

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
SEPTEMBER 21, 2001

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

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.

2001-02

**TREASURER OF STATE,
OFFICE OF**

Debt Service - Treasury

All Other \$5,000,000

Provides funds to meet the debt service payments related to a \$100,000,000 tax anticipation note authority for fiscal year 2001-02.

PART B

Sec. B-1. 22 MRSA §258, sub-§8 is enacted to read:

8. Transition. When benefits are not available under this section, the commissioner may provide benefits under pharmaceutical benefits programs that were in effect on May 26, 2001.

Sec. B-2. Transfer of General Fund and Fund for a Healthy Maine funding. Notwithstanding any other provision of law, the Commissioner of Human Services is authorized to transfer appropriations from the General Fund and Other Special Revenue allocations from the Fund for a Healthy Maine legislatively authorized to the Department of Human Services for operation of the elderly low-cost drug program pursuant to the Maine Revised Statutes, Title 22, section 254. Transfers under this section are limited to transfers from the Medical Care - Payments to Providers program to the Elderly Low-cost Drug program as a separate program for budget purposes. Transfers under this section may be accomplished by financial order upon the recommendation of the State Budget Officer and approval of the Governor.

Sec. B-3. Transfer of Other Special Revenue funding. Notwithstanding any other provision of law, the Commissioner of Human Services is authorized to transfer Other Special Revenue allocations legislatively authorized to the Department of Human Services for purposes of providing prescription drug benefits under the Healthy Maine Prescription Program under the Maine Revised Statutes, Title 22, section 258. Transfers under this section are limited to transfers from the Medical Care - Payments to Providers program to the Maine Rx Program under the Maine Revised Statutes, Title 22, section 2681. Transfers under this section may be accomplished by financial order upon the recommendation of the State Budget Officer and approval of the Governor.

Sec. B-4. Retroactivity. Section 1 of this Part applies retroactively to May 26, 2001.

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

Effective June 28, 2001.

CHAPTER 468

H.P. 158 - L.D. 169

An Act to Ensure the Continuing Beauty and Accessibility of Capitol Park

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

Sec. 1. 3 MRSA §162, sub-§17, as amended by PL 1997, c. 43, §1, is further amended to read:

17. Approve plans to preserve and develop the State House and the immediate grounds. To approve architectural, aesthetic and decorative alterations to the State House. The Legislative Council also has authority to preserve and develop the aesthetic and historical integrity of the State House and the immediate grounds. The exercise of this authority with respect to Capitol Park must be consistent with the plan for Capitol Park developed by the Olmsted Brothers firm in 1920 as revised by the Pressley firm in 1990. The Legislative Council has the power to enter into contracts and other powers necessary to implement this subsection and chapter 31;

Sec. 2. 3 MRSA §902-A, sub-§2, ¶B is enacted to read:

B. Any action taken with respect to Capitol Park must be consistent with the plan for Capitol Park developed by the Olmsted Brothers firm in 1920 as revised by the Pressley firm in 1990.

See title page for effective date.

CHAPTER 469

H.P. 1250 - L.D. 1698

An Act to Amend the Laws Governing DNA Testing

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

Sec. 1. 15 MRSA c. 305-B is enacted to read:

CHAPTER 305-B

POST-JUDGMENT CONVICTION MOTION FOR DNA ANALYSIS