

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

**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**  
**2005**

this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. Standards.** The Department of Education, in collaboration with representatives of the early childhood programs in the State, shall establish standards for early childhood programs for children 4 years of age developed by school administrative units.

See title page for effective date.

## CHAPTER 369

S.P. 490 - L.D. 1401

### An Act To Further Coordinate the Laws Regarding Certificate of Need, the State Health Plan and the Capital Investment Fund

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

**Sec. 1. 2 MRSA §101, sub-§1, ¶D,** as enacted by PL 2003, c. 469, Pt. B, §1, is amended to read:

D. Establish a limit for allocating resources under the certificate of need program described in Title 22, chapter 103-A, called the capital investment fund, for each year of the plan pursuant to section 102.

**Sec. 2. 2 MRSA §103, sub-§2,** as enacted by PL 2003, c. 469, Pt. B, §1, is amended to read:

**2. Input.** In developing the plan, the Governor shall, at a minimum, review the process for the development of the plan with the joint standing committee of the Legislature having jurisdiction over health and human services matters and seek input from the Advisory Council on Health Systems Development, pursuant to section 104; the Maine Quality Forum and the Maine Quality Forum Advisory Council, pursuant to Title 24-A, chapter 87, subchapter 2; a statewide health performance council; and other agencies and organizations.

**Sec. 3. 2 MRSA §103, sub-§3, ¶A,** as enacted by PL 2003, c. 469, Pt. B, §1, is amended to read:

A. Assess health care cost, quality and access in the State based on, but not limited to, demographic, health care service and health care cost data;

**Sec. 4. 2 MRSA §103, sub-§3, ¶¶E and F,** as enacted by PL 2003, c. 469, Pt. B, §1, are amended to read:

E. Outline strategies to:

- (1) Promote health systems change;
- (2) Address the factors influencing health care cost increases; and
- (3) Address the major threats to public health and safety in the State, including, but not limited to, lung disease, diabetes, cancer and heart disease; ~~and~~

F. Provide recommendations to help purchasers and providers make decisions that improve public health and build an affordable, high-quality health care system; and

**Sec. 5. 2 MRSA §103, sub-§3, ¶G** is enacted to read:

G. Be consistent with the requirements of the certificate of need program described in Title 22, chapter 103-A.

**Sec. 6. 2 MRSA §103, sub-§3-A** is enacted to read:

**3-A. Review.** The plan must be reviewed by the joint standing committee of the Legislature having jurisdiction over health and human services matters prior to being finalized and issued by the Governor.

**Sec. 7. 22 MRSA §335, sub-§1, ¶B,** as enacted by PL 2003, c. 469, Pt. C, §8, is amended to read:

B. Is consistent with and furthers the goals of the State Health Plan;

**Sec. 8. 22 MRSA §335, sub-§7,** as amended by PL 2003, c. 514, §1, is further amended to read:

**7. Review; approval.** Except as provided in section 336, the commissioner shall issue a certificate of need if the commissioner determines and makes specific written findings regarding that determination that:

A. The applicant is fit, willing and able to provide the proposed services at the proper standard of care as demonstrated by, among other factors, whether the quality of any health care provided in the past by the applicant or a related party under the applicant's control meets industry standards;

B. The economic feasibility of the proposed services is demonstrated in terms of the:

- (1) Capacity of the applicant to support the project financially over its useful life, in light of the rates the applicant expects to be

able to charge for the services to be provided by the project; and

(2) Applicant's ability to establish and operate the project in accordance with existing and reasonably anticipated future changes in federal, state and local licensure and other applicable or potentially applicable rules;

C. There is a public need for the proposed services as demonstrated by certain factors, including, but not limited to:

(1) Whether, and the extent to which, the project will substantially address specific health problems as measured by health needs in the area to be served by the project;

(2) Whether the project will have a positive impact on the health status indicators of the population to be served;

(3) Whether the services affected by the project will be accessible to all residents of the area proposed to be served; and

(4) Whether the project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project;

D. The proposed services are consistent with the orderly and economic development of health facilities and health resources for the State as demonstrated by:

(1) The impact of the project on total health care expenditures after taking into account, to the extent practical, both the costs and benefits of the project and the competing demands in the local service area and statewide for available resources for health care;

(2) The availability of state funds to cover any increase in state costs associated with utilization of the project's services; and

(3) The likelihood that more effective, more accessible or less costly alternative technologies or methods of service delivery may become available; and

E. The project meets the criteria set forth in subsection 1.

In making a determination under this subsection, the commissioner shall use data available in the ~~state health plan~~ State Health Plan under Title 2, section 103, including demographic, health care service and

health care cost data, data from the Maine Health Data Organization established in chapter 1683 and other information available to the commissioner. Particular weight must be given to information that indicates that the proposed health services are innovations in ~~high quality~~ high-quality health care delivery, that the proposed health services are not reasonably available in the proposed area and that the facility proposing the new health services is designed to provide excellent quality health care.

In making all determinations under this subsection, the commissioner must be guided by the State Health Plan as described in Title 2, section 103.

See title page for effective date.

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## CHAPTER 370

S.P. 543 - L.D. 1559

### An Act To Adopt the Uniform Environmental Covenants Act

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

**Sec. 1. 38 MRSA c. 31** is enacted to read:

#### CHAPTER 31

#### UNIFORM ENVIRONMENTAL COVENANTS

#### ACT

##### §3001. Short title

This chapter may be known and cited as the Uniform Environmental Covenants Act.

##### §3002. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Activity and use limitations.** "Activity and use limitations" means restrictions or obligations created under this chapter with respect to real property.

**2. Agency.** "Agency" means the department or any legal successor or any other state or federal agency that determines or approves the environmental response project pursuant to which the environmental covenant is created.

**3. Common interest community.** "Common interest community" means a condominium, cooperative or other real property with respect to which a person, by virtue of the person's ownership of a parcel