

# 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**

**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

shall invite the participation of the following members in the work group:

1. Four medical representatives: 2 representatives of hospitals, nominated by the Maine Hospital Association; one representative of a statewide association of physicians, nominated jointly by the Maine Medical Association and the Maine Osteopathic Association; and one representative of the ambulatory surgical centers;

2. Seven other representatives: one representative of a statewide association representing nursing facilities; one representative of insurance carriers; one representative of the Advisory Council on Health Systems Development; one representative of businesses; one representative of advocacy organizations; and 2 representatives of public health groups; and

3. The Director of the Governor's Office of Health Policy and Finance, or the director's designee, and the director of the office of licensing and regulatory services within the Department of Health and Human Services, both of whom shall serve ex officio and without the right to vote; and be it further

**Sec. 3. Work group report. Resolved:** That the work group shall report on the results of the review of the certificate of need program and its recommendations to the Joint Standing Committee on Health and Human Services by January 15, 2008. The committee is authorized to submit legislation regarding the certificate of need program to the Second Regular Session of the 123rd Legislature.

See title page for effective date.

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## CHAPTER 111

**H.P. 1062 - L.D. 1537**

### **Resolve, To Review Remote Access Medicine, Hospice and Home Health Care under MaineCare**

**Sec. 1. Review and report. Resolved:** That the Department of Health and Human Services shall review certain aspects of the MaineCare program and shall report to the Joint Standing Committee on Health and Human Services by January 15, 2008 with recommendations for legislation and rule and funding changes. The aspects that must be reviewed include MaineCare reimbursement for remote access medicine and hospice and home health care benefits for adults eligible under the Maine Revised Statutes, Title 22, section 3174-G, subsection 1, paragraph F. The joint standing committee is authorized to submit legislation

to the Second Regular Session of the 123rd Legislature.

See title page for effective date.

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## CHAPTER 112

**H.P. 1093 - L.D. 1568**

### **Resolve, To Explore the Feasibility of Enrolling the Legislature as an Employer Group in Dirigo Health**

**Sec. 1. Legislature as employer group explored. Resolved:** That the State Employee Health Commission, in consultation with Dirigo Health, shall evaluate and issue a report on the feasibility of enrolling the Legislature as an employer group in the Dirigo Health Program pursuant to Title 24-A, chapter 87. The evaluation must take special consideration of the effect of the Legislature's being part of the Dirigo Health Program on retirees who are Legislators and may not consider the inclusion of legislative employees and their dependents. The commission shall submit its report to the Joint Standing Committee on Insurance and Financial Services by December 15, 2007 with any suggested legislation. The Joint Standing Committee on Insurance and Financial Services is authorized to submit a bill concerning this report to the Second Regular Session of the 123rd Legislature.

See title page for effective date.

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## CHAPTER 113

**H.P. 1190 - L.D. 1707**

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

**Sec. 1. Study group. Resolved:** That the Department of Administrative and Financial Services, Bureau of Revenue Services shall convene a study group to explore opportunities for more effective enforcement of motor vehicle and watercraft excise taxes. When choosing members of the study group, the bureau must invite participation from the Department of the Secretary of State, Bureau of Motor Vehicles, the Department of Inland Fisheries and Wildlife, representatives of municipal government and groups representing motor vehicle and watercraft dealers; and be it further

**Sec. 2. Study and recommendations. Resolved:** That the study group under section 1 shall review the extent of evasion of the motor vehicle and watercraft excise taxes, especially in border areas of