

# MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 245, L.D. 286)  
2 (New Title)  
3 SECOND REGULAR SESSION  
4

5 ONE HUNDRED AND TWELFTH LEGISLATURE  
6

7 Legislative Document

No. 2070

8  
9 H.P. 1468

House of Representatives, February 26, 1986

10 Reported by Representative Hogle from the Committee on Energy and  
11 Natural Resources and printed under Joint Rule 2.

12 Original bill sponsored by Speaker Martin of Eagle Lake. Cosponsored  
by President Pray of Penobscot.

EDWIN H. PERT, Clerk

13  
14 STATE OF MAINE  
15

16 IN THE YEAR OF OUR LORD  
17 NINETEEN HUNDRED AND EIGHTY-SIX  
18

19 AN ACT to Promote Intensive Spruce-fir  
20 Management.  
21

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

24 Sec. 1. 5 MRSA §12004, sub-§10, ¶A, sub-¶(18-B)  
25 is enacted to read:

26 (18-B)	<u>Environment</u>	<u>Spruce-fir</u>	<u>Expenses</u>	<u>12 MRSA §9804</u>
27	<u>Forestry</u>	<u>Resource</u>	<u>Only</u>	
28		<u>Policy</u>		
29		<u>Advisory</u>		
30		<u>Committee</u>		

31 Sec. 2. 12 MRSA c. 811 is enacted to read:

32 CHAPTER 811

33 EMERGENCY SPRUCE-FIR RESOURCE REDEVELOPMENT PROGRAM

1     §9801. Findings and purposes

2             The Legislature finds that there exists a grave  
3 emergency to the future of the Maine forest. The Leg-  
4 islature finds as follows.

5             1. Uneven economic development. Various parts of  
6 the State are experiencing and are expected to con-  
7 tinue to experience dramatically different rates of  
8 economic growth, some lagging behind other regions in  
9 this regard, with adverse implications for popula-  
10 tion, standards of living, public services and quali-  
11 ty of life for the citizens of these regions of the  
12 State.

13            2. Public policy. It is contrary to the best in-  
14 terest of the citizens of all parts of the State for  
15 major regions to lag seriously behind the rest of the  
16 State in their economic prosperity and social well-  
17 being. It is in the public interest for the State to  
18 assist in rectifying these imbalances.

19            3. Future of the forest. The future health and  
20 extent of the forest resource is critical to the eco-  
21 nomical development and public welfare of this State,  
22 and especially to its northern and eastern regions,  
23 where nearly 1/2 of all manufacturing employment is  
24 provided by the forest products industry and where  
25 the forest contributes substantial additional income  
26 through its recreational use.

27            4. Wood supply jeopardized. Notwithstanding the  
28 importance of the forest to northern and eastern  
29 Maine, the United States Forest Service Decennial  
30 Resurvey and the complementary studies of the Maine  
31 Forest Service authorized by section 8424, subsection  
32 8, and chapter 805, subchapter IV, conclude that the  
33 supply of wood, especially spruce and fir, will expe-  
34 rience both an absolute and relative decrease in  
35 quality and quantity during the next 3 decades. This  
36 decrease is predicted to result in insufficient sup-  
37 ply to meet expected demand for spruce-fir timber by  
38 the year 2020. This decline is attributable in large  
39 part to the sustained depredations of the spruce  
40 budworm and imbalanced age classes, the increased de-  
41 mand for wood and the lack of adequate incentives for  
42 intensive management of this resource.

1           5. Inadequate management of nonindustrial lands.  
2 Forest management on land held by nonindustrial own-  
3 ers is hampered by inadequate access to investment  
4 capital. Management funds are frequently limited to  
5 the cash flow generated by the forest land itself.  
6 This cash flow is typically irregular and restricts  
7 effective implementation of ongoing forest management  
8 plans.

9           6. Government responsibility. State Government  
10 has a legitimate and vital responsibility to assist  
11 in the restoration of a healthy and productive forest  
12 to help assure that the future development will be  
13 uniformly maintained throughout the State, to the ul-  
14 timate benefit of all Maine citizens.

15 §9802. Emergency Spruce-fir Resource Redevelopment  
16 Program

17           1. General. There is established an Emergency  
18 Spruce-fir Resource Development Program to operate on  
19 a pilot basis until September 30, 1989. It is the  
20 purpose of the program to encourage and assist in  
21 forestry practices which are designed to reduce the  
22 predicted spruce-fir shortfall and assist in the de-  
23 velopment of a new and more productive forest with  
24 reduced vulnerability to budworm over the course of  
25 the next 30 years by developing and encouraging in-  
26 tensive forest management. It is also the purpose of  
27 the pilot program to develop, test and evaluate in-  
28 centive mechanisms to achieve the purposes of this  
29 chapter.

30           2. Program administration. The Director of the  
31 Maine Forest Service shall appoint a program adminis-  
32 trator. The administrator shall be the principal ad-  
33 ministrative, operational and executive employee of  
34 the program. The administrator shall not be subject  
35 to the Personnel Law, but shall serve at the pleasure  
36 of the director, with the consent of the commission-  
37 er.

38           3. General authority of the administrator. The  
39 administrator, with the approval of the Director of  
40 the Maine Forest Service, shall implement the pilot  
41 program to support forest management activities which  
42 are consistent with the findings and purposes of this

1 chapter. These activities shall focus on the  
2 spruce-fir resource and efforts to alleviate the pre-  
3 dicted supply shortfall of that resource. He may plan  
4 for and undertake activities to promote that manage-  
5 ment on behalf of the State.

6 4. Activities. The administrator may undertake  
7 the following activities:

8 A. Provide incentives for landowners to carry  
9 out intensive forest management;

10 B. Provide long-term forest management planning  
11 advice to landowners;

12 C. Cooperate with the environmental and wildlife  
13 management agencies of the State in developing  
14 and implementing management techniques consistent  
15 with maintaining the environmental quality of the  
16 State's forest;

17 D. Develop and evaluate methods of encouraging  
18 more intensive management of spruce-fir re-  
19 sources, particularly on nonindustrial, private  
20 ownership; and

21 E. Recommend to the Governor and Legislature ad-  
22 ditional measures needed to assure a high priori-  
23 ty for the development and management of a new  
24 spruce-fir forest.

25 5. Staff of the advisory committee. The adminis-  
26 trator shall attend and participate in all meetings  
27 of the Spruce-fir Resource Policy Advisory Committee,  
28 but may not vote.

29 6. Personnel. The administrator, with the ap-  
30 proval of the Director of the Maine Forest Service,  
31 may hire such competent, professional personnel and  
32 other staff as he deems necessary. Any such employees  
33 shall be subject to Title 5, chapter 57.

34 7. Office. The administrator, with the approval  
35 of the Director of the Maine Forest Service, may ob-  
36 tain office space, goods and services as required,  
37 except that staff foresters shall be assigned space  
38 in state facilities throughout the area whenever fea-  
39 sible.

1           8. Management of funds. With the approval of the  
2 Director of the Maine Forest Service, the administra-  
3 tor may enter into agreements to secure the services  
4 of contractors and consultants and accept and expend  
5 funds from other governmental agencies and private  
6 sector sources.

7           9. Records. The administrator shall keep a  
8 record of all forest improvement activities performed  
9 under the auspices of this program, including re-  
10 search projects and incentive grants. The administra-  
11 tor shall monitor all projects receiving any form of  
12 funding or other assistance under this program and  
13 shall inspect a sufficient number of the projects to  
14 ensure compliance with the objectives of this chap-  
15 ter.

16       §9803. Forest management incentive grants

17           1. Purpose and authority. In order to encourage  
18 more intensive and productive management of the  
19 spruce-fir resource, the administrator is authorized  
20 to make management incentive grants to forest land-  
21 owners subject to this chapter. The primary objective  
22 of an incentive grant shall be to increase the supply  
23 of the spruce and fir or substitute species during  
24 the years 2000 to 2030. After consulting with the  
25 Spruce-fir Resource Policy Advisory Committee, the  
26 administrator shall define, by rule, eligibility for  
27 participation, eligible management activities, cost-  
28 sharing fractions, monitoring and evaluation require-  
29 ments and other grants criteria according to the pro-  
30 visions of this section and Title 5, chapter 375.

31           2. Eligibility. A person owning at least 100  
32 acres of commercial forest land at least 50% stocked  
33 with spruce, fir or mixture of both or which is suit-  
34 able for growing spruce, fir or substitute species  
35 may apply for incentive grants under this section.

36           A. For the purpose of this chapter, "person"  
37 means any individual, firm, partnership, municipi-  
38 pal government or corporation.

39           B. For the purposes of this subsection, "commer-  
40 cial forest land" means land which is capable of  
41 producing at least 50 cubic feet of wood fiber an  
42 acre annually.

1           C. The administrator may consider an application  
2           from a person owning at least 20 acres, but less  
3           than 100 acres of commercial forest land, if that  
4           person otherwise meets the requirements of this  
5           subsection and can demonstrate a clear  
6           commitment to long-term forest management as ev-  
7           idenced by:

8                   (1) Enrollment in the tree farm system ad-  
9                   ministered by the American Forest Council;

10                   (2) Participation in a federal forestry in-  
11                   centive program; or

12                   (3) Other clear and convincing evidence as  
13                   the administrator deems sufficient.

14           D. No federal or state entity may receive an in-  
15           centive grant under this chapter.

16           3. Cost-sharing provisions. The administrator  
17           shall annually define the proportion of management  
18           costs which may be reimbursed by a management in-  
19           centive grant. The administrator shall apply this cost-  
20           sharing fraction to all grants in that fiscal year.  
21           The cost-sharing fraction shall be at least 30%, but  
22           may not exceed 75%, of the appropriate standard cost  
23           established under this section. In setting the annu-  
24           al cost-sharing fraction, the administrator shall  
25           give priority to encouraging the production of  
26           spruce-fir fiber in a cost efficient manner and to  
27           developing an effective incentive program which is  
28           attractive to forest landowners.

29           4. Eligible management activities. The adminis-  
30           trator may authorize grants for any of the following  
31           forest management activities, provided that the ac-  
32           tivity may be expected to increase the supply of  
33           spruce, fir or substitute species between the years  
34           2000 and 2030 and provided that the proposed manage-  
35           ment activity is not capable of generating sufficient  
36           current revenues to cover its direct costs. Eligible  
37           activities may include:

38                   A. Purchasing and planting of trees;

- 1        B. Integrated pest management, but not to include spraying insecticides to protect against insect and disease problems;  
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- 4        C. Vegetation management, including the application of herbicides and manual, nonchemical means;  
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- 6        D. Thinning and related precommercial timber stand improvements;  
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- 8        E. Payments for consultations with and planning by a registered professional forester; or  
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- 10       F. Such other measures as the director determines will alleviate the effects of the spruce-fir shortfall.  
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- 13       5. Standard costs. The administrator shall establish a standard cost per acre for each eligible management activity. The administrator shall base the standard cost of each activity on the use of the best available technology applied to a management unit sized to fully capture any available economies of scale. The standard costs shall be updated annually.  
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- 20       6. Partial repayment. The administrator may make provision for the repayment of any portion of a management incentive grant, except as noted. The administrator shall set the date of repayment or partial repayment of the grant to coincide with the date of commercial harvest of the managed stand.  
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- 26       A. Repayment of the grant or portion of the grant that can be attributed to the preparation of a forest management plan shall not be required.  
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- 30       B. If any part of the land receiving improvements as a result of a grant is sold, the conditions of the grant will be included as an encumbrance to the sale or the grant will be repaid in full.  
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- 35       7. Forest management plan. The administrator may authorize grants only when the eligible activities are certified by the landowner as part of a forest management plan prepared and signed by a registered  
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1 professional forester and approved by the administra-  
2 tor. Certification shall be made on a form provided  
3 by the administrator which notifies the signor that  
4 false statements are punishable by law pursuant to  
5 Title 17-A, section 453.

6 8. Application and approval. Application must be  
7 made to the administrator for consideration of an el-  
8 igible project. Application must be made by the owner  
9 and must contain all pertinent information, including  
10 owner's name, location of woodlot, size of woodlot,  
11 description of project, a copy of the landowner's  
12 forest management plan and a cost estimate for the  
13 proposed project prepared and signed by a registered  
14 professional forester. The administrator may make  
15 provision for counting in-kind donations of labor by  
16 the applicant to meet the cost-sharing requirements.  
17 Applications shall be processed on a first come,  
18 first serve basis. If found to be eligible, the ad-  
19 ministrator may approve the project.

20 9. Additional criteria. In addition to the eli-  
21 gibility requirements of this section, the adminis-  
22 trator shall give preference to those applications  
23 which:

24 A. Make maximum use of any commercial or mer-  
25 chantable material on the treatment unit;

26 B. Have higher than average site productivity  
27 and potential for growth; or

28 C. Employ environmentally sound and cost effec-  
29 tive means of enhancing forest growth.

30 10. Annual grants' limit. The administrator may  
31 authorize a maximum of \$5,000 annually of incentive  
32 grants to any person.

33 11. Small landowner set aside. The administrator  
34 shall set aside 25% of the funds available for forest  
35 management incentive grants for grants exclusively to  
36 landowners with total forest land holdings less than  
37 1,000 acres and otherwise eligible under this sec-  
38 tion. Any set-aside funds not obligated by January 1,  
39 1988, shall be available to any forest landowner oth-  
40 erwise eligible under this section.

1           12. Double-dipping prohibition. The administra-  
2 tor may not authorize a grant for any project receiv-  
3 ing or expecting to receive financial assistance from  
4 another federal or state forestry incentive program.  
5 The administrator shall include in every grant agree-  
6 ment provisions for the recapture of an incentive  
7 grant under this chapter if he finds that the project  
8 in question is also receiving financial assistance  
9 from other federal or state programs.

10           13. Recapture provisions and penalties. In the  
11 event that the land is not managed in accordance with  
12 the plan as approved or is withdrawn from use for the  
13 growth of commercial forest products, then the owner  
14 of record shall be liable to the administrator for an  
15 amount equal to the amount of the grant plus inter-  
16 est. The administrator shall determine the appropri-  
17 ate interest rate by adding 4%, plus the average an-  
18 ual rate of inflation, over the period of the grant,  
19 as determined by the consumer price index.

20           §9804. Spruce-fir Resource Policy Advisory Committee

21           1. Organization. There is established in the  
22 Maine Forest Service the Spruce-fir Resource Policy  
23 Advisory Committee. The committee shall be composed  
24 of 5 members, appointed by the Commissioner of Con-  
25 servation, to assist in the development, implementa-  
26 tion and evaluation of the Emergency Spruce-fir Re-  
27 source Redevelopment Program. The term of office  
28 shall be for 3 years, except that, of the initial ap-  
29 pointees, 2 members shall serve 3-year terms, 2 shall  
30 serve 2-year terms and one shall serve a one-year  
31 term. Any vacancy shall be filled by an appointment  
32 for the remainder of the unexpired term. To provide  
33 the knowledge or experience necessary to carry out  
34 the duties of the committee, one person shall be ap-  
35 pointed who is the manager of more than 5,000 acres  
36 of timberland; one person who is the manager of less  
37 than 5,000 acres; and 3 members of the general public  
38 with professional expertise collectively in wildlife  
39 management, silviculture and natural resource conser-  
40 vation.

41           2. Chairman. The commissioner shall appoint the  
42 chairman. The committee shall elect other officers as  
43 it deems necessary from among the membership. The

1 committee shall meet at the call of the chairman or  
2 at the request of any 2 members. Three members shall  
3 constitute a quorum and any action shall require the  
4 affirmative vote of the greater of either a majority  
5 of those present and voting or at least 3 members.  
6 The chairman and the other officers shall serve in  
7 these capacities for a period of one year following  
8 their elections.

9 3. Compensation of the committee. Each public  
10 member shall be entitled to payment of necessary ex-  
11 penditures, consistent with Title 5, section 13, for at-  
12 tending any meetings or hearings of the committee or  
13 for any expenses in connection with the official  
14 business of the committee under the authorization of  
15 the committee.

16 4. Conflicts of interest. In addition to the  
17 limitations of Title 5, section 18, no members of the  
18 committee may participate in any action or delibera-  
19 tion on any contract, grant or provision of any ser-  
20 vice to be entered into by the program, if the member  
21 has any interest individually or in any firm, part-  
22 nership or corporation which may be party to the con-  
23 tract, grant or service. A general benefit to a  
24 sector of the economy, an industry or a class of  
25 firms, partnerships or corporations which incidental-  
26 ly enures to his or its benefit shall not be con-  
27 strued to fall within the restriction of this subsec-  
28 tion.

29 §9805. Pilot evaluation

30 The Legislature shall authorize an independent  
31 evaluation of the Emergency Spruce-fir Resource Rede-  
32 velopment Program to be completed no later than Janu-  
33 ary 1, 1989. This evaluation shall give specific at-  
34 tention to the effectiveness of the incentive grants  
35 program. The evaluation shall also include a finan-  
36 cial and administrative audit of the incentive grants  
37 program. The evaluation shall include a thorough re-  
38 view of the scientific literature pertaining to fore-  
39 st management incentive programs in the public and  
40 private sector. The joint standing committee of the  
41 Legislature having jurisdiction over energy and natu-  
42 ral resources, in consultation with the Legislative  
43 Council, may retain professional consultants with ex-

1 pertise in forestry and economics to assist in the  
2 evaluation. The committee shall consult with the De-  
3 partment of Conservation in the conduct of the evalu-  
4 ation.

5 §9806. Repeal

6 This chapter is repealed on September 30, 1989.

7 **Sec. 3. Appropriation.** The following funds are  
8 appropriated from the General Fund to carry out the  
9 purposes of this Act.

10 1986-87

11 CONSERVATION, DEPARTMENT OF

12	Emergency Spruce-fir Resource	
13	Redevelopment Program	
14	Positions	(1.5)
15	Personal Services	\$ 45,000
16	All Other	<u>265,000</u>

17	Total	\$310,000
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18 Provides funds to as-  
19 sist in research, dem-  
20 onstration projects and  
21 investment incentives  
22 to restore and restock  
23 the State's spruce-fir  
24 forests. The appropria-  
25 tion provides funds for  
26 a Forester II position  
27 and 1/2 a secretarial  
28 position. The appropri-  
29 ation also provides  
30 \$250,000 for the incen-  
31 tive grants program.

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STATEMENT OF FACT

The purpose of this new draft is to establish a 3-year pilot program to develop, test and evaluate effective methods of encouraging more intensive forest management of the spruce-fir resource owned by the nonindustrial sector.

The new draft establishes a separate program within the Maine Forest Service with its own administrator and forestry staff to oversee the program. The primary mechanism of the program is to be a management incentive grant to private, nonindustrial landowners. The administrator is authorized to reimburse private landowners for a set fraction of the costs they incur in precommercial management activities. The new draft defines eligible participants, the range of eligible activities, application procedures, decision criteria and other aspects of the program. Special provision for small landowners is made through a set aside of funds available for grants.

The new draft creates an advisory board to assist the administrator in the implementation and evaluation of the program.

The new draft provides for an independent evaluation of the program to be conducted by a professional consultant. It is the intent of the Legislature that this evaluation be conducted under the direction of the joint standing committee of the Legislature having jurisdiction over energy and natural resources. The evaluation study will assess the value of the incentive grants and make recommendations to the Legislature.

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