

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 128

S.P. 63

In Senate, January 21, 2021

**An Act To Authorize the Commissioner of Transportation To Enter
into Agreements with the United States Department of
Transportation**

Submitted by the Department of Transportation pursuant to Joint Rule 204.
Received by the Secretary of the Senate on January 19, 2021. Referred to the Committee
on Transportation pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator DIAMOND of Cumberland.

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

2 **Sec. 1. 23 MRSA §4206, sub-§1, ¶N**, as amended by PL 2011, c. 302, §20, is
3 further amended to read:

4 N. To make contracts and enter into agreements with and make assurances and
5 certifications to the Maine Turnpike Authority, and other 3rd parties, necessary in
6 connection with determination of department projects and the issuance of bonds or
7 obligations pursuant to section 1968, subsection 2-A; ~~and~~

8 **Sec. 2. 23 MRSA §4206, sub-§1, ¶O**, as enacted by PL 2005, c. 277, §3, is
9 amended to read:

10 O. To bring before the joint standing committee of the Legislature having jurisdiction
11 over transportation matters for review and approval any proposal that would alter the
12 current land use, ownership or jurisdiction of lands owned by the State within the Port
13 of Searsport presently under the jurisdiction of the department; and

14 **Sec. 3. 23 MRSA §4206, sub-§1, ¶P** is enacted to read:

15 P. To enter into agreements and cooperate with the United States Department of
16 Transportation or any other appropriate federal agency as provided in 23 United States
17 Code, Sections 325 to 327 and as authorized under the federal Moving Ahead for Progress
18 in the 21st Century Act, the federal Safe, Accountable, Flexible, Efficient Transportation
19 Equity Act: A Legacy for Users and the federal National Environmental Policy Act of
20 1969. Pursuant to such an agreement, the commissioner may assume certain
21 responsibilities of the Secretary of the United States Department of Transportation and take
22 any other actions as required by any such agreement or by such federal laws.

23 (1) The commissioner may adopt any rules necessary to implement an agreement
24 pursuant to this paragraph and carry out any duties imposed under such an
25 agreement. Rules adopted pursuant to this subparagraph are routine technical rules
26 pursuant to Title 5, chapter 375, subchapter 2-A.

27 (2) The commissioner may make expenditures of money in connection with an
28 agreement authorized under this paragraph from any funds of the department that
29 are available to the commissioner.

30 (3) Notwithstanding Title 14, chapter 741, sovereign immunity from civil suit in
31 federal court is waived consistent with 23 United States Code, Sections 326 and 327
32 and limited to the compliance, discharge or enforcement of a responsibility assumed
33 by the department under this paragraph. This subparagraph applies only to actions that
34 are authorized under this paragraph and does not create liability that exceeds the
35 liability created under 23 United States Code, Sections 325 to 327.

36 **SUMMARY**

37 This bill allows the Commissioner of Transportation to enter into agreements and
38 cooperate with the United States Department of Transportation as provided in 23 United
39 States Code, Sections 325 to 327 and as authorized under the federal Moving Ahead for
40 Progress in the 21st Century Act, the federal Safe, Accountable, Flexible, Efficient
41 Transportation Equity Act: A Legacy for Users and the federal National Environmental
42 Policy Act of 1969. It allows the commissioner to adopt rules to implement an agreement,

1 carry out duties under an agreement and make expenditures in connection with an
2 agreement. Consistent with 23 United States Code, Sections 326 and 327, it provides for
3 a partial waiver of immunity from civil suit in federal court regarding the compliance,
4 discharge or enforcement of a responsibility assumed by the Department of Transportation
5 upon the department's entering an agreement.