

MAINE STATE LEGISLATURE

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L.D. 229

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DATE: 6/15/95

(Filing No. H- 488)

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"REPORT B"
NATURAL RESOURCES

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Reproduced and distributed under the direction of the Clerk of the House.

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

14

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COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229, Bill, "An Act to Abolish the Maine Waste Management Agency"

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Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

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

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Whereas, this legislation proposes to abolish the Maine Waste Management Agency and to transfer certain of its functions to other state agencies; and

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Whereas, the Governor's budget plan for fiscal year 1995-96 provides no funding for continued activities of the Maine Waste Management Agency; and

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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,

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

R of S

PART A

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4 **Sec. A-1. 2 MRSA §6, sub-§2**, as repealed and replaced by PL
6 1993, c. 349, §1, is amended to read:

8 **2. Range 90.** The salaries of the following state officials
and employees are within salary range 90:

10 Superintendent of Banking;

12 Bureau of Consumer Credit Protection Superintendent;

14 State Tax Assessor;

16 Superintendent of Insurance;

18 Associate Commissioner for Programs, Department of Mental
20 Health and Mental Retardation;

22 Associate Commissioner of Administration, Department of
Mental Health and Mental Retardation;

24 Associate Commissioner for Institutional Management; and

26 ~~Executive-Director, -Maine-Waste-Management-Agency, -and~~

28 Deputy Commissioner, Department of Administrative and
Financial Services.

30 **Sec. A-2. 2 MRSA §6, sub-§4**, as amended by PL 1991, c. 780,
32 Pt. Y, §4, is further amended to read:

34 **4. Range 88.** The salaries of the following state officials
and employees are within salary range 88:

36 Director of the Bureau of Parks and Recreation;

38 Director of Public Lands;

40 Director of Employee Relations;

42 Director, Bureau of Air Quality Control;

44 Director, Bureau of Land Quality Control;

46 Director, Bureau of Water Quality Control;

48 Director, Bureau of Oil and Hazardous Materials Control;

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11 of 8

COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229

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Director, Bureau of Administration; and
~~Director, Office of Planning;~~
~~Director, Office of Waste Reduction and Recycling;~~
~~Director, Office of Siting and Disposal Operations; and~~
Executive Director, Board of Environmental Protection.

Sec. A-3. 3 MRSA §927, sub-§9, ¶B, as repealed and replaced by PL 1991, c. 376, §11, is amended to read:

B. Independent agencies:

- (1) Maine Conservation School;
- (2) Office of State Historian;
- (3) Maine Arts Commission;
- (4) Maine State Museum Commission;
- (5) Maine Historic Preservation Commission;
- (6) Maine Health Care Finance Commission;
- (7) Board of Occupational Therapy Practice;
- (8) Board of Respiratory Care Practitioners;
- (9) Radiologic Technology Board of Examiners;
- (10) Maine Library Commission; and
- ~~(11) --Maine Waste Management Agency; and~~
- (12) Maine Court Facilities Authority.

Sec. A-4. 5 MRSA §931, sub-§1, ¶K, as amended by PL 1993, c. 349, §6, is further amended to read:

K. All major policy-influencing positions listed in sections 932 to 953-A 952;

Sec. A-5. 5 MRSA §953-A, as enacted by PL 1989, c. 585, Pt. A, §4, is repealed.

Sec. A-6. 5 MRSA §12004-I, sub-§22, as repealed and replaced by PL 1989, c. 585, Pt. A, §6, is repealed.

2 **Sec. A-7. 32 MRSA §1723, sub-§2**, as enacted by PL 1991, c.
718, §1, is amended to read:

4 **2. Alternative labels.** ~~The Maine Waste Management Agency~~
6 State Planning Office may approve use of other nationally or
internationally recognized label coding systems for special
8 purpose plastic bottles or rigid plastic containers.

10 **Sec. A-8. 32 MRSA §1726**, as enacted by PL 1989, c. 585, Pt.
C, §16, is amended to read:

12 **§1726. Rules and enforcement**

14 ~~The Maine Waste Management Agency, Office of Waste Reduction~~
16 ~~and Recycling~~ State Planning Office shall adopt and enforce rules
implementing the provisions of this chapter including, but not
18 limited to, criteria for labeling containers made of more than
one plastic resin. In adopting rules, the office shall consult
20 with ~~the Waste Management Advisory Council~~, the Department of
Agriculture, Food and Rural Resources, plastic container
22 manufacturers and distributors, and the recycling industry.
Rules shall must be adopted in accordance with the provisions of
24 Title 5, chapter 375.

26 **Sec. A-9. 32 MRSA §1732, sub-§1**, as enacted by PL 1989, c.
849, §1, is amended to read:

28 **1. Agency.** "Agency" means the ~~Maine Waste Management~~
30 Agency State Planning Office.

32 **Sec. A-10. 32 MRSA §1866-A, sub-§3**, as enacted by PL 1991, c.
591, Pt. R, §4 and affected by §18, is amended to read:

34 **3. Over-redemption of beverage container deposits.** When a
36 deposit initiator pays out more in refund values than it collects
in deposits during the course of a calendar year, the deposit
38 initiator may apply to the Treasurer of State for a reimbursement
from the Maine Solid Waste Management Fund equal to 50% of the
40 amount of over-redeemed minimum deposits. The Treasurer of State
shall reimburse documented claims of over-redeemed minimum
42 deposits.

44 **Sec. A-11. 36 MRSA §2526, sub-§5**, as amended by PL 1991, c.
846, §30, is further amended to read:

46 **5. Application.** This section applies to equipment
48 purchased and placed into use during the period from January 1,
1990 to June 30, 1991 or ~~in any tax year beginning on or after~~
50 from January 1, 1993 to June 30, 1995.

R. of S.

2 **Sec. A-12. 36 MRSA §4832, sub-§1-A** is enacted to read:

4 1-A. Repeal. The fee imposed on the retail sale of new
6 major appliances and new bathtubs is repealed January 1, 1996.
8 The fee imposed on new major furniture items and new mattresses
 is repealed July 1, 1996.

10 **Sec. A-13. 36 MRSA §5219-D, sub-§5**, as amended by PL 1991, c.
 846, §37, is further amended to read:

12 **5. Application.** This section applies to equipment
14 purchased and placed into use during the period from January 1,
 1990 to June 30, 1991 or ~~in any tax year beginning on or after~~
16 ~~from~~ January 1, 1993 to June 30, 1995.

18 **Sec. A-14. 38 MRSA §343-D, sub-§1**, as amended by PL 1993, c.
 500, §2 and affected by §5, is further amended to read:

20 **1. Appointment; composition.** The committee consists of 16
 voting members.

22 A. The Governor shall appoint 2 representatives from the
24 business community, 2 elected or appointed municipal
 officials who are not owners or representatives of owners of
26 small business stationary sources, and 2 representatives of
 organized labor.

28 B. The President of the Senate shall appoint one member
30 from a public health organization, one member from an
 environmental organization and one public member who is an
32 owner or represents an owner of a small business stationary
 source.

34 C. The Speaker of the House of Representatives shall
36 appoint one member from a public health organization, one
 member from an environmental organization and one public
38 member who is an owner or represents an owner of a small
 business stationary source.

40 D. The commissioner shall appoint a designee to represent
42 the department.

44 E. The Senate Minority Leader and the House Minority Leader
46 shall each appoint one member who is an owner or represents
 an owner of a small business stationary source.

48 F. The Director of the Bureau of Air Quality Control shall
50 appoint a designee to represent the bureau.

R 4 S

COMMITTEE AMENDMENT "b" to H.P. 181, L.D. 229

2 The Commissioner of Labor, the Director of the Maine Emergency
3 Management Agency and the Executive Director of the Maine Waste
4 Management--Agency State Planning Office serve as ex officio
members and do not vote on committee matters.

6 As used in this subsection, unless the context otherwise
7 indicates, a "small business stationary source" means a source
8 that meets the eligibility requirements of 42 United States Code
Annotated, Section 7661f.

10 **Sec. A-15. 38 MRSA §1303-C, sub-§35**, as enacted by PL 1989, c.
12 585, Pt. E, §4, is amended to read:

14 **35. State waste management and recycling plan.** "State
15 waste management and recycling plan" means the plan adopted by
16 the agency former Maine Waste Management Agency pursuant to
chapter 24, subchapter II, and subsequent plans developed by the
18 State Planning Office pursuant to Title 5, section 3305,
subsection 1, paragraph L and may also be referred to as "state
20 plan."

22 **Sec. A-16. 38 MRSA §1310-N, sub-§1, ¶B**, as repealed and
24 replaced by PL 1993, c. 680, Pt. A, §37, is amended to read:

26 B. In the case of a disposal facility other than a facility
owned by the State, the facility provides a substantial
public benefit, determined in accordance with subsection
28 3-A; and

30 **Sec. A-17. 38 MRSA §1310-N, sub-§3**, as repealed and replaced
by PL 1993, c. 680, Pt. A, §37, is repealed.

32 **Sec. A-18. 38 MRSA §1310-N, sub-§3-A** is enacted to read:

34 **3-A. Public benefit determination.** Public benefit
36 determination is made in the following manner.

38 A. For the following facilities, the department determines
public benefit and shall employ a rebuttable presumption of
40 public benefit:

42 (1) Solid waste disposal facilities less than 6 acres
in size that accept only inert fill, construction and
44 demolition debris, debris from land clearing and wood
wastes; and

46 (2) Solid waste disposal facilities used exclusively
for the disposal of waste generated by the owner of the
48 facility except that the facility may accept, on a
nonprofit basis, waste not generated by the owner
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R 0 5

COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229

2 provided that the amount so accepted does not exceed
15% of all solid waste accepted on an annual average.

4 B. For all other facilities, the commissioner shall make
the determination of public benefit in accordance with
6 section 1310-AA, and the commissioner's determination under
that section is not subject to review by the department or
8 the board as part of the licensing process under this
section.

10 **Sec. A-19. 38 MRSA §1310-N, sub-§9** is enacted to read:

12 **9. Host community agreements.** The following provisions
14 apply to an application for a license for a commercial solid
waste disposal facility.

16 A. The department may not issue a license for a commercial
18 solid waste disposal facility unless the applicant has
demonstrated that it has:

20 (1) Complied with municipal ordinances requiring host
22 community benefits;

24 (2) Negotiated in good faith with the municipality in
which the facility is proposed to be located to
26 formulate a host community agreement;

28 (3) Developed and will implement a host community
agreement; or

30 (4) Renegotiated, if appropriate, the terms of an
32 existing host community agreement.

34 B. Based upon the nature, size and projected impacts of the
proposed facility, host community agreements must, when
36 applicable, include provisions regarding:

38 (1) Improvement, maintenance and repair of local roads
directly affected by traffic to and from the facility
40 and of other infrastructural elements directly affected
by the facility;

42 (2) Development and maintenance of adequate local
44 emergency response capacity to accommodate the facility;

46 (3) Financial support for personnel or other means to
provide technical assistance to the municipality in
48 interpreting data and to advise the municipality on
other technical issues concerning the facility; and
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R 418

COMMITTEE AMENDMENT "b" to H.P. 181, L.D. 229

2 (4) Other issues determined on a case-specific basis
3 by the applicant and municipality to be appropriate
4 given the nature of the proposed facility.

6 The department shall adopt rules concerning the expenditure
7 of funds made available to a municipality under the
8 provisions of subparagraph (3) to ensure that funds are used
9 to provide direct technical support to the municipality
10 necessary for the conduct of municipal planning and decision
11 making.

12 **Sec. A-20. 38 MRSA §1310-R, sub-§3, ¶C,** as affected by PL
13 1989, c. 890, Pt. A, §40 and amended by Pt. B, §247, is repealed.

14 **Sec. A-21. 38 MRSA §1310-R, sub-§4,** as affected by PL 1989, c.
15 890, Pt. A, §40 and amended by Pt. B, §248, is repealed.

16 **Sec. A-22. 38 MRSA §1310-S, sub-§4,** as amended by PL 1991, c.
17 794, §1, is further amended to read:

18 **4. Financial assistance.** The commissioner shall reimburse
19 or make assistance grants for the direct expenses of intervention
20 of any party granted intervenor status under subsection 3, not to
21 exceed \$50,000. The board shall adopt rules governing the award
22 and management of intervenor assistance grants and reimbursement
23 of expenses to ensure that the funds are used in support of
24 direct, substantive participation in the proceedings before the
25 department. Allowable expenses include, without limitation,
26 hydrogeological studies, waste generation and recycling studies,
27 traffic analyses, the retention of expert witnesses and attorneys
28 and other related items. Expenses not used in support of direct,
29 substantive participation in the proceedings before the
30 department, including attorney's fees related to court appeals,
31 are not eligible for reimbursement under this subsection.
32 Expenses otherwise eligible under this section that are incurred
33 by the municipality after notification pursuant to subsection 1,
34 are eligible for reimbursement under this subsection only if a
35 completed application is accepted by the department. The
36 commissioner may make an additional assistance grant not to
37 exceed \$50,000 to any party granted intervenor status under
38 subsection 3 on an application for the expansion of a commercial
39 solid waste disposal facility that accepts only special waste for
40 landfilling when the intervenor demonstrates to the commissioner
41 that the size, nature, location, geological setting or other
42 relevant factors warrant additional expenditures for technical
43 assistance. The board shall also establish rules governing:

44 **A.** The process by which an intervenor under subsection 3
45 may gain entry to the proposed facility site for purposes of

COMMITTEE AMENDMENT

R 4 S

COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229

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reasonable inspection and site investigations under the auspices of the department; and

B. The reduction in the maximum level of reimbursable costs to the extent the municipality establishes by local ordinance any substantially similar financial requirements of the applicant.

Sec. A-23. 38 MRSA §1310-X, sub-§2, as amended by PL 1993, c. 355, §52, is further amended to read:

2. Relicense or transfer of license. The department may relicense or approve a transfer of license for a commercial solid waste disposal or biomedical waste disposal or treatment facility after September 30, 1989, if the facility had been previously licensed by the department as a commercial solid waste disposal or biomedical waste disposal or treatment facility prior to October 6, 1989, and all other provisions of law have been satisfied.

Sec. A-24. 38 MRSA §1310-X, sub-§3, ¶C, as repealed and replaced by PL 1991, c. 297, §1, is amended to read:

~~C. For a commercial solid waste disposal facility and prior to the adoption of the state plan and siting criteria under chapter 24, the department determines that the proposed expansion is consistent with the provisions of section 1310-R, subsection 3, paragraph A-1 or, after the adoption of the state plan and siting criteria under chapter 24, the agency determines that the provisions of section 2157 are met~~ the commissioner or the department determines as provided in section 1310-N, subsection 3-A that the facility provides a substantial public benefit.

Sec. A-25. 38 MRSA §1310-AA is enacted to read:

§1310-AA. Public benefit determination

1. Application for public benefit determination. Prior to submitting an application under section 1310-N for a license for a new or expanded solid waste disposal facility, a person must apply to the commissioner for a determination of whether the proposed facility provides a substantial public benefit.

2. Process. Determinations by the commissioner under this section are not subject to Title 5, chapter 375, subchapter IV. The commissioner shall provide public notice of the filing of an application under this section and shall accept written public comment on the application for 20 days after the date of the notice. In making the determination of whether the facility

R 48

COMMITTEE AMENDMENT "b" to H.P. 181, L.D. 229

2 provides a substantial public benefit, the commissioner shall
3 consider the state plan, written information submitted in support
4 of the application and any other written information the
5 commissioner considers relevant. The commissioner may hold a
6 public meeting in the vicinity of the proposed facility to take
7 public comments and shall consider those comments in making the
8 determination. The commissioner shall issue a decision on the
9 matter within 60 days of receipt of the application. The
10 commissioner's decisions under this section may be appealed to
11 the board, but the board is not authorized to assume jurisdiction
12 of a decision under this section.

13 3. Standards for determination. The commissioner shall
14 find that the proposed facility provides a substantial public
15 benefit if the applicant demonstrates to the commissioner that
16 the proposed facility:

17 A. Meets immediate, short-term or long-term capacity needs
18 of the State;

19 B. Except for expansion of a commercial solid waste
20 disposal facility that accepts only special waste for
21 landfilling, is consistent with the state waste management
22 and recycling plan; and

23 C. Is not inconsistent with local, regional or state waste
24 collection, storage, transportation, processing or disposal.

25 4. Application. This section does not apply to facilities
26 described in section 1310-N, subsection 3-A, paragraph A or to
27 facilities owned by the State.

28 Sec. A-26. 38 MRSA §1316-C, last ¶, as enacted by PL 1991, c.
29 517, Pt. A, §2, is amended to read:

30 Funds recovered under this section must be deposited into
31 the Maine-Solid-Waste Tire Management Fund.

32 Sec. A-27. 38 MRSA §1316-F is enacted to read:

33 §1316-F. Tire Management Fund

34 The Tire Management Fund is created within the department as
35 a nonlapsing dedicated fund to pay the costs of tire stockpile
36 abatement, remediation and cleanup. All funds appropriated or
37 allocated to the fund must be deposited in the fund and the fund
38 may accept grants, bequests, gifts or contributions from any
39 person, corporation or governmental entity. The fund must be
40 used for the purposes set forth in section 1316-B. Permissible
41 uses include providing financial incentives to tire processors to
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COMMITTEE AMENDMENT

R. or S.

2 make the processing of tires economically feasible. The
3 department shall report to the joint standing committee of the
4 Legislature having jurisdiction over natural resources matters by
5 March 1, 1996 on how the funds have been spent.

6 **Sec. A-28. 38 MRSA §1382, first ¶**, as amended by PL 1991, c.
7 517, Pt. B, §2, is further amended to read:

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9
10 Members of the board of trustees are appointed by the
11 Governor, subject to review by the joint standing committee of
12 the Legislature having jurisdiction over natural resources and to
13 confirmation by the Legislature. The board of trustees consists
14 of 8 members as follows: one member from the Department of
15 Environmental Protection; one member from the Department of
16 Agriculture, Food and Rural Resources; one member from the ~~Maine~~
17 ~~Waste-Management-Agency State Planning Office~~; one member from an
18 environmental interest group; one member from the Maine Waste
19 Water Control Association; one member from the Maine Municipal
20 Association; one member representing users of sludge or
21 residuals; and one member representing generators of sludge and
22 residuals.

23 **Sec. A-29. 38 MRSA c. 24** is amended by repealing the chapter
24 headnote and enacting the following in its place:

25 **CHAPTER 24**

26 **SOLID WASTE MANAGEMENT AND RECYCLING**

27 **Sec. A-30. 38 MRSA c. 24, sub-c. I** is amended by repealing the
28 subchapter headnote and enacting the following in its place:

29 **SUBCHAPTER I**

30 **GENERAL PROVISIONS**

31 **Sec. A-31. 38 MRSA §2101-A** is enacted to read:

32 **§2101-A. Definitions**

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

- 35
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38 **1. Agency.** "Agency" means the State Planning Office.
39
40 **2. Office.** "Office" means the State Planning Office.

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43 **Sec. A-32. 38 MRSA §2102**, as enacted by PL 1989, c. 585, Pt.
44 A, §7, is repealed.

R 48

2 1. Waste characterization. The state plan must be based on
4 a comprehensive analysis of solid waste generated, recycled and
6 disposed of in the State. Data collected must include, but not
8 be limited to, the source, type and amount of waste currently
generated; and the costs and types of waste management employed
including recycling, composting, landspreading, incineration or
landfilling.

10 2. Waste reduction and recycling assessment. The state
12 plan must include an assessment of the extent to which waste
generation could be reduced at the source and the extent to which
recycling can be increased.

14 3. Determination of existing and potential disposal
16 capacity. The state plan must identify existing solid waste
disposal and management capacity within the State and the
18 potential for expansion of that capacity.

20 4. Projected demand for capacity. The state plan must
22 identify the need in the State for current and future solid waste
disposal capacity by type of solid waste, including
24 identification of need over the next 5-year, 10-year and 20-year
periods.

26 **Sec. A-40. 38 MRSA §2124,** as enacted by PL 1989, c. 585, Pt.
A, §7, is amended to read:

28 **§2124. Reports**

30 The agency office shall submit the adopted plan and
32 subsequent revisions to the Governor, the department and the
joint standing committee of the Legislature having jurisdiction
over natural resource matters.

34 **Sec. A-41. 38 MRSA §2125,** as corrected by RR 1993, c. 1,
36 §136, is amended to read:

38 **§2125. Evaluation of municipal implementation of solid waste**
40 **management hierarchy**

42 The agency office shall ~~adopt, by rule,~~ develop a system for
acknowledging implementation by municipalities of the solid waste
44 management hierarchy set forth in section 2101 and the goals for
solid waste management adopted in the waste management and
46 recycling plan. The system must include the following elements.

48 **1. Evaluation.** Municipalities shall report annually,
except as provided by the agency office, on their solid waste
management practices. The annual report must include provisions
50 for designating how much of each type of solid waste is generated

R 418

COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229

2 and how that solid waste is managed. The agency office shall
assist municipal reporting by developing a municipal waste stream
4 assessment model. The model must rely on actual waste data
whenever possible, but incorporate default generation estimates
6 when needed. Default generation estimates must incorporate
factors such as commercial activity, geographical differences and
municipal population.

8
2. Progress report. The agency office shall use the
10 municipal annual reports and other appropriate information to
prepare an annual report to the Governor and the Legislature on
12 the progress made by municipalities toward implementing the solid
waste management hierarchy.

14
16 Sec. A-42. 38 MRSA c. 24, sub-c. III is amended by repealing the
subchapter headnote and enacting the following in its place:

18 SUBCHAPTER III

20 WASTE REDUCTION AND RECYCLING

22 Sec. A-43. 38 MRSA §2131, as enacted by PL 1989, c. 585, Pt.
A, §7, is repealed.

24 Sec. A-44. 38 MRSA §2132, sub-§1, as enacted by PL 1989, c.
26 585, Pt. A, §7, is amended to read:

28 1. State recycling goal. It is the policy of the State to
recycle or compost, by January 1, 1994 1998, 50% of the municipal
30 solid waste generated each year. ~~The Legislature establishes an
interim goal of recycling, by January 1, 1992, 25% of the
32 municipal solid waste generated each year.~~

34 Sec. A-45. 38 MRSA §2132, sub-§2, as amended by PL 1991, c.
517, Pt. B, §7, is further amended to read:

36 2. Goal revision. The agency office shall recommend
38 revisions, if appropriate, to the state recycling goal
established in this section and shall establish a waste reduction
40 goal. The agency office shall submit its recommendations and any
implementing legislation to the joint standing committee of the
42 Legislature having jurisdiction over natural resource matters by
January 1, 1993.

44 Sec. A-46. 38 MRSA §2133, sub-§1, as amended by PL 1991, c.
46 517, Pt. B, §§8 and 9, is repealed.

48 Sec. A-47. 38 MRSA §2133, sub-§1-A is enacted to read:

P. 4 S.

COMMITTEE AMENDMENT "b" to H.P. 181, L.D. 229

2 1-A. Recycling progress. Municipalities are not required
3 to meet the state recycling goal in section 2132, but they must
4 demonstrate reasonable progress toward that goal. The office
5 shall determine reasonable progress.

6 **Sec. A-48. 38 MRSA §2133, sub-§2,** as enacted by PL 1989, c.
7 585, Pt. A, §7, is repealed.

8 **Sec. A-49. 38 MRSA §2133, sub-§§2-A and 2-B** are enacted to
9 read:

12 2-A. Technical and financial assistance program. A program
13 of technical and financial assistance for waste reduction and
14 recycling is established in the office to assist municipalities
15 with managing solid waste. The director shall administer the
16 program in accordance with the waste management hierarchy in
17 section 2101.

18 2-B. Household hazardous waste collection. The office may,
19 within available resources, award grants to eligible
20 municipalities, regional associations, sanitary districts and
21 sewer districts for household hazardous waste collection and
22 disposal programs. In implementing this program, the office
23 shall attempt to:

26 A. Coordinate the household hazardous waste collection
27 programs with overall recycling and waste management;

28 B. Encourage regional economies of scale;

30 C. Coordinate programs between private and public
31 institutions; and

34 D. Maximize opportunities for federal grants and pilot
35 programs.

36 **Sec. A-50. 38 MRSA §2133, sub-§3,** as amended by PL 1991, c.
37 517, Pt. B, §10, is further amended to read:

40 **3. Recycling capital investment grants.** The office may
41 make grants to eligible municipalities, regional associations,
42 sanitary districts and sewer districts for the construction of
43 public recycling and composting facilities and the purchase of
44 recycling and composting equipment. The office may establish
45 requirements for local cost sharing of up to 25% of the total
46 grant amount. ~~The office shall give preference to recycling~~
47 ~~programs that require the participation of the waste generators~~
48 ~~served.~~

R 418

COMMITTEE AMENDMENT "b" to H.P. 181, L.D. 229

2 **Sec. A-51. 38 MRSA §2133, sub-§4, ¶B**, as enacted by PL 1989,
c. 585, Pt. A, §7, is repealed.

4 **Sec. A-52. 38 MRSA §2133, sub-§5**, as repealed and replaced by
PL 1991, c. 517, Pt. B, §11, is repealed.

6 **Sec. A-53. 38 MRSA §2133, sub-§6** is enacted to read:

8
10 6. Recycling demonstration grants. The office may make
demonstration grants to eligible municipalities, regional
associations or other public organizations to pilot waste
reduction, recycling and composting programs and to test their
effectiveness and feasibility.

14 **Sec. A-54. 38 MRSA §2134**, as enacted by PL 1989, c. 585, Pt.
16 A, §7, is amended to read:

18 **§2134. Market development and assistance**

20 The office shall design and implement -a- market development
22 strategy and marketing assistance programs, consistent with the
recycling component of the state plan, which shall must include,
without limitation, the following elements:

24 ~~1.---Collection.---Methods--of---collecting--and--marketing~~
26 ~~recyclable--materials--that--achieve--necessary--economies--of--scale~~
~~and--product--quality--specifications.--The--strategy--shall--include--a~~
28 ~~model--plan--for--source--separation--of--materials--to--be--recycled--at~~
~~the--household,--municipal,--regional--or--state--level,--as--appropriate;~~

30 ~~2.---Incentive--program.---An--incentive--program--to--encourage~~
32 ~~end--users--of--materials--to--be--recycled--to--locate--or--expand--their~~
~~operations--within--the--State.--The--office--shall--consult--with--the~~
34 ~~Finance--Authority--of--Maine--and--the--Department--of--Economic--and~~
~~Community--Development--in--developing--this--element;~~

36 **3. Information clearinghouse.** An information clearinghouse
38 on recycling markets to improve the marketing of materials to be
recycled. The office shall maintain a current list of recycling
40 programs, together with a description of the recyclable materials
available through the programs. The office shall also maintain
42 listings of brokers, handlers, processors, transporters and other
persons providing services and potential markets for recyclable
44 materials. The office shall actively promote the services of the
clearinghouse and shall seek to match programs with appropriate
46 recycling businesses. The office shall make its information on
recycling services available to private solid waste generators
48 seeking markets or services for recyclable materials. The office
shall make its technical reports and planning documents available
50 to municipalities and regional associations on a timely basis;

COMMITTEE AMENDMENT

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4. **Brokering service.** Direct Provision for marketing and brokering services for materials ~~included in the state marketing plan~~ when municipal and regional association efforts to market the material and the information clearinghouse are inadequate; and

~~5. -- Marketing development plan. -- Based on the state plan, a market development and marketing plan by January 1, 1990, which includes:~~

~~A. -- Potential opportunities to increase demand for and use of materials generated by recycling programs;~~

~~B. -- Market opportunities in Canada and other export markets;~~

~~C. -- Recommendations for specific actions to increase and stabilize the demand for materials generated by recycling programs, including, but not limited to, proposed legislation, if necessary, and~~

~~D. -- Specific recommendations on markets for recycled materials from the various areas of the State, and~~

6. **Reuse of waste.** Assisting Assistance to industries in promoting the reuse of industrial and commercial wastes that are suitable raw materials for other processes. ~~The office shall coordinate these efforts with waste exchanges in the northeastern United States.~~

Sec. A-55. 38 MRSA §2135, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-56. 38 MRSA §2135-A, as enacted by PL 1991, c. 517, Pt. A, §3, is repealed.

Sec. A-57. 38 MRSA §2136, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-58. 38 MRSA §2137, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

§2137. State Government recycling and waste reduction

The office, in cooperation with the Department of Administration Administrative and Financial Services, shall assess the status of recycling efforts undertaken directly by the State for its own solid waste and shall evaluate existing programs and develop necessary new programs for recycling to reduce the generation of solid waste by the State. ~~The programs shall include, without limitation, recycling of office papers,~~

R. of S.

COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229

2 cardboard, used motor oil, yard waste and other materials
3 produced by the State for which recycling markets exist or may be
4 developed.

6 ~~1. Waste reduction and recycling plan.~~ Each state agency
7 shall prepare a waste reduction and recycling plan addressing the
8 requirements of subsections 3 and 4. The plan shall be submitted
9 to the Office of Waste Reduction and Recycling on or before July
10 1, 1990, for approval as consistent with the goals and guidelines
11 of this section and with the state waste management and recycling
12 plan. The plan shall be updated on a biennial basis to increase
13 the amount of material recycled by taking advantage of any
14 changed circumstances. Each department shall complete an
15 analysis of additional materials to determine recycling
16 potential, and shall incorporate these materials into plan
17 updates. Updated plans shall be submitted to the office for
18 approval prior to adoption.

20 ~~2. Capitol complex recycling program.~~ The State House and
21 the State Office Building shall constitute the Capitol complex
22 recycling demonstration area. The House of Representatives, the
23 Senate, the office of the Governor, and each department that
24 occupies space in the State House or the State Office Building
25 shall, by July 1, 1990, institute a recycling program for its
26 respective offices in these buildings. The program shall
27 include, at a minimum, office paper, corrugated cardboard and
28 containers subject to the returnable container law, Title 32,
29 chapter 28, which are sold in the Capitol complex. The program
30 shall include procedures for collecting and storing recyclable
31 materials, bins or containers for storing materials, and
32 contractual and other arrangements with buyers.

34 **3. Recycling.** By January 1, 1991, each Each state agency
35 outside the Capitol complex shall establish and implement a
36 source separation and collection program for recyclable materials
37 produced as a result of agency operations, including, at a
38 minimum, high grade paper and corrugated paper. The source
39 separation and collection program shall must include, at a
40 minimum, procedures for collecting and storing recyclable
41 materials, bins or containers for storing materials, and
42 contractual and other arrangements with buyers. Each agency
43 shall appoint a recycling coordinator for every 50 employees at a
44 minimum and shall conduct educational programs for its employees
45 on the recycling program.

46 **4. Waste reduction.** By January 1, 1991, each Each state
47 agency shall establish and implement a waste reduction program
48 for materials used in the course of agency operations. The
49 program shall must be designed and implemented to achieve the

COMMITTEE AMENDMENT

RWS

COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229

maximum feasible reduction of waste generated as a result of agency operations.

5. University of Maine System. The following provisions shall apply to the University of Maine System.

~~A. Each campus of the University of Maine System shall prepare a waste reduction, recycling and composting plan addressing the requirements of paragraphs B to D. The plan shall be submitted to the Office of Waste Reduction and Recycling on or before July 1, 1990, for approval as consistent with the goals and guidelines of this chapter and with the state waste management and recycling plan. Each campus shall complete an analysis of additional materials to determine recycling potential, and shall incorporate these materials into annual plan updates.~~

~~Updated plans shall be submitted to the office for approval prior to adoption.~~

B. ~~By January 1, 1991,~~ each Each campus of the University of Maine System shall establish and implement a source separation and collection program for recyclable materials, including at a minimum, high grade paper, corrugated paper and glass. The source separation and collection program shall must include procedures for collecting and storing recyclable materials, bins or containers for storing materials and contractual and other arrangements with buyers. Each campus shall appoint a recycling coordinator and shall conduct educational programs for students and employees on the recycling program.

C. ~~By January 1, 1991,~~ each Each campus of the University of Maine System shall establish and implement a waste reduction program for materials used in the course of its operations. The program shall must be designed and implemented to achieve the maximum feasible reduction of waste.

D. ~~By January 1, 1991,~~ each Each campus of the University of Maine System shall establish a leaf composting program.

E. Each campus of the University of Maine System shall assess the status of its recycling efforts, evaluate existing programs and, within available resources, develop necessary new programs for recycling to reduce the generation of solid waste by the campus.

Sec. A-59. 38 MRSA §2138, as amended by PL 1991, c. 492, §4, is further amended to read:

R & S

2 §2138. Office paper recycling program

4 1. Office paper recycling mandated. Any person employing
6 15 or more people at a site within the State shall implement an
office paper and corrugated cardboard recycling program according
to the following schedule.

8 A. ~~By July 1, 1991, when employing 200 or more persons at a
10 site.~~

12 B. ~~By July 1, 1992, when employing 50 or more persons at a
14 site, and~~

16 C. ~~By July 1, 1993, when employing 15 or more persons at a
site.~~

18 The office shall provide technical and market--development
marketing assistance and direction to entities within the State
20 to assist in with meeting this schedule requirement.
Municipalities and regional associations may assist employers in
22 attaining the objectives of this section.

24 2. Office paper. For the purposes of this section, "office
paper" includes, but is not limited to, ledger, computer and bond
26 paper.

28 3. Certification of tax credit. The office, in cooperation
with the State Tax Assessor, shall assist in the administration
30 of tax credits for the purchase of machinery and equipment used
by businesses in new or expanded waste reduction, reuse or
32 recycling programs pursuant to Title 36, section 5219-C by
certifying that the machinery and equipment are eligible for the
34 credit.

36 ~~4. Technical and financial assistance programs. The office
shall administer other financial assistance programs for projects
38 that reduce the waste stream or increase recycling that the
agency determines appropriate, including technology transfer to
40 businesses and assisting the Finance Authority of Maine in
determining eligible projects for low interest loans.~~

42 ~~5. Industrial waste reduction. The office shall consult
with the Maine Sludge and Residuals Utilization Research
44 Foundation and the private sector to identify and examine
46 solutions to the problems of reducing the volume and toxicity of
industrial waste.~~

48 ~~6. Beneficial use of office paper. Any person subject to
50 the requirements of this section may use any office paper or~~

R 4 S.

COMMITTEE AMENDMENT "b" to H.P. 181, L.D. 229

~~corrugated--cardboard--as--fuel--in--industrial--boilers--for--the
2 generation--of--heat,--steam--or--electricity--if--these--materials--would
otherwise--be--placed--in--a--landfill,--the--office--determines--that
4 there--is--no--reasonably--available--market--in--the--State--for
recycling--these--materials--and--if--the--materials--are--incinerated--as
6 a--substitute--for,--or--supplement--to,--fossil--or--biomass--fuels--that
constitute--the--primary--fuels--incinerated--in--the--industrial--boiler.~~

8
10 **Sec. A-60. 38 MRSA §2139**, as amended by PL 1989, c. 700, Pt. A, §170, is further amended to read:

12 **§2139. Public education**

14 The office shall design a program of public education in
16 support of the state recycling goals to promote waste reduction,
18 source separation and recycling and composting efforts at the
individual, local, regional and state levels.

20 **1. Public education.** The office shall develop and
22 disseminate educational material designed to establish broad
public understanding and compliance with the State's recycling
and waste reduction goals.

24 **2. Kindergarten to grade 12 curriculum.** In cooperation
26 with the Department of Education, the office shall develop a
28 curriculum suitable for use in programs from kindergarten through
high school and provide assistance to educators in using the
curriculum.

30 **Sec. A-61. 38 MRSA c. 24, sub-c. IV** is amended by repealing the
32 subchapter headnote and enacting the following in its place:

34 **SUBCHAPTER IV**

36 **FACILITY SITING AND DEVELOPMENT**

38 **Sec. A-62. 38 MRSA §2151**, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

40 **Sec. A-63. 38 MRSA §2151-A** is enacted to read:

42 **§2151-A. Indemnification**

44 The office shall defend and indemnify any employee of the
46 office, including the director, and any member of the Facility
48 Siting Board against expenses actually and necessarily incurred
by the person in connection with the defense of any action or
proceeding in which the person is made party by reason of past or
present association with the office with regard to the powers and
50 duties set forth in this article.

R 418

2 **Sec. A-64. 38 MRSA §2152, sub-§1**, as enacted by PL 1989, c.
385, Pt. A, §7, is amended to read:

4 **1. Board established.** The Facility Siting Board, as
6 established in Title 5, section 12004-D, subsection 4, is created
7 to conduct a site screening and selection process for disposal
8 facilities owned, operated or controlled by the agency office.
9 The board shall undertake this process in a manner consistent
10 with the state waste management and recycling plan and provisions
11 of section 2154 and shall make all final decisions on the choice
12 of specific sites for solid waste disposal facilities under the
13 jurisdiction of the agency office. The office shall provide
14 staff support to the Facility Siting Board.

16 **Sec. A-65. 38 MRSA §2153**, as amended by PL 1991, c. 794, §2,
is further amended to read:

18 **§2153. Siting criteria**

20 **1. Siting criteria.** ~~By September 1, 1992, the Facility~~
21 ~~Siting Board shall amend its~~ With regard to state-owned
22 facilities, the office shall administer rules adopted by the
23 former Maine Waste Management Agency, Office of Siting and
24 Disposal Operations, for siting criteria for solid waste disposal
25 facilities. The office may revise rules as necessary based on
26 the following factors.

28 A. A site may be located anywhere within the State and need
29 not be in proximity to the site of waste generation.

32 A-1. ~~Agency-owned-sites~~ Sites for the disposal of special
33 waste may not be located within a 5-mile radius of an
34 existing commercial special waste landfill or a commercial
35 incineration facility.

36 B. To the extent possible, a site must be located in
37 proximity to the transportation systems, including existing
38 or potential railroad systems, that are used to convey waste
39 to the site or to convey residuals and materials to be
40 recycled from the site.

42 C. The capacity or size of a site must be consistent with
43 the projected demand as determined in the state plan.

44 D. A site and its considered use must be consistent with,
45 and actively support, other waste management objectives,
46 including waste reduction and recycling.
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R. G. S.

COMMITTEE AMENDMENT "b" to H.P. 181, L.D. 229

2 E. The projected price for site development, construction
and operation must be fair and reasonable.

4 F. A site must meet preliminary environmental standards
developed jointly by the department and the Maine Land Use
6 Regulation Commission, including ground water standards,
geological standards and standards to protect public
8 drinking water supplies.

10 G. Existing uses on adjacent properties, including public
or private schools, may not be in significant conflict with
12 or significantly jeopardized by the use of a site.

14 **Sec. A-66. 38 MRSA §2154, sub-§1**, as amended by PL 1991, c.
794, §3, is further amended to read:

16
18 **1. Initial site screening.** The Facility Siting Board shall
conduct a site screening and selection process to identify solid
waste disposal capacity sufficient to meet the projected needs
20 identified in the state planning process under section ~~2123~~
2123-A, subsection ~~6 4~~. The Facility Siting Board shall consider
22 the need for geographic distribution of facilities to adequately
serve all regions of the State. The Facility Siting Board also
24 shall consider in its site selection process the need for
landfill capacity to dispose of incinerator ash resulting from
26 the combustion of domestic and commercial solid waste generated
within its jurisdiction. Prior to recommending a site, the
28 Facility Siting Board shall hold a public hearing in every
municipality or plantation identified in the screening process as
30 a potential site. For potential sites within an unincorporated
township, the Facility Siting Board shall hold a public hearing
32 within the vicinity of the proposed site. Prior to submitting a
recommended site to the department for review, the Facility
34 Siting Board shall must find that the recommended site meets the
standards adopted under section 2153.

36
38 **Sec. A-67. 38 MRSA §2156, sub-§1**, as amended by PL 1991, c.
794, §5, is further amended to read:

40 **1. State facility required.** The office shall develop
facilities sufficient to meet the projected needs for municipal
42 solid waste identified in the analysis conducted under section
~~2123~~ 2123-A, subsection ~~6 4~~ and to serve all geographic areas of
44 the State. The office may develop facilities sufficient to meet
the projected needs for special waste identified in the analysis
46 conducted under section ~~2123~~ 2123-A, subsection ~~6 4~~ and to serve
all geographic areas of the State.

48
50 **Sec. A-68. 38 MRSA §2156, sub-§3**, as enacted by PL 1989, c.
585, Pt. A, §7, is amended to read:

COMMITTEE AMENDMENT

R 018

2 3. **Office ownership.** The agency office shall maintain
ownership of any solid waste disposal facility it develops and
4 shall maintain full control over the use of the facility or
facilities.

6 **Sec. A-69. 38 MRSA §2157**, as amended by PL 1993, c. 732, Pt.
8 B, §3, is repealed.

10 **Sec. A-70. 38 MRSA §2158**, as amended by PL 1989, c. 890, Pt.
A, §40 and Pt. B, §290, is repealed.

12 **Sec. A-71. 38 MRSA §2163**, as enacted by PL 1989, c. 585, Pt.
14 A, §7, is repealed.

16 **Sec. A-72. 38 MRSA §2164**, as amended by PL 1991, c. 808, §1,
is repealed.

18 **Sec. A-73. 38 MRSA §2175-B** is enacted to read:

20 **§2175-B. Payment in lieu of taxes**

22 The office shall annually pay a municipality an amount in
24 lieu of taxes equal to the amount of property taxes on a solid
waste disposal facility owned or operated by the office not paid
26 to that municipality during the previous calendar year. In the
case of an unorganized territory, the office shall annually pay
28 the amount to the State Tax Assessor who shall deposit that
amount in the Unorganized Territory Education and Services Fund
30 established in Title 36, chapter 115. If the office disagrees
with the amount determined to be due in lieu of taxes under this
32 section, it may appeal to the State Board of Property Tax Review
as provided in Title 36, section 271.

34 **Sec. A-74. 38 MRSA §2176, first ¶**, as amended by PL 1993, c.
36 310, Pt. B, §10, is further amended to read:

38 In addition to payment in lieu of taxes provided in section
2105 2175-B, the agency office shall make impact payments to a
40 municipality in which a solid waste disposal facility is located
or, in the case of an unorganized territory, to the State Tax
42 Assessor upon request by the community involved or by the State
Tax Assessor. The agency shall base its impact payments on
44 measurable criteria including, without limitation:

46 **Sec. A-75. 38 MRSA §2201, first ¶**, as repealed and replaced by
PL 1991, c. 824, Pt. A, §88, is amended to read:

48 The Maine Solid Waste Management Fund, referred to in this
50 section as the "fund," is established as a nonlapsing fund to

RWS

COMMITTEE AMENDMENT "b" to H.P. 181, L.D. 229

2 support programs administered by the ~~Maine--Waste--Management~~
3 Agency State Planning Office and the Department of Environmental
4 Protection. The fund must be segregated into 2 subsidiary
5 accounts. The first subsidiary account, called operations,
6 receives all fees established and received under article 1. The
7 2nd subsidiary account, called administration, receives all fees
8 established under this article and under Title 36, chapter 719,
9 all funds recovered by the department as reimbursement for
10 departmental expenses incurred to abate imminent threats to
11 public health, safety and welfare posed by the illegal disposal
12 of solid waste and all unclaimed deposits returned to the State
13 under Title 32, chapter 28.

14 **Sec. A-76. 38 MRSA §2202, sub-§1**, as enacted by PL 1989, c.
15 585, Pt. A, §7, is amended to read:

16 **1. Fees established.** The agency department shall establish
17 procedures to charge fees specified in this article and pursuant
18 to the requirements of this article. All fees collected by the
19 ~~agency shall~~ department under this article must be deposited into
20 the Maine Solid Waste Management Fund.

21 **Sec. A-77. 38 MRSA §2203, sub-§3**, as enacted by PL 1991, c.
22 517, Pt. B, §16, is amended to read:

23 **3. Imported special waste.** In addition to any other fee
24 assessed under this section and to support those regulatory and
25 administrative costs associated with imported special wastes, an
26 administrative fee of \$2 per ton, or the maximum fee on
27 out-of-state waste authorized by federal law, whichever is
28 greater, is imposed on special waste brought into the State for
29 disposal, except that an administrative fee of \$2 per cubic yard
30 is imposed on asbestos brought into the State for disposal. The
31 fee must be assessed at the first point of disposal, processing
32 or treatment within the State.

33 **Sec. A-78. 38 MRSA §2204, sub-§2**, as amended by PL 1993, c.
34 85, §2, is repealed.

35 **Sec. A-79. 38 MRSA §2204, sub-§3**, as amended by PL 1993, c.
36 310, Pt. C, §3, is further amended to read:

37 **3. Imported municipal solid waste.** To support those
38 regulatory and administrative costs associated with imported
39 municipal solid wastes, an administrative fee of \$4 per ton, or
40 the maximum fee on out-of-state waste authorized by federal law,
41 whichever is greater, is assessed on any municipal solid waste
42 originating outside the State and delivered to a commercial solid
43 waste disposal facility or solid waste disposal facility owned by
44 the agency office or a regional association for disposal.

COMMITTEE AMENDMENT

R 48

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Sec. A-80. 38 MRSA §§2205 and 2206, as enacted by PL 1989, c. 585, Pt. A, §7, are amended to read:

§2205. Fee payments

Each operator of a solid waste disposal facility shall make the fee payment quarterly. The fee shall must be paid to the agency department on or before the 20th day of April, July, October and January for the 3 months ending the last day of March, June, September and December.

1. Quarterly reports. Each fee payment shall must be accompanied by a form prepared and furnished by the agency department and completed by the operator. The form shall must state the total weight or volume of solid waste disposed of at the facility during the payment period and provide any other aggregate information deemed determined necessary by the agency department to carry out the purposes of this chapter. The form shall must be signed by the operator.

2. Timeliness of payment. The operator shall-~~be~~ is deemed to have made a timely payment of the fee if the operator complies with all of the following:

A. The enclosed payment is for the full amount owed pursuant to this section and no further agency department action is required for collection;

B. The payment is accompanied by the required form and the form is complete and accurate; and

C. The letter transmitting the payment that is received by the agency department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received.

3. Discount. Any operator that makes a timely payment of the fee as provided in this section shall-~~be~~ is entitled to apply against the fee payable a discount of 1% of the amount of the fee collected.

4. Refunds. Any operator who believes the fee was overpaid by the operator may file a petition for refund to the agency department. If the agency department determines that the operator has overpaid the fee, the agency department shall refund to the operator the amount due the operator, together with interest at a rate established by the agency department.

R 4 S

COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229

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5. **Alternative proof of payment.** For purposes of this section, presentation of a receipt indicating that the payment was mailed by registered or certified mail on or before the due date shall-be is evidence of timely payment.

6. **Interest.** If an operator fails to make a timely payment of the fee, the operator shall pay interest on the unpaid amount due at the rate established by the ~~agency,~~ department from the last day for timely payment to the date paid.

7. **Additional penalty.** In addition to the interest provided in subsection 6, if an operator fails to make timely payment of the fee, 5% of the amount of the fee shall must be added to the amount actually due if the failure to file a timely payment is for not more than one month, with an additional 5% for each additional month, or fraction of a month, during which the failure continues, not exceeding 25% in the aggregate.

8. **Assessment notice.** If the ~~agency~~ department determines that any operator has not made a timely payment of the fee, the ~~agency-will~~ department shall send the operator a written notice of the amount of the deficiency, within 30 days of determining the deficiency. When the operator has not provided a complete and accurate statement of the weight or volume of waste received at the facility for the payment period, the ~~agency~~ department may estimate the weight or volume in the notice.

The operator charged with the deficiency shall-~~have~~ has 30 days to pay the deficiency in full or, if the operator wishes to contest the deficiency, forward the amount of the deficiency to the ~~agency~~ department for placement in an escrow account with the Treasurer of State or any bank in the State, or post an appeal bond in the amount of the deficiency. The bond shall must be executed by a surety licensed to do business in the State and be satisfactory to the ~~agency~~ department. Failure to forward the money or appeal bond to the ~~agency~~ department within 30 days shall-~~result~~ results in a waiver of all legal rights to contest the deficiency.

If, through the administrative or judicial review of the deficiency, it is determined that the amount of deficiency shall must be reduced, the ~~agency~~ department shall within 30 days remit the appropriate amount to the operator, with any interest accumulated by the escrow deposit.

The amount determined after administrative hearing or after waiver of administrative hearing shall--~~be~~ is payable to the ~~agency~~ department and shall-be is collectible.

R 48

2 If any amount due under this subsection remains unpaid 30 days
3 after receipt of notice of the deficiency, the agency department
4 may order the operator of the facility to cease receiving any
5 solid waste until the amount of the deficiency is completely
6 paid.

7 **9. Filing of appeals.** Notwithstanding any other provision
8 of law, all appeals of final agency department actions concerning
9 the fee shall must be filed with the agency department pursuant
10 to section 2206.

11 **§2206. Hearings and appeals**

12 The agency department shall establish rules governing
13 procedures for hearings and appeals under this article consistent
14 with Title 5, chapter 375.

15 **Sec. A-81. 38 MRSA §2213, sub-§1, ¶A,** as enacted by PL 1989,
16 c. 585, Pt. A, §7, is amended to read:

17 A. The project has been determined to be consistent with
18 the state plan pursuant to section 2157 1310-AA, if
19 applicable, and the necessary permits have been obtained
20 from the department;

21 **PART B**

22 **Sec. B-1. 5 MRSA §3305, sub-§1, ¶H,** as amended by PL 1991, c.
23 780, Pt. DDD, §21, is further amended to read:

24 H. Compile, analyze and maintain information useful to the
25 development of industry in the State concerning resources,
26 sites, space, equipment, adequate housing, contracts,
27 materials, transportation, markets, labor supply, population
28 trends and other economic considerations and shall measure
29 and monitor economic distress and poverty in the State on an
30 on-going basis. The State Planning Office, in conjunction
31 with the Department of Economic and Community Development,
32 shall study problems peculiar to the industry and economy of
33 this State with a view toward the broader utilization of our
34 natural resources, which studies shall must be advanced by
35 coordination of research with existing private and
36 governmental agencies and educational institutions, and may
37 be advanced by contractual relations with persons or
38 organizations equipped to conduct the needed research. The
39 State Planning Office shall, upon request from the Governor
40 or any state department, assist in the preparation of
41 reports regarding the responsibilities and duties provided
42 by this subsection, including regular analysis of poverty
43 and economic distress. The State Planning Office shall

R. of S.

COMMITTEE AMENDMENT "b" to H.P. 181, L.D. 229

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coordinate its activities pursuant to this paragraph with the Bureau of Child and Family Services to meet the annual reporting needs of the bureau; and

Sec. B-2. 5 MRSA §3305, sub-§1, ¶K, as enacted by PL 1989, c. 501, Pt. DD, §12, is amended to read:

K. Coordinate the development of energy policy, including:

(1) Collecting and analyzing energy data from all available energy sources in the State. The director shall afford confidential treatment to information, documents and data dealing with sales of individual companies that are engaged in the wholesale and retail trade of petroleum products in the State, upon request of the individual companies;

(2) Preparation of an energy resources plan to be submitted to the Governor and the Legislature every 2 years that includes a description of historical energy demand by end-use sector and energy resources used to meet that demand and a forecast of energy demand by end-use sector for the next 5 years, 10 years and 20 years, which shall must include an electric and gas forecast;

(3) Encouragement and direction or sponsorship of research, experiments and demonstration projects within the State to develop alternate energy sources, particularly, but not limited to, those sources that rely on renewable natural resources of the State, such as solar energy, water of tides and rivers, forests, winds and other sources which to date have not been fully explored or utilized; and

(4) Provision of conservation alternatives to proposed new electric power generating plants and assessment of the long-term and short-term energy savings realized by the conservation alternatives;

Sec. B-3. 5 MRSA § 3305, sub-§1, ¶¶ L and M are enacted to read:

L. Coordinate the development of solid waste management policy including:

(1) Collecting and analyzing solid waste management and recycling data from all available sources including commercial and municipal entities;

2018

COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229

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(2) Preparing a solid waste management and recycling plan to be submitted to the Governor and the Legislature every 2 years; and

(3) Providing technical and financial assistance to municipalities in waste reduction and recycling activities; and

M. Own, design, develop or operate, or contract with private parties to operate, a solid waste disposal facility, as provided in Title 38, chapter 24, subchapter IV.

Sec. B-4. 5 MRSA §3305-A is enacted to read:

§3305-A. Authority to own and operate solid waste disposal facility

The office has all necessary power and authority to own, design, develop and operate a solid waste disposal facility or facilities as provided in Title 38, chapter 24, subchapter IV, including:

1. Title to property. Authority to take and hold title to the facility;

2. Contracts. Authority to assume all rights and obligations under existing agreements related to the facility and to enter into contracts and agreements on behalf of the State as the office may consider necessary or appropriate in connection with the facility; and

3. Rules. Authority to adopt and amend rules in accordance with chapter 375, subchapter II.

Sec. B-5. 10 MRSA §1055 is enacted to read:

§1055. Revenue obligation securities for waste facilities, waste disposal services or recycling projects

In addition to any other powers and for the purposes of this chapter and Title 38, chapter 24, the authority may exercise powers and authority previously granted to the former Maine Waste Management Agency in Title 38, sections 2211 to 2222.

Sec. B-6. 38 MRSA §2211, sub-§1-A is enacted to read:

1-A. Agency. "Agency" means the Finance Authority of Maine.

Sec. B-7. Report; task force. The State Planning Office shall convene a task force to develop recommendations for a state

R.S.

COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229

2 policy regarding the potential development and operation of the
3 state-owned solid waste disposal facility at Carpenter Ridge.
4 The State Planning Office shall include on the task force
5 legislators who are members of the Joint Standing Committee on
6 Natural Resources. The State Planning Office shall submit a
7 report to the Joint Standing Committee on Natural Resources by
8 February 1, 1996 describing the status of the application for a
9 license for the Carpenter Ridge waste facility and setting forth
10 any recommendations the task force has developed for operation of
11 the facility, including recommendations as to when and how the
12 facility might be developed and operated, what changes in state
13 law would be advisable to allow for operation of the facility and
14 any other issues the task force considers appropriate.

15 The task force shall also examine state policy regarding the
16 ban on development of new commercial solid waste disposal
17 facilities and shall submit any recommendations regarding that
18 policy in the report required in this section. The report must
19 also include information on the importation of out-of-state waste
20 into Maine and the export of Maine waste and recent congressional
21 action on legislation relating to state authority to regulate the
22 importation of waste.

24 **PART C**

25 **Sec. C-1. Appropriation.** The following funds are appropriated
26 from the General Fund to carry out the purposes of this Act.

	1995-96	1996-97
27 ENVIRONMENTAL PROTECTION,		
28 DEPARTMENT OF		
29 Solid Waste Management		
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48		
DEPARTMENT OF ENVIRONMENTAL PROTECTION		
TOTAL	<u>(\$512,142)</u>	<u>(\$512,455)</u>

COMMITTEE AMENDMENT

R.O.S.

COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229

Sec. C-2. Allocation. The following funds are allocated from the Solid Waste Management Fund to carry out the purposes of this Act.

	1995-96	1996-97
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Solid Waste Management		
Positions - Other Count	(-3.0)	(-3.0)
Personal Services	(\$122,256)	(\$124,447)
All Other	(58,034)	(65,537)
TOTAL	<u>(\$180,290)</u>	<u>(\$189,984)</u>

Provides for the deallocation of funds through the deletion of one Data Control Clerk position and one Environmental Specialist III position, the addition of one Environmental Specialist II position and the transfer of one Clerk Typist III position and one Environmental Specialist IV position to the Maine Environmental Protection Fund and the reduction of support funds.

Tire Stockpile Clean-up Program

All Other	\$930,868	\$251,235
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Provides for the allocation of funds to accomplish the cleanup of tire stockpiles.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
TOTAL**

<u>\$750,578</u>	<u>\$61,251</u>
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EXECUTIVE DEPARTMENT

Planning Office

RWS

COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229

2	Positions - Other Count	(6.0)	(6.0)
	Personal Services	\$282,203	\$273,572
	All Other	656,339	161,135

4
6 Provides allocations for the transfer of one Development Program Manager position and one Planner II position from the Office of Waste Reduction and Recycling; one Planner II position and one Clerk Typist III position from the Office of Siting and Disposal Operations; and one Senior Planner position and one Planner II position from the Office of Planning within the Maine Waste Management Agency to the State Planning Office. It also provides allocations for technical assistance to municipalities and, in fiscal year 1995-96, for a contract payment of \$500,000 to Lincoln Pulp and Paper.

28	EXECUTIVE DEPARTMENT		
	TOTAL	<u>\$938,542</u>	<u>\$434,707</u>

30 **WASTE MANAGEMENT AGENCY, MAINE**

34 **Administration - Office of the Executive Director**

36	Positions - Other Count	(-3.0)	(-3.0)
38	Personal Services	(\$169,349)	(\$167,156)
	All Other	(97,044)	(100,306)
40	TOTAL	<u>(\$266,393)</u>	<u>(\$267,462)</u>

42 Provides for the deallocation of funds through the elimination of the Maine Waste Management Agency.

48 **Office of Planning**

50	Positions - Other Count	(-4.0)	(-4.0)
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COMMITTEE AMENDMENT

R.O.S.

COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229

2	Personal Services	(\$217,382)	(\$215,208)
	All Other	(100,567)	(105,287)
4	TOTAL	<u>(\$317,949)</u>	<u>(\$320,495)</u>

6 Provides for the deallocation
8 of funds from the elimination
10 of the Maine Waste Management
12 Agency.

**Office of Siting and
Disposal Operations**

14	Positions - Other Count	(-4.0)	(-4.0)
	Personal Services	(\$203,452)	(\$206,748)
16	All Other	(835,531)	(501,672)
	Capital Expenditures	(7,000)	(7,000)
18	TOTAL	<u>(\$1,047,983)</u>	<u>(\$715,420)</u>

20 Provides for the deallocation
22 of funds from the elimination
24 of the Maine Waste Management
Agency.

**Office of Waste Reduction
and Recycling**

28	Positions - Other Count	(-5.0)	(-5.0)
30	Personal Services	(\$265,107)	(\$263,348)
	All Other	(690,718)	(1,021,425)
32	Capital Expenditures	(7,000)	(7,000)
34	TOTAL	<u>(\$962,825)</u>	<u>(\$1,291,773)</u>

36 Provides for the deallocation
38 of funds from the elimination
40 of the Maine Waste Management
Agency.

**MAINE WASTE MANAGEMENT
AGENCY
TOTAL**

<u>(\$2,595,150)</u>	<u>(\$2,595,150)</u>
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TOTAL ALLOCATIONS

<u>(\$906,030)</u>	<u>(\$2,099,192)</u>
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46 **Sec. C-3. Allocation.** The following funds are allocated from
48 the Maine Environmental Protection Fund to carry out the purposes
50 of this Act.

R 45

	1995-96	1996-97
2	ENVIRONMENTAL PROTECTION,	
4	DEPARTMENT OF	
6	Maine Environmental Protection Fund	
8	Positions - Other Count	(2.0)
8	Personal Services	\$88,686
10	All Other	16,850
12		(2.0)
12		\$89,747
14		17,051
16	Provides for the allocation of funds for the transfer of one Clerk Typist III position and one Environmental Specialist IV position from the Solid Waste Management Fund.	
18	DEPARTMENT OF ENVIRONMENTAL PROTECTION	
20	TOTAL	
22	\$105,536	\$106,798

22 **Sec. C-4. Transition provisions.** The following provisions apply
 24 to the reassignment of the duties and responsibilities of the
 26 former Maine Waste Management Agency.

28 1. Except as otherwise provided in this section, the
 30 Director of the State Planning Office shall assume all remaining
 32 duties and responsibilities of the former Maine Waste Management
 34 Agency, its officers and its executive director, including
 36 administration of any rules adopted by that agency relating to
 these remaining duties. By December 1, 1995, the director shall
 submit legislation to the Second Regular Session of the 117th
 Legislature to revise all remaining references to the Maine Waste
 Management Agency in the Maine Revised Statutes to conform to the
 intent of this Act.

38 2. All rules and procedures in effect, in operation or
 40 adopted on the effective date of this Act in or by the former
 42 Maine Waste Management Agency or any of its administrative units
 or officers remain in effect until rescinded, revised or amended
 by the proper authority.

44 3. Six authorized positions and incumbent personnel in the
 46 Maine Waste Management Agency are transferred to the State
 48 Planning Office. Those employees retain their accrued fringe
 benefits, including vacation and sick leave, health and life
 insurance and retirement benefits.

R 4 S

COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229

2 4. Notwithstanding the provisions of the Maine Revised
3 Statutes, Title 5, all accrued expenditures, assets, liabilities,
4 balances or appropriations, allocations, transfers, revenues or
5 other available funds in an account or subdivision of an account
6 of the former Maine Waste Management Agency must be transferred
7 to the proper account by the State Controller upon the request of
8 the State Budget Officer and with the approval of the Governor.
9 Notwithstanding any other provision of law, the Department of
10 Administrative and Financial Services is authorized to allot
11 funds through a financial order, upon approval of the State
12 Budget Officer and the Governor, in order to meet all outstanding
13 obligations of the former Maine Waste Management Agency that are
14 not specifically transferred to any other unit of State
Government.

16 5. The Department of Administrative and Financial Services
17 shall serve as the fiscal agent for the former Maine Waste
18 Management Agency for the purpose of effecting the repeal of that
19 agency. The duties of the Department of Administrative and
20 Financial Services are limited to those required to close out the
21 agency and include functions such as processing payment vouchers,
22 preparing budget documents, processing contract documents,
23 preparing human resource documents, preparing the final personnel
24 payrolls and other related administrative activities required.
25 Except for records transferred to the State Planning Office or
26 the Department of Environmental Protection as necessary to enable
27 those agencies to continue functions previously performed by the
28 Maine Waste Management Agency, essential records related to the
29 agency must be transferred to the Department of Administrative
30 and Financial Services to be maintained and stored pursuant to
31 standard procedure. This subsection is effective retroactively
32 to May 1, 1995.

34 6. All personal property and equipment previously belonging
35 to or allocated for the use of the former Maine Waste Management
36 Agency must be transferred to the State Planning Office.

38 7. All existing forms, licenses, letterheads and similar
39 items bearing the name of or referring to the Maine Waste
40 Management Agency may be used by the State Planning Office and
41 the Department of Environmental Protection until existing
42 supplies of those items are exhausted.

44 8. All real estate held by the former Maine Waste
45 Management Agency is transferred to the State Planning Office.

46 **Sec. C-5. Effective date.** Notwithstanding the emergency nature
47 of this Act, the transfer of responsibilities and authorities
48 described in this Act takes effect July 1, 1995.

50

R 4 S.

COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved unless otherwise indicated.'

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

	1995-96	1996-97
APPROPRIATIONS/ALLOCATIONS		
General Fund	(\$512,142)	(\$512,455)
Other Funds	(800,494)	(1,992,394)
REVENUES		
Other Funds	(\$408,000)	(\$1,650,000)

The Department of Environmental Protection will require deappropriations of \$512,142 and \$512,455 in fiscal years 1995-96 and 1996-97, respectively.

The repeal of the Maine Waste Management Agency will require deallocations from the Solid Waste Management Fund totalling \$2,595,825 and \$2,595,150 in fiscal years 1995-96 and 1996-97, respectively.

The Department of Environmental Protection will require additional Solid Waste Management Fund allocations of \$750,758 and \$61,251 in fiscal years 1995-96 and 1996-97, respectively, for the reorganization of solid waste management responsibilities. Similarly, the State Planning Office within the Executive Department will require additional Solid Waste Management Fund allocations of \$938,542 and \$434,707 in fiscal years 1995-96 and 1996-97, respectively, for the reorganization of solid waste management responsibilities.

The Department of Environmental Protection will require additional Maine Environmental Protection Fund allocations of \$105,536 and \$106,798 in fiscal years 1995-96 and 1996-97, respectively, for the costs of 2 positions and associated operating costs transferred from the Solid Waste Management Fund.

The repeal of certain recycling fees will reduce dedicated revenue to the Solid Waste Management Fund by an estimated

COMMITTEE AMENDMENT

\$408,000 and \$1,650,000 in fiscal years 1995-96 and 1996-97, respectively.

This bill establishes the Tire Management Fund within the Department of Environmental Protection. The fund is authorized to receive any funds recovered as a result of litigation concerning uncontrolled tire stockpiles. The amounts of any dedicated revenue that may be received by the fund can not be determined at this time. Future allocations will be required to authorize expenditures from the fund if any revenue is received.

The Governor's proposed current services budget includes changes that may affect this bill's impact on the Maine Waste Management Agency, the Department of Environmental Protection and the State Planning Office. This estimate of the fiscal impact may need to be adjusted based on final legislative actions on the current services budget.'

STATEMENT OF FACT

This amendment is the minority report. This amendment replaces the bill. It makes the following changes in the laws governing solid waste management:

1. It abolishes the Maine Waste Management Agency effective July 1, 1995 and transfers its essential services and responsibilities to the State Planning Office. Those responsibilities include preparation and revision of the state solid waste management and recycling plan; collection and analysis of municipal solid waste management reports and recycling rates; provision of technical and financial assistance to municipalities in managing solid waste, including awarding grants for recycling and composting programs; provision of market development and market assistance programs; and siting, ownership and operation of such state solid waste disposal facilities as are needed;

2. It ends eligibility for the solid waste reduction investment tax credit with equipment purchased before July 1, 1995;

3. It places responsibility for determining whether a solid waste disposal facility provides a substantial benefit on the Commissioner of Environmental Protection. Except for facilities currently exempt from the Maine Waste Management Agency public benefit determination process, the amendment requires applicants for solid waste disposal facilities to apply to the Commissioner of Environmental Protection for a public benefit determination before applying to the Department of Environmental Protection for

R 418

COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229

2 a license under the Maine Revised Statutes, Title 38, section
1310-N. Application for public benefit determination does not
trigger the notice requirements or assistance fee payments;

4
6 4. It provides that a proposed solid waste disposal
facility may meet the public benefit test by filling immediate,
short-term or long-term capacity needs of the State;

8
10 5. It requires an applicant for a solid waste disposal
facility license to work with the host municipality to determine
host community benefits, either through meeting the requirements
12 of a municipal ordinance, negotiating in good faith to form an
agreement or complying with an existing or revised host community
14 benefit. The host community benefit agreement must, if
appropriate, include a provision for financial support for
16 personnel or other means to provide technical assistance to the
municipality in interpreting data and advising on technical
18 issues;

20 6. It allows the Commissioner of Environmental Protection
to award host communities additional assistance grants of up to
22 \$50,000 when the size, location or other features of the proposed
facility warrant additional expenditures. It is anticipated that
24 this would occur only when a facility proposes multiple phases or
cells in a single application;

26
28 7. It clarifies that a facility may not be relicensed or
allowed to expand as a commercial solid waste disposal facility
unless the facility had been licensed as a commercial solid waste
30 disposal facility prior to October 6, 1989;

32 8. It establishes a dedicated fund to pay the costs of tire
abatement at uncontrolled tire stockpiles;

34
36 9. It extends the deadline for meeting the state recycling
goal of 50% of municipal solid waste from January 1, 1994 to
January 1, 1998 and includes composting in the 50% calculation;

38
40 10. It provides that municipalities are not required to
meet the State's 50% recycling goal, but they must make
reasonable progress toward that goal, and deletes provisions
42 imposing a surcharge on municipalities that do not meet the 50%
goal;

44
46 11. It repeals the provision requiring each campus of the
University of Maine System to report its recycling program, and
instead requires each campus to do a self-assessment of recycling
48 efforts and to develop new programs if funds are available;

145

COMMITTEE AMENDMENT "B" to H.P. 181, L.D. 229

2 12. It repeals the business technical and financial
assistance program for recycling, which the Maine Chamber of
Commerce and Industry has agreed to undertake;

4
6 13. It amends provisions imposing an administrative fee on
imported waste;

8 14. It requires the Department of Environmental Protection
to collect waste fees previously collected by the Maine Waste
10 Management Agency;

12 15. It clarifies the powers of the State Planning Office to
perform the duties transferred to it;

14
16 16. It grants power previously granted to the Maine Waste
Management Agency to the Finance Authority of Maine to issue
revenue obligation bonds;

18
20 17. It requires the State Planning Office to convene a task
force, including Legislators, to examine state policy regarding
operation of the State's waste management site at Carpenter Ridge
22 and to examine state policy regarding the ban on commercial solid
waste disposal facilities;

24
26 18. It deallocates positions from the Maine Waste
Management Agency, transfers positions to the State Planning
Office to perform some of the Maine Waste Management Agency's
28 functions, provides funding for the tire program and for payment
of the \$500,000 due to Lincoln Pulp and Paper if the State
30 receives a license to operate the facility. It deappropriates
funds for solid waste positions in the Department of
32 Environmental Protection;

34 19. It repeals recycling assistance fees on new major
appliances and bathtubs January 1, 1996 and repeals fees on new
36 major furniture and mattresses July 1, 1996; and

38 20. It also adds a fiscal note to the bill.

COMMITTEE AMENDMENT