

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 6, 2006 to June 21, 2007**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 20, 2007**

**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**  
**2007**

shall submit a report summarizing the results of its activities under section 1 to the Joint Standing Committee on Utilities and Energy.

See title page for effective date.

## CHAPTER 107

### H.P. 605 - L.D. 789

#### Resolve, Directing the Bureau of Revenue Services To Convene a Study Group on the Motor Vehicle Excise Tax

**Sec. 1. Study group. Resolved:** That the Department of Administrative and Financial Services, Bureau of Revenue Services shall convene a study group to review the motor vehicle excise tax. When choosing members of the study group the bureau must invite participation from the Department of the Secretary of State, Bureau of Motor Vehicles, representatives of municipal government and groups representing motor vehicle dealers; and be it further

**Sec. 2. Study and recommendations. Resolved:** That the study group under section 1 shall review the structure and administration of the motor vehicle excise tax, including its relationship to the personal property tax, and research taxes on motor vehicles imposed in other states. The study group shall report its findings and any recommendations for improvement to the State's taxation of motor vehicles to the Joint Standing Committee on Taxation by January 15, 2008. The committee may submit legislation to the Second Regular Session of the 123rd Legislature related to the report.

See title page for effective date.

## CHAPTER 108

### H.P. 793 - L.D. 1075

#### Resolve, To Assist Maine Local Land Trusts

**Sec. 1. State agencies directed to assist local land trusts in identifying funding sources. Resolved:** That the Executive Department, State Planning Office shall, in consultation with the Department of Conservation and the Department of Inland Fisheries and Wildlife, identify potential funding sources for acquisition projects initiated by municipalities and local land trusts. The State Planning Office shall compile information on state and federal programs that award grants, provide matching funds or otherwise financially assist with efforts to conserve land for public recreation. Funding sources for both fee purchases and acquisitions of interest in land must

be included. The State Planning Office shall make the information collected available to municipalities and local land trusts.

For the purposes of this resolve, "local land trust" means a nonprofit organization under 26 United States Code, Section 501(c)(3) that, as provided for in its mission statement, acquires land or interest in land within a defined region of the State to promote stewardship or conservation of land with natural features of value to the people of that region; and be it further

#### Sec. 2. Report to Joint Standing Committee on Agriculture, Conservation and Forestry.

**Resolved:** That the Executive Department, State Planning Office shall report to the Joint Standing Committee on Agriculture, Conservation and Forestry no later than January 31, 2008 on its findings pursuant to section 1 and the means used to disseminate this information to municipalities and local land trusts; and be it further

**Sec. 3. Authority to submit legislation. Resolved:** That the Joint Standing Committee on Agriculture, Conservation and Forestry may submit legislation to the Second Regular Session of the 123rd Legislature pertaining to the ability of municipalities and local land trusts to conserve land for public recreation.

See title page for effective date.

## CHAPTER 109

### S.P. 551 - L.D. 1528

#### Resolve, To Require State Agencies with Jurisdiction over Dams To Review and Update Plans for the Passage of Native Diadromous Fish

**Sec. 1. Diadromous fish passage over dams on the Kennebec River and Sebasticook River. Resolved:** That the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Department of Environmental Protection, referred to in this resolve as "the departments," shall conduct a detailed review of their efforts to provide eel and other native diadromous fish species both upstream and downstream passage over dams on the Kennebec River and the Sebasticook River. The review must include but not be limited to current, past and planned activities, an evaluation of the effectiveness of those activities with regard to all diadromous fish, measures needed to ensure diadromous fish passage on those rivers and the feasibility of options to provide that passage; and be it further

**Sec. 2. Reports on impediments to carrying out current plans to provide diadromous**

**fish passage on all rivers. Resolved:** That the departments shall review current plans to provide eel and other diadromous fish passage on all rivers of the State, identify impediments to carrying out those plans and develop options to remove those impediments; and be it further

**Sec. 3. Fish kills. Resolved:** That the departments shall develop a proposed amendment to the water quality classifications and standards in the Maine Revised Statutes, Title 38 that includes fish kills within those standards and classifications and provides a definition for "fish kill" that identifies the levels or percentages of fish kill that are acceptable based on the size and kind of dam and the biological requirements of a particular species of diadromous fish involved. The departments shall consult with the appropriate experts on the proposed amendment and review current state and federal law to ensure the amendment, to the maximum extent possible, enhances the State's ability to require fish passage at licensed and unlicensed dams; and be it further

**Sec. 4. Board of Environmental Protection timelines. Resolved:** That the Department of Environmental Protection shall determine the need and feasibility of establishing or modifying timelines within which the Board of Environmental Protection must respond to a citizen petition brought under the Maine Revised Statutes, Title 38 related to water quality issues and, if the Board of Environmental Protection accepts a petition, a timeline within which it must issue a decision on the merits of that petition; and be it further

**Sec. 5. Report. Resolved:** That the departments shall report their findings and recommendations along with implementing legislation jointly to the Joint Standing Committee on Marine Resources and the Joint Standing Committee on Natural Resources no later than January 30, 2008. The Joint Standing Committee on Marine Resources and the Joint Standing Committee on Natural Resources may jointly submit legislation to the Second Regular Session of the 123rd Legislature related to the report.

See title page for effective date.

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**CHAPTER 110**

**H.P. 1060 - L.D. 1535**

**Resolve, To Study the Certificate of Need Program**

**Sec. 1. Work group. Resolved:** That the Department of Health and Human Services' office of licensing and regulatory services shall convene a work group to review and make recommendations on the following issues with regard to the certificate of need

program administered under the Maine Revised Statutes, Title 22, chapter 103-A:

1. Recent changes made by law or rule to the certificate of need program and the need for any modifications to the law or rule;

2. The current dollar amount threshold used in determining whether a project requires review and, if inadequate, a potential process for identifying projects that fall below the threshold;

3. The current statutory authority of and methods used by the Department of Health and Human Services to determine whether review is needed. This should include the definition of "reviewable project" and clarification of the term "new service";

4. The current statutory authority of and methods used by the Department of Health and Human Services to define community need for new services or facilities;

5. The relationship between the State Health Plan, the certificate of need process and the capital investment fund;

6. The roles of the Maine Quality Forum; the Department of Health and Human Services, Maine Center for Disease Control and Prevention; and the Department of Professional and Financial Regulation, Bureau of Insurance in the certificate of need review process;

7. The criteria used by the Department of Health and Human Services for evaluating a certificate of need application along with procedures for public hearings and the use of review panels;

8. Historical review of revenues and expenditures in the certificate of need unit to identify and determine the amount of resources that are adequate to have a highly functioning unit;

9. Historical review of the certificate of need application process including number of submissions, approvals, disapprovals and withdrawn applications and associated timelines to determine any improvements needed;

10. Review of the description of related projects under Title 22, section 329, subsection 8;

11. Review of the acquisition of major medical equipment and review requirements for major medical equipment as they pertain to equipment that was previously leased by an entity subject to a certificate of need; and

12. Additional topics determined by unanimous agreement of the work group members; and be it further

**Sec. 2. Work group composition. Resolved:** That the Department of Health and Human Services' office of licensing and regulatory services