amendment; or

F. The ~~municipality~~ planning district applied for and was denied financial assistance for its first planning assistance or implementation assistance grant under this subchapter due to lack of state funds on or before January 1, 2003. If the office subsequently offers the ~~municipality~~ planning district its first planning assistance or implementation assistance grant, the ~~municipality~~ planning district has up to one year to contract with the office to prepare a comprehensive plan or implementation program in which case the ~~municipality's~~ planning district's ordinances will be subject to paragraph D.

**4. Encumbered balances at year-end.** At the end of each fiscal year, all encumbered balances in accounts for financial assistance and regional planning grants may be carried twice.

**Sec. 10. 30-A MRSA §4321** is amended to read:

**§4321. Growth management program established**

There is established a program of ~~local~~ growth management to accomplish the goals of this subchapter.

Sec. 11. 30-A MRS §4324 is amended to read:

**§4324. Responsibility for growth management**

This section governs a ~~municipality's~~ planning district's responsibility for the preparation or amendment of its ~~local~~ growth management program. Where procedures for the adoption of comprehensive plans and ordinances are governed by other provisions of this Title or municipal charter or ordinance, the ~~municipality~~ planning district may modify the procedural requirements of this section as long as a broad range of opportunity for public comment and review is preserved.

**1. Growth management program.** Each ~~municipality~~ planning district may prepare a ~~local~~ growth management program in accordance with this section or may amend its existing comprehensive plan and existing land use ordinances to comply with this subchapter.

**2. Planning committee.** If a ~~municipality~~ planning district chooses to prepare a ~~local~~ growth management program, the municipal officers of a municipality or combination of municipalities shall designate and establish a ~~local~~ planning committee.

A. The municipal officers may designate any existing planning board or district established under subchapter IV, or a former similar provision, as the ~~local~~ planning committee. Planning boards established under former Title 30, section 4952, subsection 1, continue to be governed by those provisions until they are superseded by municipal charter or ordinance.

B. The ~~local~~ planning committee may develop and maintain a comprehensive plan and may develop ~~an initial proposed zoning ordinance or an initial revision of an existing zoning ordinance~~ any portion of an implementation program to which it is assigned in an adopted comprehensive plan or otherwise directed by the municipal officers or legislative body or bodies. In performing these duties, the local planning committee shall:

- (1) Hold public hearings and use other methods to solicit and strongly encourage citizen input; and
- (2) Prepare the comprehensive plan ~~and proposed zoning ordinance~~ or any portion of the implementation program to which it is assigned in an adopted comprehensive plan and make recommendations to the ~~municipal reviewing authority and~~ municipal legislative body regarding the adoption and implementation of the program or amended program that require legislative action.

**3. Citizen participation.** In order to encourage citizen participation in the development of a ~~local~~ growth management program, ~~municipalities~~ planning districts may adopt ~~local~~ growth management programs only after soliciting and considering a broad range of public review and comment. The intent of this subsection is to provide for the broad dissemination of proposals and

alternatives, opportunity for written comments, open discussions, information dissemination and consideration of and response to public comments.

**4. Meetings to be public.** The ~~local~~ planning committee shall conduct all of its meetings in open, public session. Prior public notice must be given for all meetings of the ~~local~~ planning committee pursuant to Title 1, section 406. ~~Prior to April 1, 1990, if the local planning committee provided notice in compliance with Title 1, section 406, that notice was sufficient for all legal purposes.~~

**8. Public hearing required.** The ~~local~~ planning committee shall hold at least one public hearing on its proposed comprehensive plan.

A. Notice of any public hearing must be posted in the municipality at least ~~2 times~~ 30 days before the hearing.

B. A copy of the proposed comprehensive plan ~~shall~~ must be made available for public inspection at the municipal office or other convenient location with regular public hours at least 30 days before the hearing.

**9. Adoption.** A comprehensive plan or land use ordinance is ~~deemed to have been considered~~ adopted as part of a ~~local~~ growth management program when it has been ~~accepted adopted~~ adopted by the municipality's legislative body. A multimunicipal comprehensive plan or land use ordinance must be adopted by the legislative body of each participating municipality unless another form of legislative authority has been established for this purpose within the planning district.

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

**Sec. 12. 30-A MRS §4325** is amended to read:

**§ 4325. Cooperative ~~municipal~~ growth management activities**

This section governs cooperative ~~local~~ growth management efforts conducted by 2 or more municipalities.

**1. Within municipality.** A municipality may exercise its land use planning and management authority over the total land area within its jurisdiction.

**2. Agreement Multimunicipal region.** Any combination of contiguous municipalities may conduct joint planning and regulatory programs to meet the requirements of this subchapter upon adoption of a written comprehensive planning and enforcement agreement by the municipal legislative bodies involved. The municipalities must agree:

A. On procedures for joint action in the preparation and adoption of comprehensive plans, ~~and~~ land use regulations and other implementation measures to be conducted on a multimunicipal basis;

B. On the manner of representation on any such joint land use body; and

C. On the amount and source of contribution from each municipality for any costs incurred in the development, implementation and enforcement of the comprehensive plan and its implementation program and on the method of distributing the benefits or impacts of regional land use, economic development, housing, transportation, infrastructure or other shared plans and programs. ~~land use ordinances.~~

**3. Requirements.** The comprehensive planning and enforcement agreement must be in writing, approved by the municipal legislative bodies and forwarded to the office.

**Sec. 13. 30-A MRSA §4326** is amended to read:

**§4326. Growth management program elements**

A local growth management program shall include at least a comprehensive plan, as described in subsections 1 to 4, and an implementation program as described in subsection 5.

**1. Inventory and analysis.** A comprehensive plan ~~shall~~ must include an inventory and analysis section addressing state goals under this subchapter and issues of regional or local significance that the municipality planning district considers important. The inventory must be based on information provided by the State, regional councils and other relevant local sources. The analysis must include 10-year projections of local and regional growth in population and residential, commercial and industrial activity; the projected need for public facilities; and the vulnerability of and potential impacts on natural resources.

The inventory and analysis section must include, but is not limited to:

- A. Economic and demographic data describing the ~~municipality~~ planning district and the region in which it is located;
- B. Significant water resources such as lakes, aquifers, estuaries, rivers and coastal areas and, where applicable, their vulnerability to degradation;
- C. Significant or critical natural resources, such as wetlands, wildlife and fisheries habitats, significant plant habitats, coastal islands, sand dunes, scenic areas, shorelands, heritage coastal areas as defined under Title 5, section 3316, and unique natural areas;
- D. Marine-related resources and facilities such as ports, harbors, commercial moorings, commercial docking facilities and related parking, and shell fishing and worming areas;
- E. Commercial forestry and agricultural land;

- F. Existing recreation, park and open space areas and significant points of public access to shorelands within a municipality planning district;
- G. Existing transportation systems, including the capacity of existing and proposed major thoroughfares, secondary routes, pedestrian ways and parking facilities;
- H. Residential housing stock, including affordable housing;
- I. Historical and archeological resources including, at the discretion of the municipality, stone walls, stone impoundments and timber bridges of historical significance;
- J. Land use information describing current and projected development patterns; and
- K. An assessment of capital facilities and public services necessary to support growth and development and to protect the environment and health, safety and welfare of the public and the costs of those facilities and services.

**2. Policy development.** A comprehensive plan must include a policy development section that relates the findings contained in the inventory and analysis section to the state goals. The policies must:

- A. Promote the state goals under this subchapter;
- B. Address any conflicts between state goals under this subchapter;
- C. Address any conflicts between regional and local issues; and
- D. Address the State's coastal policies, if any part of the planning district is a coastal area.

**3. Implementation strategy.** A comprehensive plan must include an implementation strategy section that contains a timetable for the implementation program, including land use ordinances, ensuring that the goals established under this subchapter are met. These implementation strategies must be consistent with state law and must actively promote policies developed during the planning process. The timetable must identify significant ordinances to be included in the implementation program. The strategies and timetable must guide the subsequent adoption of policies, programs and land use ordinances. ~~In developing its strategies and subsequent policies, programs and land use ordinances, each municipality shall employ the following guidelines consistent with the goals of this subchapter:~~

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

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

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

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

~~These policies and ordinances may include, without limitation: density limits; cluster or special zoning;~~

~~acquisition of land or development rights; or performance standards.~~

~~A municipality is not required to identify growth areas for residential growth if it demonstrates that it is not possible to accommodate future residential growth in these areas because of severe physical limitations, including, without limitation, the lack of adequate water supply and sewage disposal services, very shallow soils or limitations imposed by protected natural resources; or it demonstrates that the municipality has experienced minimal or no residential development over the past decade and this condition is expected to continue over the 10 year planning period. A municipality exercising the discretion afforded by this paragraph shall review the basis for its demonstration during the periodic revisions undertaken pursuant to section 4327;~~

~~B. Develop a capital investment plan for financing the replacement and expansion of public facilities and services required to meet projected growth and development;~~

~~C. Protect, maintain and, when warranted, improve the water quality of each water body pursuant to Title 38, chapter 3, subchapter I, article 4 A and ensure that the water quality will be protected from long term and cumulative increases in phosphorus from development in great pond watersheds;~~

~~D. Ensure that its land use policies and ordinances are consistent with applicable state law regarding critical natural resources. A municipality may adopt ordinances more stringent than applicable state law;~~

~~E. Ensure the preservation of access to coastal waters necessary for commercial fishing, commercial mooring, docking and related parking facilities. Each coastal municipality shall discourage new development that is incompatible with uses related to the marine resources industry;~~



~~F. Ensure the protection of agricultural and forest resources. Each municipality shall discourage new development that is incompatible with uses related to the agricultural and forest industry;~~

~~G. Ensure that its land use policies and ordinances encourage the siting and construction of affordable housing within the community and comply with the requirements of section 4358 pertaining to individual mobile home and mobile home park siting and design requirements. The municipality shall seek to achieve a level of 10% of new residential development, based on a 5 year historical average of residential development in the municipality, meeting the definition of affordable housing. Municipalities are encouraged to seek creative approaches to assist in the development of affordable housing, including, but not limited to, cluster zoning, reducing minimum lot and frontage sizes, increasing densities and use of municipally owned land;~~

~~H. Ensure that the value of historical and archeological resources is recognized and that protection is afforded to those resources that merit it;~~

~~I. Encourage the availability of and access to traditional outdoor recreation opportunities, including, without limitation, hunting, boating, fishing and hiking; and encourage the creation of greenbelts, public parks, trails and conservation easements. Each municipality shall identify and encourage the protection of undeveloped shoreland and other areas identified in the local planning process as meriting that protection; and~~

~~J. Develop management goals for great ponds pertaining to the type of shoreline character, intensity of surface water use, protection of resources of state significance and type of public access appropriate for the intensity of use of great ponds within a municipality's jurisdiction.~~

**3-A. Guidelines for policy development and implementation strategies.** In developing its strategies and subsequent policies, programs and land use ordinances, each planning district shall employ the following guidelines consistent with the goals of this subchapter:

A. Identify and designate geographic areas in the planning district as growth areas and rural areas, as defined in this chapter.

(1) Within growth areas, each planning district shall:

(a) Establish development standards;

(b) Establish timely permitting procedures;

(c) Ensure that needed public services are available; and

(d) Prevent inappropriate development in natural hazard areas, including flood plains and areas of high erosion.

(2) Within rural areas, each planning district shall adopt land use policies and ordinances to discourage incompatible development. These policies and ordinances may include, without limitation, density limits, cluster or special zoning, acquisition of land or development rights or performance standards. The planning district should also identify which rural areas qualify as critical rural areas, as defined in this chapter. Critical rural areas would receive priority consideration for proactive strategies designed to enhance rural industries, manage wildlife and fisheries habitat and preserve sensitive natural areas.

(3) A planning district may also designate one or more portions of land area as transitional areas, which do not meet either the definition of a growth or rural area. These areas may be appropriate for medium-density development that does not require expansion of municipal facilities and does not include significant rural resources.

(4) A planning district is not required to identify growth areas for residential, commercial or industrial growth if it demonstrates that it is not possible to accommodate future residential, commercial or industrial growth in these areas because of severe physical limitations, including, without limitation, the lack of adequate water supply and sewage disposal services, very shallow soils or limitations imposed by protected natural resources.

(5) A planning district is not required to identify growth areas for residential, commercial or industrial growth if it demonstrates that the planning district has experienced minimal or no residential, commercial or industrial development over the past decade and this condition is expected to continue over the 10-year planning period.

(6) A planning district exercising the discretion afforded by subparagraphs 4 or 5 shall review the basis for its demonstration during the periodic revisions undertaken pursuant to section 4327;

B. Develop a capital investment plan for financing the replacement and expansion of public facilities and services required to meet projected growth and development;

C. Protect, maintain and, when warranted, improve the water quality of each water body pursuant to Title 38, chapter 3, subchapter I, article 4-A and ensure that the water quality will be protected from long-term and cumulative increases in phosphorus from development in great pond watersheds;

D. Ensure that its land use policies and ordinances are consistent with applicable state law regarding critical natural resources. A municipality, or multimunicipal region, if authorized to enact ordinances, may adopt ordinances more stringent than applicable state law;

E. Ensure the preservation of access to coastal waters necessary for commercial fishing, commercial mooring, docking and related parking facilities. Each coastal planning district may identify and designate one or more critical waterfront areas and implement policies to ensure protection of those areas or shall otherwise discourage new development that is incompatible with uses related to the marine resources industry;

F. Ensure the protection of agricultural and forest resources. Each planning district shall discourage new development that is incompatible with uses related to the agricultural and forest industry;

G. Ensure that the planning district's land use policies and ordinances encourage the siting and construction of affordable housing within the community and comply with the requirements of section 4358 pertaining to individual mobile home and mobile home park siting and design requirements. The planning district shall seek to achieve a level of at least 10% of new residential development, based on a 5-year historical average of residential development in the planning district and meeting the definition of affordable housing. A planning district is encouraged to seek creative approaches to assist in the development of affordable housing, including, but not limited to, cluster housing, reduced minimum lot and frontage sizes, increased residential densities and use of municipally owned land;

H. Ensure that the value of historical and archeological resources is recognized and that protection is afforded to those resources that merit it;

I. Encourage the availability of and access to traditional outdoor recreation opportunities, including, without limitation, hunting, boating, fishing and hiking and encourage the creation of greenbelts, public parks, trails and conservation easements. Each planning district shall identify and encourage the protection of undeveloped shoreland and other areas identified in the local planning process as meriting that protection; and

J. Develop management goals for great ponds pertaining to the type of shoreline character, intensity of surface water use, protection of resources of state significance and type of public access appropriate for the intensity of use of great ponds within a planning district's jurisdiction.

**4. Regional coordination program.** A regional coordination program must be developed with other municipalities to manage shared resources and facilities, such as rivers, aquifers, transportation facilities and others. This program must provide for consistency with the comprehensive plans of other municipalities for these resources and facilities.

**5. Implementation program.** An implementation program must be adopted that is consistent with the strategies in subsection ~~3~~ 3-A.

**Sec. 14. 30-A MRSA §4327** is repealed.

**Sec. 15. 30-A MRSA §4331** is amended to read:

**§4331. Evaluation process**

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

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

**2. Baseline conditions.** The office shall establish a baseline of land use conditions at a level of detail sufficient to permit general comparison of state and regional trends in future land use development patterns.

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

**4. Level of analysis.** The office shall evaluate the program generally at a regional and statewide level. To illustrate the impact of the program, the office shall compare land use development trends and patterns in a sample of towns that have participated in the program with a matched sample of towns that have not participated. The evaluation performed by the office shall include an analysis of the State's financial commitment to growth management.

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

**Sec. 16. 30-A MRSA §4345** is amended to read:

**§4345. Purpose; office to administer program**

Under the provisions of this article, a municipality planning district may request financial or technical assistance from ~~the State Planning Office, referred to in this article as the office,~~ for the purpose of planning and implementing a local growth management program. A municipality

planning district that requests and receives a financial assistance grant shall develop and implement its growth management program in cooperation with the office and in a manner consistent with the provisions of this article.

To accomplish the purposes of this article, the office shall develop and administer a technical and financial assistance program for ~~municipalities~~ planning districts. The program must include direct financial assistance for planning and implementation of ~~local~~ growth management programs, standards governing the review of ~~local~~ growth management programs by the office, technical assistance to ~~municipalities~~ planning districts and a voluntary certification program for ~~local~~ growth management programs.

**Sec. 17. 30-A MRSA §4346** is amended to read:

### **§4346. Technical and financial assistance program**

The technical and financial assistance program for ~~municipalities and regional councils~~ planning districts is established to encourage and facilitate the adoption and implementation of local, regional and statewide growth management programs ~~throughout the State~~.

The office may enter into financial assistance grants only to the extent that funds are available. In making grants, the office shall consider the need for planning in a municipality planning district, the proximity of the municipality planning district to other ~~towns~~ areas that are conducting or have completed the planning process and the economic and geographic role of the municipality planning district within a regional context. The office may consider other criteria in making grants, as long as the criteria support the goal of encouraging and facilitating the adoption and implementation of a local and multimunicipal growth management ~~program~~ programs consistent with the provisions of this article. In order to maximize the availability of the technical and financial assistance program to all municipalities, multimunicipal regions and regional councils, financial assistance programs administered competitively under this article are exempt from rules adopted by the Department of Administrative and Financial Services pursuant to Title 5, section 1825-C for use in the purchase of services and the awarding of grants and contracts. The office shall publish a program statement describing its grant program and advertising its availability to eligible applicants.

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

- A. Provide for the payment of a specific amount for the purposes of planning and preparing a comprehensive plan;
- B. Provide for the payment of a specific amount for the purposes of implementing that comprehensive plan; and
- C. Include specific timetables governing the preparation and submission of products by the municipality planning district.

The office may not require a ~~municipality~~ planning district to provide matching funds in excess of 25% of the value of that municipality's financial assistance contract for its first planning assistance grant and implementation assistance grant. The office may require a higher match for other grants, including, but not limited to, grants for the purpose of updating comprehensive plans. This match limitation does not apply to distribution of federal funds that the office may administer.

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

- A. The conduct of surveys, inventories and other data-gathering activities;
- B. The hiring of planning and other technical staff;
- C. The retention of planning consultants;
- D. Contracts with regional councils for planning and related services;
- E. Assistance in the development of ordinances;
- F. Retention of technical and legal expertise ~~for permitting activities~~;
- G. The updating of growth management programs or components of a program; ~~and~~  
G-1. Evaluation of growth management programs; and
- H. Any other purpose agreed to by the office and the ~~municipality~~ planning district that is directly related to the preparation of a comprehensive plan or the ~~preparation of policies, programs and land use ordinances to implement that~~ implementation of a comprehensive plan adopted under this subchapter.

**2-C. Program evaluation.** Any recipient of a financial assistance grant shall cooperate with the office in performing program evaluations required under section 4331.

**3. Technical assistance.** Using its own staff, the staff of other state agencies, contractors and the resources of the regional councils, the office shall provide technical assistance to ~~municipalities~~ planning districts in the development, administration and enforcement of ~~local~~ growth management programs. The technical assistance component of the program must include a set of model land use ordinances or other implementation strategies developed by the office that are consistent with this subchapter.

**4. Regional council assistance.** As part of the technical and financial assistance program, the office may develop and administer a program to develop regional education and training programs, regional policies to address state goals and regional assessments. Regional assessments may include, but are not limited to, public infrastructure, inventories of agricultural

and commercial forest lands, housing needs, recreation and open space needs, and projections of regional growth and economic development. The program may include guidelines to ensure methodological consistency among the State's regional councils. To implement this program, the office may contract with regional councils to assist the office in reviewing ~~local~~ growth management programs, to develop necessary planning information at a regional level or to provide support for local planning efforts.

**5. Coordination.** State agencies with regulatory or other authority affecting the goals established in this subchapter shall conduct their respective activities in a manner consistent with the goals established under this subchapter, including, but not limited to, coordinating with municipalities, regional councils and other state agencies in meeting the state goals, providing available information to regions and municipalities as described in section 4326, subsection 1, cooperating with efforts to integrate and provide access to geographic information system data, making state investments and awarding grant money as described in section 4349-A; and conducting reviews of growth management programs as provided in section 4347-A, subsection 3, paragraph A. Without limiting the application of this section to other state agencies, the following agencies shall comply with this subchapter. The Land and Water Resources Council shall periodically, but in no event less than biannually, review the effectiveness of agency coordination efforts, including, but not limited to, those in section 4349-A:

- A. Department of Conservation;
- B. Department of Economic and Community Development;
- C. Department of Environmental Protection;
- D. Department of Agriculture, Food and Rural Resources;
- E. Department of Inland Fisheries and Wildlife;
- F. Department of Marine Resources;
- G. Department of Transportation;
- G-1. Department of Human Services;
- G-2. State Planning Office;
- H. Finance Authority of Maine; and
- I. Maine State Housing Authority.

**Sec. 18. 30-A MRSA §4347-A** is amended to read:

**§4347-A. Review of programs by office**

**1. Comprehensive plans.** A ~~municipality~~ planning district that chooses to prepare a growth management program and receives a planning grant under this article shall submit its comprehensive plan to the office for review. The office shall review plans for consistency with the goals and guidelines established in this subchapter. Any contract for a planning assistance grant must include specific timetables governing the review of the comprehensive plan by the office. Any comprehensive plan submitted for review more than 12 months following a contract end date may be required to update data, projections and other time-sensitive portions of the plan or program to the office's most current review standards.

**2. Growth management programs.** A ~~municipality~~ planning district may at any time request a certificate of consistency for its growth management program.

A. Upon a request for review under this section, the office shall review the program and determine whether the program is consistent with the procedures, goals and guidelines established in this subchapter.

~~B. Except as provided in subsection 1, e~~Certification by the office of a ~~municipality's~~ planning district's growth management program under this article is valid for 10 years. To maintain certification, a ~~municipality~~ planning district shall periodically review its growth management program and submit to the office in a timely manner any revisions necessary to account for changes, including changes caused by growth and development.

Certification does not lapse in any year in which the Legislature does not appropriate funds to the office for the purposes of reviewing programs for recertification.

**3. Review of comprehensive plan or growth management program.** In reviewing a comprehensive plan or growth management program, the office shall:

A. Solicit written comments on any proposed comprehensive plan or growth management program from regional councils, state agencies, all municipalities contiguous to the ~~municipality~~ planning district submitting a comprehensive plan or growth management program and any interested residents of the ~~municipality~~ planning district or of contiguous municipalities. The comment period extends for 45 days after the office receives the comprehensive plan or growth management program.

(1) Each state agency reviewing the proposal shall designate a person or persons responsible for coordinating the agency's review of the comprehensive plan or growth management program.

(2) Any regional council commenting on a program shall determine whether the program is compatible with the programs of other municipalities that may be affected by the program and with regional policies or needs identified by the regional council;



B. Prepare all written comments from all sources in a form to be forwarded to the municipality planning district;

C. Within 60 days after receiving the comprehensive plan or 90 days after receiving the growth management program, send all written comments on the comprehensive plan or growth management program to the municipality planning district and any applicable regional council. If warranted, the office shall issue findings specifically describing how the submitted plan or growth management program is not consistent with this subchapter and the recommended measures for remedying the deficiencies.

(1) In its findings, the office shall clearly indicate its position on any point on which there are significant conflicts among the written comments submitted to the office.

(2) If the office finds that the comprehensive plan or growth management program was adopted under this subchapter, the office shall issue a finding of consistency for the comprehensive plan or a certificate of consistency for the growth management program.

(3) Notwithstanding paragraph D, if a municipality planning district requests a certificate of consistency for its growth management program, any unmodified component of that program that has previously been reviewed by the office and has received a finding of consistency will retain that finding during program certification review by the office as long as the finding of consistency is current as defined in rules adopted by the office;

D. Provide ample opportunity for the municipality planning district submitting a comprehensive plan or growth management program to respond to and correct any identified deficiencies in the plan or program. A finding of inconsistency for a comprehensive plan or growth management program may be addressed within 24 months of the date of the finding without jeopardizing partial findings of consistency attained during that review. After 24 months, the plan or program must be resubmitted in its entirety for state review under the office's most current review standards; and

E. Provide an expedited review and certification procedure for those submissions that represent minor amendments to certified growth management programs.

The office's decision on consistency of a comprehensive plan or growth management program constitutes final agency action.

**4. Updates and amendments.** A municipality planning district may submit proposed amendments to a comprehensive plan or growth management program to the office for review in the same manner as provided for the review of new plans and programs. Subsequent to voluntary certification under this subsection, the municipality planning district shall file a copy of an amendment to a growth management program with the office within 30 days after adopting the amendment and at least 60 days prior to applying for any state grant program that offers a preference for consistency or certification.

**5. Regional councils.** Subject to the availability of funding and pursuant to the conditions of a contract, each regional council shall review and submit written comments on the comprehensive plan or growth management program of any ~~municipality~~ planning district within its planning region. The comments must be submitted to the office and contain an analysis of:

A. Whether the comprehensive plan or growth management program is compatible with identified regional policies and needs; and

B. Whether the comprehensive plan or growth management program is compatible with plans or programs of other municipalities that may be affected by the proposal.

**Sec. 19. Revisor's review; cross-references.** The Revisor of Statutes shall review the Maine Revised Statutes and include in the errors and inconsistencies bill submitted to the First Regular Session of the 121st Legislature pursuant to Title 1, section 94, any sections necessary to correct and update any cross-references in the statutes to provisions of law repealed in this Act.

## SUMMARY

This bill amends the comprehensive planning and land use regulation laws to add and improve definitions, particularly those related to growth, rural and transitional areas. The bill reinforces regional and municipal roles in growth management and more clearly enables multimunicipal planning efforts.

**APPENDIX F-3**

**An Act to Authorize a General Fund Bond Issue in the Amount of \$8,000,000 to Make Public Infrastructure Improvements.**

**Preamble.** Two thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14 to authorize the issuance of bonds on behalf of the State of Maine to provide funds to make public infrastructure improvements.

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

**Sec. 1. Authorization of bonds to provide for funds to make public infrastructure improvements.** 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 \$8,000,000 to raise funds to make public infrastructure improvements as authorized by section 6. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 10 years from the date of the original issue of the bonds. At the discretion of the Treasurer of State, with the approval of the Governor, any issuance of bonds may contain a call feature.

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

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

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

**Sec. 5. Disbursement of bond proceeds.** The proceeds of the bonds must be expended as set out in section 6 under the direction and supervision of the Department of Economic and Community Development.

**Sec. 6. Allocations from General Fund bond issue; to make public infrastructure improvements.** The proceeds of the sale of the bonds must be expended as designated in the following schedule.

**ECONOMIC AND COMMUNITY DEVELOPMENT,  
DEPARTMENT OF**

Grants and loans to municipalities for public infrastructure through the Municipal Investment Trust Fund	\$8,000,000
--	-------------

<b>TOTAL ALLOCATIONS</b>	<hr/> \$8,000,000
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**Sec. 7. Contingent upon ratification of bond issue.** Sections 1 to 6 do not become effective unless the people of the State have ratified the issuance of the bonds as set forth in this Act.

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

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

"Do you favor a \$8,000,000 bond issue for the following purposes:

1. The sum of \$8,000,000 for grants and loans to municipalities for public infrastructure through the Municipal Investment Trust Fund?"

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

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

### **SUMMARY**

The funds provided by this bond issue, in the amount of \$8,000,000, will be used for the following purposes:

1. The sum of \$8,000,000 for grants and loans to municipalities for public infrastructure through the Municipal Investment Trust Fund.

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**APPENDIX F-4**

## An Act to Provide for Livable, Affordable Neighborhoods

Sec. 1. 30-A MRSA §4301, sub-§1, is repealed and the following enacted in its place:

**1. Affordable housing.** “Affordable housing” means a decent, safe, and sanitary dwelling, apartment, or other living accommodation for a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 412, 50 Stat. 888, Section 8, as amended.

Sec. 2. 30-A MRSA § 4357-B is enacted to read:

### **§4357-B. Regulation of affordable neighborhood development**

**1. Applicability.** This section applies in municipalities that are part of a labor market area, as defined by the Maine Department of Labor, in which the Maine State Housing Authority, using common underwriting criteria, determines that a household at the median income for the labor market area can not afford to purchase a median priced home. The Maine State Housing Authority shall make this determination at least every two years.

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

- a. “Accessory dwelling unit” means a dwelling unit of 600 square feet or fewer within a single-family dwelling or a building accessory to and on the same lot as the single-family dwelling when the owner of the property occupies wither the main dwelling or the accessory dwelling unit.
- b. “Affordable neighborhood development” means a primarily residential development on at least 3 contiguous acres in which at least 25% of the dwelling units are affordable housing as defined by section 4301; and that is designed to be compact and walkable; is served by, or will be served by an extension of, a public sewer; includes common and internal open space; includes one or more small-scale nonresidential uses of service to the residents of the development either built within the development or available within ½ mile of the development, and meets design guidelines established pursuant to subsection 4.
- c. “Common open space” means a parcel or parcels of land, an area of water or a combination of land and water, including floodplains and wetlands, within or traversing a development designed and intended for the use and enjoyment of residents of the development. “Common open space” does



not include land or yards allocated to specific dwellings units or other structures or in public rights-of-way.

d. “Complete plan” means a plan signed and sealed by the professional land surveyor under whose responsible charge a land survey was completed; and signed and sealed by a landscape architect certified in the State under whose responsible charge all elements of the plan, as required by the design  
blished in subsection 4, have been addressed.

e. \_\_\_\_\_  
consisting of one or more parcels with a minimum area of 500 square feet, of a distinct geometric shape and bounded by streets or other rights of-  
\_\_\_\_\_

“Precertified development” means a development that, prior to final  
\_\_\_\_\_  
Neighborhood Development Review Board established in subsection 2 and certified as an affordable neighborhood dev  
\_\_\_\_\_

**State Affordable Neighborhood Development Review Board.**

Affordable Neighborhood Development Review Board is established.

a. \_\_\_\_\_  
to in this section as the “board,” is established within the Maine State Housing Authority. Its membership consists of the director of the Maine  
\_\_\_\_\_  
Director of the State Planning Office or the director’s designee; the Commissio  
\_\_\_\_\_  
designee; a landscape architect certified in the State, appointed by the Governor; a town or city planner employed by a municipality in the State,  
\_\_\_\_\_  
the Governor. The director of the Maine State Housing Authority or the director’s designee shall not vote on applications that are seeking financing  
\_\_\_\_\_

Appointed members of the board shall serve 3 year terms, or until a  
\_\_\_\_\_  
position that qualified them for appointment. A quorum is 4 members.

c. \_\_\_\_\_  
the board shall, by a vote of a majority of the members present and voting, issue a written finding:

Certifying that the plan meets the criteria and design guidelines, as  
development; or

2. \_\_\_\_\_ ts the criteria and design  
guidelines for an affordable neighborhood development, and the  
\_\_\_\_\_  
is denied may resubmit a new complete plan at a later date.

a. \_\_\_\_\_  
without pay. Other members of the board are entitled to receive \$75 per  
day for their services and to reimbursement for reasonable expenses,  
including travel, to be paid by the Maine State Housing Authority.

**1. Regulation of affordable neighborhood development.** Affordable  
neighborhood developments are regulated as follows.

- a. Except as required under Title 38, or an ordinance adopted pursuant to  
Title 38, a municipality may not require a single-family house lot within a  
precertified affordable neighborhood development to be larger than 6,500  
square feet or to have frontage of more than 50 feet on any road, except  
that it may require the average of all lots in the development to be at least  
70 feet, and may not require dimensional standards for lots, buildings or  
roads in excess of the guidelines established pursuant to subsection 4.
- b. Except as required under Title 38, or an ordinance adopted pursuant to  
Title 38, a municipality may not require a multifamily lot within a  
precertified affordable neighborhood development to have fewer than 7  
dwelling units per acre, and may not require dimensional standards for lots,  
buildings or roads in excess of the guidelines established pursuant to  
subsection 4.
- c. A precertified affordable neighborhood development may be located in any  
area of a municipality where other residential development is allowed, as  
long as public sewer is available to the development either through an  
existing line or one that could be extended to the development. If a  
municipal zoning district enacted pursuant to a consistent comprehensive  
plan permits only single-family dwellings, the precertified affordable  
neighborhood development must be restricted to single-family dwellings,  
accessory dwelling units and small-scale nonresidential structures and uses  
found by the board to be integral to the development.
- d. A precertified affordable neighborhood development is subject to the same  
municipal subdivision and site plan reviews as other residential  
developments in the municipality, provided that such reviews may not

require dimensional standards for lots, buildings or roads in excess of the guidelines established pursuant to subsection 4; and provided that such a complete application for such reviews.

- e. A municipality may substitute its definition of “accessory dwelling unit,” as long as it does not have the effect of prohibiting those units in an affordable

**Design guidelines; rule.**

define an affordable neighborhood development. The rule must include submission requirements and related fees. The State Planning Office, in cooperation with the board, or the board’s consideration. The guidelines must generally respect the principles of walkable neighborhoods with a variety of lot sizes and types and respect the natural environment, provide for adequate fire protection and public safety and provide for appropriate internal and other common open space. The rule is a major  
gislature no later than December 1, 2002. -A and must be submitted

**SUMMARY**

Board within the Maine State Housing Authority and establishes regulations for affordable neighborhood developments. It also amends the definition of affordable housing in the

**APPENDIX F-5**

*(Draft legislation amending subdivision criteria regarding traffic)*

## **An Act to Amend the Subdivision Review Criteria for Traffic**

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

Sec. 1. 30-A MRS § 4404, sub-§5 is amended to read as follows:

**5. Traffic.** The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if proposed to access a mobility arterial as defined in Maine Department of Transportation rule Chapter 299 Parts A and B, the proposed subdivision will not cause a reduction in the posted speed of that mobility arterial;

### **SUMMARY**

This bill amends the subdivision review criteria for traffic by requiring a determination that the proposed subdivision will not reduce the speed of a mobility arterial.

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**APPENDIX F-6**

*(Draft legislation on growth ordinances)*

## **An Act to Clarify the Use of Municipal Rate of Growth Ordinances**

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

Sec. 1. 30-A MRS § 4360 is enacted to read:

### **§ 4360. Rate of growth ordinances**

A municipality may enact an ordinance under its home rule authority limiting the number of building or development permits issued over a designated time frame, referred to in this section as a “growth rate ordinance,” only under the following circumstances.

**1. Temporary growth rate ordinance.** A temporary growth rate ordinance must meet the following requirements:

A. The growth rate ordinance is needed to provide time for the municipality while it takes specific actions to improve facilities or services needed to accommodate growth;

B. The growth rate ordinance is enacted for a definite term, not to exceed two years, unless the municipality is granted an exception pursuant to rules established by the office. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter II-A; and

C. A municipality may not enact a temporary growth rate ordinance more than once during any 10-year period.

**2. Ongoing growth rate ordinances that apply inside designated growth areas.** A municipality with a comprehensive plan adopted under the planning and land use regulation laws under this chapter may adopt an ongoing growth rate ordinance that applies only to designated growth areas if the ordinance requires that the number of permits issued annually under the growth rate ordinance be determined according to a formula specified in rules adopted by the office. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

**3. Ongoing growth rate ordinances that apply outside designated growth areas.** Notwithstanding subsection 2, a municipality with a comprehensive plan adopted under the planning and land use regulation laws under this chapter may adopt an ongoing growth rate ordinance that applies only to designated rural areas if:

A. The growth rate ordinance is recommended in the comprehensive plan as a mechanism for guiding growth; and

B. The comprehensive plan lays out policies and strategies for accommodating most of the community's future growth in designated growth areas.

## SUMMARY

This bill outlines the parameters within which a municipality may adopt a growth rate ordinance. Temporary growth rate ordinances may be enacted only to slow development while a community works toward solving the problems necessitating the growth rate ordinance. A permanent growth rate ordinance may be enacted inside a designated growth area only if the ordinance requires that the number of permits issued annually under the growth rate ordinance be determined according to a formula specified in rules adopted by the State Planning Office. A permanent growth rate ordinance may be enacted inside a designated rural area only if the ordinance is recommended in the municipality's comprehensive plan as a mechanism for guiding growth and the comprehensive plan lays out policies and strategies for accommodating most of the community's future growth in designated growth areas.

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**APPENDIX F-7**

*(Draft legislation for growth management pilot projects)*

**An Act to Establish a Pilot Project Program to Provide Incentives for Multimunicipal Development**

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

Sec. 1. 5 MRSA § 3331, subsection 8 is enacted to read:

**8. Growth Management Pilot Projects.** The council shall set up and conduct a pilot project program to provide incentives for coordinated multimunicipal development by permitting 2 or more municipalities to share the costs and benefits of development. The council may approve up to 5 pilot projects under which 2 or more municipalities may share the costs and benefits of development by certifying the municipalities to receive priority in receiving state transportation infrastructure funding, growth management planning and implementation grants, Municipal Investment Trust Fund grants and CDBG grants. The council shall report on the implementation of the pilot projects to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 1, 2003.

Sec. 2. 30-A MRSA § 4349-A, subsection 3-A is enacted to read:

**§ 4349-A. State capital investments**

**1. Growth-related capital investments.** The State may make growth-related capital investments only in:

- A. A locally designated growth area, as identified in a comprehensive plan adopted pursuant to and consistent with the goals and guidelines of this subchapter;
- B. In the absence of a consistent comprehensive plan, an area served by a public sewer system that has the capacity for the growth-related project, an area identified in the latest Federal Decennial Census as a census-designated place or a compact area of an urban compact municipality as defined by Title 23, section 754; or
- C. Areas other than those described in paragraph A or B for the following projects:
  - (1) A project certified to the Land and Water Resources Council established in Title 5, section 3331 by the head of the agency funding the project as necessary to remedy a threat to public health or safety or to comply with environmental cleanup laws;
  - (2) A project related to a commercial or industrial activity that, due to its operational or physical characteristics, typically is located away from other

development, such as an activity that relies on a particular natural resource for its operation;

(3) An airport, port or railroad or industry that must be proximate to an airport, a port or a railroad line or terminal;

(4) A pollution control facility;

(5) A project that maintains, expands or promotes a tourist or cultural facility that is required to be proximate to a specific historic, natural or cultural resource or a building or improvement that is related to and required to be proximate to land acquired for a park, conservation, open space or public access or to an agricultural, conservation or historic easement;

(6) A project located in a municipality that has none of the geographic areas described in paragraph A or B and that prior to January 1, 2000 formally requested but had not received from the office funds to assist with the preparation of a comprehensive plan or that received funds to assist with the preparation of a comprehensive plan within the previous 2 years. This exception expires for a municipality 2 years after such funds are received;

(7) A housing project serving the following: individuals with mental illness, mental retardation, developmental disabilities, physical disabilities, brain injuries, substance abuse problems or a human immunodeficiency virus; homeless individuals; victims of domestic violence; foster children; or children or adults in the custody of the State; or

(8) A project certified to the Land and Water Resources Council established in Title 5, section 3331 by the head of the agency funding the project as having no feasible location within an area described in paragraph A or B if, by majority vote of all members, the Land and Water Resources Council finds that extraordinary circumstances or the unique needs of the agency require state funds for the project. The members of the Land and Water Resources Council may not delegate their authority under this subparagraph to the staffs of their member agencies.

**2. State facilities.** The Department of Administrative and Financial Services, Bureau of General Services shall develop site selection criteria for state office buildings, state courts and other state civic buildings that serve public clients and customers, whether owned or leased by the State, that give preference to the priority locations identified in this subsection while ensuring safe, healthy, appropriate work space for employees and clients and accounting for agency requirements. Preference must be given to priority locations in the following order: service center downtowns, service center growth areas and downtowns and growth areas in other than service center communities. If no suitable priority location exists or if the priority location would impose an undue financial hardship on the occupant or is not within a reasonable distance of the clients and customers served, the facility must be located in accordance with subsection 1. The following state facilities are exempt from this subsection: a state liquor store; a lease of less than 500 square feet; and a lease with a tenure of less than one year, including renewals.

For the purposes of this subsection, "service center" means a community that serves the surrounding region, drawing workers, shoppers and others into the community for jobs and services.

**3. Preference for other capital investments.** When awarding grants or assistance for capital investments or undertaking its own capital investment programs other than for projects identified in section 4301, subsection 5-B, a state agency shall give preference to a municipality that receives a certificate of consistency under section 4348 or that has adopted a comprehensive plan and implementation strategies consistent with the goals and guidelines of this subchapter over a municipality that does not obtain the certificate or finding of consistency within 4 years after receipt of the first installment of a financial assistance grant or rejection of an offer of financial assistance.

**3-A. Preference for certified growth management pilot projects.** When awarding grants or assistance for transportation infrastructure funding, growth management planning and implementation grants, Municipal Investment Trust Fund grants and CDBG grants, a state agency shall give preference to a municipality that receives a certification from the Land and Water Resources Council that the municipality meets the requirements of a pilot project pursuant to Title 5, section 3331, subsection 8.

**4. Application.** Subsections 1 and 2 apply to a state capital investment for which an application is accepted as complete by the state agency funding the project after January 1, 2001 or which is initiated with the Department of Administrative and Financial Services, Bureau of General Services by a state agency after January 1, 2001.

## SUMMARY

This bill directs the Land and Water Resources Council to set up a pilot project program to provide incentives for towns to work together on development issues by giving them the opportunity to share costs and benefits of development. Under the bill, towns that are certified by the Council as meeting the requirements of the pilot program would be eligible to receive priority in state transportation funding, growth management funding, Municipal Investment Trust Fund grants and CDBG grants.

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**APPENDIX F-8**

*(Draft legislation to enable the transfer of development rights)*

## **An Act to Authorize the Transfer of Development Rights**

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

Sec. 1. 30-A MRS §4326, sub-§3, ¶A is amended to read:

### **§ 4326. Local growth management program**

**3. Implementation strategy.** A comprehensive plan must include an implementation strategy section that contains a timetable for the implementation program, including land use ordinances, ensuring that the goals established under this subchapter are met. These implementation strategies must be consistent with state law and must actively promote policies developed during the planning process. The timetable must identify significant ordinances to be included in the implementation program. The strategies and timetable must guide the subsequent adoption of policies, programs and land use ordinances. In developing its strategies and subsequent policies, programs and land use ordinances, each municipality shall employ the following guidelines consistent with the goals of this subchapter:

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

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

(a) Establish standards for these developments;

(b) Establish timely permitting procedures;

(c) Ensure that needed public services are available within the growth area;  
and

(d) Prevent inappropriate development in natural hazard areas, including flood plains and areas of high erosion; and

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

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

A municipality is not required to identify growth areas for residential growth if it demonstrates that it is not possible to accommodate future residential growth in these areas because of severe physical limitations, including, without limitation, the lack of adequate water supply and sewage disposal services, very shallow soils or limitations imposed by protected natural resources; or it demonstrates that the municipality has experienced minimal or no residential development over the past decade and this condition is expected to continue over the 10-year planning period. A municipality exercising the discretion afforded by this paragraph shall review the basis for its demonstration during the periodic revisions undertaken pursuant to section 4327;

### **SUMMARY**

This bill authorizes municipalities to establish policies and ordinances relating to the transfer of development rights.

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**APPENDIX F-9**



*(Draft legislation amending the BGS site selection criteria for parking)*

## **An Act Regarding Site Selection Criteria for Parking for State Facilities**

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

Sec. 1. 30-A MRSA § 4349-A, sub-§2 is amended to read as follows:

**2. State facilities.** The Department of Administrative and Financial Services, Bureau of General Services shall develop site selection criteria for state office buildings, state courts and other state civic buildings that serve public clients and customers, whether owned or leased by the State, that give preference to the priority locations identified in this subsection while ensuring safe, healthy, appropriate work space for employees and clients and accounting for agency requirements. On-site parking may only be required if it is necessary to meet critical program needs and to ensure reasonable access for agency clients and persons with disabilities. Employee parking that is within reasonable and walkable proximity may be located off-site. Preference must be given to priority locations in the following order: service center downtowns, service center growth areas and downtowns and growth areas in other than service center communities. If no suitable priority location exists or if the priority location would impose an undue financial hardship on the occupant or is not within a reasonable distance of the clients and customers served, the facility must be located in accordance with subsection 1. The following state facilities are exempt from this subsection: a state liquor store; a lease of less than 500 square feet; and a lease with a tenure of less than one year, including renewals.

For the purposes of this subsection, "service center" means a community that serves the surrounding region, drawing workers, shoppers and others into the community for jobs and services.

### **SUMMARY**

This bill clarifies that site selection criteria for State facilities may require on-site parking only if it is necessary to meet critical program needs and to ensure reasonable access for agency clients and persons with disabilities. It also clarifies that employee parking that is within reasonable and walkable proximity may be located off-site.

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**APPENDIX F-10**

## **An Act to Amend the Law Relating to Growth-Related Capital Investments**

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

Sec. 1. 30-A MRSA §4301, sub-§5-B is amended to read as follows:

**5-B. Growth-related capital investment.** "Growth-related capital investment" means investment by the State in only the following projects, whether using state, federal or other public funds and whether in the form of a purchase, lease, grant, loan, loan guarantee, credit, tax credit or other financial assistance, even if privately owned:

- A. Construction or acquisition of newly constructed multifamily rental housing;
- B. Development of industrial or business parks;
- C. Construction or extension of sewer, water and other utility lines;
- D. Grants and loans for public or quasi-public service infrastructure, public or quasi-public facilities and community buildings; and
- E. Construction or expansion of state office buildings, state courts, hospitals and other quasi-public facilities and other ~~state~~ civic buildings that serve public clients and customers.

"Growth-related capital investment" does not include investment in the following: the operation or maintenance of a governmental or quasi-governmental facility or program; the renovation of a governmental facility that does not significantly expand the facility's capacity; general purpose aid for education; school construction or renovation projects; highway or bridge projects; programs that provide direct financial assistance to individual businesses; community revenue sharing; or public health programs.

Sec. 2. 30-A MRSA §4349-A, sub-§§ 1 and 2 are amended to read as follows:

### **§ 4349-A. State capital investments**

**1. Growth-related capital investments.** The State may make growth-related capital investments only in:

- A. A locally designated growth area, as identified in a comprehensive plan adopted pursuant to and consistent with the goals and guidelines of this subchapter;
- B. In the absence of a consistent comprehensive plan, an area served by a public sewer system that has the capacity for the growth-related project, an area identified in the latest

Federal Decennial Census as a census-designated place or a compact area of an urban compact municipality as defined by Title 23, section 754; or

C. Areas other than those described in paragraph A or B for the following projects:

(1) A project certified to the Land and Water Resources Council established in Title 5, section 3331 by the head of the agency funding the project as necessary to remedy a threat to public health or safety or to comply with environmental cleanup laws;

(2) A project related to a commercial or industrial activity that, due to its operational or physical characteristics, typically is located away from other development, such as an activity that relies on a particular natural resource for its operation;

(3) An airport, port or railroad or industry that must be proximate to an airport, a port or a railroad line or terminal;

(4) A pollution control facility;

(5) A project that maintains, expands or promotes a tourist or cultural facility that is required to be proximate to a specific historic, natural or cultural resource or a building or improvement that is related to and required to be proximate to land acquired for a park, conservation, open space or public access or to an agricultural, conservation or historic easement;

(6) A project located in a municipality that has none of the geographic areas described in paragraph A or B and that prior to January 1, 2000 formally requested but had not received from the office funds to assist with the preparation of a comprehensive plan or that received funds to assist with the preparation of a comprehensive plan within the previous 2 years. This exception expires for a municipality 2 years after such funds are received;

(7) A housing project serving the following: individuals with mental illness, mental retardation, developmental disabilities, physical disabilities, brain injuries, substance abuse problems or a human immunodeficiency virus; homeless individuals; victims of domestic violence; foster children; or children or adults in the custody of the State. These exceptions are not intended to include nursing homes; or

(8) A project certified to the Land and Water Resources Council established in Title 5, section 3331 by the head of the agency funding the project as having no feasible location within an area described in paragraph A or B if, by majority vote of all members, the Land and Water Resources Council finds that extraordinary circumstances or the unique needs of the agency require state funds for the project. The members of the Land and Water Resources Council may not delegate their authority under this subparagraph to the staffs of their member agencies.

**2. State facilities.** The Department of Administrative and Financial Services, Bureau of General Services shall develop site selection criteria for state office buildings, state courts, hospitals and other quasi-public facilities and other ~~state~~ civic buildings that serve public clients and customers, whether owned or leased by the State, that give preference to the priority locations identified in this subsection while ensuring safe, healthy, appropriate work space for employees and clients and accounting for agency requirements. Preference must be given to priority locations in the following order: service center downtowns, service center growth areas and downtowns and growth areas in other than service center communities. If no suitable priority location exists or if the priority location would impose an undue financial hardship on the occupant or is not within a reasonable distance of the clients and customers served, the facility must be located in accordance with subsection 1. The following state facilities are exempt from this subsection: a state liquor store; a lease of less than 500 square feet; and a lease with a tenure of less than one year, including renewals.

For the purposes of this subsection, "service center" means a community that serves the surrounding region, drawing workers, shoppers and others into the community for jobs and services.

### **SUMMARY**

This bill is intended to ensure that hospitals and other quasi-public facilities that use state or passed-through federal dollars are treated like other public entities regarding growth-related capital investments.