

MAINE STATE LEGISLATURE

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(EMERGENCY)
(Governor's Bill)
SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1953

H. P. 1846

House of Representatives, February 15, 1980

Speaker laid before the House and on Motion of Mr. Blodgett of Waldoboro, referred to the Committee on Appropriations and Financial Affairs. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk of the House

Presented by Mr. Morton of Farmington.

Cosponsor: Mr. Carter of Winslow.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT to Create the Maine Spruce Budworm Management Act.

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

Whereas, spruce budworm spray projects must be undertaken, in order to be effective, prior to the expiration of such 90-day period following adjournment; and

Whereas, the Legislature has determined that, beginning in 1980, it is necessary and appropriate to effectuate certain modifications in the manner in which spruce budworm spray projects and management programs are undertaken and financed; 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; and now, therefore,

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

Sec. 1. 5 MRSA § 711, sub-§ 2, ¶ A, sub-¶ (3), divs. (f) and (g), as repealed and replaced by PL 1977, c. 674, § 6, are amended to read:

- (f) Director, Bureau of Parks and Recreation; ~~and~~
- (g) Director, Bureau of Public Lands; ~~and~~

Sec. 2. 5 MRSA § 711, sub-§ 2, ¶ A, sub-¶ (3), div. (h) is enacted to read:

- (h) **Forest Insect Manager, Bureau of Forestry.**

Sec. 3. 12 MRSA § 8405, sub-§§ 3, 4 and 5, as enacted by PL 1979, c. 545, § 3, are repealed and the following enacted in their place:

3. Excise tax funds. Persons owning parcels of forest land, including persons claiming timber and grass rights in public reserved lands, which are classified as forest land pursuant to Title 36, chapter 105, subchapter II-A, of more than 500 acres within the Spruce Fir Forest Protection District shall be subject to the pre-project and post-project excise taxes established under section 8406 on the privilege of owning and operating such parcels of forest land, except as provided in this subchapter. In cases of divided ownership of the forest land, the persons owning or claiming timber rights in such forest land shall be subject to such taxes. The Legislature hereby finds that it would not be administratively feasible to apply such taxes to smaller parcels of such forest land.

4. Spray project special accounts. Accounts shall be established in the following manner.

A. The Treasurer of State shall establish 2 dedicated revenue accounts as follows.

- (1) Into one account shall be deposited any revenues received by the State from the Government of the United States for any spray project.
- (2) Into the other account shall be deposited any revenues received by the State from the excise taxes authorized pursuant to this subchapter.

B. The moneys credited to these accounts shall be used by the Bureau of Forestry to pay any expenses, debts, accounts and lawful demands incurred in connection with spray projects authorized under this subchapter and the director shall authorize the State Controller to draw his warrant therefor at any time. Any remaining balance in these accounts shall continue from year to year as a fund available for the purposes set out in this subchapter and for no other purpose.

5. Borrowing from General Fund. To accomplish the purposes of this subchapter, the director may, subject to the approval of the Governor, borrow moneys from the General Fund for up to 60 days, at no interest, in order to enable the bureau to pay expenses, debts, accounts and lawful demands for any spray project authorized under this subchapter; provided, however, that the aggregate amount of that borrowing may not, at any time, exceed the amount of uncollected excise taxes authorized under this subchapter for such spray project.

Sec. 4. 12 MRSA § 8406, as enacted by PL 1979, c. 545, § 3, is repealed and the following enacted in its place:

§ 8406. Taxation

1. **Pre-project excise tax.** The pre-project excise tax on parcels of softwood forest land shall be \$1.58 per acre for 1980. The pre-project excise tax on parcels of mixed-wood forest land shall be 79¢ per acre for 1980. The tax shall be assessed and billed by the State Tax Assessor within 30 days following the effective date of this section.

2. **Post-project excise tax.** The post-project excise tax on forest land shall be computed and assessed as follows.

A. The Director of the Bureau of Forestry shall determine the total amount of costs incurred or budgeted to be expended in connection with any spray project conducted during the 1980 calendar year.

B. The amount computed in paragraph A shall be reduced by the amount of any moneys received for such project from the Government of the United States and from contract payments made for spraying services pursuant to section 8414, subsection 3.

C. 30% of the balance computed under paragraph B shall be raised by a post-project spray tax, the per acre rate of which shall be calculated by dividing the sum to be so raised by the number of acres, subject to excise taxation under this subchapter, which actually received spray treatment in 1980.

D. 70% of the balance computed under paragraph B shall be raised by a post-project shared tax, applicable to all taxable acres in the district, the per acre rates of which shall be calculated in accordance with the following: Each taxable acre in the district which is classified as mixed wood shall be taxed at half the rate applicable to each taxable acre in the district classified as softwood; and each such acre classified as hardwood is not subject to taxation under this paragraph.

E. The director shall certify in writing to the State Tax Assessor the post-project shared tax rates for softwood and mixed-wood acres and the post-project spray tax rate, together with the number of acres within each ownership which are subject to such taxes.

F. The amount of the post-project excise taxes payable by each landowner shall be reduced by the amount assessed upon that landowner on account of the pre-project excise tax payable for that calendar year.

G. The State Tax Assessor shall compute, assess and bill, by September 1, the amount of post-project excise taxes payable by each landowner in accordance with this section. Notice of the amount owed by each landowner shall be sent to him or his agent at the address shown on the records of the State Tax Assessor or of the municipality in which the land is located. In the event that the amount so calculated results in a negative balance for any landowner, the State Tax Assessor shall refund to that landowner the amount of the balance in the form of a tax rebate.

3. **Due date.** The pre-project excise tax is due March 31st of the year in which it is assessed. The post-project excise tax is due September 30th of the year in which it is assessed. Notice of the taxes shall be presumed complete upon mailing.

4. **Interest and penalty.** Any tax assessed under this subchapter which is not paid when due shall accrue interest at the rate of 1 1/2% for each month, or fraction thereof, that the tax remains unpaid and a penalty equal to 20% of the unpaid tax shall be added to the liability of any person who fails to pay a tax when due.

5. **Lien.** There shall be a tax lien on all land subject to taxation under this subchapter to secure the payment of all sums due hereunder, and the lien may be enforced in the manner provided by Title 36, sections 1282 and 1283.

6. **Collection by Attorney General.** Whenever any person fails to pay any tax, interest and penalty due under this subchapter within the time provided, the Attorney General shall enforce payment by civil action against the person from whom it is due for the amount of such tax, interest and penalty, together with costs, in either the Superior or District Court in Kennebec County or in the judicial division in which the person has a residence or established place of business.

Sec. 5. 12 MRSA § 8407-A is enacted to read:

§ 8407-A. Settlement corridors

1. **Designation.** All land within 2 miles of publicly-maintained roads in the Spruce Fir Forest Protection District shall be designated by the Director of the Bureau of Forestry as settlement corridors.

2. **Insecticide spray treatment; exceptions.** Land within settlement corridors may not receive insecticide spray treatment except under the following circumstances:

A. The landowner makes a written request for that treatment in accordance with schedules and procedures adopted by the director;

B. The request is accompanied by such information as the director may require and meets such criteria as the director may require and meets such criteria as the director may adopt; and

C. The request does not relate to land within a settlement corridor located in a municipality which has taken action to prohibit spray projects within that corridor pursuant to subsection 4 of this section.

3. **Director's authority.** The provision for settlement corridors under this section does not impair or affect the director's authority to define and carry out other policies and procedures, including, without limitation, the use of no-spray buffers, designed to protect the public health and the environment, as he deems necessary or appropriate.

4. **Prohibition by municipalities.** Any municipality within the Spruce Fir

Forest Protection District may prohibit the execution of spray projects authorized under this subchapter within settlement corridors, as designated pursuant to this section, which lie within that municipality. Any such prohibition, or the repeal thereof, may be enacted in accordance with the procedures for enactment of municipal ordinances; provided that any such prohibition shall be enacted before April 15th of any calendar year in which it shall apply and that the municipalities shall send a certified copy of its enactment to the director within 5 days following the adoption of the same.

Sec. 6. 12 MRSA § 8415, as enacted by PL 1969, c. 545, § 3, is repealed and the following enacted in its place:

§ 8415. Program personnel

1. Spray project personnel. There are established within the Bureau of Forestry the following positions, all of which will be funded as annual expenses of any spray project conducted: A development and monitoring coordinator, a spray technologist-insecticide specialist, an account clerk, 4 forest technicians, an aerial photo interpreter, a drafter a secretary, 2 seasonal information and education specialists and such other seasonal positions as the director deems necessary to carry out spray projects. These personnel shall be appointed by the director subject to the Personnel Law and shall perform such duties relating to the spray projects as the director may prescribe.

2. Nonspray project operations personnel. There are established within the Bureau of Forestry the following positions, all of which will be funded out of General Fund appropriations for the purpose of providing administrative and operational support for spruce budworm management program activities not directly related to operation of spray projects: An operations supervisor, a clerk-steno, an accountant, a research associate, 2 entomologists, a forester, 5 forest technicians, an aerial photo interpreter, 2 clerk-typists, an insect ranger and a public information specialist. These personnel shall be appointed by the director subject to the Personnel Law. Functions to be conducted by persons in these positions include but are not limited to the following: Research; technology transfer; budworm wood lot management assistance to small private forest land-owners; survey, detection and hazard rating; public information services; spruce fir supply and demand analysis and financial management.

Sec. 7. 12 MRSA § 8417, as enacted by PL 1979, c. 545, § 3, is repealed and the following enacted in its place:

§ 8417. Research

The Bureau of Forestry, acting through its director, may make grants to funds and enter into contracts for purposes of research related to forest management strategies, insecticide and spray application technologies, integrated pest management techniques, forest product marketing and utilization and other issues pertinent to the purposes of this subchapter. This research shall be funded out of moneys available to the director for that purpose.

Sec. 8. 12 MRSA § 8417-A is enacted to read:

§ 8417-A. **Technical programs**

1. **Implementation.** The Bureau of Forestry shall undertake to develop and implement budworm management technical assistance programs for small wood lot owners.

2. **Analysis of future supply and demand.** The Bureau of Forestry shall conduct or cause to be conducted an analysis of future supply and demand for the spruce and fir resources of the State. The purpose of this analysis shall be to determine the types and levels of future spruce budworm protection needs and strategies for such spruce and fir resources.

Sec. 8-A. 12 MRSA § 8419 is enacted to read:

§ 8419. **Repeal**

This subchapter is repealed on October 1, 1980.

Sec. 9. 12 MRSA c. 803, subchapter IV-A is enacted to read:

SUBCHAPTER IV-A

MAINE SPRUCE BUDWORM MANAGEMENT ACT

§ 8421. **Short title**

This subchapter shall be known and may be cited as the "Maine Spruce Budworm Management Act."

§ 8422. **Legislative policy**

The Legislature declares that it shall be the policy of the State to undertake a spruce budworm management program to minimize the short-term and long-term impacts of spruce budworm insect infestations upon the State's spruce and fir forests in accordance with the following policy objectives:

1. **Supply of wood.** The protection of an adequate present and future supply of wood to support the long-term economic needs of the State and of its forest products industries;

2. **Development of program.** The development and utilization in both the public and private sectors of forest protection and management programs which are cost-effective, biologically sound and responsive to the environmental and health concerns of the public;

3. **Reduction in use of insecticides.** The reduction in reliance upon the use of chemical insecticides in spruce budworm suppression programs;

4. **Private efforts; pest management.** The encouragement of private efforts to undertake a variety of integrated pest management techniques which result in a long-term reduction in the susceptibility of the State's forests to spruce budworm infestation and loss;

5. **Implementation.** The implementation of equitable methods for determining private and public participation in, and financing of, spruce budworm suppression and prevention programs, including provision for voluntary participation in future insecticide spray projects;

6. **Regulatory review.** The provision for adequate regulatory review of insecticide spray projects by an independent state agency; and

7. **Assistance programs.** The provision of management and utilization assistance programs for small forest landowners designed to minimize impacts of spruce budworm infestation and loss.

§ 8423. Definitions

As used in this subchapter, the following terms have the following meanings.

1. **Director.** “Director” means the Director of the Bureau of Forestry.

2. **Designated spray area.** “Designated spray area” means that land area designated by the director, pursuant to section 8425, subsection 4, for inclusion within a spray project.

3. **Forest land owners.** “Forest land owners” means persons who own forest lands within the Spruce Fir Forest Protection District, including, without limitation, persons owning or claiming timber and grass rights in public reserved lands located within that district.

4. **Management program.** “Management program” means all activities undertaken by the Bureau of Forestry in connection with the short-term and long-term suppression, control and prevention of spruce budworm infestations, including, without limitation, any activities undertaken in connection with spray projects, spruce budworm survey and detection activities, silvicultural, marketing and integrated pest management programs, research and related activities.

5. **Person.** “Person” means any individual, partnership, joint venture, corporation or other legal entity, or any group of persons which acts as a tenancy in common or joint tenancy for ownership purposes, and includes any government or any agency, bureau or commission thereof.

6. **Rebate.** “Rebate” means a payment by the State back to a person subject to taxation pursuant to this subchapter.

7. **Rule.** “Rule” means a duly-adopted regulation of general applicability promulgated by the Bureau of Forestry. Such rules shall have the force and effect of law.

8. **Spray program area.** “Spray program area” means all that forest land for which applications have been made and approved by the director pursuant to section 8425, subsections 2 and 3 except as removed pursuant to section 8426, subsection 2.

9. **Spray project.** "Spray project" means all activities undertaken or caused to be undertaken by the Bureau of Forestry in connection with the application of insecticides or other materials against spruce budworm insects within a single year.

10. **Spruce budworm.** "Spruce budworm" means the insect of the species known as *Choristoneura fumiferana*, Clem., at any stage of its biological development.

§ 8424. Spruce Fir Forest Protection District

There is established a Spruce Fir Forest Protection District consisting of each of the municipalities and townships within the State in which the Legislature has determined that the forest cover is, to a substantial extent, composed of spruce and fir trees and wherein such spruce and fir is now, or may reasonably be expected to become, subject to infestation and destruction by spruce budworm insects. The district shall consist of the following municipalities and townships:

1. **Aroostook County.** In Aroostook County, all municipalities and townships;
2. **Franklin County.** In Franklin County, all municipalities and townships north of a line formed by the southern and eastern boundaries of the following municipalities and townships: Kingfield, Salem Township, Phillips and Weld;
3. **Hancock County.** In Hancock County, all municipalities and townships east of a line formed by the western boundaries of the following municipalities and townships: Tremont, Mount Desert, Bar Harbor, Trenton, Lamoine, Hancock, Township 8, S.D. and Mariaville;
4. **Oxford County.** In Oxford County, all municipalities and townships north of a line formed by the southern and eastern boundaries of the following municipalities and townships: Roxbury, Andover, Newry and Township A., No. 1, Riley;
5. **Penobscot County.** In Penobscot County, all municipalities and townships north of a line formed by the southern and western boundaries of the following municipalities: Clifton, Bradley, Old Town, Alton and LaGrange;
6. **Piscataquis County.** In Piscataquis County, all municipalities and townships;
7. **Somerset County.** In Somerset County, all municipalities and townships north of a line formed by the southern boundaries of the following municipalities and townships: Brighton Plantation, Bingham, Concord Township and Township 2, R.1, B.K.P., E.K.R., Lexington; and
8. **Washington County.** In Washington County, all municipalities and townships.

§ 8425. Program planning

1. **General authority.** In accordance with the provisions of this subchapter,

the Bureau of Forestry, acting under the supervision of the director, shall be empowered to plan for and undertake activities related to spray projects and management programs on behalf of the State.

2. Application for spray project eligibility. Forest land owners may apply to the director prior to November 1 of any year to be eligible to participate in spray projects for the following 4 years. The application shall show:

- A. The name and address of the applicant and its agent, if any;
- B. The number and location on maps prescribed by the director of the acres of forest land for which application is being made;
- C. The location on maps prescribed by the director of the timber types, timber ages and proportions of spruce, fir and non-host species within such forest land;
- D. The location on maps of private and public road access to such forest land;
- E. The location on maps of all residences within or adjoining such forest land;
- F. A 5-year management plan for such forest land showing plans for timber cutting, road construction and other planned land utilizations; and
- G. Any other information pertinent to the description, utilization and management of such forest land as the director may require for purposes of spray project and management program planning.

Management plans accompanying the application may be utilized by the Bureau of Forestry for planning purposes, and may be shared with other government agencies, but shall not constitute records available for public inspection or disclosure pursuant to Title 1, section 408.

For excise tax purposes, such application must designate one person who shall be billed and notified of any lien recorded under this subchapter. When a tax bill or notice of lien is sent to this person, it shall constitute notice to all other landowners listed on the application. Each forest landowner shall be jointly and severally liable for any tax, penalty or interest imposed under this subchapter.

3. Effect of application. The director shall accept, not later than December 1st of each year, any application which to his satisfaction meets the requirements of this section and any additional criteria which the director may impose by regulation in furtherance of the legislative policies of this subchapter. By December 15th, the director shall certify in writing to the State Tax Assessor the complete list of all participants in the program. The list shall include the names of the forest landowners, the names and addresses of the persons designated to be billed and served with notices of liens, particularized descriptions of the real estate included in the Spray Program Area and statements of the acreage included in each parcel. If a change in ownership occurs after December 15th, the director shall inform the State Tax Assessor not later than the following September 1st.

Upon the director's acceptance of any such application, the forest land involved

shall, for a period of 4 years, be and remain eligible for inclusion within the spray project, as determined on an annual basis pursuant to subsection 4 of this section, and shall be subject to taxation pursuant to section 8428, regardless of any change in ownership of such forest land. At the expiration of such 4-year period, application must be renewed by the forest land owner and accepted by the director, in accordance with this section in order to enable continued eligibility for participation in subsequent spray projects.

4. **Spray project designation.** Spray projects shall be designated in the following manner.

A. The director, acting in accordance with this subchapter, shall have ultimate and final discretion to determine, and from time to time modify, the location, type and manner of any spray project within the spray program area, subject to such regulatory review and approval by other state and federal agencies as is provided by law. The director shall make these determinations based upon evidence of the extent of budworm hazard to forest lands within the spray program area, forest stand composition, wood supply needs, buffer policies, opportunities for silvicultural and other management alternatives, the cost-effectiveness and biological soundness of spray treatment for particular forest lands, the recommendations of affected forest land owners and the public, environmental and public health concerns and such other factors as the director may deem to be in furtherance of the legislative policies of this subchapter.

B. The director shall, not later than December 15th of each year, make a preliminary determination of the forest lands within the spray program area to which he tentatively deems it necessary and appropriate to apply chemical or biological spray treatment in the following year. Within 15 days following such preliminary determination, the director shall furnish and make available to the affected forest land owners and to the public maps showing the forest lands preliminarily so designated. Notice of the preliminary designation shall be published in the state paper and such other newspapers as the director deems appropriate. The notice shall indicate where spray area maps will be available for inspection and where further information may be obtained, and shall provide information concerning withdrawal procedures.

C. Any forest land within the spray program area may be withdrawn from any annual spray project provided that a written request, adequately specifying on maps prescribed by the director the location of the acres to be withdrawn, is submitted by the forest land owner to the director no later than February 1st of the calendar year of the spray project involved. The director may at his discretion receive and act upon later-submitted requests for withdrawal.

5. **General conditions for applications and requests.** In addition to any other requirements for applications for spray project eligibility or for spray treatment and requests for withdrawal established under this subchapter, such applications and requests shall conform with the following requirements.

A. They shall be accompanied by maps, depicting the forest land involved, of the same size and scale as those accepted by the State Tax Assessor in the administration of the Tree Growth Tax Law.

B. They shall include a statement of ownership rights in the forest lands involved.

C. Subject to the provisions of paragraph D, they shall include written authorization from each owner of, or claimant to, an interest in the forest land involved, other than owners of easements and mortgages.

D. In the case of applications or requests affecting parcels of forest land held in common and undivided or joint ownership, a controlling or majority interest in the parcel shall have the power to make applications and requests under this subchapter and such applications and requests, as well as the decisions of the director thereon, shall be binding on all owners of interests in those lands.

E. Within 30 days following the transfer of any interest, other than an easement or mortgage, in any forest lands which are part of the spray program area, written notice of the transfer shall be sent to the director.

6. Settlement corridors. Settlement corridors are subject to the following provisions.

A. All land within 2 miles of publicly maintained roads in the Spruce Fir Forest Protection District shall be designated by the director as settlement corridors.

B. Land within settlement corridors shall not receive insecticide spray treatment except under the following circumstances:

- (1) The land is in the spray program area;
- (2) The landowner makes a written request for the treatment not later than January 1st in the year preceding the spray project involved;
- (3) The request is accompanied by such information as the director may require and meets such criteria as the director may adopt in furtherance of the legislative policies of this subchapter; and
- (4) The request does not relate to land within a settlement corridor located in a municipality which has taken action to prohibit spray projects within that corridor pursuant to section 8426, subsection 2.

C. The provision for settlement corridors under this section does not impair or affect the director's authority to define and carry out other policies and procedures, including, without limitation, the use of no-spray buffers, designed to protect the public health and the environment, as he deems necessary or appropriate.

7. Technical assistance programs. The Bureau of Forestry shall undertake to

develop and implement budworm management technical assistance programs for small wood lot owners.

8. **Supply-Demand Analysis.** The Bureau of Forestry shall conduct or cause to be conducted an analysis of future supply and demand for the spruce and fir resources of the State. The purpose of such analysis shall be to determine the types and levels of future spruce budworm protection needs and strategies for such spruce and fir resources.

§ 8426. **Regulatory Jurisdiction**

1. **General rule.** The Bureau of Forestry, in undertaking any spray project, shall apply for and obtain any permits and approvals of the Maine Pesticide Control Board and the Maine Department of Agriculture, as required by the laws administered by those agencies. Except as provided in this section, spray projects may be conducted without adherence to the laws administered by other state agencies or by any municipal, county or other local government body.

2. **Municipal action.** Any municipality within the Spruce Fir Forest Protection District may prohibit the execution of spray projects within settlement corridors, as designated pursuant to section 8425, subsection 6, which lie within the municipality. Any such prohibition, or the repeal thereof, may be enacted in accordance with the procedures for enactment of municipal ordinances; provided that any such prohibition shall be enacted before April 1st of any calendar year in which it shall apply and that the municipality shall send a certified copy of its enactment to the director within 10 days following the adoption of the same. Settlement corridors within which spray projects have been prohibited pursuant to this subsection shall thereupon be removed by the director from the spray program area.

§ 8427. **Funding**

1. **Recommendation of the director.** On or before January 1st of each year, the director shall report in writing to the Bureau of the Budget and to the Legislature his estimate of the costs of implementation of any spray project proposed for that calendar year.

2. **Authorization by Legislature.** Following the recommendation made in accordance with subsection 1, the Legislature shall determine, not later than January 20th, the amount, if any, authorized for expenditure for any spray project in that calendar year and shall determine the pre-project excise tax rate, applicable to all acres within the spray program area, necessary to finance the full amount so authorized. That excise tax shall be assessed and collected in accordance with section 8428, subsection 2.

3. **General Fund participation.** The Legislature shall appropriate moneys from the General Fund to pay the costs of management program activities other than those related to spray projects. Except as expressly provided in this subchapter, General Fund moneys may not be expended for costs incurred in connection with spray projects.

4. Spray project special accounts. Special accounts shall be established in the following manner.

A. The Treasurer of State shall establish 2 dedicated revenue accounts as follows.

(1) Into one account shall be deposited any revenues received by the State from the Government of the United States for any spray project.

(2) Into the other account shall be deposited any revenues received by the State from the excise taxes authorized pursuant to this subchapter.

B. The moneys credited to such accounts shall be used by the Bureau of Forestry to pay any expenses, debts, accounts and lawful demands incurred in connection with spray projects authorized under this subchapter, and the director shall authorize the State Controller to draw his warrant therefor at any time. Any remaining balance in these accounts shall continue from year to year as a fund available for the purposes set out in this subchapter and for no other purpose.

5. Borrowing from General Fund. To accomplish the purpose of this subchapter, the director may borrow moneys from the General Fund for up to 60 days, at no interest, in order to enable the bureau to pay expenses, debts, accounts and lawful demands for any spray project authorized under subsection 2 of this section; provided, however, that the aggregate amount of such borrowing may at no time exceed the amount of uncollected excise taxes authorized under this subchapter for that spray project.

§ 8428. Taxation

1. Generally. Forest land owners within the spray program area shall be subject to the excise taxes authorized under this section for the privilege of owning such lands and of receiving the benefits of spray project eligibility. In cases of divided ownership of such lands, the persons owning or claiming timber rights shall be subject to such taxes.

2. Pre-project excise tax. Forest land owners within the spray program area shall be subject to the pre-project excise tax at the rate established by the Legislature pursuant to section 8427, subsection 2. The tax shall be assessed and billed by the State Tax Assessor within 30 days following that legislative authorization.

3. Post-project excise tax. The post-project excise tax for all land owners within the spray program area shall be computed and assessed as follows:

A. The director shall determine the total amount of costs incurred or budgeted to be expended in connection with any spray project conducted during the then current calendar year.

B. The amount computed in paragraph A shall be reduced by the amount of any moneys received for that project from the Government of the United States

or from contract payments made for spraying services pursuant to section 8429, subsection 8.

C. 50% of the balance computed under paragraph B shall be divided by the number of acres within the spray program area, and that per acre allocation shall constitute the post-project shared tax rate.

D. 50% of the balance computed under paragraph B shall be divided by the number of acres within the designated spray area which actually received spray treatment, as determined by the director, and that per acre allocation shall constitute the post-project spray tax rate.

E. By September 1st of each year, the director shall certify in writing to the State Tax Assessor the post-project shared tax rate and the post-project spray tax rate, together with the number of acres within each ownership which is within the spray program area and the number of those acres which actually received spray treatment.

F. The State Tax Assessor shall compute, assess and bill, by November 1st of each year, the amount of post-project excise taxes payable by each landowner within the spray program area, based upon:

(1) The sum of:

(a) The product of the number of acres owned within the spray program area times the post-project shared tax rate; and

(b) The product of the number of acres owned which actually received spray treatment times the post-project spray tax rate; less

(2) The amount assessed upon that owner on account of the pre-project excise tax for that calendar year.

In the event that the sum so calculated results in a negative balance for any landowner, the State Tax Assessor shall credit the amount of that balance against the next pre-project excise tax owned by that landowner; provided that if the landowner's participation in the program ceases, he shall receive the amount of that balance in the form of a rebate.

4. Due date. The pre-project excise tax is due March 31st of the year in which it is assessed. The post-project excise tax is due December 15th of the year in which it is assessed. Notice of the amount of any tax due under this subchapter shall be presumed complete upon mailing of a bill therefor.

5. Interest and penalty. Any tax assessed under this subchapter which is not paid when due shall accrue interest at the rate of 1 1/2% for each month, of fraction thereof, that the tax remains unpaid; and a penalty equal to 20% of the unpaid tax shall be added to the liability of any person who fails to pay a tax when due.

6. Tax lien. There shall be a tax lien to secure the payment of all taxes,

penalties and interest assessed under this subchapter. The lien shall attach to all real estate described in any application made under section 8425, subsection 2 and shall take precedence over all other claims on that real estate and shall continue in force until the taxes, penalties and interest are paid or until the lien is otherwise terminated.

For purposes of lien foreclosure, unpaid taxes assessed under this subchapter shall be delinquent on the date due. Thereafter, the State Tax Assessor may record, in the registry of deeds of the county or registry district where that real estate lies, a certificate signed by the State Tax Assessor setting forth the name of the person designated in section 8425, subsection 2, the amount of unpaid taxes, penalties and interest and a description of the real estate subject to the lien. Not later than one week after recording the lien, the State Tax Assessor shall notify the person designated in section 8425, subsection 2 that a lien has been recorded. If the full amount of the tax, penalty and interest is not paid within 45 days of recording, the lien shall be foreclosed. Upon foreclosure, the State shall become fee simple owner of the real estate free of all encumbrances. That real estate shall be inventoried as provided in Title 36, section 1283.

7. Review of assessments, supplemental assessments. Any forest landowner aggrieved by an assessment made under this subchapter may petition the State Tax Assessor for reconsideration, pursuant to Title 36, section 151, provided that the petition is filed within 45 days of the date of assessment. If justice requires, the State Tax Assessor may, with the approval of the Governor, abate, within 3 years from the date of assessment, all or part of any tax assessed under this subchapter by the State Tax Assessor.

Within 3 years of an assessment made under this subchapter, the State Tax Assessor may make a supplemental assessment if he finds that any previous assessment is imperfect or incomplete in any material aspect. An assessment may be made at any time with respect to a time period for which a fraudulent application has been filed.

The State Tax Assessor may require the assistance of the director in the performance of his duties under this subsection. The director shall recommend to the State Tax Assessor an appropriate disposition of any matter brought under this subsection. That recommendation shall be made within 15 days of the request and shall be in writing.

8. Collection by Attorney General. Whenever any person fails to pay any tax, interest and penalty due under this subchapter within the time provided, the Attorney General shall enforce payment by civil action against the person from whom it is due for the amount of the tax, interest and penalty, together with costs, in either the Superior or District Court in Kennebec County or in the judicial division in which that person has a residence or established place of business.

§ 8429. Duties and authority of the Director of the Bureau of Forestry

1. General. The director shall supervise and coordinate the activities of bureau personnel in connection with all management programs.

2. **Rules.** From time to time the director may adopt and amend rules for the implementation of this subchapter. The rules shall be adopted in accordance with the procedures set forth in Title 5, chapter 375, subchapter II.

3. **Applications.** The director shall consider applications and requests made pursuant to section 8425, and shall grant conditionally or deny any such applications or requests.

4. **Declaration of termination of spray projects.** Upon receipt of information satisfactory to him to the effect that future spray projects will not be beneficial, cost-effective or otherwise in furtherance of the legislative policies of this subchapter, the director shall report the same to the Commissioner of Conservation and to the Governor and shall recommend to the Legislature that this subchapter be repealed or amended as appropriate.

5. **Entry and inspection of lands.** The director or his representatives may enter, upon reasonable advance notice to the landowner, at any reasonable time and in a reasonable manner, any tract of land for which application pursuant to section 8425, subsection 2, has been made in order to inspect the same free of any charge or cost imposed by the owner or his agents.

6. **Inspection of records.** The director or his representatives may likewise inspect the books and records of any applicant under section 8425, subsection 2, with respect to any information submitted in connection with that application. He also may require periodic progress reports from such persons in connection with any such information.

7. **Contractual authority.** The director shall have the authority to enter into contracts for the acquisition of insecticides, aircraft, personnel and other goods and services necessary or appropriate for management programs and for other purposes related to this subchapter.

8. **Spray services.** The director shall have the authority and discretion to enter into contracts to spray with insecticides or similar materials spruce and fir forest lands outside the designated spray area upon application by the owner of those forest lands, provided that:

A. The application is submitted no later than February 1st of the calendar year of the spray project involved;

B. The director is satisfied that the area for which the application is made can benefit from spraying, that spraying is practical and cost-efficient and that the inclusion of that area within the spray project is consistent with the legislative policies of this subchapter; and

C. The applicant enters into a contract with the Bureau of Forestry to pay the full actual per acre cost of providing spraying services, less any amount attributable to that land provided by the federal government and less the amount of any tax paid or assessed under this subchapter on that land for purposes of financing the cost of that spray project. Such funds shall be credited to the Dedicated Revenue Account.

§ 8430. Forest insect manager

1. **Position created.** There is established within the Bureau of Forestry the position of Forest Insect Manager, which shall be funded by the General Fund. This position is not subject to the Personnel Law. The manager shall be appointed by the director with the approval of the Commissioner of Conservation and may be removed by the director with the approval of the commissioner. The manager shall be directly responsible for the development, coordination of implementation of management programs.

2. **Cooperation.** The manager shall consult and cooperate with the United States Forest Service, other agencies of the United States and of any state, the federal government of Canada, the governments of any provinces of Canada and public and private landowners in Maine in developing and undertaking joint management program activities.

3. **Report.** The manager shall, at the end of each calendar year, undertake a complete financial review of any management program activities undertaken that year and shall make a full report thereon to the next session of the Legislature. The report shall include, but not be limited to, sources of funding, private, state or federal and total expenditures broken down in the following categories: insecticides, aircraft, monitoring, research and other appropriate categories. Also to be included shall be a statement of any remaining balance by source, private, state or federal.

4. **Permit applications.** The manager shall be responsible for processing all applications for regulatory permits and approvals for spray project operations as required by this subchapter.

§ 8431. Program personnel

1. **Spray project personnel.** There are established within the Bureau of Forestry the following positions, all of which will be funded as annual expenses of any spray project conducted: a development and monitoring coordinator, a spray technologist-insecticide specialist, an account clerk, 4 forest technicians, an aerial photo interpreter, a drafter, a secretary, 2 seasonal information and education specialists and such other seasonal positions as the director deems necessary to carry out spray projects. Such personnel shall be appointed by the director subject to the Personnel Law and shall perform such duties relating to the spray projects as the director may prescribe.

2. **Nonspray project operations personnel.** There are established within the Bureau of Forestry the following positions, all of which will be funded out of General Fund appropriations for the purpose of providing administrative and operational support for management program activities not directly related to operation of spray projects: An operations supervisor, a clerk-steno, an accountant, a research associate, 2 entomologists, a forester, 5 forest technicians, an aerial photo interpreter, 2 clerk-typists, an insect ranger and a public information specialist. Such personnel shall be appointed by the director subject

to the Personnel Law. Functions to be conducted by these positions shall include, but not be limited to, the following: Research; technology transfer; budworm wood lot management assistance to small private forest landowners; survey, detection and hazard rating; public information services; spruce and fir supply-demand analysis and financial management.

§ 8432. Research

1. Authority. The Bureau of Forestry, acting through its director, may make grants of funds and enter into contracts for purposes of research related to forest management strategies, insecticide and spray application technologies, integrated pest management techniques, forest project marketing and utilization and other issues pertinent to the purposes of this subchapter. This research shall be funded with appropriations from the General Fund, provided that the cost of environmental and health monitoring of spray projects shall be part of annual spray project costs and not paid out of General Fund moneys.

2. Research on public lands. The commissioner, director or other chief executive officer of any state agency having jurisdiction over any public land may make that land available on such terms and conditions as he deems reasonable to any public or private nonprofit entity engaged in spruce budworm control research and related silvicultural control research. The Forest Insect Manager shall likewise encourage private landowners within the State to make their lands available for the same purposes.

Sec. 10. PL 1979, c. 164, Pt. B, that part relating to spruce budworm control under the caption "DEPARTMENT OF CONSERVATION" is repealed and the following enacted in its place:

0234 Spruce Budworm Control...2-595

Unallocated	1,192,481	_____
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Sec. 11. PL 1979, c. 164, Pt. D, § 2 is repealed.

Sec. 12. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

Any unexpended balance of this appropriation and funds previously appropriated for this purpose do not lapse, but shall remain a continuing carrying account for these purposes. The breakdown shall be as follows:

	1979-80	1980-81
NATURAL RESOURCES		
DEPARTMENT OF CONSERVATION		
0234 Spruce Budworm Control		
Positions	(1)	(14)
Personal Services	\$12,000	\$253,473

All Other	245,000	153,500
Capital Expenditures	-----	37,000
Total	<u>\$257,000</u>	<u>\$443,973</u>

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved, except that sections 1, 2, 8-A and 9 shall take effect on October 1, 1980, provided, however, that the tax lien for closure, collection and enforcement provisions applicable to any tax levied under the Revised Statutes, Title 12, chapter 803, subchapter IV, shall continue in effect as to any such tax.

STATEMENT OF FACT

This bill provides for the implementation of the recommendations of the Commissioner of the Department of Conservation to the Legislature made pursuant to P. L. 1979, chapter 69, section 7.