

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 139

H.P. 103

House of Representatives, February 13, 1989

Reported by Representative COLES for the Commission to Study Municipal Solid Waste Management.

Reference to the Joint Standing Committee on Energy and Natural Resources suggested and printing ordered under Joint Rule 19.

Ed Pert

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Promote Recycling and Improved Solid Waste Management.



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

3
5 **PART A**

7 **Sec. 1. 5 MRSA §1812, first ¶,** as amended by PL 1985, c. 785, Pt. A, §72, is further amended to read:

9 The terms "services," "supplies," "materials" and
11 "equipment" as used in this chapter, ~~shall be held to~~ mean any
13 and all services, articles or things which shall be used by or
15 furnished to the State or any department or agency thereof, and
17 any and all printing, binding, publication of laws, journals and
19 reports. Except as provided in chapters 141 to 155, any and all
21 services, supplies, materials and equipment needed by one or more
23 departments or agencies of the State Government shall be directly
25 purchased or contracted for by the State Purchasing Agent, as may
27 be determined from time to time by rules adopted pursuant to
29 chapters 141 to 155, which rules the Department of Administration
31 is authorized and empowered to make. It is the intent and purpose
33 of this chapter that the State Purchasing Agent shall purchase
35 collectively all services, supplies, materials and equipment for
the State or any department or agency thereof in a manner that
will best secure the greatest possible economy consistent with
the grade or quality of the services, supplies, materials and
equipment best adapted for the purposes for which they are
needed. Whenever supplies and materials are available for
purchase which are composed in whole or in part of recycled
materials and are shown by the seller, supplier or manufacturer
to be equal in quality and are competitively priced, except for
paper and paper products, the State Purchasing Agent shall
purchase such recycled supplies and materials. For the purposes
of this section and section 1812-B, "recycled materials" means
materials that are composed in whole or in part of elements that
are reused or reclaimed.

37 **Sec. 2. 5 MRSA §1812-A,** as enacted by PL 1987, c. 517, §1, is
39 amended to read:

41 **§1812-A. Report on purchase of recycled products**

43 The State Purchasing Agent shall report on or before January
45 1, 1988, 1st of the First Regular Session of each Legislature to
47 the joint standing committee of the Legislature having
49 jurisdiction over natural resources ~~and to the same committee of
the First Regular Session of each subsequent Legislature on or
before January 1st~~ on the State's efforts to purchase supplies
51 and materials composed in whole or in part of recycled materials
pursuant ~~to section 1812~~. The State Purchasing Agent shall also
report on any procurement policies, incentives, educational
programs, promotional efforts or other activities undertaken by
the Bureau of Purchases to encourage the purchase of those

1 supplies and materials. The State Purchasing Agent shall include
3 in the report any recommendations to increase or facilitate the
purchase of those supplies and materials.

5 **Sec. 3. 5 MRSA §1812-B** is enacted to read:

7 **§1812-B. Purchasing of paper and paper products**

9 **1. Purchase of paper and paper products with recycled**
11 **material content.** Subject to subsection 3, the State Purchasing
Agent shall provide that of the total dollar amount spent in each
13 fiscal year on paper and paper products purchased by the State:

15 **A. On or after October 1, 1989, not less than 15% shall be**
17 **spent on paper and paper products with recycled material**
content;

19 **B. On or after October 1, 1991, not less than 30% shall be**
21 **spent on paper and paper products with recycled material**
content; and

23 **C. On or after October 1, 1993, not less than 50% shall be**
25 **spent on paper and paper products with recycled material**
content.

27 **2. Federal guidelines and cooperative purchases.** To
29 **qualify as having recycled material content, paper or paper**
31 **products must have recycled material content which meets or**
33 **exceeds the standards established for that paper or paper product**
35 **category in Table 1 of the Guideline for Federal Procurement of**
Paper and Paper Products, 40 Code of Federal Regulations, Part
250. The State Purchasing Agent shall determine whether a paper
or paper product qualifies. The State Purchasing Agent may join
with other states in making cooperative requests for bids to
supply paper and paper products.

37 **3. Bids; price preference.** A person who submits a bid for
39 **a contract to supply paper or paper products shall certify the**
41 **percentage and nature of any recycled materials content in the**
43 **product subject to bid. Bids offering paper or paper products**
45 **with recycled material content that are within 10% of the lowest**
47 **bid that meets all other specifications may receive up to a 10%**
49 **price preference. Any bids to supply paper or paper products**
51 **with recycled material content, that exceed by more than 10% the**
low bid which meets all other specifications shall not be
considered. If no bids are received on a request for bids which
offer paper or paper products with recycled material content,
the State Purchasing Agent may award the contract to a bidder
whose paper or paper product has substandard percentages of or no
recycled materials content.

1 **Sec. 4. 10 MRSA §963-A, sub-§10, ¶J**, as amended by PL 1987, c.
2 846, §2, is further amended to read:

3 J. Any underground oil storage facility replacement
4 project; ~~or~~

5 **Sec. 5. 10 MRSA §963-A, sub-§10, ¶K**, as enacted by PL 1987, c.
6 846, §3, is amended to read:

7 K. Any overboard discharge replacement project; or

8 **Sec. 6. 10 MRSA §963-A, sub-§10, ¶L** is enacted to read:

9 L. Any hazardous waste or solid waste recycling or
10 reduction project.

11 **Sec. 7. 10 MRSA §963-A, sub-§32**, as enacted by PL 1985, c.
12 344, §7, is amended to read:

13 32. **Manufacturing enterprise.** "Manufacturing enterprise"
14 means knowledge, skill or labor applied to giving of new shapes,
15 new qualities or new combinations to matter as material products
16 and includes assembling, fabricating, making, creating, working,
17 preparing, milling, processing, recycling, manufacturing,
18 finishing, fashioning, producing, storing, warehousing,
19 preserving, distributing, handling or transporting in any manner
20 goods, wares, merchandise, metals, fabrics, materials,
21 substances, product or matter of any kind or nature including
22 materials recovered from solid and hazardous wastes.

23 **Sec. 8. 10 MRSA §963-A, sub-§45-A** is enacted to read:

24 45-A. Recycling or waste reduction project. "Recycling or
25 waste reduction project" means any building, structure,
26 machinery, equipment or facility which may be considered
27 necessary for recovery, separation, remanufacture or reuse of
28 materials contained in solid or hazardous waste or for the
29 reduced generation of solid or hazardous waste, together with all
30 land, property, rights, rights-of-way, franchises, easements and
31 interests in lands necessary or convenient for the construction
32 or operation of the project.

33 **Sec. 9. 10 MRSA §1023-F** is enacted to read:

34 §1023-F. Waste Reduction and Recycling Loan Fund

35 1. Creation. The Waste Reduction and Recycling Loan Fund
36 is created under the jurisdiction and control of the authority.

37 2. Sources of money. There shall be paid into the fund the
38 following:

- 1 A. All money appropriated for inclusion in the fund;
3 B. Subject to any pledge, contract or other obligation, all
5 interest, dividends or other pecuniary gains from investment
7 of money of the fund;
9 C. Subject to any pledge, contract or other obligations,
11 any money which the authority receives in repayment of
13 advances from the fund; and
15 D. Any other money available to the authority and directed
17 by the authority to be paid into the fund.

19 3. Application of fund. Money in the fund may be used for
21 direct loans for all or part of any project when the authority
23 determines that:

- 25 A. The project is:
27 (1) Designed to substantially reduce or eliminate the
29 production in a trade or business of solid waste or
31 hazardous waste as defined in Title 38, section 1303; or
33 (2) A manufacturing project devoted to resource
35 recovery, as defined in Title 38, section 1303,
37 subsection 8, except that the combustion of solid or
39 hazardous waste shall not be considered resource
41 recovery for the purposes of this section;
43 B. There is a reasonable likelihood that the applicant will
45 be able to repay the loan;
47 C. The amount and terms of the loan are reasonable and
49 provide an incentive, which may include a below-market
51 interest rate, to the applicant to undertake the project;
 D. The project will result in a net decrease in solid or
 hazardous waste generated within the State; and
 E. The project will help achieve the goals identified in
 the state recycling plan approved under Title 38, section
 1310-M.

The authority, pursuant to the Maine Administrative Procedure
 Act, Title 5, chapter 375, subchapter II, shall adopt rules for
 determining eligibility, feasibility, terms, conditions and
 security for the loans. Money in the fund not needed currently
 to meet the obligations of the authority, as provided in this
 section, may be invested as permitted by law.

4. Accounts within fund. The authority may divide the fund
 into separate accounts as it determines necessary or convenient

1 for carrying out this section, including, but not limited to,
2 accounts reserved for direct loan funds.

3 5. Revolving fund. The fund shall be a nonlapsing,
4 revolving fund. All money in the fund shall be continuously
5 applied by the authority to carry out this section.

6
7
8 **Sec. 10. 10 MRSA §1041, sub-§§16 and 17,** as enacted by PL 1985,
9 c. 344, §61, are amended to read:

10
11 **16. Energy conservation.** Provide financial assistance for
12 energy conservation. The Office of Energy Resources shall provide
13 assistance to the authority in determining technical eligibility
14 and merit of applications for energy conservation loans. Each
15 recipient of a loan under this section shall provide the
16 authority, within one year, with detailed information on energy
17 consumption before and after the completion of the energy
18 conservation project; and

19
20 **17. Electricity.** Provide financial assistance for
21 electricity generation projects. Any municipality, firm or
22 corporation producing electricity by means of projects described
23 in section 1044, subsection 12, or by means of a
24 pollution-control project, recreational project, multi-level
25 parking facility or combined project may, without the approval of
26 and regulation by the Public Utilities Commission, generate and
27 distribute electricity solely for its own use or the use of its
28 tenant, but may not, without proper approval, sell electricity to
29 other than an electric public utility corporation or cooperative
30 authorized to make, generate, sell and distribute electricity;
31 and

32 **Sec. 11. 10 MRSA §1041, sub-§18** is enacted to read:

33
34 18. Recycling and waste reduction. Provide financial
35 assistance for recycling and waste reduction projects. The
36 Office of Waste Recycling and Reduction shall assist the
37 authority in determining technical eligibility and merit of
38 applications for recycling loans.

39
40 **Sec. 12. 10 MRSA §1043, sub-§2, ¶E-1** is enacted to read:

41
42 E-1. In the case of recycling and waste reduction projects,
43 the proposed facility will contribute to the achievement of
44 the goals identified in the state recycling plan adopted
45 under Title 38, section 1310-M, will reduce the amount of
46 solid or hazardous waste requiring disposal;

47
48 **Sec. 13. 10 MRSA §1063, sub-§2, ¶I-1** is enacted to read:

49
50 I-1. In the case of recycling and waste reduction projects,
51 the proposed facility will contribute to the achievement of

1 B. For high-density polyethylene, the letters "HDPE" and
2 the number 2;

3 C. For vinyl, the letter "V" and the number 3;

4 D. For low-density polyethylene, the letters "LDPE" and the
5 number 4;

6 E. For polypropylene, the letters "PP" and the number 5;

7 F. For polystyrene, the letters "PS" and the number 6; or

8 G. For any other plastic resins, including multilayer, the
9 letters "OTHER" and the number 7.

10 §1724. Pharmaceutical exemption

11 Any rigid plastic container with a volume of 8 ounces or
12 less which is used to package pharmaceutical products is exempt
13 from this chapter.

14 §1725. Penalties

15 1. Civil violation. A violation of this chapter shall be a
16 civil violation for which a forfeiture of not more than \$100 may
17 be adjudged.

18 2. Separate violation. Each day that a violation continues
19 or exists shall constitute a separate offense.

20 §1726. Rules and enforcement

21 The Department of Economic and Community Development, Office
22 of Waste Reduction and Recycling shall adopt and enforce rules
23 implementing the provisions of this chapter. In adopting rules
24 the office shall consult with the Recycling Advisory Council, the
25 Department of Agriculture, Food and Rural Resources, plastic
26 container manufacturers and distributors, and the recycling
27 industry. Rules shall be adopted in accordance with the
28 provisions of Title 5, chapter 375.

29 Sec. 15. 32 MRSA §1868, as amended by PL 1987, c. 373, §§4
30 and 5, is further amended to read:

31 §1868. Prohibition on certain types of containers and holders

32 No beverage container shall be sold or offered for sale to
33 consumers in this State:

34 1. Flip tops. In a metal container designed or constructed
35 so that part of the container is detachable for the purpose of

1 opening the container without the aid of a separate can opener;
and

3

2. Connectors. With In containers connected to each other
5 by plastic rings or other plastic holding device, which does not
decompose by photodegradation, chemical degradation or
7 biodegradation within a reasonable period of time upon exposure
to the elements.; and

9

11 3. Plastic cans. In a container composed of one or more
plastics if the basic structure of the container, exclusive of
the closure device, also includes aluminum or steel.

13

15 **Sec. 16. 38 MRS.A §1310-X** is enacted to read:

15

17 **§1310-X. Office of Waste Recycling and Reduction; financial
and technical assistance for recycling activities**

17

19 Consistent with the state recycling plan, the Office of
Waste Recycling and Reduction shall implement a program of
21 financial and technical assistance to support recycling
activities which reduce the volume of solid waste requiring
23 disposal.

23

25 1. Recycling information clearinghouse. The office shall
establish and administer a clearinghouse on recycling markets
27 information. The office shall maintain a current list of
municipalities which have established or are seeking to establish
29 recycling programs together with a description of the recycled
materials available through the programs. The office shall also
31 maintain a list of brokers, handlers, processors, transporters
and other persons providing services and potential markets for
33 recycled materials. The office shall actively market the
services of the clearinghouse and shall seek to match municipal
35 recycling programs with appropriate recycling businesses. The
office shall make its information on recycling services available
37 to private solid waste generators seeking markets or services for
materials to be recycled.

39

41 2. Recycling feasibility studies. The office shall provide
professional technical assistance to municipalities or groups of
43 municipalities in the planning and design of local and regional
recycling programs. The purpose of this assistance program is to
45 further the goals established in the state recycling plan. The
office may contract with regional councils and individual
47 municipalities to provide services under this subsection in order
to encourage regional strategies for recycling. The office shall
49 give priority to applications that involve regional approaches.
This assistance shall include:

49

51 A. The assessment of economically feasible recycling
potential including the supply of materials which can be

51

1 recycled, probable markets for these materials and the
2 avoided costs of solid waste disposal;

3
4 B. The planning for the logistical, administrative and
5 financial management requirements of a recycling program;

6
7 C. The design of any flow-control or other ordinances
8 necessary for the implementation of a recycling program;

9
10 D. The coordination of the proposed recycling program with
11 overall solid waste management; and

12
13 E. The assessment of the advantages of participation in a
14 regional recycling effort versus a local recycling program.

15
16 The office may develop a priority list of municipalities and
17 regions of the State in need of assistance under this
18 subsection. The office shall consult with the Recycling Advisory
19 Council in the development of the priority list.

20
21 3. Recycling capital investment grants. The office may make
22 grants to eligible municipalities and regional councils for the
23 construction of public recycling facilities and the purchase of
24 recycling equipment. The office may establish requirements for
25 local cost sharing of up to 25% of the total grant amount. The
26 local share of costs may include in-kind services provided by the
27 grant recipient. The office shall encourage recycling programs
28 which require the participation of the waste generators served.

29
30 A. The office shall establish grant priorities based on the
31 following objectives:

32
33 (1) The development of regional recycling programs to
34 capture the economies of scale in both materials
35 handling and marketing;

36
37 (2) The expansion of existing, successful recycling
38 programs at the levels of both individual
39 municipalities and regions; and

40
41 (3) The promotion of the recycling goals and any other
42 factors identified in the state recycling plan as
43 necessary for successful implementation.

44
45 B. The office shall structure the grants program to ensure
46 the development of successful recycling programs which
47 represent:

48
49 (1) Rural, suburban and urban areas of the State;

50
51 (2) Curbside pick-up and drop-off systems of solid
waste collection; and

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(3) Mandatory and voluntary forms of recycling program participation.

C. The office may develop a priority list of municipalities and regions of the State in need of assistance under this subsection. The office shall consult with the Recycling Advisory Council in the development of the priority list.

4. Recycling avoided-cost program. The office may enter into annual agreements with a municipality or group of municipalities to reimburse a portion of the direct costs of transporting material to a recycling facility for intermediate processing or final use.

A. The office, in consultation with the Recycling Advisory Council, shall designate specific materials which are eligible for the program established by this subsection. In making these designations, the office shall rely on the goals and objectives identified in the state recycling plan.

B. The office shall determine the difference between the projected costs of recycling the material, including transportation costs, and the avoided costs of disposing of the same material at a solid waste disposal facility which is operated in substantial compliance with the requirements of this chapter. If the costs of recycling, including transportation, are less than the avoided disposal costs, the office shall not make any reimbursement. The office shall review the cost differentials established for each agreement at least quarterly.

C. The office shall limit reimbursements to the lesser of the following amounts:

- (1) The amount derived under paragraph B; or
- (2) Thirty percent of the actual transportation costs.

D. If the office is unable to determine the cost differential under paragraph B because no suitable solid waste disposal facility exists within the State, the office may make matching grants in an amount which matches the disposal or acceptance fee imposed by the municipality originally accepting the material to be recycled. The office shall condition matching grants under this paragraph on the use of the fee and the matching grant to recycle the material in question.

E. The costs of transporting unseparated or mixed municipal solid waste are not eligible for reimbursement under this subsection.

1 F. The office shall adopt rules, in consultation with the
3 Recycling Advisory Council, necessary for the implementation
5 of this subsection, including procedures for the
determination of cost differentials under paragraph B.

7 **Sec. 17. Appropriation.** The following funds are appropriated
9 from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
ECONOMIC AND COMMUNITY DEVELOPMENT,		
DEPARTMENT OF		
Office of Waste Recycling		
and Reduction		
Positions	(1)	(1)
Personal Services	\$23,340	\$31,186
All Other	1,500	2,000
Capital Expenditures	3,250	
TOTAL	\$28,090	\$33,186

25 Provides funds for a Planner
27 II position, computer
29 equipment and general
operating expenses to
31 administer the proposed
recycling information
clearinghouse.

33 **Office of Waste Recycling**
35 **and Reduction**

Positions	(1)	(1)
Personal Services	\$23,340	\$31,186
All Other	256,500	252,000
Capital Expenditures	750	
TOTAL	\$280,590	\$283,186

43 Provides funds for a Planner
45 II position, contractual
47 arrangements for feasibility
analysis and general operating
49 expenses to administer the
proposed technical assistance
51 program.

1	Office of Waste Recycling and Reduction		
3			
5	Positions	(3)	(3)
5	Personal Services	\$66,358	\$88,477
7	All Other	754,500	2,506,000
7	Capital Expenditures	2,250	
9	TOTAL	<u>\$823,108</u>	<u>\$2,594,477</u>
11	Provides funds for 2		
13	Management Analyst II		
15	positions, one Clerk Typist		
17	II, construction grants for		
19	recycling facilities and		
19	general operating expenses to		
21	administer the proposed		
21	recycling capital grants		
23	program.		
23			
23	Office of Waste Recycling and Reduction		
25	Positions	(1)	(1)
25	Personal Services	\$25,574	\$33,965
27	All Other	253,000	1,004,000
27	Capital Expenditures	750	
29	TOTAL	<u>\$279,324</u>	<u>\$1,037,965</u>
31			
31	Provides funds for a		
33	Management Analyst II		
35	position, contractual		
37	agreements with municipalities		
37	and general operating expenses		
39	to administer the proposed		
39	recycling avoided-cost program.		
41	DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT		
41	TOTAL	<u>\$1,411,112</u>	<u>\$3,948,814</u>
43			
43	FINANCE AUTHORITY OF MAINE		
45			
45	Waste Reduction and Recycling		
47	Loan Program		
49	All Other	\$1,000,000	\$1,000,000
51	Provides funds to be used for		
51	direct loans for projects		

1 designed to reduce solid or
2 hazardous waste.

3

4 **FINANCE AUTHORITY OF MAINE**
5 **TOTAL**

\$1,000,000

\$1,000,000

7

PART B

9

Sec. 1. 32 MRSA §1862, sub-§1, as amended by PL 1987, c. 649,
§1, is repealed and the following enacted in its place:

11

12 1. Beverage. "Beverage" means beer, ale or other drink
13 produced by fermenting malt, spirits, wine, wine coolers, soda or
14 noncarbonated water, and all nonalcoholic carbonated or
15 noncarbonated drinks in liquid form and intended for internal
16 human consumption except for milk and dairy-derived products.

17

18 Sec. 2. 32 MRSA §1862, sub-§§12-B, 14 and 15 are enacted to
19 read:

21

12-B. Spirits. "Spirits" has the same meaning as in Title
22 28-A, section 2.

23

24 14. Wine. "Wine" has the same meaning as in Title 28-A,
25 section 2, except that for the purposes of this chapter "wine"
26 does not include wine coolers.

27

28 15. Wine cooler. "Wine cooler" means a beverage of less
29 than 8% alcohol content by volume consisting of wine and:

31

A. Plain, sparkling or carbonated water; and

33

B. Any one or more of the following:

35

(1) Fruit juices;

37

(2) Fruit adjuncts;

39

(3) Artificial or natural flavors or flavorings;

41

(4) Preservatives;

43

(5) Coloring; or

45

(6) Any other natural or artificial blending material.

47

Sec. 3. 32 MRSA §1863, as amended by PL 1979, c. 462, §3, is
48 repealed and the following enacted in its place:

49

§1863. Refund value

51

1 Every beverage container sold or offered for sale to a
2 consumer in this State shall have a refund value. The refund
3 value shall be:

5 1. Refillable containers. For refillable beverage
6 containers, except wine and spirits containers, the refund value
7 shall be determined by the manufacturer according to the type,
8 kind and size of the beverage container but shall not be less
9 than 5¢;

11 2. Nonrefillable containers. For nonrefillable beverage
12 containers, except wine and spirits containers, the deposit and
13 refund value shall be determined and initiated by the distributor
14 according to the type, kind and size of the beverage container,
15 but shall not be less than 5¢; and

17 3. Wine and spirits containers. For wine and spirits
18 containers of greater than 50 milliliters, the refund value shall
19 not be less than 20¢. On January 1, 1992 the department shall
20 issue a finding on the percentages of wine containers and spirits
21 containers returned for deposit. If the department finds the
22 return rate of wine containers was less than 60% during 1991,
23 then on July 1, 1992, the refund value on wine containers shall
24 not be less than 50¢. If the department finds the return rate of
25 spirits containers was less than 60% during 1991, then on July 1,
26 1992, the refund value of spirits containers shall not be less
27 than 50¢.

29 **Sec. 4. Advisory committee.** The Department of Agriculture,
30 Food and Rural Resources shall form an advisory committee
31 consisting of representatives of the Office of Waste Reduction
32 and Recycling, the Bureau of Alcoholic Beverages, the operator of
33 the bailment warehouse, the certificate of approval holders for
34 spirits and fortified wines, distributors of other affected
35 beverages, operators of certified redemption facilities, and
36 other affected interests as the department finds necessary. The
37 Department of Agriculture, Food and Rural Resources shall consult
38 with the advisory committee in developing proposed rules for the
39 implementation of sections 1 to 3.

41 **Sec. 5. Appropriation.** The following funds are appropriated
42 from the General Fund to carry out the purposes of this Act.

	<u>1989-90</u>	<u>1990-91</u>
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
Public Services - Agriculture		
51	Positions (2)	(2)
	Personal Services \$28,170	\$40,860
53	All Other 6,165	8,520
	Capital Expenditures 770	

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Provides funds for a Consumer Foods Inspector, a Clerk Typist II position, anticipated travel expenses and other general operating costs required to assist the department in handling the proposed expansion of the existing beverage container deposit system.

DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES
TOTAL

\$35,105 \$49,380

Sec. 6. Effective date. Sections 1 to 3 of this Act shall take effect January 1, 1990.

PART C

Sec. 1. 5 MRSA §1665 is amended by adding at the end a new paragraph to read:

In preparing estimates of expenditure and appropriation requirements for each fiscal year of the ensuing biennium for the Department of Economic and Community Development, Office of Waste Recycling and Reduction, the Bureau of the Budget shall recommend to the Governor an amount to support the activities of that office pursuant to Title 38, section 1310-X, which shall be no less than the amount of General Fund revenues estimated to be received from the "Advance Disposal Tax," as established in Title 36, chapter 719, for each year of the ensuing biennium.

Sec. 2. 36 MRSA c. 719 is enacted to read:

CHAPTER 719

SOLID WASTE ADVANCE DISPOSAL TAX

§4831. Definitions

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

1. Brown good. "Brown good" means an electronic device containing printed circuit boards, capacitors, resistors or transistors that is not included in the definition of white goods and that weighs more than 10 pounds.

1 2. Business. "Business" means any trade, occupation,
3 activity or enterprise engaged in selling or distributing tires,
 white goods, brown goods or lead-acid batteries in this State.

5 3. Distributor. "Distributor" means any of the following:

7 A. A person engaged in the business of producing or
9 manufacturing tires, white goods, brown goods or lead-acid
 batteries in this State for sale in this State;

11 B. A person engaged in the business of selling tires, white
13 goods, brown goods or lead-acid batteries in this State who
15 brings, or causes to be brought, into this State any tires,
 white goods, brown goods or lead-acid batteries for sale to
 a retailer; or

17 C. A person engaged in the business of selling tires, white
19 goods, brown goods or lead-acid batteries who ships or
21 transports tires, white goods, brown goods or lead-acid
 batteries to retailers for sale in this State.

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

27 5. Manufacturer. "Manufacturer" means a person who
29 manufactures and sells tires, white goods, brown goods or
 lead-acid batteries.

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

35 7. Place of business. "Place of business" means any place
37 where tires, white goods, brown goods or lead-acid batteries are
39 sold or where tires, white goods, brown goods or lead-acid
 batteries are manufactured, stored, or kept for the purpose of
 sale.

41 8. Retailer. "Retailer" means any person engaged in the
43 business of selling tires, white goods, brown goods or lead-acid
 batteries to ultimate consumers.

45 9. Retail outlet. "Retail outlet" means a place of
47 business from which tires, white goods, brown goods or lead-acid
 batteries are sold to consumers.

49 10. Sale. "Sale" means a transfer, exchange, barter or
51 gift in any manner or by any means for a consideration. It
 shall include a gift for advertising by a person engaged in the

1 business of selling tires, white goods, brown goods or lead-acid
2 batteries.

3
4 11. Tire. "Tire" means the device made of rubber or any
5 similar substance which is intended to be attached to a motorized
6 vehicle or trailer and is designed to support the load of the
7 motor vehicle or trailer.

8
9 12. Trailer. "Trailer" means any vehicle without motive
10 power that may be drawn by a motorized vehicle.

11
12 13. Unclassified importer. "Unclassified importer" means
13 any person, firm, corporation or association within this State,
14 other than a distributor, as defined in subsection 3, who
15 imports, receives or acquires from outside the State, tires,
16 white goods, brown goods or lead-acid batteries for use or sale
17 within the State.

18
19 14. White good. "White good" means any appliance employing
20 electricity, natural gas or any liquified petroleum gas to supply
21 heat or motive power:

22
23 A. To preserve or cook food;

24
25 B. To wash clothing, dishes, kitchen utensils, glasses or
26 other related items; or

27
28 C. To cool or heat air or water.

29
30 **§4832. Licenses**

31
32 A person engaging in the business of selling tires, white
33 goods, brown goods or lead-acid batteries as a distributor shall
34 secure a license from the State Tax Assessor before engaging in
35 that business. A license application shall be made on a form
36 prescribed by the State Tax Assessor and shall state the name and
37 address of the applicant, address of the applicant's principal
38 place of business, and such other information as the State Tax
39 Assessor may require for the proper administration of this
40 chapter. The application shall be accompanied by a fee of \$25.
41 A person outside the State who ships or transports tires, white
42 goods, brown goods or lead-acid batteries to retailers in this
43 State shall make application as a distributor and be granted by
44 the State Tax Assessor a license subject to all the provisions of
45 this chapter and agrees, upon applying for a license, to submit
46 that person's books, accounts and records to examination by the
47 Bureau of Taxation during reasonable business hours, and to
48 accept service of process by mail when service is made in any
49 proceeding involving enforcement of this chapter.

50
51 An unclassified importer before importing, receiving or
acquiring tires, white goods, brown goods or lead-acid batteries

1 from outside the State shall secure a license from the State Tax
2 Assessor. There is no fee for that license.

3
4 An issued license expires on July 31st of each year unless
5 it is revoked earlier by the State Tax Assessor. The license
6 shall be prominently displayed on the premises covered by the
7 license and no license may be transferred to another person.

8
9 The State Tax Assessor may revoke or suspend the license or
10 licenses of any person for violation of this chapter. A license
11 may not be revoked, cancelled or suspended until after notice and
12 hearing by the State Tax Assessor.

13 **§4833. Solid waste advance disposal tax on tires, white goods,**
14 **brown goods or lead-acid batteries**

15
16 **1. Solid waste advance disposal tax.** A solid waste advance
17 **disposal tax is imposed on the sale of:**

18
19 **A. Tires at the rate of \$1 per tire;**

20
21 **B. White goods at the rate of \$15 per white good;**

22
23 **C. Brown goods at the rate of \$15 per brown good; and**

24
25 **D. Lead-acid batteries at the rate of \$1 per battery.**

26
27 **2. Imposition.** The tax shall be imposed at the time the
28 **distributor or unclassified importer brings or causes to be**
29 **brought into this State tires, white goods, brown goods or**
30 **lead-acid batteries that are for sale to consumers or to**
31 **retailers or for use at the time tires, white goods, brown goods**
32 **or lead-acid batteries are manufactured or fabricated in this**
33 **State for sale in this State.**

34
35 **3. Exclusion.** The tax imposed on tires, white goods, brown
36 **goods or lead-acid batteries does not apply to those products**
37 **exported from this State or to any tires, white goods, brown**
38 **goods or lead-acid batteries which under the laws of the United**
39 **States may not be subject to taxation by this State. The tax**
40 **imposed on tires does not apply to those tires which are**
41 **remanufactured from used tires also known as "retreads" or**
42 **"recaps."**

43
44 **§4834. Returns; payment of tax and penalty**

45
46 **Every distributor or unclassified importer, on or before the**
47 **last day of each month, shall render, on forms to be furnished by**
48 **the State Tax Assessor, a report together with payment of the tax**
49 **due under this chapter to the State Tax Assessor stating the**
50 **quantity of all tires, white goods, brown goods or lead-acid**
51 **batteries held, purchased, manufactured, brought in or caused to**
52 **be brought in from outside the State or shipped or transported**
53

1 to retailers within the State during the preceding calendar
2 month. Every distributor or unclassified importer shall keep a
3 complete and accurate record at that distributor's or
4 unclassified importer's principal place of business to
5 substantiate all receipts of tires, white goods, brown goods or
6 lead-acid batteries. This record shall be retained for a period
7 of 2 years in such manner as to insure permanency and
8 accessibility for inspection.

9
10 The monthly reports must contain any further information as
11 the State Tax Assessor prescribes and must show a credit for any
12 tires, white goods, brown goods or lead-acid batteries exempted
13 as provided in section 4833, subsection 3. Records must be
14 maintained to substantiate the exemption. Tires, white goods,
15 brown goods or lead-acid batteries previously taxed that are
16 returned to a manufacturer because the produce has become unfit
17 for use or unsalable may be taken as a credit on a subsequent
18 return upon receipt of the credit notice from the original
19 supplier.

20
21 If the monthly report required by this chapter is not filed,
22 or payment is not rendered by the last day of the month, the
23 distributor or unclassified importer is subject to a forfeiture
24 of \$1 a day for each day in arrears or 10% of the tax liability,
25 whichever is the greater, together with interest at the rate of
26 1% per month or the fraction of the interest due on demand by the
27 State Tax Assessor, and is recoverable in a civil action. The
28 State Tax Assessor may waive the forfeiture for cause.

29
30 **§4835. The State Tax Assessor may estimate liability**

31
32 Whenever a distributor or unclassified importer neglects or
33 refuses to file a report required by this chapter or files an
34 incorrect or fraudulent report, the State Tax Assessor, from such
35 information as the State Tax Assessor may obtain, shall fix the
36 amount of taxes, forfeitures and interest payable and proceed to
37 collect the amount fixed.

38
39 In an action or proceeding for collection of the solid waste
40 advance disposal fee, any forfeitures and interest imposed in
41 connection with an assessment by the State Tax Assessor of the
42 tax, forfeiture or interest due the State constitutes prima facie
43 evidence of the claim of the State. The burden of proof is on
44 the distributor or unclassified importer to show that the
45 assessment was incorrect and contrary to law.

46
47 **§4836. Disposition of taxes**

48
49 The revenue derived from the tax imposed by this chapter
50 shall be deposited in the General Fund less the costs incurred by
51 the State Tax Assessor in collecting the tax.

1

STATEMENT OF FACT

3

5 This bill is the product of the Commission to Study
7 Municipal Solid Waste Management. This study was authorized by
9 the Legislative Council in 1988 in light of many solid waste
issues affecting the interests of the citizens of Maine. Except
where specifically noted below, this bill is the study
committee's unanimous report.

11 Part A of the bill incorporates a variety of changes in
13 state programs to stimulate further recycling of solid waste.

15 Sections 1 to 3 amend the existing provisions governing
17 state procurement procedures to establish goals for the purchase
of paper with recycled content and to establish a 10% price
preference for such purchases.

19 Sections 4 to 13 establish a new low-interest loan program
21 administered by the Finance Authority of Maine to stimulate the
23 establishment of new businesses which recycle waste material into
25 new products or which provide some form of intermediate recycled
27 waste processing. These sections also make a number of minor
amendments to the laws governing the Finance Authority of Maine
to allow it to use its other programs to the same end. One
million dollars is appropriated in each of the next 2 fiscal
years for this program.

29 Section 14 requires the implementation of a plastic
31 container coding system. This system uses symbols representing
33 the type of plastic resin used in a container. The symbols are
molded into the bottom of the container. Recycling programs can
then sort the containers by resin type. This sorting facilitates
marketing of recycled plastic containers.

35 Section 15 bans the use of beverage containers made of both
37 plastic and metal. These types of containers can create serious
39 problems for recycling programs, particularly those targeted to
aluminum.

41 Section 16 establishes a municipal technical and financial
43 assistance program in the Office of Waste Recycling and
Reduction. The program has 4 components:

- 45 1. A recycling information clearinghouse;
47 2. Recycling feasibility grants;
3. Recycling capital investment grants; and
49 4. Subsidies of transportation costs of recycling.

51 The information clearinghouse will assist municipalities by
providing information on the establishment and operation of
recycling programs, by finding markets for recycled materials and

1 by matching private sector recycling service providers with
2 interested municipalities. Funds for one staff position are
3 appropriated.

5 The 2 grants programs are intended to stimulate interest in
6 municipal recycling by both individual municipalities and groups
7 of municipalities or regional councils. The bill reflects the
8 committee majority recommendation for a preference in grant
9 awards for regional proposals. A committee minority recommends
10 no regional preference. The minority position also recommends
11 establishing a preference for applications which include
12 mandatory recycling provisions as part of the proposal. The bill
13 reflects the majority sentiment against this recommendation.
14 Approximately four million dollars is appropriated over the next
15 2 fiscal years for these programs.

17 The transportation subsidy is intended to help towns which
18 are willing to recycle materials but have found that the
19 transportation costs exceed the cost of disposal. This program
20 should help towns and the State to incorporate better the
21 "avoided costs" advantage of recycling into their decision making
22 on waste management choices. Approximately \$1,250,000 is
23 appropriated over the next 2 fiscal years for this program.

25 Part B incorporates the changes necessary to extend the
26 current beverage container deposit system to include all beverage
27 containers except dairy beverage containers. An appropriation is
28 also included to cover the State's administrative costs.

29 Part C establishes a new source of revenues to support state
30 recycling initiatives.

32 Section 1 of Part C changes the current budget procedure to
33 ensure that appropriation recommendations for recycling made by
34 the Bureau of the Budget to the Governor take full account of new
35 revenues raised.

37 Section 2 establishes a solid waste advance disposal tax on
38 tires, auto batteries, white goods and brown goods to generate
39 the revenues needed to support state recycling initiatives. The
40 study committee estimates that this tax will generate
41 approximately \$5.4 million annually.