

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE

**FIRST SPECIAL SESSION**

October 9, 1987 to October 10, 1987

**SECOND SPECIAL SESSION**

October 21, 1987 to November 20, 1987

and the

**SECOND REGULAR SESSION**

January 6, 1988 to May 5, 1988

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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Twin City Printery  
Lewiston, Maine  
1988

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST AND SECOND SPECIAL SESSIONS  
and  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

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Cooperate with and avail itself of the services of governmental agencies and the University of Maine System; and cooperate with, assist and encourage organizations, local or regional, private or public, in the investigation of sludge and residuals utilization issues; and

9. Bylaws. Adopt bylaws consistent with this chapter for the governance of its affairs, to have the general powers accorded corporations under Title 13-A, section 202, and to do all other things necessary or convenient to carry out the lawful purposes of the foundation.

#### §1384. Limitation of powers

The foundation, notwithstanding section 1383, has no power or authority to enter into contracts, obligations or commitments of any kind on behalf of the State or any of its agencies, nor shall it have the power of eminent domain or any other power not provided to business corporations generally. Evidences of indebtedness of the foundation shall not in any way be a debt or liability of the State or constitute a pledge of the faith and credit of the State.

#### §1385. Prohibited interests of officers, directors and employees

No officer, trustee or employee of the foundation or their spouses or dependent children may receive any direct personal benefit from the activities of the foundation in assisting any private entity. This provision does not prohibit corporations or other entities with which an officer or trustee is associated by reason of ownership or employment from participating in the research or other activities with the foundation, provided that that ownership or employment is made known to the board and the officer or trustee abstains from voting on matters relating to the participation of these entities.

#### §1386. Donations to the State

The State, through the Governor, may accept donations, bequests, devises, grants or other interests of any nature on behalf of the foundation and transfer funds, property or other interests to the foundation.

#### §1387. Annual report; audit

The foundation shall provide an annual report and an independent audit of its activities to the Governor, the Legislature, its corporators and members. The report shall include, without limitation, a description of all planned research, current research, research completed in the previous year and all clearinghouse activities. The foundation shall be subject to such further audit and review as deemed necessary by the Governor or the Legislative Council at the expense of the State.

#### §1388. Dissolution of foundation

Upon dissolution of the foundation, the corporators shall cause, after paying or making provision for the pay-

ment of all liabilities of the foundation, all of the remaining assets of the foundation to be transferred to the State.

#### §1389. Funding

1. Funds not to lapse. Any appropriated state funds shall continue from year to year and shall not lapse. Funds shall be expended for the purposes defined in this chapter.

2. Independent funding share. Beginning January 1, 1990, at least 50% of the foundation's annual budget shall be supported by revenues derived from private, federal or local sources. Revenues derived from other state agencies shall not be counted toward the requirements of this subsection.

3. Certification; annual report. The foundation shall include in its annual report, certification that the requirements of this section have been met.

#### §1390. Liability

The foundation is a governmental entity for the purposes of Title 14, chapter 741.

**Sec. 3. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1988-89

#### MAINE SLUDGE AND RESIDUALS UTILIZATION RESEARCH FOUNDATION

All Other \$50,000

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 28, 1988.

## CHAPTER 800

H.P. 1875 — L.D. 2567

### AN ACT to Amend the Endangered Species Act.

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

**Sec. 1.** 12 MRSA §7754, sub-§§2 and 3 are enacted to read:

2. Habitat. For species designated as endangered or threatened under this subchapter the commissioner may, by rule, pursuant to Title 5, chapter 375, identify areas currently or historically providing physical or biological features essential to the conservation of the species and which may require special management considerations.

3. Protection guidelines. The commissioner may, by rule, pursuant to Title 5, chapter 375, develop guidelines for the protection of species designated as endangered or threatened under this subchapter.

Sec. 2. 12 MRSA §7755-A is enacted to read:

§7755-A. State and local cooperation

1. Review. A state agency or municipal government shall not permit, license, fund or carry out projects that will:

A. Significantly alter the habitat identified under section 7754, subsection 2 of any species designated as threatened or endangered under this subchapter; or

B. Violate protection guidelines set forth in section 7754, subsection 3.

The commissioner shall make information under section 7754 available to all other state agencies and municipal governments for the purposes of review.

2. Variance. Notwithstanding subsection 1, state agencies and municipal governments may grant a variance from this section provided that:

A. The Commissioner of Inland Fisheries and Wildlife certifies that the proposed action would not pose a significant risk to any population of endangered or threatened species within the State; and

B. A public hearing is held on the proposed action.

3. Pending applications. Notwithstanding Title 1, section 302, applications pending at the time of adoption of habitats and guidelines under section 7754, subsections 2 and 3 shall be governed by these provisions.

Sec. 3. 12 MRSA §7758 is enacted to read:

§7758. Judicial enforcement

1. General. In the event of a violation of this subchapter, any rule adopted pursuant to this subchapter or any license or permit granted under this subchapter, the Attorney General may institute injunctive proceedings to enjoin any further violation, a civil or criminal action, or any appropriate combination of those proceedings without recourse to any other provision of law administered by the Department of Inland Fisheries and Wildlife.

2. Restoration. The court may order restoration of any area, affected by any activity found to be in violation of this subchapter, any rule adopted pursuant to this subchapter or any license or permit granted under this subchapter, to its condition prior to the violation or as near to that condition as possible. When the court finds that the violation was willful, the court shall order restoration under this subchapter, unless the restoration would result in:

A. A threat to public health and safety;

B. Environmental damage; or

C. A substantial injustice.

Sec. 4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1988-89

INLAND FISHERIES AND WILDLIFE,  
DEPARTMENT OF

Endangered Species

Positions	(1)
Personal Services	\$28,219
All Other	4,500
Capital Expenditures	800

Total \$33,519

Provides funds for a Biologist I position, rule-making and general operating expenses to accomplish the purposes of this Act.

Effective August 4, 1988.

**CHAPTER 801**

**H.P. 1773 — L.D. 2426**

**AN ACT to Create the Maine Student Artist Awards Program.**

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

Sec. 1. 27 MRSA §408 is enacted to read:

§408. Maine Student Artist Awards Program

The Maine Arts Commission shall establish the Maine Student Artist Awards Program, which shall recognize and honor outstanding achievement in the arts by the State's students. The awards shall be made during Maine Cultural Heritage Week, as established in Title 1, section 118.

1. Eligibility. Any student in good standing at a public or private secondary school within the State shall be eligible to win an award.

2. Categories. Awards may be presented in each of the following categories:

A. Literary art, including:

(1) Poetry and writing;

B. Performing arts, including: