

# 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**

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-

tion or proposal, a record pertaining to the application or proposal may not be considered confidential unless it is confidential under another provision of this subsection;

B. A peer review or analysis or other document related to the evaluation of a grant application or proposal;

C. A record that the person, including the institute, to whom the record belongs or pertains has requested be designated confidential and that the institute has determined contains proprietary information, trade secrets or commercial or financial information, the release of which could be competitively harmful to the submitter of the information, could impair the institute's ability in the future to obtain similar necessary information solely through the voluntary provision of such information and could affect other institute interests, such as program effectiveness and compliance;

D. A financial statement, credit report or tax return of an individual or other record obtained or developed by the board, the disclosure of which would constitute an invasion of personal privacy as determined by the board;

E. A record, including a financial statement or tax return obtained or developed by the board in connection with monitoring or servicing activity of the board, pertaining to financial assistance provided or to be provided by or with the assistance of the board;

F. A record obtained or developed by the board that contains an assessment by a person who is not employed by the board of the creditworthiness or financial condition of a person or project;

G. A financial statement or business and marketing plan in connection with a project receiving or to receive financial assistance from the board, if the person to whom the statement or plan belongs or pertains has requested that the record be designated confidential; and

H. Those employee personnel records made confidential pursuant to section 957, subsection 5 and section 17057.

**3. Wrongful disclosure prohibited.** A member, officer, employee, agent, other representative of the board or other person may not knowingly divulge or disclose records declared confidential by this section, except that the board may, in its discretion, make or authorize a disclosure of impersonal, statistical or general information or may make or authorize disclosure of information:

A. If necessary in connection with processing an application for or obtaining or maintaining financial assistance for a person or in connection with acquiring, maintaining or disposing of property;

B. To a financing institution or credit reporting service;

C. If necessary to comply with any federal or state law or rule or with an agreement pertaining to financial assistance;

D. If necessary to ensure collection of an obligation in which the board has or may have an interest;

E. Obtained from records declared confidential by this section for introduction for the record in litigation or a proceeding in which the board has appeared; or

F. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, as long as the order appears to have first been served on the person to whom the confidential information sought pertains or belongs and as long as the order appears on its face or otherwise to have been issued or made upon lawful authority.

**4. Public information.** Notwithstanding subsection 2, the institute shall make available the following information upon request:

A. Names and addresses of recipients of or applicants for financial assistance, including principals where applicable;

B. Amounts, types and terms of financial assistance provided to recipients or requested by applicants, including, without limitation, repayment period, security and rights of the institute to receive royalties and other payments, if any;

C. General descriptions of projects and businesses benefiting or to benefit from financial assistance;

D. Names of transferors or transferees, including principals, of property to or from the institute, the general terms of transfer, the transfer instrument or agreement and the purposes for which the transferred property will be used;

E. Number of new jobs created, the number of patents and copyrightable works produced, information identifying the patents and registered copyrightable works produced, the amount of royalties or returns on equity investments received by the institute or the amount of repayments received by the institute in connection

with institute grants, except for information that would place a recipient of or an applicant for financial assistance at a competitive disadvantage;

F. Policies concerning institute governance, operations or procedures for review or funding of applications; and

G. Any information pursuant to waiver considered satisfactory by the institute.

**5. Construction.** This section must be strictly construed to protect the confidentiality of all documents designated as confidential, the confidentiality of which is essential to the technology development purpose of the institute and to the confidence of the private sector in the institute and its mission.

**Sec. 3. 5 MRSA §15321, sub-§3, ¶D** is enacted to read:

D. The records and proceedings of the applied technology development centers are not considered public for the purposes of Title 1, chapter 13.

See title page for effective date.

## CHAPTER 563

S.P. 740 - L.D. 2064

### An Act to Waive the Title Fee for Towed Abandoned Vehicles

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

**Sec. 1. 29-A MRSA §603, sub-§6** is enacted to read:

**6. Abandoned vehicles declared total loss.** A towing company is exempt from a title fee if:

A. The towing company tows a vehicle at the request of a law enforcement officer;

B. The towing company declares a vehicle a total loss while claiming the vehicle pursuant to chapter 15, subchapter III;

C. The Secretary of State notifies the vehicle owner that the vehicle is claimed under the abandoned vehicle law as required in section 1854; and

D. The Secretary of State requests the title fee under subsection 1, paragraph E from the vehicle owner.

**Sec. 2. 29-A MRSA §668, sub-§3**, as amended by PL 1995, c. 482, Pt. A, §15, is further amended to read:

**3. Certificate delivered.** When the Secretary of State suspends or revokes a certificate of title, certificate of salvage, certificate of lien or certificate of registration, the owner or person in possession of that document, immediately upon receiving notice of the suspension or revocation, shall deliver the document and registration plates to the Secretary of State. If the owner or person in possession of that document fails to deliver the document and registration plates to the Secretary of State, the Secretary of State may suspend the person's privilege to title or register a vehicle.

**Sec. 3. 29-A MRSA §1854, sub-§3**, as amended by PL 1999, c. 137, §1, is further amended to read:

**3. Response.** On receipt of the notification, the Secretary of State shall inform the vehicle owner and lienholder, if any, by regular mail that the vehicle is being claimed under the abandoned vehicle law. The notice to the vehicle owner and lienholder, if any, must identify the vehicle by the year, make, model and vehicle identification number, give the name and address of the party claiming ownership, state the charges against the vehicle that the owner and lienholder, if any, must pay to retrieve the vehicle, and the date that the title or letter of ownership will pass to the new owner. If the party is claiming ownership of the vehicle pursuant to section 603, subsection 6, the notice must inform the vehicle owner and lienholder that the owner must pay \$23 to the Secretary of State to transfer the title. A copy of this letter must be provided to the person claiming ownership.

See title page for effective date.

## CHAPTER 564

H.P. 1594 - L.D. 2097

### 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 §6207, sub-§5** is enacted to read:

**5. Estimation of monitoring and management costs.** Prior to final approval of a project under this chapter, a person submitting a proposal to acquire property or an interest in property with funding from