

MAINE STATE LEGISLATURE

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L.D. 1431
(Filing No. H- 640)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1025, L.D. 1431, Bill, "An Act to Promote Reduction, Recycling and Integrated Management of Solid Waste and Sound Environmental Regulation"

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

PART A

Sec. 1. 2 MRSA §6, sub-§2, as repealed and replaced by PL 1981, c. 705, Pt. L, §§1 to 3, is amended to read:

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

- Superintendent of Banking;
- Bureau of Consumer Credit Protection Superintendent;
- State Tax Assessor; and
- Superintendent of Insurance; and
- Executive Director, Maine Waste Management Agency.

Sec. 2. 2 MRSA §6, sub-§4, as amended by PL 1987, c. 715, §2, and c. 787, §1, is repealed and the following enacted in its place:

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

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- 1 State Purchasing Agent;
- 3 Director, Arts and Humanities Bureau;
- 5 Director, State Museum Bureau;
- 7 Director of the Bureau of Parks and Recreation;
- 9 State Director of Alcoholic Beverages;
- 11 Director of Public Lands;
- 13 State Librarian;
- 15 Director of Employee Relations;
- 17 Director, Bureau of Air Quality Control;
- 19 Director, Bureau of Land Quality Control;
- 21 Director, Bureau of Water Quality Control;
- 23 Director, Bureau of Oil and Hazardous Materials Control;
- 25 Director, Bureau of Solid Waste Management;
- 27 Director, Bureau of Administration;
- 29 Director, Office of Planning;
- 31 Director, Office of Waste Reduction and Recycling; and
- 33 Director, Office of Siting and Disposal Operations.

35 Sec. 3. 3 MRSA §507, sub-§8-A, ¶B, as amended by PL 1987, c.
37 735, §1, is further amended to read:

39 B. The evaluations and analyses of the justification
41 reports for the programs of the following Group E-2
 independent agencies shall be reviewed by the Legislature no
 later than June 30, 1988:

- 43 (1) Board of Trustees of the University of Maine
 System;
- 45 (2) Board of Trustees of the Maine Maritime Academy;
- 47 (3) State Government Internship Advisory Committee;
- 49 (6) Electricians' Examining Board;
- 51 (7) Arborist Examining Board;

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- (8) Maine Occupational Information Coordinating Committee;
- (9) Maine Conservation School;
- (10) Advisory Committee on Maine Public Broadcasting;
- (11) Board of Examiners of Psychologists;
- (12) Board of Commissioners of the Profession of Pharmacy;
- (13) Alcohol and Drug Abuse Planning Committee; and
- (14) State Board of Social Worker Licensure; and
- (15) Maine Waste Management Agency.

Sec. 4. 5 MRSA §953-A is enacted to read:

§953-A. Maine Waste Management Agency

1. Major policy-influencing positions. The following are major policy-influencing positions within the Maine Waste Management Agency. Notwithstanding any other law, these positions and their successors are subject to this chapter:

- A. Director, Office of Planning;
- B. Director, Office of Waste Reduction and Recycling; and
- C. Director, Office of Siting and Disposal Operations.

Sec. 5. 5 MRSA §12004-D, sub-§4 is enacted to read:

<u>4. Facility Siting</u>	<u>\$100 per day</u>	<u>38 MRSA §2152</u>
<u>Board</u>	<u>plus expenses</u>	

Sec. 6. 5 MRSA §12004-I, sub-§22, as enacted by PL 1987, c. 786, §5, is repealed and the following enacted in its place:

<u>22. Envi-</u>	<u>Waste</u>	<u>Legislative</u>	<u>38 MRSA</u>
<u>ronment: Natural</u>	<u>Management</u>	<u>Per Diem</u>	<u>§2104</u>
<u>Resources</u>	<u>Advisory</u>		
	<u>Council</u>		

Sec. 7. 38 MRSA c. 24 is enacted to read:

CHAPTER 24

MAINE WASTE MANAGEMENT AGENCY

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SUBCHAPTER I

MAINE WASTE MANAGEMENT AGENCY
GOALS AND ESTABLISHMENT

§2101. Solid waste management hierarchy

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

A. Reduction of waste generated at the source, including both amount and toxicity of the waste;

B. Reuse of waste;

C. Recycling of waste;

D. Composting of biodegradable waste;

E. Waste processing which reduces the volume of waste needing land disposal, including incineration; and

F. Land disposal of waste.

§2102. Establishment of the Maine Waste Management Agency

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

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

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

§2103. Powers and duties of the agency

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

6 A. Promulgate in accordance with the Maine Administrative
7 Procedure Act, Title 5, chapter 375, all rules necessary to
8 carry out its responsibilities under this chapter, including
9 procedural rules;

11 B. Acquire, hold and dispose of personal property;

13 C. Acquire, hold and dispose in the name of the agency by
14 purchase, lease or otherwise, real property and interests in
15 real property determined necessary or desirable for its
16 purposes and use of the property;

17 D. Establish and collect fees, assessments and other
18 charges and expend money received as provided in this
19 chapter;

21 E. Employ such assistants, agents, economists, engineering,
22 architectural and construction experts and inspectors, and
23 such other employees as it deems necessary or desirable to
24 carry out its purposes;

27 F. Obtain any information and conduct investigations useful
28 or convenient for carrying out any of its purposes, powers
29 or duties;

31 G. Enter, with the permission of the owner and during
32 normal working hours, upon any lands, waters and premises in
33 the State for the purpose of making surveys, soundings,
34 drillings and examinations as it deems necessary for the
35 purpose of this chapter;

37 H. Enter any property at reasonable hours, and enter any
38 building with the consent of the property owner, occupant,
39 or agent, to inspect the property or structure, to take
40 samples and to conduct tests, as appropriate, to determine
41 compliance with any provision of the laws administered by
42 the agency or the terms or conditions of any order,
43 regulation, license, permit, approval or decision of the
44 agency;

47 I. Exercise any of its powers in the public domain of the
48 United States, unless the exercise of those powers is not
49 permitted by the laws of the United States;

51 J. Take all other lawful actions necessary and incidental
52 to these powers in carrying out the requirements of this
53 chapter;

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K. Direct solid wastes from one public or private waste facility to another facility when an emergency is determined to exist by rule or by the Governor. The agency shall negotiate to provide to the receiving facility fair compensation for the disposal or processing of waste at that facility during the period of emergency. The agency shall consult with the department in the exercise of this power;

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

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

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

(1) Contract with architects, engineers, financial and legal consultants and other experts for services;

(2) Contract with persons, firms, corporations, limited partnerships, partnerships, associations, authorities and agencies for the operation of waste facilities and for services relating to the recycling and disposal of solid waste;

(3) Contract for the handling of solid waste on the basis of guaranteed amounts, whether delivered for disposal and accepted for disposal or not, with payments based on the guaranteed amounts, whether actually disposed of or not. The payments may be variable and may be determined by formulas expressed in those contracts;

(4) Contract with another state agency, the United States or any subdivision or agency thereof for services; and

(5) Contract with any municipality for the services of that municipality or its facilities; and

O. Use a negotiated or competitive bid process or any other process which may be advantageous to the agency.

2. Duties. The agency shall undertake the following duties:

1 A. Develop and adopt the state waste management and
2 recycling plan pursuant to the provisions of this chapter;

3
4 B. Assist in regional and municipal waste recycling and
5 waste reduction programs and provide technical assistance to
6 regional associations, municipalities, state agencies and
7 private entities to assist their implementation of this
8 chapter;

9
10 C. Promote and emphasize recycling and waste reduction in
11 the State;

12
13 D. Develop generic siting criteria and select sites for use
14 by the agency;

15
16 E. Review applications for new or expanded solid waste
17 disposal facilities for consistency with state siting
18 criteria and recommendations and the state plan;

19
20 F. Enter into contracts for services to plan, design,
21 construct and operate waste facilities;

22
23 G. Initiate, conduct and support research, demonstration
24 projects and investigations and coordinate all state agency
25 research programs pertaining to waste management and
26 recycling;

27
28 H. Institute, in a court of competent jurisdiction,
29 proceedings against any person to compel compliance with the
30 provisions of this chapter, any regulation promulgated
31 pursuant thereto, or any order of the agency;

32
33 I. Cooperate with appropriate federal, state, interstate
34 and local units of government and with appropriate private
35 organizations in carrying out its duties under this chapter;

36
37 J. Work with other state agencies, regional associations,
38 municipalities, regional planning agencies and other
39 community, private sector and environmental organizations to
40 manage the State's solid waste; and

41
42 K. Solicit public comment from all regions of the State.

43
44 §2104. Waste Management Advisory Council

45
46 There is established the Waste Management Advisory Council,
47 referred to as the "council" in this section, to assist the
48 agency in developing the state plan and in facility siting and
49 evaluation activities.

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

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A. Three members from the general public;

B. Two members from each of the following:

(1) Municipal governments;

(2) Statewide and local environmental organizations;

(3) The recycling industry; and

(4) The waste disposal industry; and

C. One member representing industrial waste generators.

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

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

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

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

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

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

§2105. Payment in lieu of taxes

The agency shall annually pay a municipality an amount in lieu of taxes equal to the amount of property taxes on a solid waste disposal facility not paid to that municipality during the previous calendar year due to the statutory property tax exemption provided in this section. In the case of an unorganized territory, the agency shall annually pay the amount to the State Tax Assessor who shall deposit that amount in the Unorganized Territory Education and Services Fund established in Title 36, chapter 115. If the agency disagrees with the amount determined to be due in lieu of taxes under this subsection, it

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1 may appeal to the State Board of Property Tax Review as provided
2 in Title 36, section 271.

3 §2106. Annual audit

4
5 Each year an audit shall be made of the accounts of the
6 agency. For this purpose, authorized agents of a certified
7 public accounting firm appointed by the agency shall have access
8 to all necessary papers, books and records. Upon the completion
9 of each audit, a copy shall be sent to the Governor and the
10 Legislature.

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12 §2107. Staff employees; conflict of interest

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14 1. Agency staff. The executive director may hire, on a
15 temporary or permanent basis, such staff as necessary, including
16 financial experts.

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18 2. Civil Service Law. Professional employees of the agency
19 shall be unclassified and may be removed only for cause.
20 Employees are members of bargaining units subject to Title 26,
21 chapter 9-B.

22
23 3. Conflict of interest. Notwithstanding Title 5, section
24 18, subsection 1, each member of the agency and each employee,
25 contractor, agent or other representative of the agency is deemed
26 an "executive employee" solely for purposes of Title 5, section
27 18. In addition, Title 17, section 3104, shall be applicable, in
28 accordance with its provisions, to all such representatives of
29 the agency.

30
31 §2108. Indemnification

32
33 The agency shall defend and indemnify any employee of the
34 agency, including the executive director, and any member of the
35 Facility Siting Board established in section 2152 against
36 expenses actually and necessarily incurred by the person in
37 connection with the defense of any action or proceeding in which
38 the person is made a party by reason of past or present
39 association with the agency.

40
41 §2109. Sunset

42
43 For purposes of the Maine Sunset Act, Title 3, chapter 23,
44 the agency has its first justification report in accordance with
45 Title 3, section 504, due no later than October 31, 1998, and the
46 evaluation and analysis in accordance with Title 3, section 505,
47 by the joint standing committee of the Legislature having
48 jurisdiction over audit and program review due no later than
49 December 31, 1999, but notwithstanding Title 3, sections 506 and
50 507, the agency shall not terminate.

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1 §2110. Confidential information

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

7 SUBCHAPTER II

9 OFFICE OF PLANNING

11 §2121. Office of Planning

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

21 §2122. Recycling and management plan; schedule coordination

23 The office shall prepare and adopt, by rule, an analysis of,
25 and plan for, the management, reduction and recycling of solid
27 waste for the State by March 1, 1990. The plan shall be based on
29 the priorities and recycling goals established in sections 2101
31 and 2132. The plan shall provide guidance and direction to the
33 agency and municipalities in planning and implementing waste
management and recycling programs at the state, regional and
local level. To the extent that commercial entities continue to
have a role in developing waste management and recycling
facilities in the State, the plan shall provide guidance to those
entities.

35 1. Consultation. In developing the plan, the office shall
37 consult with the Bureau of Solid Waste Management in the
39 Department of Environmental Protection, the Office of Siting and
41 Disposal Operations and the Office of Waste Reduction and
43 Recycling, and shall submit its draft plan to these offices for
review and written comment before the agency publishes the plan
as a proposed rule. The office shall solicit public input and
shall hold hearings in different regions of the State. The
office shall also seek comment and advice on its draft plan from
the Waste Management Advisory Council established under section
2104.

45 2. Revisions. The office shall revise the analysis at
47 least every 2 years to incorporate changes in the waste
49 generation trends, changes in waste recycling and disposal
51 technologies, the development of new waste generating activities
and other factors affecting solid waste management as the office
finds appropriate. If the agency finds that rapidly changing
conditions necessitate more timely revisions of the analysis, it

1 may make those revisions pursuant to the rule-making provisions
2 of Title 5, chapter 375, subchapter II, including emergency
3 rulemaking, if necessary.

5 §2123. Plan contents

7 The state plan includes the following elements.

9 1. Data collection. The office shall develop and maintain
10 a comprehensive data base on solid waste generated or disposed of
11 in the State. Data collected shall include, but not be limited
12 to:

13 A. The amount of waste currently generated, handled or
14 transported within the State;

17 B. The source of the waste;

19 C. The type of waste;

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

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

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

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

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

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

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

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

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

5 F. The extent to which the State relies on solid waste
7 disposal capacity outside its jurisdiction; and

9 G. Additional disposal capacity anticipated to become
 available within the next 2 to 5 years.

11 3. Waste reduction and recycling assessment. The plan
13 shall include investigation and assessment of the extent to which
15 waste generation could be reduced at the source, and the
17 potential for recycling to replace or reduce the need for
 traditional disposal capacity. The assessment shall include the
 following elements:

19 A. The current level of public and business recycling
21 efforts, including the quantities and categories of waste
 currently recycled;

23 B. The current market structure of the recycling industry
25 in the State and in those areas receiving recycled materials
27 from the State. This element shall include identification
 of the existing private and public recycling operations and
 recycling capacity;

29 C. The current and projected capacity of existing markets
31 to absorb materials generated by recycling programs in the
 State;

33 D. Market conditions that inhibit or affect demand for
 materials generated by recycling programs;

35 E. Identification of solid wastes by type which are capable
37 of being reused or recycled in an environmentally sound
39 manner and the types and costs of the technologies which may
 be utilized;

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

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

51 H. A description of various mechanisms that could be
 utilized to stimulate and enhance waste reduction, including
 their advantages and disadvantages. The mechanisms to be

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1 analyzed shall include, without limitation, incentives for
2 prolonging product life, methods of ensuring product
3 recyclability, taxes for excessive packaging, tax
4 incentives, prohibitions on the use of certain products, and
5 performance standards for products; and

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

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

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

20 B. Estimation of the reduction in the waste stream needing
21 disposal capacity as a result of public and private
22 recycling efforts identified in subsection 3;

23 C. Comparison of the projected waste generation levels with
24 existing and potential capacity as identified in subsection
25 2; and

26 D. Identification of regional differences in available
27 disposal capacity and recycling facilities. The office
28 shall identify regions which are underserved with regard to
29 recycling, management or disposal capacity or which have
30 capacity in excess of regional needs. In determining
31 regional needs, the office may consider economic criteria,
32 including disposal and transportation costs, population
33 densities, regional differences in current industrial mix
34 and potential for economic growth, the level of competition
35 in the solid waste disposal industry and any other factors
36 the office considers relevant.

37
38
39 5. State management strategies. Based on the provisions of
40 section 2101 and the information and analysis developed in
41 subsections 1 to 4, the office shall examine various waste
42 management options for dealing with the projected waste stream,
43 available or anticipated disposal capacity and waste reduction
44 and recycling activities. The agency shall establish:

45 A. Strategies that promote, throughout the State, the
46 maximum reduction of waste, the maximum feasible recycling
47 of waste and the environmentally sound and cost-effective
48 management and disposal of those wastes that remain.
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1 Management and disposal alternatives shall be preferred
3 which do not foreclose the future ability of the State to
reduce, reuse and recycle waste; and

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

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

19 7. Transition. Insofar as the state capacity needs analysis
and state recycling plan developed under former sections 1310-K
21 and 1310-O are consistent with the waste reduction and recycling
goals and waste management hierarchy adopted herein, the office
23 shall incorporate the data, analysis and recommendations of these
documents into the management plan.

25 §2124. Reports

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

31 SUBCHAPTER III

33 OFFICE OF WASTE REDUCTION AND RECYCLING

35 §2131. Office of Waste Reduction and Recycling; established

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

45 §2132. State goals

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

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

§2133. Municipal recycling

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

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

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

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

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- 1 B. The planning for the logistical, administrative and
2 financial management requirements of a recycling program;
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- 4 C. The design of any flow-control or other ordinances
5 necessary for the implementation of a recycling program;
- 6
- 7 D. The coordination of the proposed recycling program with
8 overall solid waste management; and
- 9
- 10 E. The assessment of the advantages of participation in a
11 regional recycling effort versus a local recycling program.

12

13 3. Recycling capital investment grants. The office may
14 make grants to eligible municipalities and regional associations
15 for the construction of public recycling facilities and the
16 purchase of recycling equipment. The office may establish
17 requirements for local cost sharing of up to 25% of the total
18 grant amount. The office shall give preference to recycling
19 programs that require the participation of the waste generators
20 served.

21

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

26

27 A. The office shall adopt, by rule, municipal waste stream
28 assessment models to assist municipalities in estimating the
29 volume or weight of municipal solid waste being generated
30 and disposed, and the levels of reduction resulting from
31 public recycling programs, including programs that deny
32 access to waste disposal facilities for any category of
33 recyclable materials. The models shall make use of best
34 available information, including without limitation, data
35 from state reports, municipalities, and public and private
36 operators of waste handling services, and shall consider
37 geographical and population differences, including seasonal
38 population variations, in waste composition and amount. The
39 models may be modified on a case-by-case basis when actual
40 waste data is documented by a municipality. The models
41 shall provide the basis for determining levels of reduction
42 achieved.

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

51

1 5. Access to state waste disposal services; additional
2 fees. Municipal access to agency-owned facilities shall be
3 limited under this subsection.

4 A. Any municipality that fails to provide recycling
5 opportunities to residents is prohibited from delivering
6 municipal solid waste, including residual waste, to a
7 state-owned solid waste disposal facility.

8 B. Any municipality that fails to make reasonable progress,
9 as determined by the office, toward achieving the recycling
10 goal of section 2132 shall pay an additional fee per ton on
11 any municipal solid waste delivered to a state-owned solid
12 waste disposal facility. "Reasonable progress" includes,
13 without limitation, the achievement of the interim recycling
14 goal of section 2132.

15 §2134. Market development and assistance

16 The office shall design and implement a market development
17 strategy, consistent with the recycling component of the state
18 plan, which shall include, without limitation, the following
19 elements:

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

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

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

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

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

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

B. Market opportunities in Canada and other export markets;

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

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

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

§2135. Special services

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

§2136. Scrap metal transportation cost subsidy

The office may enter into annual agreements with a municipality or regional association to reimburse a portion of the direct costs of transporting material to a recycling facility for intermediate processing or final use. The office shall base grants on the value of the scrap metal, the distance to acceptable scrap metal recycling facilities and the availability of funding. The office shall adopt rules, in consultation with the Waste Management Advisory Council, necessary for the implementation of this section.

§2137. State Government recycling and waste reduction

The office, in cooperation with the Department of Administration, shall assess the status of recycling efforts undertaken directly by the State for its own solid waste and

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1 shall evaluate existing programs and develop necessary new
2 programs for recycling to reduce the generation of solid waste by
3 the State. The programs shall include, without limitation,
4 recycling of office papers, cardboard, used motor oil, yard waste
5 and other materials produced by the State for which recycling
6 markets exist or may be developed.

7
8 1. Waste reduction and recycling plan. Each state agency
9 shall prepare a waste reduction and recycling plan addressing the
10 requirements of subsections 3 and 4. The plan shall be submitted
11 to the Office of Waste Reduction and Recycling on or before July
12 1, 1990, for approval as consistent with the goals and guidelines
13 of this section and with the state waste management and recycling
14 plan. The plan shall be updated on a biennial basis to increase
15 the amount of material recycled by taking advantage of any
16 changed circumstances. Each department shall complete an
17 analysis of additional materials to determine recycling
18 potential, and shall incorporate these materials into plan
19 updates. Updated plans shall be submitted to the office for
20 approval prior to adoption.

21
22 2. Capitol complex recycling program. The State House and
23 the State Office Building shall constitute the Capitol complex
24 recycling demonstration area. The House of Representatives, the
25 Senate, the office of the Governor, and each department that
26 occupies space in the State House or the State Office Building
27 shall, by July 1, 1990, institute a recycling program for its
28 respective offices in these buildings. The program shall
29 include, at a minimum, office paper, corrugated cardboard and
30 containers subject to the returnable container law, Title 32,
31 chapter 28, which are sold in the Capitol complex. The program
32 shall include procedures for collecting and storing recyclable
33 materials, bins or containers for storing materials, and
34 contractual and other arrangements with buyers.

35
36 3. Recycling. By January 1, 1991, each state agency
37 outside the Capitol complex shall establish and implement a
38 source separation and collection program for recyclable materials
39 produced as a result of agency operations, including, at a
40 minimum, high grade paper and corrugated paper. The source
41 separation and collection program shall include, at a minimum,
42 procedures for collecting and storing recyclable materials, bins
43 or containers for storing materials, and contractual and other
44 arrangements with buyers. Each agency shall appoint a recycling
45 coordinator for every 50 employees at a minimum and shall conduct
46 educational programs for its employees on the recycling program.

47
48 4. Waste reduction. By January 1, 1991, each state agency
49 shall establish and implement a waste reduction program for
50 materials used in the course of agency operations. The program
51 shall be designed and implemented to achieve the maximum feasible
reduction of waste generated as a result of agency operations.

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3 5. University of Maine System. The following provisions shall apply to the University of Maine System.

5 A. Each campus of the University of Maine System shall
7 prepare a waste reduction, recycling and composting plan
9 addressing the requirements of paragraphs B to D. The plan
11 shall be submitted to the Office of Waste Reduction and
13 Recycling on or before July 1, 1990, for approval as
15 consistent with the goals and guidelines of this chapter and
17 with the state waste management and recycling plan. Each
19 campus shall complete an analysis of additional materials to
21 determine recycling potential, and shall incorporate these
23 materials into annual plan updates.

25 Updated plans shall be submitted to the office for approval
27 prior to adoption.

29 B. By January 1, 1991, each campus of the University of
31 Maine System shall establish and implement a source
33 separation and collection program for recyclable materials,
35 including at a minimum, high grade paper, corrugated paper
37 and glass. The source separation and collection program
39 shall include procedures for collecting and storing
41 recyclable materials, bins or containers for storing
43 materials and contractual and other arrangements with
45 buyers. Each campus shall appoint a recycling coordinator
47 and shall conduct educational programs for students and
49 employees on the recycling program.

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

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

65 §2138. Business recycling and waste reduction program

67 1. Office paper recycling mandated. Any person employing
69 15 or more people at a site within the State shall implement an
71 office paper and corrugated cardboard recycling program according
73 to the following schedule:

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

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

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

3 The office shall provide technical and market development
4 assistance and direction to entities within the State to assist
5 in meeting this schedule. Municipalities and regional
6 associations may assist employers in attaining the objectives of
7 this section.

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

14
15 3. Certification of tax credit. The office, in cooperation
16 with the State Tax Assessor, shall assist in the administration
17 of tax credits for the purchase of machinery and equipment used
18 by businesses in new or expanded waste reduction, reuse or
19 recycling programs pursuant to Title 36, section 5219-C by
20 certifying that the machinery and equipment are eligible for the
21 credit.

22
23 4. Technical and financial assistance programs. The office
24 shall administer other financial assistance programs for projects
25 that reduce the waste stream or increase recycling that the
26 agency determines appropriate, including technology transfer to
27 businesses and assisting the Finance Authority of Maine in
28 determining eligible projects for low-interest loans.

29
30 5. Industrial waste reduction. The office shall consult
31 with the Maine Sludge and Residuals Utilization Research
32 Foundation and the private sector to identify and examine
33 solutions to the problems of reducing the volume and toxicity of
34 industrial waste.

35 §2139. Public education

36
37 The office shall design a program of public education in
38 support of the state recycling goals to promote waste reduction,
39 source separation and recycling efforts at the individual, local,
40 regional and state levels.

41
42
43 1. Media campaign. The office shall develop and
44 disseminate educational material designed to establish broad
45 public understanding and compliance with the State's recycling
46 and waste reduction goals.

47
48 2. Kindergarten to grade 12 curriculum. In cooperation
49 with the Department of Educational and Cultural Services, the
50 office shall develop a curriculum suitable for use in programs
51 from kindergarten through high school.

§2140. Interstate and national initiatives

1
2
3 The office shall participate in interstate and national
4 initiatives to adopt uniform state laws when practicable, and to
5 enter compacts between the State and other states for the
6 improved management, recycling and reduction of solid waste.

7 SUBCHAPTER IV

8 OFFICE OF SITING AND DISPOSAL OPERATIONS

9
10
11 §2151. Office of Siting and Disposal Operations

12
13 The Office of Siting and Disposal Operations, referred to as
14 the "office" in this subchapter, is established to carry out the
15 purposes of this subchapter. The director of the office shall
16 administer the office in accordance with the policies of the
17 agency and consistent with the state waste management and
18 recycling plan.

19
20 §2152. Facility Siting Board

21
22 1. Board established. The Facility Siting Board, as
23 established in Title 5, section 12004-D, subsection 4, is created
24 to conduct a site screening and selection process for disposal
25 facilities owned, operated or controlled by the agency. The
26 board shall undertake this process in a manner consistent with
27 the state waste management and recycling plan and provisions of
28 section 2154 and shall make all final decisions on the choice of
29 specific sites for solid waste disposal facilities under the
30 jurisdiction of the agency. The office shall provide staff
31 support to the Facility Siting Board.

32
33 2. Membership. The board consists of 5 members appointed by
34 the Governor, subject to review by the joint standing committee
35 of the Legislature having jurisdiction over natural resources and
36 to confirmation by the Legislature.

37
38 A. One of the members shall initially be appointed to a term
39 of 3 years, 2 members to terms of 4 years and 2 members to
40 terms of 5 years. The successor of each appointed member
41 shall be appointed for a term of 5 years, except that any
42 person appointed to fill a vacancy occurring prior to the
43 expiration of the term for which the predecessor was
44 appointed shall be appointed only for the remainder of that
45 term. Each board member shall serve until the appointment
46 and qualification of a successor.

47
48 B. No appointed board member may be an officer or employee
49 of the United States Government or this State. All members
50 of the board shall be residents of the State. Appointed
51 members may be removed from the board by the Governor for
cause.

1
3 C. The Commissioner of Environmental Protection and the
5 Director of the Maine Geological Survey shall serve as
7 technical advisors to the board.

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

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

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

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

41 §2153. Siting criteria

43 1. Siting criteria. By May 1, 1990, the Facility Siting
45 Board shall adopt by rule siting criteria for solid waste
47 disposal facilities based on the following factors.

49 A. To the extent possible, a site shall be located in
51 proximity to the entities that generate the wastes placed at
53 the site.

55 B. To the extent possible, a site shall be located in
57 proximity to the transportation systems that are used to
59 convey waste to the site or to convey residuals and
61 materials to be recycled from the site.

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

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

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

77 F. A site must meet preliminary environmental standards
79 developed jointly by the department and the Maine Land Use

1 Regulation Commission, including ground water and geological
2 standards.

3
4 G. Existing uses on adjacent properties shall not be in
5 significant conflict with or significantly jeopardized by
6 the use of a site.

7
8 §2154. Site selection

9
10 1. Initial site screening. The Facility Siting Board shall
11 complete a site screening and selection process on or before July
12 1, 1991, to identify solid waste disposal capacity sufficient to
13 meet the projected needs through the year 1995 identified in the
14 analysis conducted under former section 1310-O and the needs that
15 have been identified in the state planning process under
16 subchapter II. The Facility Siting Board shall consider the need
17 for geographic distribution of facilities to adequately serve all
18 regions of the State. The Facility Siting Board also shall
19 consider in its site selection process the need for landfill
20 capacity to dispose of incinerator ash resulting from the
21 combustion of domestic and commercial solid waste generated
22 within its jurisdiction. Prior to recommending a site, the
23 Facility Siting Board shall hold a public hearing in every
24 municipality or plantation identified in the screening process as
25 a potential site. For potential sites within an unincorporated
26 township, the Facility Siting Board shall hold a public hearing
27 within the vicinity of the proposed site.

28
29 2. Siting; general. Subsequent to the siting process under
30 subsection 1, the Facility Siting Board shall identify additional
31 sites as requested by the office and as capacity needs are
32 identified in the state plan. The Facility Siting Board shall
33 employ the same criteria and considerations employed under
34 subsection 1. The Facility Siting Board shall hold a public
35 hearing in each municipality within which the agency may
36 recommend the location of any solid waste disposal or
37 refuse-derived fuel processing facility.

38 §2155. Notification

39
40 The office shall notify the municipal officers of any
41 municipality within which a waste disposal facility site is
42 recommended under this subchapter of that recommendation. The
43 office shall notify the municipal officers by certified mail
44 within 30 days of making the recommendation. If the proposed
45 site is located within the jurisdiction of the Maine Land Use
46 Regulation Commission, the office shall notify the Maine Land Use
47 Regulation Commission and the county commissioners in lieu of
48 the municipal officers.

49
50 §2156. Facility development

1 1. Initial state facility required. On or before July 1,
2 1994, the office shall develop facilities sufficient to meet the
3 projected needs identified in the analysis conducted under former
4 section 1310-0 and the state plan and to serve all geographic
5 areas of the State.

7 2. Subsequent facility development. Subsequent to any
8 facility development under subsection 1, the office shall
9 initiate the development of solid waste disposal facilities as it
10 determines is necessary to meet the capacity needs identified in
11 the state plan. The office shall provide for solid waste
12 disposal facilities by contracting with private vendors for
13 facility design, construction or operation or, if necessary,
14 undertaking facility development itself.

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

19 §2157. Review of proposed waste facilities

21 Subsequent to the adoption of the state plan, the Board of
22 Environmental Protection shall not approve an application of a
23 new or expanded solid waste disposal facility requiring review
24 under this section until the agency has approved the proposed
25 facility under this section.

27 1. Requirement. After the adoption of the state plan, no
28 permit for a new or expanded solid waste disposal facility may be
29 issued unless the applicant demonstrates to the agency that the
30 proposed facility:

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

35 B. Will be consistent with the state plan; and

36 C. Meets the following requirements:

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

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

42 Proceedings under this subsection are subject to the provisions
43 of Title 5, chapter 375, subchapter IV.

44 §2158. Future commercial solid waste disposal facilities

1
2 After the adoption of the state plan, the agency shall not
3 approve an application for a new commercial solid waste disposal
4 facility. The agency may approve expansions of a commercial
5 solid waste disposal facility after adoption of the state plan,
6 if:

7
8 1. Previously licensed facility. The facility had been
9 previously licensed by the Board of Environmental Protection
10 prior to the adoption of the state plan; and

11
12 2. Determination of compliance. The agency determines that
13 the provisions of section 2157 are met.

14 §2159. Real and personal property; right of eminent domain

15
16 The agency may acquire and hold real and personal property
17 which it deems necessary for its purposes, is granted the right
18 of eminent domain and, for those purposes, may take and hold,
19 either by exercising its right of eminent domain or by purchase,
20 lease or otherwise, for public use, any land, real estate,
21 easements or interest therein, necessary for constructing,
22 establishing, maintaining, operating and the closure of solid
23 waste disposal facilities.

24 §2160. Procedure in exercise of right of eminent domain

25
26 The right of eminent domain granted in section 2159 may only
27 be exercised after complying with the following procedures.

28
29 1. Notice to owner. The agency shall provide to the owner
30 or owners of record notice of the following:

31
32 A. The determination of the agency that it proposes to
33 exercise the right of eminent domain;

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

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

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

41
42 Notice may be made by personal service in hand by an officer duly
43 qualified to serve civil process in this State or by certified
44 mail, return receipt requested, to the last known address of the
45 owner or owners. If the owner or owners are not known or cannot
46 be notified by personal service or certified mail, notice may be
47 given by publication in the manner provided in subsection 4.

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

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

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

- A. The time and place of the hearing;
- B. A description of the land or easement to be taken; and
- C. The name of the owners, if known.

§2161. Condemnation proceedings

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

§2162. Office assistance in regional association siting

Upon request by a regional association, the office may provide technical assistance to a regional association in the establishment of approved waste facilities, including assistance

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1 in planning, location, acquisition, development and operation of
2 the site. The regional association shall describe fully the need
3 and justification for the request. The office may request
4 information from the regional association necessary to provide
5 assistance.

7 §2163. Exempt facilities

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

11 1. Inert fill. Solid waste disposal facilities less than 6
12 acres in size that accept only inert fill, construction and
13 demolition debris, debris from land clearing and wood wastes; and

14 2. Generator-owned facilities. Solid waste disposal
15 facilities used exclusively for the disposal of waste generated
16 by the owner of the facility except that the facility may accept,
17 on a nonprofit basis, no more than 15% of all solid waste
18 accepted on an annual average which is not generated by the
19 owner. Notwithstanding this section, a solid waste disposal
20 facility receiving ash resulting from the combustion of municipal
21 solid waste or fuel derived from municipal solid waste is not
22 exempt unless a completed application for the facility has been
23 accepted by the department prior to July 1, 1989.

24 §2164. Household and small generator hazardous waste

25 The office shall develop and implement by July 1, 1991, a
26 statewide system for the collection and disposal of hazardous
27 waste generated by households, public and private nonprofit
28 institutions and small quantity generators.

30 SUBCHAPTER V

31 HOST COMMUNITY BENEFITS

32 §2171. Citizen advisory committee

33 The municipal officers of each municipality identified by
34 the Facility Siting Board as a proposed site for a waste disposal
35 facility or a facility which produces refuse-derived fuel under
36 this chapter and each contiguous municipality which may be
37 affected by the construction or operation of that facility shall
38 jointly establish a single citizen advisory committee within 60
39 days of notification pursuant to section 2155.

40 1. Membership. The committee shall be comprised of
41 citizens from each affected municipality, including, but not
42 limited to: a municipal health officer; a municipal officer; and
43 at least 3 additional residents of the municipality, including
44 abutting property owners and residents potentially affected by
45

7. of 3. 1 pollution from the proposed facility. In addition, each
3 committee may include members representing any of the following
5 interests: environmental and community groups; labor groups;
7 professionals with expertise relating to landfills or
9 incinerators; experts in the areas of chemistry, epidemiology,
11 hydrogeology and biology; and legal experts.

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

21 3. Responsibilities. Each committee established under this
23 section shall have the authority to:

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

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

39 C. Provide the agency and department with any alternative
41 contract provisions, permit conditions, plans or procedures
43 it deems appropriate; and

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

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

§2172. Dispute resolution

A host municipality may establish a process, including, but
not limited to, negotiation, mediation and arbitration to resolve
disputes and to negotiate additional rights and benefits relating
to the siting and operation of a waste disposal or refuse-derived
fuel processing facility within the municipality. The citizen
advisory committee shall be consulted and shall assist in the
development and implementation of any process established under
this section. At the option of the municipality, the Chair of
the Board of Environmental Protection may appoint a neutral
mediator to resolve disputes. The municipality shall be eligible

1 for grants from the agency to fund dispute resolution programs
2 under this section.

3
4 §2173. Municipal jurisdiction over agency and regional
5 association disposal facilities

6
7 A municipality may adopt a local ordinance authorizing the
8 municipal officers to issue a local permit containing the same
9 findings, conclusions and conditions contained in the license
10 issued by the department for a solid waste disposal facility
11 owned by the agency or a regional association and located within
12 the municipality's jurisdiction. The municipal officers may also
13 attach to the permit additional conditions for the operation of
14 the solid waste disposal facility on any issues not specifically
15 addressed in any condition of the department's license. These
16 conditions may not unreasonably restrict the operation of the
17 facility and must be attached to the local permit by the
18 municipal officers within 90 days of issuance of the department's
19 license or within 30 days of a final decision by the department
20 to relicense the facility.

21
22 An enforcement action brought by the municipality to enforce
23 local permit conditions shall not preclude the State from
24 bringing an action to enforce the conditions of any license
25 issued by the State or any other provision of law. In addition,
26 the State shall have a right to intervene in any enforcement
27 action brought by a municipality under this section. A
28 municipality that has adopted local permit conditions described
29 in this section shall employ an inspector certified under section
30 2174 to enforce permit conditions.

31
32 §2174. Local inspection and enforcement

33
34 1. Certification. The department shall establish and
35 conduct a training program to certify host municipality
36 inspectors. This program shall be made available to persons who
37 have been designated by the municipality. The department shall
38 offer training programs at least twice a year and shall pay for
39 the host inspection training program. The department may certify
40 and decertify host municipality inspectors pursuant to rules
41 promulgated by the Board of Environmental Protection.

42
43 2. Information. The host municipality of a solid waste
44 disposal facility owned by the agency or a regional association
45 shall have a right to all information from the department and the
46 solid waste disposal facility operator, pursuant to Title 1,
47 chapter 13, subchapter I. All information provided under this
48 subsection shall be made available to the citizen advisory
49 committee and the public by the host municipality.

COMMITTEE AMENDMENT "A" to H.P. 1025, L.D. 1431

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

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

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

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

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

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

29 C. The municipality shall provide all of the following
31 information to the department:

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

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

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

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

51 3. Inspection; emergency orders. A certified inspector is
 authorized to enter property of the agency or any regional
 association within the inspector's jurisdiction, inspect records

7 of 3

1 required by the department, take samples and conduct inspections
2 in accordance with departmental regulations applicable to
3 employees of the department. A certified inspector may order the
4 operator of the facility to cease any operation or activity at
5 the facility that constitutes an immediate threat to public
6 health or safety or to the environment. The inspector shall
7 notify the department and the municipal officers of the host
8 municipality within 2 hours of issuing such an order.

9
10
11 4. Department inspections. Whenever any host municipality
12 notifies the department of an order issued pursuant to a local
13 permit requirement under section 2173 and gives the department
14 reason to believe that any solid waste disposal facility owned by
15 the agency or regional association is in violation of any law or
16 regulation administered by the department, or any order or the
17 condition of any permit issued pursuant thereto, the department
18 shall promptly conduct an inspection of the facility.

19 If the department finds that there is insufficient information to
20 believe that there is a violation, the department shall, within
21 10 working days of a municipality's request for an inspection,
22 provide to the municipality a written explanation of its decision
23 not to conduct an inspection.

24 §2175. Property value offset

25
26
27 Owners of property contiguous to an agency-owned, operated
28 or approved facility licensed under chapter 13 are eligible for
29 reimbursement for loss in property value directly attributable to
30 the construction and operation of the facility. The agency shall
31 issue rules to establish a formula and process for reimbursement,
32 including, without limitation, definition of the impact area, a
33 process for establishing baseline real estate values, a time
34 frame within which the property value support program will be in
35 effect, determination of the percentage of property value to be
36 reimbursed, an accounting of real estate trends in the area and a
37 determination of the reimbursement mechanism.

38 §2176. Impact payments

39
40
41 In addition to payment in lieu of taxes provided in section
42 2105, the agency shall make impact payments to a municipality in
43 which an agency-owned solid waste landfill facility is located
44 or, in the case of an unorganized territory, to the State Tax
45 Assessor upon request by the community involved or by the State
46 Tax Assessor. The agency shall base its impact payments on
47 measurable criteria including, without limitation:

48
49 1. Roads. Improvement, maintenance and repair of local
50 roads directly affected by traffic to and from an agency-owned
51 landfill facility;

1 2. Emergency response. Development and maintenance of
2 adequate local emergency response capacity; and

3
4
5 3. Monitoring. Financial support for on-site, municipally
6 employed personnel or for other means determined necessary to
7 enable the municipality to monitor the facility's compliance with
8 state and local requirements.

9 §2177. Water supply monitoring and protection

11 Upon written request from persons owning land contiguous to
12 a waste landfill approved under subchapter IV, the operator of
13 the landfill shall have quarterly samplings and analyses
14 conducted of private water supplies used by the requestors for
15 drinking water. The sampling and analysis shall be conducted in
16 a manner specified by and shall meet criteria developed by the
17 department.

19 Any person owning or operating a waste landfill that
20 adversely affects a public or private water supply by pollution,
21 degradation, diminution or other means that result in a violation
22 of the state drinking water standards as determined by the
23 department shall restore the affected supply at no cost to the
24 owner or replace the affected supply with an alternative source
25 of water that is of like quantity and quality to the original
26 supply at no cost to the owner.

27
28 1. Extent of analysis. Water supplies shall be analyzed
29 for all parameters or chemical constituents determined by the
30 department to be indicative of typical contamination from solid
31 waste landfills. The laboratory performing the sampling and
32 analysis shall provide written copies of sample results to the
33 landfill owner, the landowner and to the department.

35 2. Additional sampling required. If the analysis indicates
36 possible contamination from a solid waste landfill, the
37 department shall conduct, or require the landfill operator to
38 have the laboratory conduct, additional sampling and analysis to
39 determine more precisely the nature, extent and source of
40 contamination. The department shall, if necessary, require this
41 sampling beyond the boundaries of the contiguous property.

43 3. Written notice of rights. On or before December 1,
44 1989, for permits issued under this chapter prior to October 1,
45 1989, and at or before the time of permit issuance for permits
46 issued under this chapter after October 1, 1989, the operator of
47 each waste landfill shall provide owners of contiguous land with
48 written notice of their rights under this section on a form
49 prepared by the department.

51 SUBCHAPTER VI

LIABILITY AND LIMITATIONS

§2181. Effect on tort claims

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

§2182. Ability to indemnify

Nothing in this subchapter may be construed to prevent any host municipality, regional association or the State from obtaining or giving such indemnities as may be appropriate in connection with the ownership, operation or control of a municipal solid waste facility.

§2183. Effect on existing contracts and facilities

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

§2184. Municipal contracts

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

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

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

SUBCHAPTER VII

FINANCE, FEES AND CONTRACTS

Article 1. Fees and Contracts

§2191. Fees

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

§2192. Purposes of the fees

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

1. Current expenses. To pay the current expenses, either incurred directly or through contractual agreements with another party or parties, for operating and maintaining a facility or delivering a service and to provide for normal maintenance and replacement of equipment. Current expenses also include costs incurred under subchapter V;

2. Interest. To provide for the payment of interest on the indebtedness created or assumed by the agency;

3. Indebtedness. To provide an annual sum equal to not less than 2% nor more than 10% of the term indebtedness represented by the issuance of bonds created or assumed by the agency, which sum shall be turned into a sinking fund and there maintained to provide for the extinguishment of term indebtedness. The money set aside in this sinking fund shall be devoted to the retirement of the term obligations of the agency and may be invested in such securities as savings banks in the State are allowed to hold;

4. Principal payments. To provide for annual principal payments on serial indebtedness created or assumed by the agency;

5. Contingency reserve fund allowance. To provide for a contingency reserve fund allowance by providing rates to reflect up to a 5% addition to yearly revenues over that required to operate the facility;

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

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

1 §2193. Host municipality fees

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

7 Article 2. Maine Solid Waste Management Fund

9 §2201. Maine Solid Waste Management Fund established

11 The Maine Solid Waste Management Fund, referred to in this
12 section as the "fund," is established as a nonlapsing fund to
13 support programs administered by the Maine Waste Management
14 Agency and the Department of Environmental Protection. The fund
15 shall be segregated into 2 accounts. The first account, which
16 shall be called the operations account, shall receive all fees
17 established and received under article 1 and shall be used solely
18 for the development and operation of publicly owned facilities
19 owned or approved by the agency and for the repayment of any
20 obligations of the agency incurred under article 3. The 2nd
21 account, which shall be called the administrative account, shall
22 receive all fees established under this article and under Title
23 36, chapter 719. All administrative expenses directly related to
24 the agency's and the department's programs shall be charged to
25 this account.

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

33 Money in the administrative account may only be expended in
34 accordance with allocations approved by the Legislature. These
35 allocations shall be based on estimates of the actual costs
36 necessary for the agency and the department to administer their
37 programs, to provide financial assistance to regional
38 associations and to provide other financial assistance necessary
39 to accomplish the purposes of this chapter. Beginning in the
40 fiscal year ending on June 30, 1991 and thereafter, the fund
41 shall annually transfer to the General Fund an amount necessary
42 to reimburse the costs of the Bureau of Taxation incurred in the
43 administration of Title 36, section 5219-C and Title 36, chapter
44 719 and an amount equal to the General Fund revenues lost as the
45 result of Title 36, section 5219-C. Allowable expenditures
46 include "Personal Services," "All Other" and "Capital
47 Expenditures" associated with all agency activities other than
48 those included in the operations account.

51 §2202. Fees

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

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

8 **§2203. Fee on special waste**

9
10 There are imposed fees in the following amounts to be levied
11 for special waste that is disposed of at commercial, municipal,
12 regional association or agency landfills.

13
14

<u>Asbestos</u>	<u>\$6 per cubic</u>
	<u>yard</u>

15
16

<u>Oil spill debris</u>	<u>\$6 per ton</u>
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17
18

<u>Waste water facility sludge</u>	<u>\$2 per ton</u>
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19
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<u>Ash, coal and oil</u>	<u>\$6 per ton</u>
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21
22

<u>Paper mill sludge</u>	<u>\$6 per ton</u>
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23
24

<u>Industrial waste</u>	<u>\$6 per ton</u>
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25
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<u>Sandblast grit</u>	<u>\$6 per ton</u>
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27
28

<u>Miscellaneous special waste</u>	<u>\$6 per ton</u>
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29
30

<u>Municipal solid waste ash</u>	<u>\$2 per ton</u>
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31 **§2204. Municipal disposal surcharge**

32
33 The agency shall impose a disposal surcharge of \$4 per ton
34 on any municipal solid waste delivered to a commercial landfill
35 facility or solid waste landfill owned by the agency or a
36 regional association. The agency shall impose an additional
37 \$1.50 per ton on any solid waste delivered to a commercial solid
38 waste disposal facility or solid waste disposal facility owned by
39 the agency or a regional association from a municipality that
40 does not meet the requirements of section 2133, subsection 5,
41 paragraph B.

42 **§2205. Fee payments**

43
44 Each operator of a solid waste disposal facility shall make
45 the fee payment quarterly. The fee shall be paid to the agency
46 on or before the 20th day of April, July, October and January for
47

1 the 3 months ending the last day of March, June, September and
2 December.

3
4 1. Quarterly reports. Each fee payment shall be
5 accompanied by a form prepared and furnished by the agency and
6 completed by the operator. The form shall state the total weight
7 or volume of solid waste disposed of at the facility during the
8 payment period and provide any other aggregate information deemed
9 necessary by the agency to carry out the purposes of this
10 chapter. The form shall be signed by the operator.

11
12 2. Timeliness of payment. The operator shall be deemed to
13 have made a timely payment of the fee if the operator complies
14 with all of the following:

15 A. The enclosed payment is for the full amount owed
16 pursuant to this section and no further agency action is
17 required for collection;

18 B. The payment is accompanied by the required form and the
19 form is complete and accurate; and

20 C. The letter transmitting the payment that is received by
21 the agency is postmarked by the United States Postal Service
22 on or prior to the final day on which the payment is to be
23 received.

24
25 3. Discount. Any operator that makes a timely payment of
26 the fee as provided in this section shall be entitled to apply
27 against the fee payable a discount of 1% of the amount of the fee
28 collected.

29
30 4. Refunds. Any operator who believes the fee was overpaid
31 by the operator may file a petition for refund to the agency. If
32 the agency determines that the operator has overpaid the fee, the
33 agency shall refund to the operator the amount due the operator,
34 together with interest at a rate established by the agency.

35
36 5. Alternative proof of payment. For purposes of this
37 section, presentation of a receipt indicating that the payment
38 was mailed by registered or certified mail on or before the due
39 date shall be evidence of timely payment.

40
41 6. Interest. If an operator fails to make a timely payment
42 of the fee, the operator shall pay interest on the unpaid amount
43 due at the rate established by the agency, from the last day for
44 timely payment to the date paid.

45
46 7. Additional penalty. In addition to the interest
47 provided in subsection 6, if an operator fails to make timely
48 payment of the fee, 5% of the amount of the fee shall be added to
49 the amount actually due if the failure to file a timely payment
50 is not corrected within 30 days of the date of the failure to file a
51 timely payment.

1 is for not more than one month, with an additional 5% for each
2 additional month, or fraction of a month, during which the
3 failure continues, not exceeding 25% in the aggregate.

4 8. Assessment notice. If the agency determines that any
5 operator has not made a timely payment of the fee, the agency
6 will send the operator a written notice of the amount of the
7 deficiency, within 30 days of determining the deficiency. When
8 the operator has not provided a complete and accurate statement
9 of the weight or volume of waste received at the facility for the
10 payment period, the agency may estimate the weight or volume in
11 the notice.

12 The operator charged with the deficiency shall have 30 days to
13 pay the deficiency in full or, if the operator wishes to contest
14 the deficiency, forward the amount of the deficiency to the
15 agency for placement in an escrow account with the Treasurer of
16 State or any bank in the State, or post an appeal bond in the
17 amount of the deficiency. The bond shall be executed by a surety
18 licensed to do business in the State and be satisfactory to the
19 agency. Failure to forward the money or appeal bond to the
20 agency within 30 days shall result in a waiver of all legal
21 rights to contest the deficiency.

22 If, through the administrative or judicial review of the
23 deficiency, it is determined that the amount of deficiency shall
24 be reduced, the agency shall within 30 days remit the appropriate
25 amount to the operator, with any interest accumulated by the
26 escrow deposit.

27 The amount determined after administrative hearing or after
28 waiver of administrative hearing shall be payable to the agency
29 and shall be collectible.

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

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

37 §2206. Hearings and appeals

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

41 Article 3. Revenue obligation securities and mortgage loans

42 §2211. Definitions

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

5 1. Bond. "Bond" means revenue obligation security.

7 2. Cost of project. "Cost of project" means the cost or
9 value of land, buildings, real estate improvements, labor,
11 materials, machinery and equipment, property rights, easements,
13 franchises, financing charges, interest, engineering and legal
15 services, plans, specifications, surveys, cost estimates, studies
17 and other expenses as may be necessary or incidental to the
development, construction, acquisition, financing and placing in
operation of an eligible project. In addition to these costs,
reserves for payment of future debt on any revenue obligation
securities may be included as part of the cost of the project.

19 Any obligation or expenses incurred by the State, the agency, a
21 regional association, a municipality or any private person in
23 connection with any of the items of cost specified in this
subsection related to revenue obligation securities may be
included as part of the cost and reimbursed to the State, the
agency, regional association, municipality or person out of the
proceeds of the securities issued.

25 3. Eligible collateral. "Eligible collateral" means an
27 eligible project.

29 4. Eligible project. "Eligible project" means any waste
31 facility or the capital costs of any waste disposal service
33 including, but not limited to, real property, personal property,
machinery and equipment and related expenses.

35 5. Facility. "Facility" means an eligible project or
eligible collateral.

37 6. Financial document. "Financial document" means a lease,
39 installment sale agreement, conditional sale agreement, note,
mortgage, loan agreement or other instrument pertaining to an
extension of financial assistance.

41 7. Financing assistance. "Financing assistance" or
43 "financial assistance" means guarantees, leases, insurance,
45 financing credits, loans or the purchase or discounts thereof,
letters of credit, financing assistance payments, grants or other
financial aid.

47 8. Financing institution. "Financing institution" or
49 "financial institution" means any bank, trust company, national
51 banking association, savings bank, savings and loan association,
federal savings and loan association, industrial bank, mortgage
company, insurance company, credit union, local development

1 corporation or any other institution or entity authorized to do
2 business in this State, or any state or federal agency that
3 customarily provides financing assistance.

5 9. Lease. "Lease" means a contract providing for the use
6 of a project or portions of a project for a term of years for a
7 designated or determinable rent. A lease may include an
8 installment sale contract. A lease may include other terms as
9 the agency may permit or require.

11 10. Lessee. "Lessee" means a tenant under a lease and may
12 include an installment purchaser.

13 11. Loan. "Loan" or "mortgage loan" means an extension of
14 credit made in consideration of a written promise of repayment or
15 any other conditions which may be established by the agency,
16 performance of which may be secured by a mortgage.

17 12. Maturity date. "Maturity date" means the date on which
18 final payment is due as provided in a note, revenue obligation
19 security or other financial document.

20 13. Mortgage. "Mortgage" means an agreement granting a
21 lien on, or a security interest in, eligible collateral with
22 certain conditions and includes, but is not limited to, a
23 mortgage of real estate, an assignment of rents, a pledge or a
24 security agreement.

25 14. Mortgagee. "Mortgagee" means a grantee or obligee
26 under, or a transferee or successor of a grantee or obligee
27 under, a mortgage.

28 15. Mortgage payments. "Mortgage payments" means payments
29 required by or received on account of a mortgage or any other
30 financial document, including, but not limited to, payments
31 covering interest, installments of principal, taxes, assessments,
32 loan insurance premiums and hazard insurance premiums.

33 16. Mortgagor. "Mortgagor" means the grantor or party
34 giving rights to eligible collateral pursuant to a mortgage and
35 includes the successors or assigns of a mortgagor.

36 17. Note. "Note" means an evidence of indebtedness and
37 includes a revenue obligation security.

38 18. Rent or rental. "Rent or rental" means payments under
39 a lease.

40 19. Revenue obligation security. "Revenue obligation
41 security" or "security" means a note, bond, interim certificate,
42 debenture or other evidence of indebtedness, payment of which is
43 secured by a mortgage or other security.

1 secured by a pledge of revenues, as provided in this article or
2 by assignment or pledge of other eligible collateral.

3
4 §2212. General powers

5
6 The agency may, in addition to its other powers and in
7 furtherance of the purposes of this chapter, assist itself or
8 applicants, who shall be limited to municipalities and regional
9 associations, in the financing of eligible projects by issuing
10 revenue obligation securities; by issuing or providing securities
11 for mortgage loans; drafting financial documents, trust
12 agreements and other contracts; and arranging the financing and
13 negotiating for the sale of the securities. The agency may
14 contract with the Finance Authority of Maine to administer the
15 provisions of this article.

16 The agency may also:

17
18 1. Kinds of projects. Acquire, construct, reconstruct,
19 maintain, renew, replace or provide financing assistance for
20 eligible waste facilities, waste disposal services or recycling
21 projects;

22
23 2. Securities for projects. Issue revenue obligation
24 securities to pay the cost of or to provide financial assistance
25 for acquisition, construction, reconstruction, renewal or
26 replacement of eligible projects. Any single issue of securities
27 may provide for the cost of, or for financial assistance for,
28 acquisition, construction, reconstruction, renewal or replacement
29 of any one or more eligible projects which may be separate,
30 unconnected and distinct. Any issue, the proceeds of any issue,
31 or any revenue obligation securities shall, except as
32 specifically authorized by the Legislature, meet the requirements
33 of the Internal Revenue Code of 1986, as amended, relating to
34 exempt facility bonds;

35
36 3. Acquire securities. Issue revenue obligation securities
37 to acquire one or more issues of revenue obligation securities
38 issued by municipalities or to acquire any other bond not
39 eligible for purchase pursuant to Title 30-A, chapter 225. Any
40 single issue of securities may provide funds for the acquisition
41 of revenue obligation securities of one or more municipalities or
42 of bonds for one or more eligible projects which may be separate,
43 unconnected and distinct;

44
45 4. Refunding securities. Issue revenue refunding
46 obligation securities as provided to refund any outstanding
47 revenue obligation securities issued under this article;

48
49 5. Serve as broker or agent. Serve as a broker, agent or
50 other financial intermediary for the secondary marketing of
51 obligations issued or incurred in connection with the financing

1 of eligible projects and for the encouragement of the flow of
2 private funds for capital investment;

3
4 6. Facilities. Plan, carry out, acquire, lease and operate
5 facilities and provide for the construction, reconstruction,
6 improvement, alteration or repair of any facility or any part of
7 a facility;

8
9 7. Acquisition and disposal of property. Acquire or enable
10 a user to acquire, upon reasonable terms from funds provided
11 under this article, the lands, structures, property, rights,
12 rights-of-way, franchises, easements and other interests in
13 lands, including lands under water and riparian rights, which are
14 located within the State and considered necessary or convenient
15 for the construction or operation of any eligible waste project,
16 and dispose of them;

17
18 8. Contracts. Make and enter into all financial documents
19 and other contracts and trust agreements securing revenue
20 obligation securities issued under this article, provided all
21 expenses are payable solely from funds made available under this
22 article;

23
24 9. Consent to modification of contracts, lease or
25 agreement. To the extent not forbidden under its contract with
26 the holders of bonds, consent to any modification of any
27 contract, lease or agreement of any kind to which the agency is a
28 party;

29
30 10. Employment of specialists. Employ consulting and other
31 engineers, attorneys, accountants, construction and financial
32 experts, superintendents, managers and other necessary employees
33 and agents and fix their compensation, provided all expenses are
34 payable solely from funds made available under this subchapter;

35
36 11. Government contracts. Enter into contracts with
37 regional associations, municipalities, the State or a federal
38 agency relating to any eligible solid waste project;

39
40 12. Government aid. Accept loans or grants for the
41 planning, construction or acquisition of any eligible solid waste
42 project from a municipality, an authorized agency of the State or
43 a federal agency and enter into agreements with the agency
44 respecting the loans or grants. In the case of all loans, grants
45 or other aid involving pollution-control facilities, the consent
46 of the Board of Environmental Protection must first be obtained,
47 notwithstanding section 362;

48
49 13. Private aid. Receive and accept aid and contributions
50 from any source of money, property, labor or other things of
51 value, to be held, used and applied only for the purposes for
which these loans, grants and contributions may be made;

1
3 14. Applicability. Provide financial assistance by means
5 of leases that are not subject to Title 14, section 6010. Leases
7 made under this section may provide that obligations of the
9 lessees are unconditional; and

11 15. Application. Provide financial assistance by means of
13 revenue obligation securities which are not subject to Title 32,
15 chapter 105, relating to dealers in securities.

17 §2213. Issuance of revenue obligation securities

19 1. Notice of intent to issue bonds; actions to contest
21 validity. The agency may provide, at one time or from time to
23 time, for the issuance of revenue obligation securities of the
25 agency for the purposes authorized in this chapter. No revenue
27 obligation securities of the agency may be issued until:

29 A. The project has been determined to be consistent with
31 the state plan pursuant to section 2157 and the necessary
33 permits have been obtained from the department;

35 B. A notice of the intent of the agency to issue the
37 securities is published at least once in a newspaper of
39 general circulation in the region in which the project is to
41 be located:

43 (1) No later than 14 days after the date on which the
45 certification is issued;

47 (2) Describing the general purpose or purposes for
49 which the securities are to be issued;

51 (3) Stating the maximum principal amount of the
53 proposed securities; and

55 (4) Including a statement as to the time within which
57 any petition to contest the issuance of the securities
59 must be commenced.

61 Any action or proceeding in any court to contest the issuance of
63 the securities must be started within 30 days after the date of
65 the publication required by paragraph B and otherwise shall be
67 governed by Title 5, chapter 375, subchapter VII. For the
69 purposes of this subchapter and the Maine Administrative
71 Procedure Act, Title 5, chapter 375, the later date of newspaper
73 publication required by paragraph B shall constitute the final
75 agency action with respect to the issuance of the securities.
77 After the expiration of the 30-day period of limitation, no right
79 of action or defense founded upon the invalidity of the issuance
81 of the securities may be opened to question in any court upon any
83 grounds.

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f.s.

2. Treasurer of State as agent. The Treasurer of State shall, at the direction of the agency, act as the agency's agent for the sale and delivery of revenue obligation securities and anticipatory notes. The Treasurer of State shall assist the agency in the preparation, issuance, negotiation and sale of the securities and notes and provide reasonable advice and management assistance. The agency may employ further counsel or assistants or act in its own behalf, provided that the sale and delivery of revenue obligation securities and anticipatory notes shall be carried out at the agency's direction with and through the Treasurer of State.

3. Conclusive authorization. All revenue obligation securities of the agency shall be conclusively presumed to be fully authorized and issued under the laws of the State, and any person or governmental unit shall be estopped from questioning their authorization, sale, issuance, execution or delivery by the agency.

4. Maturity: interest. The securities of each issue of revenue obligation securities shall be dated, mature at a time or times not exceeding 20 years from the date of the securities and bear interest at a rate or rates determined by the agency. At the option of the agency, the securities may be made redeemable before maturity at a price or prices and under terms and conditions fixed prior to issuance.

5. Form. The agency shall determine the form of the securities, including any attached interest coupons, the manner of execution of the securities, the denomination or denominations of the securities and the place or places for payment of principal and interest, which may be at any financial institution within or without the State. Revenue obligation securities shall be executed in the name of the agency by the manual or facsimile signature of the authorized official or officials. Any attached coupons shall be executed with the manual or facsimile signature of the authorized official or officials. Signatures and facsimiles of signatures on securities and coupons are valid for all purposes even if the authorized official ceases to hold office before delivery of the securities. The securities may be issued in coupon or registered form or both as the agency may determine. Provision may be made for the registration of any coupon securities to principal alone and to both principal and interest, and for the reconversion into coupon securities of any securities registered to both principal and interest. In addition to this subsection, the agency may provide for transfer of registration of the agency's registered revenue obligation securities by book entry on the records of the entity designated for that purpose and may enter into such contractual arrangements as may be necessary to accomplish these purposes. In the event a book entry method of transfer is used, principal of and interest

1 on those registered securities shall be payable to the registered
2 owner shown in the book entry, the owner's legal representatives,
3 successors or transferees.

4
5 6. Sale. The agency may sell the securities at a public or
6 private sale, in a manner and at a price the agency determines to
7 be in the best interest of the agency. The agency shall not sell
8 the securities to any firm, partnership, corporation or
9 association, including an affiliate or subsidiary, which is a
10 party to any contract pertaining to the financed project or which
11 is to rent, purchase, lease or otherwise occupy premises
12 constituting part of the project. The agency may sell the
13 securities to a seller of the project if the project is to be
14 used and operated by a 3rd party.

15
16 7. Proceeds. The proceeds of each issue shall be used
17 solely for the authorized purposes and shall be disbursed as
18 provided in the securing trust agreement or other document.
19 Administration costs incurred by the agency under this program
20 may be drawn from those proceeds. If the proceeds are less than
21 the cost of the project, by error in the estimate or otherwise,
22 additional securities may be issued in a like manner to provide
23 the amount of the deficit and, unless otherwise provided in the
24 securing trust agreement or other document, the additional
25 securities are deemed to be of the same issue and shall be
26 entitled to payment from the same fund without preference or
27 priority of the securities first issued for the same purpose.
28 The agency may place limits or restrictions on the issuance of
29 additional revenue obligation securities through the securing
30 trust agreement or other document. The agency may provide for
31 the replacement of mutilated, destroyed or lost securities.
32 Revenue obligation securities may be issued under this subchapter
33 without obtaining the consent of any department, division,
34 commission, board, bureau or agency of the State and without any
35 other proceedings or the occurrence of any conditions or things
36 other than those proceedings, conditions or things which are
37 specifically required by this subchapter. Notwithstanding any of
38 the other provisions of this subchapter, or of any recitals in
39 any securities issued under this subchapter, all such securities
40 are deemed to be negotiable instruments issued under the laws of
41 this State.

42
43 8. Credit not pledged. Except as provided in this
44 subsection, securities issued under this subchapter shall not
45 constitute any debt or liability of the State or of any
46 municipality in the State or any political subdivision of the
47 State, or of the agency or a pledge of the faith and credit of
48 the State or of any such municipality or political subdivision,
49 but shall be payable solely from the revenues of the project or
50 projects for which the securities are issued or from other
51 eligible collateral or the revenues or proceeds of other eligible
collateral pledged to the payment of the revenue obligation

1 securities and all such securities shall contain on the
2 securities' face a statement to that effect. The issuance of
3 securities under this subchapter shall not directly or indirectly
4 or contingently obligate the State or any municipality or
5 political subdivision to levy or to pledge any form of taxation
6 whatever or to make any appropriation for payment.

7
8 9. Anticipatory borrowing. In anticipation of the sale of
9 securities under this article, the agency may issue temporary
10 notes and renewal notes, the total face amount of which does not
11 exceed at any one time outstanding the authorized amount of the
12 securities. The period of anticipatory borrowing shall not
13 exceed 3 years and the time within which the securities are to
14 become due shall not be extended by the anticipatory borrowing
15 beyond the term permitted by law.

16
17 10. Environmental protection. Revenue obligation
18 securities of the agency shall not be issued for a project until
19 the department has certified to the agency that all licenses
20 required by the department with respect to the project have been
21 issued or that none are required. Any subsequent enlargement or
22 addition to the project for which approval is sought from the
23 agency requires certification by the department.

24 §2214. Trust agreements or other documents

25
26 1. Trust agreements or other documents. At the discretion
27 of the agency, revenue obligation securities may be issued under
28 this subchapter pursuant to a trust agreement or other document.
29 The trust agreement or other document may:

30
31 A. Pledge or assign the revenues or proceeds of the project
32 or projects or other eligible collateral;

33
34 B. Set forth the rights and remedies of the security
35 holders and other persons and contain any reasonable and
36 legal provisions for protecting the rights and remedies of
37 the security holders;

38
39 C. Restrict the individual right of action by security
40 holders; and

41
42 D. Include covenants setting forth the duties of the agency
43 and user in relation to:

44 (1) Acquisition of property or eligible collateral;

45
46 (2) Construction, reconstruction, renewal, replacement
47 and insurance of the project or eligible collateral;

48
49 (3) Rents to be charged or other payments to be made
50 for use;

1
2 of 3
3 (4) Payment for the project or eligible collateral; and

5 (5) Custody, safeguarding and application of all money.

7 Any financial institution may furnish indemnifying bonds or
8 pledge the securities as may be required by the agency.

9 2. Mortgages. To further secure the payment of the revenue
10 obligation securities, the trust agreement or other document may
11 mortgage or assign the mortgage of the project, or any part of
12 the project, and create a lien on or security interest in any or
13 all of the project. In the event of a default with respect to
14 the revenue obligation securities, the trustee, mortgagee or
15 other person may be authorized by the trust agreement or other
16 document containing a mortgage or assignment of a mortgage to
17 take possession of, hold, manage and operate all or any part of
18 the mortgaged property and, with or without taking possession, to
19 sell or from time to time lease the property in accordance with
20 law. Any security interest granted by the authority under this
21 chapter may be created and perfected in accordance with the
22 Uniform Commercial Code, Title 11, Article 9, notwithstanding
23 Title 11, section 9-104, subsection 5.

25 3. Additional provisions. Any trust agreement or other
26 document may contain provisions which shall be a part of the
27 contract with holders of revenue obligation securities as to:

29 A. Pledging any specified revenues or assets of the agency
30 to secure the payment of the securities, subject to
31 agreements with existing holders of securities;

33 B. Pledging all or any part of the unencumbered revenues or
34 assets of the agency to secure the payment of securities,
35 subject to agreements with existing holders of securities;

37 C. Setting aside, regulating and disposing of reserves or
38 sinking funds;

39 D. Limitations on the purpose to which the proceeds of sale
40 of securities may be applied and the pledge of the proceeds
41 to secure the payment of the securities or of any issue of
42 securities;

45 E. Limitations on the issuance of additional securities;

47 F. The terms on which additional securities may be issued
48 and secured and the refunding of outstanding or other
49 securities;

51 G. The procedure, if any, by which the terms of any
52 contract with holders of securities may be amended or

1 abrogated, including the proportion of the holders which
2 must consent and the manner in which the consent may be
3 given;

4 H. Limitations on the amount of money to be expended by the
5 agency for operating expenses of the agency;

6
7 I. Vesting in a trustee or trustees such property, rights,
8 powers and duties in trust as the agency may determine,
9 which may include any or all of the rights, powers and
10 duties of the trustee appointed by the holders of the
11 securities under this subchapter, and limiting or abrogating
12 the right of the holders of the securities to appoint a
13 trustee under this chapter or limiting the rights, powers
14 and duties of the trustee;

15
16 J. Defining the acts or omissions to act which will
17 constitute a default in the obligations and duties of the
18 agency to the holders of the securities and providing for
19 the rights and remedies of the holders of the securities in
20 the event of default, including, as a matter of right, the
21 appointment of a receiver, but only if the rights and
22 remedies are not inconsistent with the laws of the State and
23 other provisions of this subchapter; and

24
25 K. Any other matters, of like or different character, which
26 in any way affect the security or protection of the holders
27 of the securities.

28
29 4. Expenses; pledges. All expenses incurred in carrying
30 out a trust agreement or financial document may be treated as a
31 part of the cost of the operation of the project. All pledges of
32 revenue or eligible collateral under this subchapter shall be
33 valid and binding from the time when the pledge is made. All the
34 revenues or eligible collateral pledged and later received by the
35 agency shall immediately be subject to the lien of the pledges
36 without any physical delivery or further action under the Uniform
37 Commercial Code or otherwise. The lien of the pledges shall be
38 valid and binding against all parties having claims of any kind
39 in tort, contract or otherwise, against the agency, irrespective
40 of whether the parties have notice thereof.

41
42 5. Other provisions. A trust agreement or financial
43 document may contain other provisions the agency deems reasonable
44 and proper for the security of the security holders.

45
46 **§2215. Rentals and revenues**

47
48 1. Provisions. Before issuing revenue obligation
49 securities, the agency shall determine that there shall at all
50 times be revenues and funds sufficient to:
51

1 A. Pay the principal and interest of the securities as they
2 become due and payable and, in its discretion, to create and
3 maintain reserves for that purpose; and

4 B. Pay the cost of maintaining and, where applicable,
5 repairing the project unless provision is made in the
6 financial document or other contract for maintenance and,
7 where applicable, repair.

8
9 2. Sinking fund. All project rentals and other revenues,
10 except those required in subsection 1, paragraph B or to provide
11 reserves for maintenance and, where applicable, repair, may be
12 set aside at regular intervals as provided in the trust agreement
13 or other document and deposited to the credit of a sinking fund
14 charged with payment of the interest and principal of the
15 securities as they fall due, any necessary charges of paying
16 agents for paying principal and interest and the redemption price
17 or the purchase price of securities retired by call or purchase.
18 Use of money deposited to the credit of the sinking fund shall be
19 subject to regulations prescribed in the trust agreement or other
20 document. Except as may otherwise be provided in the trust
21 agreement or other document, the sinking fund shall be a fund for
22 the benefit of all securities issued for the project or projects
23 without distinction or priority of one over another.

24
25 3. Trust funds. All money received under this subchapter
26 shall be deemed trust funds, to be held and applied solely as
27 provided in this subchapter. Any officer to whom, or any bank,
28 trust company or other fiscal agency or trustee to which, the
29 money shall be paid shall act as trustees of the money and shall
30 hold and apply it for the purposes of this subchapter, subject to
31 the requirements of this subchapter, the trust agreement or other
32 applicable document.

33
34 §2216. Remedies

35
36 Any holder of revenue obligation securities or coupons
37 issued under this subchapter and the trustee under any trust
38 agreement, except as restricted by the trust agreement or
39 applicable document, may, by appropriate legal action, protect
40 and enforce any and all rights under the laws of this State or
41 granted under this subchapter, the trust agreement or other
42 document, including the appointment of a receiver, and may
43 enforce and compel the performance of all duties required by this
44 subchapter, the trust agreement or other document to be performed
45 by the agency, including the collecting of rates, fees and
46 charges for the use of the project. Any proceeding shall be
47 brought for the benefit of all holders of the securities and any
48 coupons.

49
50 §2217. Revenue refunding securities

1 The agency may provide for the issuance of revenue refunding
2 securities of the agency to refund any outstanding revenue
3 securities issued under this subchapter or to refund any
4 obligations or securities of any municipality, including the
5 payment of any redemption premiums and any interest accrued or to
6 accrue to the date of redemption, and, if deemed advisable for
7 the agency, to construct or enable the construction of
8 improvements, extensions, enlargements or additions of the
9 original project. The agency may provide for the issuance of
10 revenue obligation securities of the agency for the combined
11 purpose of refunding any outstanding revenue obligation
12 securities or revenue refunding securities issued under this
13 subchapter or to refund any obligations or securities of any
14 municipality, including the payment of redemption premiums and
15 interest accrued or to accrue and paying all or any part of the
16 cost of acquiring or constructing or enabling the acquisition or
17 construction of any additional project or part of any
18 improvements, extensions, enlargements or additions of any
19 project. The issuance of the securities, the maturities and
20 other details, the rights and remedies of the holders and the
21 rights, powers, privileges, duties and obligations of the agency
22 shall be governed by the provisions of this subchapter insofar as
23 they are applicable.

25 §2218. Tax exemption

27 Revenue obligation securities issued under this article
28 shall constitute a proper public purpose and the securities,
29 their transfer and the income from them, including any profits
30 made on their sale, shall at all times be exempt from taxation
31 within the State, whether or not those securities, their transfer
32 or the income from them, including any profits on their sale, are
33 subject to taxation under the United States Internal Revenue Code.

35 §2219. Leasehold or other interests of lessee taxable

37 The interest of the user of any project is subject to
38 taxation in the manner provided for similar interests in Title
39 36, section 551, subject to Title 36, sections 655 and 656.

41 §2220. Bonds as legal investments

43 The revenue obligation securities of the agency and any loan
44 or extension of credit issued under this article shall be legal
45 investments in which all public officers and public bodies of the
46 State, its political subdivisions, all regional associations and
47 municipalities and municipal subdivisions, all insurance
48 companies and associations and other persons carrying on an
49 insurance business, all banks, bankers, banking associations,
50 trust companies, savings banks and savings associations,
51 including savings and loan associations, building and loan
 associations, investment companies and other persons carrying on

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1 a banking business, all administrators, guardians, executors,
3 trustees and other fiduciaries and all other persons who are now
5 or may later be authorized to invest bonds or other obligations
7 of the State, may properly and legally invest funds, including
9 capital, in their control or belonging to them. The revenue
11 obligation securities and any loan or extension of credit which
13 is issued under this subchapter are also made securities, which
15 may properly and legally be deposited with all public officers
17 and bodies of the State or any agency or political subdivisions
19 and all municipalities and public corporations for any purpose
21 for which the deposit of bonds or other obligations of the State
23 is now or may later be authorized by law.

13 §2221. Capital reserve funds; obligation of State

15
17 1. Capital reserve fund. The agency may create and
19 establish one or more capital reserve funds and may pay into any
21 such capital reserve fund any money appropriated and made
23 available by the State for the purposes of any such fund, any
25 proceeds of sale by the agency of revenue obligation securities
27 to the extent determined by the agency and any other money
29 available to the agency. For purposes of this section, the
31 amount of any letter of credit, insurance contract, surety bond,
33 indemnification agreement or similar financial undertaking
35 available to be drawn on and applied to obligations to which
37 money in any such fund may be applied shall be deemed to be and
39 counted as money in the capital reserve fund.

29
31 2. Application. Money in any capital reserve fund created
33 pursuant to subsection 1, except as provided in this section,
35 shall be used solely with respect to revenue obligation
37 securities or mortgage loans, repayment of which is secured by
39 any such fund and solely for the payment of principal, accrued
41 interest and costs and expenses chargeable to the mortgage loan
43 or securities, the purchase or redemption of the securities,
45 including any fees or premiums or the payment of interest on the
47 securities. Money in excess of the reserve requirement set forth
49 in subsection 3 may be transferred to other funds and accounts of
51 the agency.

41
43 3. Reserve requirement. The agency may provide that money
45 in any such fund shall not be withdrawn at any time in an amount
47 which would reduce the amount of any such fund to less than the
49 maximum amount of principal and interest becoming due and payable
51 under any applicable trust agreement or other agreement in the
next succeeding 12-month period, the amount being referred to as
the capital reserve requirement, except for the purpose of paying
the amount due and payable with respect to revenue obligation
securities or mortgage loans, repayment of which is secured by
any such fund.

1 4. Issuance limit. The agency may provide that it shall
2 not issue revenue obligation securities if the capital reserve
3 requirement with respect to securities outstanding and then to be
4 issued and secured by any such fund will exceed the amount of any
5 such fund, including the amount available to be drawn on any
6 letter of credit given to secure the capital reserve requirement,
7 at the time of issuance, unless the agency, at the time of
8 issuance of the securities, shall deposit in any such fund from
9 proceeds of the securities to be issued, or from other sources,
10 an amount which, together with the amounts then in any such fund
11 and amounts available to be drawn under any letter of credit,
12 will not be less than the capital reserve requirement.

13 5. Security for mortgage loans. With respect to any
14 mortgage loans which may be secured under this article, the
15 agency may provide that such mortgage loans shall be secured by
16 one or more capital reserve funds established pursuant to
17 subsection 1. Any commitment with respect to a mortgage loan
18 executed and delivered pursuant to this section shall be
19 conclusive evidence of the eligibility of the mortgage loan for
20 capital reserve fund security and the validity of any such
21 commitment or contract shall be incontestable in the hands of a
22 mortgage lender except for fraud or misrepresentation on the part
23 of the mortgage lender. Mortgages secured by capital reserve
24 funds under this section are made legal investments for all
25 insurance companies, trust companies, banks, investment
26 companies, savings banks, savings and loan associations,
27 executors, trustees and other fiduciaries, public and private
28 pension or retirement funds and other persons.

29 6. Appropriation. On or before December 1st, annually, the
30 agency shall certify to the Governor the amount, if any,
31 necessary to restore the amount in any capital reserve fund, to
32 which this subsection is stated in any written agreement, the
33 trust agreement or other document to apply, to the capital
34 reserve requirement. The Governor shall pay directly from the
35 State Contingent Account to any such fund as much of the amount
36 as is available in that account, as determined by the Governor,
37 and shall transmit directly to the Legislature certification and
38 a statement of the amount, if any, remaining to be paid. The
39 certified amount shall be appropriated and paid to the agency
40 during the current state fiscal year.

41 7. Obligations and securities outstanding. The agency
42 shall not have at any one time outstanding obligations or revenue
43 obligation securities to which subsection 6 is stated in any
44 agreement or the trust agreement or other document to apply in
45 principal amount exceeding an amount equal to \$50,000,000. This
46 subsection constitutes specific legislative approval to issue up
47 to \$50,000,000 in tax-exempt revenue securities obligations. The
48 amount of revenue obligation securities issued to refund
49 securities previously issued shall not be taken into account in
50 issuance of new securities.

1 determining the principal amount of securities outstanding,
2 provided that proceeds of the refunding securities are applied as
3 promptly as possible to the refunding of the previously issued
4 securities. In computing the total amount of revenue obligation
5 securities of the agency which may at any time be outstanding for
6 any purpose, the amount of the outstanding revenue obligation
7 securities that have been issued as capital appreciation bonds or
8 as similar instruments shall be valued as of any date of
9 calculation at their then current accreted value rather than
10 their face value.

11 **§2222. Taxable bond option**

12
13 With respect to all or any portion of any issue of any bonds
14 or any series of bonds which the agency may issue in accordance
15 with the limitations and restrictions of this subchapter, the
16 agency may covenant and consent that the interest on the bonds
17 shall be includable, under the United States Internal Revenue
18 Code of 1986, as amended, or any subsequent corresponding
19 internal revenue law of the United States, in the gross income of
20 the holders of the bonds to the same extent and in the same
21 manner that the interest on bills, bonds, notes or other
22 obligations of the United States is includable in the gross
23 income of the holders under the United States Internal Revenue
24 Code or any subsequent law. The foregoing grant of power shall
25 not be construed as limiting the inherent power of the State or
26 its agencies under any other provision of law to issue debt, the
27 interest on which is includable in the gross income of the
28 holders of the interest under the United States Internal Revenue
29 Code or any subsequent law.

30
31 **Sec. 8. Transition; Office of Waste Reduction and Recycling.** The
32 provisions of this section shall govern the transfer of the
33 Office of Waste Recycling and Reduction in the Department of
34 Economic and Community Development to the Office of Waste
35 Reduction and Recycling in the Maine Waste Management Agency.

36
37 **1. Funds.** Notwithstanding the Maine Revised Statutes,
38 Title 5, sections 1585 and 1586, all accrued expenditures,
39 assets, liabilities, balances, appropriations or allocations,
40 transfers, revenues or other available funds in any account or
41 subdivision of an account, and any equipment and property of the
42 Department of Economic and Community Development, Office of Waste
43 Recycling and Reduction shall be transferred to the Maine Waste
44 Management Agency, Office of Waste Reduction and Recycling.

45
46 **2. Personnel.** Employees of the Office of Waste Recycling
47 and Reduction shall be transferred to the Office of Waste
48 Reduction and Recycling. Upon transfer, the position of office
49 director shall be a major policy-influencing position. Upon

1 transfer, incumbents in classified positions shall retain their
2 classified status.

3
4 3. **Employee benefits.** Any employees of the Office of Waste
5 Recycling and Reduction transferred to the Office of Waste
6 Reduction and Recycling shall be transferred with their accrued
7 rights and benefits. The accrued fringe benefits, including
8 vacation and sick leave, health and life insurance, and
9 retirement of those employees shall remain with those employees.

11 4. **Contracts and agreements.** All contracts and agreements
12 currently in effect with respect to any unit or program of State
13 Government affected by this Act shall remain in effect until
14 rescinded, terminated or modified as provided by state law.

15
16 5. **Organization and operation.** Notwithstanding any other
17 provision of law, any appointment required by this Act and
18 preparation work may be made or may occur prior to the
19 appropriate effective date of this Act, but shall not become
20 binding until the appropriate effective date.

21
22 6. **Financial order required.** The Commissioner of Economic
23 and Community Development shall request, by financial order
24 through the State Budget Office, the Governor's approval of the
25 funds, positions, equipment and property to be transferred.

27 **Sec. 9. Transition; Waste Management Advisory Council.** The
28 existing membership of the Recycling Advisory Council appointed
29 under the Maine Revised Statutes, Title 38, section 1310-L, as
30 repealed in this Act, shall serve the remainder of their terms as
31 members of the Waste Management Advisory Council created by this
32 Act.

33
34 **Sec. 10. Study on the impact of optional plastic bags.** The Maine
35 Waste Management Agency, Office of Waste Reduction and Recycling
36 shall study any change in the relative number of plastic versus
37 paper bags used by retail outlets as a result of the enactment of
38 Title 38, section 1605. The office shall submit a report on
39 their findings to the Joint Standing Committee on Natural
40 Resources by March 1, 1991.

41 **PART B**

43 **36 MRSA c. 719 is enacted to read:**

45 **CHAPTER 719**

47 **SOLID WASTE ADVANCE DISPOSAL FEE**

49 **§4831. Definitions**

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

3
4 1. Brown good. "Brown good" means an electronic device
5 containing printed circuit boards, capacitors, resistors or
6 transistors that is not included in the definition of "white
7 good" and that weighs more than 10 pounds.

8
9 2. Lead-acid battery. "Lead-acid battery" means a device
10 designed and used for the storage of electrical energy through
11 chemical reactions involving lead and acids.

12
13 3. Motorized vehicle. "Motorized vehicle" means any
14 self-propelled vehicle, including motorcycles, construction and
15 farm vehicles and other off-road vehicles, not operating
16 exclusively on tracks.

17
18 4. Tire. "Tire" means the device made of rubber or any
19 similar substance which is intended to be attached to a motorized
20 vehicle or trailer and is designed to support the load of the
21 motor vehicle or trailer.

22
23 5. Trailer. "Trailer" means any vehicle without motive
24 power that is designed to be drawn by a motorized vehicle.

25
26 6. White good. "White good" means any appliance employing
27 electricity, natural gas or any liquified petroleum gas to supply
28 heat or motive power to preserve or cook food, to wash clothing,
29 dishes, kitchen utensils, glasses or other related items or to
30 cool or heat air or water.

31 §4832. Fee imposed

32
33
34 1. Imposition. A fee is imposed on the retail sale in this
35 State of new tires, new lead-acid batteries, new white goods and
36 new brown goods. The fee is in the amount of \$1 per tire or lead
37 battery and \$15 per white good or brown good whether sold
38 separately or incorporated with other tangible personal
39 property. Additionally, fees in the same amounts are imposed on
40 the storage, use or other consumption in this State of tires,
41 lead batteries, white goods and brown goods purchased new in this
42 State by the user or purchased out of State by the user unless
43 either of the fees imposed by this section has been paid.

44
45 2. Exemption. Transactions which, under the laws of the
46 United States, may not be subjected to taxation by this State and
47 sales for immediate removal from this State are exempt from the
48 fee imposed by subsection 1.

49 §4833. Administration

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The fee imposed by this chapter shall be administered as provided in chapter 7 and Part 3, with the fee imposed pursuant to this chapter to be considered as imposed under Part 3 except that exclusions, exemptions and credits provided under Part 3 and any other provision inconsistent with this chapter shall not apply.

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

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

§4834. Effective date

This chapter shall be effective for taxable purchases made in this State on or after July 1, 1990 and for taxable items brought into this State by the user on or after July 1, 1990.

PART C

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

The terms "services," "supplies," "materials" and "equipment" as used in this chapter, ~~shall be held to mean~~ any and all services, articles or things which shall be used by or furnished to the State or any department or agency thereof, and any and all printing, binding, publication of laws, journals and reports. Except as provided in chapters 141 to 155, any and all services, supplies, materials and equipment needed by one or more departments or agencies of the State Government shall be directly purchased or contracted for by the State Purchasing Agent, as may be determined from time to time by rules adopted pursuant to chapters 141 to 155, which rules the Department of Administration is authorized and empowered to make. It is the intent and purpose of this chapter that the State Purchasing Agent shall purchase 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

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1 paper and paper products, the State Purchasing Agent shall
2 purchase such recycled supplies and materials. For the purposes
3 of this section and section 1812-B, ~~recycled materials~~ "recycled
4 materials" means materials that are composed in whole or in part
5 of elements that are reused or reclaimed.

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

9
10 §1812 A. Report on purchase of recycled products

11
12 The State Purchasing Agent shall report on or before January
13 ~~1, 1988~~, 1st of the First Regular Session of each Legislature to
14 the joint standing committee of the Legislature having
15 jurisdiction over natural resources ~~and to the same committee of~~
16 ~~the First Regular Session of each subsequent Legislature on or~~
17 ~~before January 1st~~ on the State's efforts to purchase supplies
18 and materials composed in whole or in part of recycled materials
19 pursuant ~~to section 1812~~. The State Purchasing Agent shall also
20 report on any procurement policies, incentives, educational
21 programs, promotional efforts or other activities undertaken by
22 the Bureau of Purchases to encourage the purchase of those
23 supplies and materials. The State Purchasing Agent shall include
24 in the report any recommendations to increase or facilitate the
25 purchase of those supplies and materials.

27 Sec. 3. 5 MRSA §§1812-B to 1812-D are enacted to read:

28
29 §1812-B. Purchasing of paper and paper products

30
31 1. Purchase of paper and paper products with recycled
32 material content. Subject to subsection 3, the State Purchasing
33 Agent shall provide that of the total dollar amount spent in each
34 fiscal year on paper and paper products purchased by the State:

35
36 A. On or after October 1, 1989, not less than 15% shall be
37 spent on paper and paper products with recycled material
38 content;

39
40 B. On or after October 1, 1991, not less than 30% shall be
41 spent on paper and paper products with recycled material
42 content; and

43
44 C. On or after October 1, 1993, not less than 50% shall be
45 spent on paper and paper products with recycled material
46 content.

47
48 2. Federal guidelines and cooperative purchases. To
49 qualify as having recycled material content, paper or paper
50 products must have recycled material content which meets or
51 exceeds the standards established for that paper or paper product
category in Table 1 of the Guideline for Federal Procurement of

1 Paper and Paper Products, 40 Code of Federal Regulations, Part
2 250. The State Purchasing Agent shall determine whether a paper
3 or paper product qualifies. The State Purchasing Agent may join
4 with other states in making cooperative requests for bids to
5 supply paper and paper products.

7 3. Bids; price preference. A person who submits a bid for
8 a contract to supply paper or paper products shall certify the
9 percentage and nature of any recycled materials content in the
10 product subject to bid. Bids offering paper or paper products
11 with recycled material content that are within 10% of the lowest
12 bid that meets all other specifications may receive up to a 10%
13 price preference. Any bids to supply paper or paper products
14 with recycled material content that exceed by more than 10% the
15 low bid which meets all other specifications shall not be
16 considered. If no bids are received on a request for bids which
17 offer paper or paper products with recycled material content,
18 the State Purchasing Agent may award the contract to a bidder
19 whose paper or paper product has substandard percentages of or no
20 recycled materials content.

21 §1812-C. Use of composted materials

23
24 All state agencies responsible for the maintenance of public
25 lands in this State shall, to the maximum extent practical and
26 consistent with sound environmental practices, give preference to
27 the use of compost materials in all land maintenance activities
28 which are to be paid for by public funds. The Department of
29 Agriculture, Food and Rural Resources shall develop standards for
30 fertilizers and soil conditioners made from different mixes of
31 compostible wastes, that could be used by state agencies involved
32 in land preparation and improvement work. These standards shall
33 be adopted by rule by January 1, 1990.

35 §1812-D. Coordination of procurement information and policies

37 The Bureau of Purchases shall coordinate with the Department
38 of Transportation, the Department of Agriculture, Food and Rural
39 Resources, the Department of Environmental Protection and the
40 Office of Waste Reduction and Recycling to develop a central data
41 base of information including, but not limited to, procurement
42 policies, market information, technical data and demonstration
43 project results. This data shall be compiled annually and
44 provided to local public agencies by the Office of Waste
45 Reduction and Recycling.

47 Sec. 4. 10 MRSA §963-A, sub-§10, ¶J, as amended by PL 1987, c.
48 846, §2, is further amended to read:

49 J. Any underground oil storage facility replacement
51 project; or

1 Sec. 5. 10 MRSA §963-A, sub-§10, ¶K, as enacted by PL 1987, c.
2 846, §3, is amended to read:

3 K. Any overboard discharge replacement project; or

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

5 L. Any hazardous waste or solid waste recycling or
6 reduction project.

7 Sec. 7. 10 MRSA §963-A, sub-§32, as enacted by PL 1985, c.
8 344, §7, is amended to read:

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

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

20 45-A. Recycling or waste reduction project. "Recycling or
21 waste reduction project" means any building, structure,
22 machinery, equipment or facility which may be considered
23 necessary for recovery, separation, remanufacture or reuse of
24 materials contained in solid or hazardous waste or for the
25 reduced generation of solid or hazardous waste, together with all
26 land, property, rights, rights-of-way, franchises, easements and
27 interests in lands necessary or convenient for the construction
28 or operation of the project.

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

30 §1023-F. Waste Reduction and Recycling Loan Fund

31 1. Creation. The Waste Reduction and Recycling Loan Fund,
32 referred to in this section as the "fund," is created under the
33 jurisdiction and control of the authority.

34 2. Sources of money. The fund shall consist of the
35 following:

36 A. All money appropriated or allocated for inclusion in the
37 fund;

1 B. Subject to any pledge, contract or other obligation, all
2 interest, dividends or other pecuniary gains from investment
3 of money from the fund;

5 C. Subject to any pledge, contract or other obligations,
6 any money that the authority receives in repayment of
7 advances from the fund; and

9 D. Any other money available to the authority and directed
10 by the authority to be paid into the fund.

11 3. Application of fund. Money in the fund may be used for
12 direct loans to finance all or part of any project when the
13 authority determines that:

15 A. The project is:

17 (1) Designed to substantially reduce or eliminate the
18 production in a trade or business of solid waste or
19 hazardous waste as defined in Title 38, section 1303-C;

21 (2) A project devoted to resource recovery, as defined
22 in Title 38, section 1303-C, except that the combustion
23 of solid or hazardous waste shall not be considered
24 resource recovery for the purposes of this section; or

26 (3) A project devoted to the reuse of post-consumer
27 materials;

29 B. There is a reasonable likelihood that the applicant will
30 be able to repay the loan;

32 C. The amount and terms of the loan are reasonable to
33 provide an incentive to the applicant to undertake the
34 project, which may include a below-market interest rate, and
35 the project will not result in a net increase in solid or
36 hazardous waste to be disposed of within the State; and

38 D. The project will contribute to achieving the goals
39 identified in the state waste management and recycling plan
40 adopted under Title 38, chapter 24 and is determined by the
41 Maine Waste Management Agency to be consistent with that
42 plan. Prior to adopting the state waste management and
43 recycling plan, the fund may be used for projects that help
44 achieve the goals identified in the state recycling plan
45 approved under former Title 38, section 1310-M.

47 The authority, pursuant to Title 5, chapter 375, subchapter II,
48 shall adopt rules for determining eligibility, feasibility,
49 terms, conditions and security for the loans. Money in the fund
50 not needed currently to meet the obligations of the authority as
51

1 provided in this section may be invested in such a manner as
2 permitted by law.

3
4 4. Accounts within fund. The authority may divide the fund
5 into separate accounts as it determines necessary or convenient
6 for carrying out this section, including, but not limited to,
7 accounts reserved for direct loan funds.

8
9 5. Revolving fund. The fund shall be a nonlapsing,
10 revolving fund. All money in the fund shall be continuously
11 applied by the authority to carry out this section.

12
13 **Sec. 10. 10 MRSA §1041, sub-§§16 and 17, as enacted by PL 1985,**
14 **c. 344, §61, are amended to read:**

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

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

37
38 **Sec. 11. 10 MRSA §1041, sub-§18 is enacted to read:**

39
40 **18. Recycling and waste reduction.** Provide financial
41 assistance to businesses for recycling and waste reduction
42 projects that are consistent with the management goals and
43 objectives outlined in the state waste management and recycling
44 plan under Title 38, chapter 24. The Maine Waste Management
45 Agency shall provide assistance to the authority in determining
46 consistency, technical eligibility and merit of application for
47 recycling loans.

48
49 **Sec. 12. 10 MRSA §1043, sub-§2, ¶E-1 is enacted to read:**

50
51 **E-1. In the case of recycling and waste reduction projects,**
the proposed facility must be consistent with the state

1 waste management and recycling plan under Title 38, chapter
2 24, and will reduce the amount of solid or hazardous waste
3 requiring disposal.

5 Sec. 13. 10 MRSA §1063, sub-§2, ¶E, as enacted by PL 1981, c.
6 476, §2, is amended to read:

7
8 E. The Department of Environmental Protection has certified
9 to the authority that all licenses required by that
10 department with respect to the project have been issued or
11 that none are required provided, however, that such
12 certification need not be obtained from the Department of
13 Environmental Protection prior to issuance of a certificate
14 of approval for a project of a public waste disposal
15 corporation as described in Title 38, section 1304-B,
16 subsection 5, which as of June 9, 1989, has filed an
17 application with the authority seeking a certificate of
18 approval for revenue obligation security to be issued in
19 accordance with this subchapter provided further, that
20 nothing herein shall be deemed to allow issuance of revenue
21 obligation securities for any such project prior to
22 obtaining all necessary permits from the Department of
23 Environmental Protection. Any subsequent enlargement or
24 addition to the project for which approval is sought from
25 the authority shall also require certification by the
26 department;

27 Sec. 14. 10 MRSA §1063, sub-§2, ¶I-1 is enacted to read:

28
29 I-1. In the case of recycling and waste reduction projects,
30 the proposed facility is consistent with and will contribute
31 to the management goals and objectives outlined in the state
32 waste management and recycling plan under Title 38, chapter
33 24 and will reduce the amount of solid or hazardous waste
34 requiring disposal. The Maine Waste Management Agency shall
35 provide assistance to the authority in determining
36 consistency, technical eligibility and merit of applications
37 for assistance under this subchapter.

38 Sec. 15. 30-A MRSA §5656 is enacted to read:

39 §5656. Procurement of recycled goods

40
41 1. Review of standards. Each municipality shall review its
42 procurement procedures and specifications to identify procedures
43 and specifications that explicitly discriminate against goods,
44 supplies, equipment, materials and printing with recycled
45 content. Each municipality may revise its procedures and
46 specifications to:

47
48 A. Encourage the use of goods, supplies, equipment,
49 materials and printing with recycled content; and

1
2 of 3
2 B. Ensure, to the maximum extent economically feasible, that
3 it purchases goods, supplies, equipment, materials and
4 printing that may be recycled or reused when such goods,
5 supplies, equipment, materials and printing are discarded.

6
7 2. Preferences for recycled goods. In revising its
8 procurement procedures and specifications under subsection 1,
9 each municipality may:

10
11 A. Establish a preference for paper with recycled content
12 consistent with the standards established for state agencies
13 under Title 5, section 1812-B; and

14
15 B. Establish specifications for bids for public contracts
16 that require all bidders to propose that a stated minimum
17 percentage of goods, supplies, equipment or materials to be
18 used for the contract be made from recycled material.

19
20 3. Other laws. The options set forth in this section may
21 be exercised, notwithstanding any other provision of law to the
22 contrary.

23
24 4. Interlocal cooperation. The provisions of this section
25 shall apply to agreements of interlocal cooperation established
26 pursuant to chapter 115 and to cooperative purchasing programs
27 administered by regional councils established pursuant to chapter
28 119.

29
30 Sec. 16. 32 MRSA c. 26 is enacted to read:

31
32 CHAPTER 26

33
34 CODING OF PLASTIC CONTAINERS

35
36 §1721. Definitions

37
38 As used in this chapter, unless the context otherwise
39 indicates, the following terms have the following meanings.

40
41 1. Plastic bottle. "Plastic bottle" means any plastic
42 container with a neck smaller than the container body and a
43 capacity not less than 16 fluid ounces and not more than 5
44 gallons.

45
46 2. Plastic container. "Plastic container" means any
47 bottle, can, jar, case, package or other receptacle intended to
48 hold, carry, or enclose fluids, food items or nonfood products
49 that is composed predominately of plastic resins, including, but
50 not limited to, plastic resins listed in section 1723.

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1 3. Rigid plastic container. "Rigid plastic container"
2 means any formed or molded plastic container, except plastic
3 bottles, with a capacity not less than 8 fluid ounces and not
4 more than 5 gallons that retains the same shape whether full or
5 empty.

7 §1722. Coding of plastic containers

9 On or after July 1, 1991, no person may distribute, sell or
10 offer for sale any plastic bottle or rigid plastic container
11 without a molded, imprinted or raised label indicating the type
12 of plastic resin used to produce the plastic bottle or rigid
13 plastic container.

15 §1723. Labels

17 1. Labels. The label shall appear on the bottom of the
18 plastic bottle or rigid plastic container and be clearly
19 visible. This label shall consist of a number with letters
20 placed below the number. The numbers and letters shall be as
21 follows:

23 A. For polyethylene terephthalate, the letters "PETE" and
24 the number 1;

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

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

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

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

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

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

41 §1724. Ancillary symbols

43 No label may include a chasing arrow symbol or any other
44 configuration of arrows to indicate recyclable materials or
45 products with recycled content.

47 §1725. Penalties

49 1. Civil violation. A violation of this chapter shall be a
50 civil violation for which a forfeiture of not more than \$100 may
51 be adjudged.

a. of S.

1 2. Separate violation. Each container in violation
2 constitutes a separate offense.

3
4 §1726. Rules and enforcement

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

15 Sec. 17.36 MRSA §5219-C is enacted to read:

16
17 §5219-C. Solid waste reduction investment tax credit

18
19 1. Definitions. As used in this section, unless the
20 contents otherwise indicates, the following terms have the
21 following meanings.

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

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

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

33 (1) Add-ons or trailers designed to modify collection
34 vehicles and dedicated to sorting and separating of
35 collected wastes generated by the employing unit and
36 held for the purpose of recycling; or

37 (2) Containers for the source separation and temporary
38 storage of recyclable wastes by the employing unit or
39 its employees.

40 2. Credit allowed. A taxpayer constituting an employing
41 unit who purchases waste reduction, reuse or recycling equipment,
42 or other equipment used exclusively by that unit, in the
43 implementation of a solid waste reduction, reuse or recycling
44 program, shall be entitled to a credit against the tax imposed by
45 this Part equal to 30% of the cost of the machinery or equipment.

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3. Eligible machinery and equipment. Purchases eligible for the credit allowed under this section include machinery and equipment used exclusively for the purpose of reducing, reusing or recycling solid waste generated principally by the employing unit. Machinery and equipment associated with the separation of wastes prior to incineration are eligible when the Maine Waste Management Agency certifies the separated wastes are being recycled.

11

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4. Carry-over; carry-back. The amount of the credit that may be used by a taxpayer for a taxable year may not exceed the amount of tax otherwise due under this section. Any unused credit may be carried over to the following year or years for a period not to exceed 15 years or may be carried back for a period not to exceed 3 years.

21

23

25

5. Effective date. The provisions of this section apply to purchases of eligible machinery and equipment made after January 1, 1990.

Sec. 18. Department of Transportation recycling project. The Department of Transportation shall undertake a comprehensive review to evaluate the use of recyclable materials in construction.

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1. By January 1, 1991, the Department of Transportation shall report to the Joint Standing Committee on Natural Resources, the Joint Standing Committee on Transportation and the State Purchasing Agent on a comprehensive review of feasible alternatives for utilizing recyclable materials in construction. Particular attention shall be paid to ground rubber from automobile tires; recycled mixed-plastic material for guardrail posts or right-of-way fence posts; construction steel, including reinforcing rods and I-beams, manufactured from scrap materials; and recycled glass and glass aggregates. The report shall include recommendations for demonstration projects to be undertaken along with time frames and associated costs. This report shall further identify, to the extent possible, the following:

43

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47

- A. Life cycle costs;
- B. Safety; and
- C. Conformance with applicable federal and state requirements.

49

51

2. By March 1990, the department shall submit a preliminary report to the Joint Standing Committee on Natural Resources, the Joint Standing Committee on Transportation and to the State Purchasing Agent regarding the use of ground tire rubber as an

1 additive to asphalt concrete, which would utilize waste tires.
The report shall include, but shall not be limited to, the
3 following:

5 A. Evaluating how effective the use of ground tire rubber
has been in providing acceptable properties in asphalt
7 concrete mix;

9 B. Determining effects and procedures for recycling asphalt
containing ground tire rubber;

11 C. Determining the amount of ground tire rubber that may be
13 used in road construction and the expected cost of that use;

15 D. Identifying changes needed in departmental and local
government specifications and procedures to allow for the
17 use of ground tire rubber from waste tires in asphalt
concrete pavements; and

19 E. In conjunction with the Department of Environmental
21 Protection and the Office of Waste Reduction and Recycling,
the inventory of discarded tires in the State.

23
25 3. All state agencies shall cooperate with the Department
of Transportation in carrying out this section.

27 **Sec. 19. Conditional effective date.** Title 32, section 1724,
shall become effective if the Attorney General certifies, prior
29 to January 1, 1991, that 6 of the states listed below have banned
the use of ancillary symbols, described in Title 32, section
31 1724, in labels on rigid plastic containers. The states are:
New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut,
33 New York, New Jersey, Pennsylvania and Delaware.

35 **PART D**

37 **Sec. 1. 28-A MRSA §1651, sub-§1, ¶C** is enacted to read:

39 C. The commission shall add any cost to the State, related
41 to handling containers returned for refund pursuant to Title
32, section 1863, to the established price without markup.

43 **Sec. 2. 32 MRSA §1862, sub-§1,** as amended by PL 1987, c. 649,
§1, is repealed and the following enacted in its place:

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

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1 Sec. 3. 32 MRSA §1862, sub-§§12-B, 14 and 15 are enacted to
2 read:

3 12-B. Spirits. "Spirits" has the same meaning as in Title
4 28-A, section 2.

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

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

10 A. Plain, sparkling or carbonated water; and

11 B. Any one or more of the following:

12 (1) Fruit juices;

13 (2) Fruit adjuncts;

14 (3) Artificial or natural flavors or flavorings;

15 (4) Preservatives;

16 (5) Coloring; or

17 (6) Any other natural or artificial blending material.

18 Sec. 4. 32 MRSA §1862, sub-§2, as enacted by PL 1975, c. 739,
19 §16, is amended to read:

20 2. Beverage container. "Beverage container" means a glass,
21 ~~metal or plastic~~ bottle, can, jar or other container made of
22 glass, metal or plastic which has been sealed by a manufacturer
23 and which, at the time of sale, contains one gallon or less of a
24 beverage.

25 Sec. 5. 32 MRSA §1863, as amended by PL 1979, c. 462, §3, is
26 repealed and the following enacted in its place:

27 §1863. Refund value

28 Every beverage container sold or offered for sale to a
29 consumer in this State shall have a refund value. The refund
30 value shall be:

31 1. Refillable containers. For refillable beverage
32 containers, except wine and spirits containers, the refund value
33 shall be determined by the manufacturer according to the type,
34 kind and size of the beverage container, but shall not be less
35 than 5¢;

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1
2. Nonrefillable containers. For nonrefillable beverage
3 containers, except wine and spirits containers, the deposit and
4 refund value shall be determined and initiated by the distributor
5 according to the type, kind and size of the beverage container,
6 but shall not be less than 5¢; and

7
8. Wine and spirits containers. For wine and spirits
9 containers of greater than 50 milliliters, the refund value shall
10 not be less than 15¢. On January 1, 1992, the department shall
11 issue a finding on the percentages of wine containers and spirits
12 containers returned for deposit. If the department finds the
13 return rate of wine containers was less than 60% during 1991,
14 then, on July 1, 1992, the refund value on wine containers shall
15 not be less than 25¢. If the department finds the return rate of
16 spirits containers was less than 60% during 1991, then on July 1,
17 1992, the refund value of spirits containers shall not be less
18 than 25¢.

19
20 Sec. 6. 32 MRSa §1866, sub-§4, as amended by PL 1979, c. 735,
21 is further amended to read:

22
23 4. Reimbursement by distributor. In addition to the
24 payment of the refund value, the distributor shall reimburse the
25 dealer or local redemption center for the cost of handling
26 beverage containers, in an amount which equals at least 2¢ 3¢ per
27 returned container.

28
29 Sec. 7. 32 MRSa §1867, sub-§1, as enacted by PL 1975, c. 739,
30 §16, is amended to read:

31
32 1. Establishment. Local redemption centers may be
33 established and operated by any person or municipality, agency or
34 regional association as defined in Title 38, section 1310-C,
35 subject to the approval of the commissioner, to serve local
36 dealers and consumers, at which consumers may return empty
37 beverage containers as provided under section 1866.

38
39 Sec. 8. 32 MRSa §1868, as amended by PL 1987, c. 373, §§4 and
40 5, is further amended to read:

41
42 §1868. Prohibition on certain types of containers and holders

43
44 No beverage container ~~shall~~ may be sold or offered for sale
45 to consumers in this State:

46
47 1. Flip tops. In a metal container designed or constructed
48 so that part of the container is detachable for the purpose of
49 opening the container without the aid of a separate can opener;
50 and

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

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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; and

11
13
15
4. Aseptic beverage packs. In a container composed of aseptic packaging composed of aluminum, paper and plastic in combination, where those materials are for practical reasons inseparable, and commonly referred to as a "brick-pack."

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35
Sec. 9. 32 MRSA §1872 is enacted to read:

§1872. Unlawful possession of beverage containers

A person is guilty of a violation of this section if that person possesses more than 48 beverage containers that are not labeled under section 1865. This section shall not apply to licensed waste facilities as defined in Title 38, section 1303-C.

1. Warning. Any person committing a violation of this section during the 1st year this section is in effect shall be issued a warning that a violation of this section has occurred.

2. Penalty. Following the 1st year warning period, a violation of this section is a civil violation for which a forfeiture of \$20 per container in excess of 48 beverage containers may be adjudged.

3. Enforcement. The Maine State Police shall enforce this section and prosecute any persons found in violation.

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51
Sec. 10. Advisory committee. The Department of Agriculture, Food and Rural Resources shall form an advisory committee consisting of representatives of the Office of Waste Reduction and Recycling, the Bureau of Alcoholic Beverages, the operator of the bailment warehouse, the certificate of approval holders for spirits and fortified wines, distributors of other affected beverages, operators of certified redemption facilities and persons representing other affected interests as the department finds necessary. The Department of Agriculture, Food and Rural Resources shall consult with the advisory committee in developing proposed rules for the implementation of sections 1 to 5. The Department of Agriculture, Food and Rural Resources shall submit a report on the proposed implementation and the proposed rules for approval by the joint standing committee of the Legislature having jurisdiction over natural resource matters by January 1, 1990. The committee may introduce any legislation

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1 necessary to address the report or rules proposed by the
2 department.

3
4 **Sec. 11. Effective date.** Sections 2 to 5 and section 8 of this
5 Part shall take effect September 1, 1990, except that any
6 provisions in those sections applicable to implementation of a
7 refund value for spirits containers shall take effect January 1,
8 1990. Sections 6 and 9 of this Part shall take effect January 1,
9 1990. Sections 1 and 7 of this Part shall take effect 90 days
10 after the adjournment of the First Regular Session of the 114th
11 Legislature.

12
13 **PART E**

14 **Sec. 1. 12 MRSA §685-B, sub-§1, ¶C,** as amended by PL 1987, c.
15 769, Pt. A, §49, is further amended to read:

16
17 C. No person may commence any construction or operation of
18 any development without a permit issued by the commission.

19
20 The commission may waive the requirement of a hearing for
21 any person having received approval by the Board of
22 Environmental Protection pursuant to the Site Location of
23 Development Law, Title 38, sections 481 to 488.

24
25 Approval by the commission that the proposed development
26 meets the requirements of subsection 4, and of the land use
27 standards and rules adopted by the commission shall be a
28 sufficient basis to support, but shall not require, a
29 finding by the administering agency that the development
30 meets the requirements of the Site Location of Development
31 Law, Title 38, sections 481 to 488; the Minimum Lot Size
32 Law, sections 4807 to 4807-G; the Wetlands Law, Title 38,
33 sections 471-to-478 480-B to 480-F and sections 480-O and
34 480-R; the Great Ponds Law, Title 38, chapter 3, subchapter
35 1, article 1-A 5-A; or the Stream Alteration Law, Title 38,
36 chapter 3, subchapter I, article 2-A 5-A; and the rules
37 adopted with respect to any of such statutes, as any of such
38 statutes, rules or regulations may apply. Disapproval by the
39 commission shall be a sufficient basis to support, but shall
40 not require, a finding by the administering agency that the
41 proposed development does not meet the requirements of the
42 Site Location of Development Law, Title 38, sections 481 to
43 488; the Minimum Lot Size Law, sections 4807 to 4807-G; the
44 Wetlands Law, Title 38, sections 471-to-478 480-B to 480-F
45 and sections 480-O and 480-R; the Great Ponds Law, Title 38,
46 section 422; or the Stream Alteration Law, Title 38, chapter
47 3, subchapter I, article 2-A 5-A; and the rules adopted with
48 respect to any of such statutes, as any of such statutes,
49 rules or regulations may apply.

1 The commission may establish standards within which
2 authority may be delegated to its staff, to approve with
3 reasonable conditions or deny applications submitted
4 hereunder. Any person aggrieved by a decision of the staff
5 shall have the right to a review of such decision by the
6 commission members.

7
8 The commission shall establish coordination and assistance
9 procedures for all land use permits issued by agencies of
10 the State for proposed development within the unorganized
11 townships and plantations. Such procedures shall, to the
12 extent practicable, ensure: The availability to the public
13 of necessary information concerning such land use permits;
14 the provision of assistance to applicants in obtaining such
15 permits from such agencies; the coordination of application
16 procedures, time schedules, application forms and similar
17 requirements so as to reduce delay and duplication of effort
18 by applicants and the issuing agencies. Such permit issuing
19 agencies shall cooperate with the commission in the
20 development and effectuation of such coordination and
21 assistance procedures.

22
23 Approval by the Board of Environmental Protection of a
24 proposed development under Title 38, chapter 13, article 3,
25 shall be a sufficient basis to support, but shall not
26 require, a finding by the commission that the proposed
27 development meets the requirements of subsection 4, and of
28 the land use standards and rules adopted by the commission.
29 Disapproval by the Board of Environmental Protection of a
30 proposed development under Title 38, chapter 13, article 3,
31 shall be a sufficient basis to support, but shall not
32 require, a finding by the commission that the proposed
33 development does not meet the requirements of subsection 4,
34 and of the land use standards and rules adopted by the
35 commission.

36
37 Sec. 2. 38 MRSA §1302, as repealed and replaced by PL 1987,
38 c. 517, §5, is repealed and the following enacted in its place:

39
40 §1302. Declaration of policy

41
42 For the purposes of this chapter and chapter 24, the
43 Legislature finds and declares it to be the policy of the State,
44 consistent with its duty to protect the health, safety and
45 welfare of its citizens, enhance and maintain the quality of the
46 environment, conserve natural resources and prevent air, water
47 and land pollution, to establish a coordinated statewide waste
48 reduction, recycling and management program.

49
50 The Legislature finds and declares that it is the policy of
51 the State to pursue and implement an integrated approach to
52 hazardous and solid waste management, which shall be based on the

1 following priorities: reduction of waste generated at the source,
2 including both the amount and toxicity of waste; waste reuse;
3 waste recycling; waste composting; waste processing which reduces
4 the volume of waste needing disposal, including waste-to-energy
5 technology; and land disposal.

7 The Legislature finds that it is in the best interests of
8 the State to prefer waste management options with lower health
9 and environmental risk and to ensure that such options are
10 neither foreclosed nor limited by the State's commitment to
11 disposal methods. The Legislature declares that it is in the
12 public interest to aggressively promote waste reduction, reuse
13 and recycling as the preferred methods of waste management.

15 The Legislature finds that environmentally suitable sites
16 for waste disposal are in limited supply and represent a critical
17 natural resource. At the same time, new technologies and
18 industrial developments are making recycling and reuse of waste
19 an increasingly viable and economically attractive option which
20 carries minimal risk to the State and the environment and an
21 option which allows the conservation of the State's limited
22 disposal capacity.

23 The Legislature further finds that needed municipal waste
24 recycling and disposal facilities have not been developed in a
25 timely and environmentally sound manner because of diffused
26 responsibility for municipal waste planning, processing and
27 disposal among numerous and overlapping units of local
28 government. The Legislature also finds that direct state action
29 is needed to assist municipalities in separating, collecting,
30 recycling and disposing of solid waste, and that sound
31 environmental policy and economics of scale dictate a preference
32 for public solid waste management planning and implementation on
33 a regional and state level.

34 The Legislature finally declares that the provisions of this
35 chapter shall be construed liberally to address the findings and
36 accomplish the policies in this section.

37 Sec. 3. 38 MRSA §1303, as amended by PL 1987, c. 517, §6, is
38 repealed.

39 Sec. 4. 38 MRSA §1303-C is enacted to read:

40 §1303-C. Definitions

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

- 43 1. Agency. "Agency" means the Maine Waste Management Agency.

1 2. Board. "Board" means the Board of Environmental
2 Protection.

3 3. Closing reserve fund. "Closing reserve fund" means a
4 fund created for the purpose of financing the closing and
5 maintenance after closing of a waste facility.

6 4. Commercial hazardous waste facility. "Commercial
7 hazardous waste facility" means:

8 A. A waste facility that handles hazardous wastes generated
9 off the site of the facility; or

10 B. A facility that, in the handling of a waste generated
11 off the site, generates hazardous waste.

12 5. Commercial landfill facility. "Commercial landfill
13 facility" means a commercial solid waste facility that is used
14 for the burial of solid waste.

15 6. Commercial solid waste disposal facility. "Commercial
16 solid waste disposal facility" means a commercial waste facility
17 which is a solid waste disposal facility.

18 7. Commercial waste facility. "Commercial waste facility"
19 means a privately owned waste facility that accepts waste from
20 another for consideration and is used for the management of waste
21 generated by persons who do not own or operate the facility. The
22 term does not include a waste facility owned, controlled,
23 operated or used exclusively by:

24 A. A public waste disposal corporation under section
25 1304-B, subsection 5;

26 B. A municipality under section 1305;

27 C. A refuse disposal district under chapter 17;

28 D. The agency under chapter 24; or

29 E. The person generating the solid waste disposed of at the
30 facility, except that the facility may accept, on a
31 nonprofit basis, no more than 15% of all solid waste
32 accepted on an annual average that is not generated by the
33 owner. A waste facility receiving ash resulting from the
34 combustion of municipal solid waste or fuel derived from
35 municipal solid waste is not exempt from this subsection
36 solely by operation of this paragraph.

37 8. Construction and demolition debris. "Construction and
38 demolition debris" means debris resulting from construction,

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1 remodeling, repair, and demolition of structures. It excludes
2 asbestos and other special wastes.

3
4 9. Contingency reserve fund. "Contingency reserve fund"
5 means a fund maintained for the purpose of meeting unexpected
6 contingencies in the operation of a waste facility.

7
8 10. Conveyance. "Conveyance" means any aircraft,
9 watercraft, vehicle or other machine used for transportation on
10 land, water or in the air.

11
12 11. Department. "Department" means the Department of
13 Environmental Protection.

14
15 12. Disposal. "Disposal" means the discharge, deposit,
16 dumping, incineration, spilling, leaking or placing of any
17 hazardous or solid waste, refuse-derived fuel, sludge or septage
18 into or on any land, air or water so that the hazardous or solid
19 waste, sludge or septage or any constituent thereof may enter the
20 environment or be emitted into the air, or discharged into any
21 waters, including ground waters.

22
23 13. Generation. "Generation" means the act or process of
24 producing hazardous or solid waste, sludge or septage.

25
26 14. Handle. "Handle" means to store, transfer, collect,
27 separate, salvage, process, recycle, reduce, recover, incinerate,
28 dispose of or treat.

29
30 15. Hazardous waste. "Hazardous waste" means a waste
31 substance or material, in any physical state, designated as
32 hazardous by the board under section 1319-O. It does not include
33 waste resulting from normal household or agricultural activities.
34 The fact that a hazardous waste or part or constituent may have
35 value or other use or may be sold or exchanged does not exclude
36 it from this definition.

37
38 16. Incineration facility. "Incineration facility" means a
39 facility where municipal solid waste or refuse-derived fuel is
40 disposed of through combustion, including combustion for the
41 generation of heat, steam or electricity.

42
43 17. Inert fill. "Inert fill" means clean soil material,
44 rocks, bricks, and cured concrete, which are not mixed with other
45 waste, and which are not derived from an ore mining activity.

46
47 18. Land clearing debris. "Land clearing debris" means
48 solid wastes resulting from the clearing of land and consisting
49 solely of brush, stumps, soil material and rocks.

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1 19. Manifest. "Manifest" means the form used for
2 identifying the quantity, composition and the origin, routing and
3 destination of hazardous waste during its transport.

5 20. Recyclable. "Recyclable" means possessing physical and
6 economic characteristics that allow a material to be recycled.

7 21. Recycle. "Recycle" means to recover, separate, collect
8 and reprocess waste materials for sale or reuse other than use as
9 a fuel for the generation of heat, steam or electricity.

11 22. Recycling. "Recycling" means the collection,
12 separation, recovery and sale or reuse of materials that would
13 otherwise be disposed of or processed as waste or the mechanized
14 separation and treatment of waste, other than through combustion,
15 and the creation and recovery of reusable materials other than as
16 a fuel for the generation of electricity.

19 23. Refuse-derived fuel. "Refuse-derived fuel" means
20 municipal solid waste which has been processed prior to
21 combustion to increase the heat input value of the waste.

23 24. Regional association. "Regional association" means 2 or
24 more municipalities that have formed a refuse disposal district
25 under chapter 17 or a public waste disposal corporation under
26 section 1304-B or that have entered into a joint exercise of
27 powers agreement under Title 30-A, chapter 115, in order to
28 manage the solid waste generated within the participating
29 municipalities and for which those municipalities are responsible.

31 25. Residual waste. "Residual waste" means waste resulting
32 from the handling, processing, disposal or recycling of solid
33 waste including, without limitation, front end waste and ash from
34 incineration facilities.

35 26. Resource recovery. For the purposes of section 1304-B
36 only, "resource recovery" means the recovery of materials or
37 substances that still have useful physical or chemical properties
38 after serving a specific purpose and can be reused or recycled
39 for the same or other purposes.

41 27. Septage. "Septage" means waste, refuse, effluent,
42 sludge and any other materials from septic tanks, cesspools or
43 any other similar facilities.

45 28. Site. "Site" means the same or geographically
46 contiguous property which may be divided by a public or private
47 right-of-way, provided that the entrance and exit between the
48 properties is at a crossroads intersection and access is by
49 crossing as opposed to going along the right-of-way.
50 Noncontiguous properties owned by the same person but connected
51

1 by a right-of-way which he controls and to which the public does
2 not have access is also considered site property.

3
4 29. Solid waste. "Solid waste" means useless, unwanted or
5 discarded solid material with insufficient liquid content to be
6 free-flowing, including, but not limited to, rubbish, garbage,
7 refuse-derived fuel, scrap materials, junk, refuse, inert fill
8 material and landscape refuse, but does not include septic tank
9 sludge or agricultural wastes. The fact that a solid waste or
10 constituent of the waste may have value or other use or may be
11 sold or exchanged does not exclude it from this definition.

12
13 30. Solid waste disposal facility. "Solid waste disposal
14 facility" means a waste facility for the disposal of solid waste
15 except that the following facilities are not included:

16
17 A. A waste facility that employs controlled combustion to
18 dispose of waste generated exclusively by an institutional,
19 commercial or industrial establishment that owns the
20 facility; and

21
22 B. Lime kilns; wood chip, bark and hogged fuel boilers;
23 kraft recovery boilers and sulfite process recovery boilers,
24 which combust solid waste generated exclusively at the
25 facility.

26
27 31. Solid waste facility. "Solid waste facility" means a
28 waste facility used for the handling of solid waste.

29
30 32. Solid waste landfill. "Solid waste landfill" means a
31 waste disposal facility for the disposal of solid waste on or in
32 land. This term does not include landspreading sites used in
33 programs approved by the department.

34
35 33. Source separation. "Source separation" means the
36 preparation of materials for recycling by separation from wastes
37 at the point of generation.

38
39 34. Special waste. "Special waste" means any nonhazardous
40 waste generated by sources other than domestic and typical
41 commercial establishments that exists in such an unusual quantity
42 or in such a chemical or physical state, or any combination
43 thereof, which may disrupt or impair effective waste management
44 or threaten the public health, human safety or the environment
45 and requires special handling, transportation and disposal
46 procedures. Special waste includes, but is not limited to:

47
48 A. Oil, coal, wood and multifuel boiler and incinerator ash;

49
50 B. Industrial and industrial process waste;

51
52 C. Waste water treatment plant sludge, paper mill sludge
53 and other sludge waste;

1
2
3 D. Debris and residuals from nonhazardous chemical spills
4 and cleanup of those spills;

5 E. Contaminated soils and dredge spoils;

6
7 F. Asbestos and asbestos-containing waste;

8
9 G. Sand blast grit and nonliquid paint waste;

10
11 H. Medical and other biological waste not identified under
12 section 1319-O, subsection 1, paragraph A, subparagraph (4);

13
14 I. High and low pH waste;

15
16 J. Spent filter media and residue; and

17
18 K. Other waste designated by the board, by rule.

19
20 35. State waste management and recycling plan. "State
21 waste management and recycling plan" means the plan adopted by
22 the agency pursuant to chapter 24, subchapter II, and may also be
23 referred to as "state plan."

24
25 36. Storage. "Storage" means the containment of hazardous
26 wastes, either on a temporary basis or for a period of years, in
27 such a manner as not to constitute disposal of the hazardous
28 wastes.

29
30 37. Substantially expand. "Substantially expand" means the
31 expansion of an existing licensed hazardous waste facility by
32 more than 25%, as measured by volume of waste or affected land
33 area, from the date of its initial licensed operation.

34
35 38. Transport. "Transport" means the movement of hazardous
36 or solid waste, waste oil, sludge or septage from the point of
37 generation to any intermediate points and finally to the point of
38 ultimate disposition. Movement of hazardous waste on the site
39 where it is generated or on the site of a licensed waste facility
40 for hazardous waste is not "transport." Movement of waste oil on
41 the site where it is generated or on the site of a licensed waste
42 oil dealer's facility is not "transport."

43
44 39. Treatment. "Treatment" means any process designed to
45 change the character or composition of any hazardous waste so as
46 to render the waste less hazardous.

47
48 40. Waste facility. "Waste facility" means any land area,
49 structure, location, equipment or combination of them, including
50 dumps, used for handling hazardous or solid waste, sludge or
51 septage. A land area or structure does not become a waste
facility solely because:

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A. It is used by its owner for disposing of septage from the owner's residence;

B. It is used to store for 90 days or less hazardous wastes generated on the same premises;

C. It is used by individual homeowners or lessees to open burn leaves, brush, deadwood and tree cuttings accrued from normal maintenance of their residential property, when such burning is permitted under section 599, subsection 3; or

D. It is used by its residential owner to burn highly combustible domestic, household trash such as paper, cardboard cartons or wood boxes, when such burning is permitted under section 599, subsection 3.

41. Waste management. "Waste management" means purposeful, systematic and unified control of the handling and transportation of hazardous or solid waste, sludge or septage.

42. Waste oil. "Waste oil" means a petroleum based oil which, through use or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties. Waste oil which exhibits hazardous wastes characteristics, or which has been contaminated with hazardous wastes in excess of quantities normally occurring in waste oil, shall be subject to the provisions of this chapter dealing with hazardous wastes.

43. Waste oil dealer. "Waste oil dealer" means any person in the business of transporting or handling more than 1,000 gallons of waste oil for the purpose of resale in a calendar month. A person who collects or stores waste oil on the site of generation, whether or not for the purpose of resale, is not a waste oil dealer.

44. Waste reduction. "Waste reduction" means an action that reduces waste at the point of generation and may also be referred to as "source reduction."

45. Waste resulting from agricultural activities. "Waste resulting from agricultural activities" means wastes which result from agricultural activities defined in section 361-A, subsection 1-B, which are returned to the soils as fertilizers and includes waste pesticides when generated by a farmer in his own use, provided that he triple rinses each emptied pesticide container in accordance with departmental rules and disposes of the pesticide residues in a manner consistent with the disposal instructions on the pesticide label.

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1 46. Wood wastes. "Wood wastes" means brush, stumps,
2 lumber, bark, woodchips, shavings, slabs, edgings, slash, and
3 sawdust, which are not mixed with other waste.

5 **Sec. 5. 38 MRSA §1304, sub-§1,** as amended by PL 1981, c. 470,
6 Pt. A, §171, is further amended to read:

7 1. Rules. Subject to the Maine Administrative Procedure
8 Act, Title 5, chapter 375, the board may adopt, amend and enforce
9 rules as it deems necessary to govern waste management, including
10 the location, establishment, construction and alteration of waste
11 facilities as the facility affects the public health and welfare
12 or the natural resources of the State. The rules shall be
13 designed to ~~encourage--logical--utilization--of--recoverable~~
14 ~~resources,~~ minimize pollution of the state's State's air, land
15 and surface and ground water resources, prevent the spread of
16 disease or other health hazards, prevent contamination of
17 drinking water supplies and protect public health and safety. In
18 adopting these rules, the board shall also consider economic
19 impact, technical feasibility and such differences as are created
20 by population, hazardous or solid waste, sludge or septage volume
21 and geographic location.

23 **Sec. 6. 38 MRSA §1304, sub-§3,** as enacted by PL 1973, c. 387,
24 is repealed.

27 **Sec. 7. 38 MRSA §1304, sub-§4,** as amended by PL 1987, c. 883,
28 §1, is further amended to read:

29 4. Technical assistance. The department is authorized to
30 establish guidelines for effective waste management, to provide
31 technical assistance to persons planning, constructing or
32 operating waste facilities, and to conduct applied research
33 activities in the field of waste management, disposal technology
34 and environmental effects, including methods of recycling
35 hazardous or solid waste, sludge or septage. ~~The--department~~
36 ~~shall--develop--a--pilot--program--to--provide--grants--for--the~~
37 ~~identification--design--and--development--of--tire--and--white--goods~~
38 ~~disposal--facilities--including--pickup--of--these--items--and--stump~~
39 ~~and--demolition--debris--disposal--facilities--by--municipalities,~~
40 ~~county--governments--and--regional--planning--agencies.~~ The
41 department shall cooperate with the agency in the design and
42 delivery of this assistance.

45 **Sec. 8. 38 MRSA §1304, sub-§5,** as repealed and replaced by PL
46 1979, c. 383, §7, is repealed.

47 **Sec. 9. 38 MRSA §1304, sub-§11,** as enacted by PL 1985, c. 157,
48 is amended to read:

51 11. Imported waste report. The board shall report to the
52 Legislature on the solid waste imported and disposed of in the

1 State. The report shall include consideration of the following
2 areas:

3 A. The categories of imported waste materials, including
4 hazardous waste, solid waste and any other waste material
5 designated by the board as special waste;

6 B. The volumes or weights, as appropriate, of imported
7 waste;

8 C. The method of disposal, including, but not limited to,
9 incineration and landfilling, the location of the disposal
10 sites receiving the imported waste and the estimated
11 remaining capacity of each site;

12 D. The states of origin of the imported waste and the
13 regulations governing the disposal of these wastes in their
14 respective states of origin; and

15 E. Any potential environmental or public health hazards
16 posed by imported waste.

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23 The board shall submit the report to the joint standing committee
24 of the Legislature having jurisdiction over natural resources.
25 The first report shall be due on or before January 1, 1986, and
26 thereafter the report shall be made to the First Regular Session
27 of the Legislature. Beginning with the First Regular Session of
28 the Legislature in 1991, the report shall be developed in
29 cooperation with the agency, shall be issued jointly by the
30 agency and the department to the Legislature and shall be
31 incorporated in the initial and subsequent state solid waste
32 management plans.

33
34 The commissioner may, by rule, require any person importing or
35 disposing of imported hazardous waste, solid waste or any other
36 imported waste designated by the board as special waste, to
37 report the volumes, weights and types of waste imported and
38 report on the state of origin.

39
40 **Sec. 10. 38 MRSA §1304, sub-§13, as enacted by PL 1987, c.**
41 **517, §12, is amended to read:**

42
43 13. **Innovative disposal and utilization.** Recognizing that
44 environmentally suitable sites for waste disposal are in limited
45 supply and represent a critical natural resource, the
46 commissioner may investigate and implement with the approval of
47 the board innovative programs for managing, utilizing and
48 disposing of solid waste. Innovative programs may include
49 agricultural and forest land spreading of wood-derived ash,
50 utilization of ash resulting from combustion of municipal solid
51 waste, paper mill sludges and municipal waste water treatment
52 plant sludges. The agency shall first determine that the

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1 proposed innovative disposal and waste management programs are
2 consistent with the state plan. The board shall review proposed
3 innovative programs for each waste category and shall apply all
4 controls necessary to ensure the protection of the environment
5 and public health consistent with this chapter. The board may
6 adopt application review procedures designed to review individual
7 applications and their individual waste sources with prior
8 approval of classes of disposal or utilization sites. The board
9 shall adopt provisions for municipal notification prior to use of
10 individual utilization sites.

11
12 **Sec. 11. 38 MRSA §1304, sub-§§14 and 15,** as enacted by PL 1987,
13 c. 517, §12, are repealed.

14 **Sec. 12. 38 MRSA §1304-B, sub-§1,** as enacted by PL 1983, c.
15 380, §1, is amended to read:

16
17 1. Findings and purpose. The Legislature makes the
18 following findings of fact. The Subject to the provisions of
19 chapter 24, the State requires each municipality to provide for
20 the disposal facility--of services for domestic and commercial
21 solid waste generated within the municipality. Solid waste
22 contains valuable recoverable resources, including energy. Many
23 municipalities have found that energy recovery reduces the cost
24 of solid waste disposal. Energy recovery technology is complex
25 and the equipment requires a steady supply of waste to operate
26 efficiently. Because of the complicated technology, most energy
27 recovery facilities have high capital costs and long payback
28 periods. In order to remain cost effective throughout their
29 lives, these energy recovery facilities require a guaranteed,
30 steady supply of waste. Consequently, municipalities utilizing
31 energy recovery facilities are usually required to enter
32 long-term agreements to provide the facilities with specific
33 amounts of waste. In order to make these energy recovery
34 facilities financially feasible, and thereby simultaneously
35 improve the environmental impacts and the economics of municipal
36 solid waste disposal, municipalities shall have the legal
37 authority to control the handling of solid waste generated within
38 their borders.

39
40
41 The purpose of this section is to promote the recovery of
42 resources from solid waste by creating one of the conditions
43 which make energy recovery economically feasible, assuring
44 municipalities the authority to guarantee a steady supply of
45 solid waste to specific waste facilities.

46 **Sec. 13. 38 MRSA §1304-B, sub-§2,** as amended by PL 1987, c.
47 517, §§14 and 15, is further amended to read:

48
49 2. Flow control. Municipalities Subject to the provisions
50 of chapter 24, municipalities are expressly authorized to enact
51 ordinances that control solid waste collection, its

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1 transportation or its delivery to a specific facility, when the
2 purpose and effect of such an ordinance is to gain management
3 control over solid waste and enable the reclamation of resources,
4 including energy, from these wastes. This authorization includes,
5 but is not limited to, ordinances:

7 A. Requiring segregation of wastes;

9 B. Requiring delivery of wastes generated within the
10 municipality, or any portion of those wastes, to a
11 designated disposal or reclamation facility; and

13 C. Designating certain materials as recyclable and exempt
14 from the provisions of paragraph B.

15 **Sec. 14. 38 MRSA §1304-B, sub-§3, as amended by PL 1987, c.**
17 **517, §16, is repealed.**

19 **Sec. 15. 38 MRSA §1304-B, sub-§4-A, ¶D is enacted to read:**

21 D. A municipality which anticipates that it will be unable
23 to meet its contract obligation to supply a minimum BTU
24 content level or minimum tonnage due to waste reduction or
25 recycling programs and is unable to reach an agreement with
26 the incinerator for the anticipated reduction may request
27 the agency to intercede. The agency shall assist the
28 incinerator in soliciting solid waste to mitigate any
29 anticipated shortfall in minimum BTU content level or
30 minimum tonnage. If no agreement on mitigation of a
31 anticipated shortfall is reached, the terms of the original
32 contract shall prevail, except as otherwise provided in this
33 chapter.

35 **Sec. 16. 38 MRSA §1304-B, sub-§7 is enacted to read:**

37 7. Subjugation. Notwithstanding any provision of this
38 section to the contrary, the exercise of any power or authority
39 granted under this section is subject to the provisions of
40 chapter 24.

41 **Sec. 17. 38 MRSA §1305, sub-§1, as enacted by PL 1973, c. 387,**
42 **is repealed and the following enacted to read:**

43 1. Disposal services. Each municipality shall provide
44 solid waste disposal services for domestic and commercial solid
45 waste generated within the municipality and may provide these
46 services for industrial wastes and sewage treatment plant sludge.

47 **Sec. 18. 38 MRSA §1305, sub-§4, as enacted by PL 1973, c. 387,**
48 **is repealed.**

51

1 Sec. 19. 38 MRSA §1309, as amended by PL 1987, c. 517, §22,
is further amended to read:

3
5 **§1309. Interstate cooperation**

7 The Legislature encourages cooperative activities by the
department and the agency with other states for the improved
9 management of hazardous and solid waste; for improved, and so as
11 far as is practicable, uniform state laws relating to the
management of hazardous and solid waste; and compacts between
this and other states for the improved management of hazardous
and solid waste.

13 Sec. 20. 38 MRSA §1310-J, as enacted by PL 1987, c. 517, §25,
15 is repealed.

17 Sec. 21. 38 MRSA §1310-K, as amended by PL 1987, c. 752, §§1
and 2, is repealed.

19 Sec. 22. 38 MRSA §1310-L, as amended by PL 1987, c. 769, Pt.
21 A, §182, is repealed.

23 Sec. 23. 38 MRSA §1310-M, as enacted by PL 1987, c. 517,
§25, is repealed.

25 Sec. 24. 38 MRSA §1310-N, first ¶, as enacted by PL 1987, c.
27 517, §25, is amended to read:

29 No person may locate, establish, construct, expand disposal
31 capacity or operate any solid waste facility unless approved by
the board under the site location of development laws, chapter 3,
subchapter 1 I, article 6 and the provisions of this chapter.
33 Where the proposed facility is located within the jurisdiction of
35 the Maine Land Use Regulation Commission, in addition to any
other requirement, the board shall require compliance with
existing standards of the commission.

37 Sec. 25. 38 MRSA §1310-N, sub-§2, as enacted by PL 1987, c.
39 517, §25, is repealed.

41 Sec. 26. 38 MRSA §1310-N, sub-§3, as enacted by PL 1987, c.
43 517, §25, is repealed and the following enacted in its place:

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

47 A. Prior to the initial adoption of the state plan, the
49 board shall find that a proposed facility provides a
substantial public benefit when the applicant demonstrates
51 that the facility is designed, located and will be operated

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1 so that it is consistent with and meets the needs identified
2 in the capacity needs analysis under former section 1310-O.

3
4 B. Subsequent to the initial adoption of the state plan and
5 for those facilities not subject to chapter 24, subchapter
6 IV, the board shall employ a rebuttable presumption of
7 public benefit.

8
9 C. Subsequent to the adoption of the state plan and for
10 those facilities subject to chapter 24, subchapter IV, the
11 agency shall determine whether or not the proposed facility
12 meets the requirements of section 2157.

13
14 **Sec. 27. 38 MRSA §1310-N, sub-§4, as enacted by PL 1987, c.**
15 **517, §25, is repealed.**

16
17 **Sec. 28. 38 MRSA §1310-N, sub-§5, ¶B, as enacted by PL 1987, c.**
18 **517, §25, is amended to read:**

19
20 B. The applicant has shown consistency with the most-recent
21 ~~state-recycling-plan-approved-by-the-Legislature-pursuant-to~~
22 ~~section-1310-M,-subsection-3~~ recycling provisions of the
23 state plan.

24
25 **Sec. 29. 38 MRSA §1310-O, as enacted by PL 1987, c. 517,**
26 **§25, is repealed.**

27
28 **Sec. 30. 38 MRSA §1310-R, sub-§§2 and 3, as enacted by PL 1987,**
29 **c. 517, §25, are amended to read:**

30
31 **2. Recycling.** The recycling requirements shall apply as
32 follows.

33
34 A. The board shall apply the provisions of section 1310-N,
35 subsection 5, paragraph A, when relicensing any solid waste
36 disposal facility, except that, to the extent that waste
37 disposal contracts in effect on ~~the-effective-date-of-this~~
38 article June 29, 1987, are inconsistent with section 1310-N,
39 subsection 5, paragraph A, in which case, those provisions
40 shall apply at the expiration of the term of those contracts
41 without consideration of any renewals or extensions of those
42 contracts.

43
44 B. The board shall require an applicant for a new or
45 expanded solid waste disposal facility or for a license
46 renewal submitting a complete application prior to the
47 ~~approval-by-the-Legislature-of-the-first-state-recycling~~
48 ~~plan-pursuant-to-section-1310-M,-subsection-3,~~ adoption of
49 the state plan to demonstrate that the ~~applicant--has~~
50 ~~considered-recycling-alternatives-that-are-reasonably-within~~
51 ~~the-applicant's-control~~ facility furthers the purposes of

1 section 2101 and satisfies the regulations under section
2 1310-N.

3
4 C. The provisions of section 1310-N, subsection 5,
5 paragraph B, do not apply to the relicensing of any solid
6 waste disposal facility licensed prior to the effective date
7 of this article June 29, 1987.

8
9 3. Public benefit. The public benefit requirements shall
10 apply as follows.

11
12 ~~A. The board shall require an applicant for a new or~~
13 ~~expanded solid waste disposal facility submitting a complete~~
14 ~~application prior to the initial adoption of the capacity~~
15 ~~needs analysis pursuant to section 1310-0 to submit such~~
16 ~~information as the board requires to demonstrate that the~~
17 ~~proposed facility provides a substantial public benefit,~~
18 ~~including such information described in section 1310-0.~~

19
20 A-1. The board shall require an applicant for a new or
21 expanded solid waste disposal facility submitting a complete
22 application prior to the initial adoption of the state plan
23 to submit such information as the board requires to
24 demonstrate that the proposed facility provides a
25 substantial public benefit, including the information
26 described in former section 1310-0.

27
28 B. The provisions of section 1310-N, subsection 1,
29 paragraph B, and section 1310-N, subsection 3, do not apply
30 to the relicensing of a solid waste disposal facility
31 licensed prior to the effective date of this article June
32 29, 1987.

33
34 C. The board shall apply the provisions of section 1310-N,
35 subsection 3, paragraph A, to any application for a waste
36 disposal facility receiving ash resulting from the
37 combustion of municipal solid waste or from fuel derived
38 from municipal solid waste when the application was accepted
39 as complete by the department prior to July 1, 1989, and is
40 still pending before the department on or after the date of
41 the initial adoption of the state plan under chapter 24.

42
43 **Sec. 31. 38 MRSA §1310-R, sub-§4 is enacted to read:**

44
45 4. Incineration facilities. The board shall not license
46 any new incineration facility prior to the adoption of the state
47 plan and siting criteria.

48
49 **Sec. 32. 38 MRSA §1310-S, sub-§1, as enacted by PL 1987, c.**
50 **517, §25, is amended to read:**

1 1. Notification. A person applying for a license under
3 this article or giving notice to the department pursuant to
5 section 483, shall give, at the same time, written notice to the
7 agency and to the municipal officers of the municipality in which
the proposed facility may be located and shall publish notice of
the application in a newspaper of general circulation in the area.

9 Sec. 33. 38 MRS §1310-U, as enacted by PL 1987, c. 517, §25,
is repealed and the following enacted in its place:

11 §1310-U. Municipal ordinances

13 Municipalities are prohibited from enacting stricter
15 standards than those contained in this chapter and in the solid
17 waste management rules adopted pursuant to this chapter governing
19 the hydrogeological criteria for siting or designing solid waste
21 disposal facilities or governing the engineering criteria related
23 to waste handling and disposal areas of a solid waste disposal
facility. Except as provided in section 2173, municipalities are
further prohibited from enacting or applying ordinances that
regulate solid waste disposal facilities owned by the agency or a
regional association.

25 Under the municipal home rule authority granted by the
27 Constitution of Maine, Article VIII, Part Second and Title 30-A,
29 section 3001, municipalities, except as provided in this section,
31 may enact ordinances with respect to solid waste facilities which
33 contain such standards as the municipality finds reasonable,
35 including, without limitation, conformance with federal and state
37 solid waste rules; fire safety; traffic safety; levels of noise
that can be heard outside the facility; distance from existing
residential, commercial or institutional uses; ground water
protection; and compatibility of the solid waste facility with
local zoning and land use controls, provided, however, that the
standards are not more strict than those contained in this
chapter and in chapter 3, articles 5-A and 6 and the rules
adopted thereunder. Municipal ordinances shall use definitions
consistent with those adopted by the department.

39 A municipality adopting an ordinance under this section
41 shall forward a copy of the ordinance to the department within 30
43 days of its adoption.

45 Sec. 34. 38 MRS §1310-X is enacted to read:

47 §1310-X. Future commercial landfills

49 The board shall not approve an application for a new
51 commercial solid waste disposal facility after March 1, 1990.
The board may relicense or approve a transfer of license for
commercial solid waste disposal facilities after March 1, 1990,
if those facilities had been previously licensed by the board

1 prior to the effective date of this section, and all other
2 provisions of law have been satisfied.

3 The board may license expansions of commercial solid waste
4 disposal facilities after the effective date of this section, if:

5 A. The board has previously licensed the facility prior to
6 the effective date of this section;

7 B. The board determines that the proposed expansion is
8 contiguous with the existing facility and is located on
9 property owned by the licensee on the effective date of this
10 section;

11 C. Prior to the adoption of the state plan and siting
12 criteria under chapter 24, the board determines that the
13 proposed expansion is consistent with the provisions of
14 section 1310-R, subsection 3, paragraph A-1; or

15 D. After the adoption of the state plan and siting criteria
16 under chapter 24, the agency determines that the provisions
17 of section 2157 are met.

18 **Sec. 35. 38 MRSA §§1604 and 1605 are enacted to read:**

19 **§1604. Connectors**

20 After July 1, 1991, no person may sell or offer to sell
21 products in containers connected to each other by plastic rings
22 or other plastic holding devices.

23 **§1605. Plastic bags**

24 After January 1, 1990, all retailers in this State shall use
25 paper bags to bag products at the point of retail sale unless the
26 consumer requests a plastic bag.

27 **Sec. 36. 38 MRSA §1706, as enacted by PL 1983, c. 820, §2, is**
28 **amended to read:**

29 **§1706. Relationship to other law**

30 This chapter provides an additional and alternative method
31 for carrying out the purposes of this chapter and is supplemental
32 and additional to powers conferred by other laws, including the
33 provisions of chapter 13, pertaining to solid waste, and is not
34 in derogation of any powers now existing. The exercise of
35 authority under this chapter is subject to any restriction
36 imposed under chapter 24.

37 **Sec. 37. Application of definitions.** A facility licensed or with
38 a completed application pending before the Board of

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1 Environmental Protection prior to July 1, 1989, is not a
 3 commercial waste facility or a commercial solid waste disposal
 5 facility solely because it receives or will receive ash resulting
 from the combustion of municipal solid waste or fuel derived from
 municipal solid waste.

7 **PART F**

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

	1989-90	1990-91
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
Public Services - Agriculture		
Positions	(2.0)	(2.0)
Personal Services	\$28,170	\$40,860
All Other	6,165	8,520
Capital Expenditures	770	
Provides 2 additional staff to oversee the expansion of the returnable container law.		
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES		
TOTAL	\$35,105	\$49,380
CONSERVATION, DEPARTMENT OF		
Maine Land Use Regulation Commission		
All Other	\$3,000	\$3,000
Provides funds for the costs of hearings involved with rulemaking for siting criteria.		
DEPARTMENT OF CONSERVATION		
TOTAL	\$3,000	\$3,000
FINANCE, DEPARTMENT OF		
Bureau of Taxation		
Positions	(3.0)	(3.0)
Personal Services	\$72,440	\$172,023
All Other	33,000	37,050

1	Capital Expenditures	23,000	27,235
3	Provides funds for the		
5	administrative costs of		
7	collection of the advance		
9	disposal fees and the		
11	investment tax credit. These		
13	funds and the loss of General		
15	Fund revenues resulting from		
17	the investment tax credit		
19	will be reimbursed to the		
21	General Fund by an annual		
23	transfer from the Maine Solid		
25	Waste Fund.		
27	DEPARTMENT OF FINANCE		
29	TOTAL	<u>\$128,440</u>	<u>\$236,308</u>
31	ECONOMIC AND COMMUNITY		
33	DEVELOPMENT, DEPARTMENT OF		
35	Office of Waste Recycling and		
37	Reduction		
39	Positions	(-4.0)	(-4.0)
41	Personal Services	(\$83,179)	(\$120,415)
43	All Other	(63,962)	(93,590)
45	Deappropriates funds to		
47	account for the transfer of		
49	this office to the Maine		
51	Waste Management Agency.		
	DEPARTMENT OF ECONOMIC AND		
	COMMUNITY DEVELOPMENT		
	TOTAL	<u>(\$147,141)</u>	<u>(\$214,005)</u>
	SOLID WASTE MANAGEMENT FUND		
	Solid Waste Management Fund		
	All Other	\$884,101	
	Provides funds to be		
	transferred to the Maine		
	Solid Waste Management Fund		
	on the effective date of this		
	Act. The amount shall be		
	repaid in full by a transfer		
	of revenues from the Maine		
	Solid Waste Management Fund		

1 to the General Fund in fiscal
 2 year 1990-91.

3 **SOLID WASTE MANAGEMENT FUND**
 4 **TOTAL**

\$884,101

7 **TOTAL APPROPRIATIONS**

\$903,505

\$74,683

9 **Sec. 2. Allocation.** The following funds are allocated from the
 10 Maine Solid Waste Management Fund to carry out the purposes of
 11 this Act.

13 **1989-90**

1990-91

15 **ENVIRONMENTAL PROTECTION,**
 16 **DEPARTMENT OF**

19 **Bureau of Solid Waste Management**

21	Positions	(25.0)	(25.0)
	Personal Services	\$586,168	\$757,860
23	All Other	114,303	737,661
	Capital Expenditures	48,000	48,960

25 Provides funds for 10 new
 26 positions and 15 positions
 27 which were funded by the
 28 Environmental Protection
 29 Fund. Also includes \$325,000
 30 in fiscal year 1990-91 to be
 31 transferred to the
 32 Environmental Protection Fund.

35 **DEPARTMENT OF ENVIRONMENTAL**
 36 **PROTECTION**

37 **TOTAL**

\$748,471

\$1,544,481

39 **FINANCE AUTHORITY OF MAINE**

41 **Waste Reduction and Recycling**
 42 **Loan Fund**

43	All Other		\$400,000
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45 Provides funds for a
 46 revolving loan fund to assist
 47 business projects related to
 48 recycling and waste reduction.

51 **FINANCE AUTHORITY OF MAINE**
 52 **TOTAL**

\$0

\$400,000

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**MAINE WASTE
MANAGEMENT AGENCY**

**Administration - Office of the
Executive Director**

Positions	(3.0)	(3.0)
Personal Services	\$100,230	\$141,950
All Other	86,427	97,670
Capital Expenditures	11,780	
TOTAL	<u>\$198,437</u>	<u>\$239,620</u>

Provides funds for the salaries of the Executive Director, a Business Manager II and an Administrative Assistant; the per diem and expenses of the Waste Management Advisory Council; rental costs for the agency; and costs of services of the Department of the Attorney General.

Office of Planning

Positions	(4.0)	(4.0)
Personal Services	\$107,128	\$154,416
All Other	115,000	100,000
Capital Expenditures	50,000	
TOTAL	<u>\$272,128</u>	<u>\$254,416</u>

Provides funds for the Office Director, 2 professional staff, a clerical position and data collection and information systems costs.

**Office of Waste Reduction and
Recycling**

Positions	(5.0)	(5.0)
Personal Services	\$130,784	\$188,910
All Other	282,500	2,260,000
Capital Expenditures	25,000	

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COMMITTEE AMENDMENT "A" to H.P. 1025, L.D. 1431

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TOTAL \$438,284 \$2,448,910

Provides funds for one position in addition to the 4 positions transferred from the Department of Economic and Community Development. Funds allocated in fiscal year 1990-91 also include \$2,250,000 for transportation subsidies, feasibility grants and capital investment grants.

Office of Siting and Disposal Operations

Positions (4.0) (4.0)
Personal Services \$113,770 \$164,525
All Other 12,500 517,500
Capital Expenditures 25,000 25,000

TOTAL \$151,270 \$707,025

Provides funds for the office director, 2 professional staff, and a clerical position. Funding also includes \$500,000 in fiscal year 1990-91 for site selection consulting services.

MAINE WASTE MANAGEMENT AGENCY
TOTAL \$1,060,119 \$3,649,971

TOTAL ALLOCATIONS \$1,808,590 \$5,919,452

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1989-90 **1990-91**

ATTORNEY GENERAL, DEPARTMENT OF

Administration - Attorney General

Positions (1.0) (1.0)
Personal Services \$25,937 \$37,770
All Other 2,500 2,500
Capital Expenditures 590

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Provides funds for an additional attorney to provide legal services to the Maine Waste Management Agency.

DEPARTMENT OF ATTORNEY GENERAL		
TOTAL	<u>\$29,027</u>	<u>\$40,270</u>
TREASURER OF STATE, (OFFICE OF)		
State - Municipal Revenue Sharing		
All Other		(\$26,867)
Deallocates funds that will not be available due to the investment tax credit.		
(OFFICE OF) TREASURER OF STATE		
TOTAL	<u>\$0</u>	<u>(\$26,867)</u>
TOTAL ALLOCATIONS	<u>\$29,027</u>	<u>\$13,403</u>

FISCAL NOTE

The schedule below describes the fiscal impact of this bill on the following revenues.

General Fund:

	1989-90	1990-91
Appropriations		
Department of Agriculture, Food and Rural Resources	\$35,105	\$49,380
Department of Conservation(LURC)	\$3,000	\$3,000
Department of Economic and Community Development	(\$147,141)	(\$214,005)
Department of Finance (Taxation)	\$128,440	\$236,308
Solid Waste Management Fund	\$884,101	\$0
TOTAL APPROPRIATIONS	<u>\$903,505</u>	<u>\$74,683</u>
Revenues:		
License Application Fees	\$0	\$162,500

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1	Investment Tax Credit	\$0	(\$499,933)
	Loan From General Fund	\$0	\$884,101
3	Transfers to General Fund	\$0	\$736,241
5	TOTAL REVENUES	\$0	\$1,282,909
7			
9	Net effect on General Fund revenues	(\$903,505)	\$1,208,226
11	Solid Waste Management Fund:		
13	Allocations		
15	Department of Environmental		
17	Protection	\$748,471	\$1,869,481
	Finance Authority of Maine		
19	(FAME)	\$0	\$400,000
	Solid Waste Management Fund	\$1,060,119	\$3,649,971
21			
23	TOTAL ALLOCATIONS	\$1,808,590	\$5,919,452
25	Revenues:		
27	Advance Disposal Fees	\$0	\$5,415,000
29	Special Waste Disposal Fees	\$1,136,000	\$2,272,000
	Loan From General Fund	\$884,101	(\$884,101)
31	Transfers to General Fund	\$0	(\$736,241)
	Charges for Attorney		
33	General Services	\$0	\$0
35	TOTAL REVENUES	\$2,020,101	\$6,066,658
37	Net effect on Solid Waste Management		
39	Fund revenues	\$211,511	\$147,206
41	Other Special Revenue funds:		
43	Allocations:		
45	Department of Attorney General	\$29,027	\$40,270
47	State - Municipal Revenue Sharing		(\$26,867)
49	TOTAL ALLOCATIONS	\$29,027	\$13,403
51	Revenues:		
53			

COMMITTEE AMENDMENT "A" to H.P. 1025, L.D. 1431

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1	Charges for Attorney General		
	Services	\$29,027	\$13,403
3	Investment Tax Credit		(\$26,867)
5			
	Net effect on Other Special Revenue funds	\$ 0	\$ 0
7			

STATEMENT OF FACT

11 This amendment is the majority report of the Joint Standing
 13 Committee on Energy and Natural Resources and replaces the
 15 original bill. The amendment provides a comprehensive program
 17 for managing the State's solid waste. This program addresses all
 19 aspects of solid waste management including waste reduction,
 recycling and the development of needed disposal capacity.
 Financing mechanisms are included to ensure adequate resources
 for state and local waste management.

21 Part A establishes the Maine Waste Management Agency within
 the executive branch of State Government. The agency has 3
 23 offices: the Office of Planning, the Office of Waste Reduction
 and Recycling and the Office of Siting and Disposal Operations.

25 The Office of Planning is charged with continuing the solid
 27 waste planning efforts initiated in the past 2 years by the
 Department of Environmental Protection and the Department of
 29 Economic and Community Development. The initial plan will be
 adopted by March 1, 1990. The state plan will serve as the basis
 31 for long-range development of waste reduction and recycling
 efforts as well as the means to identify future needs for further
 33 disposal capacity.

35 The Office of Waste Reduction and Recycling has overall
 responsibility for promoting waste reduction and recycling
 37 through state and local efforts. The amendment establishes a
 statewide recycling goal of 50% by the year 1994 with an interim
 39 goal in 1992 of 25%. The office will administer a major grants
 program to fund local and regional recycling feasibility studies
 41 and to fund the capital investments needed to put these recycling
 programs into place. The office will assist in the development
 43 of recycling markets through its own efforts and in cooperation
 with the Finance Authority of Maine.

45 Under the general oversight of the Office of Waste Reduction
 47 and Recycling, State Government will undertake a mandatory office
 recycling program. The Legislature and the University of Maine
 49 System are both included in state recycling efforts.

51 Businesses throughout the State are directed to undertake
 recycling efforts for office paper and corrugated cardboard.
 53 These requirements are phased in over a 4-year period.

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COMMITTEE AMENDMENT "A" to H.P. 1025, L.D. 1431

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The Office of Siting and Disposal Operations is charged with identifying sites for disposal facilities to be owned by the agency. Siting decisions will be made by the Facility Siting Board within the agency composed of appointed members with technical expertise and public representation. This board will develop and apply siting criteria which consider regional needs, transportation requirements, compatibility with waste reduction and recycling efforts, cost implications, environmental considerations and compatibility with neighboring land uses.

The Facility Siting Board is directed to identify sites for capacity needed in the near future by July 1, 1991. The office is directed to develop the needed facilities by July 1, 1994. The amendment anticipates that the office will use contractors for most of the technical work in site selection, facility development and facility operation. Sites developed by the Maine Waste Management Agency will stay in public ownership. The agency is given revenue bonding authority to support the capital investments necessary for facility development. The bonds will be repaid through tipping fees.

The Office of Siting and Disposal Operations is also charged with reviewing proposals from regional associations of municipalities for disposal facilities used by these groups. While expansions of existing commercial disposal facilities are allowed after review, new commercial disposal facilities are prohibited. Private facilities owned and used by waste generators are exempt from review by the agency. These exempt facilities still require approval by the Board of Environmental Protection under existing environmental law.

Finally, the office is directed to undertake a household hazardous waste collection program in conjunction with its disposal operations.

A host community benefits program is established to ensure communications with citizens in any town which becomes the site of a disposal facility owned by the agency or a regional association. A citizens advisory committee will be established in every potential host community. The agency or regional association, as appropriate, will make payments in lieu of taxes and additional impact payments. Neighboring property owners will be compensated for losses in real estate values and a quarterly ground water sampling program will be established with complete replacement of water supplies in the event of contamination.

Municipalities are empowered to enforce all conditions of the state license for a facility owned by the agency or a regional association. In addition, municipalities may attach additional conditions in those areas not addressed in the conditions of the state license. Municipalities, however, may

1 not prohibit the siting of such a facility if it has been
3 approved by the Board of Environmental Protection.

5 Municipal siting and regulatory authority over private and
7 commercial facilities must use standards consistent with those
9 established in state law.

11 Disposal surcharges are imposed on all solid wastes being
13 disposed of in commercial landfills and on special wastes being
15 disposed of in any type of landfill. An additional surcharge may
17 be imposed on the disposal of municipal solid waste from towns
19 which fail to make reasonable progress towards meeting the state
21 recycling goals.

23 Part B establishes an advance disposal fee on tires, auto
25 batteries, white goods and brown goods. These fees are used to
27 support the agency and the recycling grant programs.

29 Part C includes a number of initiatives designed to further
31 waste reduction and recycling. The State Purchasing Agent is
33 directed to aggressively pursue purchases of products with
35 recycled content for state use. A price preference is
37 established for state purchases of paper with recycled content.
39 The Finance Authority of Maine is authorized to establish a loan
41 program to promote private sector activity in waste reduction and
43 recycling. Municipalities are directed to review local
45 procurement policies and are empowered to give a preference for
47 the purchase of products with recycled content. This part also
49 contains a requirement for a coding system to be used on most
51 plastic containers. This system will facilitate sorting by
plastic resin type and thus improve marketability. Part C also
includes an investment tax credit for the purchase of equipment
use in waste reduction and recycling. Finally, the Department of
Transportation will undertake a study of the potential uses of
recycled materials in highway construction and maintenance.

37 Part D expands the returnable beverage container law to
39 include liquor, wine and most other beverages packaged in glass,
41 metal or plastic. The handling fee is increased by 1¢ to support
43 the redemption centers and to alleviate the burden on small
45 businesses. This part also includes a prohibition on the sale of
47 "plastic cans" which closely resemble aluminum cans and severely
49 contaminate recycled aluminum. Also banned are aseptic packages
which, because of the wide variety of materials used in their
construction, are unrecyclable. The possession of more than 2
cases of unlabeled beverage containers is prohibited to
discourage out-of-state purchases of beverages and circumvention
of the State's returnable bottle law.

51 Part E amends the provisions of law administered by the
Department of Environmental Protection governing solid waste.
New definitions are provided as necessary. The regulatory

COMMITTEE AMENDMENT "A" to H.P. 1025, L.D. 1431

1 procedures governing siting of solid waste disposal facilities
2 are modified to coordinate the activities of the department with
3 the new Maine Waste Management Agency. This part also
4 coordinates the authority of the Maine Land Use Regulation
5 Commission with those of the department with regard to the siting
6 of solid waste disposal facilities. Finally, this part prohibits
7 the use of plastic ring connectors and directs retailers to offer
8 paper bags to all customers at the check-out counter.
9

Reported by the Majority of the Committee on Energy and Natural Resources
Reproduced and distributed under the direction of the Clerk of the
House
6/20/89

(Filing No. H-640)