

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 568

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H.P. 413

House of Representatives, February 24, 2021

**An Act To Establish a Working Farmland Access and Protection Program within the Department of Agriculture, Conservation and Forestry and a Working Farmland Access and Protection Fund within the Land for Maine's Future Program**

(EMERGENCY)

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Submitted by the Department of Agriculture, Conservation and Forestry pursuant to Joint Rule 204.

Received by the Clerk of the House on February 22, 2021. Referred to the Committee on Agriculture, Conservation and Forestry pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative PLUECKER of Warren.  
Cosponsored by Representative: Speaker FECTION of Biddeford.

1           **Emergency preamble. Whereas,** acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** agriculture is critically important to the State's economy and food supply,  
4 and, because the State's working farms positively contribute to their communities as well  
5 as the State's overall quality of life, it is in the public interest to strengthen the agricultural  
6 sector by preserving productive agricultural soils, working farmland and open space land;  
7 and

8           **Whereas,** the United States Department of Agriculture, Natural Resources  
9 Conservation Service has defined, mapped and classified the State's most productive  
10 agricultural soil types as prime farmland, unique farmland, farmland of statewide  
11 importance and farmland of local importance throughout the State; and

12           **Whereas,** the preservation and conservation of farmland and open space land,  
13 agricultural and natural resources based businesses, productive agricultural soils and  
14 maintenance of open space land are important to the people of the State, as evidenced by  
15 the Constitution of Maine, Article IX, Section 8 and the farm and open space tax law in the  
16 Maine Revised Statutes, Title 36, chapter 105, subchapter 10, which confers current use  
17 property tax assessment to prevent the conversion of farmland and open space land to  
18 nonagricultural uses; and

19           **Whereas,** the protection of farmland is identified as a conservation priority by the  
20 Land for Maine's Future program; and

21           **Whereas,** the Land for Maine's Future Board has, since 1987, awarded partial funding  
22 to 42 farms in 9 counties to protect 9,882 acres of working farmland; and

23           **Whereas,** farmland protection projects funded by the Land for Maine's Future Board  
24 leverage matching funds from a variety of partners, including the United States Department  
25 of Agriculture, Natural Resources Conservation Service, land trusts, municipalities, water  
26 districts and nongovernmental organizations; and

27           **Whereas,** for these reasons it is critically important that this legislation take effect  
28 before the expiration of the 90-day period; and

29           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
30 the meaning of the Constitution of Maine and require the following legislation as  
31 immediately necessary for the preservation of the public peace, health and safety; now,  
32 therefore,

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

34           **Sec. 1. 5 MRSA §6201, sub-§3,** as amended by PL 1993, c. 728, §3, is further  
35 amended to read:

36           **3. Matching funds.** "Matching funds" means any combination of public and private  
37 funds used in conjunction with the Land for Maine's Future Fund or the Public Access to  
38 Maine Waters Fund and the Maine Working Farmland Access and Protection Fund for the  
39 purpose of this chapter, including, but not limited to: private contributions of cash or  
40 securities; money from municipal or other public agencies; money from a federal matching  
41 program, subject to the limitations of applicable federal and state laws, in an amount  
42 authorized by the federal program; contributions of real property, or interest in real

1 property, that serves the acquisition needs of the State as determined by the Land for  
2 Maine's Future Board; in-kind contributions; or any combination of those funds.  
3 Contributions of land or interest in land must be valued, for purposes of this section, in the  
4 amount of their appraised value.

5 **Sec. 2. 5 MRSA §6201, sub-§4-A** is enacted to read:

6 **4-A. Working farmland or working farmland property.** "Working farmland" or  
7 "working farmland property" means land managed as a farm and available for commercial  
8 production of agricultural products, as defined in Title 7, section 152, subsection 2.

9 **Sec. 3. 5 MRSA §6203, sub-§3**, as amended by PL 2009, c. 178, §§1 and 2, is  
10 further amended to read:

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

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

15 B. When interest in land is acquired with proceeds from the Land for Maine's Future  
16 Fund, fund minor capital improvements on such lands and on adjoining lands in the  
17 same ownership or under the same management to improve accessibility, as long as  
18 these improvements do not exceed 5% of the appraised value of the acquired property;  
19 and

20 ~~C. When interest in farmland is acquired with proceeds from the Land for Maine's  
21 Future Fund, fund the development of a business plan and capital improvements to  
22 provide for the land's continuing use as a working farm, as long as these improvements  
23 do not exceed 5% of the appraised value of the acquired property. Capital  
24 improvements under this paragraph may also be made on adjoining farmland in the  
25 same ownership or under the same management.~~

26 **Sec. 4. 5 MRSA §6203-C** is enacted to read:

27 **§6203-C. Maine Working Farmland Access and Protection Fund**

28 **1. Fund established.** The Maine Working Farmland Access and Protection Fund,  
29 referred to in this section as "the fund," is established and is administered by the board in  
30 cooperation with the Commissioner of Agriculture, Conservation and Forestry under the  
31 provisions of this chapter and Title 7, section 164. The fund consists of the proceeds from  
32 the sale of bonds authorized for the purposes set forth in subsection 3 and funds received  
33 as contributions from private and public sources for those purposes. The fund must be held  
34 separate and apart from all other money, funds and accounts. Eligible investment earnings  
35 credited to the assets of the fund become part of the assets of the fund. Any balance  
36 remaining in the fund at the end of a fiscal year must be carried forward for the next fiscal  
37 year.

38 **2. Grants.** The board may make grants to state agencies and designated cooperating  
39 entities for the purposes identified in subsection 3. Grants are made according to rules  
40 adopted by the board. Rules adopted pursuant to this subsection are routine technical rules  
41 as defined in chapter 375, subchapter 2-A.

42 **3. Fund proceeds.** The proceeds of the fund may be applied and expended to acquire  
43 property or interests in property that are designed to protect access to working farmland.

1 The board shall include as a condition of an acquisition or grant made under this section  
2 the requirement that the protected property may not be used, altered or developed in a  
3 manner that precludes its availability for commercial production of agricultural products.

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

7 **5. Uses of the fund.** When an interest in land or an interest in working farmland is  
8 acquired with proceeds from the fund, the board may fund minor capital investments in the  
9 stewardship of that land. Funds for stewardship investments must be held in a dedicated  
10 stewardship endowment and identified for use on the funded property. The stewardship  
11 investments may not exceed 5% of the appraised value of the acquired property.

12 A. When an interest in land is acquired with proceeds from the fund, the board may  
13 fund minor capital improvements on the land and on adjoining lands in the same  
14 ownership or under the same management to improve public access, as long as these  
15 improvements do not exceed 5% of the appraised value of the acquired property.

16 B. When an interest in working farmland is acquired with proceeds from the fund, the  
17 board may fund the development of a business plan and capital improvements to  
18 provide for the land's continuing use as working farmland, as long as these  
19 improvements do not exceed 5% of the appraised value of the acquired property.  
20 Capital improvements under this paragraph may also be made on adjoining farmland  
21 in the same ownership or under the same management.

22 **Sec. 5. 7 MRSA §164** is enacted to read:

23 **§164. Maine Working Farmland Access and Protection Program**

24 **1. Program established; administration.** The Maine Working Farmland Access and  
25 Protection Program, referred to in this section as "the program," is established to provide  
26 protection to strategically significant working farmland properties as defined in Title 5,  
27 section 6201, subsection 4-A whose continued availability to commercial agricultural  
28 businesses is essential to the long-term future of the economic sector. The department shall  
29 administer the program either directly or by contract with a suitable organization.

30 **2. Review panel.** The department shall establish a review panel to advise the  
31 commissioner in the operation of the program, including, but not limited to, evaluating  
32 applications and recommending to the department applicants for participation in the  
33 program.

34 **3. Selection criteria.** The selection criteria with which to evaluate applications for  
35 protection of working farmland property under the program must include, but are not  
36 limited to:

37 A. The interest of the owner of the working farmland property to make the farmland  
38 available via lease or transfer the protected property to another farmer or other farmers  
39 to advance the department's goal of preserving and increasing access to farmland for  
40 new and growing farms;

41 B. The threat of conversion of the working farmland property such that it would  
42 become unavailable for commercial production of agricultural products;

1 C. The percentage of soils classified by the United States Department of Agriculture  
2 as prime farmland, unique farmland, farmland of statewide importance and farmland  
3 of local importance;

4 D. The agricultural structures and improvements associated with the working farmland  
5 property;

6 E. The economic viability of the working farmland property in terms of current and  
7 potential future commercial agricultural activities in local, regional and statewide  
8 markets; connection of the working farmland property to agricultural services  
9 including processors, aggregators and distributors; and number of on-farm jobs  
10 supported by the working farmland property;

11 F. The proximity of other working farmland properties in the town or region;

12 G. The degree of community support for the proposed protection of the working  
13 farmland property; and

14 H. The multiple natural resources values associated with the working farmland  
15 property, including open space land, forested land and wetlands; riparian buffers;  
16 wildlife habitat; and freshwater aquifers.

17 **4. Grant agreements.** The commissioner shall enter into grant agreements with state  
18 agencies and cooperating entities for the purpose of receiving grants from the Maine  
19 Working Farmland Access and Protection Fund under Title 5, section 6203-C.

20 **Emergency clause.** In view of the emergency cited in the preamble, this legislation  
21 takes effect when approved.

22 **SUMMARY**

23 This bill establishes the Maine Working Farmland Access and Protection Program  
24 within the Department of Agriculture, Conservation and Forestry. The purpose of the bill  
25 is to strengthen the alignment between the department's farmland conservation goals and  
26 the Land for Maine's Future program.

27 This bill establishes the Maine Working Farmland Access and Protection Fund within  
28 the Land for Maine's Future program for farmland protection projects. The fund is  
29 administered by the Land for Maine's Future Board in cooperation with the Department of  
30 Agriculture, Conservation and Forestry.