

# 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**

Agriculture, Conservation and Forestry by January 31, 2006.

See title page for effective date.

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## CHAPTER 27

H.P. 51 - L.D. 55

### Resolve, To Review Rules for Organ and Tissue Donation

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

**Whereas,** this resolve must take effect prior to July 1, 2005 in order for the Department of Health and Human Services to initiate rulemaking to revise, amend or replace existing rules regarding organ and tissue donation to address issues including informed consent, training and the manner in which organ and tissue donation requests are processed in this State; 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. Rules to be reviewed. Resolved:** That the Department of Health and Human Services shall review the rules regarding the responsibilities of hospitals and physicians in implementing the Uniform Anatomical Gift Act, including, but not limited to, the congruity of the current rules with recent federal changes in the protocol for organ and tissue procurement, informed consent, conflict of interest and the potential application of the rules to research facilities and other entities not currently subject to the rules. The department shall include in the review representatives of the Department of the Attorney General, Office of the Chief Medical Examiner, Maine hospitals, a regional organ and tissue bank, a statewide association of funeral directors, a statewide association of funeral consumers and medical providers involved in the organ and tissue procurement process. The department shall report by January 31, 2006 to the Joint Standing Committee on Health and Human Services regarding the review and any recommendations of the department.

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

Effective May 20, 2005.

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## CHAPTER 28

H.P. 111 - L.D. 133

### Resolve, To Support Long-term Forest Management and Sound Silviculture

**Sec. 1. Development of recommendations and implementation plan. Resolved:** That the Commissioner of Conservation shall develop recommendations and an implementation plan for encouraging and supporting long-term forest management and improved silviculture. In developing the recommendations, the commissioner shall review, at a minimum, the following:

1. Repeal or reduction of capital gains taxes on the sale of timber on land held for a minimum period;
2. Reduction of capital gains or property taxes for landowners enrolled in forest certification programs or committing to a higher level of forest management or providing public recreational access;
3. Provision of loan guarantees for sustainable forestry investments to increase access to capital for landowners committed to sustainable forest management to purchase forest land; and
4. Concepts and mechanisms that could contribute to achieving the goal of supporting long-term forest management and improved silviculture.

In conducting the review, the commissioner shall solicit input from representatives of the forestry community, including forest products businesses, professional loggers, state agencies, municipalities, industrial and nonindustrial landowners, farmers, environmental groups, financial institutions, Legislators and members of the public; and be it further

**Sec. 2. Report to Legislature. Resolved:** That the Commissioner of Conservation shall report to the Joint Standing Committee on Agriculture, Conservation and Forestry no later than February 1, 2006 on progress made in conducting the review and developing recommendations under section 1 of this resolve. If more time is needed, the committee shall establish a date for a final report.

The final report must include detailed cost information and proposed changes to existing laws, rules

and policies necessary to implement the recommendations; and be it further

**Sec. 3. Legislation authorized. Resolved:** That the Joint Standing Committee on Agriculture, Conservation and Forestry may submit a bill to the Second Regular Session of the 122nd Legislature to encourage and support long-term forest management and improved silviculture.

See title page for effective date.

## CHAPTER 29

S.P. 445 - L.D. 1265

### Resolve, Regarding Source Water Protection

**Sec. 1. Report. Resolved:** That the Drinking Water Program within the Department of Health and Human Services, in consultation with the Department of Environmental Protection, the Department of Conservation, Maine Geological Survey and the Department of Agriculture, Food and Rural Resources shall submit a report as provided in this section to the Joint Standing Committee on Natural Resources by February 1, 2006. The report must address whether additional requirements are needed for source water protection in this State and describe recommended options to address those needs. Options may include, but are not limited to, water supply source water protection approaches modeled after shoreland zoning, use of statutory performance standards and use of specific land use prohibitions or controls. The report may not address minimum state standards for excavations of 5 or more acres for borrow, clay, topsoil or silt.

After receipt and review of the report, the Joint Standing Committee on Natural Resources may report out legislation to the Second Regular Session of the 122nd Legislature requiring the Drinking Water Program within the Department of Health and Human Services to establish a process to allow public comment on the options recommended by the department and to report to a future Legislature with subsequent recommendations after consideration of the public comments by the Drinking Water Program within the Department of Health and Human Services, the Department of Environmental Protection, the Department of Conservation, Maine Geological Survey and the Department of Agriculture, Food and Rural Resources.

See title page for effective date.

## CHAPTER 30

H.P. 955 - L.D. 1369

### Resolve, Directing the Intergovernmental Advisory Group to Review Unfunded Mandates

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

**Whereas,** this resolve directs the Intergovernmental Advisory Group to review certain unfunded mandates; and

**Whereas,** the review must be initiated before the 90-day period expires in order that the review may be completed and a report submitted in time for submission to the next legislative session; 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. Intergovernmental Advisory Group to conduct review. Resolved:** That the Intergovernmental Advisory Group established in the Maine Revised Statutes, Title 5, section 12004-I, subsection 75-C shall conduct a review of unfunded state mandates that pertain to municipalities and shall identify those unfunded state mandates that were enacted prior to November 23, 1992, the effective date of the Constitution of Maine, Article IX, Section 21, which limits the imposition of unfunded state mandates. In conducting its review, the Intergovernmental Advisory Group shall:

1. Prepare a comprehensive listing of the state mandates placed on municipalities that are considered by the affected units of government to be deserving of analysis and review;

2. Identify for each listed mandate the precise legal origin of the mandate, whether state law or rule, a combination of both or any other originating authority. The Intergovernmental Advisory Group shall also provide notice and analysis of federal mandates that contribute to or conflict with specific state mandates on municipalities;

3. Identify the statewide local government costs of each listed mandate within the limits of practicability; and

4. Identify the characteristics of each listed mandate that cause the affected units of government to