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REMARKS PRESENTED BY
STATE SENATOR HARRIS B. McDOWELL, III
OF DELAWARE ON BEHALF OF THE
LEGISLATIVE CLEAN AIR POLICY COMMITTEE
TO THE
OZONE TRANSPORT COMMISSION'S
1995 WINTER MEETING
FEBRUARY 28, 1995

NOTE: SENATOR McDOWELL MAY DEVIATE FROM PREPARED TEXT

Good morning ladies and gentlemen. I am Harris McDowell, State Senator from Delaware, Chairman of the Delaware State Senate Energy and Transit Committee, and Co-Chair of the Council of State Governments Energy and Environment Committee. I would like to thank the representatives of the Ozone Transport Commission for giving me this opportunity to address your Winter Meeting. Today, I am here representing the newly formed Legislative Clean Air Policy Committee, sponsored and coordinated by the Eastern Office of the Council of State Governments.

The Legislative Clean Air Policy Committee was established recently in Newark, NJ when state legislators and executive branch officials from 10 Northeast states met to discuss Clean Air Act implementation issues. There was one theme that was consistently raised at this meeting and in other discussions - namely, the exclusion of state legislators in regional air quality decisions.

There is one overriding reason for this committee's creation and existence—to ensure that the legislatures of states affected by the Clean Air Act and the Ozone Transport Commission are involved in formulating the policies necessary to achieve the goals of the Clean Air Act Amendments of 1990.

Before I state what this committee is about, let me first state what this committee is not. This committee is not partisan and this committee is not opposed to the goals established by the Clean Air Act or its 1990 Amendments.

We do not seek to reopen the Clean Air Act or change its goals. Rather as state legislators with many years of collective expertise in this policy area and with a firm understanding of the problems facing each of our individual states, we are insisting upon inclusion in the Clean Air policy making process.

Our resolute determination is perhaps the inevitable byproduct of our experiences since the Clean Air Amendments of 1990 were enacted into law. For far too long, the Ozone Transport Commission has pre-empted state's authority to make decisions and formulate policy in regard to Clean Air. It seems that Congress has exempted the Ozone Transport Commission from public accountability while excluding duly elected legislators from the policy-making process.

For several years now, state legislators have sought to participate in policy formulation and our efforts have been met with indifference by the OTC. We again come to the policy making table--this time organized and determined. Many legislators feel that affording the "legislative perspective" a mere 10 minute discussion today after such a long period of exclusion again indicates the OTC intent to continue to relegate state legislatures to rubber stamp status.

Aside from raising Constitutional questions regarding state-federal jurisdiction, this systematic exclusion of local officials from the policy making process has had the counter-productive effect of depriving the Environmental Protection Agency and the Ozone Transport Commission of the kind of

common sense, localized perspective that could provide the most cost effective means to implement the goals of the Clean Air Act.

For example, had legislators from the 12 states under the jurisdiction of the Ozone Transport Commission been included in the policy-making process since the enactment of the Clean Air Act Amendments, the confusion over the enhanced inspection and maintenance program as well as the conflict surrounding the California Car standard would likely have been avoided or at least mitigated.

I am sure if you ask a state legislator from any state falling under the OTC about their state's experience with I/M 240 you will hear 12 different responses.

Originally, state legislators were basically told that the I/M 240 was a required component of the State Implementation Plan of any state in nonattainment status. The states requested flexibility from the Federal Government and received none. Recently, the EPA reversed itself and accepted a more flexible approach. However, this flexibility has been inconsistently applied. The EPA has worked exclusively with the each individual executive branch to the frustration of state legislatures attempting to make policy.

Likewise the OTC's petition to the EPA regarding the California Car standard has, in our opinion, been misguided for two reasons: First, we feel that the technical aspects and the economic impact of this mandate were

insufficiently calculated. Alternatives were not discussed or presented to the member states.

Since we were not invited to the policy making table, we researched our own alternatives which we found were just as good and just as scientifically sound to meet the stated goals. But our research, much like our opinions, were given scant consideration.

Second, and most importantly, it is the legislative branch's role in government to make the law. Allow me to quote from part of a recently submitted Vermont resolution to characterized the overextension of the OTC's reach, "Whereas the Ozone Transport Commission has petitioned the U.S EPA to limit, by rule, the sale of automobiles to consumers in the OTC region to those automobiles meeting the California Low Emmission Vehicle Program; and, Whereas, the California Low Emmission Vehicle will be designed and, from time to time, amended by the California Air Resources Board; and, Whereas, the members of the California Air Resources Board are appointed by the Governor of California and are not responsible to the residents of the State of Vermont or their elected officials..."

Do you mean to tell me that the residents from Virginia, Maryland, the District of Columbia, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine are subject to laws and regulations developed by California?

We as legislators found the system working in a way it should not and everyone knows that more work needs to be done to meet Clean Air Act goals. That is why today marks a turning point for Clean Air Policy in the Northeast region. I, on behalf of the members of the Legislative Clean Air Policy Committee, would like to tell you that we are at the crossroads. Either the EPA and the OTC can cooperate and coordinate with us on Clean Air Act policy measures or there can be a continuation of the same, adversarial, and nonproductive process that has not served any of the parties well over the past 4 plus years.

We propose to take the road of mutual cooperation and coordination. This is how we propose to do it. The Legislative Clean Air Policy Committee seeks to establish a dialogue between state legislators, the EPA, and the Ozone Transport Commission. For the various provisions of the Clean Air Act to be implemented in a timely and consistent fashion, we must work together to pass the appropriate legislation. The Policy Committee plans to develop and coordinate policy positions in implementation issues. The Committee will meet and make consensus recommendations on issues while taking into account a wide diversity of opinions and viewpoints.

Most importantly, the Legislative Clean Air Policy Committee will seek to have a representative attend and participate in relevant meetings of the EPA, Ozone Transport Commission, and the Northeast States for Coordinated Air

Use Management.

The Legislative Clean Air Policy Committee now calls on the Ozone Transport Commission to withhold any future petitions to the Environmental Protection Agency until the first petition requesting the California Car is withdrawn. The petition requesting the California Car standard was a unilateral measure done without directly consulting the legislatures of the states affected by this action. Also, this petition was an attempt to assign a rubber stamp status to the legislatures of these states—clearly violating their constitutional responsibilities to pass laws in an open, deliberative process.

Once this is done, any future petitions to the Environmental Protection Agency would be the result of the Ozone Transport Commission and the Legislative Clean Air Policy Committee working together. We feel that such a cooperative undertaking would provide any future petitions with more standing before the EPA. Such coordination would recognize the economic, demographic, and air quality differences that must be taken into account.

For the various provisions of the Clean Air Act to be implemented in a timely and consistent fashion throughout the region, the legislative and executive branches must work together. Achieving clean air in the region is too important a task to be left to one group of decision makers. It requires knowledge and expertise from all the different sectors of our large and diverse region. It is the hope of state legislators throughout the northeast that this

newly-formed Legislative Clean Air Policy Committee will serve as a forum for greater cooperation and enhanced coordination with the EPA and the OTC.

I would again like to thank the representatives of the Ozone Transport Commission for giving me the opportunity to speak this morning. I would gladly answer any questions.

airdaily

Wednesday
March 1
1995

TEL NO:

U 8133 FAX

State law maker wants sent at OTC



**IM, ECO, SIP: Irk
senator not fond of
rubber stamp role**

**Harris McDowell III asked to speak at the winter OTC meeting in
Wilmington yesterday**

He made the most exciting presentation in OTC history. He electrified Northeast state environmental commissioners and secretaries and their air directors with a tongue lashing for allegedly keeping state law makers out of the OTC policy making. He was unimpressed the leadership had asked him to limit his talk to 10 minutes.

He went in angry and vented his anger then rejoined olive branches from Commission members and EPA's Mary Nichols. Nichols offered to meet with his group to hear their views.

McDowell found that condescending -- like giving him a mere 10 minutes on the program.

He was angry. The audience was stunned.
Who is McDowell?

He is a member of Delaware's Senate and a Democrat.

But OTC leaders have reason to take him seriously.

McDowell claims to speak for a new group of angry state legislators fed up with state air directors meeting and setting policy that legislators are then supposed to rubber stamp.

He's quite aware of the National Governors Assn mismanagement of EPA's air program and wants in. He perceives all more vacuum in White House leadership created by the attenuation of the presidency.

McDowell, after his electrifying presentation told reporters that he is an environmentalist, that he wants to continue the charge at the state level to open up the Clean Air Act.

If state law makers don't play ball with legislators, state officials "will encourage members of Congress to open up the Act and it will implicate," he told the press.

His group is the Legislative Clean Air Policy Committee (LCAPC) established recently in Newark, NJ, when state legislators and executive branch officials from 10 Northeast states met to discuss Clean Air Act implementation issues. The main theme of the meeting was OTC's exclusion of state law makers, he said.

The group is part of the Eastern Office of the Council of State Governments (CSO), he said. He stressed the non-partisan nature of LCAPC. It's not opposed to the Act. They do not want to open the Act or change its goals.

They want to stop having unelected state officials hand down assignments to the elected law givers. His group is guaranteeing for a seat at the NESCAUM table. NESCAUM has been especially closed in its meetings, asking the press, industry, other stakeholders and anyone else who wants to see what's going on.

This may be a good time to reverse the closed door policy air directors love.

It seems that Congress has exempted the Ozone Transport Commission from public accountability while excluding duly elected legislators from the policy-making process.

The "systematic exclusion of local officials from the policy-making process has had the counter-productive effect of depriving

THE MARKET YESTERDAY:

Advocacy group makes historic purchase

A Cleveland, Ohio advocacy group called INHALE, gathered together 3.8 million pounds of NO_x allowances with the help of Dames & Moore and Carter Fitzgerald and intends to retire the credits.

While INHALE doesn't want to say what it paid, prices for the packages will be reported by the high-tech, instant record RECLAIM team.

A ton of NO_x has been sold in RECLAIM auctions for as much as \$2,000 and as little as \$2. If you bought some today in California you might pay \$300/ton. That would give the value of INHALE's deal about \$500,000.

The group encourages credit holders to sell at less than market price for the seller's public relations gain and pays the modest price with money it got from direct mail advertising asking for donations to clean up the air.

The National Healthy Air Licensure Exchange thus has magnified the emissions reductions of the RECLAIM program by the generosity of its donors and the credit sellers.

Daniel Jaffe is executive director at 216-523-1111.

OTC reaffirmed NY, Mass right to do ZEV

A vaguely-worded resolution adopted at the OTC winter meeting yesterday was a message to car makers to back off in their standard ad campaign against the OTC-EPA LEV program. Any doubts about what the OTC's intentions were ended at a press conference after the vote.

The resolution's author, Robert Shinn, New Jersey's environmental commissioner, confirmed the goal of sending a message.

The vote sent another message -- now that the new Republican governors have picked their environmental cabinet members and they got together at OTC, the policy is largely unchanged.

The car industry hinted that with so much turnover of Northeastern governors the OTC-LEV lacked the support of the Commission.

Today's vote dramatically reduced that view.

Want to sell more

corn in corn land? Ford does. Starting in 1996 the Taurus will allow motorists to run on ethanol. Actually it's called E-85. That's gasoline with up to 85% ethanol. It's expected to be the only car with that option, Ford said.

The firm sold more than 6,000 (ethanol) Tauruses in the past three years, it said.

An on-board computer gets signals from an ethanol monitor then adjusts fuel flow and spark advance.

281E P53

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DEPARTMENT OF ENVIRONMENTAL PROTECTION
MAINE ENVIRONMENTAL PROTECTION FUND
SUMMARY OF REVENUES AND EXPENSES BY ACTIVITY
FOR FISCAL YEAR 1993-1994

	BEGINNING BALANCE	REVENUE	TOTAL EXPENSES	PERSONAL SERVICES	ALL OTHER	CAPITAL	SHARED COSTS	ENDING BALANCE
AIR FEES	\$79,469	\$1,285,380	\$1,143,236	\$726,800	\$213,837	\$12,192	\$190,407	\$221,613
LAND FEES	\$79,469	\$365,330	\$472,107	\$364,795	\$13,240	\$0	\$94,072	(\$27,308)
HYDRO FEES	\$127,001	\$3,600	\$54,869	\$37,934	\$1,027	\$0	\$15,908	\$75,732
WATER FEES	\$79,469	\$144,075	\$188,943	\$145,819	\$5,623	\$0	\$37,501	\$34,601
OVERBOARD DISCHARGE FEES	\$79,469	\$10,045	\$108,652	\$67,830	\$10,697	\$0	\$30,125	(\$19,138)
DIOXIN FEES	\$0	\$139,057	\$105,214	\$0	\$89,290	\$0	\$15,924	\$33,843
SOLID WASTE FEES	\$0	\$381,959	\$181,467	\$146,063	\$4,248	\$0	\$31,156	\$200,492
ASBESTOS FEES	\$0	\$115,267	\$77,217	\$53,150	\$2,593	\$0	\$21,474	\$38,050
OTHER ACTIVITIES	\$112,418	\$135,247	\$192,982	\$82,912	\$95,630	\$4,684	\$9,756	\$54,683
WORKING CAPITAL POOL	\$179,472	\$0	\$0	\$0	\$0	\$0	\$0	\$179,472
TOTAL	\$736,767	\$2,579,960	\$2,524,687	\$1,626,303	\$436,185	\$16,876	\$446,323	\$792,040

NOTE: PREPARED ON A CASH BASIS; DOES NOT INCLUDE ENCUMBRANCES OR OTHER LIABILITIES.
SOME TOTALS MAY NOT ADD DUE TO ROUNDING.

STATE OF MAINE
STATE HOUSE STATION #39
AUGUSTA, MAINE 04333



TREASURY DEPARTMENT
ABANDONED PROPERTY DIVISION
(207) 287-6668

* * * **DRAFT** * * *

1994 BOTTLE BILL

Deposits Paid to State	\$ 625,522.89
Allowable Reimbursements Requested	(244,390.13)
Net Cash Receipts	381,132.76
Credits Not Requested (thus not reimbursable in cash)	(150,833.36)
Net Program Revenue	\$ 230,299.40
Prior Year Credits (not reimbursable in cash)	(180,824.90)

SOLID WASTE MANAGEMENT FUND

<u>Revenue</u>	96	97	98/99
Special Waste	700,000	800,000	1,000,000
Tires/Batteries	1,000,000	1,000,000	1,000,000
RAF's	850,000	-0-	-0-
Deposits	300,000	-0-	-0-
Interest	<u>10,000</u>	<u>10,000</u>	<u>10,000</u>
Total	2,860,000	1,810,000	2,010,000
Carried Forward	<u>100,000</u>		
	2,960,000		

Expenditures

Treasury	38,000	-0-	-0-
Taxation	22,000	10,000	10,000
ITC	400,000	-0-	-0-
Lincoln P & P	500,000	-0-	-0-
SPO Positions (4)	222,203	213,572	225,000
DEP Positions (22)	1,210,000	1,210,000	1,210,000
Municipal grants	100,000	-0-	-0-
Tire Stockpile	<u>450,000</u>	<u>450,000</u>	<u>600,000</u>
Total	2,940,203	1,853,572	2,035,000

Municipal grants could be increased by amount carried forward which should be in excess of \$100,000.

Taxation P. 203

HATHAWAY PROPOSAL: SOLID WASTE MANAGEMENT FUND

<u>BUDGET REVENUES</u>	<u>FY96</u>	<u>FY97</u>
ITC Balance	\$ 88,000	\$0
Special Waste Fees	\$500,000	\$800,000
Recycling Assistance Fees:		
Tires	\$750,000	\$750,000
Batteries	\$250,000	\$250,000
Appliances	\$191,250	\$0
Furniture	\$170,000	\$0
Bathtubs	\$12,750	\$0
Mattresses	\$102,000	\$0
Unclaimed bottle deposits	\$0	\$0
Interest	\$0	0
Total Revenues - SWMF	\$2,224,000	\$1,800,000
<u>BUDGETED EXPENDITURES</u>		
SPO/DECD-MWMA Transfer	\$438,542	\$434,707
Treasury Bottle Red.	\$ 35,000	\$0
Taxation-SWMF/ITC Adm.	\$ 41,532	\$30,000
Recycling Tax Credits	\$400,000	\$350,000
DEP Posotions - 13 SWMF	\$734,000	\$734,000
DEP Positions - <u>9 GF</u>	\$0	\$0
Tire Stockpile Cleanup	\$574,926	\$251,293
Lincoln Pulp & Paper	\$0	\$0
Total, Expenditures -SWMF	\$2,224,000	\$1,800,000
Balance:	\$0	\$0

NOTES:

Fees Eliminated:

Appliances, Bathtubs	10/1/95
Furniture, Mattresses	10/1/95
Bottle Float	1/1/96

Total positions Eliminated: 10 MWMA, 2 Treasury, 15 DEP

May 16, 1995

Committee: nat
LA: dcf
LR (item)#: 290(2)
WPP Doc. #: 6925NRG
New Title?: n
Add Emergency?: y
Date: 05/23/95

COMMITTEE AMENDMENT "." to L.D. 229, An Act to Abolish the Maine Waste Management Agency

Amend the bill by adding before the enacting clause the following:

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

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

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

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 2 MRSA §6, subsection 2 is amended to read:

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

Superintendent of Banking;
Bureau of Consumer Credit Protection Superintendent;
State Tax Credit Assessor;
Superintendent of Insurance;
Associate Commissioner for Programs, Department of Mental Health and Mental Retardation;
Associate Commissioner of Administration, Department of Mental and Mental Retardation;
Associate Commissioner for Institutional Management; and

~~Executive Director, Maine Waste Management Agency; and~~
Deputy Commissioner, Department of Administrative and Financial Services.

Sec. 2. 2 MRSA §6, subsection 4 is amended to read:

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

Director of the Bureau of Parks and Recreation;
Director of Public Lands;
Director of Employee Relations;
Director, Bureau of Air Quality Control;
Director, Bureau of Water Quality Control;
Director, Bureau of Oil and Hazardous Materials Control;
Director, Bureau of Administration; and
~~Director, Office of Planning;~~
~~Director, Office of Waste Reduction and Recycling;~~
~~Director, Office of Siting and Disposal Operations;~~
Executive Director, Board of Environmental Protection.

Sec. 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) Radiological Technology Board of Examiners;
- (10) Maine Library Commission: and
- ~~(11) Maine Waste Management Agency; and~~
- (12) Maine Court Facilities Authority.

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

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

Sec. 7. 32 MRSA §1723, sub-§2 is amended to read:

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

Sec. 8. 32 MRSA §1726 is amended to read:

32 § 1726. Rules and enforcement

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

Sec. 9. 32 MRSA §1732, sub-§1 is amended to read:

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

Sec. 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:

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

Sec. 11. 36 MRSA §2526, sub-§5 is amended to read:

5. **Application.** This section applies to equipment 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 from~~ January 1, 1993 to June 30, 1995.

Sec. 12. 36 MRSA §5219-D, sub-§5 is amended to read:

5. **Application.** This section applies to equipment 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~~ from January 1, 1993 to June 30, 1995.

Sec. 13. 38 MRSA §343-D, sub-§1, as amended by PL 1993, c. 500, §2 and affected by §5, is further amended to read:

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

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

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

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

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

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

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

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

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

Sec 14. 38 MRSA §1303-C, sub-§35, as enacted by PL 1989, c. 585, Pt. E, §4, is amended to read:

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

Sec. 15. 38 MRSA §1310-M is enacted to read:

§1310-M. 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 provides a substantial public benefit, the commissioner shall consider the state plan, written information submitted in support of the application and any other written information the commissioner considers relevant. The commissioner may hold a public meeting in the vicinity of the proposed facility to take public comments and shall consider those comments in making the determination. The commissioner shall issue a decision on the matter within 60 days of receipt of the application. Commissioner decisions under this section may be appealed to the board, but the board is not authorized to assume jurisdiction of a decision under this section.

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

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

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

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

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

Sec. 16. 38 MRSA §1310-N, sub-§1, ¶B is amended to read:

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 3-A; and

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

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

3-A. Public Benefit Determination. Public benefit determination is made in the following manner.

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

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

(2) Solid waste disposal facilities used exclusively for the disposal of waste generated by the owner of the facility except that the facility may accept, on a nonprofit basis, no more than 15% of all solid waste accepted on an annual average which is not generated by the owner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 20. 38 MRSA §1310-R, sub-§3 ¶C is repealed.

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

Sec. 22. 38 MRSA §1310-S, sub-§4 is amended to read:

4. Financial assistance. The commissioner shall reimburse or make assistance grants for the direct expenses of intervention of any party granted intervenor status under subsection 3, not to exceed \$50,000. The board shall adopt rules governing the award and management of intervenor assistance grants and reimbursement of expenses to ensure that the funds are used in support of direct, substantive participation in the proceedings before the department. Allowable expenses include, without limitation, hydrogeological studies, waste generation and recycling studies, traffic analyses, the retention of expert witnesses and attorneys and other related items. Expenses not used in support of direct, substantive participation in the proceedings before the department, including attorney's fees related to court appeals, are not

eligible for reimbursement under this subsection. Expenses otherwise eligible under this section that are incurred by the municipality after notification pursuant to subsection 1, are eligible for reimbursement under this subsection only if a completed application is accepted by the department. The commissioner may make an additional assistance grant not to exceed \$50,000 to any party granted intervenor status under subsection 3 on an application for the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling, when the intervenor demonstrates to the commissioner that the size, nature, location, geological setting or other relevant factors warrant additional expenditures for technical assistance. The board shall also establish rules governing:

- A. The process by which an intervenor under subsection 3 may gain entry to the proposed facility site for purposes of 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. 23. 38 MRSA §1310-X, sub-§2 is amended to read:

2. **Relicense or transfer of license.** The department may relicense or approve a transfer of a 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. 24. 38 MRSA §1310-X, sub-§§3, ¶C 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 commissioner or the department determines as provided in section 1310-N, subsection 3-A that the facility provides a substantial public benefit that the provisions of section 2157 are met.~~

Sec. 25. 38 MRSA §1316-C, last ¶ is amended to read:

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

Sec. 26. 38 MRSA §1316-F is enacted to read:

§1316-F. Tire Management Fund

The Tire Management Fund is created within the department as a nonlapsing dedicated fund to pay the costs of tire stockpile abatement, remediation and cleanup. All funds appropriated or allocated to the Fund must be deposited in the Fund, and the Fund may accept grants, bequests, gifts or contributions from any person, corporation or governmental entity. The Fund must be used for the purposes set forth in section 1316-B. Permissible uses include providing financial incentives to tire processors to make the processing of tires economically feasible. The department shall report to the Joint Standing Committee of the Legislature having jurisdiction over natural resources matters by March 1, 1996 on how the funds have been spent.

Sec. 27. 38 MRSA §1382, first ¶, as amended by PL 1991, c. 517, Pt. B, §2, is further amended to read:

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

Sec. 28. 38 MRSA c.24, first 2 lines are repealed and the following enacted in their place:

Chapter 24

SOLID WASTE MANAGEMENT AND RECYCLING

Sec. 29. 38 MRSA 2101-A is enacted to read:

§2101-A. Definitions

For the purposes of this chapter, the following terms shall have the following meanings:

1. Agency. "Agency" means the State Planning Office.
2. Department. "Department" means the Department of Environmental Protection.
3. Office. "Office" means the State Planning Office.

Sec. 30. 38 MRSA §§2102 to 2110 are repealed.

Sec. 31. 38 MRSA §2121 is repealed.

Sec. 32. 38 MRSA §2122 is repealed and replaced with the following:

§2122-A. State Waste Management and Recycling Plan

The office shall prepare an analysis of, and plan for, the management, reduction and recycling of solid waste for the State. The plan must be based on the priorities and recycling goals established in sections 2101 and 2132. The plan must provide guidance and direction to municipalities in planning and implementing waste management and recycling programs at the state, regional and local level.

1. Consultation. In developing the state plan, the office shall consult with the Department of Environmental Protection. The office shall solicit public input and may hold hearings in different regions of the State.

2. Revisions. The office shall revise the analysis at least every 2 years to incorporate changes in waste generation trends, changes in waste recycling and disposal technologies, development of new waste generating activities and other factors affecting solid waste management as the office finds appropriate.

Sec. 33. 38 MRSA §2123 is repealed and replaced with the following:

§2123-A. Plan contents.

The state plan includes the following elements.

1. Waste characterization. The plan must be based on a comprehensive analysis of solid waste generated, recycled and disposed of in the State. Data collected must include, but not 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.

2. Waste reduction and recycling assessment. The 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.

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

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

Sec. 34. 38 MRSA §2124 is amended to read:

§2124. Reports

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

Sec. 35. 38 MRSA §2125 is amended to read:

§2125. Evaluation of municipal implementation of solid waste hierarchy

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

1. **Evaluation.** Municipalities shall report annually, except as provided by the agency office, on their solid waste management practices. The annual report must include provision for designating how much of each type of solid waste is generated and how that solid waste is managed. The agency office shall assist municipal reporting by developing a municipal waste stream assessment model. The model must rely on actual waste data whenever possible, but incorporate default generation estimates when needed. Default generation estimates must incorporate factors such as commercial activity, geographical differences and municipal population.

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

Sec. 36. 38 MRSA §2131 is repealed.

Sec. 37. 38 MRSA §2132, sub-§1 is amended to read:

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

Sec. 38. 38 MRSA §2132, sub-§2 is amended to read:

2. **Goal revision.** The agency office shall recommend revisions, if appropriate, to the state recycling goal established in 38 MRSA §2132 and shall establish a waste reduction goal. The agency office shall submit its recommendations and any implementing legislation to the joint standing committee of the Legislature having jurisdiction over natural resource matters.

Sec. 39. 38 MRSA §2133, sub-§1 is repealed and replaced with:

1-A. Recycling Progress. Municipalities are not required to meet the state recycling goal in section 2132, rather they must demonstrate reasonable progress toward the goal. The office shall determine reasonable progress.

Sec. 40. 38 MRSA §2133, sub-§2 is repealed and replaced with:

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

Sec. 41. 38 MRSA §2133, sub-§2-B is enacted to read:

2-B. Household hazardous waste collection. The office may, within available resources, award grants to eligible municipalities, regional associations, sanitary districts and sewer districts for household hazardous waste collection and disposal programs. In implementing this program, the office must seek to:

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

B. Encourage regional economies of scale;

C. Coordinate between private and public institutions; and

D. Maximize opportunities for federal grants and pilot programs.

Sec. 42. 38 MRSA §2133, sub-§3 is amended to read:

3. **Recycling Capital Investment Grants.** The office may make grants to eligible municipalities, regional associations, sanitary districts and sewer districts for the construction of public recycling and composting facilities and the purchase of recycling and composting equipment. The office may establish requirements for local cost sharing of up to 25% of the total grant amount. ~~The office shall give preference to recycling programs that require the participation of the waste generators served.~~

Sec. 43. 38 MRSA §2133, subsection 4, ¶B is repealed.

Sec. 44. 38 MRSA §2133, subsection 5 is repealed.

Sec. 45. 38 MRSA §2133, sub-§6 is enacted to read:

3. 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.

Sec. 46. 38 MRSA §2134 is amended to read:

§2134. Market development and assistance

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

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

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

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

4. Brokering service. Provision for Direct 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;

~~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 those efforts with waste exchanges in the northeastern United States.

Sec. 47. 38 MRSA §2135 is repealed.

Sec. 48. 38 MRSA §2135-A, as enacted by PL 1991, c. 517, Pt. A is repealed.

Sec. 49. 38 MRSA §2136 is repealed.

Sec. 50. 38 MRSA §2137 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, cardboard, used motor oil, yard waste and other materials produced by the State for which recycling markets exist or may be developed.~~

~~1. Waste reduction and recycling plan. Each state agency shall prepare a waste reduction and recycling plan addressing the requirements of subsections 3 and 4. 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 section and with the state waste management and recycling plan. The plan shall be updated on a biennial basis to increase the amount of~~

material recycled by taking advantage of any changed circumstances. Each department shall complete an analysis of additional materials to determine recycling potential, and shall incorporate these materials into plan updates. Updated plans shall be submitted to the office for approval prior to adoption.

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

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

4. Waste reduction. By January 1, 1991, each state agency shall establish and implement a waste reduction program for materials used in the course of agency operations. The program shall must be designed and implemented to achieve the 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 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 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, e~~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 be designed and implemented to achieve the maximum feasible reduction of waste.

D. ~~By January 1, 1991, e~~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. 51. 38 MRSA §2138 is amended to read:

§2138. Office paper recycling program

1. ~~Office paper recycling mandated.~~ Any person employing 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:~~

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

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

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

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

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

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

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

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

~~6. Beneficial use of office paper.~~ Any person subject to the requirements of this section may use any office paper or corrugated cardboard as fuel in industrial boilers for the generation of heat, steam or electricity if these materials would otherwise be placed in a landfill, the office determines that there is no reasonably available market in the State for recycling those materials and if the materials are incinerated as a substitute for, or supplement to, fossil or biomass fuels that constitute the primary fuels incinerated in the industrial boiler.

Sec. 52. 38 MRSA §2139 is amended to read:

§2139. Public education

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

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

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

Sec. 53. 38 MRSA subchapter 4, first two lines are repealed and the following enacted in their place:

Subchapter IV
FACILITY SITING AND DEVELOPMENT

Sec. 54. 38 MRSA §2151 is repealed.

Sec. 55. 38 MRSA §2151-A is enacted to read:

§2151-A. Indemnification

The office shall defend and indemnify any employee of the office, including the director, and any member of the Facility 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 duties set forth in this Article.

Sec. 56. 38 MRSA §2152, sub-§1 is amended to read:

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

Sec. 57. 38 MRSA §2153 is amended to read:

§2153. Siting criteria

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

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

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

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

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

D. A site and its considered use must be consistent with, and actively support, other waste management objectives, including waste reduction and recycling.

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

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

~~6. Beneficial use of office paper.~~ Any person subject to the requirements of this section may use any office paper or corrugated cardboard as fuel in industrial boilers for the generation of heat, steam or electricity if these materials would otherwise be placed in a landfill, the office determines that there is no reasonably available market in the State for recycling those materials and if the materials are incinerated as a substitute for, or supplement to, fossil or biomass fuels that constitute the primary fuels incinerated in the industrial boiler.

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

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

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

Sec. 53. 38 MRSA subchapter 4, first two lines are repealed and the following enacted in their place:

Subchapter IV **FACILITY SITING AND DEVELOPMENT**

Sec. 54. 38 MRSA §2151 is repealed.

Sec. 55. 38 MRSA §2151-A is enacted to read:

§2151-A. Indemnification

The office shall defend and indemnify any employee of the office, including the director, and any member of the Facility 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 duties set forth in this Article.

Sec. 56. 38 MRSA §2152, sub-§1 is amended to read:

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

Sec. 57. 38 MRSA §2153 is amended to read:

§2153. Siting criteria

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

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

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

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

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

D. A site and its considered use must be consistent with, and actively support, other waste management objectives, including waste reduction and recycling.

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

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

~~6. Beneficial use of office paper.~~ Any person subject to the requirements of this section may use any office paper or corrugated cardboard as fuel in industrial boilers for the generation of heat, steam or electricity if these materials would otherwise be placed in a landfill, the office determines that there is no reasonably available market in the State for recycling those materials and if the materials are incinerated as a substitute for, or supplement to, fossil or biomass fuels that constitute the primary fuels incinerated in the industrial boiler.

Sec. 52. 38 MRSA §2139 is amended to read:

§2139. Public education

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

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

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

Sec. 53. 38 MRSA subchapter 4, first two lines are repealed and the following enacted in their place:

Subchapter IV

FACILITY SITING AND DEVELOPMENT

Sec. 54. 38 MRSA §2151 is repealed.

Sec. 55. 38 MRSA §2151-A is enacted to read:

§2151-A. Indemnification

The office shall defend and indemnify any employee of the office, including the director, and any member of the Facility 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 duties set forth in this Article.

Sec. 56. 38 MRSA §2152, sub-§1 is amended to read:

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

Sec. 57. 38 MRSA §2153 is amended to read:

§2153. Siting criteria

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

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

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

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

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

D. A site and its considered use must be consistent with, and actively support, other waste management objectives, including waste reduction and recycling.

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

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

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

Sec. 58. 38 MRSA §2156, sub-§3 is amended to read:

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

Sec. 59. 38 MRSA §2157, as amended by PL 1993, c. 732, Pt. B, §3, is repealed

Sec. 60. 38 MRSA §2158 is repealed.

Sec. 61. 38 MRSA §2163 is repealed.

Sec. 62. 38 MRSA §2164 is repealed.

Sec. 63. 38 MRSA §2175-B is enacted to read:

§2175-B. Payment in lieu of taxes

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

Sec. 64. 38 MRSA §2176, 1st ¶ is amended to read:

In addition to payment in lieu of taxes provided in section ~~2105~~ 2175-B, the agency office shall make impact payments to a municipality in which a solid waste disposal facility is located or, in the case of an unorganized territory, to the State Tax Assessor upon request by the

community involved or by the State Tax Assessor. The agency shall base its impact payments on measurable criteria including, without limitation:

Sec. 65. 38 MRSA §2201 is amended to read:

§ 2201. Maine Solid Waste Management Fund established

The Maine Solid Waste Management Fund, referred to in this section as the "fund," is established as a nonlapsing fund to support programs administered by the ~~Maine-Waste-Management-Agency-State Planning Office~~ and the Department of Environmental Protection. The fund must be segregated into 2 subsidiary accounts. The first subsidiary account, called operations, receives all fees established and received under article 1. The 2nd subsidiary account, called administration, receives all fees established under this article and under Title 36, chapter 719, all funds recovered by the department as reimbursement for departmental expenses incurred to abate imminent threats to public health, safety and welfare posed by the illegal disposal of solid waste and all unclaimed deposits returned to the State under Title 32, chapter 28.

Money in the fund not currently needed to meet the obligations of the agency must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by law. Interest on these investments must be credited to the fund.

Funds related to administration may only be expended in accordance with allocations approved by the Legislature for administrative expenses directly related to the agency's and the department's programs, including actions by the department necessary to abate imminent threats to public health, safety and welfare posed by the illegal disposal of solid waste. Funds related to operations may only be expended in accordance with allocations approved by the Legislature and solely for the development and operation of publicly owned facilities owned or approved by the agency and for the repayment of any obligations of the agency incurred under article 3. These allocations must be based on estimates of the actual costs necessary for the agency and the department to administer their programs, to provide financial assistance to regional associations and to provide other financial assistance necessary to accomplish the purposes of this chapter. Beginning in the fiscal year ending on June 30, 1991 and thereafter, the fund must annually transfer to the General Fund an amount necessary to reimburse the costs of the Bureau of Taxation incurred in the administration of Title 36, section 5219-D and Title 36, chapter 719 and an amount equal to the General Fund revenues lost as the result of Title 36, sections 2526 and 5219-D. Beginning in the fiscal year ending June 30, 1994 and thereafter, the fund must support allocations approved by the Legislature for administrative expenses and reimbursement costs directly related to the administration of Title 32, section 1866, subsection 7 and Title 32, section 1866-A by the Treasurer of State. Allowable expenditures include "Personal Services," "All Other" and "Capital Expenditures" associated with all agency activities other than those included in the operations account.

Sec. 66. 38 MRSA §2202, sub-§ 1 is amended to read:

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

Sec. 67. 38 MRSA §2203, sub-§3 is amended to read:

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

Sec. 68. 38 MRSA §2204, subsection 2 is repealed.

Sec. 69. 38 MRSA §2204, sub-§3 is amended to read:

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

Sec. 70. 38 MRSA §2205 is amended to read:

§2205. Fee payments

Each operator of a solid waste disposal facility shall make the fee payment quarterly. The fee shall 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 be accompanied by a form prepared and furnished by the agency department and completed by the operator. The form shall 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 necessary by the agency department to carry out the purposes of this chapter. The form shall be signed by the operator.

2. Timeliness of payment. The operator shall be 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 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.

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 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 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 department will 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 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 be executed by a surety licensed to do business in the State and be satisfactory to the agency. Failure to forward the money or appeal bond to the agency department within 30 days shall result 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 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 payable to the agency department and shall be collectible.

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

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

Sec. 71. 38 MRSA §2206 is amended to read:

§2206. Hearings and appeals

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

PART B

Sec. B-1. 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;
- (2) Preparing a solid waste management and recycling plan to be submitted to the Governor and the Legislature every two years; and
- (3) Providing technical and financial assistance to municipalities in waste reduction and recycling activities; and

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

Sec. B-2. 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 such facility;
2. Contracts. Authority to assume any and all rights and obligations under existing agreements related to such a 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 the Maine Administrative Procedures Act, Title 5, chapter 375, subchapter II.

Sec. B-3. 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 in furtherance of the purposes of this chapter and of Title 38, chapter 24, the

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 be executed by a surety licensed to do business in the State and be satisfactory to the agency. Failure to forward the money or appeal bond to the agency department within 30 days shall result 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 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 payable to the agency department and shall be collectible.

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

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

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

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

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1. Title to property. Authority to take and hold title to such facility;
2. Contracts. Authority to assume any and all rights and obligations under existing agreements related to such a 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 the Maine Administrative Procedures Act, Title 5, chapter 375, subchapter II.

Sec. B-3. 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 in furtherance of the purposes of this chapter and of 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 through 2222, and all references in those sections to the "agency" means the authority.

Sec. B-4. Reports. The State Planning Office shall convene a Task Force to develop recommendations for a state policy regarding the potential development and operation of the state-owned solid waste disposal facility at Carpenter Ridge. The State Planning Office shall include on the Task Force legislators who are members of the Joint Standing Committee on Natural Resources. The State Planning Office shall submit a report to the Joint Standing Committee on Natural Resources by February 1, 1996 describing the status of the application for a license for the Carpenter Ridge waste facility and setting forth any recommendations the Task Force has developed for operation of the facility, including recommendations as to when and how the facility might be developed and operated, what changes in state law would be advisable to allow for operation of the facility, and any other issues the Task Force considers appropriate.

The Task Force shall also examine state policy regarding the ban on development of new commercial solid waste disposal facilities and shall submit any recommendations regarding that policy in the report required in this section. The report must also include information on the importation of out-of-state waste into Maine and the export of Maine waste and recent Congressional action on legislation relating to state authority to regulate the importation of waste.

**GOVERNOR KING'S PROPOSAL
TO STREAMLINE
STATE SOLID WASTE AND RECYCLING SERVICES**

• *RESPONSIBLE* • *REALISTIC* • *EFFECTIVE*

Governor King's proposal will:

- ▶ Streamline state government by eliminating a state agency (Maine Waste Management Agency) and consolidating its essential functions into existing agencies
- ▶ Continue the state's commitment to achieving a 50% recycling rate by transferring the essential functions and staff of the Maine Waste Management Agency to the State Planning Office
- ▶ Continue the state's partnership with municipalities that has resulted in a 33% recycling rate and 411 municipal recycling programs
 - * technical assistance to municipalities
 - * monitoring and assessing progress towards meeting the state's recycling goal
 - * developing markets for hard-to-recycle materials
- ▶ Eliminate 14 state jobs
 - 10 positions in Waste Management Agency
 - 4 positions in the Department of Environmental Protection
- ▶ Save Maine citizens \$1.5 million in 1996 and \$2 million in 1997
- ▶ Phase out recycling assistance fees over the next two years that are paid by Maine consumers on the purchases of appliances and bathtubs on January 1, 1996; and furniture and mattresses on January 1, 1997
- ▶ Reduce the taxpayers liability by ending eligibility for the recycling investment tax credit on July 1, 1995 and no longer funding FAME low interest loans
- ▶ Continue essential solid waste services in the Department of Environmental Protection
 - * environmental regulation of solid waste facilities (In 1994, the DEP issued 700 licenses and conducted 280 facility inspections)
 - * landfill closure and remediation (189 landfills remain to be closed)
 - * process sludge and residuals permits (In 1994, the DEP issued 139 licenses and conducted 250 inspections)
 - * enforcement of illegal dumping and other solid waste violations
- ▶ Establish, for the first time, a funded program for tire stockpile clean-up
- ▶ Continue the ban on new commercial solid waste disposal facilities

GOVERNOR'S PROPOSAL: SOLID WASTE MANAGEMENT FUND

BUDGETED REVENUES	FY96	FY97	FY98/FY99
Special Waste Fee	\$700,000	\$800,000	\$1,000,000
Recycling Assistance Fees:			
Tires	\$750,000	\$750,000	\$750,000
Batteries	\$250,000	\$250,000	\$250,000
Appliances	\$382,500	\$0	\$0
Furniture	\$680,000	\$340,000	\$0
Bathtubs	\$25,500	\$0	\$0
Mattresses	\$204,000	\$102,000	\$0
Unclaimed bottle deposits	\$400,000	\$400,000	\$400,000
Interest	\$15,000	\$15,000	\$15,000
Total Revenues-SWMF	\$3,407,000	\$2,657,000	\$2,415,000

BUDGETED EXPENDITURES

SPO/DEC-MWMA Transfer	\$438,542	\$434,707	\$435,000
Treasury-Bottle Red.	\$68,468	\$70,313	\$70,000
Taxation-SWMF/ITC Adm.	\$41,532	\$39,687	\$35,000
Recycling Tax Credits	\$400,000	\$450,000	\$400,000
DEP-Currently in SWMF	\$959,850	\$959,850	\$960,000
Total, Currently in SWMF	\$1,908,392	\$1,954,557	\$1,900,000
DEP-Currently in G.F.	\$512,142	\$512,455	\$515,000
Lincoln P+P Contract	\$500,000	0	0
Tire Stockpile Reduction	\$486,466	\$189,988	
Total, New to SWMF	\$1,498,608	\$702,443	\$515,000
Total Expenditures-SWMF	\$3,407,000	\$2,657,000	\$2,415,000

NOTES:

Fees Eliminated:

Appliances, Bathtubs

1/1/96

Furniture, Mattresses

1/1/97

April 11, 1995

ISSUES

IMPACT OF CUTS IN BUDGETED REVENUES:

	FY96	FY97
1) Remove Special Waste Fee	\$700,000	\$800,000
2) Eliminate Fees on Furniture, Mattresses on January 1, 1996	\$442,000	\$442,000
3) Eliminate Bottle Float on January 1, 1996	\$ 82,532	\$320,687

SUGGESTED CUTS IN EXPENDITURES:

- 1) Eliminate positions at DEP. DEP has already lost 4 solid waste positions this year, and cannot afford further cuts.
- 2) Eliminate or reduce the proposed tire program. There will be strong opposition to this: we support establishing a responsible program to clean up tire dumps.
- 3) Reduce the estimates for investment tax credits. There is a 15 year lag in the elimination of these credits. We believe that our estimates of cost for the biennium is accurate, but will check further.
- 4) Reduce the number of positions transferred to SPO. We already eliminated 10 of 16 positions: further cuts would greatly weaken technical assistance programs.
- 5) Seek ways to use any remaining FY 95 money in the SWMF to offset FY 96 expenses. We are looking into this.

SUGGESTED ADDITIONS IN EXPENDITURES:

- 1) Increase the hazardous waste collection program.
- 2) Increase grant funds for towns.
- 3) Increase tire program funds.

All are good ideas, but there is no money available.

Committee: nat
LA: dcf
LR (item)#: 290(2)
WPP Doc. #: 6925NRG
New Title?: n
Add Emergency?: y
Date: 05/02/95

COMMITTEE AMENDMENT "." to L.D. 229, An Act to Abolish the
Maine Waste Management Agency

Amend the bill by adding before the enacting clause the
following:

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

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

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

Further amend the bill by striking out everything after the
enacting clause and before the statement of fact and inserting
in its place the following:

'Sec. 1. 2 MRSA §6, subsection 2 is amended to read:

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

Superintendent of Banking;
Bureau of Consumer Credit Protection Superintendent;
State Tax Credit Assessor;
Superintendent of Insurance;

Associate Commissioner for Programs, Department of Mental Health and Mental Retardation;
Associate Commissioner of Administration, Department of Mental and Mental Retardation;
Associate Commissioner for Institutional Management; and
~~Executive-Director, Maine-Waste-Management-Agency; and~~
Deputy Commissioner, Department of Administrative and Financial Services.

Sec. 2. 2 MRSA §6, subsection 4 is amended to read:

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

Director of the Bureau of Parks and Recreation;
Director of Public Lands;
Director of Employee Relations;
Director, Bureau of Air Quality Control;
Director, Bureau of Water Quality Control;
Director, Bureau of Oil and Hazardous Materials Control;
Director, Bureau of Administration; and
~~Director, Office of Planning;~~
~~Director, Office of Waste-Reduction-and-Recycling;~~
~~Director, Office of Siting-and-Disposal--Operations;~~
Executive Director, Board of Environmental Protection.

Sec. 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) Radiological Technology Board of Examiners;
- (10) Maine Library Commission: and
- ~~(11) Maine-Waste-Management-Agency; and~~
- (12) Maine Court Facilities Authority.

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

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

Sec. 7. 32 MRSA §1866-A, sub-§3, as enacted by PL 1991, c. 591, Pt. R, §4 and affected by §18, is amended to read:

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

Sec. 8. 36 MRSA §2526, sub-§5 is amended to read:

5. Application. This section applies to equipment 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~~ from January 1, 1993 to June 30, 1995.

Sec. 9. 36 MRSA §5219-D, sub-§5 is amended to read:

5. Application. This section applies to equipment 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~~ from January 1, 1993 to June 30, 1995.

Sec. 10. 38 MRSA §343-D, sub-§1, as amended by PL 1993, c. 500, §2 and affected by §5, is further amended to read:

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

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

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

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

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

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

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

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

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

Sec 11. 38 MRSA §1303-C, sub-§35, as enacted by PL 1989, c. 585, Pt. E, §4, is amended to read:

35. State waste management and recycling plan. "State waste management and recycling plan" means the plan adopted by the agency former Maine Waste Management Agency pursuant to former chapter 24, subchapter II, and subsequent plans developed by the State Planning Office pursuant to Title 5, section 3307-F, and may also be referred to as "state plan."

Sec. XX. 38 MRSA §1310-M is enacted to read:

§1310-M. Public Benefit Determination

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

2. Process. Determinations by the commissioner under this section are not subject to Title 5, chapter 375. 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 expansion of such a facility provides a substantial public benefit, the commissioner shall consider the written information submitted in support of the application and any other written information the commissioner considers pertinent, including the state plan. The commissioner may hold a public meeting in the vicinity of the proposed facility to take public comments and shall consider those comments in making the determination. The commissioner shall issue a decision on the matter within 45 days of receipt of the application. Commissioner decisions under this section may be appealed to the board, but the board is not authorized to assume jurisdiction of a decision under this section. The commissioner's determination must be made in accordance with the following provisions.

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

A. Meets immediate, short-term or long-term capacity needs in addition to capacity that is under development by the State Planning Office under chapter 24 or by any other party approved by the commissioner at the time of application;

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

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

For purposes of this subsection, capacity is "under development by the State Planning Office" when the State Planning Office commences construction of a facility or makes a written determination to commence construction of a facility within 2 years.

4. Application. This section does not apply to facilities described in section 1310-N, subsection 3-A, paragraph A.

Sec. 12. 38 MRSA §1310-N, sub-§1, ¶B is amended to read:

B. In the case of a disposal facility, the facility provides a substantial public benefit, determined in accordance with subsection 3; and

Sec. 13. 38 MRSA §1310-N, sub-§3, as repealed and replaced by PL 1993, c. 680, Pt. A, §37, is repealed.

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

3-A. Public Benefit Determination. Public benefit determination is made in the following manner.

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

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

(2) Solid waste disposal facilities used exclusively for the disposal of waste generated by the owner of the facility except that the facility may accept, on a nonprofit basis, no more than 15% of all solid waste accepted on an annual average which is not generated by the owner.

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

Sec. 14. 38 MRSA §1310-R, sub-§3 ¶C is repealed.

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

Sec. 16. 38 MRSA §1310-X, sub-§§3, ¶C 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 commissioner or the department determines as provided in section 1310-N, subsection 3 that the facility provides a substantial public benefit that the provisions of section 2157 are met.

Sec. 17. 38 MRSA §1316-C, last ¶ is amended to read:

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

Sec. 17-A. 38 MRSA §1316-F is enacted to read:

§1316-F. Tire Management Fund

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

Sec. 18. 38 MRSA §1382, first ¶, as amended by PL 1991, c. 517, Pt. B, §2, is further amended to read:

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

Sec. 19. 38 MRSA c.24, first 2 lines are repealed and the following enacted in their place:

Chapter 24

SOLID WASTE MANAGEMENT AND RECYCLING

Sec. 20. 38 MRSA 2101-A is enacted to read:

§2101-A. Definitions

For the purposes of this chapter, the following terms shall have the following meanings:

1. Agency. "Agency" means the State Planning Office.

2. Department. "Department" means the Department of Environmental Protection.

3. Office. "Office" means the State Planning Office.

Sec. 21. 38 MRSA §§2102 to 2110 are repealed.

Sec. 22. 38 MRSA §2121 is repealed.

Sec. 23. 38 MRSA §2122 is repealed and replaced with the following:

§2122-A.

The office shall prepare and adopt by rule, an analysis of, and plan for, the management, reduction and recycling of solid waste for the State. The plan must be based on the priorities and recycling goals established in sections 2101 and 2132. The plan must provide guidance and direction to municipalities in planning and implementing waste management and recycling programs at the state, regional and local level. The plan must provide a needs determination for existing commercial entities in the development of expanded solid waste disposal facilities.

1. Consultation. In developing the plan, the office shall consult with the Department of Environmental Protection. The office shall solicit public input and may hold hearings in different regions of the State.

2. Revisions. The office shall revise the analysis at least every 2 years to incorporate changes in waste generation trends, changes in waste recycling and disposal technologies, development of new waste generating activities and other factors affecting solid waste management as the office finds appropriate.

Sec. 24. 38 MRSA §2123 is repealed and replaced with the following:

§2123-A. Plan contents.

The state plan includes the following elements.

1. Waste characterization. The plan must be based on a comprehensive analysis of solid waste generated, recycled and disposed of in the State. Data collected must include, but not 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 recycling.

2. Waste reduction and recycling assessment. The 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.

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

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

Sec. 25. 38 MRSA §2124 is amended to read:

§2124. Reports

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

Sec. 26. 38 MRSA §2125 is amended to read:

§2125. Evaluation of municipal implementation of solid waste hierarchy

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

1. **Evaluation.** Municipalities shall report annually, except as provided by the agency office, on their solid waste management practices. The annual report must include provision for designating how much of each type of solid waste is generated and how that solid waste is managed. The agency office shall assist municipal reporting by developing a municipal waste stream assessment model. The model must rely on actual waste data whenever possible, but incorporate default generation estimates when needed. Default generation estimates must incorporate factors such as commercial activity, geographical differences and municipal population.

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

Sec. 27. 38 MRSA §2131 is repealed.

Sec. 28. 38 MRSA §2132, sub-§1 is amended to read:

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

Sec. 29. 38 MRSA §2132, sub-§2 is amended to read:

2. **Goal revision.** The agency office shall recommend revisions, if appropriate, to the state recycling goal established in 38 MRSA §2132 and shall establish a waste reduction goal. The agency office shall submit its recommendations and any implementing legislation to the joint standing committee of the Legislature having jurisdiction over natural resource matters.

Sec. 30. 38 MRSA §2132, sub-§3 is repealed.

Sec. 31. 38 MRSA §2133, sub-§1 is repealed and replaced with:

1-A. Recycling Progress. Municipalities are not required to meet the state recycling goal in section 2132, rather they must demonstrate reasonable progress towards the goal. The office shall determine reasonable progress.

Sec. 32. 38 MRSA §2133, sub-§2 is repealed and replaced with:

2-A. Technical and financial assistance program. A program of waste reduction and recycling technical and financial assistance is established in the office to assist municipalities with managing solid waste. The director shall administer these programs in accordance with the waste management hierarchy in section 2101.

Sec. 33. 38 MRSA §2133, sub-§3 is amended to read:

3. **Recycling Capital Investment Grants.** The office may make grants to eligible municipalities, regional associations, sanitary districts and sewer districts for the construction of public recycling and composting facilities and the purchase of recycling and composting equipment. The office may establish requirements for local cost sharing of up to 25% of the total grant amount. ~~The office shall give preference to recycling programs that require the participation of the waste generators served.~~

Sec. 34. 38 MRSA §2133, subsection 4, ¶B is repealed.

Sec. 35. 38 MRSA §2133, subsection 5 is repealed.

Sec. 36. 38 MRSA §2133, sub-§6 is enacted to read:

3. 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.

Sec. 37. 38 MRSA §2134 is amended to read:

§2134. Market development and assistance

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

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

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

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

4. **Brokering service.** Make provision for Direct 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;

~~5.--Marketing-development-plan.--Based-on-the-state-plan,-a market-development-and-marketing-plan-by-January-17-1990,-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 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. 38. 38 MRS §2135 is repealed.

Sec. 39. 38 MRS §2135-A, as enacted by PL 1991, c. 517, Pt. A is repealed.

Sec. 40. 38 MRS §2136 is repealed.

Sec. 41. 38 MRS §2137 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, cardboard, used motor oil, yard waste and other materials produced by the State for which recycling markets exist or may be developed.

1.--Waste-reduction-and-recycling-plan.--Each state agency shall prepare a waste-reduction-and-recycling-plan-addressing the-requirements-of-subsections-3-and-4.--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-section-and-with-the-state-waste management-and-recycling-plan.--The-plan-shall-be-updated-on-a biennial-basis-to-increase-the-amount-of-material-recycled-by taking-advantage-of-any-changed-circumstances.--Each-department shall-complete-an-analysis-of-additional-materials-to-determine recycling-potential, and-shall-incorporate-these-materials-into plan-updates.--Updated-plans-shall-be-submitted-to-the-office for-approval-prior-to-adoption.

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

3. Recycling. By-January-1, 1991, eEach state agency outside-the-Capitol-complex shall establish and implement a source separation and collection program for recyclable materials produced as a result of agency operations, including, at a minimum, high grade paper and corrugated paper. The source separation and collection program shall include, at a minimum, procedures for collecting and storing recyclable materials, bins or containers for storing materials, and contractual and other arrangements with buyers. Each agency shall appoint a recycling coordinator for every 50 employees at a minimum and shall conduct educational programs for its employees on the recycling program.

4. Waste reduction. By-January-1, 1991, eEach state agency shall establish and implement a waste reduction program for materials used in the course of agency operations. The program shall be designed and implemented to achieve the 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 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 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 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 be designed and implemented to achieve the maximum feasible reduction of waste.

D. ~~By January 1, 1991,~~ 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 their recycling efforts and shall evaluate existing programs and develop necessary new programs for recycling to reduce the generation of solid waste by the campus.

Sec. 42. 38 MRSA §2138 is amended to read:

§2138. Office paper recycling program

1. **Office paper recycling mandated.** Any person employing 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:~~

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

~~B---By-July-17-1992,-when-employing-50-or-more-persons-at-a site,-and~~

~~C---By-July-17-1993,-when-employing-15-or-more-persons-at-a site-~~

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

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

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

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

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

~~6---Beneficial-use-of-office-paper---Any-person-subject-to the-requirements-of-this-section-may-use-any-office-paper-or corrugated-cardboard-as-fuel-in-industrial-boilers-for-the generation-of-heat,-steam-or-electricity-if-these-materials would-otherwise-be-placed-in-a-landfill,-the-office-determines that-there-is-no-reasonably-available-market-in-the-State-for recycling-these-materials-and-if-the-materials-are-incinerated as-a-substitute-for,-or-supplement-to,-fossil-or-biomass-fuels that-constitute-the-primary-fuels-incinerated-in-the-industrial boiler-~~

Sec. 43. 38 MRSA §2139 is amended to read:

§2139. Public education

The office shall design a program of public education in
Office of Policy and Legal Analysis Draft.....page 15

support of the state recycling goals to promote waste reduction, source separation and recycling and composting efforts at the individual, local, regional and state levels.

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

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

Sec. 44. 38 MRSA subchapter 4, first two lines are repealed and the following enacted in their place:

Subchapter IV
FACILITY SITING AND DEVELOPMENT

Sec. 45. 38 MRSA §2151 is repealed.

Sec. 46. 38 MRSA §2151-A is enacted to read:

§2151-A. Indemnification

The office shall defend and indemnify any employee of the office, including the director, and any member of the Facility 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.

Sec. 47. 38 MRSA §2152, sub-§1 is amended to read:

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

Sec. 48. 38 MRSA §2153 is amended to read:

§2153. Siting criteria

1. **Siting criteria.** ~~By-September-17-1992--the-Facility Siting-Board-shall-amend-its~~ With regard to state-owned facilities, the office shall administer rules adopted by the former Maine Waste Management Agency, Office of Siting and Disposal Operations, for siting criteria for solid waste disposal facilities. The office may revise the rules if necessary based on the following factors.

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

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

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

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

D. A site and its considered use must be consistent with, and actively support, other waste management objectives, including waste reduction and recycling.

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

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

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

Sec. 49. 38 MRSA §2156, sub-§3 is amended to read:

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

Sec. 50. 38 MRSA §2157, as amended by PL 1993, c. 732, Pt. B, §3, is repealed

Sec. 51. 38 MRSA §2158 is repealed.

Sec. 52. 38 MRSA §2164 is repealed.

Sec. 53. 38 MRSA §2175-B is enacted to read:

§2175-B. Payment in lieu of taxes

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

Sec. 54. 38 MRSA §2176, 1st ¶ is amended to read:

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

Sec. 55. 38 MRSA §2201 is amended to read:

§ 2201. Maine Solid Waste Management Fund established

The Maine Solid Waste Management Fund, referred to in this section as the "fund," is established as a nonlapsing fund to support programs administered by the ~~Maine-Waste-Management Agency-State Planning Office~~ and the Department of Environmental Protection. The fund must be segregated into 2 subsidiary accounts. The first subsidiary account, called operations, receives all fees established and received under article 1. The 2nd subsidiary account, called administration,

receives all fees established under this article and under Title 36, chapter 719, all funds recovered by the department as reimbursement for departmental expenses incurred to abate imminent threats to public health, safety and welfare posed by the illegal disposal of solid waste and all unclaimed deposits returned to the State under Title 32, chapter 28.

Money in the fund not currently needed to meet the obligations of the agency must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by law. Interest on these investments must be credited to the fund.

Funds related to administration may only be expended in accordance with allocations approved by the Legislature for administrative expenses directly related to the agency's and the department's programs, including actions by the department necessary to abate imminent threats to public health, safety and welfare posed by the illegal disposal of solid waste. Funds related to operations may only be expended in accordance with allocations approved by the Legislature and solely for the development and operation of publicly owned facilities owned or approved by the agency and for the repayment of any obligations of the agency incurred under article 3. These allocations must be based on estimates of the actual costs necessary for the agency and the department to administer their programs, to provide financial assistance to regional associations and to provide other financial assistance necessary to accomplish the purposes of this chapter. Beginning in the fiscal year ending on June 30, 1991 and thereafter, the fund must annually transfer to the General Fund an amount necessary to reimburse the costs of the Bureau of Taxation incurred in the administration of Title 36, section 5219-D and Title 36, chapter 719 and an amount equal to the General Fund revenues lost as the result of Title 36, sections 2526 and 5219-D. Beginning in the fiscal year ending June 30, 1994 and thereafter, the fund must support allocations approved by the Legislature for administrative expenses and reimbursement costs directly related to the administration of Title 32, section 1866, subsection 7 and Title 32, section 1866-A by the Treasurer of State. Allowable expenditures include "Personal Services," "All Other" and "Capital Expenditures" associated with all agency activities other than those included in the operations account.

Sec. 56. 38 MRSA §2202, sub-§ 1 is amended to read:

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

Sec. 57. 38 MRSA §2203, sub-§3 is amended to read:

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

Sec. 58. 38 MRSA §2204, subsection 2 is repealed.

Sec. 59. 38 MRSA §2204, sub-§3 is amended to read:

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

Sec. 60. 38 MRSA §2205 is amended to read:

§2205. Fee payments

Each operator of a solid waste disposal facility shall make the fee payment quarterly. The fee shall 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 be accompanied by a form prepared and furnished by the agency department and completed by the operator. The form shall 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 necessary by the agency department to carry out the purposes of this chapter. The form shall be signed by the operator.

2. **Timeliness of payment.** The operator shall be 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 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.

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 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 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 department will 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 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 be executed by a surety licensed to do business in the State and be satisfactory to the agency. Failure to forward the money or appeal bond to the agency department within 30 days shall result 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 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 payable to the agency department and shall be collectible.

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

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

Sec. 61. 38 MRSA §2206 is amended to read:

§2206. Hearings and appeals

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

PART B

Sec. B-1. 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;

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

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

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

Sec. B-2. 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 such facility;

2. Contracts. Authority to assume any and all rights and obligations under existing agreements related to such a 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 the Maine Administrative Procedures Act, Title 5, chapter 375, subchapter II.

Sec. B-3. Reports. If the state receives a state license prior to January 1, 1995 to operate a solid waste disposal facility at the Carpenter Ridge Site, the State Planning Office

shall submit a report to the Joint Standing Committee on Natural Resources by March 1, 1995 setting forth any plans the Office has developed for operation of the facility, including recommendations as to how the facility would be operated, what changes in state law would be advisable to allow for operation of the facility, the timing of possible operations, and any other issues the Office considers appropriate.

The State Planning Office shall also submit to the Joint Standing Committee on Natural Resources a report on the importation of out-of-state waste into Maine, recent Congressional action on legislation relating to state authority to regulate the importation of waste, and any other related issues.

PART C

Sec. C-1. Allocations. The following funds are allocated from the Maine Solid Waste Management Fund to carry out the purposes of this Act:

EXECUTIVE

Planning Office

Positions - Legislative Count	(6.0)	(6.0)
Personal Services	\$282,203	\$273,572
All Other	<u>656,339</u>	<u>161,135</u>

Provides for the transfer of one Development Program Manager and one Planner II from the Office of Waste Reduction and Recycling; one Planner II and one Clerk Typist III from the Office of Siting and Disposal Operations; and one Senior Planner and one Planner II from the Office of Planning to the State Planning Office. Also provides All Other Funds for technical assistance to municipalities and in fiscal year 1995-96 for a contract payment of \$500,000 to Lincoln Pulp & Paper..

TOTAL	\$938,542	\$434,707
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**WASTE MANAGEMENT AGENCY,
MAINE**

**Administration - Office of the
Executive Director**

Positions - Other Count	(-3.0)	(-3.0)
Personal Services	(169,349)	(167,156)
All Other	(97,044)	(100,306)
TOTAL	(266,393)	(267,462)

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

Office of Planning

Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(217,382)	(215,208)
All Other	(100,567)	(105,287)
TOTAL	(317,949)	(320,495)

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

**Office of Siting and
Disposal Operations**

Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(205,452)	(206,748)
All Other	(835,531)	(501,672)
Capital Expenditures	(7,000)	(7,000)
TOTAL	(1,047,983)	(715,420)

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

Office of Waste Reduction
and Recycling

Positions - Other Count	(-5.0)	(-5.0)
Personal Services	(265,107)	(263,348)
All Other	(690,718)	(1,021,425)
Capital Expenditures	(7,000)	(7,000)
TOTAL	(962,825)	(1,291,773)

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

**MAINE WASTE MANAGEMENT AGENCY
TOTAL**

(2,595,150)	(2,595,150)
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Sec. C-2. Transition provisions. The following provisions apply to the reassignment of the duties and responsibilities of the former Maine Waste Management Agency.

1. Except as otherwise provided in this section, the Director of the State Planning Office shall assume all remaining duties and responsibilities of the former Maine Waste Management Agency, its offices and its executive director, including 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.

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

3. Six authorized positions and incumbent personnel in the Maine Waste Management Agency are transferred to the State Planning Office, as provided in section XX of this Act. Those employees retain their accrued fringe benefits, including vacation and sick leave, health and life insurance and retirement benefits.

4. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, all accrued expenditures, assets, liabilities, balances or appropriations, allocations, transfers, revenues or other available funds in an account or

subdivision of an account of the former Maine Waste Management Agency must be transferred to the proper account by the State Controller upon the request of the State Budget Officer and with the approval of the Governor. Notwithstanding any other provision of law, the Department of Administrative and Financial Services is authorized to allot funds through a financial order, upon approval of the State Budget Officer and the Governor, in order to meet all outstanding obligations of the former Maine Waste Management Agency which are not specifically transferred to any other unit of State Government.

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

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

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

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

Effective date. Notwithstanding the emergency nature of this bill, the transfer of responsibilities and authorities described in this bill become effective on July 1, 1995.

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

FISCAL NOTE

STATEMENT OF FACT

This amendment abolishes the Maine Waste Management Agency effective July 1, 1995, and transfers its essential services and responsibilities to the State Planning Office including planning for solid waste management, recycling technical and financial assistance, and permitting and potential development of Carpenter Ridge.

This amendment continues the ban on new commercial disposal facilities.

The Department of Environmental Protection will assume responsibility for approving expansions at existing commercial disposal facilities and applications for new or expanded public disposal facilities.

The Department of Environmental Protection will assume responsibility for collecting special waste fees.

DRAFT

Committee: nat
LA: dcf
LR (item)#: 290(2)
WPP Doc. #: 6925NRG
New Title?: n
Add Emergency?: y
Date: 04/24/95 #2

COMMITTEE AMENDMENT "." to L.D. 229, An Act to Abolish the
Maine Waste Management Agency

Amend the bill by adding before the enacting clause the
following:

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

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

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

Further amend the bill by striking out everything after the
enacting clause and before the statement of fact and inserting
in its place the following:

'Sec. 1. 2 MRSA §6, subsection 2 is amended to read:

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

Superintendent of Banking;
Bureau of Consumer Credit Protection Superintendent;
State Tax Credit Assessor;
Superintendent of Insurance;

Associate Commissioner for Programs, Department of Mental Health and Mental Retardation;
Associate Commissioner of Administration, Department of Mental and Mental Retardation;
Associate Commissioner for Institutional Management; and
~~Executive Director, Maine Waste Management Agency; and~~
Deputy Commissioner, Department of Administrative and Financial Services.

Sec. 2. 2 MRSA §6, subsection 4 is amended to read:

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

Director of the Bureau of Parks and Recreation;
Director of Public Lands;
Director of Employee Relations;
Director, Bureau of Air Quality Control;
Director, Bureau of Water Quality Control;
Director, Bureau of Oil and Hazardous Materials Control;
Director, Bureau of Administration; and
~~Director, Office of Planning;~~
~~Director, Office of Waste Reduction and Recycling;~~
~~Director, Office of Siting and Disposal Operations;~~
Executive Director, Board of Environmental Protection.

Sec. 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) Radiological Technology Board of Examiners;
- (10) Maine Library Commission: and
- ~~(11) Maine Waste Management Agency; and~~
- (12) Maine Court Facilities Authority.

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

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

Sec. 8. 32 MRSA §1866-A, sub-§3, as enacted by PL 1991, c. 591, Pt. R, §4 and affected by §18, is amended to read:

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

Sec. 10. 36 MRSA §2526, sub-§5 is amended to read:

5. Application. This section applies to equipment 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~~ from January 1, 1993- to June 30, 1995.

Sec. 11. 36 MRSA §5219-D, sub-§5 is amended to read:

5. Application. This section applies to equipment 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~~ from January 1, 1993- to June 30, 1995.

Sec. 12. 38 MRSA §343-D, sub-§1, as amended by PL 1993, c. 500, §2 and affected by §5, is further amended to read:

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

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

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

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

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

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

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

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

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

Sec 13. 38 MRSA §1303-C, sub-§35, as enacted by PL 1989, c. 585, Pt. E, §4, is amended to read:

35. State waste management and recycling plan. "State waste management and recycling plan" means the plan adopted by the agency former Maine Waste Management Agency pursuant to former chapter 24, subchapter II, and subsequent plans developed by the State Planning Office pursuant to Title 5, section 3307-F, and may also be referred to as "state plan."

Sec. XX. 38 MRSA §1310-N, sub-§1, ¶B is amended to read:

B. In the case of a disposal facility, the commissioner has determined in accordance with subsection 3 that the facility provides a substantial public benefit; and

Sec. 14. 38 MRSA §1310-N, sub-§3, as repealed and replaced by PL 1993, c. 680, Pt. A, §37, is repealed and replaced as follows:

3. Public benefit determination. The commissioner shall determine the public benefit of a proposed facility according to the following provisions.

A. For the following facilities, the commissioner shall employ a rebuttable presumption of public benefit:

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

(2) Solid waste disposal facilities used exclusively for the disposal of waste generated by the owner of the facility except that the facility may accept, on a nonprofit basis, no more than 15% of all solid waste accepted on an annual average which is not generated by the owner.

B. For all other facilities, the commissioner shall find that the proposed facility provides a substantial public benefit if the applicant demonstrates to the commissioner that the proposed facility:

(1) Meets immediate, short-term or long-term capacity needs identified in the state waste management and recycling plan in addition to capacity that is under development by the State Planning Office under chapter 24 or by any other party approved by the commissioner at the time of application;

(2) Except as provided in paragraph D, is consistent with the state waste management and recycling plan; and

(3) Is consistent with local, regional or state waste collection, storage, transportation, processing or disposal.

C. Except as provided in paragraph D, proceedings under this subsection are subject to the provisions of Title 5, chapter 375, subchapter IV.

D. An application for expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling is not subject to the provisions of Title 5, chapter 375, subchapter IV or the requirements of paragraph B, subparagraph (2). In making the determination of whether expansion of such a facility provides a substantial public benefit, the commissioner shall consider the written information submitted in support of the application and any other written information the commissioner considers pertinent. In addition, the commissioner may hold a public meeting in the vicinity of the proposed expansion to take public comments and shall consider those comments in making the determination.

~~Sec. 15. 38 MRSA §1310-R, sub-§3, ¶C, as affected by PL 1989, c. 890, Pt. A §40 and amended by Pt. B, §247, is further amended to read:~~

~~C.---The department shall apply the provisions of section 1310-N, subsection 3, paragraph A to any application for a waste disposal facility receiving ash resulting from the combustion of municipal solid waste or from fuel derived from municipal solid waste when the application was accepted as complete by the commissioner prior to July 17, 1989, and is still pending before the department on or after the date of the initial adoption of the state plan under chapter 24.~~

Sec. 16. 38 MRSA §1310-R, sub-§4, as affected by PL 1989, c. 890, Pt. A §40 and amended by Pt. B, §248, is repealed.

Sec. 17. 38 MRSA §1310-X, sub-§§3, ¶C 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 commissioner determines that the provisions of section 2157 1310-N, subsection 3 are met.

Sec. XX. 38 MRSA §1316-F is enacted to read:

§1316-F. Financial Incentives

To the extent that funding is available, the commissioner shall provide financial incentives for the processing of tires at an uncontrolled tire stockpile if the responsible party fails to clean up the tire stockpile. Incentives may include subsidization of costs as necessary to make the processing of such tires economically feasible.

Sec. 18. 38 MRSA §1382, first ¶, as amended by PL 1991, c. 517, Pt. B, §2, is further amended to read:

Members of the board of trustees are appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over natural resources and to confirmation by the Legislature. The board of trustees consists of 8 members as follows: one member from the Department of Environmental Protection; one member from the Department of Agriculture, Food and Rural Resources; one member from the Maine-Waste-Management-Agency State Planning Office; one member from an environmental interest group; one member

from the Maine Waste Water Control Association; one member from the Maine Municipal Association; one member representing users of sludge or residuals; and one member representing generators of sludge and residuals.

Sec. 19. 38 MRSA c.24, first 2 lines are repealed and the following enacted in their place:

Chapter 24
SOLID WASTE MANAGEMENT AND RECYCLING

Sec. 20. 38 MRSA 2101-A is enacted to read:

§2101-A. Definitions

For the purposes of this chapter, the following terms shall have the following meanings:

1. Agency. "Agency" means the State Planning Office.
2. Department. "Department" means the Department of Environmental Protection.
3. Office. "Office" means the State Planning Office.

Sec. 21. 38 MRSA §§2102 to 2110 are repealed.

Sec. 22. 38 MRSA §2121 is repealed.

Sec. 23. 38 MRSA §2122 is repealed and replaced with the following:

§2122-A.

The office shall prepare and adopt by rule, an analysis of, and plan for, the management, reduction and recycling of solid waste for the State. The plan must be based on the priorities and recycling goals established in sections 2101 and 2132. The plan must provide guidance and direction to municipalities in planning and implementing waste management and recycling programs at the state, regional and local level. The plan must provide a needs determination for existing commercial entities in the development of expanded solid waste disposal facilities.

1. Consultation. In developing the plan, the office shall consult with the Department of Environmental Protection. The office shall solicit public input and may hold hearings in different regions of the State.

2. Revisions. The office shall revise the analysis at least every 2 years to incorporate changes in waste generation trends, changes in waste recycling and disposal technologies,

development of new waste generating activities and other factors affecting solid waste management as the office finds appropriate.

Sec. 24. 38 MRSA §2123 is repealed and replaced with the following:

§2123-A. Plan contents.

The state plan includes the following elements.

1. Waste characterization. The plan must be based on a comprehensive analysis of solid waste generated, recycled and disposed of in the State. Data collected must include, but not 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 recycling.

2. Waste reduction and recycling assessment. The 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.

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

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

Sec. 25. 38 MRSA §2124 is amended to read:

§2124. Reports

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

Sec. 26. 38 MRSA §2125 is amended to read:

§2125. Evaluation of municipal implementation of solid waste hierarchy

The agency office shall ~~adopt, by rule,~~ develop a system for acknowledging implementation by municipalities of solid waste management hierarchy set forth in section 2101 and the goals for solid waste management adopted in the waste

management and recycling plan. The system must include the following elements.

1. **Evaluation.** Municipalities shall report annually, except as provided by the agency office, on their solid waste management practices. The annual report must include provision for designating how much of each type of solid waste is generated and how that solid waste is managed. The agency office shall assist municipal reporting by developing a municipal waste stream assessment model. The model must rely on actual waste data whenever possible, but incorporate default generation estimates when needed. Default generation estimates must incorporate factors such as commercial activity, geographical differences and municipal population.

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

Sec. 27. 38 MRSA §2131 is repealed.

Sec. 28. 38 MRSA §2132, sub-§1 is amended to read:

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

Sec. 29. 38 MRSA §2132, sub-§2 is amended to read:

2. **Goal revision.** The agency office shall recommend revisions, if appropriate, to the state recycling goal established in 38 MRSA §2132 and shall establish a waste reduction goal. The agency office shall submit its recommendations and any implementing legislation to the joint standing committee of the Legislature having jurisdiction over natural resource matters.

Sec. 30. 38 MRSA §2132, sub-§3 is repealed.

Sec. 31. 38 MRSA §2133, sub-§1 is repealed and replaced with:

1-A. Recycling Progress. Municipalities are not required to meet the state recycling goal in section 2132, rather they must demonstrate reasonable progress towards the goal. The office shall determine reasonable progress.

Sec. 32. 38 MRSA §2133, sub-§2 is repealed and replaced with:

2-A. Technical and financial assistance program. A program of waste reduction and recycling technical and financial assistance is established in the office to assist municipalities with managing solid waste. The director shall administer these programs in accordance with the waste management hierarchy in section 2101.

Sec. 33. 38 MRSA §2133, sub-§3 is amended to read:

3. Recycling Capital Investment Grants. The office may make grants to eligible municipalities, regional associations, sanitary districts and sewer districts for the construction of public recycling and composting facilities and the purchase of recycling and composting equipment. The office may establish requirements for local cost sharing of up to 25% of the total grant amount. ~~The office shall give preference to recycling programs that require the participation of the waste generators served.~~

Sec. 34. 38 MRSA §2133, subsection 4, ¶B is repealed.

Sec. 35. 38 MRSA §2133, subsection 5 is repealed.

Sec. 36. 38 MRSA §2133, sub-§6 is enacted to read:

3. 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.

Sec. 37. 38 MRSA §2134 is amended to read:

§2134. Market development and assistance

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

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

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

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

4. **Brokering service.** Make provision for Direct 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;

~~5.--Marketing-development-plan.--Based-on-the-state-plan,-a market-development-and-marketing-plan-by-January-17-1990,-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 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. 38. 38 MRSA §2135 is repealed.

Sec. 39. 38 MRSA §2135-A, as enacted by PL 1991, c. 517, Pt. A is repealed.

Sec. 40. 38 MRSA §2136 is repealed.

Sec. 41. 38 MRSA §2137 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, cardboard, used motor oil, yard waste and other materials produced by the State for which recycling markets exist or may be developed.~~

~~1.--Waste reduction and recycling plan.--Each state agency shall prepare a waste reduction and recycling plan addressing the requirements of subsections 3 and 4.--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 section and with the state waste management and recycling plan.--The plan shall be updated on a biennial basis to increase the amount of material recycled by taking advantage of any changed circumstances.--Each department shall complete an analysis of additional materials to determine recycling potential, and shall incorporate these materials into plan updates.--Updated plans shall be submitted to the office for approval prior to adoption.~~

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

3. Recycling. By January 1, 1991, ~~e~~Each state agency outside the Capitol complex shall establish and implement a source separation and collection program for recyclable materials produced as a result of agency operations, including, at a minimum, high grade paper and corrugated paper. The source separation and collection program shall include, at a minimum, procedures for collecting and storing recyclable materials, bins or containers for storing materials, and

contractual and other arrangements with buyers. Each agency shall appoint a recycling coordinator for every 50 employees at a minimum and shall conduct educational programs for its employees on the recycling program.

4. **Waste reduction.** ~~By-January-17-1991,~~ Each state agency shall establish and implement a waste reduction program for materials used in the course of agency operations. The program shall be designed and implemented to achieve the 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-17-1990,-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-17-1991,~~ 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 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-17-1991,~~ 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 be designed and implemented to achieve the maximum feasible reduction of waste.

D. ~~By-January-17-1991,~~ 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 their recycling efforts and shall evaluate existing programs and develop necessary new programs for recycling to reduce the generation of solid waste by the campus.

Sec. 42. 38 MRSA §2138 is amended to read:

§2138. Office paper recycling program

1. Office paper recycling mandated. Any person employing 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:

A---By-July-17-1991,--when-employing-200-or-more-persons-at-a-site;

B---By-July-17-1992,--when-employing-50-or-more-persons-at-a-site;-and

C---By-July-17-1993,--when-employing-15-or-more-persons-at-a-site.

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

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

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

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

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

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

Sec. 43. 38 MRSA §2139 is amended to read:

§2139. Public education

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

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

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

Sec. 45. 38 MRSA subchapter 4, first two lines are repealed and the following enacted in their place:

Subchapter IV
FACILITY SITING AND DEVELOPMENT

Sec. 46. 38 MRSA §2151 is repealed.

Sec. XX. 38 MRSA §2151-A is enacted to read:

§2151-A. Indemnification

The office shall defend and indemnify any employee of the office, including the director, and any member of the Facility 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.

Sec. 47. 38 MRSA §2152, sub-§1 is amended to read:

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

Sec. 48. 38 MRSA §2153 is amended to read:

§2153. Siting criteria

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

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

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

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

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

D. A site and its considered use must be consistent with, and actively support, other waste management objectives, including waste reduction and recycling.

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

F. A site must meet preliminary environmental standards

developed jointly by the department and the Maine Land Use Regulation Commission, including ground water standards, geological standards and standards to protect public drinking water supplies.

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

Sec. 49. 38 MRSA §2156, sub-§3 is amended to read:

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

Sec. 50. 38 MRSA §2157, as amended by PL 1993, c. 732, Pt. B, §3, is repealed

Sec. 51. 38 MRSA §2164 is repealed.

Sec. XX. 38 MRSA §2175-B is enacted to read:

§2175-B. Payment in lieu of taxes

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

Sec. XX. 38 MRSA §2176, 1st ¶ is amended to read:

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

Sec. 52. 38 MRSA §2201 is amended to read:

§ 2201. Maine Solid Waste Management Fund established

The Maine Solid Waste Management Fund, referred to in this section as the "fund," is established as a nonlapsing fund to support programs administered by the Maine-Waste-Management Agency-State Planning Office and the Department of Environmental Protection. The fund must be segregated into 2 subsidiary accounts. The first subsidiary account, called operations, receives all fees established and received under article 1. The 2nd subsidiary account, called administration, receives all fees established under this article and under Title 36, chapter 719, all funds recovered by the department as reimbursement for departmental expenses incurred to abate imminent threats to public health, safety and welfare posed by the illegal disposal of solid waste and all unclaimed deposits returned to the State under Title 32, chapter 28.

Money in the fund not currently needed to meet the obligations of the agency must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by law. Interest on these investments must be credited to the fund.

Funds related to administration may only be expended in accordance with allocations approved by the Legislature for administrative expenses directly related to the agency's and the department's programs, including actions by the department necessary to abate imminent threats to public health, safety and welfare posed by the illegal disposal of solid waste. Funds related to operations may only be expended in accordance with allocations approved by the Legislature and solely for the development and operation of publicly owned facilities owned or approved by the agency and for the repayment of any obligations of the agency incurred under article 3. These allocations must be based on estimates of the actual costs necessary for the agency and the department to administer their programs, to provide financial assistance to regional associations and to provide other financial assistance necessary to accomplish the purposes of this chapter. Beginning in the fiscal year ending on June 30, 1991 and thereafter, the fund must annually transfer to the General Fund an amount necessary to reimburse the costs of the Bureau of Taxation incurred in the administration of Title 36, section 5219-D and Title 36, chapter 719 and an amount equal to the General Fund revenues lost as the result of Title 36, sections 2526 and 5219-D. Beginning in the fiscal year ending June 30, 1994 and thereafter, the fund must support allocations approved by the Legislature for administrative expenses and reimbursement costs directly related to the administration of Title 32, section 1866, subsection 7 and Title 32, section 1866-A by the

Treasurer of State. Allowable expenditures include "Personal Services," "All Other" and "Capital Expenditures" associated with all agency activities other than those included in the operations account.

Sec. 53. 38 MRSA §2202, sub-§ 1 is amended to read:

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

Sec. XX. 38 MRSA §2203, sub-§3 is amended to read:

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

Sec. 54. 38 MRSA §2204, subsection 2 is repealed.

Sec. XX. 38 MRSA §2204, sub-§3 is amended to read:

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

Sec. 55. 38 MRSA §2205 is amended to read:

§2205. Fee payments

Each operator of a solid waste disposal facility shall make the fee payment quarterly. The fee shall 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 be accompanied by a form prepared and furnished by the agency department and completed by the operator. The form shall 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 necessary by the agency department to carry out the purposes of this chapter. The form shall be signed by the operator.

2. **Timeliness of payment.** The operator shall be 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 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.

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 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 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 department will 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 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 be executed by a surety licensed to do business in the State and be satisfactory to the agency. Failure to forward the money or appeal bond to the agency department within 30 days shall result 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 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 payable to the agency department and shall be collectible.

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

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

Sec. 55. 38 MRSA §2206 is amended to read:

§2206. Hearings and appeals

The agency department shall establish rules governing procedures for hearings and appeals under this article consistent with Title 5, chapter 375.
Office of Policy and Legal Analysis Draft.....page 21

PART B

Sec. 1. 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;

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

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

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

Sec. XX. 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. Authority includes, but is not limited to:

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

2. Contracts. Authority to assume any and all rights and obligations under existing agreements related to such a 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 the Maine Administrative Procedures Act, Title 5, chapter 375, subchapter II.

Sec. XX. Allocations. The following funds are allocated from the Maine Solid Waste Management Fund to carry out the purposes of this Act:

EXECUTIVE

Planning Office

Positions - Legislative Count	(6.0)	(6.0)
Personal Services	\$282,203	\$273,572
All Other	<u>156,339</u>	<u>161,135</u>

Provides for the transfer of one Development Program Manager and one Planner II from the Office of Waste Reduction and Recycling; one Planner II and one Clerk Typist III from the Office of Siting and Disposal Operations; and one Senior Planner and one Planner II from the Office of Planning to the State Planning Office. Also provides All Other Funds for technical assistance to municipalities.

TOTAL	\$438,542	\$434,707
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**WASTE MANAGEMENT AGENCY,
MAINE**

Administration - Office of the
Executive Director

Positions - Other Count	(-3.0)	(-3.0)
Personal Services	(169,349)	(167,156)
All Other	(97,044)	(100,306)
TOTAL	(266,393)	(267,462)

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

Office of Planning

Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(217,382)	(215,208)
All Other	(100,567)	(105,287)
TOTAL	<u>(317,949)</u>	<u>(320,495)</u>

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

Office of Siting and
Disposal Operations

Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(205,452)	(206,748)
All Other	(835,531)	(501,672)
Capital Expenditures	(7,000)	(7,000)
TOTAL	<u>(1,047,983)</u>	<u>(715,420)</u>

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

Office of Waste Reduction
and Recycling

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

Provides for the deallocation
of funds from the elimination
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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Sec. 46. Transition provisions. The following provisions apply to the reassignment of the duties and responsibilities of the former Maine Waste Management Agency.

1. Except as otherwise provided in this section, the *Director of the State Planning Office* shall assume all remaining duties and responsibilities of the former Maine Waste Management Agency, its offices and its executive director, including 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.

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

3. *Six authorized positions and incumbent personnel in the Maine Waste Management Agency are transferred to the State Planning Office, as provided in section XX of this Act. Those employees retain their accrued fringe benefits, including vacation and sick leave, health and life insurance and retirement benefits.*

4. The Department of Administrative and Financial Services shall serve as the fiscal agent for the former Maine Waste Management Agency for the purpose of effecting the repeal of that agency. The duties of the Department of Administrative and Financial Services are limited to those required to close out the agency and include functions such as processing payment vouchers, preparing budget documents, preparing human resource documents, preparing the final personnel payrolls and other related administrative activities required. *Except for records transferred to the State Planning Office or the Department of Environmental Protection as necessary to enable those agencies to continue functions previously performed by the Maine Waste Management Agency, essential records related to the agency must be transferred to the Department of Administrative and Financial Services to be maintained and stored pursuant to standard procedure.*

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

6. All existing forms, licenses, letterheads and similar items bearing the name of or referring to the Maine Waste

Management Agency may be used by the *State Planning Office* and the Department of Environmental Protection until existing supplies of those items are exhausted.

7. All real estate held by the former Maine Waste Management Agency is transferred to the *State Planning Office*.

Effective date. Notwithstanding the emergency nature of this bill, the transfer of responsibilities and authorities described in this bill become effective on July 1, 1995.

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

FISCAL NOTE

STATEMENT OF FACT

This amendment abolishes the Maine Waste Management Agency effective July 1, 1995, and transfers its essential services and responsibilities to the State Planning Office including planning for solid waste management, recycling technical and financial assistance, and permitting and potential development of Carpenter Ridge.

This amendment continues the ban on new commercial disposal facilities.

The Department of Environmental Protection will assume responsibility for approving expansions at existing commercial disposal facilities and applications for new or expanded public disposal facilities.

The Department of Environmental Protection will assume responsibility for collecting special waste fees.

DRAFT

April 24, 1995

To: Senator W. John Hathaway, Senate Chair
Representative Susan E. Dore, House Chair
Members, Joint Standing Committee on Taxation

From: Members, Joint Standing Committee on Natural Resources

Re: Committee Recommendation Regarding LD 203

Dear Senator Hathaway, Rep. Dore and Taxation Committee members,

As you may know, the Joint Standing Committee on Natural Resources has reviewed and tentatively approved Governor King's proposal to eliminate the Maine Waste Management Agency. That proposal and the Governor's plans for the 1996-97 budget call for a gradual phase-out, rather than immediate elimination, of the recycling assistance fees on furniture, appliances, tires, batteries, bathtubs and mattresses.

You have before your committee a bill, LD 203, that would repeal the recycling assistance fees. We are writing to inform you of our actions on the Governor's Maine Waste Management Agency proposal and to urge you not to approve LD 203 in its current form, but to adopt the governor's proposal to phase out the fees.

Governor King's proposal would eliminate 10 of the Maine Waste Management Agency's 16 positions and would transfer the remaining 6 positions to the State Planning Office. Those 6 staffers would provide technical assistance to municipalities in establishing recycling programs, collect data to evaluate state waste disposal capacity and needs, and formulate and revise a plan for solid waste management on the state, regional and local levels.

As members of the committee that sets solid waste management policy for the State, we have determined that these functions are critical ones for the State.

Governor King has proposed that these functions be funded, at least in part, by a continuation of the recycling assistance fees now collected on furniture, appliances, tires, batteries, bathtubs and mattresses. (Funding would also come from the fee on disposal of special waste and from the state's share of the unredeemed bottle deposits.) Not all of us are enthusiastic about the recycling assistance fees. We hope at some point that they'll be eliminated or dedicated more closely to managing recycling of the products on which they are collected, but for now we view their continuation as necessary.

We are working on a draft amendment that incorporates all the proposals we have agreed upon to date, and we plan to review that proposal carefully early in the week of April 24th. Since your action on LD 203 affects our proposal, would you please let us know whether you have agreed to support Governor King's proposal to phase out the recycling assistance fees as soon as you have made a decision? Thank you for your cooperation.

Sincerely,

Sen. Willis A. Lord
Senate Chair

Rep. Richard A. Gould
House Chair