

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 2, 2002 to April 25, 2002**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 25, 2002**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2002**

Executive Director of the Maine State Retirement System certifies to the Governor, the Commissioner of Inland Fisheries and Wildlife and the Commissioner of Marine Resources that the amount of the full actuarial cost of the increased value of that service has been accumulated in the Wardens Benefit Reserve Account.

**PART SS**

**Sec. SS-1. Home-based care program.** To the extent that budgeted resources permit and to the extent that there is no waiting list in the home-based care program, the Department of Human Services shall provide a limited-respite benefit for persons eligible for the Medicaid Private Duty Nursing and Personal Care Services program.

**Sec. SS-2. Rules.** The Department of Human Services shall amend the rules for the Medicaid Private Duty Nursing and Personal Care Services program to create an additional level of care to accommodate consumers whose care needs exceed the current per person monthly expenditure cap.

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

Effective March 25, 2002.

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**CHAPTER 560**

**H.P. 1576 - L.D. 2082**

**An Act to Amend the Subdivision Review Criteria for Traffic**

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

**Sec. 1. 30-A MRSA §4404, sub-§5,** as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

**5. Traffic.** The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;

See title page for effective date.

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**CHAPTER 561**

**S.P. 657 - L.D. 1849**

**An Act Regarding the Deferment of Loan Repayments for Remediation of Waste Oil Sites**

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

**Sec. 1. 10 MRSA §1023-M, sub-§2,** as amended by PL 2001, c. 356, §7, is further amended to read:

**2. Eligibility to participate in loan program.**

The authority may use money in the fund to carry out any power of the authority under this section or under section 1026-S, including, but not limited to, the pledge or transfer and deposit of money in the fund as security for and the application of money in the fund in payment of principal, interest and other amounts due on insured loans. Money in the fund may be used for direct loans or deferred loans for all or part of the costs of the Plymouth waste oil site remediation study, past cost settlement and time-critical removal action costs when the authority determines that:

A-1. The applicant has been identified by the United States Environmental Protection Agency as a potentially responsible party with respect to the waste oil disposal site and the applicant is alleged by the United States Environmental Protection Agency to have generated waste oil from an address or location within the State;

B. The applicant has signed the Administrative Order by Consent pursuant to United States Environmental Protection Agency Docket No. CERCLA 1-2000-0004;

B-1. The applicant has signed the West Site/Hows Corner RI/FS Group Agreement;

B-2. The applicant has entered into a consent decree with the United States and the State regarding past cost settlement at the Plymouth waste oil disposal site and the applicant is a participant in that consent decree or the applicant has entered into an inability-to-pay settlement with the United States Environmental Protection Agency;

C. The applicant is not a state or federal agency; and

D. There is a reasonable likelihood that the applicant will be able to repay the loan.

Money in the fund may not be used for attorney's fees associated with costs of the Plymouth waste oil site

remedial study, past cost settlement or time-critical removal action.

A past cost settlement share may not be paid from the fund to a person if the United States Environmental Protection Agency has waived payment of the share based on the person's financial capacity. The authority may condition payments related to the Plymouth waste oil disposal site on receipt of an ability-to-pay determination from the agency.

The authority, pursuant to Title 5, chapter 375, subchapter II, shall adopt rules for determining eligibility, feasibility, terms, conditions, security and fees for the loans, including deferred loans. The authority shall adopt rules that provide for a simplified loan application process for loan requests of under \$2000. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. The authority shall charge an interest rate of 0% on all loans. ~~Loan repayment must be deferred until a final remedy at the waste oil disposal site is determined in the Record of Decision for the site and the cost of the final remedy is determined. Loan repayment must be deferred until the United States Environmental Protection Agency determines that construction of the final remedy is complete.~~ If the total amount of the loan requests exceeds funds available under section 1023-L, the authority shall prorate the amount of the loan available to each applicant by the ratio of the funds available to the total loans requested.

See title page for effective date.

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## CHAPTER 562

### S.P. 712 - L.D. 1914

#### An Act to Clarify the Application of the Freedom of Access Laws to Certain Proceedings and Records of the Maine Technology Institute

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

**Sec. 1. 5 MRSA §15302, sub-§§9 and 10,** as enacted by PL 1999, c. 401, Pt. AAA, §3, are amended to read:

**9. Annual report.** By ~~October~~ December 15th of each year, the institute shall provide an annual report, with audited financial reports, on its activities to the joint standing committee or joint select committee of the Legislature having jurisdiction over research and development matters. ~~The institute shall also submit unaudited quarterly financial reports to the joint standing committee or joint select committee of~~

~~the Legislature having jurisdiction over research and development matters.~~

**10. Independent evaluation.** By January 14, 2000 and by January 15th of every odd-numbered year, starting in ~~2004~~ 2003, the institute shall submit to the joint standing committee or joint select committee of the Legislature having jurisdiction over research and development matters an independent evaluation of the performance of the institute. The evaluation must measure firm survival, new product development and process innovations, jobs created and other measures that the evaluator, in consultation with the institute, may establish. The evaluation must consider the institute's strategic role in stimulating economic growth in Maine's targeted technologies.

**Sec. 2. 5 MRSA §15302-A** is enacted to read:

#### §15302-A. Confidentiality; freedom of access

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commercial or financial information" means information related to businesses, commerce, trade, employment, profits or finances, including personal finances.

B. "Grant" means any disbursement of funds through grants or other financial awards to private companies, targeted technology incubators or nonprofit organizations, pursuant to section 15303, as well as any investment of funds, equity investment, securities, loan, contractual arrangement or other evidence of indebtedness authorized by section 15304.

C. "Trade secret" means a secret, commercially valuable plan, formula, process or device that is used for the making, preparing, compounding or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort. There must be a direct relationship between the trade secret and the productive process.

**2. Proceedings; records; confidentiality.** The proceedings of the board and the records of the institute are public for the purposes of Title 1, chapter 13, except that the following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. A record obtained or developed by the board prior to receipt of a written application or proposal in a form acceptable to the board for either financial assistance from the board or in connection with a transfer of property to or from the board. After receipt by the board of the applica-