

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 803 - L.D. 1969

An Act to Expand the Use of Funds to Support Land Conservation

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 legislation establishes a new fund, the Land for Maine's Future Trust Fund, and directs the transfer of funds to the Land for Maine's Future Trust Fund on or before June 30, 2023; and

Whereas, in order to meet that requirement, this legislation must take effect immediately; 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 enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §6201, sub-§2, as amended by PL 2021, c. 398, Pt. FFFF, §2, is further amended to read:

2. Cooperating entities. "Cooperating entities" means those private nonprofit organizations, municipal conservation commissions, local governments, federal agencies or other bodies designated by the Land for Maine's Future Board pursuant to section 6203 as able to assist the State in the acquisition or management of conservation lands of statewide significance or for community conservation projects 6203-E or 6203-F.

Sec. 2. 5 MRSA §6201, sub-§3, as amended by PL 2021, c. 135, §1, is further amended to read:

3. Matching funds. "Matching funds" means any combination of public and private funds used in conjunction with the Land for Maine's Future Trust Fund, the Public Access to Maine Waters Fund and, the Maine Working Farmland Access and Protection Fund, the Conservation and Recreation Fund and the Conservation Land Management Fund for the purpose of this chapter, including, but not limited to: private contributions of cash or securities; money from municipal or other public agencies; money from a federal matching

program, subject to the limitations of applicable federal and state laws, in an amount authorized by the federal program; contributions of real property, or interest in real property, that serves the acquisition needs of the State as determined by the Land for Maine's Future Board; in-kind contributions; or any combination of those funds. Contributions of land or interest in land must be valued, for purposes of this section, in the amount of their appraised value.

Sec. 3. 5 MRSA §6203, as amended by PL 2021, c. 135, §3; c. 398, Pt. FFFF, §3; and c. 409, §1, is repealed.

Sec. 4. 5 MRSA §6203-A, sub-§1, as enacted by PL 1993, c. 728, §5, is amended to read:

1. Fund established. There is established the Public Access to Maine Waters Fund that is administered by the board. The Public Access to Maine Waters Fund consists of the proceeds from the sale of bonds authorized for the purposes set forth in subsection 3 and funds received as contributions from private and public sources for those purposes. The Public Access to Maine Waters Fund must be held separate and apart from all other money, funds and accounts. ~~Eligible, except that eligible~~ investment earnings credited to the assets of the Public Access to Maine Waters Fund become part of the assets of ~~that fund~~ the Land for Maine's Future Trust Fund. Any balance remaining in the Public Access to Maine Waters Fund at the end of a fiscal year must be carried forward for the next fiscal year.

Sec. 5. 5 MRSA §6203-A, sub-§2, as enacted by PL 1993, c. 728, §5, is repealed and the following enacted in its place:

2. Grants; matching funds. The board may make grants to state agencies and designated cooperating entities for the purposes identified in subsection 3. For each grant made under this subsection, the board shall require the grant recipient to provide matching funds at least equal to the amount of the grant. Grants must be made according to rules adopted by the board. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

Sec. 6. 5 MRSA §6203-B, sub-§1, as enacted by PL 2011, c. 266, Pt. B, §3, is amended to read:

1. Fund established. The Maine Working Waterfront Access Protection Fund, referred to in this section as "the fund," is established and is administered by the board in cooperation with the Commissioner of Marine Resources under the provisions of this chapter and Title 12, section 6031-A. The fund consists of the proceeds from the sale of bonds authorized for the purposes set forth in subsection 3 and funds received as contributions from private and public sources for those purposes. The fund must be held separate and apart from all other money, funds and accounts. ~~Eligible, except that eligible~~ investment earnings credited to the assets of the fund become part of the assets of ~~the fund~~ the Land for Maine's Future Trust Fund. Any balance remaining in the fund at the end of a fiscal year must be carried forward for the next fiscal year.

Sec. 7. 5 MRSA §6203-C, sub-§1, as enacted by PL 2021, c. 135, §4, is amended to read:

1. Fund established. The Maine Working Farmland Access and Protection Fund, referred to in this section as "the fund," is established and is administered by the board in cooperation with the Commissioner of Agriculture, Conservation and Forestry under the

provisions of this chapter and Title 7, section 164. The fund consists of the proceeds from the sale of bonds authorized for the purposes set forth in subsection 3 and funds received as contributions from private and public sources for those purposes. The fund must be held separate and apart from all other money, funds and accounts. ~~Eligible, except that eligible investment earnings credited to the assets of the fund become part of the assets of the fund~~ Land for Maine's Future Trust Fund. Any balance remaining in the fund at the end of a fiscal year must be carried forward for the next fiscal year.

Sec. 8. 5 MRSA §6203-D is enacted to read:

§6203-D. Land for Maine's Future Trust Fund

1. Fund established. There is established the Land for Maine's Future Trust Fund that is administered by the board. The Land for Maine's Future Trust Fund consists of the proceeds from the sale of any bonds authorized for the purposes set forth in subsection 2, eligible investment earnings of funds established under this chapter and any funds received as contributions from private and public sources for the purposes set forth in subsection 2. The Land for Maine's Future Trust Fund must be held separate and apart from all other money, funds and accounts and eligible investment earnings credited to the assets of the Land for Maine's Future Trust Fund become part of the assets of that fund. Any balance remaining in the Land for Maine's Future Trust Fund at the end of any fiscal year must be carried forward for the next fiscal year.

2. Fund proceeds. The proceeds of the Land for Maine's Future Trust Fund may be applied and expended to accomplish the purposes of the funds established in sections 6203-A to 6203-C and 6203-E and 6203-F.

Sec. 9. 5 MRSA §6203-E is enacted to read:

§6203-E. Conservation and Recreation Fund

1. Fund established. There is established the Conservation and Recreation Fund that is administered by the board. The Conservation and Recreation Fund consists of the proceeds from the sale of bonds authorized for the purposes set forth in subsection 3 and funds received as contributions from private and public sources for those purposes. The Conservation and Recreation Fund must be held separate and apart from all other money, funds and accounts, except that eligible investment earnings credited to the assets of the Conservation and Recreation Fund become part of the assets of the Land for Maine's Future Trust Fund. Any balance remaining in the Conservation and Recreation Fund at the end of a fiscal year must be carried forward for the next fiscal year.

2. Grants; matching funds. The board may make grants to state agencies and designated cooperating entities for the purposes identified in subsection 3. For each grant made under this subsection, the board shall require the grant recipient to provide matching funds at least equal to the amount of the grant. Grants must be made according to rules adopted by the board. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

3. Fund proceeds. The proceeds of the Conservation and Recreation Fund may be applied and expended to:

A. Acquire property or an interest in property that is determined by the board to be of statewide significance or for a community conservation project under the guidelines of this chapter;

B. When interest in land is acquired with proceeds from the Conservation and Recreation Fund, fund minor capital improvements on such lands and on adjoining lands in the same ownership or under the same management to improve accessibility, as long as these improvements do not exceed 5% of the appraised value of the acquired property;

C. When land or interest in land is acquired with proceeds from the Conservation and Recreation Fund, fund minor capital investments in the stewardship and management of that land. Stewardship and management investments under this paragraph must be held in a dedicated stewardship endowment and identified for use on the funded property. Stewardship and management investments may not exceed 5% of the appraised value of the acquired property; and

D. When land or interest in land for deer wintering areas is acquired with proceeds from the Conservation and Recreation Fund pursuant to section 6207, subsection 2, paragraph E, fund the development of a management plan to provide for the land's continuing function as a deer wintering area, as long as the cost of the plan and any investments related to that land under paragraph C do not exceed 5% of the appraised value of the acquired property. A management plan developed under this paragraph may also apply to adjoining deer wintering areas in the same ownership or under the same management.

Sec. 10. 5 MRSA §6203-F is enacted to read:

§6203-F. Conservation Land Management Fund

1. Fund established. There is established the Conservation Land Management Fund that is administered by the board. The Conservation Land Management Fund consists of the proceeds from the sale of bonds authorized for the purposes set forth in subsection 3 and funds received as contributions from private and public sources for those purposes. The Conservation Land Management Fund must be held separate and apart from all other money, funds and accounts, except that eligible investment earnings credited to the assets of the Conservation Land Management Fund become part of the assets of the Land for Maine's Future Trust Fund. Any balance remaining in the Conservation Land Management Fund at the end of a fiscal year must be carried forward for the next fiscal year.

2. Grants; matching funds. The board may make grants to state agencies and designated cooperating entities for the purposes identified in subsection 3. For each grant made under this subsection, the board shall require the grant recipient to provide matching funds at least equal to the amount of the grant. Grants must be made according to rules adopted by the board. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

3. Fund proceeds. The proceeds of the Conservation Land Management Fund may be applied and expended to:

A. Make capital improvements to enhance public recreational opportunities on permanently conserved state, municipal and private conservation lands; and

B. Enhance wildlife habitat protection on permanently conserved state, municipal and private conservation lands.

Sec. 11. 5 MRSA §6204, sub-§6, as affected by PL 2011, c. 655, Pt. II, §11 and amended by c. 657, Pt. X, §4, is further amended to read:

6. Assistance. The Department of Inland Fisheries and Wildlife; the Department of Transportation; the Department of Agriculture, Conservation and Forestry; and all other state agencies shall provide staff support and assistance considered necessary by the board to fulfill the objectives of this chapter. If agency assistance is not available, consultants may be hired from the proceeds of either the Land for Maine's Future Trust Fund or the Public Access to Maine Waters Fund to assist the board in carrying out its responsibilities.

Sec. 12. 5 MRSA §6206, sub-§1, ¶A, as amended by PL 1993, c. 728, §8, is further amended to read:

A. Complete an assessment of the State's public land acquisition needs and develop a strategy and guidelines, based on that assessment, for use in allocating the proceeds of the Land for Maine's Future Trust Fund, the Conservation and Recreation Fund and the Public Access to Maine Waters Fund. Both the assessment and the development of a strategy and guidelines must be conducted with opportunities for participation by interested state agencies and the public;

Sec. 13. 5 MRSA §6206, sub-§1, ¶D, as amended by PL 1993, c. 728, §8, is further amended to read:

D. In accordance with the strategy and guidelines developed under paragraph A, authorize distribution of proceeds from the Land for Maine's Future Trust Fund, the Conservation and Recreation Fund and the Public Access to Maine Waters Fund for acquisitions of property or interests in property; and

Sec. 14. 5 MRSA §6206, sub-§1, ¶E, as amended by PL 2007, c. 331, §1, is further amended to read:

E. On January 1st of every odd-numbered year, report to the joint standing committee of the Legislature having jurisdiction over matters pertaining to state parks and public lands on expenditures from the Land for Maine's Future Trust Fund, the Conservation and Recreation Fund and the Public Access to Maine Waters Fund and revisions to the strategies and guidelines. This report must include a description of access to land and interest in land acquired during the report period. If an acquisition has been made that does not include guaranteed public vehicular access to the land acquired, the board must provide justification for that acquisition and a plan for continuing efforts to acquire guaranteed public access to the land. This report must include a summary of the board's experience during the reporting period with projects funded pursuant to section ~~6203~~ 6203-A, 6203-D or 6203-E and in which the land or interest in land is acquired by a cooperating entity. This report must also include on a county-by-county basis a summary of the expenditures made by the board and acreage conserved through acquisition of fee or less-than-fee interest by the board during the report period. Each report must include cumulative totals by county of acreage conserved through acquisition of fee or less-than-fee interest through action by the board.

The report must include maps based on available information and at a statewide level that show federal, state and other public lands and permanent interests in lands held for

conservation purposes. The maps must also provide a representation of the amount of land affected by conservation easements under Title 33, chapter 7, subchapter 8-A. Other state agencies holding conservation lands and interests in lands held for conservation purposes shall assist in the preparation of the maps.

Sec. 15. 5 MRSA §6207, as amended by PL 2021, c. 676, Pt. A, §4, is further amended to read:

§6207. Acquisition criteria

1. Distribution of funds. The board shall authorize the distribution of funds from the Land for Maine's Future Trust Fund, the Conservation and Recreation Fund and the Public Access to Maine Waters Fund to state agencies and cooperating entities for the acquisition of natural lands that meet the criteria set forth in this chapter.

2. Determination of statewide significance. In determining whether a proposed acquisition must be funded, in full or in part, by the Land for Maine's Future Trust Fund, the Conservation and Recreation Fund or the Public Access to Maine Waters Fund, the board shall consider whether the site is of statewide significance and:

A. Contains recreation lands, prime physical features of the Maine landscape, areas of special scenic beauty, farmland or open space, undeveloped shorelines, significant undeveloped archeological sites, wetlands, fragile mountain areas or lands with other conservation, wilderness or recreation values;

B. Is habitat for plant or animal species or natural communities considered rare, threatened or endangered in the State;

C. Provides nonmotorized or motorized public access to recreation opportunities or those natural resources identified in this section;

D. Provides public water supply protection when that purpose is consistent and does not conflict with the natural resource conservation and recreation purposes of this chapter; or

E. Contains deer wintering areas and satisfies all the requirements of subsection 3, paragraph A.

3. Priorities. Whenever possible, the Land for Maine's Future Trust Fund, the Conservation and Recreation Fund and the Public Access to Maine Waters Fund must be used for land acquisition projects when matching funds are available from cooperating entities, as long as the proposed acquisition meets all other criteria set forth in this chapter. For acquisitions funded by the Land for Maine's Future Trust Fund and the Conservation and Recreation Fund, the board shall give priority to projects that conserve lands with multiple outstanding resource or recreation values or a single exceptional value, that help the State's natural ecosystems, wildlife and natural resource-based economies adapt to a changing climate, that provide geographic representation and that build upon or connect existing holdings.

A. When evaluating projects to be funded, the board shall give a preferential consideration to projects that conserve lands that have been determined by the Department of Inland Fisheries and Wildlife to be important for conserving deer in northern, eastern and western Maine. To be given preferential consideration under this paragraph, a project must result in the acquisition of a fee interest or an easement

interest in the land, the department's holding the interest in the land and the department's managing the land area as a wildlife management area, as defined in Title 12, section 10001, subsection 74, with deer conservation as the highest management priority. Only projects that satisfy the requirements of this paragraph may be given preferential consideration. Nothing in this paragraph limits the ability of the board to use the Land for Maine's Future Trust Fund or the Conservation and Recreation Fund to fund other projects that may also help conserve deer or deer habitat but that do not receive preferential consideration under this paragraph.

When acquiring land or interest in land, the board shall examine public vehicular access rights to the land and, whenever possible and appropriate, acquire guaranteed public vehicular access as part of the acquisition.

4. Nonqualifying expenditures. The board may not fund:

A. Facilities for organized recreational activities, including, but not limited to, ballparks, tennis courts or playgrounds;

B. Except as provided in ~~section 6203, subsection 3, paragraph B~~ and section 6203-A, subsection 3, paragraph B, section 6203-D, subsection 2 and section 6203-E, subsection 3, paragraph B, capital improvements on any publicly owned facilities; and

C. The acquisition of land of which the primary use value has been and will be as commercially harvested or harvestable forest land.

5. Estimation of monitoring and management costs. Prior to final approval of a project under this chapter, a person submitting a proposal to acquire property or an interest in property with funding from the Land for Maine's Future Trust Fund, the Conservation and Recreation Fund or the Public Access to Maine Waters Fund shall provide:

A. A description of the management envisioned for the property for the first 10 years following acquisition. When the application proposes acquiring an interest in property, the application must provide a description of the anticipated management responsibilities retained by the landowner and those to be assumed by the State or a cooperating entity;

B. Preliminary estimates of the costs to the State or a cooperating entity of managing the land for the uses proposed in the application; and

C. Preliminary estimates of the costs associated with monitoring compliance with an easement when an interest in land is acquired.

6. Public uses. Hunting, fishing, trapping and public access may not be prohibited on land acquired with proceeds from the Land for Maine's Future Trust Fund or the Conservation and Recreation Fund, except to the extent prohibited by applicable state, local or federal laws, rules and regulations and except for working waterfront projects and working farmland preservation projects.

Sec. 16. 5 MRSA §6209, sub-§1, as amended by PL 1993, c. 728, §13, is further amended to read:

1. Uses of funds. The board may use the Land for Maine's Future Trust Fund, the Conservation and Recreation Fund and the Public Access to Maine Waters Fund to acquire real property in both fee and less-than-fee simple interest, including, but not limited to, conservation easements, access easements, scenic easements, other permanent interests in

land and long-term leases of at least 99 years, ~~provided that~~ as long as those acquisitions are primarily natural lands meeting the criteria set forth in this chapter.

Sec. 17. 5 MRSA §6209, sub-§5, as amended by PL 1993, c. 728, §13, is further amended to read:

5. Land evaluated. All lands acquired with money from the Land for Maine's Future Trust Fund, the Conservation and Recreation Fund or the Public Access to Maine Waters Fund must be evaluated for rare, threatened or endangered species of plants and animals, exemplary natural communities, features of historic significance and other high priority natural features and ecologic functions as determined by the board, with reference to the best inventory data available to the State. Subsequent management by state agencies holding properties found to have such important features and functions must reflect the objective of maintaining and protecting those features and functions.

Sec. 18. 5 MRSA §6211, sub-§3, as amended by PL 1999, c. 731, Pt. H, §1, is further amended to read:

3. Distribution of proceeds. Funds received by the Land for Maine's Future Board under the agreement with the financial institution, credit union or other credit card issuer must be deposited in a separate, interest-bearing account within the Land for Maine's Future Trust Fund. The account must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the account become part of the assets of the account. Any balance remaining in the account at the end of any fiscal year must be carried forward to the next fiscal year. Notwithstanding section ~~6203~~ 6203-D, subsection ~~3~~ 2, the board may expend funds deposited in the account pursuant to this section to cover administrative costs and for staff support and consulting services, as determined necessary by the board to carry out its duties under this chapter.

Sec. 19. 7 MRSA §163, sub-§2, as enacted by PL 2009, c. 356, Pt. A, §2, is amended to read:

2. Benefits. The commissioner shall review benefits accruing to participants in agricultural districts in other states. Prior to initiating the pilot program, the commissioner shall develop a description of potential benefits accruing to participants in a pilot program. Potential benefits may include, but are not limited to, scoring bonuses for competitive grants, loans or business assistance programs and for project proposals screened for submission to the Land for Maine's Future Trust Fund under Title 5, section ~~6203~~ 6203-D or the Conservation and Recreation Fund under Title 5, section 6203-E. The commissioner shall consult with other agencies administering programs affected by the proposed benefits.

Sec. 20. 12 MRSA §10109, sub-§1-A, as enacted by PL 2021, c. 409, §5, is amended to read:

1-A. Acquisition of land; deer wintering areas. The commissioner shall identify areas that are important to the conservation of deer in northern, eastern and western Maine, and may acquire these lands, including with funds provided by the Land for Maine's Future Trust Fund or the Conservation and Recreation Fund in accordance with Title 5, section 6207. These lands must be designated as wildlife management areas and managed with deer conservation as the highest management priority, and the commissioner shall ensure that appropriate deed restrictions are placed on the land that reflect these priorities. The commissioner shall also develop appropriate purchase and sale agreements that ensure that

deer wintering areas on land to be acquired pursuant to this subsection are preserved as deer wintering areas prior to purchase. Beginning January 15, 2023 and annually thereafter, the department shall report to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters on the acquisition and management of deer wintering areas.

Sec. 21. Transfer to Department of Agriculture, Conservation and Forestry, Land for Maine's Future Trust Fund. Notwithstanding any provision of law to the contrary, upon the repeal pursuant to this Act of the Land for Maine's Future Fund established under the Maine Revised Statutes, Title 5, section 6203, the State Controller shall transfer all funds in the Department of Agriculture, Conservation and Forestry, Land for Maine's Future - Community Conservation Projects Other Special Revenue Funds account to the Land for Maine's Future Trust Fund established under Title 5, section 6203-D. Notwithstanding Title 5, section 6203-D, subsection 2, the department shall disburse these funds in accordance with Public Law 2021, chapter 398, Part FFFF, section 8. Notwithstanding any provision of law to the contrary, upon the repeal pursuant to this Act of the Land for Maine's Future Fund, the State Controller shall transfer all funds in the Department of Agriculture, Conservation and Forestry, Land for Maine's Future Fund Other Special Revenue Funds account to the Land for Maine's Future Trust Fund.

Sec. 22. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF

Conservation and Recreation Fund N461

Initiative: Provides allocations to establish a fund and allow expenditures.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
All Other	\$500	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$500</u>	<u>\$500</u>

Conservation Land Management Fund N462

Initiative: Provides allocations to establish a fund and allow expenditures.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
All Other	\$500	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$500</u>	<u>\$500</u>

Land for Maine's Future Trust Fund N460

Initiative: Provides allocations to authorize expenditures to accomplish the purposes of the funds established in the Maine Revised Statutes, Title 5, chapter 353.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
All Other	\$37,663,659	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$37,663,659</u>	<u>\$500</u>

**AGRICULTURE, CONSERVATION AND
FORESTRY, DEPARTMENT OF
DEPARTMENT TOTALS**

	2023-24	2024-25
OTHER SPECIAL REVENUE FUNDS	\$37,664,659	\$1,500
DEPARTMENT TOTAL - ALL FUNDS	\$37,664,659	\$1,500

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