

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
December 6, 2000 to June 22, 2001

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
2001

10. Candidate not enrolled in a party. An unenrolled candidate certified by ~~March 16th~~ April 15th preceding the primary election is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election candidate and a general election candidate as specified in subsections 7 and 8. For an unenrolled candidate not certified by ~~March 16th~~ April 15th at 5:00 p.m. the deadline for filing qualifying contributions is 5:00 p.m. on June 2nd preceding the general election. An unenrolled candidate certified after ~~March 16th~~ April 15th at 5:00 p.m. is eligible for revenues from the fund in the same amounts as a general election candidate, as specified in subsections 7 and 8.

Sec. 7. 21-A MRSA §1126, as enacted by IB 1995, c. 1, §17, is amended to read:

§1126. Commission to adopt rules

The commission shall adopt rules to ensure effective administration of this chapter. These rules must include but must not be limited to procedures for obtaining qualifying contributions, certification as a Maine Clean Election Act candidate, circumstances involving special elections, vacancies, recounts, withdrawals or replacements, collection of revenues for the fund, distribution of fund revenue to certified candidates, return of unspent fund disbursements, disposition of equipment purchased with clean election funds and compliance with the Maine Clean Election Act. Rules of the commission required by this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 466

H.P. 1353 - L.D. 1810

**An Act to Implement the
Recommendations of the Committee
to Study Access to Private and Public
Lands in Maine**

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

Sec. 1. 5 MRSA §6206, sub-§1, ¶E, as amended by PL 1999, c. 603, §4, is further amended to read:

E. On January 1, 1995 and on January 1st every ~~2 years thereafter~~ 1st of every odd-numbered year, report to the joint standing committee of the Legislature having jurisdiction over matters pertaining to state parks and public lands on expenditures from the Land for Maine's Future Fund and the Public Access to Maine Waters Fund and

revisions to the strategies and guidelines. This report must include a description of access to land and interest in land acquired during the report period. If an acquisition has been made that does not include guaranteed public vehicular access to the land acquired, the board must provide justification for that acquisition and a plan for continuing efforts to acquire guaranteed public access to the land.

Sec. 2. 5 MRSA §6207, sub-§3, as amended by PL 1993, c. 728, §10, is further amended to read:

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

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

Sec. 3. 12 MRSA §1812, first ¶, as enacted by PL 1997, c. 678, §13, is amended to read:

With the consent of the Governor and the commissioner, the director may acquire on behalf of the State land or any interests in land within this State, with or without improvements, by purchase, gift or eminent domain for purposes of holding and managing the same as parks or historic sites. When acquiring land or interest in land, the director shall examine options for obtaining public vehicular access rights to the land. If an acquisition is made that does not include guaranteed public vehicular access, the director shall describe the acquisition in the report required under section 1817 and the justification for that acquisition. The right of eminent domain may not be exercised to take any area or areas for any one park that singly or collectively exceed 200 acres, nor may it be exercised to take any developed or undeveloped mill site or water power privilege in whole or in part or any land used or useful in connection therewith or any land being used for an industrial enterprise.

Sec. 4. 12 MRSA §1817, sub-§7 is enacted to read:

7. Comprehensive outdoor recreation plan. Beginning January 1, 2003 and every 5 years thereafter, the director shall submit a state comprehensive

outdoor recreation plan to the joint standing committee of the Legislature having jurisdiction over state parks and public lands matters, referred in this subsection as the "committee of legislative oversight." The plan submitted by the bureau for review and approval by the National Park Service to establish the bureau's eligibility for funding from the land and water conservation fund under 16 United States Code, Section 4601-11 meets the requirements of this subsection. If federal funding is not available for updating the state plan, the bureau may make a written request to the committee of legislative oversight for an extension for submitting the plan. Upon receiving an extension request, the committee of legislative oversight shall discuss the advisability of an extension and the availability of state funds for preparation of the update. The committee may authorize an extension by writing to the director and stating the year by which an update must be received. A copy of the written extension must be filed by the committee with the Executive Director of the Legislative Council.

Sec. 5. 12 MRSA §1836, sub-§1, as enacted by PL 1997, c. 678, §13, is amended to read:

1. Authority to acquire lands. The bureau with the consent of the Governor and the commissioner may acquire lands or interests in lands on behalf of the State to be managed as nonreserved public lands. When acquiring land or interest in land, the bureau shall examine options for obtaining public vehicular access rights to the land. If an acquisition is made that does not include guaranteed public vehicular access, the bureau shall describe the acquisition in its annual report submitted pursuant to section 1839 and the justification for that acquisition. The bureau shall deliver to the State Archives within a reasonable period of time after their creation or acquisition the originals of all deeds, planbooks and surveyors' field and chainage notes, and any other materials the preservation of which it considers necessary, relating to the ownership, location and management of nonreserved public lands described in this subchapter.

Sec. 6. 12 MRSA §1850, sub-§1, as enacted by PL 1997, c. 678, §13, is amended to read:

1. Authority to acquire lands. With the consent of the Governor and the commissioner, the bureau may acquire lands or interests in lands on behalf of the State to be managed as public reserved lands. When acquiring land or interest in land, the bureau shall examine options for obtaining public vehicular access rights to the land. If an acquisition is made that does not include guaranteed public vehicular access, the bureau shall describe the acquisition in its annual report submitted pursuant to section 1853 and the justification for that acquisition. The bureau shall deliver to the State Archives within a reasonable period of time after their creation or acquisition the

originals of all deeds, planbooks and surveyors' field and chainage notes, and any other materials the preservation of which it considers necessary, relating to the ownership, location and management of public reserved lands described in this subchapter.

Sec. 7. 12 MRSA §1893-A is enacted to read:

§1893-A. Recreational management areas

1. Definitions. As used in this section, the following terms have the following meanings.

A. "Excavation" means an excavation for borrow, topsoil, clay or silt, whether alone or in combination.

B. "Recreational management area" means an area formerly used for excavation on which trails that have been designed for all-terrain vehicle use are developed and on which recreational use by the public is allowed.

2. Development of recreational management areas. An owner or operator of an excavation site proposing to develop a recreational management area and requesting a variance from reclamation standards under Title 38, section 490-E shall request the assistance of the division.

Upon receipt of a request for assistance, the division shall assess the affected land for suitability for an all-terrain vehicle trail system. The division shall advise the landowner of funding, technical assistance and other assistance available through the ATV Recreation Management Fund established in section 7854, subsection 4, paragraph B. When an initial assessment of the affected land indicates the area is appropriate for an all-terrain vehicle trail system, the division may assist the owner or operator in developing a plan and completing a variance application.

Sec. 8. 12 MRSA §7652, sub-§1, ¶A, as amended by PL 1989, c. 493, §49, is further amended to read:

A. The commissioner may acquire in the name of the State, by gift, bequest or otherwise, real and personal property for the location, construction and convenient operation of a wildlife management area or public access sites to inland or coastal waters. When acquiring land or interest in land, the commissioner shall examine options for obtaining public vehicular access rights to the land. If an acquisition is made that does not include guaranteed public vehicular access, the commissioner shall describe the acquisition in the annual report submitted pursuant to section 7034, subsection 11 and the justification for that acquisition.

Sec. 9. 38 MRSA §490-D, sub-§14, as amended by PL 1995, c. 700, §24, is further amended by amending the first paragraph to read:

14. Reclamation. The Except as provided in subsection 15, the affected land must be restored to a condition that is similar to or compatible with the conditions that existed before excavation. Reclamation should be conducted in accordance with the department's best management practices for erosion and sediment control, and must include:

Sec. 10. 38 MRSA §490-D, sub-§15 is enacted to read:

15. Recreational management areas. An owner or operator may request a variance to develop a recreational management area on the affected land as an alternative to reclamation in accordance with subsection 14. The department may grant a variance under section 490-E if the Off-road Recreational Vehicle Division determines the site is suitable under Title 12, section 1893-A.

Sec. 11. 38 MRSA §490-E, as amended by PL 1995, c. 700, §25, is further amended by adding after the 2nd paragraph a new paragraph to read:

When an owner applies for a variance to allow an excavation to be reclaimed as a pond of at least 10 acres but less than 30 acres in size, the department may require public access as a condition for granting the variance. When an owner applies for a variance to allow an excavation to be reclaimed as a pond of 30 acres or greater in size, the department may grant the variance only if the owner demonstrates that public access to the pond is ensured. The requirement for public access may be met by existing public rights or by granting an easement or other right including a right to travel a reasonable distance by foot to a designated area of the shoreline.

See title page for effective date.

CHAPTER 467

H.P. 1382 - L.D. 1830

An Act Concerning Tax Anticipation Notes and Authorizing Expenditures for Funding among Pharmaceutical Benefits Programs

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period will not terminate until after the beginning of the next fiscal year; and

Whereas, certain provisions of this legislation must be in effect prior to July 1, 2001; and

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

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

PART A

Sec. A-1. 5 MRSA §150, 2nd ¶, as amended by PL 1995, c. 665, Pt. P, §1 and affected by PL 1997, c. 643, Pt. E, §5, is further amended to read:

The Treasurer of State, with the approval of the Governor, may negotiate a temporary loan or loans in anticipation of taxes levied for that fiscal year, but not exceeding a total of that amount of taxes estimated by the Treasurer of State to be collected in the fiscal year in which the temporary loan or loans, or renewal of the temporary loan or loans, is made, as long as the temporary loans or renewals of the temporary loans do not exceed any limitation set forth in the Constitution of Maine, Article IX, Section 14. Any such loans may be renewed from time to time as the Treasurer of State, with the approval of the Governor, determines, except that each loan or renewal of the loan must be retired not later than the close of the fiscal year in which the loan was originally made and for which were levied the taxes in anticipation of the collection of which the loan was originally made; and that each loan or renewal of the loan must comply with the provisions of this section and the Constitution of Maine, Article IX, Section 14. The Treasurer of State shall pay the loan or loans in anticipation of taxes during the year and there is appropriated for any year in which the Treasurer of State and the Governor determine it necessary to borrow in anticipation of taxes the sum of ~~\$30,000,000; except that for fiscal year 1991-92, the sum may not exceed \$150,000,000; for fiscal year 1992-93, the sum may not exceed \$170,000,000; for fiscal year 1993-94, the sum may not exceed \$170,000,000; and for fiscal year 1994-95, the sum may not exceed \$175,000,000; and for fiscal year 1995-96, the sum may not exceed \$182,000,000; and for fiscal year 1996-97, the sum may not exceed \$190,000,000~~ \$100,000,000.

Sec. A-2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.