

MAINE STATE LEGISLATURE

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FACSIMILE TRANSMISSION

DATE: 4.27.95TO: Natural Resources Committee Members
FAX #: 287-1900 and 287 1308FROM: Richard Verville
FAX #: — home phone - 622 2255Number of pages (exclusive of this cover page) - 0 -

MESSAGE:

I have had the good fortune to work with the Maine Waste Management Agency in the past. I regret seeing the Agency being dismantled since it has been so successful at working towards its Goals to reduce - reuse - recycle what is called "waste". To abruptly stop all its functions makes no sense to me since there remains more to do to help Maine people reduce the waste stream. I would like to state I support the Governor's plan for easing the transition and hope you can support him too. There remains a real need to continue the "Agency's" work.

DISCUSSION OF PROPOSED AMENDMENTS TO LD 706 FOR WASTE MANAGEMENT ACTIVITIES

John Williams
Executive Director
Maine Waste Management Agency
April 11, 1995

*original
Proposed
LD 706
which
was
passed
for
current
proposed*
LD 706

*Given to Approps.
April 11, 1995*

LD 706 (The Governor's Proposed Budget) transferred into the General Fund all revenues which currently comprise the Solid Waste Management Fund. These include:

	FY 96	FY 97
Fee on Special Waste	\$ 700,000	\$ 800,000
Recycling Assistance Fees	\$ 2,700,000	\$ 2,700,000
Unclaimed Bottle Deposits	\$ 750,000	\$ 750,000
Interest	\$ 15,000	\$ 15,000
Total	\$ 4,165,000	\$ 4,265,000

LD 706 also transferred to the General Fund expenditures which are currently paid from the Solid Waste Management Fund. These expenditures include:

	FY 96	FY 97
MWMA transfer to SPO	(\$ 103,542)	(\$ 99,707)
MWMA transfer to DECD	(\$ 335,000)	(\$ 335,000)
Treasury-bottle redemptions	(\$ 68,468)	(\$ 70,313)
Reimburse Invest. Tax Credits	(\$ 400,000)	(\$ 600,000)
DEP-17 Solid Waste Positions	(\$ 959,850)	(\$ 959,850)
Total	(\$ 1,866,860)	(\$ 2,064,870)

The difference between new revenues to the General Fund and new expenditures from the General Fund was:

	FY 96	FY 97
Net	\$ 2,298,140	\$ 2,200,130

This net revenue to the General Fund was entirely due to savings from the elimination of the MWMA.

Amended Solid Waste Budget-Impact on General Fund

We propose amending LD 706, in part, by keeping the Solid Waste Management Fund dedicated. This is in response to Legislative suggestions that fees for waste management activities should be used only for related programs.

Keeping the SWMF dedicated eliminates the projected net revenue to the General Fund described above. This will be partially offset by transferring nine DEP solid waste positions from the General Fund to the SWMF. Net revenues lost to the General Fund are then as follows:

	FY 96	FY 97
Revenue Returned to SWMF	(\$ 2,298,140)	(\$ 2,200,130)
Transfer 9 DEP Pos.to SWMF	\$ 512,142	\$ 512,455
Net	(\$ 1,785,998)	(\$ 1,687,675)

Amended Solid Waste Budget-Changes in Revenues/Expenditures

1. Recycling Assistance Fees: Our amendment responds to Legislative requests to reduce or eliminate recycling assistance fees. We propose eliminating fees on appliances and bathtubs on January 1, 1996. We will eliminate remaining fees on furniture and mattresses on January 1, 1997. Recycling assistance fees on tires and batteries will be unchanged.

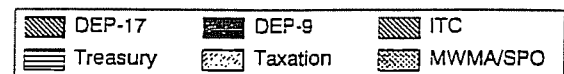
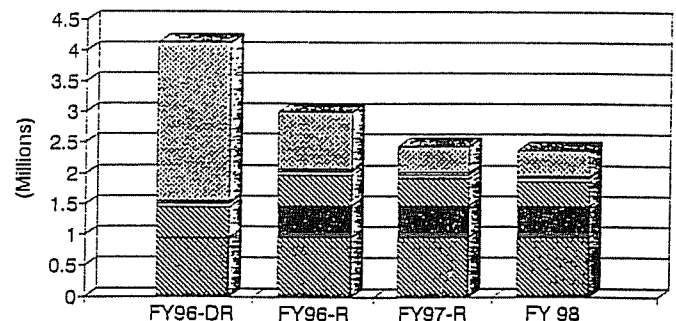
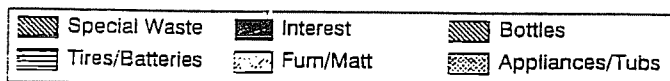
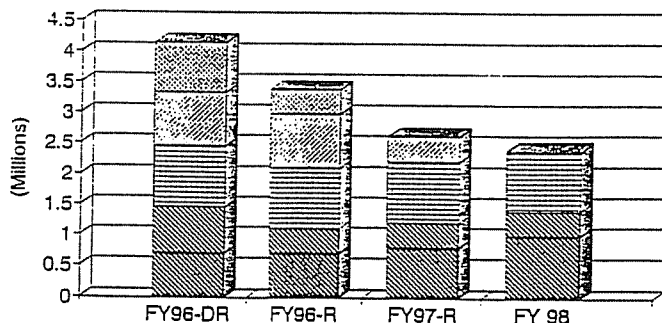
2. Unclaimed bottle deposits: The initial projections for unclaimed bottle deposits in LD 706 are high, based on recent trends in actual revenues. LD 706 projected revenues of \$750,000 per year--but the most recent estimate for calendar year 1994 net revenues is \$416,494. Accordingly, we are revising downward to \$400,000 per year our estimates for unclaimed bottle deposits.

3. Transfer of MWMA Activities: LD 706 provides for \$335,000 per year for DECD to continue recycling assistance grants to towns. Instead, we propose a \$335,000 per year increase in funding to the State Planning Office for the transfer of four MWMA positions to provide technical assistance on recycling, and to provide recycling demonstration grants beneficial to all Maine communities. We have also identified a need for \$500,000 in FY 96 to meet our obligation to Lincoln Pulp and Paper for the Carpenter Ridge Landfill.

4. Tire Pile Cleanup: Under this plan a small surplus would accrue in the Solid Waste Management Fund. We are reserving this for a program to clean up tire piles in the state. Alternately, recycling assistance fees for furniture could be eliminated earlier, or unclaimed bottle deposit money could go to the general fund.

The new revenue and expenditure projections for this fund are shown graphically below, and detailed in the attached table.

SOLID WASTE MANAGEMENT FUND REVENUES SOLID WASTE MANAGEMENT FUND EXPENDITURES



DR = Department Request DEP-17 = Solid Waste Positions now in SWMF
R = Budget, As Revised DEP-9 = Solid Waste Positions now in G.F.

REVISED 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
Balance + 100k from Recycling Fee - 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
Furniture, Mattresses

1/1/96

1/1/97

April 11, 1995

Chapter 103
Abandoned Beverage Container Deposits

BASIS STATEMENT

I. INTRODUCTION

A. General Statement of Basis

Under 32 M.R.S.A. § 1871, as amended by Public Law 1991, Chapter 591, part R, the Treasurer of State is required, in accordance with the Maine Administrative Procedures Act, and with the assistance of the Commissioner of the Department of Agriculture, Food and Rural Resources, and the Maine Waste Management Agency, to adopt rules to implement the provisions of Title 32, section 1866, subsection 7 and section 1866-A. P.L. 1991, Chapter 591 was approved by the Legislature on July 17, 1991, to be effective July 1, 1991. Although Maine law has required beverage container deposits of one type or another since January 1, 1978, Chapter 591 was specifically passed in order that the State could recapture through escheat a portion of the abandoned deposits rather than continuing to allow the abandoned deposits to be held by deposit initiators. This rule has been adopted to effectuate the legislative intent and to clarify the mechanics by which the abandoned deposits shall be reported and paid over to the State.

B. Procedural History

On August 26, 1991, the Treasurer of State issued notice of a rulemaking hearing, proposing to adopt a rule governing abandoned beverage container deposits, as Chapter 103 of Treasury's rules. In accordance with the Administrative Procedures Act, written notice of this rulemaking proceeding was transmitted to the Secretary of State for publication in accordance with 5 M.R.S.A. § 8053 and to the Legislature in accordance with 5 M.R.S.A. § 8053-A. In addition, the notice of rulemaking hearing was mailed to individuals and firms identified by the Department of Agriculture, Food and Rural Resources, as well as additional individuals and firms identified by the Maine Beer and Wine Wholesalers Association and the Maine Grocers Association. In the Treasurer's notice and the published advertisement, a public hearing was scheduled for September 23, 1991, beginning at 9:00 a.m. and a deadline of October 4, 1991, was established for written comments.

At the hearing on September 23, testimony was received from two different deposit initiators. Further written comments were timely received. The testimony and comments have prompted several changes to the proposed rule, and grammatical corrections and headings in section 4 have also been inserted. Based on a review of the proposed rule and in light of all the comments submitted and other information available, the Treasurer has found that the rule establishes fair and reasonable procedures to govern abandoned beverage container deposits. The Treasurer therefore has concluded that the rule should be adopted in the revised form attached hereto.

II. RESPONSE TO COMMENTS

1. Comment: The last sentence of section 3(A) of the proposed rule which states "the deposit initiator must at all times maintain a level of cash or cash equivalents at least equal to this liability," should be deleted.

Response: We believe this is a very important point and we agree that the following language from section 3(A) should be removed "In addition, the deposit initiator must at all times maintain a level of cash or cash equivalents at least equal to this liability". Since 32 M.R.S.A. § 1863 states that "[t]he minimum deposit established by this section is the property of the consumer who purchases a beverage container and is held in trust by the deposit initiator for the consumer or for the State if the deposit is abandoned by the consumer", and since section 3(B) gives the Treasurer the ability to require segregation of the account, we believe that section 3(B) will afford adequate protection of the State's interest should the initiator have financial difficulties.

2. Comment: The initiator's portion of the unclaimed amount (50%) described in section 5(A) of the proposed rule should be credited to the initiator on a monthly basis rather than wait until 60 days after the close of the quarter.

Response: We do not agree. Title 32, Section 1866-A states that deposits "are presumed abandoned and are unclaimed deposits when retained by a manufacturer or distributor [deposit initiator] 60 days after being collected during any 3-month period ending the last day of March, June, September or December" Thus the law prohibits a deposit initiator from transferring 50% of the unclaimed deposit on a monthly basis, since the amount being transferred would not be considered abandoned at the time.

3. Comment: A concern was expressed regarding the definition of a "sales invoice". A company has been billing (transfer

of merchandise) by electronic equipment (modem) to a large super market chain. The super market converts the electronic messages from the modem transfer to hard copy, but the initiator stores his records electronically in his equipment and does not prepare a hard copy. The initiator can produce hard copies but at a considerable expense.

Response: Although under the proposed rule (sections 4(B), 4(C) and 6(C)) the Treasurer can require an initiator to provide back up with hard copies, the definition of "sales invoice" in the proposed rule gives the Treasurer discretion in dealing with the type of problem raised. In particular, the proposed rule defines "sales invoice" as "a written record, or other itemized statement of . . ." (emphasis added). We believe the phrase "other itemized statement" is sufficient to encompass electronic records. In addition, section 7 of the proposed rule allowing waiver of requirements in the rule in certain limited situations will give the Treasurer some flexibility in working out problems with electronic reporting.

4. Comment: A concern was expressed that the proposed rule did not adequately set out the procedures for enforcement and oversight particularly with respect to audits, reporting, and payment.

Response: In reference to this comment, we agree that ongoing audits will be necessary to administer and enforce the escheat of unclaimed returnable container deposits. Indeed the Legislature appropriated funds for an auditor position. In order to make our auditing responsibility clear, we have added a new section 3(C) "Examination of Records" to the rule.

Furthermore, we believe that in the absence of records sufficient to prepare a quarterly report, the auditor will have the responsibility to determine the amount of unclaimed deposits held by the deposit initiator. Accordingly we have added a new section 5(D) "Insufficient Records" clarifying that the audit responsibility will encompass a duty to make a reasonable estimate from available records.

5. Comment: In section 6 of the proposed rule, the rationale for limiting reimbursement to 50% of over-redemption is unclear.

Response: Over-redemption is caused when one deposit initiator is selling containers with a minimum deposit, but the returns go to another deposit initiator handling the same product. The second deposit initiator then may return

more deposits to consumers than he has taken in. Returnable container reports filed with the Department of Agriculture, Food and Rural Resources in 1991 showed no over-redemptions. Based on those reports over-redemption does not appear to be a common occurrence in the beverage industry. Furthermore, historically there was no statutory remedy at all for deposit initiators who may have over-redeemed. The Treasurer does not believe it was the intent of the Legislature to insure that some deposit initiators be made whole at the expense of the State while others continue to reap a windfall. Rather the Legislature has allowed for reimbursement to help minimize the impact, if any, of over-redemption on some deposit initiators. Thus, the rule states that the Treasurer will reimburse 50% of the difference between the reimbursed minimum deposits and total minimum deposits for beverage containers sold. The period to be claimed is for the prior calendar year. The rationale for limiting the reimbursement to 50% of the minimum deposit is based upon the fact that the State itself has only received 50% of the unclaimed deposits. To obligate the State to reimburse a full 100%, when it has only received 50% itself, could result in an overall revenue loss -- clearly not something intended by the Legislature.

TREASURY DEPARTMENT - 28-248

CHAPTER 103
Abandoned Beverage Container Deposits

BASIS STATEMENT

I. INTRODUCTION

A. General Statement of Basis

Under 32 M.R.S.A. section 1871, as amended by Public Law 1991, Chapter 591, part R, the Treasurer of State is required, in accordance with the Maine Administrative Procedures Act, and with the assistance of the Commissioner of the Department of Agriculture, Food and Rural Resources, and the Maine Waste Management Agency, to adopt rules to implement the provisions of Title 32, section 1866, subsection 7 and section 1866-A. Accordingly Chapter 103 was adopted effective January 18, 1992. The rules did not address how negative quarterly Deposit Transaction Account balances were to be handled. This amendment to Chapter 103 has been adopted to establish a procedure addressing such balances.

B. Procedural History

On March 10, 1992, the Treasurer of State issued notice of a rulemaking hearing, proposing to amend Chapter 103 of Treasury's rules. In accordance with the Administrative Procedures Act, written notice of this rulemaking proceeding was transmitted to the Secretary of State for publication in accordance with 5 M.R.S.A. section 8053 and to the Legislature in accordance with 5 M.R.S.A. section 8053-A. In addition, the notice of rulemaking hearing was mailed to individuals and firms identified by the Department of Agriculture, Food and Rural Resources, as well as other interested parties. In the Treasurer's notice and the published advertisement, a public hearing was scheduled for April 6, 1992, beginning at 10:00 a.m. and a deadline of April 16, 1992, was established for written comments.

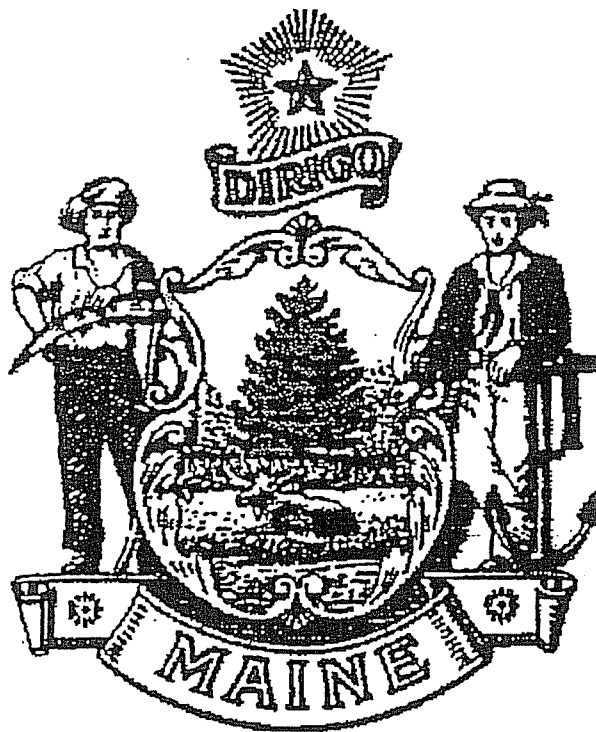
At the hearing on April 6, testimony was received from a representative of the Maine Soft Drink Association. No written comments were received. Based on a review of the proposed amendment and in light of the one favorable comment submitted, the Treasurer has found that the amendment establishes a fair and reasonable procedure to govern negative quarterly balances. The Treasurer therefore has concluded that the amendment should be adopted as proposed in the form attached hereto.

II. RESPONSE TO COMMENTS

1. Comment: The proposed change should be made since bottle returns tend to be of an uneven cyclical nature.

Response: We agree.

STATE OF MAINE
DEPARTMENT OF TREASURY



REGULATIONS
FOR
ABANDONED BEVERAGE CONTAINER DEPOSITS

Effective Date: January 18, 1992

Chapter 103 Abandoned Beverage Container Deposits

SUMMARY: Pursuant to 32 M.R.S.A. § 1871, as amended by P.L. 1991, Ch. 591, Part R, this chapter describes the requirements for the establishment and maintenance of the Deposit Transaction Account and for the collection of abandoned deposits from such accounts.

1. APPLICATION AND OUTLINE

A. APPLICATION.

This rule governs all deposit initiators subject to the provisions of 32 M.R.S.A. § 1863.

B. OUTLINE.

This rule is organized as follows:

1. Application and Outline.
2. Definitions.
3. Deposit Transaction Account.
4. Reporting.
5. Unclaimed Deposits.
6. Over-redemption.
7. WAIVER.

2. DEFINITIONS

For the purposes of this chapter, unless the context otherwise indicates, the following words and phrases have the following meanings:

- A. Account balance. "Account balance" means the dollar amount that represents the balance of a Deposit Transaction Account at the close of any day of any month.
- B. Beverage "Beverage" means beer, ale or other drink produced by fermenting malt, spirits, wine, wine coolers, soda or noncarbonated water, and all nonalcoholic carbonated or noncarbonated drinks in liquid form and intended for internal human consumption, except for unflavored soymilk, milk and dairy-derived products. The term "beverage" excludes those items specifically indicated in Chapter 360.1(B)(1) of the regulations of the Department.

- C. Beverage container. "Beverage container" means a bottle, can, jar or other container made of glass, metal or plastic which has been sealed by a manufacturer and which, at the time of sale, contains one gallon or less of a beverage.
- D. Commissioner. "Commissioner" means the Commissioner of Agriculture, Food and Rural Resources.
- E. Consumer. "Consumer" means an individual who purchases a beverage in a beverage container for use or consumption with no intent to resell such a beverage.
- F. Dealer. "Dealer" means a person who sells, offers to sell or engages in the sale of beverages in beverage containers to a consumer, including, but not limited to, an operator of a vending machine containing beverages in beverage containers.
- G. Department. "Department" means the Department of Agriculture, Food and Rural Resources.
- H. Deposit. "Deposit" means an amount equal to the refund value paid by a consumer, dealer, or distributor in connection with the purchase of a beverage container.
- I. Deposit initiator. "Deposit initiator" means any person who initiates a deposit or refund value on a beverage container pursuant to 32 M.R.S.A. § 1863.
- J. Distributor. "Distributor" means a person who engages in the sale of beverages in beverage containers to a dealer in this State and includes a manufacturer or dealer who engages in such sales.
- K. In this State. "In this State" means within the exterior limits of the State of Maine and includes all territory within these limits owned by or ceded to the United States of America.
- L. Manufacturer. "Manufacturer" means a person who bottles, cans or otherwise places beverages in beverage containers for sale to distributors, dealers, or consumers, including any dealer who bottles or sells its own brand of beverage.

- M. Minimum deposit. "Minimum deposit" means the minimum refund value required to be charged pursuant to 32 M.R.S.A. § 1863 on each beverage container sold.
- N. Operator of a vending machine. "Operator of a vending machine" means an owner of a vending machine, the person who refills it, or the owner or lessee of the property upon which it is located.
- O. Person. "Person" means an individual, partnership, corporation or other legal entity.
- P. Premises. "Premises" means the property of the dealer or his lessor on which the sale is made.
- Q. Quarter. "Quarter" means any one of the three-month periods ending the last day of March, June, September or December.
- R. Refund value. "Refund value" means the amount determined in accordance with 32 M.R.S.A. § 1863 that is charged by the deposit initiator for each beverage container sold.
- S. Sales invoice. "Sales invoice" means a written record, or other itemized statement of merchandise shipped or sold by a manufacturer or distributor evidencing the quantity, value, prices, and charges relating to the merchandise shipped or sold.
- T. Sell; sale; sold. "Sell," "sale," or "sold" means any transfer of title or possession, or both, exchange, barter, lease, rental, conditional or otherwise, of beverage containers for a consideration, in any manner or by any means whatsoever.
- U. Treasurer. "Treasurer" means Treasurer of the State.
- V. Unclaimed deposits. "Unclaimed deposits" means the amount deemed to constitute abandoned deposits pursuant to 32 M.R.S.A. § 1866-A, calculated in accordance with section 5 of this rule.

3. DEPOSIT TRANSACTION ACCOUNT

A. General rule.

All deposits collected by deposit initiators and placed in the Deposit Transaction Account pursuant to 32 M.R.S.A. § 1863 and 1866(7) shall constitute a special fund in trust for consumers and for the Treasurer of State. The Deposit Transaction Account must be separately accounted for under Generally Accepted Accounting Principles (GAAP) as a current liability and must be reflected as a separate account on both the books of the deposit initiator and in any prepared financial statements of the deposit initiator.

B. Notice to segregate.

Whenever the Treasurer finds that the payment of unclaimed deposits under 32 M.R.S.A. § 1866-A will be jeopardized by delay, neglect or misappropriation or whenever any person fails to make payments of unclaimed deposits or file reports as required by 32 M.R.S.A. § 1866-A and as required by this rule, the Treasurer may direct that person to segregate the Deposit Transaction Account from and not to commingle it with any other funds or assets of that person. On receipt of such notice the deposit initiator shall establish a separate banking account for the Deposit Transaction Account in a bank, savings and loan institution, or credit union located and authorized to do business in Maine. The account must be titled "Deposit Transaction Account for the Benefit of Consumers and the State of Maine," with the deposit initiator maintaining the account as trustee. The segregation requirement shall remain in effect until a notice of cancellation is given by the Treasurer.

C. Examination of Records.

The Treasurer may examine the records of any person subject to 32 M.R.S.A. § 1866 and § 1866-A to determine whether the person has complied with the returnable beverage container laws.

4. REPORTING

A. Report required.

All deposit initiators must file original reports to the Department pursuant to 32 M.R.S.A. § 1866-A(1) and copies thereof with the Treasurer on or before the 20th day of March, June, September and December. Each such copy filed with the Treasurer must be signed by the chief executive officer, the chief financial officer, or a person of comparable authority, and verified before a Notary Public, and the name and phone number of a contact person must also be provided.

B. Maintenance of records.

Sales invoices documenting such reports must be maintained until examined by the Treasurer, or for a period of three years, whichever is shorter.

C. Access to records.

Sales invoices must be made available to the Treasurer on request with reasonable notice.

5. UNCLAIMED DEPOSITS

A. General rule.

As of the last day of each quarter, every deposit initiator must determine the account balance in its Deposit Transaction Account. In computing a quarterly account balance of the Deposit Transaction Account, the deposit initiator shall: (1) add the total amount of deposits and refund values for all beverage containers sold during the quarter in question; (2) subtract from that sum the total amount paid from the Deposit Transaction Account for returns of beverage containers during that quarter. Sixty (60) days after the last day of the quarter, the quarterly account balance constitutes unclaimed deposits. On or before the 20th day of March, June, September, and December, all unclaimed deposits shall be removed from the Deposit Transaction Account and distributed as follows:

1. Fifty percent (50%) of that portion of unclaimed deposits that represent minimum deposits shall be paid to the Treasurer; and
2. The portion representing the remaining minimum deposits, and any other unclaimed deposits shall be transferred out of the Deposit Transaction Account and Credited to the deposit initiator.

In addition any interest or income earned on the Deposit Transaction Account, for that same quarter, as reported by the deposit initiator pursuant to 32 M.R.S.A. § 1866-A(1), shall be transferred out of the Deposit Transaction Account and credited to the deposit initiator.

B. Methods for determining account balance and unclaimed deposits.

1. Accrual basis. A deposit initiator must use an accrual basis method for determining unclaimed deposits, unless the deposit initiator has applied to the Treasurer for an exception and has received express written permission to use a cash basis method of calculating its unclaimed deposits.
2. Exception. On or before December 31, 1991, or December 1 of any following calendar year, a deposit initiator may apply to the Treasurer for an exception to the use of the accrual basis method beginning in the following calendar year. The application must be supported by facts establishing that use of the accrual basis method has not been historically used by the deposit initiator or will result in economic hardship to the deposit initiator. If the exception request is granted, the quarterly account balance in section 5(A) above shall be computed on the basis of deposits and refund values received, rather than deposits and refund values for beverage containers sold. A deposit initiator using the cash basis method may not change from that method without the express written permission of the Treasurer.
3. Transition. Deposit initiators may use a cash basis method to determine unclaimed deposits without approval of the Treasurer for the period July 1, 1991, through December 31, 1991, if the deposit initiator can demonstrate that its beverage sales operations have historically used a cash basis accounting method.

C. Unclaimed deposits upon transfer or termination of business.

1. General rule. Any deposit initiator who sells, transfers or otherwise terminates its business operations shall determine the account balance in its Deposit Transaction Account in accordance with section 5(A) of this rule as of the date of sale or transfer or termination of the business. Thereafter the deposit initiator shall pay to the Treasurer within twenty (20) days fifty percent (50%) of the minimum deposits included in that account balance.
2. Deposit and refund value receivables. Any deposit initiator using a cash basis to determine unclaimed deposits shall in addition to the above payment, pay to the Treasurer fifty percent (50%) of the minimum deposits included in its deposit and refund value receivables.
3. Alternative on sales of business. As an alternative to the payment of unclaimed deposits described above, the Treasurer may allow a deposit initiator who sells or transfers its business operations to another deposit initiator to transfer its Deposit Transaction Account intact to the purchaser. This alternative is allowed only where the purchaser assumes all responsibilities and obligations under Title 32, Chapter 28 and under this rule of the deposit initiator selling or transferring its business operations.

D. Insufficient Records.

If a deposit initiator fails to maintain the records required, or the records of the deposit initiator which are available are insufficient to permit the preparation of a report, the Treasurer shall require the deposit initiator to pay such amounts as may be reasonably estimated by the Treasurer from any available records.

6. OVER-REDEMPTION

A. General Rule.

Between March 1 and April 20, any deposit initiator who believes it has reimbursed a larger amount of minimum deposits than the total minimum deposits for beverage containers it sold during the course of the prior calendar year may make an application to the Treasurer for a reimbursement, without interest, equal to fifty percent (50%) of the difference between reimbursed minimum deposits and total minimum deposits for beverage containers sold.

B. Alternative for cash basis.

Between March 1 and April 20, any deposit initiator permitted to use a cash basis to determine unclaimed deposits pursuant to section 5(B)(2) or (3) above who believes it has reimbursed a larger amount of minimum deposits than the total minimum deposits for beverage containers it received during the course of the prior calendar year may make application to the Treasurer for reimbursement, without interest, equal to fifty percent (50%) of the difference between reimbursed minimum deposits and total minimum deposits received.

C. Supporting Documentation.

A reimbursement application shall be accompanied by copies of all reports filed during the prior calendar year and a summary of all supporting evidence, including, but not limited to sales invoices.

D. Decision and right to appeal.

Within 45 days of receipt of a complete application, the Treasurer shall issue a written decision. If the decision is favorable, the Treasurer shall accordingly reimburse the deposit initiator. If the application is denied in whole or in part, the applicant shall have the right to appeal the decision. Notice of the appeal, together with a statement of the reasons the Treasurer's decision should be reversed or modified shall be given to the Treasurer in writing within 20 days after the Treasurer mailed the notice of denial to the applicant. The appeal shall be heard before an independent hearing examiner and the applicant must be present to support the appeal. The appeal shall be based on the record before the Treasurer on the date of the denial.

7. WAIVER OF RULE.

The Treasurer may waive any requirement of this rule, except to the extent that the requirement is mandated by Title 32, Chapter 28, in cases where the deviation from the rule is insubstantial and is not contrary to the purposes of the statute.

AUTHORITY: 32 M.R.S.A. § 1871.

EFFECTIVE DATE: January 18, 1992.

Side-By-Side

LD 229

Amendment

(Elimination of the
Maine Waste
Management Agency)

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;
OPLA, page 1

Sec. 1

Eliminates Executive Director position

Sec. 2

Eliminates Office Directors' positions

Prepared by Deb Friedman
March 27, 1995

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:

Sec. 3

B. Independent agencies:

Eliminates MMA as an independent agency

(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-§2, as amended by PL 1991, c. 819, §11, is further amended to read:

2. Unclaimed deposits. Except for initiators of deposit under section 1863-A, subsection 1, each deposit initiator shall pay to the Treasurer of State on or before the 20th day of March, June, September and December an amount equal to 50% of the unclaimed minimum deposits held by the deposit initiator. The remaining unclaimed minimum deposits, any other unclaimed deposits and any income earned on deposits

OPLA, page 3

Sec. 4

Eliminates references to major policy influencing positions in MMA as unclassified positions

Same as section 4

Sec. 5

Sec. 6

Repeals per diem for Waste Management Advisory Council (see 38 MRSA §2104 for description of Council)

Sec. 7

Undedicates the state's share of the unclaimed bottle deposits (50%); requires that the state share be placed in the General Fund rather than the Maine Solid Waste Management Fund. The MSWM Fund is eliminated by bill section 52. (See 38 MRSA §2201)

become the property of the distributor on the day payment is made to the Treasurer of State. Deposit initiators under section 1863-A, subsection 1 shall retain all unclaimed deposits. Funds received by the Treasurer of State under this subsection become the property of the State and must be deposited in the Maine Solid-Waste-Management General Fund established in Title 38, section 2201.

Sec. 8. 32 MRS 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 General 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

Requires the General Fund to reimburse bottle deposit initiators for over-redeemed bottles; limits reimbursement to 50% of the over-redemption. Over-redemptions are currently funded at 100% by the Maine Solid Waste Management Fund.

36 § 4831. Definitions

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

2. Lead-acid battery. "Lead-acid battery" means a device designed and used for the storage of electrical energy through chemical reactions involving lead and acids.

Sec. 9 - See p. 6

Undedicates the revenue from the Recycling Assistance Fee on purchases of white goods, tires, batteries, mattresses and major

2-A. Major appliance. "Major appliance" means any of the following:

- A. Clothes dryers;
- B. Clothes washers;
- C. Dishwashers;
- D. Freezers;
- E. Microwave ovens;
- F. Ovens;
- G. Refrigerators;
- H. Stoves; and
- I. Window air conditioners.

2-B. Major furniture. "Major furniture" means any unit of furniture with a value of \$250 or more. For purposes of this section, any matched set of table and chairs, such as kitchen dinette sets, dining room sets, patio or outdoor furniture sets, are considered to be one unit.

3. Motorized vehicle. "Motorized vehicle" means any self-propelled vehicle, including motorcycles, construction and farm vehicles and other off-road vehicles, not operating exclusively on tracks.

4. Tire. "Tire" means the device made of rubber or any similar substance which is intended to be attached to a motorized vehicle or trailer and is designed to support the load of the motorized vehicle or trailer.

5. Trailer. "Trailer" means any vehicle without motive power that is designed to be drawn by a motorized vehicle.

36 § 4832. Fee imposed

1. Imposition. A fee is imposed on the retail sale in this State of new tires, new lead-acid batteries, new major appliances, new major

furniture. Fees must be deposited in the General Fund rather than the Maine Solid Waste Management Fund, as under current law.

furniture items, new bathtubs and new mattresses. The fee is in the amount of \$1 per tire or lead-acid battery and \$5 for major appliances, major furniture items, bathtubs and mattresses. Additionally, fees in the same amounts are imposed on the storage, use or other consumption in this State of tires, lead-acid batteries, major appliances, major furniture items, bathtubs and mattresses purchased new in this State by the user or purchased out of State by the user unless either of the fees imposed by this section has been paid.

2. Exemption. Transactions that, under the laws of this State, are not subject to taxation in accordance with Part 3 are exempt from the fee imposed by subsection 1. Sales of any items that occur as part of a sale of a trailer, a mobile home or any motorized vehicle are exempt from the fee imposed by subsection 1.

36 § 4833. Administration

The fee imposed by this chapter is administered as provided in chapter 7 and Part 3, with the fee imposed pursuant to this chapter to be considered as imposed under Part 3.

The State Tax Assessor shall by rule identify in specific detail those items subject to fee under this chapter. The purpose of the rule is to assist retail sellers, consumers and fee administrators in understanding the application of the fee to specific purchases.

The revenue derived from the fee imposed by this chapter must be deposited in the Maine Solid Waste Management Fund established under Title 38, chapter 24, which must reimburse the General Fund for the administrative costs of the fee as certified by the Bureau of Taxation.

Sec. 9. 36 MRSA §4833, last ¶, as amended by PL 1989, c. 927, §5, is further amended to read:

The revenue derived from the fee imposed by this chapter must be deposited in the Maine Solid Waste Management General Fund established under Title 38, chapter 24, which must reimburse the General Fund for the administrative costs of the fee as certified by the Bureau of Taxation.

36 § 2526. Solid waste reduction investment tax credit

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employing unit" has the same meaning as in Title 26, section 1043.

B. "Solid waste" has the same meaning as in Title 38, section 1303-C.

C. "Waste reduction, reuse or recycling equipment" means structures, machinery, equipment or devices, singly or in combination, designed and required to reduce solid waste generated by the employing unit or to separate, process, modify, convert, treat or repair solid waste generated within the State so that component materials or substances or recoverable resources may be used as raw material or for productive use and includes:

(1) Vehicles designed and dedicated exclusively for the collection of source-separated municipal solid waste generated within the State for the purpose of recycling;

(2) Add-ons or trailers designed to modify collection vehicles and dedicated to sorting, separating and transporting collected wastes generated within the State that are held for the purpose of recycling;

(3) Containers for the source separation and temporary storage of recyclable wastes generated within the State; or

Sec. 10

Terminates ~~solid waste~~ recycling
reduction investment tax
credit (see page 9)

(4) Industrial processing equipment designed to clean, purify and convert waste into a manufacturing feedstock.

"Waste reduction, reuse or recycling equipment" does not include structures, machinery, equipment or devices used to burn solid waste.

D. "Investment credit base of equipment" means the total original basis of the equipment for federal income tax purposes, adjusted to exclude all architectural and engineering fees, site survey fees, legal expenses, development fees and insurance premiums that are included in the basis of the equipment for federal income tax purposes, of the taxpayer for equipment that was placed into service for the first time in the State by the taxpayer or other person during the tax year for which the credit is claimed.

2. Credit allowed. A taxpayer constituting an employing unit that purchases and uses, or purchases and leases to a person for use by that person at a fixed facility that separates, processes, converts or treats solid waste intended for sale by that person, any waste reduction, reuse or recycling equipment used exclusively in the implementation of a solid waste reduction, reuse or recycling program, is entitled to a credit against the tax imposed by this Part. A taxpayer may claim one of the following credits for each qualifying piece of equipment.

A. The credit allowed for equipment used to manage the taxpayer's own waste is 25% of the investment credit base of the equipment.

B. The credit allowed for equipment used to manage the collection and processing of waste generated by parties other than the taxpayer is 20% of the investment credit base of the equipment.

- C. The credit allowed for equipment used to convert waste into a feedstock that can substitute for virgin materials in a manufacturing process is 30% of the investment credit base of the equipment.
- D. The credit allowed for equipment placed into service from January 1, 1990 to June 30, 1991 is 30% of the investment credit base of the equipment or from January 1, 1993 until the day prior to the effective date of this paragraph.
3. Eligible equipment. Equipment eligible for the credit allowed under this section includes waste reduction, reuse or recycling equipment used to reduce, reuse or recycle solid waste, at least 90% of which is generated within the State. A certificate that the equipment qualifies for the credit provided for in this section from the Maine Waste Management Agency is required before the tax credit may be taken. Equipment associated with the separation of wastes prior to incineration is eligible when the Maine Waste Management Agency certifies that the separated wastes are being recycled.
4. Limitation; carry-over. The amount of the credit that may be used by a taxpayer for a taxable year may not exceed 50% of the amount of tax otherwise due under this Part for that year. A credit may not be used to reduce taxes in any tax year starting before January 1, 1993. Any unused credit may be carried over to the following year or years for a period not to exceed 15 years.

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 January 1, 1993.

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.

Terminates recycling investment tax credit eligibility)
solid waste

Sec. 10

6. Recapture. If a taxpayer disposes of equipment for which a credit was claimed less than 4 years after the equipment was placed into service for the first time in the State by the taxpayer or other person:

A. The tax imposed under this Part for the taxable year in which the disposition occurs is increased by the following amounts:

(1) If the disposition occurs one year or less after the equipment was placed into service for the first time in the State by the taxpayer or other person, an amount equal to 100% of the amount allowed as a credit with respect to the equipment disposed of in the year of disposition and all prior years;

(2) If the disposition occurs more than one year but less than 2 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, an amount equal to 75% of the amount allowed as a credit with respect to the equipment disposed of in the year of disposition and all prior years;

(3) If the disposition occurs 2 years or more but less than 3 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, an amount equal to 50% of the amount allowed as a credit with respect to the equipment disposed of in the year of disposition and all prior years; or

(4) If the disposition occurs 3 years or more but less than 4 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, an amount equal to 25% of the amount allowed as a credit with respect to the equipment disposed of in the year of disposition and all prior years; and

B. A portion of any unused credit attributable to the disposed of equipment is disallowed as follows:

- (1) If the disposition occurs one year or less after the equipment was placed into service for the first time in the State by the taxpayer or other person, 100% of any unused credit attributable to the equipment disposed of is disallowed;
- (2) If the disposition of the equipment occurs more than one year but less than 2 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, 75% of any unused credit attributable to the equipment disposed of is disallowed;
- (3) If the disposition of the equipment occurs 2 years or more but less than 3 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, 50% of any unused credit attributable to the equipment disposed of is disallowed; or
- (4) If the disposition of the equipment occurs 3 years or more but less than 4 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, 25% of any unused credit attributable to the equipment disposed of is disallowed.

This subsection does not apply to equipment that was acquired before October 1, 1993.

36 § 5219-D. Solid waste reduction investment tax credit

1. Definitions. \$HN As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employing unit" has the same meaning as in Title 26, section 1043.

Sec. 11

Terminator eligibility for the
solid waste reduction
investment tax credit
(see page 14)

B. "Solid waste" has the same meaning as in Title 38, section 1303-C.

C. "Waste reduction, reuse or recycling equipment" means structures, machinery, equipment or devices, singly or in combination, designed and required to reduce solid waste generated by the employing unit or to separate, process, modify, convert, treat or repair solid waste generated within the State so that component materials or substances or recoverable resources may be used as raw material or for productive use and includes:

- (1) Vehicles designed and dedicated exclusively for the collection of source-separated municipal solid waste generated within the State for the purpose of recycling;
- (2) Add-ons or trailers designed to modify collection vehicles and dedicated to sorting, separating and transporting collected wastes generated within the State that are held for the purpose of recycling;
- (3) Containers for the source separation and temporary storage of recyclable wastes generated within the State; or
- (4) Industrial processing equipment designed to clean, purify and convert waste into a manufacturing feedstock.

"Waste reduction, reuse or recycling equipment" does not include structures, machinery, equipment or devices used to burn solid waste.

D. "Investment credit base of equipment" means the total original basis of the equipment for federal income tax purposes, adjusted to exclude all architectural and engineering fees, site survey fees, legal expenses, development fees and insurance premiums that are included in the

basis of the equipment for federal income tax purposes, of the taxpayer for equipment that was placed into service for the first time in the State by the taxpayer or other person during the tax year for which the credit is claimed.

2. Credit allowed. A taxpayer constituting an employing unit that purchases and uses, or purchases and leases to a person for use by that person at a fixed facility that separates, processes, converts or treats solid waste intended for sale by that person, any waste reduction, reuse or recycling equipment used exclusively in the implementation of a solid waste reduction, reuse or recycling program, is entitled to a credit against the tax imposed by this Part. A taxpayer may claim one of the following credits for each qualifying piece of equipment.

- A. The credit allowed for equipment used to manage the taxpayer's own waste is 25% of the investment credit base of the equipment.
- B. The credit allowed for equipment used to manage the collection and processing of waste generated by parties other than the taxpayer is 20% of the investment credit base of the equipment.
- C. The credit allowed for equipment used to convert waste into a feedstock that can substitute for virgin materials in a manufacturing process is 30% of the investment credit base of the equipment.
- D. The credit allowed for equipment placed into service during the period from January 1, 1990 to June 30, 1991 is 30% of the investment credit base of the equipment or from January 1, 1993 until the day prior to the effective date of this paragraph.

3. Eligible equipment. Equipment eligible for the credit allowed under this section includes waste reduction, reuse or recycling equipment used to reduce, reuse or recycle solid waste, at least 90% of which is generated within the State. A certificate that the equipment qualifies for the credit provided for in this section from the Maine Waste Management Agency is required before the tax credit may be taken. Equipment associated with the separation of wastes prior to incineration is eligible when the Maine Waste Management Agency certifies that the separated wastes are being recycled.

4. Limitation; carry-over. The amount of the credit that may be used by a taxpayer for a taxable year may not exceed 50% of the amount of tax otherwise due under this Part for that year. A credit may not be used to reduce taxes in any tax year starting before January 1, 1993. Any unused credit may be carried over to the following year or years for a period not to exceed 15 years.

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 January 1, 1993.

6. Recapture. If a taxpayer disposes of equipment for which a credit was claimed less than 4 years after the equipment was placed into service for the first time in the State by the taxpayer or other person:

A. The tax imposed under this Part for the taxable year in which the disposition occurs is increased by the following amounts:

(1) If the disposition occurs one year or less after the equipment was placed into service for the first time in the State by the taxpayer or other person, an amount equal to 100% of the

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.~~

Eliminates eligibility for the investment tax credit

501:25 501:26
Solid waste recycling credit

amount allowed as a credit with respect to the equipment disposed of in the year of disposition and all prior years;

(2) If the disposition occurs more than one year but less than 2 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, an amount equal to 75% of the amount allowed as a credit with respect to the equipment disposed of in the year of disposition and all prior years;

(3) If the disposition occurs 2 years or more but less than 3 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, an amount equal to 50% of the amount allowed as a credit with respect to the equipment disposed of in the year of disposition and all prior years; or

(4) If the disposition occurs 3 years or more but less than 4 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, an amount equal to 25% of the amount allowed as a credit with respect to the equipment disposed of in the year of disposition and all prior years; and

B. A portion of any unused credit attributable to the disposed of equipment is disallowed as follows:

(1) If the disposition occurs one year or less after the equipment was placed into service for the first time in the State by the taxpayer or other person, 100% of any unused credit attributable to the equipment disposed of is disallowed;

(2) If the disposition of the equipment occurs more than one year but less than 2 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, 75% of any unused credit attributable to the equipment disposed of is disallowed;

(3) If the disposition of the equipment occurs 2 years or more but less than 3 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, 50% of any unused credit attributable to the equipment disposed of is disallowed; or

(4) If the disposition of the equipment occurs 3 years or more but less than 4 years after the equipment was placed into service for the first time in the State by the taxpayer or other person, 25% of any unused credit attributable to the equipment disposed of is disallowed.

This subsection does not apply to equipment that was acquired before October 1, 1993.

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:

Sec. 12

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.

Removes the MMMA as a member of the DEP's Pollution Prevention Advisory Committee and replaces MMMA member with State Planning Office representative

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

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

~~A. Prior to the initial adoption of the state plan, the department shall find that a proposed facility provides a substantial public benefit when the applicant demonstrates that the facility is designed, located and will be operated so that it is consistent with and meets the needs identified in the capacity needs analysis under former section 1310-D.~~

OPLA, page 18

Sec. 13

Amends definition of "State waste management and recycling plan" within the DEP statutes relating to approval of solid waste disposal facilities. Provides that the plan is the former MMA agency plan or updates developed by the State Planning Office. The SPO is given responsibility to update the plan in bill section 23 (new 38 MRSA §2122-A).

Sec. 14

Amends the method used in DEP licensing process for determining whether a proposed new or expanded solid waste disposal facility provides a "public benefit." Under current law, the MMA makes that determination based on need and the state plan. This amendment provides that the State Planning Office will

determine whether a proposed facility provides a public benefit.

B. Subsequent to the initial adoption of the state plan and for those facilities not subject to chapter 24, subchapter IV, department shall employ a rebuttable presumption of public benefit.

C. Subsequent to the adoption of the state plan and for those facilities subject to chapter 24, subchapter IV, the agency State Planning Office shall determine whether or not the proposed facility meets the requirements of section 2157.

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 1, 1989, and is still pending before the department on or after the date of the initial adoption of the state plan under chapter 24.

38 § 1310-R. Transition provisions

4. Incineration facilities. The department may not license any new incineration facility prior to the adoption of the state plan and siting criteria.

Sec. 16

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.

Repeals obsolete transition language

38 § 1310-X. Future commercial waste disposal facilities

1. New facilities. Notwithstanding Title 1, section 302, the department may not approve an application for a new commercial solid waste disposal or biomedical waste disposal or treatment facility after September 30, 1989, including any applications pending before the department on or after September 30, 1989.
2. Relicense or transfer of license. The department may relicense or approve a transfer of license for a commercial solid waste disposal or biomedical waste disposal or treatment facility after September 30, 1989, if the facility had been previously licensed by the department prior to October 6, 1989, and all other provisions of law have been satisfied.

3. Expansion of facilities. The department may license an expansion of a commercial solid waste disposal or biomedical waste disposal or treatment facility after September 30, 1989 if:

- A. The department has previously licensed the facility prior to October 6, 1989;
- B. The department determines that the proposed expansion is contiguous with the existing facility and is located on property owned by the licensee on September 30, 1989; and
- C. For a commercial solid waste disposal facility and prior to the adoption of the state plan and siting criteria under chapter 24, the department determines that the proposed expansion is consistent with the provisions of section 1310-R, subsection 3, paragraph A-1 or, after the adoption of the state plan and siting criteria under chapter 24, the agency determines that the provisions of section 2157 are met.

Sec. 17. 38 MRS §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 State Planning Office determines that the provisions of section 2157 are met.

Sec. 17

The amendment continues the ban on development of new commercial solid waste disposal facilities; expansions are allowed on contiguous property if it meets capacity needs, is consistent with state and local plans and meets siting criteria under section 2153. This amendment provides that the State Planning Office determines whether the expansion meets those criteria. Current law requires the MMA to make that determination.

4. Exemption. A commercial biomedical waste disposal or treatment facility is exempt from the prohibitions of this section if at least 51% of the facility is owned by a hospital or hospitals as defined in Title 22, section 382, subsection 7 or an affiliated interest or interests as defined in Title 22, section 396-L, subsection 1, paragraph A.

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. 18

REplaces the MMA with the State Planning Office as a member of the Sludge and Residuals Utilization Research and Board of Trustees

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

Chapter 24

SOLID WASTE MANAGEMENT AND RECYCLING

38 § 2101. Solid waste management hierarchy

1. Priorities. It is the policy of the State to plan for and implement an integrated approach to solid waste management, which shall be based on the following order of priority:

- A. Reduction of waste generated at the source, including both amount and toxicity of the waste;
- B. Reuse of waste;
- C. Recycling of waste;
- D. Composting of biodegradable waste;
- E. Waste processing which reduces the volume of waste needing land disposal, including incineration; and
- F. Land disposal of waste.

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.

Adds definitions to chapters formerly describing MWMA and its functions.

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

38 § 2102. Establishment of the Maine Waste Management Agency

1. Establishment of agency. The Maine Waste Management Agency, referred to in this chapter as the "agency," is created as an agency in the executive branch of the State. The agency is an instrumentality of the State and a body corporate and politic. The exercise by the agency of the powers conferred on it under this chapter and the implementation of its purpose and duties are essential governmental functions.

2. Organization and function of the agency. The Maine Waste Management Agency shall be comprised of 3 offices: the Office of Planning, the Office of Siting and Disposal Operations and the Office of Waste Reduction and Recycling.

Repeals MWMA powers and duties, Waste Management Advisory Council, payment in lieu of taxes, audits, Confidential information

REPEALED

3. Executive director. The Governor shall appoint the Executive Director of the Maine Waste Management Agency, referred to in this chapter as the "executive director," subject to review by the joint standing committee of the Legislature having jurisdiction over natural resource matters and to confirmation by the Legislature. The executive director shall serve at the pleasure of the Governor. The salary of the executive director is established under Title 2, section 6, subsection 2. The executive director is the chief executive officer of the agency.

38 § 2103. Powers and duties of the agency

1. General powers. In order to accomplish the purposes of this chapter and in addition to any other powers conveyed by this chapter, the agency may exercise the following powers:

- A. Promulgate in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, all rules necessary to carry out its responsibilities under this chapter, including procedural rules;
- B. Acquire, hold and dispose of personal property;
- C. Acquire, hold and dispose in the name of the agency by purchase, lease or otherwise, real property and interests in real property determined necessary or desirable for its purposes and use of the property;
- D. Establish and collect fees, assessments and other charges and expend money received as provided in this chapter;

Repealed

- E. Employ such assistants, agents, economists, engineering, architectural and construction experts and inspectors, and such other employees as it deems necessary or desirable to carry out its purposes;
- F. Obtain any information and conduct investigations useful or convenient for carrying out any of its purposes, powers or duties;
- G. Enter, with the permission of the owner or subject to Title 4, section 180 and during normal working hours, upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations as it determines necessary for the purpose of this chapter;
- H. Enter any property at reasonable hours and enter any building with the consent of the property owner, occupant, or agent or, if consent is not given, under a warrant issued pursuant to Title 4, section 179, to inspect the property or structure, to take samples and to conduct tests, as appropriate, to determine compliance with any provision of the laws administered by the agency or the terms or conditions of any order, regulation, license, permit, approval or decision of the agency;
- I. Exercise any of its powers in the public domain of the United States, unless the exercise of those powers is not permitted by the laws of the United States;
- J. Take all other lawful actions necessary and incidental to these powers in carrying out the requirements of this chapter;
- K. Direct solid wastes from one public or private waste facility to another facility when an emergency is determined to exist by rule or by the Governor. The agency shall negotiate to

Repealed

provide to the receiving facility fair compensation for the disposal or processing of waste at that facility during the period of emergency. The agency shall consult with the commissioner in the exercise of this power;

L. Control solid waste collection, transportation or delivery to a specific facility owned by the agency when the purpose and effect of this action is to gain management control over solid waste;

M. Make agreements pertaining to the purchase, sale and use of products, including recyclable materials, and the generation, transmission and sale of energy in connection with the purposes of the agency;

N. Enter into contracts, including, but not limited to, the power to:

- (1) Contract with architects, engineers, financial and legal consultants and other experts for services;
- (2) Contract with persons, firms, corporations, limited partnerships, partnerships, associations, authorities and agencies for the operation of waste facilities and for services relating to the recycling and disposal of solid waste;
- (3) Contract for the handling of solid waste on the basis of guaranteed amounts, whether delivered for disposal and accepted for disposal or not, with payments based on the guaranteed amounts, whether actually disposed of or not. The payments may be variable and may be determined by formulas expressed in those contracts;
- (4) Contract with another state agency, the United States or any subdivision or agency thereof for services; and

Repealed

- 
- (5) Contract with any municipality for the services of that municipality or its facilities; and
- O. Use a negotiated or competitive bid process or any other process which may be advantageous to the agency.
2. Duties. The agency shall undertake the following duties:
- A. Develop and adopt the state waste management and recycling plan pursuant to the provisions of this chapter;
- B. Assist in regional and municipal waste recycling and waste reduction programs and provide technical assistance to regional associations, municipalities, state agencies and private entities to assist their implementation of this chapter;
- C. Promote and emphasize recycling and waste reduction in the State;
- D. Develop generic siting criteria and select sites for use by the agency;
- E. Review applications for new or expanded solid waste disposal facilities for consistency with state siting criteria and recommendations and the state plan;
- F. Enter into contracts for services to plan, design, construct and operate waste facilities;
- G. Initiate, conduct and support research, demonstration projects and investigations and coordinate all state agency research programs pertaining to waste management and recycling;

H. Institute, in a court of competent jurisdiction, proceedings against any person to compel compliance with the provisions of this chapter, any regulation promulgated pursuant thereto, or any order of the agency;

I. Cooperate with appropriate federal, state, interstate and local units of government and with appropriate private organizations in carrying out its duties under this chapter;

J. Work with other state agencies, regional associations, municipalities, regional planning agencies and other community, private sector and environmental organizations to manage the State's solid waste; and

K. Solicit public comment from all regions of the State.

38 § 2104. Waste Management Advisory Council

There is established the Waste Management Advisory Council, referred to as the "council" in this section, to assist the agency in developing the state plan and in facility siting and evaluation activities.

1. Membership; terms. The Governor shall appoint 12 members as follows:

- A. Three members from the general public;
- B. Two members from each of the following:
 - (1) Municipal governments;
 - (2) Statewide and local environmental organizations;
 - (3) The recycling industry; and
 - (4) The waste disposal industry; and
- C. One member representing industrial waste generators.

Repealed

The Commissioner of Environmental Protection shall serve as an ex officio member. All members, except the commissioner, shall be appointed for staggered terms of 3 years. A vacancy shall be filled by the Governor for the unexpired portion of the term. The council shall annually elect a chair from its membership.

2. Compensation. Members shall be compensated according to Title 5, section 12004-I, subsection 22.

3. Quorum; actions. A quorum shall be a majority of the members of the council. An affirmative vote of the majority of the members present at a meeting shall be required for any action. No action may be considered unless a quorum is present.

4. Meetings. The council shall meet at least 4 times per year and at any time upon the call of the chair or upon written request to the chair by 4 of the members.

5. Annual report. The council shall report annually to the Governor and to the Legislature on the status of the State's planning and facility siting effort.

6. Staff support. The agency shall provide the council with all necessary staff support.

38 § 2105. Payment in lieu of taxes

The agency shall annually pay a municipality an amount in lieu of taxes equal to the amount of property taxes on a solid waste disposal facility not paid to that municipality during the previous calendar year due to the statutory property tax exemption provided in this section. In the case of an unorganized

Repealed

territory, the agency 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 agency disagrees with the amount determined to be due in lieu of taxes under this subsection, it may appeal to the State Board of Property Tax Review as provided in Title 36, section 271.

38 § 2106. Annual audit

Each year an audit shall be made of the accounts of the agency. For this purpose, authorized agents of a certified public accounting firm appointed by the agency shall have access to all necessary papers, books and records. Upon the completion of each audit, a copy shall be sent to the Governor and the Legislature.

38 § 2107. Staff employees; conflict of interest

1. Agency staff. The executive director may hire, on a temporary or permanent basis, such staff as necessary, including financial experts.
2. Civil Service Law. Professional employees of the agency shall be unclassified and may be removed only for cause. Employees are members of bargaining units subject to Title 26, chapter 9-B.
3. Conflict of interest. Notwithstanding Title 5, section 18, subsection 1, each member of the agency and each employee, contractor, agent or other representative of the agency is deemed an "executive employee" solely for purposes of Title 5, section 18. In addition, Title 17, section 3104, shall be applicable, in accordance with its provisions, to all such representatives of the agency.

Repealed

38 § 2108. Indemnification

The agency shall defend and indemnify any employee of the agency, including the executive director, and any member of the Facility Siting Board established in section 2152 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 a party by reason of past or present association with the agency.

38 § 2109. Sunset

For purposes of the Maine Sunset Act, Title 3, chapter 23, the agency has its first justification report in accordance with Title 3, section 504, due no later than October 31, 1998, and the evaluation and analysis in accordance with Title 3, section 505, by the joint standing committee of the Legislature having jurisdiction over audit and program review due no later than December 31, 1999, but notwithstanding Title 3, sections 506 and 507, the agency shall not terminate.

38 § 2110. Confidential information

Except as provided in section 1310-B, subsections 2 and 3, information obtained by the agency under this chapter shall be a public record as provided by Title 1, chapter 13, subchapter I.

Repealed

38 § 2121. Office of Planning

The Office of Planning, referred to as the "office" in this subchapter, is established to carry out the purposes of this subchapter. The Director of the Office of Planning shall administer the office in accordance with the policies of the agency and consistent with the state waste management and recycling plan.

38 § 2122. Recycling and management plan; schedule coordination

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 by March 1, 1990. The plan shall be based on the priorities and recycling goals established in sections 2101 and 2132. The plan shall provide guidance and direction to the agency and municipalities in planning and implementing waste management and recycling programs at the state, regional and local level. To the extent that commercial entities continue to have a role in developing waste management and recycling facilities in the State, the plan shall provide guidance to those entities.

1. Consultation. In developing the plan, the office shall consult with the Department of Environmental Protection, the Office of Siting and Disposal Operations and the Office of Waste Reduction and Recycling, and shall submit its

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 shall be based on the priorities and recycling goals established in sections 38 MRSA §§2101 and 2132. The plan shall provide guidance and direction to municipalities in planning and implementing waste management and recycling programs at the state, regional and local level. The plan shall 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.

MRSA
Eliminates office of
Planning (State Planning
Office takes over function)

Amends requirements for
state solid waste
management plan

draft plan to that department and these offices for review and written comment before the agency publishes the plan as a proposed rule. The office shall solicit public input and shall hold hearings in different regions of the State. The office shall also seek comment and advice on its draft plan from the Waste Management Advisory Council established under section 2104.

2. Revisions. The office shall revise the analysis at least every 2 years to incorporate changes in the waste generation trends, changes in waste recycling and disposal technologies, the development of new waste generating activities and other factors affecting solid waste management as the office finds appropriate. If the agency finds that rapidly changing conditions necessitate more timely revisions of the analysis, it may make those revisions pursuant to the rule-making provisions of Title 5, chapter 375, subchapter II, including emergency rulemaking, if necessary.

38 § 2123. Plan contents

The state plan includes the following elements.

1. Data collection. The office shall develop and maintain a comprehensive data base on solid waste generated or disposed of in the State. Data collected shall include, but not be limited to:
 - A. The amount of waste currently generated, handled or transported within the State;
 - B. The source of the waste;

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

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

§2123-A. Plan contents. The state plan includes the following elements:

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

*Revises state plan
elements*

C. The type of waste;

D. The costs and types of management technologies currently employed, including, without limitation, recycling, composting, landspreading, incineration or landfilling;

E. The costs of collecting and transporting solid waste to waste facilities; and

F. Assessment of the level of competition in the solid waste disposal and recycling industry.

2. Determination of existing and potential disposal capacity. The office shall identify existing solid waste disposal and management capacity within the State, and the potential for expansion of that capacity. The analysis shall include, but not be limited to:

A. The capacity of existing licensed solid waste management and disposal facilities receiving waste generated within the State. This assessment shall identify the regional availability of capacity, including consideration of transportation costs;

B. The capacity of existing licensed solid waste management and disposal facilities that is being utilized to dispose of waste generated outside the State;

C. The rate at which existing capacity is being used and is expected to be used;

D. A survey of the solid waste generators and the recycling and disposal facilities they utilize;

E. Identification of projected facility closures with a projected timetable for the closures and an estimate of the amount of capacity these facilities represent;

B. Waste reduction and recycling assessment. The plan shall include an assessment of the extent to which waste generation could be reduced at the source, and to which recycling can be increased.

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

D. Projected demand for capacity. The plan shall identify the need in the State for current and future solid waste disposal capacity by type of solid waste.

- F. The extent to which the State relies on solid waste disposal capacity outside its jurisdiction; and
- G. Additional disposal capacity anticipated to become available within the next 2 to 5 years.
- 3. Waste reduction and recycling assessment.
The plan shall include investigation and assessment of the extent to which waste generation could be reduced at the source, and the potential for recycling to replace or reduce the need for traditional disposal capacity. The assessment shall include the following elements:
 - A. The current level of public and business recycling efforts, including the quantities and categories of waste currently recycled;
 - B. The current market structure of the recycling industry in the State and in those areas receiving recycled materials from the State. This element shall include identification of the existing private and public recycling operations and recycling capacity;
 - C. The current and projected capacity of existing markets to absorb materials generated by recycling programs in the State;
 - D. Market conditions that inhibit or affect demand for materials generated by recycling programs;
 - E. Identification of solid wastes by type which are capable of being reused or recycled in an environmentally sound manner and the types and costs of the technologies which may be utilized;

*replaced
by
policy*

F. The potential for recycling in various regions of the State, including estimates of the types and quantities of waste available for recycling and an analysis of the economic and institutional obstacles to increased recycling;

G. The potential for reducing waste quantities and toxicity by reduction at the source, and the amount and type of traditional disposal capacity that could be made available by implementing waste reduction measures;

H. A description of various mechanisms that could be utilized to stimulate and enhance waste reduction, including their advantages and disadvantages. The mechanisms to be analyzed shall include, without limitation, incentives for prolonging product life, methods of ensuring product recyclability, taxes for excessive packaging, tax incentives, prohibitions on the use of certain products, and performance standards for products; and

I. The impact of consumer packaging on waste generation, and the potential for waste reduction measures to reduce this impact.

4. Projected demand for capacity. The office shall identify the need in the State for current and future solid waste disposal capacity by type of solid waste. The analysis shall include, but not be limited to:

A. Estimation of waste generation by region and waste type over the next 5-year, 10-year and 20-year periods based on the best available forecasts of population growth, economic activity within the State, tourism, estimates provided by solid waste generators and other available information;

- B. Estimation of the reduction in the waste stream needing disposal capacity as a result of public and private recycling efforts identified in subsection 3;
- C. Comparison of the projected waste generation levels with existing and potential capacity as identified in subsection 2; and
- D. Identification of regional differences in available disposal capacity and recycling facilities. The office shall identify regions which are underserved with regard to recycling, management or disposal capacity or which have capacity in excess of regional needs. In determining regional needs, the office may consider economic criteria, including disposal and transportation costs, population densities, regional differences in current industrial mix and potential for economic growth, the level of competition in the solid waste disposal industry and any other factors the office considers relevant.
5. State management strategies. Based on the provisions of section 2101 and the information and analysis developed in subsections 1 to 4, the office shall examine various waste management options for dealing with the projected waste stream, available or anticipated disposal capacity and waste reduction and recycling activities. The agency shall establish:
- A. Strategies that promote, throughout the State, the maximum reduction of waste, the maximum feasible recycling of waste and the environmentally sound and cost-effective management and disposal of those wastes that remain. Management and disposal alternatives shall be preferred which do not foreclose the future ability of the State to reduce, reuse and recycle waste; and

Repealed
& replaced

B. Strategies to promote waste reduction and utilization research and initiatives, innovative pilot recycling or utilization programs, development of recycling-related businesses and public understanding and participation in recycling.

6. Facility needs. The plan must identify the number, size and type of solid waste facilities required to meet the capacity needs for all municipal solid wastes and for those special wastes for which the agency has assumed responsibility as described in the plan. The agency shall include a time schedule and program for planning, design, siting, construction, operation, and closure of each proposed facility.

38 § 2124. Reports

The agency 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.

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. 25. 38 M RSA §2124 is amended to read:

§2124 Reports

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

The agency shall adopt, by rule, 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.

Sec. 26. 38 M RSA §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.

Repealed

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

38 § 2131. Office of Waste Reduction and Recycling; established

The Office of Waste Reduction and Recycling, referred to in this subchapter as the "office," is established to carry out the purposes of this subchapter. The director of the office shall administer the office in accordance with the policies of the agency and consistent with the state waste management and recycling plan.

38 § 2132. State goals

1. State recycling goal; interim goal. It is the policy of the State to recycle, by January 1, 1994, 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.

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

3. Beneficial use of waste. The use of waste paper or corrugated cardboard as a fuel in industrial boilers for the generation of heat, steam or electricity constitutes recycling for

Sec. 27. 38 MRSA §2131, is repealed.

Eliminate office of
Waste Reduction +
Recycling - SPD will
take over functions

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.~~

Moves date for 50% state
recycling goal to 1998;
includes composted material
~~at 25%~~ in 50%

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.

Disallows paper and
cardboard used as fuel in
recycling.

the sole purpose of determining whether the goals in subsection 1 are met and if the wastes would otherwise be placed in a landfill, the office determines that there is no reasonably available market in the State for recycling that waste and if the wastes are incinerated as a substitute for, or supplement to, fossil or biomass fuels that constitute the primary fuels incinerated in the industrial boiler.

38 § 2133. Municipal recycling

1. Technical and financial assistance program. The office shall develop a program of technical and financial support to assist municipalities in achieving the recycling goal of section 2132. The office shall develop a priority system for use in allocating available financial and technical resources available under this section to municipalities and regions. The priority system shall address the following:

- A. The type and number of materials to be recycled and composted, and the resulting reduction of the municipal waste stream;
- B. Measures, including ordinances and incentives, to insure source separation and total participation in the recycling program;
- C. The existence of an established recycling program;
- D. The planning for logistical, administrative and financial management;
- E. Marketing agreements or the identification of markets for materials to be recycled;
- F. Utilization of any regional economies of scale;

Sec. 31. 38 M RSA §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.

Clarifies that municipalities are not required to meet 50% recycling, but must demonstrate reasonable progress.

G. Coordination of the recycling program with overall waste management;

H. Consistency with the state plan, when adopted; and

I. Composting of organic fractions of the municipal solid waste stream.

2. Recycling feasibility studies. The office shall provide professional technical assistance to municipalities or regional associations in the planning and design of recycling programs. The office may contract with regional councils, individual municipalities and regional associations to provide services under this subsection. Assistance shall include:

A. The assessment of economically feasible recycling potential including the supply of materials that can be recycled, probable markets for these materials and the avoided costs of solid waste disposal;

B. The planning for the logistical, administrative and financial management requirements of a recycling program;

C. The design of any flow-control or other ordinances necessary for the implementation of a recycling program;

D. The coordination of the proposed recycling program with overall solid waste management; and

E. The assessment of the advantages of participation in a regional recycling effort versus a local recycling program.

3. Recycling capital investment grants. The office may make grants to eligible municipalities, regional associations, sanitary districts and sewer districts for the

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.

Requires SPD to establish program of waste reduction, technical and financial assistance.

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 facilities and the purchase of recycling 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.

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.

4. Recycling incentives. The office shall develop and implement a program of incentives to encourage public recycling programs to reach maximum feasible levels of recycling and to meet the recycling goal of section 2132.

A.

B. The incentive program shall include bonus grants to municipalities which by January 1, 1992 meet or exceed the interim recycling goal of section 2132 to the extent that such funding is not required pursuant to subsections 2 and 3. After January 1, 1995, incentive grants shall be awarded only if funds are available after the requirements of subsections 2 and 3 are met.

Rp.

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

5. Access to state waste disposal services. A municipality that fails to provide recycling opportunities to its residents may not deliver, directly or indirectly, municipal solid waste, including residual waste, to a state-owned solid waste disposal facility.

Sec. 35. 38 M RSA §2133, subsection 5, is repealed.

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

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

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

38 § 2134. Market development and assistance

§ 2134. Market development and assistance § 2134. Market development and assistance

The office shall design and implement a market development strategy, 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;

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

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;~~

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. 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 industries in promoting the reuse of industrial wastes that are suitable raw materials for other processes. The office shall coordinate those efforts with waste exchanges in the northeastern United States.

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 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 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.

38 § 2135. Special services

The office shall develop a program to provide municipalities, regional associations and regional councils grants to identify, design and develop tire and white goods recycling and disposal facilities, including pickup of these items, and stump and demolition debris disposal facilities.

Sec. 38. 38 M RSA §2135 is repealed.

38 § 2135-A. Tire management program

Subject to available funding, the office shall develop a waste tire management incentive program to reduce existing tire stockpiles and to promote waste tire recycling through a financial assistance program. The program must:

1. Abatement. Be consistent with the abatement program administered by the department to remove waste tires through proper processing, disposal or recycling; and
2. Incentives. Provide financial incentives to enhance markets for waste tires and to partially reimburse businesses or municipalities for utilizing waste tires for processing, energy recovery and other end uses. The office shall adopt rules to implement the incentive programs, including, but not limited to, the types of management options eligible for reimbursement and the amount of reimbursement.

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

38 § 2136. Scrap metal transportation cost subsidy

The office may enter into annual agreements with a municipality or regional association to reimburse a portion of the direct costs of transporting material to a recycling facility for intermediate processing or final use. The

Sec. 40. 38 M RSA §2136 is repealed.

office shall base grants on the value of the scrap metal, the distance to acceptable scrap metal recycling facilities and the availability of funding. The office shall adopt rules, in consultation with the Waste Management Advisory Council, necessary for the implementation of this section.

38 § 2137. State Government recycling and waste reduction

The office, in cooperation with the Department of Administration, 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 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.

Sec. 41. 38 MRSA §2137 is amended to read:

§ 2137. State Government recycling and waste reduction§ 2137. State Government recycling and waste reduction

The office, in cooperation with the Department of Administration 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 report. Each state agency shall prepare a report on its waste reduction and recycling plan activities that addresses the requirements of subsections 3 and 4 2. The plan report shall be submitted to the Office of Waste Reduction and Recycling State Planning Office on March 1 each year. ~~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 be designed and implemented to achieve the maximum feasible reduction of waste generated as a result of agency operations.

~~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 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.

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 report addressing the requirements of paragraphs B to D E. The plan reports shall be submitted to the Office of Waste Reduction and Recycling State Planning Office on or before July 1, 1990, March 1 of each year 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.

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 MRS §2138 is amended to read:

38 § 2138. Business recycling and waste reduction program

Office paper recycling program § 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 market development assistance and direction to entities within the State to assist in meeting this schedule. Municipalities and regional associations may assist employers in attaining the objectives of this section.

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~~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 meeting this schedule. 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.
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. 43. 38 MRS §2139 is amended to read:

38 § 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 efforts at the individual, local, regional and state levels.

1. Media campaign. 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.

§ 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. 44. 38 MRS §2140 is amended to read:

§ 2140. Interstate and national initiatives

38 § 2140. Interstate and national initiatives

The office shall participate in interstate and national initiatives to adopt uniform state laws when practicable, and to enter compacts between the State and other states for the improved management, recycling and reduction of solid waste.

The office shall participate in interstate and national initiatives to adopt uniform state laws when practicable, and to enter compacts between the State and other states for the improved management, recycling and reduction of solid waste.

38 § 2142. Advertising and marketing claims;
waste reduction and recycling

A person who labels, advertises or promotes a product in violation of guidelines for the use of environmental marketing claims published by the Federal Trade Commission in 16 Code of Federal Regulations, Part 260 (1993), as amended, commits a violation of the Maine Unfair Trade Practices Act.

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

Subchapter IV

FACILITY SITING AND DEVELOPMENT

38 § 2151. Office of Siting and Disposal Operations

The Office of Siting and Disposal Operations, referred to as the "office" in this subchapter, is established to carry out the purposes of this subchapter. The director of the office shall administer the office in accordance with the policies of the agency and consistent with the state waste management and recycling plan.

38 § 2152. Facility Siting Board

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. 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 decisions on the choice of specific sites for solid waste disposal facilities under the jurisdiction of the agency. The office shall provide staff support to the Facility Siting Board.

Sec. 46. 38 MRSA §2151 is repealed.

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.

2. Membership. The board consists of 5 members 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.

A. One of the members shall initially be appointed to a term of 3 years, 2 members to terms of 4 years and 2 members to terms of 5 years. The successor of each appointed member shall be appointed for a term of 5 years, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of that term. Each board member shall serve until the appointment and qualification of a successor.

B. No appointed board member may be an officer or employee of the United States Government or this State. All members of the board shall be residents of the State. Appointed members may be removed from the board by the Governor for cause.

C. The Commissioner of Environmental Protection and the Director of the Maine Geological Survey shall serve as technical advisors to the board.

3. Qualifications. The Governor shall select the membership of the board to include members of the general public and persons with expertise in engineering, hydrogeology, public health and government. The Governor shall also select the membership of the board to include broad geographic representation from all areas of the State.

4. Selection of officers; quorum. Annually, the board shall elect one of its appointed members as the chair of the board. Three members of the board shall constitute a quorum and the affirmative vote by 3 members shall be necessary for any action taken by vote of the board.

5. Compensation. The appointed board members shall be compensated as provided in Title 5, section 12004-D.

6. Meeting schedule. The board shall meet at least 4 times annually and at any time upon the call of its chair or upon the request in writing to the chair of 3 board members.

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

38 § 2153. Siting criteria

1. Siting criteria. By September 1, 1992, the Facility Siting Board shall amend its rules for siting criteria for solid waste disposal facilities based on the following factors.

A. A site may be located 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.

§ 2153. Siting criteria

1. Siting criteria. ~~By September 1, 1992, the Facility Siting Board shall amend its~~ The office shall administer rules for siting criteria adopted by the former Maine Waste Management Agency, Office of Siting and Disposal Operations, for solid waste disposal facilities 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 State-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.

OPLA, page 56

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

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

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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.

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.

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.

38 § 2154. Site selection

1. Initial site screening. The Facility Siting Board shall conduct a site screening and selection process to identify solid waste disposal capacity sufficient to meet the projected needs identified in the state planning process under section 2123, subsection 6. The Facility Siting Board shall consider the need for geographic distribution of facilities to adequately serve all regions of the State. The Facility Siting Board also shall consider in its site selection process the need for landfill capacity to dispose of incinerator ash resulting from the combustion of domestic and commercial solid waste generated within its jurisdiction. Prior to recommending a site, the Facility Siting Board shall hold a public hearing in every municipality or plantation identified in the screening process as a potential site. For potential sites within an unincorporated

No change

township, the Facility Siting Board shall hold a public hearing within the vicinity of the proposed site. Prior to submitting a recommended site to the department for review, the Facility Siting Board shall find that the recommended site meets the standards adopted under section 2153.

2. Siting; general. Subsequent to the siting process under subsection 1, the Facility Siting Board shall identify additional sites as requested by the office and as capacity needs are identified in the state plan. The Facility Siting Board shall employ the same criteria and considerations employed under subsection 1. The Facility Siting Board shall hold a public hearing in each municipality within which the agency may recommend the location of any solid waste disposal or refuse-derived fuel processing facility.

3. Municipal reimbursement. At the conclusion of proceedings before the Facility Siting Board conducted pursuant to subsection 1, the agency shall reimburse a municipality for eligible expenses incurred as a result of that municipality's direct, substantive participation in proceedings before the Facility Siting Board. The amount reimbursed under this subsection may not exceed \$50,000 for any municipality. For the purposes of this subsection, "eligible expenses" has the same meaning as "expenses eligible for reimbursement" under section 1310-S, subsection 4, and any rules adopted by the Board of Environmental Protection pursuant to that section.

38 § 2155. Notification

The office shall notify the municipal officers of any municipality within which a waste disposal facility site is recommended under this subchapter of that recommendation. The office

Approved

shall notify the municipal officers by certified mail within 30 days of making the recommendation. If the proposed site is located within the jurisdiction of the Maine Land Use Regulation Commission, the office shall notify the Maine Land Use Regulation Commission and the county commissioners in lieu of the municipal officers.

38 § 2156. Facility development

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

2. Subsequent facility development. Subsequent to any facility development under subsection 1, the office shall develop municipal solid waste disposal facilities as it determines is necessary to meet the capacity needs identified in the state plan. In addition, the office may develop special waste disposal facilities as it determines is necessary to meet the capacity needs identified in the state plan. The office shall provide for solid waste disposal facilities by contracting with private vendors for facility design, construction or operation or, if necessary, undertaking facility development itself.

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

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

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.

This section does not preclude a municipality or regional association from developing and operating such facilities on its own initiative.

Sec. 50. 38 MRS §2157, as amended by PL 1993, c. 732, Pt. B, §3, is further amended to read:

38 § 2157. Review of proposed waste facilities

§ 2157. Review of proposed waste facilities

Subsequent to the adoption of the state plan, the Department of Environmental Protection may not approve an application of a new or expanded solid waste disposal facility requiring review under this section until the agency has approved the proposed facility under this section. An expansion of a commercial solid waste disposal facility or a solid waste disposal facility owned by a municipality or a regional association or a sanitary district created under chapter 11 or by special act of the Legislature is not subject to subsection 1, paragraph C, subparagraph (2), if the facility was licensed and in existence as of October 1, 1989, and at the time of application for the expansion.

Subsequent to the adoption of the state plan, the ~~Department of Environmental Protection~~ may not approve an application of a new or expanded solid waste disposal facility requiring review under this section until the agency office has approved the proposed facility under this section. An expansion of a commercial solid waste disposal facility or a solid waste disposal facility owned by a municipality or a regional association or a sanitary district created under chapter 11 or by special act of the Legislature is not subject to subsection 1, paragraph C, subparagraph (2) if the facility was licensed and in existence as of October 1, 1989, and at the time of application for the expansion.

1. Requirement. After the adoption of the state plan, a permit for a new or expanded solid waste disposal facility may not be issued unless the applicant demonstrates to the agency that the proposed facility:

A. Meets capacity needs identified in the state plan in addition to capacity that is under development by the office under section 2156 or by any other party approved by the office at the time of the application;

B. Is consistent with the state plan, except that this paragraph does not apply to expansions of commercial solid waste disposal facilities that accept only special waste for landfilling; and

1. Requirement. After the adoption of the state plan, a permit for a new or expanded solid waste disposal facility may not be issued unless the applicant demonstrates to the agency office that the proposed facility:

A. Meets capacity needs identified in the state plan in addition to capacity that is under development by ~~the office under section 2156 or~~ by ~~any other~~ a party approved by the office at the time of the application;

B. Is consistent with the state plan, except that this paragraph does not apply to expansions of commercial solid waste disposal facilities that accept only special waste for landfilling; and

C. Meets the following requirements:

(1) The proposed facility is consistent with local, regional or state waste collection, storage, transportation, processing or disposal; and

(2) After the adoption of the siting criteria, the proposed facility meets the criteria in section 2153.

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

Proceedings under this section for the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling are not subject to the provisions of Title 5, chapter 375, subchapter IV.

In making the determination required under this section for the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling, the agency shall consider the written information submitted in support of the application and any other written information the agency considers pertinent. In addition, the agency 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.

38 § 2158. Future commercial solid waste disposal facilities

After the adoption of the state plan, the agency shall not approve an application for a new commercial solid waste disposal facility. The agency may approve expansions of a commercial

C. Meets the following requirements:

(1) The proposed facility is consistent with local, regional or state waste collection, storage, transportation, processing or disposal; and

(2) After the adoption of the siting criteria, the proposed facility meets the criteria in section 2153.

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

Proceedings under this section for the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling are not subject to the provisions of Title 5, chapter 375, subchapter IV.

In making the determination required under this section for the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling, the agency office shall consider the written information submitted in support of the application and any other written information the agency office considers pertinent. In addition, the agency office 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.

No change

solid waste disposal facility after adoption of the state plan, if:

1. Previously licensed facility. The facility has been previously licensed by the Department of Environmental Protection prior to the adoption of the state plan; and
2. Determination of compliance. The agency determines that the provisions of section 2157 are met.

38 § 2159. Real and personal property; right of eminent domain

The agency may acquire and hold real and personal property which it deems necessary for its purposes, is granted the right of eminent domain and, for those purposes, may take and hold, either by exercising its right of eminent domain or by purchase, lease or otherwise, for public use, any land, real estate, easements or interest therein, necessary for constructing, establishing, maintaining, operating and the closure of solid waste disposal facilities.

38 § 2160. Procedure in exercise of right of eminent domain

The right of eminent domain granted in section 2159 may only be exercised after complying with the following procedures.

1. Notice to owner. The agency shall provide to the owner or owners of record notice of the following:
 - A. The determination of the agency that it proposes to exercise the right of eminent domain;

B. A description and scale map of the land or easement to be taken;

C. The final amount offered for the land or easement to be taken, based on the fair value as estimated by the agency; and

D. Notice of the time and place of the hearing provided in subsection 4.

Notice may be made by personal service in hand by an officer duly qualified to serve civil process in this State or by certified mail, return receipt requested, to the last known address of the owner or owners. If the owner or owners are not known or cannot be notified by personal service or certified mail, notice may be given by publication in the manner provided in subsection 4.

2. Notice to tenant. Notice shall be given to any tenant in the same manner notice is given to the owner of the property.

3. Notice to the affected municipality. Notice shall be given to the municipality in which the property to be acquired is located in the same manner notice is given to the owner of the property and shall be addressed to the municipal officers.

4. Hearing. The agency shall hold a public hearing on the advisability of its proposed exercise of the right of eminent domain. Notice of the hearing shall be made by publication in a newspaper of general circulation in the area of the taking and shall be given once a week for 2 successive weeks, the last publication to be at least 2 weeks before the time appointed in the hearing. The hearing notice shall include:

A. The time and place of the hearing;

B. A description of the land or easement to be taken; and

C. The name of the owners, if known.

38 § 2161. Condemnation proceedings

At the time it sends the notice in section 2160, the agency shall file in the office of the county commissioners of the county in which the property to be taken is located and cause to be recorded in the registry of deeds in the county plans of the location of all lands, real estate, easements or interest therein, with an appropriate description and the names of the owners thereof, if known. When for any reason the agency fails to acquire property which it is authorized to take and which is described in that location, or if the location so recorded is defective and uncertain, it may, at any time, correct and perfect the location and file a new description. In that case, the agency is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the agency is not liable for any acts which would have been justified if the original taking had been lawful. No entry may be made on any private lands, except to make surveys, until the expiration of 10 days from the filing, whereupon, possession may be had of all the lands, real estate, easements or interests therein and other property and rights as aforesaid to be taken, but title shall not vest in the agency until payment for the property is made.

38 § 2162. Office assistance in regional association siting

Upon request by a regional association, the office may provide technical assistance to a

regional association in the establishment of approved waste facilities, including assistance in planning, location, acquisition, development and operation of the site. The regional association shall describe fully the need and justification for the request. The office may request information from the regional association necessary to provide assistance.

38 § 2163. Exempt facilities

The following types of solid waste disposal facilities are exempt from the provisions of this subchapter:

1. Inert fill. 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. Generator-owned facilities. 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. Notwithstanding this section, a solid waste disposal facility receiving ash resulting from the combustion of municipal solid waste or fuel derived from municipal solid waste is not exempt unless a completed application for the facility has been accepted by the department prior to July 1, 1989.

38 § 2164. Household and small generator hazardous waste

The office shall develop and implement by July 1, 1995, a statewide system for the collection and disposal of hazardous waste generated by households, public and private nonprofit institutions and small quantity generators.

Sec. 51. 38 MRSA §2164, is repealed.

38 § 2165. Regulation of certain dry cell batteries

1. Definitions. As used in this section and section 2166, the following terms have the following meanings.

A. "Industrial, communications or medical facility" means a structure or site where 15 or more people are employed and:

- (1) Where articles are assembled, manufactured or fabricated;
- (2) Are included in major group 48 of the federal Office of Management and Budget, Standard Industrial Codes; or
- (3) Where medical services are provided.

8. "Rechargeable battery" means any nickel-cadmium or sealed lead-acid battery that is designed for reuse and is capable of being recharged after repeated use.

2. Disposal ban. A person employed directly or indirectly by a government agency, or an industrial, communications or medical facility may not knowingly dispose of a dry cell mercuric oxide battery or a rechargeable battery in a manner that is not part of a collection system established under subsection 4.

3. User responsibility. A government agency or industrial, communications or medical facility shall collect and segregate, by chemical type, the batteries that are subject to the disposal prohibition under subsection 2 and return each segregated collection either to the supplier that provided the facility with that type of battery or to a collection facility designated by the manufacturer of that battery or battery-powered product.

4. **Manufacturer responsibility.** A manufacturer of dry cell mercuric oxide or rechargeable batteries that are subject to subsection 1 shall:

A. Establish and maintain a system for the proper collection, transportation and processing of waste dry cell mercuric oxide and rechargeable batteries for purchasers in this State;

B. Clearly inform each purchaser that intends to use these batteries of the prohibition on disposal of dry cell mercuric oxide and rechargeable batteries and of the available systems for proper collection, transportation and processing of these batteries;

C. Identify a collection system through which mercuric oxide and rechargeable batteries must be returned to the manufacturer or to a manufacturer-designated collection site; and

D. Include the cost of proper collection, transportation and processing of the waste batteries in the sales transaction or agreement between the manufacturer and any purchaser.

5. **Supplier responsibility.** A final supplier of mercuric oxide and rechargeable batteries or battery-operated products is responsible for informing the purchasers that intend to use these batteries of the purchaser's responsibilities under this section.

6. **Mercury content.** A person may not sell, distribute or offer for sale in this State the following batteries:

A. An alkaline manganese battery that contains more than .025% mercury except that any alkaline manganese battery resembling a button or coin in size and shape may contain no more than 25 milligrams of mercury;

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- B. Effective January 1, 1993, a consumer mercuric oxide button cell;
- C. A zinc carbon battery manufactured on or after January 1, 1993 that contains any added mercury; or
- D. An alkaline manganese battery manufactured on or after January 1, 1996 that contains any added mercury except that any alkaline manganese battery resembling a button or coin in size and shape, may contain no more than 25 milligrams of mercury.
7. Effective date. Except as otherwise indicated, this section takes effect January 1, 1994.
8. Penalty. A violation of subsection 2 is a civil violation for which a forfeiture of not more than \$100 per battery disposed of improperly may be adjudged. A violation of subsection 4 is a civil violation for which a forfeiture of not more than \$100 may be adjudged. A violation of subsection 6 is a civil violation for which a forfeiture of not more than \$100 per battery sold, distributed or offered for sale may be adjudged. Each day that a violation continues or exists constitutes a separate offense.

9. Battery management plan. By October 1, 1993, the agency, in cooperation with manufacturers and wholesalers of batteries sold in the State, battery retailers and others shall develop a battery management plan. The plan must describe a comprehensive system for the collection, recovery, recycling, reuse, treatment or disposal of all mercuric oxide and rechargeable batteries subject to this section. The plan must address alternate battery collection systems including, without limitation, municipal collection, retail

No change

collection, returnable battery deposits and collection through the mail. The plan must describe the responsibilities of manufacturers and wholesalers and ensure that these batteries are properly managed no later than January 1, 1994. Any collection system developed under this section must include educational and publicity components that seek to maximize consumer participation in the system.

38 § 2166. Rechargeable consumer products

- No change*
1. **Nonremoveable battery requirements.** A person may not sell, distribute or offer for sale in this State any product powered by a rechargeable battery primarily used or purchased to be used for personal, family or household purposes unless:
 - A. The battery may be easily removed by the consumer or is contained in a battery pack that is separate from the product and may be easily removed; and
 - B. The product, the battery itself and the package containing the product are all labeled, in a manner that is clearly visible to the consumer, indicating that the battery must be recycled or disposed of properly and that the type of electrode used in the battery is clearly identifiable.
 2. **Exemption.** The executive director may exempt products from the provisions of this section upon application from the manufacturer if, in the executive director's judgment, the product can not reasonably be redesigned and manufactured to comply with this section or, if redesigned, results in significant danger to public health and safety.
 3. **Effective date.** Except as otherwise indicated, this section takes effect January 1, 1994.

4. Penalty. A violation of this section is a civil violation for which a forfeiture of not more than \$100 per battery sold, distributed or offered for sale may be adjudged. Each day that a violation continues or exists constitutes a separate offense.

38 § 2170. Host community benefits; application limited to facilities owned or operated by the agency

This subchapter applies only to solid waste disposal facilities owned or operated by the agency. Wherever in this subchapter the term "solid waste disposal facility" or "facility" is used, those terms may be construed only to mean a solid waste disposal facility owned or operated by the agency.

38 § 2171. Citizen advisory committee

The municipal officers of each municipality identified by the Facility Siting Board as a potential site for a waste disposal facility and each contiguous municipality that may be affected by the construction or operation of that facility shall jointly establish a single citizen advisory committee within 60 days of notification pursuant to section 2155.

1. Membership. The committee must be comprised of citizens from each affected municipality, appointed by the municipal officers, including, but not limited to: a municipal health officer; a municipal officer; and at least 3 additional residents of the municipality, including abutting property owners and residents potentially affected by pollution from the facility. In addition, each committee may include members representing any of the

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following interests: environmental and community groups; labor groups; professionals with expertise relating to landfills or incinerators; experts in the areas of chemistry, epidemiology, hydrogeology and biology; and legal experts.

2. Meetings. The committee shall meet as soon as practical following appointment of its members and shall select a chair from among its members. The committee shall establish procedures for the conduct of meetings.

3. Responsibilities. Each committee established under this section may:

A. Review proposed contracts, site analyses, applications and other documents relating to the location, construction, permitting and operation of the facility;

B. Hold periodic public meetings to solicit the opinions of residents concerning the facility and any permit applications, contracts or other provisions relating to the facility and the regional plan;

C. Provide the project developer and department with any alternative contract provisions, permit conditions, plans or procedures it considers appropriate; and

D. Serve as a liaison between the community and the project developer or the commissioner to facilitate communications during the development and operation of the facility, and provide residents with updated information about the project, including providing explanations of any technical terms.

4. Unincorporated townships and plantations. For the purposes of this subchapter, county commissioners shall act as municipal officers for unincorporated townships and assessors of plantations shall act as municipal officers for plantations.

38 § 2172. Dispute resolution

A host municipality may establish a process, including, but not limited to, negotiation, mediation and arbitration to resolve disputes and to negotiate additional rights and benefits related to the siting and operation of a solid waste disposal facility within the municipality. The citizen advisory committee must be consulted and shall assist in the development and implementation of any process established under this section. At the option of the municipality, the Chair of the Board of Environmental Protection may appoint a neutral mediator to resolve disputes. The municipality is eligible for grants from the agency to fund dispute resolution programs under this section related to the siting and operation of a solid waste disposal facility.

38 § 2173. Municipal jurisdiction over agency and regional association disposal facilities

A municipality may adopt a local ordinance authorizing the municipal officers to issue a local permit containing the same findings, conclusions and conditions contained in the license issued by the department for a solid waste disposal facility located within the municipality's jurisdiction. The municipal officers may also attach to the permit additional conditions for the operation of the solid waste disposal facility on any issues not specifically addressed in any condition of the department's license. These conditions may not unreasonably restrict the operation of the facility and must be attached to the local permit by the municipal officers within 90 days of issuance of the department's license or within 30 days of a final decision by the department to relicense the facility.

An enforcement action brought by the municipality to enforce local permit conditions shall not preclude the State from bringing an action to enforce the conditions of any license issued by the State or any other provision of law. In addition, the State shall have a right to intervene in any enforcement action brought by a municipality under this section. A municipality that has adopted local permit conditions described in this section shall employ an inspector certified under section 2174 to enforce permit conditions.

38 § 2174. Local inspection and enforcement

1. Certification.

2. Information. The host municipality of a solid waste disposal facility has a right to all information from the department and the agency, pursuant to Title 1, chapter 13, subchapter I. All information provided under this subsection must be made available to the citizen advisory committee and the public by the host municipality.

A. The commissioner shall provide all of the following information to the municipal officers of the host municipality:

- (1) Copies of any inspection report of the facility within 5 working days of the preparation of the report;
- (2) Prompt notification of all enforcement or emergency orders for those facilities, including, but not limited to, abatement orders, cessation orders, final civil penalty assessments, consent orders and decrees and notices of violation;

(3) Copies of all air, soil and water quality monitoring data collected by the commissioner at such facilities, including leachate and ash testing results, within 5 working days after complete laboratory analysis becomes available to the commissioner; and

(4) Copies of all analyses of the data under subparagraph (3).

B. The operator of the facility shall provide the host municipality copies of all air, soil and water quality monitoring data, including leachate and ash testing results, conducted by or on behalf of the operator, within 5 days after that information becomes available to the operator.

C. The municipality shall provide all of the following information to the commissioner:

(1) Copies of any inspection report of the facility within 5 working days of the preparation of the report;

(2) Prompt notification of all enforcement or emergency orders for those facilities, including, but not limited to, abatement orders, cessation orders, final civil penalty assessments, consent orders and decrees and notices of violation;

(3) Copies of all air, soil and water quality monitoring data collected by the municipality at such facilities, including leachate and ash testing results, within 5 working days after complete laboratory analysis becomes available to the municipality; and

(4) Copies of all analyses of the data under subparagraph (3).

3. Inspection; emergency orders.

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4. Commissioner inspections. Whenever any host municipality notifies the commissioner of an order issued pursuant to a local permit requirement under section 2173 and gives the commissioner reason to believe that any solid waste disposal facility is in violation of any law or regulation administered by the department, or any order or the condition of any permit issued pursuant to any law or rule administered by the department, the commissioner shall promptly conduct an inspection of the facility.

If the commissioner finds that there is insufficient information to believe that there is a violation, the commissioner shall, within 10 working days of a municipality's request for an inspection, provide to the municipality a written explanation of the commissioner's decision not to conduct an inspection.

38 § 2175-A. Property value offset

Owners of property, the value of which has been affected by a solid waste disposal facility, are eligible for reimbursement from the agency for loss in property value directly attributable to the construction and operation of the facility. The agency shall adopt rules to establish the formula and procedure for reimbursement, including, without limitation, definition of the impact area, a process for establishing baseline real estate values, a time frame within which the property value offset program will be in effect and an accounting of real estate trends in the area.

38 § 2176. Impact payments

In addition to payment in lieu of taxes provided in section 2105, the agency 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:

1. Roads. Improvement, maintenance and repair of local roads directly affected by traffic to and from the facility;
2. Emergency response. Development and maintenance of adequate local emergency response capacity; and
3. Monitoring. Financial support for on-site, municipally employed personnel or for other means determined necessary to enable the municipality to monitor the facility's compliance with state and local requirements.

38 § 2177. Water supply monitoring and protection

Upon written request from persons owning land contiguous to a solid waste disposal facility, the agency shall have quarterly sampling and analysis conducted of private water supplies used by the requestors for drinking water. The sampling and analysis must be conducted in a manner specified by and that meets criteria developed by the department.

If a facility adversely affects a public or private water supply by pollution, degradation, diminution or other means that result in a violation of the state drinking water standards as determined by the commissioner, the agency shall restore the affected supply at no cost to the consumer or replace the affected supply with an alternative source of water that is of like quantity and quality to the original supply at no cost to the consumer.

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1. Extent of analysis. Water supplies must be analyzed for all parameters or chemical constituents determined by the commissioner to be indicative of typical contamination from solid waste disposal facilities. The laboratory performing the sampling and analysis shall provide written copies of sample results to the agency, the landowner and to the commissioner.

2. Additional sampling required. If the analysis indicates possible contamination from a solid waste disposal facility, the commissioner shall conduct, or require the agency to conduct, additional sampling and analysis to determine more precisely the nature, extent and source of contamination. The commissioner shall, if necessary, require this sampling beyond the boundaries of the contiguous property.

3. Written notice of rights. On or before December 1, 1989, for permits issued under this chapter prior to October 1, 1989, and at or before the time of permit issuance for permits issued under this chapter after October 1, 1989, the agency shall provide owners of contiguous land with written notice of their rights under this section on a form prepared by the commissioner.

38 § 2181. Effect on tort claims

Nothing in this chapter may be construed or understood as in any way increasing any liability that may otherwise arise or be limited under Title 14, chapter 741.

38 § 2182. Ability to indemnify

Nothing in this subchapter may be construed to prevent any host municipality, regional association or the State from obtaining or

giving such indemnities as may be appropriate in connection with the ownership, operation or control of a municipal solid waste facility.

38 § 2183. Effect on existing contracts and facilities

Except as otherwise provided, nothing in this chapter may be construed to impair any contract in force upon the effective date of this chapter.

38 § 2184. Municipal contracts

A municipality may contract with any person to carry out its duties for the recycling, transportation, collection and storage of municipal waste and source-separated materials to be recycled, if the recycling, transportation, collection or storage activity or facility is conducted or operated in a manner that is consistent with the provisions of this chapter, the state plan and the rules promulgated pursuant to this chapter.

1. Existing contracts. Except as otherwise provided in this chapter, nothing in this chapter may be construed to interfere with, or in any way modify, the provisions of any contract for municipal waste disposal, processing or collection with any regional association or municipality in force upon the effective date of this chapter or prior to the adoption of the state plan.

2. Renewals. No renewal of any existing contract upon the expiration or termination of the original term of the contract, and no new contract for municipal waste disposal, processing or collection may be entered into after the effective date of this chapter, if the renewal or new contract fails to conform to the

applicable provisions of this chapter or interferes with the implementation of the state plan.

3. Recycling activities; limited liability. When the owner, lessee or occupant of premises as defined in Title 14, section 159-B undertakes recycling activities, as defined in Title 14, section 159-B on the premises, liability is limited as provided in Title 14, section 159-B.

38 § 2191. Fees

The agency shall establish reasonable fees for waste disposal services provided by the agency.

38 § 2192. Purposes of the fees

The fees charged to users of agency-owned facilities and established by the agency under this article, by rule, shall provide revenue for the following purposes:

1. Current expenses. To pay the current expenses, either incurred directly or through contractual agreements with another party or parties, for operating and maintaining a facility or delivering a service and to provide for normal maintenance and replacement of equipment. Current expenses also include costs incurred under subchapter V;
2. Interest. To provide for the payment of interest on the indebtedness created or assumed by the agency;
3. Indebtedness. To provide an annual sum equal to not less than 2% nor more than 10% of the term indebtedness represented by the issuance of bonds created or assumed by the agency, which sum shall be turned into a sinking fund and there maintained to provide for the extinguishment of term indebtedness. The money set aside in this sinking fund shall be devoted to the retirement of the term obligations of the agency and may be invested in such securities as savings banks in the State are allowed to hold;
4. Principal payments. To provide for annual principal payments on serial indebtedness created or assumed by the agency;
5. Contingency reserve fund allowance. To provide for a contingency reserve fund allowance

No Change

by providing rates to reflect up to a 5% addition to yearly revenues over that required to operate the facility;

6. Closing reserve fund. To provide for a closing and monitoring reserve fund by providing rates which, over the expected life span of the facility including the post-closure monitoring period, will generate the amount determined to be necessary by the department in its licensing process under chapter 13; and

7. Compliance costs. To provide for the costs associated with licensing, compliance and enforcement efforts of the department.

38 § 2193. Host municipality fees

The agency may set fees under this article for the host municipality at a level lower than the fees charged to other municipalities or users, provided that such lower fees are set in a manner consistent with the rules promulgated by the agency.

38 § 2201. Maine Solid Waste Management Fund established

Sec. 52. 38 MRSA §2201 is repealed.

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 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

Repealed

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.

38 § 2201-A. Sunset; legislative intent
(REPEALED)

38 § 2202. Fees

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

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 General Fund~~.

Repealed

2. Application. Fees established under this article become effective upon the effective date of this chapter, with the first payment due on January 20, 1990.

3. Payment. A person who delivers solid waste to a solid waste disposal facility shall pay all fees established under this article to the operator of the solid waste disposal facility.

38 § 2203. Fee on special waste

1. Commercial landfills. Fees are imposed in the following amounts to be levied for special waste that is disposed of at commercial landfills.

Asbestos

\$6 per cubic yard

Oil spill debris

\$25 per ton

Residuals from soil

\$6 per ton

decontamination

Waste water facility sludge

\$2 per ton

Ash, coal and oil

\$6 per ton

Paper mill sludge

\$6 per ton

Industrial waste

\$6 per ton

Sandblast grit

\$6 per ton

Miscellaneous special waste

\$6 per ton

NP Charge

Municipal solid waste ash
\$2 per ton

2. Municipal and regional association landfills. Fees are imposed in the following amounts to be levied for special waste that is disposed of at a municipal landfill or a regional association landfill.

Asbestos
\$2 per cubic yard

Oil spill debris
\$25 per ton

All other special waste
\$2 per ton

3. Imported special waste. In addition to any other fee assessed under this section and to support those regulatory and administrative costs associated with imported special wastes, an administrative fee of \$2 per ton 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.

38 § 2204. Municipal disposal surcharge; recycling and import fees

The agency shall impose the following fees.

1. Landfill surcharge. A disposal surcharge of \$4 per ton is assessed on any municipal solid waste disposed of by landfilling at a commercial landfill facility.

No
change

2. Recycling progress. Any municipality that fails to make reasonable progress, as determined by the agency, toward the state recycling goals shall pay a \$1.50 per ton fee on:

- A. Any solid waste generated within its jurisdiction that is exported from the State; and
 - B. Any solid waste generated within its jurisdiction that is delivered to a commercial solid waste facility or to a solid waste disposal facility owned by the agency or a regional association, except tires disposed of in a manner other than landfilling.
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 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 or a regional association for disposal.

38 § 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 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 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

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

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

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, from the last day for timely payment to the date paid.

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 determines that any operator has not made a timely payment of the fee, the agency 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 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 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 within 30 days shall result in a waiver of all legal rights to contest the deficiency.

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.

agency 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 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 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. If the agency determines that the operator has overpaid the fee, the agency shall refund to the operator the amount due the operator, together with interest at a rate established by the agency.

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.

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.

If, through the administrative or judicial review of the deficiency, it is determined that the amount of deficiency shall be reduced, the agency 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 and shall be collectible.

If any amount due under this subsection remains unpaid 30 days after receipt of notice of the deficiency, the agency 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 actions concerning the fee shall be filed with the agency pursuant to section 2206.

38 § 2206. Hearings and appeals

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

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 MRS §2206 is amended to read:

§ 2206. Hearings and appeals§ 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. 1. 5 MRSA § 3305, sub-§1, ¶L is 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) Preparation of a solid waste management and recycling plan to be submitted to the Governor and the Legislature every two years; and
- (3) Provide technical and financial assistance to municipalities in waste reduction and recycling activities.

Sec 5 MRSA §3307-G, is enacted to read:

§3307-G. Applications for new or expanded solid waste disposal facilities

The office shall review applications for new or expanded solid waste disposal facilities according to the requirements of Title 38, §2157.

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.

State Planning
office power &
duties

JOHN D. WAKEFIELD
Director

JAMES A. CLAIR
Deputy Director

Date: 03/29/95 ORIGINAL
Hearing Date: 03/13/95
Committee: Natural Resources

Maine State Legislature
OFFICE OF FISCAL AND PROGRAM REVIEW
Augusta, Maine 04333

TO: Senate Chair - Sen. W. Lord
House Chair - Rep. R. Gould
Sponsor - Rep. Whitcomb of Waldo

FROM: Grant T. Pennoyer, Principal Analyst

SUBJECT: FISCAL NOTE INFORMATION FOR LD 229

An Act to Abolish the Maine Waste Management Agency

I. The estimated increase (decrease) of Appropriations and Allocations required if this Legislative Document is approved.

A. Line Item Summary	1995-96	1996-97
Positions	(-11.0)	(-11.0)
Personal Services	(425,917)	(665,376)
All Other	(1,272,574)	(1,701,788)
Capital Expenditures	(14,000)	(14,000)
Unallocated		
TOTAL	(1,712,491)	(2,381,164)

B. Fund Summary	1995-96	1996-97
General Fund	839,932	1,138,028
Highway Fund		
Other Funds	(2,552,423)	(3,519,192)

II. The estimated increase (decrease) of Revenues for the biennium is as follows.

	1995-96	1996-97
General Fund	2,823,750	3,665,000
Highway Fund		
Other Funds	(2,823,750)	(3,665,000)

III. Remarks:

The repeal of the Maine Solid Waste Management Fund and undedicating its funding sources will increase General Fund revenue by \$2,823,750 and \$3,665,000 in fiscal years 1995-96 and 1996-97, respectively, and decrease dedicated revenue by equal amounts.

The Department of Environmental Protection will require additional General Fund appropriations of \$756,381 and \$1,022,315 in fiscal years 1995-96 and 1996-97, respectively, to assume certain transferred duties and to replace the dedicated funding formerly provided by the fund for the department's current responsibilities for solid waste management.

The Department of Economic and Community Development will require

(CONTINUED)

additional General Fund appropriations of \$32,200 and \$45,400 in fiscal years 1995-96 and 1996-97, respectively, for a Senior Planner position and related costs to administer the municipal recycling grant program.

The Office of the Treasurer of State will require additional General Fund appropriations of \$51,351 and \$70,313 in fiscal years 1995-96 and 1996-97, respectively, for the costs associated with the bottle deposit program which was previously funded by dedicated revenue.

Funds allocated from the Solid Waste Management Fund must be deallocated. Total allocations from the fund are \$1,866,662 and \$2,595,150 in fiscal years 1995-96 and 1996-97, respectively. The unencumbered balance remaining in the Solid Waste Management Fund will be transferred to the General Fund on July 1, 1996. The amount to be transferred can not be determined at this time.

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

Appropriation and allocation sections and a fiscal note must be amended to the bill pursuant to Joint Rule 22.

Majority

L.D. 229

DATE:

(Filing No. H-)

NATURAL RESOURCES

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

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

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

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

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

COMMITTEE AMENDMENT

PART A

Sec. A-1. 2 MRSA §6, sub-§2, as repealed and replaced by PL 1993, c. 349, §1, 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 Assessor;

Superintendent of Insurance;

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

Associate Commissioner of Administration, Department of Mental Health 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. A-2. 2 MRSA §6, sub-§4, as amended by PL 1991, c. 780, Pt. Y, §4, is further 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 Land Quality Control;

Director, Bureau of Water Quality Control;

Director, Bureau of Oil and Hazardous Materials Control;

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

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

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

B. Independent agencies:

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

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

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

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

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

COMMITTEE AMENDMENT

2 **Sec. A-7. 32 MRSA §1723, sub-§2**, as enacted by PL 1991, c.
4 718, §1, is amended to read:

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

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

14 **§1726. Rules and enforcement**

16 The ~~Maine-Waste-Management-Agency--Office-of-Waste-Reduction~~
18 ~~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
20 with the ~~Waste-Management-Advisory-Council~~, the Department of
22 Agriculture, Food and Rural Resources, plastic container
manufacturers and distributors, and the recycling industry.
Rules shall must be adopted in accordance with the provisions of
24 Title 5, chapter 375.

26 **Sec. A-9. 32 MRSA §1732, sub-§1**, as enacted by PL 1989, c.
28 849, §1, is amended to read:

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

32 **Sec. A-10. 32 MRSA §1866-A, sub-§3**, as enacted by PL 1991, c.
34 591, Pt. R, §4 and affected by §18, is amended to read:

36 **3. Over-redemption of beverage container deposits.** 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
38 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
40 deposits.

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

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

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2 **Sec. A-12. 36 MRSA §5219-D, sub-§5**, as amended by PL 1991, c.
3 846, §37, is further amended to read:

4 **5. Application.** This section applies to equipment
5 purchased and placed into use during the period from January 1,
6 1990 to June 30, 1991 or ~~in any tax year beginning on or after~~
7 from January 1, 1993 to June 30, 1995.

8 **Sec. A-13. 38 MRSA §343-D, sub-§1**, as amended by PL 1993, c.
9 500, §2 and affected by §5, is further amended to read:

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

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

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

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

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

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

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

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

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

Sec. A-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 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. A-15. 38 MRSA §1310-N, sub-§1, ¶B, as repealed and replaced by PL 1993, c. 680, Pt. A, §37, 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. A-16. 38 MRSA §1310-N, sub-§3, as repealed and replaced by PL 1993, c. 680, Pt. A, §37, is repealed.

Sec. A-17. 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, waste not generated by the owner provided that the amount so accepted does not exceed 15% of all solid waste accepted on an annual average.

B. For all other facilities, the commissioner shall make the determination of public benefit in accordance with section 1310-AA, 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. A-18. 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 may 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;

(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; and

(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. A-19. 38 MRSA §1310-R, sub-§3, ¶C, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §247, is repealed.

Sec. A-20. 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. A-21. 38 MRSA §1310-S, sub-§4, as amended by PL 1991, c. 794, §1, is further 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.

2 Sec. A-22. 38 MRSA §1310-X, sub-§2, as amended by PL 1993, c.
355, §52, is further amended to read:

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

12 Sec. A-23. 38 MRSA §1310-X, sub-§3, ¶C, as repealed and
13 replaced by PL 1991, c. 297, §1, is amended to read:

16 C. For a commercial solid waste disposal facility and prior
17 to the adoption of the state plan and siting criteria under
18 chapter 24, the department determines that the proposed
19 expansion is consistent with the provisions of section
20 1310-R, subsection 3, paragraph A 1 or, after the adoption
21 of the state plan and siting criteria under chapter 24, the
22 agency determines that the provisions of section 2157 are
23 met the commissioner or the department determines as
24 provided in section 1310-N, subsection 3-A that the facility
25 provides a substantial public benefit.

26 Sec. A-24. 38 MRSA §1310-AA is enacted to read:

28 §1310-AA. Public benefit determination

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

36 2. Process. Determinations by the commissioner under this
37 section are not subject to Title 5, chapter 375, subchapter IV.
38 The commissioner shall provide public notice of the filing of an
39 application under this section and shall accept written public
40 comment on the application for 20 days after the date of the
41 notice. In making the determination of whether the facility
42 provides a substantial public benefit, the commissioner shall
43 consider the state plan, written information submitted in support
44 of the application and any other written information the
45 commissioner considers relevant. The commissioner may hold a
46 public meeting in the vicinity of the proposed facility to take
47 public comments and shall consider those comments in making the
48 determination. The commissioner shall issue a decision on the
49 matter within 60 days of receipt of the application.

The commissioner's 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. A-25. 38 MRSA §1316-C, last ¶, as enacted by PL 1991, c. 517, Pt. A, §2, is amended to read:

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

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

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

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. A-28. 38 MRSA c. 24 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 24

SOLID WASTE MANAGEMENT AND RECYCLING

Sec. A-29. 38 MRSA c. 24, sub-c. I is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER I

GENERAL PROVISIONS

Sec. A-30. 38 MRSA §2101-A is enacted to read:

§2101-A. Definitions

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

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

2. Office. "Office" means the State Planning Office.

Sec. A-31. 38 MRSA §2102, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-32. 38 MRSA §2103, as amended by PL 1991, c. 517, Pt. B, §§5 and 6, is repealed.

Sec. A-33. 38 MRSA §§2104 to 2110, as enacted by PL 1989, c. 585, Pt. A, §7, are repealed.

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

4 **SUBCHAPTER II**

6 **SOLID WASTE PLANNING**

8 **Sec. A-34. 38 MRSA §2121**, as enacted by PL 1989, c. 585, Pt.
A, §7, is repealed.

10 **Sec. A-35. 38 MRSA §2122**, as amended by PL 1991, c. 591, Pt.
12 E, §40, is repealed and the following enacted in its place:

14 **§2122. State waste management and recycling plan**

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

24 1. Consultation. In developing the state plan, the office
25 shall consult with the department. The office shall solicit
26 public input and may hold hearings in different regions of the
27 State.

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

34 **Sec. A-36. 38 MRSA §2123**, as amended by PL 1993, c. 310, Pt.
36 A, §3, is repealed.

38 **Sec. A-37. 38 MRSA §2123-A** is enacted to read:

40 **§2123-A. State plan contents**

42 The state plan includes the following elements.

44 1. Waste characterization. The state plan must be based on
45 a comprehensive analysis of solid waste generated, recycled and
46 disposed of in the State. Data collected must include, but not
47 be limited to, the source, type and amount of waste currently
48 generated; and the costs and types of waste management employed

including recycling, composting, landspreading, incineration or landfilling.

2. Waste reduction and recycling assessment. The state 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 state 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 state 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-year, 10-year and 20-year periods.

Sec. A-38. 38 MRSA §2124, as enacted by PL 1989, c. 585, Pt. A, §7, 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. A-39. 38 MRSA §2125, as corrected by RR 1993, c. 1, §136, is amended to read:

§2125. Evaluation of municipal implementation of solid waste management 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 provisions 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. A-40. 38 MRSA c. 24, sub-c. III is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER III

WASTE REDUCTION AND RECYCLING

Sec. A-41. 38 MRSA §2131, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-42. 38 MRSA §2132, sub-§1, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

1. **State recycling 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. A-43. 38 MRSA §2132, sub-§2, as amended by PL 1991, c. 517, Pt. B, §7, is further amended to read:

2. **Goal revision.** The agency office shall recommend revisions, if appropriate, to the state recycling goal established in this section 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 by ~~January 1, 1993.~~

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

Sec. A-45. 38 MRSA §2133, sub-§1-A is enacted to read:

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

2 **Sec. A-46. 38 MRSA §2133, sub-§2**, as enacted by PL 1989, c.
585, Pt. A, §7, is repealed.

4 **Sec. A-47. 38 MRSA §2133, sub-§§2-A and 2-B** are enacted to
read:

6 **2-A. Technical and financial assistance program.** A program
8 of technical and financial assistance for waste reduction and
10 recycling is established in the office to assist municipalities
12 with managing solid waste. The director shall administer the
program in accordance with the waste management hierarchy in
section 2101.

14 **2-B. Household hazardous waste collection.** The office may,
16 within available resources, award grants to eligible
municipalities, regional associations, sanitary districts and
18 sewer districts for household hazardous waste collection and
disposal programs. In implementing this program, the office
shall attempt to:

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

24 **B. Encourage regional economies of scale;**

26 **C. Coordinate programs between private and public**
28 **institutions; and**

30 **D. Maximize opportunities for federal grants and pilot**
programs.

32 **Sec. A-48. 38 MRSA §2133, sub-§3**, as amended by PL 1991, c.
517, Pt. B, §10, is further amended to read:

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

44 **Sec. A-49. 38 MRSA §2133, sub-§4, ¶B**, as enacted by PL 1989,
46 c. 585, Pt. A, §7, is repealed.

48 **Sec. A-50. 38 MRSA §2133, sub-§5**, as repealed and replaced by
50 PL 1991, c. 517, Pt. B, §11, is repealed.

Sec. A-51. 38 MRSA §2133, sub-§6 is enacted to read:

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

Sec. A-52. 38 MRSA §2134, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

§2134. Market development and assistance

The office shall design and implement a market development strategy and marketing assistance programs, consistent with the recycling component of the state plan, which shall must 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;~~

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

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

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

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

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

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

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

Sec. A-53. 38 MRSA §2135, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-54. 38 MRSA §2135-A, as enacted by PL 1991, c. 517, Pt. A, §3, is repealed.

Sec. A-55. 38 MRSA §2136, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-56. 38 MRSA §2137, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

§2137. State Government recycling and waste reduction

The office, in cooperation with the Department of Administration Administrative and Financial Services, shall assess the status of recycling efforts undertaken directly by the State for its own solid waste and shall evaluate existing programs and develop necessary new programs for recycling to reduce the generation of solid waste by the State. The programs shall ~~include, without limitation, recycling of office papers, 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 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 must 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 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 Each campus of the University of Maine System shall establish and implement a source separation and collection program for recyclable materials, including at a minimum, high grade paper, corrugated paper and glass. The source separation and collection program shall must include procedures for collecting and storing recyclable materials, bins or containers for storing materials and contractual and other arrangements with buyers. Each campus shall appoint a recycling coordinator and shall conduct educational programs for students and employees on the recycling program.

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

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

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

Sec. A-57. 38 MRSA §2138, as amended by PL 1991, c. 492, §4, is further 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 market development marketing 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

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

~~a-substitute-for,-or-supplement-to,-fossil-or-biomass-fuels-that
constitute-the-primary-fuels-incinerated-in-the-industrial-boiler-~~

Sec. A-58. 38 MRSA §2139, as amended by PL 1989, c. 700, Pt. A, §170, is further 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. **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. A-59. 38 MRSA c. 24, sub-c. IV is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER IV

FACILITY SITING AND DEVELOPMENT

Sec. A-60. 38 MRSA §2151, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-61. 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. A-62. 38 MRSA §2152, sub-§1, as enacted by PL 1989, c. 585, Pt. A, §7, 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 decisions 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. A-63. 38 MRSA §2153, as amended by PL 1991, c. 794, §2, is further 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 rules as necessary based on the following factors.

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

~~A-1. Agency-owned sites~~ 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. A-64. 38 MRSA §2154, sub-§1, as amended by PL 1991, c. 794, §3, is further amended to read:

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

Sec. A-65. 38 MRSA §2156, sub-§1, as amended by PL 1991, c. 794, §5, is further amended to read:

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

Sec. A-66. 38 MRSA §2156, sub-§3, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

3. 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.

2 **Sec. A-67. 38 MRSA §2157**, as amended by PL 1993, c. 732, Pt.
3 B, §3, is repealed.

4 **Sec. A-68. 38 MRSA §2158**, as amended by PL 1989, c. 890, Pt.
5 A, §40 and Pt. B, §290, is repealed.

6 **Sec. A-69. 38 MRSA §2163**, as enacted by PL 1989, c. 585, Pt.
7 A, §7, is repealed.

8 **Sec. A-70. 38 MRSA §2164**, as amended by PL 1991, c. 808, §1,
9 is repealed.

10 **Sec. A-71. 38 MRSA §2175-B** is enacted to read:

11 **§2175-B. Payment in lieu of taxes**

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

23 **Sec. A-72. 38 MRSA §2176, first ¶**, as amended by PL 1993, c.
24 310, Pt. B, §10, is further amended to read:

25 In addition to payment in lieu of taxes provided in section
26 2105 2175-B, the agency office shall make impact payments to a
27 municipality in which a solid waste disposal facility is located
28 or, in the case of an unorganized territory, to the State Tax
29 Assessor upon request by the community involved or by the State
30 Tax Assessor. The agency shall base its impact payments on
31 measurable criteria including, without limitation:

32 **Sec. A-73. 38 MRSA §2201, first ¶**, as repealed and replaced by
33 PL 1991, c. 824, Pt. A, §88, is amended to read:

34 The Maine Solid Waste Management Fund, referred to in this
35 section as the "fund," is established as a nonlapsing fund to
36 support programs administered by the Maine--Waste--Management
37 Agency State Planning Office and the Department of Environmental
38 Protection. The fund must be segregated into 2 subsidiary
39 accounts. The first subsidiary account, called operations,
40 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.

Sec. A-74. 38 MRSA §2202, sub-§1, as enacted by PL 1989, c. 585, Pt. A, §7, 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-shall department under this article must be deposited into the Maine Solid Waste Management Fund.

Sec. A-75. 38 MRSA §2203, sub-§3, as enacted by PL 1991, c. 517, Pt. B, §16, is amended to read:

3. Imported special waste. In addition to any other fee assessed under this section and to support those 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. A-76. 38 MRSA §2204, sub-§2, as amended by PL 1993, c. 85, §2, is repealed.

Sec. A-77. 38 MRSA §2204, sub-§3, as amended by PL 1993, c. 310, Pt. C, §3, is further 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. A-78. 38 MRSA §§2205 and 2206, as enacted by PL 1989, c. 585, Pt. A, §7, are amended to read:

§2205. Fee payments

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

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

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

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

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

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

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

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

38 5. **Alternative proof of payment.** For purposes of this
39 section, presentation of a receipt indicating that the payment
40 was mailed by registered or certified mail on or before the due
41 date shall-be is evidence of timely payment.
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2 **6. Interest.** If an operator fails to make a timely payment
4 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.

6 **7. Additional penalty.** In addition to the interest
8 provided in subsection 6, if an operator fails to make timely
payment of the fee, 5% of the amount of the fee shall must be
10 added to the amount actually due if the failure to file a timely
12 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.

14 **8. Assessment notice.** If the agency department determines
16 that any operator has not made a timely payment of the fee, the
agency ~~will~~ department shall send the operator a written notice
18 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
20 at the facility for the payment period, the agency department may
estimate the weight or volume in the notice.

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

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

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

44 If any amount due under this subsection remains unpaid 30 days
46 after receipt of notice of the deficiency, the agency department
may order the operator of the facility to cease receiving any
48 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 must be filed with the agency department pursuant to section 2206.

§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.

Sec. A-79. 38 MRSA §2213, sub-§1, ¶A, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

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

PART B

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

H. Compile, analyze and maintain information useful to the development of industry in the State concerning resources, sites, space, equipment, adequate housing, contracts, materials, transportation, markets, labor supply, population trends and other economic considerations and shall measure and monitor economic distress and poverty in the State on an on-going basis. The State Planning Office, in conjunction with the Department of Economic and Community Development, shall study problems peculiar to the industry and economy of this State with a view toward the broader utilization of our natural resources, which studies shall must be advanced by coordination of research with existing private and governmental agencies and educational institutions, and may be advanced by contractual relations with persons or organizations equipped to conduct the needed research. The State Planning Office shall, upon request from the Governor or any state department, assist in the preparation of reports regarding the responsibilities and duties provided by this subsection, including regular analysis of poverty and economic distress. The State Planning Office shall coordinate its activities pursuant to this paragraph with the Bureau of Child and Family Services to meet the annual reporting needs of the bureau; and

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

K. Coordinate the development of energy policy, including:

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

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

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

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

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

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

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

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

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

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

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

8 **§3305-A. Authority to own and operate solid waste disposal**
9 **facility**

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

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

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

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

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

30 **§1055. Revenue obligation securities for waste facilities, waste**
31 **disposal services or recycling projects**

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

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

40 **1-A. Agency.** "Agency" means the Finance Authority of Maine.

42 **Sec. B-7. Report; task force.** The State Planning Office shall
43 convene a task force to develop recommendations for a state
44 policy regarding the potential development and operation of the
45 state-owned solid waste disposal facility at Carpenter Ridge.
46 The State Planning Office shall include on the task force
47 legislators who are members of the Joint Standing Committee on
48 Natural Resources. The State Planning Office shall submit a
49 report to the Joint Standing Committee on Natural Resources by
50 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.

PART C

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

	1995-96	1996-97
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Solid Waste Management		
Positions	(-9.0)	(-9.0)
Personal Services	(\$458,654)	(\$457,385)
All Other	(53,488)	(55,070)
Provides for the deappropriation of funds for solid waste management functions.		
DEPARTMENT OF ENVIRONMENTAL PROTECTION TOTAL	(\$512,142)	(\$512,455)

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

	1995-96	1996-97
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		

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

Solid Waste Management

Positions	(9.0)	(9.0)
Personal Services	\$458,654	\$457,385
All Other	53,488	55,070
TOTAL	\$512,142	\$512,455

Provides for the funding transfer of 9 positions and associated operating costs from the General Fund to the Solid Waste Management Fund.

Solid Waste Management

Positions - Other Count	(-3.0)	(-3.0)
Personal Services	(\$122,256)	(\$124,447)
All Other	(58,034)	(65,537)
TOTAL	(\$180,290)	(\$189,984)

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

Tire Stockpile Clean-up Program

All Other	\$418,726	\$180,780
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Provides for the allocation of funds to accomplish the cleanup of tire stockpiles.

DEPARTMENT OF ENVIRONMENTAL PROTECTION
TOTAL

\$750,578	\$503,251
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EXECUTIVE DEPARTMENT

Planning Office

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

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

**EXECUTIVE DEPARTMENT
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)
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Provides for the deallocation of funds through the elimination of the Maine Waste Management Agency.

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Office of Planning

4

Positions - Other Count (-4.0) (-4.0)

6

Personal Services (\$217,382) (\$215,208)

8

All Other (100,567) (105,287)

10

TOTAL (\$317,949) (\$320,495)

12

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

14

16

**Office of Siting and
Disposal Operations**

18

Positions - Other Count (-4.0) (-4.0)

20

Personal Services (\$203,452) (\$206,748)

22

All Other (835,531) (501,672)

24

Capital Expenditures (7,000) (7,000)

26

TOTAL (\$1,047,983) (\$715,420)

28

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

30

**Office of Waste Reduction
and Recycling**

32

Positions - Other Count (-5.0) (-5.0)

34

Personal Services (\$265,107) (\$263,348)

36

All Other (690,718) (1,021,425)

38

Capital Expenditures (7,000) (7,000)

40

TOTAL (\$962,825) (\$1,291,773)

42

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

44

46

**MAINE WASTE MANAGEMENT
AGENCY
TOTAL**

48

(\$2,595,150) (\$2,595,150)

TOTAL ALLOCATIONS (\$906,030) (\$1,657,192)

Sec. C-3. Allocation. The following funds are allocated from the Maine Environmental Protection Fund to carry out the purposes of this Act.

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

Sec. C-4. 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 officers 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. 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 that 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 subsection 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.

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

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

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

FISCAL NOTE

1995-96 1996-97

APPROPRIATIONS/ALLOCATIONS

General Fund	(\$512,142)	(\$512,455)
Other Funds	(800,494)	(1,550,394)

The Department of Environmental Protection will require General Fund deappropriations of \$512,142 and \$512,455 in fiscal years 1995-96 and 1996-97, respectively, to reflect the transfer of 9 positions to the Solid Waste Management Fund.

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

The Department of Environmental Protection will require additional Solid Waste Management Fund allocations of \$750,758 and \$503,251 in fiscal years 1995-96 and 1996-97, respectively, for the reorganization of solid waste management responsibilities. Similarly, the State Planning Office within the Executive Department will require additional Solid Waste Management Fund allocations of \$938,542 and \$434,707 in fiscal years 1995-96 and 1996-97, respectively, for the reorganization of solid waste management responsibilities.

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

This bill establishes the Tire Management Fund within the Department of Environmental Protection. The fund is authorized to receive any funds recovered as a result of litigation

concerning uncontrolled tire stockpiles. The amounts of any dedicated revenue that may be received by the fund can not be determined at this time. Future allocations will be required to authorize expenditures from the fund if any revenue is received.

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

STATEMENT OF FACT

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

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

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

3. It places responsibility for determining whether a solid waste disposal facility provides a substantial benefit on the Commissioner of Environmental Protection. Except for facilities currently exempt from the Maine Waste Management Agency public benefit determination process, the amendment requires applicants for solid waste disposal facilities to apply to the Commissioner of Environmental Protection for a public benefit determination before applying to the Department of Environmental Protection for a license under the Maine Revised Statutes, Title 38, section 1310-N. Application for public benefit determination does not trigger the notice requirements or assistance fee payments;

2018
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COMMITTEE AMENDMENT " " to H.P. 181, L.D. 229

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18. It deallocates positions from the Maine Waste Management Agency, transfers positions to the State Planning Office to perform some of the Maine Waste Management Agency's functions, provides funding for the tire program and for payment of the \$500,000 due to Lincoln Pulp and Paper if the State receives a license to operate the facility. It provides for the transfer of money for Department of Environmental Protection positions to the Maine Solid Waste Management Fund; and

19. It also adds a fiscal note to the bill.

Minority

L.D. 229

DATE:

(Filing No. H-)

NATURAL RESOURCES

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

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

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

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

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

COMMITTEE AMENDMENT

PART A

Sec. A-1. 2 MRSA §6, sub-§2, as repealed and replaced by PL 1993, c. 349, §1, 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 Assessor;

Superintendent of Insurance;

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

Associate Commissioner of Administration, Department of Mental Health 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. A-2. 2 MRSA §6, sub-§4, as amended by PL 1991, c. 780, Pt. Y, §4, is further 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 Land 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; and~~

Executive Director, Board of Environmental Protection.

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

B. Independent agencies:

(1) Maine Conservation School;

(2) Office of State Historian;

(3) Maine Arts Commission;

(4) Maine State Museum Commission;

(5) Maine Historic Preservation Commission;

(6) Maine Health Care Finance Commission;

(7) Board of Occupational Therapy Practice;

(8) Board of Respiratory Care Practitioners;

(9) Radiologic Technology Board of Examiners;

(10) Maine Library Commission; and

~~(11) Maine Waste Management Agency; and~~

(12) Maine Court Facilities Authority.

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

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

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

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

2 **Sec. A-7. 32 MRSA §1723, sub-§2**, as enacted by PL 1991, c.
3 718, §1, is amended to read:

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

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

10 **§1726. Rules and enforcement**

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

21 **Sec. A-9. 32 MRSA §1732, sub-§1**, as enacted by PL 1989, c.
22 849, §1, is amended to read:

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

25 **Sec. A-10. 32 MRSA §1866-A, sub-§3**, as enacted by PL 1991, c.
26 591, Pt. R, §4 and affected by §18, is amended to read:

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

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

37 **5. Application.** This section applies to equipment
38 purchased and placed into use during the period from January 1,
39 1990 to June 30, 1991 or ~~in any tax year beginning on or after~~
40 from January 1, 1993 to June 30, 1995.

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

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

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

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

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

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

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

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

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

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

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

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

The Commissioner of Labor, 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. A-15. 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 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. A-16. 38 MRSA §1310-N, sub-§1, ¶B, as repealed and replaced by PL 1993, c. 680, Pt. A, §37, 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. A-17. 38 MRSA §1310-N, sub-§3, as repealed and replaced by PL 1993, c. 680, Pt. A, §37, is repealed.

Sec. A-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, waste not generated by the owner

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

B. For all other facilities, the commissioner shall make
the determination of public benefit in accordance with
section 1310-AA, 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. A-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 may 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;

(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; and

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

Sec. A-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. A-22. 38 MRSA §1310-S, sub-§4, as amended by PL 1991, c. 794, §1, is further 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

R 48

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

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

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

8
10 **Sec. A-23. 38 MRSA §1310-X, sub-§2,** as amended by PL 1993, c.
355, §52, is further amended to read:

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

20
22 **Sec. A-24. 38 MRSA §1310-X, sub-§3, ¶C,** as repealed and
replaced by PL 1991, c. 297, §1, is amended to read:

24 C. For a commercial solid waste disposal facility and prior
to the adoption of the state plan and siting criteria under
26 chapter 24, the department determines that the proposed
expansion is consistent with the provisions of section
28 1310-R, subsection 3, paragraph A-1 or, after the adoption
of the state plan and siting criteria under chapter 24, the
30 agency determines that the provisions of section 2157 are
met the commissioner or the department determines as
32 provided in section 1310-N, subsection 3-A that the facility
provides a substantial public benefit.

34
36 **Sec. A-25. 38 MRSA §1310-AA** is enacted to read:

38 **§1310-AA. Public benefit determination**

40 **1. Application for public benefit determination.** Prior to
submitting an application under section 1310-N for a license for
42 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.

44
46 **2. Process.** Determinations by the commissioner under this
section are not subject to Title 5, chapter 375, subchapter IV.
48 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
50 notice. In making the determination of whether the facility

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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. The commissioner's 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. A-26. 38 MRSA §1316-C, last ¶, as enacted by PL 1991, c. 517, Pt. A, §2, is amended to read:

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

Sec. A-27. 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. A-28. 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. A-29. 38 MRSA c. 24 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 24

SOLID WASTE MANAGEMENT AND RECYCLING

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

SUBCHAPTER I

GENERAL PROVISIONS

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

§2101-A. Definitions

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

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

2. Office. "Office" means the State Planning Office.

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

2 **Sec. A-33. 38 MRSA §2103**, as amended by PL 1991, c. 517, Pt.
B, §§5 and 6, is repealed.

4 **Sec. A-34. 38 MRSA §§2104 to 2110**, as enacted by PL 1989, c.
585, Pt. A, §7, are repealed.

6 **Sec. A-35. 38 MRSA c. 24, sub-c. II** is amended by repealing the
8 subchapter headnote and enacting the following in its place:

10 **SUBCHAPTER II**

12 **SOLID WASTE PLANNING**

14 **Sec. A-36. 38 MRSA §2121**, as enacted by PL 1989, c. 585, Pt.
A, §7, is repealed.

16 **Sec. A-37. 38 MRSA §2122**, as amended by PL 1991, c. 591, Pt.
18 E, §40, is repealed and the following enacted in its place:

20 **§2122. State waste management and recycling plan**

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

30 **1. Consultation.** In developing the state plan, the office
32 shall consult with the department. The office shall solicit
public input and may hold hearings in different regions of the
34 State.

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

42 **Sec. A-38. 38 MRSA §2123**, as amended by PL 1993, c. 310, Pt.
A, §3, is repealed.

44 **Sec. A-39. 38 MRSA §2123-A** is enacted to read:

46 **§2123-A. State plan contents**

48 The state plan includes the following elements.

1. Waste characterization. The state 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 state 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 state 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 state 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-year, 10-year and 20-year periods.

Sec. A-40. 38 MRSA §2124, as enacted by PL 1989, c. 585, Pt. A, §7, 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. A-41. 38 MRSA §2125, as corrected by RR 1993, c. 1, §136, is amended to read:

§2125. Evaluation of municipal implementation of solid waste management 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 provisions 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. A-42. 38 MRSA c. 24, sub-c. III is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER III

WASTE REDUCTION AND RECYCLING

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

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

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

2. **Goal revision.** The agency office shall recommend revisions, if appropriate, to the state recycling goal established in this section 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 by ~~January 1, 1993.~~

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

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

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

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

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

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 the program in accordance with the waste management hierarchy in section 2101.

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 shall attempt to:

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

B. Encourage regional economies of scale;

C. Coordinate programs between private and public institutions; and

D. Maximize opportunities for federal grants and pilot programs.

Sec. A-50. 38 MRSA §2133, sub-§3, as amended by PL 1991, c. 517, Pt. B, §10, is further 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. A-51. 38 MRSA §2133, sub-§4, ¶B, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

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

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

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

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

§2134. Market development and assistance

The office shall design and implement a market development strategy and marketing assistance programs, consistent with the recycling component of the state plan, which shall must 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;~~

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;

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

6
7 **5. ~~Marketing development plan.~~** ~~Based on the state plan, a~~
8 ~~market development and marketing plan by January 1, 1990, which~~
9 ~~includes:~~

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

12
13 ~~B. Market opportunities in Canada and other export markets;~~

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

18
19 ~~D. Specific recommendations on markets for recycled~~
20 ~~materials from the various areas of the State; and~~

21
22 **6. Reuse of waste.** Assisting Assistance to industries in
23 promoting the reuse of industrial and commercial wastes that are
24 suitable raw materials for other processes. ~~The office shall~~
25 ~~coordinate these efforts with waste exchanges in the northeastern~~
26 ~~United States.~~

27
28 **Sec. A-55. 38 MRSA §2135,** as enacted by PL 1989, c. 585, Pt.
29 A, §7, is repealed.

30
31 **Sec. A-56. 38 MRSA §2135-A,** as enacted by PL 1991, c. 517,
32 Pt. A, §3, is repealed.

33
34 **Sec. A-57. 38 MRSA §2136,** as enacted by PL 1989, c. 585, Pt.
35 A, §7, is repealed.

36
37 **Sec. A-58. 38 MRSA §2137,** as enacted by PL 1989, c. 585, Pt.
38 A, §7, is amended to read:

39
40 **§2137. State Government recycling and waste reduction**

41
42 The office, in cooperation with the Department of
43 Administration Administrative and Financial Services, shall
44 assess the status of recycling efforts undertaken directly by the
45 State for its own solid waste and shall evaluate existing
46 programs and develop necessary new programs for recycling to
47 reduce the generation of solid waste by the State. ~~The programs~~
48 ~~shall include, without limitation, recycling of office papers,~~
49
50

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

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

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

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

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

2 **§2138. Office paper recycling program**

4 **1. Office paper recycling mandated.** Any person employing
6 office paper and corrugated cardboard recycling program according
to the following schedule.

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

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

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

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

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

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

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

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

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

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. A-60. 38 MRSA §2139, as amended by PL 1989, c. 700, Pt.
A, §170, is further 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. **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. A-61. 38 MRSA c. 24, sub-c. IV is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER IV

FACILITY SITING AND DEVELOPMENT

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

Sec. A-63. 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.

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

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

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

18 **§2153. Siting criteria**

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

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

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

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

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

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

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

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

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

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

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

16

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

36

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

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

48

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

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

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

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

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

Sec. A-73. 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. A-74. 38 MRSA §2176, first ¶, as amended by PL 1993, c. 310, Pt. B, §10, is further 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. A-75. 38 MRSA §2201, first ¶, as repealed and replaced by PL 1991, c. 824, Pt. A, §88, is amended to read:

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.

Sec. A-76. 38 MRSA §2202, sub-§1, as enacted by PL 1989, c. 585, Pt. A, §7, 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-shall~~ department under this article must be deposited into the Maine Solid Waste Management Fund.

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

3. Imported special waste. In addition to any other fee assessed under this section and to support those 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. A-78. 38 MRSA §2204, sub-§2, as amended by PL 1993, c. 85, §2, is repealed.

Sec. A-79. 38 MRSA §2204, sub-§3, as amended by PL 1993, c. 310, Pt. C, §3, is further 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.

2 **Sec. A-80. 38 MRSA §§2205 and 2206**, as enacted by PL 1989, c.
3 585, Pt. A, §7, are amended to read:

4 **§2205. Fee payments**

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

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

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

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

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

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

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

42 **4. Refunds.** Any operator who believes the fee was overpaid
43 by the operator may file a petition for refund to the agency
44 department. If the agency department determines that the
45 operator has overpaid the fee, the agency department shall refund
46 to the operator the amount due the operator, together with
47 interest at a rate established by the agency department.
48

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

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

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

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

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

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

41 The amount determined after administrative hearing or after
42 waiver of administrative hearing shall-be is payable to the
43 agency department and shall-be is 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 must be filed with the agency department pursuant to section 2206.

§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.

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

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

PART B

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

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

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

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

K. Coordinate the development of energy policy, including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

PART C

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

	1995-96	1996-97
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Solid Waste Management		
Positions	(-9.0)	(-9.0)
Personal Services	(\$458,654)	(\$457,385)
All Other	(53,488)	(55,070)
Provides for the deappropriation of funds for solid waste management functions.		
DEPARTMENT OF ENVIRONMENTAL PROTECTION		
TOTAL	<u>(\$512,142)</u>	<u>(\$512,455)</u>

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

		1995-96	1996-97
	ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
	Solid Waste Management		
	Positions -- Other Count	(-3.0)	(-3.0)
	Personal Services	(\$122,256)	(\$124,447)
	All Other	(58,034)	(65,537)
	TOTAL	(\$180,290)	(\$189,984)
	Provides for the deallocation of funds through the deletion of one Data Control Clerk position and one Environmental Specialist III position, the addition of one Environmental Specialist II position and the transfer of one Clerk Typist III position and one Environmental Specialist IV position to the Maine Environmental Protection Fund and the reduction of support funds.		
	Tire Stockpile Clean-up Program		
	All Other	\$930,868	\$251,235
	Provides for the allocation of funds to accomplish the cleanup of tire stockpiles.		
	DEPARTMENT OF ENVIRONMENTAL PROTECTION		
	TOTAL	\$750,578	\$61,251
	EXECUTIVE DEPARTMENT		
	Planning Office		

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

	Positions - Other Count	(6.0)	(6.0)
2	Personal Services	\$282,203	\$273,572
	All Other	656,339	161,135
4			
6	Provides allocations for the		
	transfer of one Development		
8	Program Manager position and		
	one Planner II position from		
10	the Office of Waste Reduction		
	and Recycling; one Planner II		
12	position and one Clerk Typist		
	III position from the Office		
14	of Siting and Disposal		
	Operations; and one Senior		
16	Planner position and one		
	Planner II position from the		
18	Office of Planning within the		
	Maine Waste Management Agency		
20	to the State Planning		
	Office. It also provides		
22	allocations for technical		
	assistance to municipalities		
24	and, in fiscal year 1995-96,		
	for a contract payment of		
26	\$500,000 to Lincoln Pulp and		
	Paper.		

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

30
32 **WASTE MANAGEMENT AGENCY,
MAINE**

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

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

42 Provides for the deallocation

44 of funds through the

46 elimination of the Maine
Waste Management Agency.

48 **Office of Planning**

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

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

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

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

10

12 **Office of Siting and
Disposal Operations**

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

20

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

26 **Office of Waste Reduction
and Recycling**

28

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

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

40

42 **MAINE WASTE MANAGEMENT
AGENCY
TOTAL**

44	TOTAL ALLOCATIONS	(\$2,595,150)	(\$2,595,150)
46		(\$906,030)	(\$2,099,192)

48

50 **Sec. C-3. Allocation.** The following funds are allocated from
the Maine Environmental Protection Fund to carry out the purposes
of this Act.

1995-96

1996-97

**ENVIRONMENTAL PROTECTION,
DEPARTMENT OF**

Maine Environmental Protection Fund

Positions - Other Count	(2.0)	(2.0)
Personal Services	\$88,686	\$89,747
All Other	16,850	17,051

Provides for the allocation of funds for the transfer of one Clerk Typist III position and one Environmental Specialist IV position from the Solid Waste Management Fund.

**DEPARTMENT OF ENVIRONMENTAL
PROTECTION
TOTAL**

\$105,536

\$106,798

Sec. C-4. 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 officers 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. 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 that 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 subsection 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.

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

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

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

FISCAL NOTE

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

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

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

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

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

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

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

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

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

STATEMENT OF FACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FINAL VOTE.

VOTING TALLY SHEET

L.D.# or Confirmation:

229

Committee:

NATURAL RESOURCES

Date:

May 23, 1995

Motion:

O.T.P. - Am

Motion By:

Gould / Ruhlin

SENATORS	YEA	NAY	ABSENT	ABSTAIN
1. LORD, WILLIS A. (chair)	X			
2. HATHAWAY, W. JOHN		X O.T.P.-A.		
3. RUHLIN, RICHARD P.	X			
REPRESENTATIVES				
1. GOULD, RICHARD A. (chair)	X			
2. POULIN, THOMAS E.	X			
3. SAXL, JANE W.	X			
4. BERRY, RANDALL L.	X			
5. MERES, JUNE C.	X			
6. SHIAH, DAVID C.		X O.N.T.P.		
7. GREENLAW, ERNEST C.	X			
8. DAMREN, CATHARINE L.	X			
9. NICKERSON, ROY I.	X			
10. MARSHALL, JOHN P.	X			
TOTAL	11	2		

Not final vote

VOTING TALLY SHEET

L.D.# or Confirmation:

229

Committee:

NATURAL RESOURCES

Date:

Motion:

OTP-1A

Motion By:

Saul / meres

SENATORS	YEA	NAY	ABSENT	ABSTAIN
1. LORD, WILLIS A. (chair)	/			
2. HATHAWAY, W. JOHN				
3. RUHLIN, RICHARD P.	/			
REPRESENTATIVES				
1. GOULD, RICHARD A. (chair)	/			
2. POULIN, THOMAS E.	/			
3. SAXL, JANE W.	/			
4. BERRY, RANDALL L.	/			
5. MERES, JUNE C.	/			
6. SHIAH, DAVID C.				
7. GREENLAW, ERNEST C.	/			
8. DAMREN, CATHARINE L.	/			
9. NICKERSON, ROY I.	/			
10. MARSHALL, JOHN P.	/			
TOTAL				

VOTING TALLY SHEET

L.D.# or Confirmation: 229

Committee: NATURAL RESOURCES

Date: _____

Motion: OTP

Motion By: Gould / Lord

SENATORS	YEA	NAY	ABSENT	ABSTAIN
1. LORD, WILLIS A. (chair)	/			
2. HATHAWAY, W. JOHN				
3. RUHLIN, RICHARD P.	/			
REPRESENTATIVES				
1. GOULD, RICHARD A. (chair)	/			
2. POULIN, THOMAS E.	/			
3. SAXL, JANE W.	/			
4. BERRY, RANDALL L.	/			
5. MERES, JUNE C.	/			
6. SHIAH, DAVID C.			/	
7. GREENLAW, ERNEST C.	/			
8. DAMREN, CATHARINE L.	/			
9. NICKERSON, ROY I.	/			
10. MARSHALL, JOHN P.	/			
TOTAL				

VOTING TALLY SHEET

L.D.# or Confirmation: 229

Committee: NATURAL RESOURCES

Date: _____

Motion: O.T.P. - Am.

Motion By: Gould/

SENATORS	YEA	NAY	ABSENT	ABSTAIN
1. LORD, WILLIS A. (chair)	X			
2. HATHAWAY, W. JOHN ?	~~X~~			
3. RUHLIN, RICHARD P.	X			
REPRESENTATIVES				
1. GOULD, RICHARD A. (chair)	~~X~~			
2. POULIN, THOMAS E.	~~X~~			
3. SAXL, JANE W.	X			
4. BERRY, RANDALL L.	X			
5. MERES, JUNE C.	X			
6. SHIAH, DAVID C.	~~X~~			
7. GREENLAW, ERNEST C.	X			
8. DAMREN, CATHARINE L.	X			
9. NICKERSON, ROY I.	X			
10. MARSHALL, JOHN P.	X			
TOTAL				

1

VOTING TALLY SHEET

L.D.# or Confirmation: 229

Committee: NATURAL RESOURCES

Date: 4-12-95

Motion: Except Amendment on Monies

Motion By: Ruhlin Green Law

SENATORS	YEA	NAY	ABSENT	ABSTAIN
1. LORD, WILLIS A. (chair)	X			
2. HATHAWAY, W. JOHN			X	
3. RUHLIN, RICHARD P.	X			
REPRESENTATIVES				
1. GOULD, RICHARD A. (chair)	X			
2. POULIN, THOMAS E.	X			
3. SAXL, JANE W.			X	
4. BERRY, RANDALL L.	X			
5. MERES, JUNE C.	X			
6. SHIAH, DAVID C.		X		
7. GREENLAW, ERNEST C.	X			
8. DAMREN, CATHARINE L.	X			
9. NICKERSON, ROY I.	X			
10. MARSHALL, JOHN P.	X			
TOTAL	10	1	2	

VOTING TALLY SHEET

L.D.# or Confirmation: 229Committee: NATURAL RESOURCESDate: 4-12-95Motion: Positions go to State Planning officeMotion By: Ruhlin / Gould

SENATORS	YEA	NAY	ABSENT	ABSTAIN
1. LORD, WILLIS A. (chair)	X			
2. HATHAWAY, W. JOHN			X	
3. RUHLIN, RICHARD P.	X			
REPRESENTATIVES				
1. GOULD, RICHARD A. (chair)	X			
2. POULIN, THOMAS E.	~~X~~		X	
3. SAXL, JANE W.			X	
4. BERRY, RANDALL L.	X			
5. MERES, JUNE C.	X	~~X~~		
6. SHIAH, DAVID C.	X			
7. GREENLAW, ERNEST C.	X			
8. DAMREN, CATHARINE L.		X		
9. NICKERSON, ROY I.	X			
10. MARSHALL, JOHN P.		X		
TOTAL	8	2	3	

3

VOTING TALLY SHEET

L.D.# or Confirmation: 229

Committee: NATURAL RESOURCES

Date: 4-12-95

Motion: ~~Authorize bill to go ahead~~

Motion By: Take off Back page
of Pink Amendment.

SENATORS	YEA	NAY	ABSENT	ABSTAIN
1. LORD, WILLIS A. (chair)				
2. HATHAWAY, W. JOHN				
3. RUHLIN, RICHARD P.				
REPRESENTATIVES				
1. GOULD, RICHARD A. (chair)				
2. POULIN, THOMAS E.				
3. SAXL, JANE W.				
4. BERRY, RANDALL L.				
5. MERES, JUNE C.				
6. SHIAH, DAVID C.				
7. GREENLAW, ERNEST C.				
8. DAMREN, CATHARINE L.				
9. NICKERSON, ROY I.				
10. MARSHALL, JOHN P.				
TOTAL				

4

VOTING TALLY SHEET

L.D.# or Confirmation: _____

Committee: NATURAL RESOURCES

Date: _____

Motion: CTP-A = ~~any~~ language

Motion By: _____

SENATORS	YEA	NAY	ABSENT	ABSTAIN
1. LORD, WILLIS A. (chair)	X			
2. HATHAWAY, W. JOHN				
3. RUHLIN, RICHARD P.	X			
REPRESENTATIVES				
1. GOULD, RICHARD A. (chair)	X			
2. POULIN, THOMAS E.	X			
3. SAXL, JANE W.				
4. BERRY, RANDALL L.	X			
5. MERES, JUNE C.	X			
6. SHIAH, DAVID C.		X		
7. GREENLAW, ERNEST C.	X			
8. DAMREN, CATHARINE L.		X		
9. NICKERSON, ROY I.	X			
10. MARSHALL, JOHN P.		X		
TOTAL				

VOTING TALLY SHEET

L.D.# or Confirmation: 229

Committee: NATURAL RESOURCES

Date: 4-24-95

Motion: Table

Motion By: Marshall / Shiah

SENATORS	YEA	NAY	ABSENT	ABSTAIN
1. LORD, WILLIS A. (chair)				
2. HATHAWAY, W. JOHN				
3. RUHLIN, RICHARD P.				
REPRESENTATIVES				
1. GOULD, RICHARD A. (chair)				
2. POULIN, THOMAS E.				
3. SAXL, JANE W.				
4. BERRY, RANDALL L.				
5. MERES, JUNE C.				
6. SHIAH, DAVID C.				
7. GREENLAW, ERNEST C.				
8. DAMREN, CATHARINE L.				
9. NICKERSON, ROY I.				
10. MARSHALL, JOHN P.				
TOTAL				

VOTING TALLY SHEET

L.D.# or Confirmation: 229

Committee: NATURAL RESOURCES

Date: 4-28-95

Motion: Tabled

Motion By: Lord / Saxl

SENATORS	YEA	NAY	ABSENT	ABSTAIN
1. LORD, WILLIS A. (chair)				
2. HATHAWAY, W. JOHN				
3. RUHLIN, RICHARD P.				
REPRESENTATIVES				
1. GOULD, RICHARD A. (chair)				
2. POULIN, THOMAS E.				
3. SAXL, JANE W.				
4. BERRY, RANDALL L.				
5. MERES, JUNE C.				
6. SHIAH, DAVID C.				
7. GREENLAW, ERNEST C.				
8. DAMREN, CATHARINE L.				
9. NICKERSON, ROY I.				
10. MARSHALL, JOHN P.				
TOTAL				

HOUSE REPORT

THE COMMITTEE ON NATURAL RESOURCES

to which was referred the following:

An Act to Abolish the Maine Waste Management Agency.

HP. 181

L.D. 229

has had the same under consideration, and asks leave to report that the same

ought to pass as amended by committee amendment " ".

(Signature) _____ of _____ For the Committee.

SEN. LORD OF YORK _____
 REP. GOULD OF GREENVILLE _____
 SEN. RUMLIN OF PENOBSCOT _____
 REP. POULTIN OF OAKLAND _____
 REP. SAXL OF BANGOR _____
 REP. BERRY OF LIVERMORE _____
 REP. MERES OF NORRIDGEWOCK _____
 REP. GREENLAW OF STANDISH _____
 REP. DAMREN OF BELGRADE _____
 REP. NICKERSON OF TURNER _____
 REP. MARSHALL OF ELIOT _____

Kellis A. Lord
Robert A. Gould
Richard R. Full
William E. Paul
Redell K. Berry
James C. Meres
Constance Chandler
Catherine P. Noyes
Robert Nickerson
John Marshall

(Type)
 Rep. of (Town) and/or Sen. of (County)

(Signatures)

HOUSE REPORT

HOUSE REPORT

THE COMMITTEE ON NATURAL RESOURCES

to which was referred the following:

An Act to Abolish the Maine Waste Management Agency.

H.P. 181

L.D. 229

has had the same under consideration, and asks leave to report that the same

OULD TO PASS AS AMENDED BY COMMITTEE AMENDMENT " "

(Signature) of _____ For the Committee.

SEN. HATHAWAY OF YORK

(Type)
Rep. of (Town) and/or Sen. of (County)

(Signatures)

HOUSE REPORT

HOUSE REPORT

THE COMMITTEE ON NATURAL RESOURCES

to which was referred the following:

An Act to Abolish the Maine Waste Management Agency.

HP. 181

L.D. 229

has had the same under consideration, and asks leave to report that the same

OUGHT NOT TO PASS

(Signature) of _____ For the Committee.

REP. SHIAH OF BOWDOINHAM

David C. Shih

(Type)
Rep. of (Town) and/or Sen. of (County)

(Signatures)

HOUSE REPORT