

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**

**FIRST SPECIAL SESSION**  
**August 21, 2003 to August 22, 2003**

**The General Effective Date For**  
**First Special Session**  
**Non-Emergency Laws Is**  
**November 22, 2003**

**SECOND REGULAR SESSION**  
**January 7, 2004 to January 30, 2004**

**The General Effective Date For**  
**Second Regular Session**  
**Non-Emergency Laws Is**  
**April 30, 2004**

**SECOND SPECIAL SESSION**  
**February 3, 2004 to April 30, 2004**

**The General Effective Date For**  
**Second Special Session**  
**Non-Emergency Laws Is**  
**July 30, 2004**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2004**

provisions of the federal No Child Left Behind Act of 2001 and continue to seek guidance from the United States Department of Education in order to determine changes necessary in the act and in federal regulations issued under the act; and be it further

**Sec. 4. Investigation. Resolved:** That the Department of Education shall conduct a thorough investigation of the costs and benefits of participating in the federal No Child Left Behind Act of 2001. The investigation must focus on the costs and benefits of aligning the federal No Child Left Behind Act of 2001 with Maine's system of learning results and must include a comprehensive analysis of the costs and benefits of participating in the federal No Child Left Behind Act of 2001; and be it further

**Sec. 5. Report. Resolved:** That, no later than January 15, 2005, the Department of Education shall submit its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over education matters.

See title page for effective date.

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**CHAPTER 129**

**S.P. 652 - L.D. 1719**

**Resolve, Authorizing the Transfer of a Parcel of Land on Peaks Island to the Peaks Island Land Preserve**

**Preamble. Whereas,** the Constitution of Maine, Article IX, Section 23 requires that real estate held by the State for conservation purposes not be reduced or its uses substantially altered except on the vote of 2/3 of all members elected to each House; now, therefore, be it

**Sec. 1. Commissioner of Inland Fisheries and Wildlife authorized to negotiate and consummate sale. Resolved:** That the Commissioner of Inland Fisheries and Wildlife may negotiate and consummate by quitclaim deed the transfer of fee ownership of the state-owned property on Peaks Island in Cumberland County classified as a wildlife management area pursuant to the Maine Revised Statutes, Title 12, section 12708, subsection 1, paragraph B, subparagraph (32) to the Peaks Island Land Preserve. The deed conveying the property must include restrictions determined necessary by the commissioner for appropriate conservation of the property.

See title page for effective date.

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**CHAPTER 130**

**H.P. 1375 - L.D. 1849**

**Resolve, Regarding Legislative Review of Chapter 355: Sand Dune Rules, a Major Substantive Rule of the Department of Environmental Protection**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of Chapter 355: Sand Dune Rules, a provisionally adopted major substantive rule of the Department of Environmental Protection that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if Chapter 355 is amended in that section relating to new construction in frontal dunes and designated as section 6, paragraph B, subparagraph (1) to provide that elevators, in addition to ramps, that are required for compliance with the requirements of the federal Americans with Disabilities Act are exempt from the requirement that a new structure or addition to an existing structure may not be constructed on or seaward of a frontal dune. The rule must also be amended to provide that elevators or ramps serving buildings required to comply with the federal Americans with Disabilities Act must be designed and constructed so as to minimize intrusion on the frontal dune, including locating the structures to the rear of buildings or within areas of a lot already developed, such as a parking area. The Department of Environmental Protection is not required to hold hearings or conduct