

MAINE STATE LEGISLATURE

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L.D. 1431

(Filing No. H- 641)

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

COMMITTEE AMENDMENT "*B*" 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Sec. 1. 2 MRSA §6, sub-§2, as repealed and replaced by PL 1981, c. 705, Pt.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Sec. 2. 2 MRSA §6, sub-§4, as amended by PL 1987, c. 715, §2, and c. 787, §1, is repealed and the following enacted in its place: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:

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

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

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

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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 Board</u>	<u>\$100 per day plus expenses</u>	<u>38 MRSA §2152</u>
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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- ronment: Natural Resources</u>	<u>Waste Management Advisory Council</u>	<u>Legislative Per Diem</u>	<u>38 MRSA §2104</u>
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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

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

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

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

B. Acquire, hold and dispose of personal property;

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

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

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

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

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

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

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

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

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

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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:

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

- 1 A. Develop and adopt the state waste management and
 recycling plan pursuant to the provisions of this chapter;
 3
- B. Assist in regional and municipal waste recycling and
 5 waste reduction programs and provide technical assistance to
 7 regional associations, municipalities, state agencies and
 private entities to assist their implementation of this
 chapter;
 9
- C. Promote and emphasize recycling and waste reduction in
 11 the State;
- D. Develop generic siting criteria and select sites for use
 13 by the agency;
 15
- E. Review applications for new or expanded solid waste
 17 disposal facilities for consistency with state siting
 criteria and recommendations and the state plan;
 19
- F. Enter into contracts for services to plan, design,
 21 construct and operate waste facilities;
- G. Initiate, conduct and support research, demonstration
 23 projects and investigations and coordinate all state agency
 25 research programs pertaining to waste management and
 recycling;
 27
- H. Institute, in a court of competent jurisdiction,
 29 proceedings against any person to compel compliance with the
 provisions of this chapter, any regulation promulgated
 31 pursuant thereto, or any order of the agency;
- I. Cooperate with appropriate federal, state, interstate
 33 and local units of government and with appropriate private
 35 organizations in carrying out its duties under this chapter;
- J. Work with other state agencies, regional associations,
 37 municipalities, regional planning agencies and other
 39 community, private sector and environmental organizations to
 manage the State's solid waste; and
 41
- K. Solicit public comment from all regions of the State.
 43

§2104. Waste Management Advisory Council

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

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

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

3

4 §2106. Annual audit

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

12 §2107. Staff employees; conflict of interest

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

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

20

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

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29 §2108. Indemnification

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

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39 §2109. Sunset

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

49

1 §2110. Confidential information

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

7 SUBCHAPTER II9 OFFICE OF PLANNING11 §2121. Office of Planning

13 The Office of Planning, referred to as the "office" in this
14 subchapter, is established to carry out the purposes of this
15 subchapter. The Director of the Office of Planning 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 §2122. Recycling and management plan; schedule coordination

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

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

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

1 may make those revisions pursuant to the rule-making provisions
3 of Title 5, chapter 375, subchapter II, including emergency
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
11 a comprehensive data base on solid waste generated or disposed of
13 in the State. Data collected shall include, but not be limited
to:

15 A. The amount of waste currently generated, handled or
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
23 employed, including, without limitation, recycling,
composting, landspreading, incineration or landfilling;

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

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

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

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

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

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

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

- 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
 potential for recycling to replace or reduce the need for
 traditional disposal capacity. The assessment shall include the
17 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
 from the State. This element shall include identification
27 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
 man.er and the types and costs of the technologies which may
39 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
 traditional disposal capacity that could be made available
49 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

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

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

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

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

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

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

41 C. Comparison of the projected waste generation levels with
43 existing and potential capacity as identified in subsection
45 2; and

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

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

A. Strategies that promote, throughout the State, the
maximum reduction of waste, the maximum feasible recycling
of waste and the environmentally sound and cost-effective
management and disposal of those wastes that remain.

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
 utilization programs, development of recycling-related
 9 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
 31 resource matters.

33 SUBCHAPTER III

35 OFFICE OF WASTE REDUCTION AND RECYCLING

37 §2131. Office of Waste Reduction and Recycling; established

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

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

7
 8 §2133. Municipal recycling

9
 10 1. Technical and financial assistance program. The office
 11 shall develop a program of technical and financial support to
 12 assist municipalities in achieving the recycling goal of section
 13 2132. The office shall develop a priority system for use in
 14 allocating available financial and technical resources available
 15 under this section to municipalities and regions. The priority
 16 system shall address the following:

17 A. The type and number of materials to be recycled and
 18 composted, and the resulting reduction of the municipal
 19 waste stream;

20 B. Measures, including ordinances and incentives, to insure
 21 source separation and local participation in the recycling
 22 program;

23 C. The existence of an established recycling program;

24 D. The planning for logistical, administrative and
 25 financial management;

26 E. Marketing agreements or the identification of markets
 27 for materials to be recycled;

28 F. Utilization of any regional economies of scale;

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

31 H. Consistency with the state plan, when adopted.

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

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

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

- 1 B. The planning for the logistical, administrative and
2 financial management requirements of a recycling program;
- 3
- 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 3. Recycling capital investment grants. The office may
13 make grants to eligible municipalities and regional associations
14 for the construction of public recycling facilities and the
15 purchase of recycling equipment. The office may establish
16 requirements for local cost sharing of up to 25% of the total
17 grant amount. The office shall give preference to recycling
18 programs that require the participation of the waste generators
19 served.

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

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

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

47

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

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

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

17 §2134. Market development and assistance

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

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

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

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

51

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

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

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

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

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

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

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

21 §2135. Special services

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

27 §2136. Scrap metal transportation cost subsidy

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

37 §2137. State Government recycling and waste reduction

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

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

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

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

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

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

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

§2138. Business recycling and waste reduction program

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

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

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

F. D. S.

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.

8 2. Office paper. For the purposes of this section, "office
9 paper" includes, but is not limited to, ledger, computer and bond
10 paper.

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

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

24 5. Industrial waste reduction. The office shall consult
25 with the Maine Sludge and Residuals Utilization Research
26 Foundation and the private sector to identify and examine
27 solutions to the problems of reducing the volume and toxicity of
28 industrial waste.

29 §2139. Public education

30 The office shall design a program of public education in
31 support of the state recycling goals to promote waste reduction,
32 source separation and recycling efforts at the individual, local,
33 regional and state levels.

34 1. Media campaign. The office shall develop and
35 disseminate educational material designed to establish broad
36 public understanding and compliance with the State's recycling
37 and waste reduction goals.

38 2. Kindergarten to grade 12 curriculum. In cooperation
39 with the Department of Educational and Cultural Services, the
40 office shall develop a curriculum suitable for use in programs
41 from kindergarten through high school.

42 §2140. Interstate and national initiatives

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

5
7 3. Qualifications. The Governor shall select the
membership of the board to include members of the general public
and persons with expertise in engineering, hydrogeology, public
health and government. The Governor shall also select the
9 membership of the board to include broad geographic
11 representation from all areas of the State.

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

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

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

25 §2153. Siting criteria

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

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

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

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

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

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

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

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

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

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

37
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.

18 §2157. Review of proposed waste facilities

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

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

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

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

33 C. Meets the following requirements:

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

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

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

41 §2158. Future commercial solid waste disposal facilities

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

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

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

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

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

§2160. Procedure in exercise of right of eminent domain

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

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

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

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

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

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

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

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

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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

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

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.

29 SUBCHAPTER V

30 HOST COMMUNITY BENEFITS

31 §2171. Citizen advisory committee

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

39 1. Membership. The committee shall be comprised of
40 citizens from each affected municipality, including, but not
41 limited to: a municipal health officer; a municipal officer; and
42 at least 3 additional residents of the municipality, including
43 abutting property owners and residents potentially affected by
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COMMITTEE AMENDMENT "B" to H.P. 1025, L.D. 1431

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

7
8 2. Meetings. The committee shall meet as soon as practical
9 following appointment of its members and shall select a chair
10 from among its members. The committee shall establish procedures
11 for the conduct of meetings.

12
13 3. Responsibilities. Each committee established under this
14 section shall have the authority to:

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

18
19 B. Hold periodic public meetings to solicit the opinions of
20 residents concerning the proposed facility and any permit
21 applications, contracts or other provisions relating to the
22 facility and the regional plan;

23
24 C. Provide the agency and department with any alternative
25 contract provisions, permit conditions, plans or procedures
26 it deems appropriate; and

27
28 D. Serve as a liaison between the community and the agency,
29 project developer or the department to facilitate
30 communications during the development and operation of the
31 facility, and provide residents with updated information
32 about the project, including providing explanations of any
33 technical terms.

34
35 4. Unincorporated townships and plantations. For the
36 purposes of this subchapter, county commissioners shall act as
37 municipal officers for unincorporated townships and assessors of
38 plantations shall act as municipal officers for plantations.

39
40 §2172. Dispute resolution

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

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6 Owners of property contiguous to an agency-owned, operated
7 or approved facility licensed under chapter 13 are eligible for
8 reimbursement for loss in property value directly attributable to
9 the construction and operation of the facility. The agency shall
10 issue rules to establish a formula and process for reimbursement,
11 including, without limitation, definition of the impact area, a
12 process for establishing baseline real estate values, a time
13 frame within which the property value support program will be in
14 effect, determination of the percentage of property value to be
15 reimbursed, an accounting of real estate trends in the area and a
16 determination of the reimbursement mechanism.

17

18 §2174. Impact payments

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20 In addition to payment in lieu of taxes provided in section
21 2105, the agency shall make impact payments to a municipality in
22 which an agency-owned solid waste landfill facility is located
23 or, in the case of an unorganized territory, to the State Tax
24 Assessor upon request by the community involved or by the State
25 Tax Assessor. The agency shall base its impact payments on
26 measurable criteria including, without limitation:

27

28 1. Roads. Improvement, maintenance and repair of local
29 roads directly affected by traffic to and from an agency-owned
30 landfill facility;

31

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

34

35 3. Monitoring. Financial support for on-site, municipally
36 employed personnel or for other means determined necessary to
37 enable the municipality to monitor the facility's compliance with
38 state and local requirements.

39

40 §2175. Water supply monitoring and protection

41

42 Upon written request from persons owning land contiguous to
43 a waste landfill approved under subchapter IV, the operator of
44 the landfill shall have quarterly samplings and analyses
45 conducted of private water supplies used by the requestors for
46 drinking water. The sampling and analysis shall be conducted in
47 a manner specified by and shall meet criteria developed by the
48 department.

49

50 Any person owning or operating a waste landfill that
51 adversely affects a public or private water supply by pollution,
degradation, diminution or other means that result in a violation

1 of the state drinking water standards as determined by the
2 department shall restore the affected supply at no cost to the
3 owner or replace the affected supply with an alternative source
4 of water that is of like quantity and quality to the original
5 supply at no cost to the owner.

7 1. Extent of analysis. Water supplies shall be analyzed
8 for all parameters or chemical constituents determined by the
9 department to be indicative of typical contamination from solid
10 waste landfills. The laboratory performing the sampling and
11 analysis shall provide written copies of sample results to the
12 landfill owner, the landowner and to the department.

13 2. Additional sampling required. If the analysis indicates
14 possible contamination from a solid waste landfill, the
15 department shall conduct, or require the landfill operator to
16 have the laboratory conduct, additional sampling and analysis to
17 determine more precisely the nature, extent and source of
18 contamination. The department shall, if necessary, require this
19 sampling beyond the boundaries of the contiguous property.

21 3. Written notice of rights. On or before December 1,
22 1989, for permits issued under this chapter prior to October 1,
23 1989, and at or before the time of permit issuance for permits
24 issued under this chapter after October 1, 1989, the operator of
25 each waste landfill shall provide owners of contiguous land with
26 written notice of their rights under this section on a form
27 prepared by the department.

29 SUBCHAPTER VI

31 LIABILITY AND LIMITATIONS

33 §2181. Effect on tort claims

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

39 §2182. Ability to indemnify

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

47 §2183. Effect on existing contracts and facilities

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

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§2184. Municipal contracts

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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

29

FINANCE, FEES AND CONTRACTS

31

Article 1. Fees and Contracts

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§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;

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

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

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

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

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

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

27 §2193. Host municipality fees

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

32 Article 2. Maine Solid Waste Management Fund

33 §2201. Maine Solid Waste Management Fund established

34 The Maine Solid Waste Management Fund, referred to in this
35 section as the "fund," is established as a nonlapsing fund to
36 support programs administered by the Maine Waste Management
37 Agency and the Department of Environmental Protection. The fund
38 shall be segregated into 2 accounts. The first account, which
39 shall be called the operations account, shall receive all fees
40 established and received under article 1 and shall be used solely
41 for the development and operation of publicly owned facilities
42 owned or approved by the agency and for the repayment of any

1 obligations of the agency incurred under article 3. The 2nd
2 account, which shall be called the administrative account, shall
3 receive all fees established under this article and under Title
4 36, chapter 719. All administrative expenses directly related to
5 the agency's and the department's programs shall be charged to
6 this account.

7
8 Money in the fund not currently needed to meet the
9 obligations of the agency shall be deposited with the Treasurer
10 of State to the credit of the fund and may be invested, as
11 provided by law. Interest on these investments shall be credited
12 to the fund.

13
14 Money in the administrative account may only be expended in
15 accordance with allocations approved by the Legislature. These
16 allocations shall be based on estimates of the actual costs
17 necessary for the agency and the department to administer their
18 programs, to provide financial assistance to regional
19 associations and to provide other financial assistance necessary
20 to accomplish the purposes of this chapter. Beginning in the
21 fiscal year ending on June 30, 1991 and thereafter, the fund
22 shall annually transfer to the General Fund an amount necessary
23 to reimburse the costs of the Bureau of Taxation incurred in the
24 administration of Title 36, section 5219-C and Title 36, chapter
25 719 and an amount equal to the General Fund revenues lost as the
26 result of Title 36, section 5219-C. Allowable expenditures
27 include "Personal Services," "All Other" and "Capital
28 Expenditures" associated with all agency activities other than
29 those included in the operations account.

30 §2202. Fees

31
32 1. Fees established. The agency shall establish procedures
33 to charge fees specified in this article and pursuant to the
34 requirements of this article. All fees collected by the agency
35 shall be deposited into the Maine Solid Waste Management Fund.

36
37 2. Application. Fees established under this article become
38 effective upon the effective date of this chapter, with the first
39 payment due on January 20, 1990.

40 §2203. Fee on special waste

41
42 There are imposed fees in the following amounts to be levied
43 for special waste that is disposed of at commercial, municipal,
44 regional association or agency landfills.

45
46

47 <u>Asbestos</u>	<u>\$6 per cubic</u>
48	<u>yard</u>
49	
50 <u>Oil spill debris</u>	<u>\$6 per ton</u>

51

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

1	<u>Waste water facility sludge</u>	<u>\$2 per ton</u>
3	<u>Ash, coal and oil</u>	<u>\$6 per ton</u>
5	<u>Paper mill sludge</u>	<u>\$6 per ton</u>
7	<u>Industrial waste</u>	<u>\$6 per ton</u>
9	<u>Sandblast grit</u>	<u>\$6 per ton</u>
11	<u>Miscellaneous special waste</u>	<u>\$6 per ton</u>
13	<u>Municipal solid waste ash</u>	<u>\$2 per ton</u>

15 **§2204. Municipal disposal surcharge**

17 The agency shall impose a disposal surcharge of \$4 per ton
19 on any municipal solid waste delivered to a commercial landfill
facility or solid waste landfill owned by the agency of a
21 regional association. The agency shall impose an additional
\$1.50 per ton on any solid waste delivered to a commercial solid
23 waste disposal facility or solid waste disposal facility owned by
the agency or a regional association from a municipality that
25 does not meet the requirements of section 2133, subsection 5,
paragraph B.

27 **§2205. Fee payments**

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

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

43 2. Timeliness of payment. The operator shall be deemed to
45 have made a timely payment of the fee if the operator complies
with all of the following:

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

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

1
2 C. The letter transmitting the payment that is received by
3 the agency is postmarked by the United States Postal Service
4 on or prior to the final day on which the payment is to be
5 received.

6
7 3. Discount. Any operator that makes a timely payment of
8 the fee as provided in this section shall be entitled to apply
9 against the fee payable a discount of 1% of the amount of the fee
10 collected.

11
12 4. Refunds. Any operator who believes the fee was overpaid
13 by the operator may file a petition for refund to the agency. If
14 the agency determines that the operator has overpaid the fee, the
15 agency shall refund to the operator the amount due the operator,
16 together with interest at a rate established by the agency.

17
18 5. Alternative proof of payment. For purposes of this
19 section, presentation of a receipt indicating that the payment
20 was mailed by registered or certified mail on or before the due
21 date shall be evidence of timely payment.

22
23 6. Interest. If an operator fails to make a timely payment
24 of the fee, the operator shall pay interest on the unpaid amount
25 due at the rate established by the agency, from the last day for
26 timely payment to the date paid.

27
28 7. Additional penalty. In addition to the interest
29 provided in subsection 6, if an operator fails to make timely
30 payment of the fee, 5% of the amount of the fee shall be added to
31 the amount actually due if the failure to file a timely payment
32 is for not more than one month, with an additional 5% for each
33 additional month, or fraction of a month, during which the
34 failure continues, not exceeding 25% in the aggregate.

35
36 8. Assessment notice. If the agency determines that any
37 operator has not made a timely payment of the fee, the agency
38 will send the operator a written notice of the amount of the
39 deficiency, within 30 days of determining the deficiency. When
40 the operator has not provided a complete and accurate statement
41 of the weight or volume of waste received at the facility for the
42 payment period, the agency may estimate the weight or volume in
43 the notice.

44
45 The operator charged with the deficiency shall have 30 days to
46 pay the deficiency in full or, if the operator wishes to contest
47 the deficiency, forward the amount of the deficiency to the
48 agency for placement in an escrow account with the Treasurer of
49 State or any bank in the State, or post an appeal bond in the
50 amount of the deficiency. The bond shall be executed by a surety
51 licensed to do business in the State and be satisfactory to the
 agency. Failure to forward the money or appeal bond to the

1 agency within 30 days shall result in a waiver of all legal
2 rights to contest the deficiency.

3
4 If, through the administrative or judicial review of the
5 deficiency, it is determined that the amount of deficiency shall
6 be reduced, the agency shall within 30 days remit the appropriate
7 amount to the operator, with any interest accumulated by the
8 escrow deposit.

9
10 The amount determined after administrative hearing or after
11 waiver of administrative hearing shall be payable to the agency
12 and shall be collectible.

13
14 If any amount due under this subsection remains unpaid 30 days
15 after receipt of notice of the deficiency, the agency may order
16 the operator of the facility to cease receiving any solid waste
17 until the amount of the deficiency is completely paid.

18
19 9. Filing of appeals. Notwithstanding any other provision
20 of law, all appeals of final agency actions concerning the fee
21 shall be filed with the agency pursuant to section 2206.

22
23 **§2206. Hearings and appeals**

24
25 The agency shall establish rules governing procedures for
26 hearings and appeals under this article consistent with Title 5,
27 chapter 375.

28
29 **Article 3. Revenue obligation securities and mortgage loans**

30
31 **§2211. Definitions**

32
33 As used in this article, unless the context otherwise
34 indicates, the following terms have the following meanings.

35
36 1. Bond. "Bond" means revenue obligation security.

37
38 2. Cost of project. "Cost of project" means the cost or
39 value of land, buildings, real estate improvements, labor,
40 materials, machinery and equipment, property rights, easements,
41 franchises, financing charges, interest, engineering and legal
42 services, plans, specifications, surveys, cost estimates, studies
43 and other expenses as may be necessary or incidental to the
44 development, construction, acquisition, financing and placing in
45 operation of an eligible project. In addition to these costs,
46 reserves for payment of future debt on any revenue obligation
47 securities may be included as part of the cost of the project.

48
49 Any obligation or expenses incurred by the State, the agency, a
50 regional association, a municipality or any private person in
51 connection with any of the items of cost specified in this
52 subsection related to revenue obligation securities may be

A. W. S.

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

1 included as part of the cost and reimbursed to the State, the
2 agency, regional association, municipality or person out of the
3 proceeds of the securities issued.

5 3. Eligible collateral. "Eligible collateral" means an
6 eligible project.

7
8 4. Eligible project. "Eligible project" means any waste
9 facility or the capital costs of any waste disposal service
10 including, but not limited to, real property, personal property,
11 machinery and equipment and related expenses.

13 5. Facility. "Facility" means an eligible project or
14 eligible collateral.

15
16 6. Financial document. "Financial document" means a lease,
17 installment sale agreement, conditional sale agreement, note,
18 mortgage, loan agreement or other instrument pertaining to an
19 extension of financial assistance.

21 7. Financing assistance. "Financing assistance" or
22 "financial assistance" means guarantees, leases, insurance,
23 financing credits, loans or the purchase or discounts thereof,
24 letters of credit, financing assistance payments, grants or other
25 financial aid.

27 8. Financing institution. "Financing institution" or
28 "financial institution" means any bank, trust company, national
29 banking association, savings bank, savings and loan association,
30 federal savings and loan association, industrial bank, mortgage
31 company, insurance company, credit union, local development
32 corporation or any other institution or entity authorized to do
33 business in this State, or any state or federal agency that
34 customarily provides financing assistance.

35
36 9. Lease. "Lease" means a contract providing for the use
37 of a project or portions of a project for a term of years for a
38 designated or determinable rent. A lease may include an
39 installment sale contract. A lease may include other terms as
40 the agency may permit or require.

41
42 10. Lessee. "Lessee" means a tenant under a lease and may
43 include an installment purchaser.

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

49
50 12. Maturity date. "Maturity date" means the date on which
51 final payment is due as provided in a note, revenue obligation
security or other financial document.

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

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

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

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

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

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

19. Revenue obligation security. "Revenue obligation security" or "security" means a note, bond, interim certificate, debenture or other evidence of indebtedness, payment of which is secured by a pledge of revenues, as provided in this article or by assignment or pledge of other eligible collateral.

§2212. General powers

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

The agency may also:

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

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

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

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

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

5. Serve as broker or agent. Serve as a broker, agent or other financial intermediary for the secondary marketing of obligations issued or incurred in connection with the financing of eligible projects and for the encouragement of the flow of private funds for capital investment;

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

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

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

1
2
3 9. Consent to modification of contracts, lease or
4 agreement. To the extent not forbidden under its contract with
5 the holders of bonds, consent to any modification of any
6 contract, lease or agreement of any kind to which the agency is a
7 party;

8
9 10. Employment of specialists. Employ consulting and other
10 engineers, attorneys, accountants, construction and financial
11 experts, superintendents, managers and other necessary employees
12 and agents and fix their compensation, provided all expenses are
13 payable solely from funds made available under this subchapter;

14
15 11. Government contracts. Enter into contracts with
16 regional associations, municipalities, the State or a federal
17 agency relating to any eligible solid waste project;

18
19 12. Government aid. Accept loans or grants for the
20 planning, construction or acquisition of any eligible solid waste
21 project from a municipality, an authorized agency of the State or
22 a federal agency and enter into agreements with the agency
23 respecting the loans or grants. In the case of all loans, grants
24 or other aid involving pollution-control facilities, the consent
25 of the Board of Environmental Protection must first be obtained,
notwithstanding section 362;

26
27 13. Private aid. Receive and accept aid and contributions
28 from any source of money, property, labor or other things of
29 value, to be held, used and applied only for the purposes for
30 which these loans, grants and contributions may be made;

31
32 14. Applicability. Provide financial assistance by means
33 of leases that are not subject to Title 14, section 6010. Leases
34 made under this section may provide that obligations of the
35 lessees are unconditional; and

36
37 15. Application. Provide financial assistance by means of
38 revenue obligation securities which are not subject to Title 32,
39 chapter 105, relating to dealers in securities.

40 §2213. Issuance of revenue obligation securities

41
42 1. Notice of intent to issue bonds; actions to contest
43 validity. The agency may provide, at one time or from time to
44 time, for the issuance of revenue obligation securities of the
45 agency for the purposes authorized in this chapter. No revenue
46 obligation securities of the agency may be issued until:

47
48 A. The project has been determined to be consistent with
49 the state plan pursuant to section 2157 and the necessary
50 permits have been obtained from the department;
51

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

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

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

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

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

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

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

31 2. Treasurer of State as agent. The Treasurer of State
33 shall, at the direction of the agency, act as the agency's agent
35 for the sale and delivery of revenue obligation securities and
37 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.

43 3. Conclusive authorization. All revenue obligation
45 securities of the agency shall be conclusively presumed to be
47 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
49 agency.

51 4. Maturity; interest. The securities of each issue of
 revenue obligation securities shall be dated, mature at a time or

1 times not exceeding 20 years from the date of the securities and
2 bear interest at a rate or rates determined by the agency. At
3 the option of the agency, the securities may be made redeemable
4 before maturity at a price or prices and under terms and
5 conditions fixed prior to issuance.

7 5. Form. The agency shall determine the form of the
8 securities, including any attached interest coupons, the manner
9 of execution of the securities, the denomination or denominations
10 of the securities and the place or places for payment of
11 principal and interest, which may be at any financial institution
12 within or without the State. Revenue obligation securities shall
13 be executed in the name of the agency by the manual or facsimile
14 signature of the authorized official or officials. Any attached
15 coupons shall be executed with the manual or facsimile signature
16 of the authorized official or officials. Signatures and
17 facsimiles of signatures on securities and coupons are valid for
18 all purposes even if the authorized official ceases to hold
19 office before delivery of the securities. The securities may be
20 issued in coupon or registered form or both as the agency may
21 determine. Provision may be made for the registration of any
22 coupon securities to principal alone and to both principal and
23 interest, and for the reconversion into coupon securities of any
24 securities registered to both principal and interest. In
25 addition to this subsection, the agency may provide for transfer
26 of registration of the agency's registered revenue obligation
27 securities by book entry on the records of the entity designated
28 for that purpose and may enter into such contractual arrangements
29 as may be necessary to accomplish these purposes. In the event a
30 book entry method of transfer is used, principal of and interest
31 on those registered securities shall be payable to the registered
32 owner shown in the book entry, the owner's legal representatives,
33 successors or transferees.

35 6. Sale. The agency may sell the securities at a public or
36 private sale, in a manner and at a price the agency determines to
37 be in the best interest of the agency. The agency shall not sell
38 the securities to any firm, partnership, corporation or
39 association, including an affiliate or subsidiary, which is a
40 party to any contract pertaining to the financed project or which
41 is to rent, purchase, lease or otherwise occupy premises
42 constituting part of the project. The agency may sell the
43 securities to a seller of the project if the project is to be
44 used and operated by a 3rd party.

45 7. Proceeds. The proceeds of each issue shall be used
46 solely for the authorized purposes and shall be disbursed as
47 provided in the securing trust agreement or other document.
48 Administration costs incurred by the agency under this program
49 may be drawn from those proceeds. If the proceeds are less than
50 the cost of the project, by error in the estimate or otherwise,
51 additional securities may be issued in a like manner to provide

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

1 the amount of the deficit and, unless otherwise provided in the
2 securing trust agreement or other document, the additional
3 securities are deemed to be of the same issue and shall be
4 entitled to payment from the same fund without preference or
5 priority of the securities first issued for the same purpose.
6 The agency may place limits or restrictions on the issuance of
7 additional revenue obligation securities through the securing
8 trust agreement or other document. The agency may provide for
9 the replacement of mutilated, destroyed or lost securities.
10 Revenue obligation securities may be issued under this subchapter
11 without obtaining the consent of any department, division,
12 commission, board, bureau or agency of the State and without any
13 other proceedings or the occurrence of any conditions or things
14 other than those proceedings, conditions or things which are
15 specifically required by this subchapter. Notwithstanding any of
16 the other provisions of this subchapter, or of any recitals in
17 any securities issued under this subchapter, all such securities
18 are deemed to be negotiable instruments issued under the laws of
19 this State.

21 8. Credit not pledged. Except as provided in this
22 subsection, securities issued under this subchapter shall not
23 constitute any debt or liability of the State or of any
24 municipality in the State or any political subdivision of the
25 State, or of the agency or a pledge of the faith and credit of
26 the State or of any such municipality or political subdivision,
27 but shall be payable solely from the revenues of the project or
28 projects for which the securities are issued or from other
29 eligible collateral or the revenues or proceeds of other eligible
30 collateral pledged to the payment of the revenue obligation
31 securities and all such securities shall contain on the
32 securities' face a statement to that effect. The issuance of
33 securities under this subchapter shall not directly or indirectly
34 or contingently obligate the State or any municipality or
35 political subdivision to levy or to pledge any form of taxation
36 whatever or to make any appropriation for payment.
37

38 9. Anticipatory borrowing. In anticipation of the sale of
39 securities under this article, the agency may issue temporary
40 notes and renewal notes, the total face amount of which does not
41 exceed at any one time outstanding the authorized amount of the
42 securities. The period of anticipatory borrowing shall not
43 exceed 3 years and the time within which the securities are to
44 become due shall not be extended by the anticipatory borrowing
45 beyond the term permitted by law.

46 10. Environmental protection. Revenue obligation
47 securities of the agency shall not be issued for a project until
48 the department has certified to the agency that all licenses
49 required by the department with respect to the project have been
50 issued or that none are required. Any subsequent enlargement or
51

1 addition to the project for which approval is sought from the
3 agency requires certification by the department.

5 §2214. Trust agreements or other documents

7 1. Trust agreements or other documents. At the discretion
9 of the agency, revenue obligation securities may be issued under
11 this subchapter pursuant to a trust agreement or other document.
13 The trust agreement or other document may:

15 A. Pledge or assign the revenues or proceeds of the project
17 or projects or other eligible collateral;

19 B. Set forth the rights and remedies of the security
21 holders and other persons and contain any reasonable and
23 legal provisions for protecting the rights and remedies of
25 the security holders;

27 C. Restrict the individual right of action by security
29 holders; and

31 D. Include covenants setting forth the duties of the agency
33 and user in relation to:

35 (1) Acquisition of property or eligible collateral;

37 (2) Construction, reconstruction, renewal, replacement
39 and insurance of the project or eligible collateral;

41 (3) Rents to be charged or other payments to be made
43 for use;

45 (4) Payment for the project or eligible collateral; and

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

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

2. Mortgages. To further secure the payment of the revenue
obligation securities, the trust agreement or other document may
mortgage or assign the mortgage of the project, or any part of
the project, and create a lien on or security interest in any or
all of the project. In the event of a default with respect to
the revenue obligation securities, the trustee, mortgagee or
other person may be authorized by the trust agreement or other
document containing a mortgage or assignment of a mortgage to
take possession of, hold, manage and operate all or any part of
the mortgaged property and, with or without taking possession, to
sell or from time to time lease the property in accordance with
law. Any security interest granted by the authority under this
chapter may be created and perfected in accordance with the

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

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Uniform Commercial Code, Title 11, Article 9, notwithstanding Title 11, section 9-104, subsection 5.

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

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

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

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

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

E. Limitations on the issuance of additional securities;

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

G. The procedure, if any, by which the terms of any contract with holders of securities may be amended or abrogated, including the proportion of the holders which must consent and the manner in which the consent may be given;

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

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

J. Defining the acts or omissions to act which will constitute a default in the obligations and duties of the agency to the holders of the securities and providing for the rights and remedies of the holders of the securities in the event of default, including, as a matter of right, the

F. of S.

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

1 appointment of a receiver, but only if the rights and
2 remedies are not inconsistent with the laws of the State and
3 other provisions of this subchapter; and

4 K. Any other matters, of like or different character, which
5 in any way affect the security or protection of the holders
6 of the securities.

7
8
9 4. Expenses; pledges. All expenses incurred in carrying
10 out a trust agreement or financial document may be treated as a
11 part of the cost of the operation of the project. All pledges of
12 revenue or eligible collateral under this subchapter shall be
13 valid and binding from the time when the pledge is made. All the
14 revenues or eligible collateral pledged and later received by the
15 agency shall immediately be subject to the lien of the pledges
16 without any physical delivery or further action under the Uniform
17 Commercial Code or otherwise. The lien of the pledges shall be
18 valid and binding against all parties having claims of any kind
19 in tort, contract or otherwise, against the agency, irrespective
20 of whether the parties have notice thereof.

21
22 5. Other provisions. A trust agreement or financial
23 document may contain other provisions the agency deems reasonable
24 and proper for the security of the security holders.

25 §2215. Rentals and revenues

26
27 1. Provisions. Before issuing revenue obligation
28 securities, the agency shall determine that there shall at all
29 times be revenues and funds sufficient to:

30
31 A. Pay the principal and interest of the securities as they
32 become due and payable and, in its discretion, to create and
33 maintain reserves for that purpose; and

34
35 B. Pay the cost of maintaining and, where applicable,
36 repairing the project unless provision is made in the
37 financial document or other contract for maintenance and,
38 where applicable, repair.

39
40
41 2. Sinking fund. All project rentals and other revenues,
42 except those required in subsection 1, paragraph B or to provide
43 reserves for maintenance and, where applicable, repair, may be
44 set aside at regular intervals as provided in the trust agreement
45 or other document and deposited to the credit of a sinking fund
46 charged with payment of the interest and principal of the
47 securities as they fall due, any necessary charges of paying
48 agents for paying principal and interest and the redemption price
49 or the purchase price of securities retired by call or purchase.
50 Use of money deposited to the credit of the sinking fund shall be
51 subject to regulations prescribed in the trust agreement or other
document. Except as may otherwise be provided in the trust

1 agreement or other document, the sinking fund shall be a fund for
 3 the benefit of all securities issued for the project or projects
without distinction or priority of one over another.

5 3. Trust funds. All money received under this subchapter
 7 shall be deemed trust funds, to be held and applied solely as
 9 provided in this subchapter. Any officer to whom, or any bank,
 11 trust company or other fiscal agency or trustee to which, the
money shall be paid shall act as trustees of the money and shall
hold and apply it for the purposes of this subchapter, subject to
the requirements of this subchapter, the trust agreement or other
applicable document.

13 §2216. Remedies

15
 17 Any holder of revenue obligation securities or coupons
 19 issued under this subchapter and the trustee under any trust
 21 agreement, except as restricted by the trust agreement or
 23 applicable document, may, by appropriate legal action, protect
 25 and enforce any and all rights under the laws of this State or
 27 granted under this subchapter, the trust agreement or other
document, including the appointment of a receiver, and may
enforce and compel the performance of all duties required by this
subchapter, the trust agreement or other document to be performed
by the agency, including the collecting of rates, fees and
charges for the use of the project. Any proceeding shall be
brought for the benefit of all holders of the securities and any
coupons.

29 §2217. Revenue refunding securities

31
 33 The agency may provide for the issuance of revenue refunding
 35 securities of the agency to refund any outstanding revenue
 37 securities issued under this subchapter or to refund any
 39 obligations or securities of any municipality, including the
payment of any redemption premiums and any interest accrued or to
accrue to the date of redemption, and, if deemed advisable for
the agency, to construct or enable the construction of
improvements, extensions, enlargements or additions of the
original project. The agency may provide for the issuance of
revenue obligation securities of the agency for the combined
purpose of refunding any outstanding revenue obligation
securities or revenue refunding securities issued under this
subchapter or to refund any obligations or securities of any
municipality, including the payment of redemption premiums and
interest accrued or to accrue and paying all or any part of the
cost of acquiring or constructing or enabling the acquisition or
construction of any additional project or part of any
improvements, extensions, enlargements or additions of any
project. The issuance of the securities, the maturities and
 51 other details, the rights and remedies of the holders and the
rights, powers, privileges, duties and obligations of the agency

1 shall be governed by the provisions of this subchapter insofar as
2 they are applicable.

3 **§2218. Tax exemption**

4
5 Revenue obligation securities issued under this article
6 shall constitute a proper public purpose and the securities,
7 their transfer and the income from them, including any profits
8 made on their sale, shall at all times be exempt from taxation
9 within the State, whether or not those securities, their transfer
10 or the income from them, including any profits on their sale, are
11 subject to taxation under the United States Internal Revenue Code.

12
13 **§2219. Leasehold or other interests of lessee taxable**

14
15 The interest of the user of any project is subject to
16 taxation in the manner provided for similar interests in Title
17 36, section 551, subject to Title 36, sections 655 and 656.

18
19 **§2220. Bonds as legal investments**

20
21 The revenue obligation securities of the agency and any loan
22 or extension of credit issued under this article shall be legal
23 investments in which all public officers and public bodies of the
24 State, its political subdivisions, all regional associations and
25 municipalities and municipal subdivisions, all insurance
26 companies and associations and other persons carrying on an
27 insurance business, all banks, bankers, banking associations,
28 trust companies, savings banks and savings associations,
29 including savings and loan associations, building and loan
30 associations, investment companies and other persons carrying on
31 a banking business, all administrators, guardians, executors,
32 trustees and other fiduciaries and all other persons who are now
33 or may later be authorized to invest bonds or other obligations
34 of the State, may properly and legally invest funds, including
35 capital, in their control or belonging to them. The revenue
36 obligation securities and any loan or extension of credit which
37 is issued under this subchapter are also made securities, which
38 may properly and legally be deposited with all public officers
39 and bodies of the State or any agency or political subdivisions
40 and all municipalities and public corporations for any purpose
41 for which the deposit of bonds or other obligations of the State
42 is now or may later be authorized by law.

43
44 **§2221. Capital reserve funds; obligation of State**

45
46 1. Capital reserve fund. The agency may create and
47 establish one or more capital reserve funds and may pay into any
48 such capital reserve fund any money appropriated and made
49 available by the State for the purposes of any such fund, any
50 proceeds of sale by the agency of revenue obligation securities
51 to the extent determined by the agency and any other money

F. 01/8
COMMITTEE AMENDMENT "B" to H.P. 1025, L.D. 1431

1 available to the agency. For purposes of this section, the
2 amount of any letter of credit, insurance contract, surety bond,
3 indemnification agreement or similar financial undertaking
4 available to be drawn on and applied to obligations to which
5 money in any such fund may be applied shall be deemed to be and
6 counted as money in the capital reserve fund.

7
8 2. Application. Money in any capital reserve fund created
9 pursuant to subsection 1, except as provided in this section,
10 shall be used solely with respect to revenue obligation
11 securities or mortgage loans, repayment of which is secured by
12 any such fund and solely for the payment of principal, accrued
13 interest and costs and expenses chargeable to the mortgage loan
14 or securities, the purchase or redemption of the securities,
15 including any fees or premiums or the payment of interest on the
16 securities. Money in excess of the reserve requirement set forth
17 in subsection 3 may be transferred to other funds and accounts of
18 the agency.

19
20 3. Reserve requirement. The agency may provide that money
21 in any such fund shall not be withdrawn at any time in an amount
22 which would reduce the amount of any such fund to less than the
23 maximum amount of principal and interest becoming due and payable
24 under any applicable trust agreement or other agreement in the
25 next succeeding 12-month period, the amount being referred to as
26 the capital reserve requirement, except for the purpose of paying
27 the amount due and payable with respect to revenue obligation
28 securities or mortgage loans, repayment of which is secured by
29 any such fund.

30
31 4. Issuance limit. The agency may provide that it shall
32 not issue revenue obligation securities if the capital reserve
33 requirement with respect to securities outstanding and then to be
34 issued and secured by any such fund will exceed the amount of any
35 such fund, including the amount available to be drawn on any
36 letter of credit given to secure the capital reserve requirement,
37 at the time of issuance, unless the agency, at the time of
38 issuance of the securities, shall deposit in any such fund from
39 proceeds of the securities to be issued, or from other sources,
40 an amount which, together with the amounts then in any such fund
41 and amounts available to be drawn under any letter of credit,
42 will not be less than the capital reserve requirement.

43
44 5. Security for mortgage loans. With respect to any
45 mortgage loans which may be secured under this article, the
46 agency may provide that such mortgage loans shall be secured by
47 one or more capital reserve funds established pursuant to
48 subsection 1. Any commitment with respect to a mortgage loan
49 executed and delivered pursuant to this section shall be
50 conclusive evidence of the eligibility of the mortgage loan for
51 capital reserve fund security and the validity of any such
commitment or contract shall be incontestable in the hands of a

A. of S

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

1 mortgage lender except for fraud or misrepresentation on the part
2 of the mortgage lender. Mortgages secured by capital reserve
3 funds under this section are made legal investments for all
4 insurance companies, trust companies, banks, investment
5 companies, savings banks, savings and loan associations,
6 executors, trustees and other fiduciaries, public and private
7 pension or retirement funds and other persons.

9 6. Appropriation. On or before December 1st, annually, the
10 agency shall certify to the Governor the amount, if any,
11 necessary to restore the amount in any capital reserve fund, to
12 which this subsection is stated in any written agreement, the
13 trust agreement or other document to apply, to the capital
14 reserve requirement. The Governor shall pay directly from the
15 State Contingent Account to any such fund as much of the amount
16 as is available in that account, as determined by the Governor,
17 and shall transmit directly to the Legislature certification and
18 a statement of the amount, if any, remaining to be paid. The
19 certified amount shall be appropriated and paid to the agency
20 during the current state fiscal year.

21 7. Obligations and securities outstanding. The agency
22 shall not have at any one time outstanding obligations or revenue
23 obligation securities to which subsection 6 is stated in any
24 agreement or the trust agreement or other document to apply in
25 principal amount exceeding an amount equal to \$50,000,000. This
26 subsection constitutes specific legislative approval to issue up
27 to \$50,000,000 in tax-exempt revenue securities obligations. The
28 amount of revenue obligation securities issued to refund
29 securities previously issued shall not be taken into account in
30 determining the principal amount of securities outstanding,
31 provided that proceeds of the refunding securities are applied as
32 promptly as possible to the refunding of the previously issued
33 securities. In computing the total amount of revenue obligation
34 securities of the agency which may at any time be outstanding for
35 any purpose, the amount of the outstanding revenue obligation
36 securities that have been issued as capital appreciation bonds or
37 as similar instruments shall be valued as of any date of
38 calculation at their then current accreted value rather than
39 their face value.

41 **§2222. Taxable bond option**

42 With respect to all or any portion of any issue of any bonds
43 or any series of bonds which the agency may issue in accordance
44 with the limitations and restrictions of this subchapter, the
45 agency may covenant and consent that the interest on the bonds
46 shall be includable, under the United States Internal Revenue
47 Code of 1986, as amended, or any subsequent corresponding
48 internal revenue law of the United States, in the gross income of
49 the holders of the bonds to the same extent and in the same
50 manner that the interest on bills, bonds, notes or other
51 securities is includable.

1 obligations of the United States is includable in the gross
2 income of the holders under the United States Internal Revenue
3 Code or any subsequent law. The foregoing grant of power shall
4 not be construed as limiting the inherent power of the State or
5 its agencies under any other provision of law to issue debt, the
6 interest on which is includable in the gross income of the
7 holders of the interest under the United States Internal Revenue
8 Code or any subsequent law.

9
10 **Sec. 8. Transition; Office of Waste Reduction and Recycling.** The
11 provisions of this section shall govern the transfer of the
12 Office of Waste Recycling and Reduction in the Department of
13 Economic and Community Development to the Office of Waste
14 Reduction and Recycling in the Maine Waste Management Agency.

15
16 1. **Funds.** Notwithstanding the Maine Revised Statutes,
17 Title 5, sections 1585 and 1586, all accrued expenditures,
18 assets, liabilities, balances, appropriations or allocations,
19 transfers, revenues or other available funds in any account or
20 subdivision of an account, and any equipment and property of the
21 Department of Economic and Community Development, Office of Waste
22 Recycling and Reduction shall be transferred to the Maine Waste
23 Management Agency, Office of Waste Reduction and Recycling.

24
25 2. **Personnel.** Employees of the Office of Waste Recycling
26 and Reduction shall be transferred to the Office of Waste
27 Recycling and Reduction. Upon transfer, the position of office
28 director shall be a major policy-influencing position. Upon
29 transfer, incumbents in classified positions shall retain their
30 classified status.

31
32 3. **Employee benefits.** Any employees of the Office of Waste
33 Recycling and Reduction transferred to the Office of Waste
34 Reduction and Recycling shall be transferred with their accrued
35 rights and benefits. The accrued fringe benefits, including
36 vacation and sick leave, health and life insurance, and
37 retirement of those employees shall remain with those employees.

38
39 4. **Contracts and agreements.** All contracts and agreements
40 currently in effect with respect to any unit or program of State
41 Government affected by this Act shall remain in effect until
42 rescinded, terminated or modified as provided by state law.

43
44 5. **Organization and operation.** Notwithstanding any other
45 provision of law, any appointment required by this Act and
46 preparation work may be made or may occur prior to the
47 appropriate effective date of this Act, but shall not become
48 binding until the appropriate effective date.

49
50 6. **Financial order required.** The Commissioner of Economic
51 and Community Development shall request, by financial order

1 through the State Budget Office, the Governor's approval of the
funds, positions, equipment and property to be transferred.

3
4 **Sec. 9. Transition; Waste Management Advisory Council.** The
5 existing membership of the Recycling Advisory Council appointed
6 under the Maine Revised Statutes, Title 38, section 1310-L, as
7 repealed in this Act, shall serve the remainder of their terms as
8 members of the Waste Management Advisory Council created by this
9 Act.

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

19 **PART B**

21 **36 MRSA c. 719** is enacted to read:

23 **CHAPTER 719**

25 **SOLID WASTE ADVANCE DISPOSAL FEE**

27 **§4831. Definitions**

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

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

35
36 2. **Lead-acid battery.** "Lead-acid battery" means a device
37 designed and used for the storage of electrical energy through
38 chemical reactions involving lead and acids.

39
40 3. **Motorized vehicle.** "Motorized vehicle" means any
41 self-propelled vehicle, including motorcycles, construction and
42 farm vehicles and other off-road vehicles, not operating
43 exclusively on tracks.

44
45 4. **Tire.** "Tire" means the device made of rubber or any
46 similar substance which is intended to be attached to a motorized
47 vehicle or trailer and is designed to support the load of the
48 motor vehicle or trailer.

49
50 5. **Trailer.** "Trailer" means any vehicle without motive
51 power that is designed to be drawn by a motorized vehicle.

1
2
3 6. White good. "White good" means any appliance employing
4 electricity, natural gas or any liquified petroleum gas to supply
5 heat or motive power to preserve or cook food, to wash clothing,
6 dishes, kitchen utensils, glasses or other related items or to
7 cool or heat air or water.

8
9 §4832. Fee imposed

10
11 1. Imposition. A fee is imposed on the retail sale in this
12 State of new tires, new lead-acid batteries, new white goods and
13 new brown goods. The fee is in the amount of \$1 per tire or lead
14 battery and \$15 per white good or brown good whether sold
15 separately or incorporated with other tangible personal
16 property. Additionally, fees in the same amounts are imposed on
17 the storage, use or other consumption in this State of tires,
18 lead batteries, white goods and brown goods purchased new in this
19 State by the user or purchased out of State by the user unless
20 either of the fees imposed by this section has been paid.

21 2. Exemption. Transactions which, under the laws of the
22 United States, may not be subjected to taxation by this State and
23 sales for immediate removal from this State are exempt from the
24 fee imposed by subsection 1.

25
26 §4833. Administration

27
28 The fee imposed by this chapter shall be administered as
29 provided in chapter 7 and Part 3, with the fee imposed pursuant
30 to this chapter to be considered as imposed under Part 3 except
31 that exclusions, exemptions and credits provided under Part 3 and
32 any other provision inconsistent with this chapter shall not
33 apply.

34
35 The Maine Waste Management Agency shall by rule identify in
36 specific detail those items subject to fee under this chapter.
37 The purpose of the rule is to assist retail sellers, consumers
38 and fee administrators in understanding the application of the
39 fee to specific purchases.

40
41 The revenue derived from the fee imposed by this chapter
42 shall be deposited in the Maine Solid Waste Management Fund
43 established under Title 38, chapter 24, which shall reimburse the
44 General Fund for the administrative costs of the fee as certified
45 by the Bureau of Taxation.

46
47 §4834. Effective date

48
49 This chapter shall be effective for taxable purchases made
50 in this State on or after July 1, 1990 and for taxable items
51 brought into this State by the user on or after July 1, 1990.

PART C

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

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

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

37 **§1812 A. Report on purchase of recycled products**

39 The State Purchasing Agent shall report on or before January
41 ~~1, 1988~~, 1st of the First Regular Session of each Legislature to
43 the joint standing committee of the Legislature having
45 jurisdiction over natural resources ~~and to the same committee of
the First Regular Session of each subsequent Legislature on or
before January 1st~~ on the State's efforts to purchase supplies
and materials composed in whole or in part of recycled materials
47 ~~pursuant to section 1812~~. The State Purchasing Agent shall also
49 report on any procurement policies, incentives, educational
51 programs, promotional efforts or other activities undertaken by
the Bureau of Purchases to encourage the purchase of those
supplies and materials. The State Purchasing Agent shall include
in the report any recommendations to increase or facilitate the
purchase of those supplies and materials.

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

§1812-B. Purchasing of paper and paper products

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

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

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

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

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

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

§1812-C. Use of composted materials

All state agencies responsible for the maintenance of public lands in this State shall, to the maximum extent practical and

1 consistent with sound environmental practices, give preference to
3 the use of compost materials in all land maintenance activities
5 which are to be paid for by public funds. The Department of
7 Agriculture, Food and Rural Resources shall develop standards for
9 fertilizers and soil conditioners made from different mixes of
11 compostible wastes, that could be used by state agencies involved
13 in land preparation and improvement work. These standards shall
15 be adopted by rule by January 1, 1990.

17 **§1812-D. Coordination of procurement information and policies**

19 The Bureau of Purchases shall coordinate with the Department
21 of Transportation, the Department of Agriculture, Food and Rural
23 Resources, the Department of Environmental Protection and the
25 Office of Waste Reduction and Recycling to develop a central data
27 base of information including, but not limited to, procurement
29 policies, market information, technical data and demonstration
31 project results. This data shall be compiled annually and
33 provided to local public agencies by the Office of Waste
35 Reduction and Recycling.

37 **Sec. 4. 10 MRSA §963-A, sub-§10, ¶J,** as amended by PL 1987, c.
39 846, §2, is further amended to read:

41 J. Any underground oil storage facility replacement
43 project; ~~or~~

45 **Sec. 5. 10 MRSA §963-A, sub-§10, ¶K,** as enacted by PL 1987, c.
47 846, §3, is amended to read:

49 K. Any overboard discharge replacement project; or

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

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

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

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

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

1
2
3 45-A. Recycling or waste reduction project. "Recycling or
4 waste reduction project" means any building, structure,
5 machinery, equipment or facility which may be considered
6 necessary for recovery, separation, remanufacture or reuse of
7 materials contained in solid or hazardous waste or for the
8 reduced generation of solid or hazardous waste, together with all
9 land, property, rights, rights-of-way, franchises, easements and
10 interests in lands necessary or convenient for the construction
11 or operation of the project.

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

13 §1023-F. Waste Reduction and Recycling Loan Fund

14
15 1. Creation. The Waste Reduction and Recycling Loan Fund,
16 referred to in this section as the "fund," is created under the
17 jurisdiction and control of the authority.

18
19 2. Sources of money. The fund shall consist of the
20 following:

21
22 A. All money appropriated or allocated for inclusion in the
23 fund;

24
25 B. Subject to any pledge, contract or other obligation, all
26 interest, dividends or other pecuniary gains from investment
27 of money from the fund;

28
29 C. Subject to any pledge, contract or other obligations,
30 any money that the authority receives in repayment of
31 advances from the fund; and

32
33 D. Any other money available to the authority and directed
34 by the authority to be paid into the fund.

35
36
37 3. Application of fund. Money in the fund may be used for
38 direct loans to finance all or part of any project when the
39 authority determines that:

40
41 A. The project is:

42
43 (1) Designed to substantially reduce or eliminate the
44 production in a trade or business of solid waste or
45 hazardous waste as defined in Title 38, section 1303-C;

46
47 (2) A project devoted to resource recovery, as defined
48 in Title 38, section 1303-C, except that the combustion
49 of solid or hazardous waste shall not be considered
50 resource recovery for the purposes of this section; or

51

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

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

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

19 D. The project will contribute to achieving the goals
21 identified in the state waste management and recycling plan
23 adopted under Title 38, chapter 24 and is determined by the
25 Maine Waste Management Agency to be consistent with that
27 plan. Prior to adopting the state waste management and
29 recycling plan, the fund may be used for projects that help
31 achieve the goals identified in the state recycling plan
33 approved under former Title 38, section 1310-M.

35 The authority, pursuant to Title 5, chapter 375, subchapter II,
37 shall adopt rules for determining eligibility, feasibility,
39 terms, conditions and security for the loans. Money in the fund
41 not needed currently to meet the obligations of the authority as
43 provided in this section may be invested in such a manner as
45 permitted by law.

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

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

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

65 **16. Energy conservation.** Provide financial assistance for
67 energy conservation. The Office of Energy Resources shall provide
69 assistance to the authority in determining technical eligibility
71 and merit of applications for energy conservation loans. Each
73 recipient of a loan under this section shall provide the
75 authority, within one year, with detailed information on energy
77 consumption before and after the completion of the energy
79 conservation project; and

81 **17. Electricity.** Provide financial assistance for
83 electricity generation projects. Any municipality, firm or
85 corporation producing electricity by means of projects described

1 in section 1044, subsection 12, or by means of a
2 pollution-control project, recreational project, multi-level
3 parking facility or combined project may, without the approval of
4 and regulation by the Public Utilities Commission, generate and
5 distribute electricity solely for its own use or the use of its
6 tenant, but may not, without proper approval, sell electricity to
7 other than an electric public utility corporation or cooperative
8 authorized to make, generate, sell and distribute electricity;
9 and

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

13 18. Recycling and waste reduction. Provide financial
14 assistance to businesses for recycling and waste reduction
15 projects that are consistent with the management goals and
16 objectives outlined in the state waste management and recycling
17 plan under Title 38, chapter 24. The Maine Waste Management
18 Agency shall provide assistance to the authority in determining
19 consistency, technical eligibility and merit of application for
20 recycling loans.

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

23 E-1. In the case of recycling and waste reduction projects,
24 the proposed facility must be consistent with the state
25 waste management and recycling plan under Title 38, chapter
26 24, and will reduce the amount of solid or hazardous waste
27 requiring disposal.

29 **Sec. 13. 10 MRSA §1063, sub-§2, ¶E, as enacted by PL 1981, c.**
31 **476, §2, is amended to read:**

33 E. The Department of Environmental Protection has certified
34 to the authority that all licenses required by that
35 department with respect to the project have been issued or
36 that none are required provided, however, that such
37 certification need not be obtained from the Department of
38 Environmental Protection prior to issuance of a certificate
39 of approval for a project of a public waste disposal
40 corporation as described in Title 38, section 1304-B,
41 subsection 5, which as of June 9, 1989, has filed an
42 application with the authority seeking a certificate of
43 approval for revenue obligation security to be issued in
44 accordance with this subchapter provided further, that
45 nothing herein shall be deemed to allow issuance of revenue
46 obligation securities for any such project prior to
47 obtaining all necessary permits from the Department of
48 Environmental Protection. Any subsequent enlargement or
49 addition to the project for which approval is sought from
50 the authority shall also require certification by the
51 department;

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

3 I-1. In the case of recycling and waste reduction projects,
4 the proposed facility is consistent with and will contribute
5 to the management goals and objectives outlined in the state
6 waste management and recycling plan under Title 38, chapter
7 24 and will reduce the amount of solid or hazardous waste
8 requiring disposal. The Maine Waste Management Agency shall
9 provide assistance to the authority in determining
10 consistency, technical eligibility and merit of applications
11 for assistance under this subchapter.

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

15 §5656. Procurement of recycled goods

17 1. Review of standards. Each municipality shall review its
18 procurement procedures and specifications to identify procedures
19 and specifications that explicitly discriminate against goods,
20 supplies, equipment, materials and printing with recycled
21 content. Each municipality may revise its procedures and
22 specifications to:

23 A. Encourage the use of goods, supplies, equipment,
24 materials and printing with recycled content; and

25 B. Ensure, to the maximum extent economically feasible, that
26 it purchases goods, supplies, equipment, materials and
27 printing that may be recycled or reused when such goods,
28 supplies, equipment, materials and printing are discarded.

29 2. Preferences for recycled goods. In revising its
30 procurement procedures and specifications under subsection 1,
31 each municipality may:

32 A. Establish a preference for paper with recycled content
33 consistent with the standards established for state agencies
34 under Title 5, section 1812-B; and

35 B. Establish specifications for bids for public contracts
36 that require all bidders to propose that a stated minimum
37 percentage of goods, supplies, equipment or materials to be
38 used for the contract be made from recycled material.

39 3. Other laws. The options set forth in this section may
40 be exercised, notwithstanding any other provision of law to the
41 contrary.

42 4. Interlocal cooperation. The provisions of this section
43 shall apply to agreements of interlocal cooperation established
44 pursuant to chapter 115 and to cooperative purchasing programs
45

1 administered by regional councils established pursuant to chapter
2 119.

3
4 **Sec. 16. 32 MRSA c. 26 is enacted to read:**

5
6 **CHAPTER 26**

7 **CODING OF PLASTIC CONTAINERS**

8
9 **§1721. Definitions**

10
11 As used in this chapter, unless the context otherwise
12 indicates, the following terms have the following meanings.

13
14 1. Plastic bottle. "Plastic bottle" means any plastic
15 container with a neck smaller than the container body and a
16 capacity not less than 16 fluid ounces and not more than 5
17 gallons.

18
19 2. Plastic container. "Plastic container" means any
20 bottle, can, jar, case, package or other receptacle intended to
21 hold, carry, or enclose fluids, food items or nonfood products
22 that is composed predominately of plastic resins, including, but
23 not limited to, plastic resins listed in section 1723.

24
25 3. Rigid plastic container. "Rigid plastic container"
26 means any formed or molded plastic container, except plastic
27 bottles, with a capacity not less than 8 fluid ounces and not
28 more than 5 gallons that retains the same shape whether full or
29 empty.

30
31 **§1722. Coding of plastic containers**

32
33 On or after July 1, 1991, no person may distribute, sell or
34 offer for sale any plastic bottle or rigid plastic container
35 without a molded, imprinted or raised label indicating the type
36 of plastic resin used to produce the plastic bottle or rigid
37 plastic container.

38
39 **§1723. Labels**

40
41 1. Labels. The label shall appear on the bottom of the
42 plastic bottle or rigid plastic container and be clearly
43 visible. This label shall consist of a number with letters
44 placed below the number. The numbers and letters shall be as
45 follows:

46
47 A. For polyethylene terephthalate, the letters "PETE" and
48 the number 1;

49
50 B. For high-density polyethylene, the letters "HDPE" and
51 the number 2;

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

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

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

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

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

15 §1724. Ancillary symbols

17 No label may include a chasing arrow symbol or any other
19 configuration of arrows to indicate recyclable materials or
21 products with recycled content.

23 §1725. Penalties

25 1. Civil violation. A violation of this chapter shall be a
27 civil violation for which a forfeiture of not more than \$100 may
29 be adjudged.

31 2. Separate violation. Each container in violation
33 constitutes a separate offense.

35 §1726. Rules and enforcement

37 The Maine Waste Management Agency, Office of Waste Reduction
39 and Recycling shall adopt and enforce rules implementing the
41 provisions of this chapter including, but not limited to,
43 criteria for labeling containers made of more than one plastic
45 resin. In adopting rules, the office shall consult with the
47 Waste Management Advisory Council, the Department of Agriculture,
49 Food and Rural Resources, plastic container manufacturers and
51 distributors, and the recycling industry. Rules shall be adopted
 in accordance with the provisions of Title 5, chapter 375.

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

§5219-C. Solid waste reduction investment tax credit

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

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

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

3
4 C. "Waste reduction, reuse or recycling equipment" means
5 structures, machinery or devices, singly or in combination,
6 designed and required to separate, process, modify, convert,
7 treat or repair solid waste generated by the employing unit
8 so that component materials or substances or recoverable
9 resources may be used as a raw material or for productive
10 use and includes:

11 (1) Add-ons or trailers designed to modify collection
12 vehicles and dedicated to sorting and separating of
13 collected wastes generated by the employing unit and
14 held for the purpose of recycling; or

15 (2) Containers for the source separation and temporary
16 storage of recyclable wastes by the employing unit or
17 its employees.

18
19 2. Credit allowed. A taxpayer constituting an employing
20 unit who purchases waste reduction, reuse or recycling equipment,
21 or other equipment used exclusively by that unit, in the
22 implementation of a solid waste reduction, reuse or recycling
23 program, shall be entitled to a credit against the tax imposed by
24 this Part equal to 30% of the cost of the machinery or equipment.

25
26 3. Eligible machinery and equipment. Purchases eligible
27 for the credit allowed under this section include machinery and
28 equipment used exclusively for the purpose of reducing, reusing
29 or recycling solid waste generated principally by the employing
30 unit. Machinery and equipment associated with the separation of
31 wastes prior to incineration are eligible when the Maine Waste
32 Management Agency certifies the separated wastes are being
33 recycled.

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

40 5. Effective date. The provisions of this section apply to
41 purchases of eligible machinery and equipment made after January
42 1, 1990.

43
44 Sec. 18. Department of Transportation recycling project. The
45 Department of Transportation shall undertake a comprehensive
46 review to evaluate the use of recyclable materials in
47 construction.

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

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

15

A. Life cycle costs;

17

B. Safety; and

19

C. Conformance with applicable federal and state
20 requirements.

21

22 2. By March 1990, the department shall submit a preliminary
23 report to the Joint Standing Committee on Natural Resources, the
24 Joint Standing Committee on Transportation and to the State
25 Purchasing Agent regarding the use of ground tire rubber as an
26 additive to asphalt concrete, which would utilize waste tires.
27 The report shall include, but shall not be limited to, the
28 following:

29

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

33

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

37

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

39

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

45

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

49

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

1 Sec. 4. 32 MRSA §1863, as amended by PL 1979, c. 462, §3, is
3 repealed and the following enacted in its place:

5 §1863. Refund value

7 Every beverage container sold or offered for sale to a
9 consumer in this State shall have a refund value. The refund
11 value shall be:

13 1. Refillable containers. For refillable beverage
15 containers, except spirits containers, the refund value shall be
17 determined by the manufacturer according to the type, kind and
19 size of the beverage container but shall not be less than 5¢;

21 2. Nonrefillable containers. For nonrefillable beverage
23 containers, except spirits containers, the deposit and refund
25 value shall be determined and initiated by the distributor
27 according to the type, kind and size of the beverage container,
29 but shall not be less than 5¢; and

31 3. Spirits containers. For spirits containers of greater
33 than 50 milliliters, the refund value shall not be less than
35 15¢. On January 1, 1992, the department shall issue a finding on
37 the percentages of spirits containers returned for deposit. If
39 the department finds the return rate of spirits containers was
41 less than 60% during 1991, then, on July 1, 1992, the refund
43 value of spirits containers shall not be less than 25¢.

45 Sec. 5. 32 MRSA §1867, sub-§1, as enacted by PL 1975, c. 739,
47 §16, is amended to read:

49 1. Establishment. Local redemption centers may be
51 established and operated by any person or municipality, the Maine
Waste Management Agency or a regional association as defined
under Title 38, section 1303-C, subject to the approval of the
commissioner, to serve local dealers and consumers, at which
consumers may return empty beverage containers as provided under
section 1866.

53 Sec. 6. 32 MRSA §1868, as amended by PL 1987, c. 373, §§4 and
55 5, is further amended to read:

57 §1868. Prohibition on certain types of containers and holders

59 No beverage container shall ~~shall~~ may be sold or offered for sale
61 to consumers in this State:

63 1. Flip tops. In a metal container designed or constructed
65 so that part of the container is detachable for the purpose of
67 opening the container without the aid of a separate can opener;
69 and
71

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

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

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

15 Sec. 7. 32 MRSA §1872 is enacted to read:

17 §1872. Unlawful possession of beverage containers

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

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

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

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

37 Sec. 8. Advisory committee. The Department of Agriculture,
38 Food and Rural Resources shall form an advisory committee
39 consisting of representatives of the Office of Waste Reduction
40 and Recycling, the Bureau of Alcoholic Beverages, the operator of
41 the bailment warehouse, the certificate of approval holders for
42 spirits and fortified wines and other affected interests as the
43 department finds necessary. The Department of Agriculture, Food
44 and Rural Resources shall consult with the advisory committee in
45 developing proposed rules for the implementation of sections 1 to
46 4 of this Part. The Department of Agriculture, Food and Rural
47 Resources shall submit a report on the proposed implementation
48 and the proposed rules for approval by the joint standing
49 committee of the Legislature having jurisdiction over natural
50 resource matters by January 1, 1990. The committee may introduce
51 any legislation necessary to address the report or rules proposed
 by the department.

1 the State for proposed development within the unorganized
2 townships and plantations. Such procedures shall, to the
3 extent practicable, ensure: The availability to the public
4 of necessary information concerning such land use permits;
5 the provision of assistance to applicants in obtaining such
6 permits from such agencies; the coordination of application
7 procedures, time schedules, application forms and similar
8 requirements so as to reduce delay and duplication of effort
9 by applicants and the issuing agencies. Such permit issuing
10 agencies shall cooperate with the commission in the
11 development and effectuation of such coordination and
12 assistance procedures.

13
14 Approval by the Board of Environmental Protection of a
15 proposed development under Title 38, chapter 13, article 3,
16 shall be a sufficient basis to support, but shall not
17 require, a finding by the commission that the proposed
18 development meets the requirements of subsection 4, and of
19 the land use standards and rules adopted by the commission.
20 Disapproval by the Board of Environmental Protection of a
21 proposed development under Title 38, chapter 13, article 3,
22 shall be a sufficient basis to support, but shall not
23 require, a finding by the commission that the proposed
24 development does not meet the requirements of subsection 4,
25 and of the land use standards and rules adopted by the
26 commission.

27
28 **Sec. 2. 38 MRSA §1302, as repealed and replaced by PL 1987,**
29 **c. 517, §5, is repealed and the following enacted in its place:**

30 **§1302. Declaration of policy**

31
32 For the purposes of this chapter and chapter 24, the
33 Legislature finds and declares it to be the policy of the State,
34 consistent with its duty to protect the health, safety and
35 welfare of its citizens, enhance and maintain the quality of the
36 environment, conserve natural resources and prevent air, water
37 and land pollution, to establish a coordinated statewide waste
38 reduction, recycling and management program.

39
40 The Legislature finds and declares that it is the policy of
41 the State to pursue and implement an integrated approach to
42 hazardous and solid waste management, which shall be based on the
43 following priorities: reduction of waste generated at the source,
44 including both the amount and toxicity of waste; waste reuse;
45 waste recycling; waste composting; waste processing which reduces
46 the volume of waste needing disposal, including waste-to-energy
47 technology; and land disposal.

48
49 The Legislature finds that it is in the best interests of
50 the State to prefer waste management options with lower health
51 and environmental risk and to ensure that such options are

1 neither foreclosed nor limited by the State's commitment to
2 disposal methods. The Legislature declares that it is in the
3 public interest to aggressively promote waste reduction, reuse
4 and recycling as the preferred methods of waste management.

5
6 The Legislature finds that environmentally suitable sites
7 for waste disposal are in limited supply and represent a critical
8 natural resource. At the same time, new technologies and
9 industrial developments are making recycling and reuse of waste
10 an increasingly viable and economically attractive option which
11 carries minimal risk to the State and the environment and an
12 option which allows the conservation of the State's limited
13 disposal capacity.

14
15 The Legislature further finds that needed municipal waste
16 recycling and disposal facilities have not been developed in a
17 timely and environmentally sound manner because of diffused
18 responsibility for municipal waste planning, processing and
19 disposal among numerous and overlapping units of local
20 government. The Legislature also finds that direct state action
21 is needed to assist municipalities in separating, collecting,
22 recycling and disposing of solid waste, and that sound
23 environmental policy and economics of scale dictate a preference
24 for public solid waste management planning and implementation on
25 a regional and state level.

26
27 The Legislature finally declares that the provisions of this
28 chapter shall be construed liberally to address the findings and
29 accomplish the policies in this section.

30
31 Sec. 3. 38 MRSA §1303, as amended by PL 1987, c. 517, §6, is
32 repealed.

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

34
35 §1303-C. Definitions

36
37 As used in this chapter, unless the context otherwise
38 indicates, the following terms have the following meanings.

39
40
41 1. Agency. "Agency" means the Maine Waste Management Agency.

42
43 2. Board. "Board" means the Board of Environmental
44 Protection.

45
46
47 3. Closing reserve fund. "Closing reserve fund" means a
48 fund created for the purpose of financing the closing and
49 maintenance after closing of a waste facility.

50
51 4. Commercial hazardous waste facility. "Commercial
hazardous waste facility" means:

- 1 A. A waste facility that handles hazardous wastes generated
2 off the site of the facility; or
- 3
- 4 B. A facility that, in the handling of a waste generated
5 off the site, generates hazardous waste.
- 6
- 7 5. Commercial landfill facility. "Commercial landfill
8 facility" means a commercial solid waste facility that is used
9 for the burial of solid waste.
- 10
- 11 6. Commercial solid waste disposal facility. "Commercial
12 solid waste disposal facility" means a commercial waste facility
13 which is a solid waste disposal facility.
- 14
- 15 7. Commercial waste facility. "Commercial waste facility"
16 means a privately owned waste facility that accepts waste from
17 another for consideration and is used for the management of waste
18 generated by persons who do not own or operate the facility. The
19 term does not include a waste facility owned, controlled,
20 operated or used exclusively by:
- 21
- 22 A. A public waste disposal corporation under section
23 1304-B, subsection 5;
- 24
- 25 B. A municipality under section 1305;
- 26
- 27 C. A refuse disposal district under chapter 17;
- 28
- 29 D. The agency under chapter 24; or
- 30
- 31 E. The person generating the solid waste disposed of at the
32 facility, except that the facility may accept, on a
33 nonprofit basis, no more than 15% of all solid waste
34 accepted on an annual average that is not generated by the
35 owner. A waste facility receiving ash resulting from the
36 combustion of municipal solid waste or fuel derived from
37 municipal solid waste is not exempt from this subsection
38 solely by operation of this paragraph.
- 39
- 40 8. Construction and demolition debris. "Construction and
41 demolition debris" means debris resulting from construction,
42 remodeling, repair, and demolition of structures. It excludes
43 asbestos and other special wastes.
- 44
- 45 9. Contingency reserve fund. "Contingency reserve fund"
46 means a fund maintained for the purpose of meeting unexpected
47 contingencies in the operation of a waste facility.
- 48
- 49 10. Conveyance. "Conveyance" means any aircraft,
50 watercraft, vehicle or other machine used for transportation on
51 land, water or in the air.

1 11. Department. "Department" means the Department of
2 Environmental Protection.

3 12. Disposal. "Disposal" means the discharge, deposit,
4 dumping, incineration, spilling, leaking or placing of any
5 hazardous or solid waste, refuse-derived fuel, sludge or septage
6 into or on any land, air or water so that the hazardous or solid
7 waste, sludge or septage or any constituent thereof may enter the
8 environment or be emitted into the air, or discharged into any
9 waters, including ground waters.

10 13. Generation. "Generation" means the act or process of
11 producing hazardous or solid waste, sludge or septage.

12 14. Handle. "Handle" means to store, transfer, collect,
13 separate, salvage, process, recycle, reduce, recover, incinerate,
14 dispose of or treat.

15 15. Hazardous waste. "Hazardous waste" means a waste
16 substance or material, in any physical state, designated as
17 hazardous by the board under section 1319-0. It does not include
18 waste resulting from normal household or agricultural activities.
19 The fact that a hazardous waste or part or constituent may have
20 value or other use or may be sold or exchanged does not exclude
21 it from this definition.

22 16. Incineration facility. "Incineration facility" means a
23 facility where municipal solid waste or refuse-derived fuel is
24 disposed of through combustion, including combustion for the
25 generation of heat, steam or electricity.

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

29 18. Land clearing debris. "Land clearing debris" means
30 solid wastes resulting from the clearing of land and consisting
31 solely of brush, stumps, soil material and rocks.

32 19. Manifest. "Manifest" means the form used for
33 identifying the quantity, composition and the origin, routing and
34 destination of hazardous waste during its transport.

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

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

40 22. Recycling. "Recycling" means the collection,
41 separation, recovery and sale or reuse of materials that would

1 otherwise be disposed of or processed as waste or the mechanized
2 separation and treatment of waste, other than through combustion,
3 and the creation and recovery of reusable materials other than as
4 a fuel for the generation of electricity.

5
6 23. Refuse-derived fuel. "Refuse-derived fuel" means
7 municipal solid waste which has been processed prior to
8 combustion to increase the heat input value of the waste.

9
10 24. Regional association. "Regional association" means 2 or
11 more municipalities that have formed a refuse disposal district
12 under chapter 17 or a public waste disposal corporation under
13 section 1304-B or that have entered into a joint exercise of
14 powers agreement under Title 30-A, chapter 115, in order to
15 manage the solid waste generated within the participating
16 municipalities and for which those municipalities are responsible.

17
18 25. Residual waste. "Residual waste" means waste resulting
19 from the handling, processing, disposal or recycling of solid
20 waste including, without limitation, front end waste and ash from
21 incineration facilities.

22
23 26. Resource recovery. For the purposes of section 1304-B
24 only, "resource recovery" means the recovery of materials or
25 substances that still have useful physical or chemical properties
26 after serving a specific purpose and can be reused or recycled
27 for the same or other purposes.

28
29 27. Septage. "Septage" means waste, refuse, effluent,
30 sludge and any other materials from septic tanks, cesspools or
31 any other similar facilities.

32
33 28. Site. "Site" means the same or geographically
34 contiguous property which may be divided by a public or private
35 right-of-way, provided that the entrance and exit between the
36 properties is at a crossroads intersection and access is by
37 crossing as opposed to going along the right-of-way.
38 Noncontiguous properties owned by the same person but connected
39 by a right-of-way which he controls and to which the public does
40 not have access is also considered site property.

41
42 29. Solid waste. "Solid waste" means useless, unwanted or
43 discarded solid material with insufficient liquid content to be
44 free-flowing, including, but not limited to, rubbish, garbage,
45 refuse-derived fuel, scrap materials, junk, refuse, inert fill
46 material and landscape refuse, but does not include septic tank
47 sludge or agricultural wastes. The fact that a solid waste or
48 constituent of the waste may have value or other use or may be
49 sold or exchanged does not exclude it from this definition.

1 30. Solid waste disposal facility. "Solid waste disposal
2 facility" means a waste facility for the disposal of solid waste
3 except that the following facilities are not included:

5 A. A waste facility that employs controlled combustion to
6 dispose of waste generated exclusively by an institutional,
7 commercial or industrial establishment that owns the
8 facility; and

9 B. Lime kilns; wood chip, bark and hogged fuel boilers;
10 kraft recovery boilers and sulfite process recovery boilers,
11 which combust solid waste generated exclusively at the
12 facility.

13 31. Solid waste facility. "Solid waste facility" means a
14 waste facility used for the handling of solid waste.

15 32. Solid waste landfill. "Solid waste landfill" means a
16 waste disposal facility for the disposal of solid waste on or in
17 land. This term does not include landspreading sites used in
18 programs approved by the department.

19 33. Source separation. "Source separation" means the
20 preparation of materials for recycling by separation from wastes
21 at the point of generation.

22 34. Special waste. "Special waste" means any nonhazardous
23 waste generated by sources other than domestic and typical
24 commercial establishments that exists in such an unusual quantity
25 or in such a chemical or physical state, or any combination
26 thereof, which may disrupt or impair effective waste management
27 or threaten the public health, human safety or the environment
28 and requires special handling, transportation and disposal
29 procedures. Special waste includes, but is not limited to:

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

31 B. Industrial and industrial process waste;

32 C. Waste water treatment plant sludge, paper mill sludge
33 and other sludge waste;

34 D. Debris and residuals from nonhazardous chemical spills
35 and cleanup of those spills;

36 E. Contaminated soils and dredge spoils;

37 F. Asbestos and asbestos-containing waste;

38 G. Sand blast grit and nonliquid paint waste;

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

5 I. High and low pH waste;

7 J. Spent filter media and residue; and

9 K. Other waste designated by the board, by rule.

11 35. State waste management and recycling plan. "State
13 waste management and recycling plan" means the plan adopted by
15 the agency pursuant to chapter 24, subchapter II, and may also be
17 referred to as "state plan."

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

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

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

51 39. Treatment. "Treatment" means any process designed to
53 change the character or composition of any hazardous waste so as
55 to render the waste less hazardous.

57 40. Waste facility. "Waste facility" means any land area,
59 structure, location, equipment or combination of them, including
61 dumps, used for handling hazardous or solid waste, sludge or
63 septage. A land area or structure does not become a waste
65 facility solely because:

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

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

75 C. It is used by individual homeowners or lessees to open
77 burn leaves, brush, deadwood and tree cuttings accrued from

1 normal maintenance of their residential property, when such
2 burning is permitted under section 599, subsection 3; or

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

8
9 41. Waste management. "Waste management" means purposeful,
10 systematic and unified control of the handling and transportation
11 of hazardous or solid waste, sludge or septage.

12
13 42. Waste oil. "Waste oil" means a petroleum based oil
14 which, through use or handling, has become unsuitable for its
15 original purpose due to the presence of impurities or loss of
16 original properties. Waste oil which exhibits hazardous wastes
17 characteristics, or which has been contaminated with hazardous
18 wastes in excess of quantities normally occurring in waste oil,
19 shall be subject to the provisions of this chapter dealing with
20 hazardous wastes.

21
22 43. Waste oil dealer. "Waste oil dealer" means any person
23 in the business of transporting or handling more than 1,000
24 gallons of waste oil for the purpose of resale in a calendar
25 month. A person who collects or stores waste oil on the site of
26 generation, whether or not for the purpose of resale, is not a
27 waste oil dealer.

28
29 44. Waste reduction. "Waste reduction" means an action
30 that reduces waste at the point of generation and may also be
31 referred to as "source reduction."

32
33 45. Waste resulting from agricultural activities. "Waste
34 resulting from agricultural activities" means wastes which result
35 from agricultural activities defined in section 361-A, subsection
36 1-B, which are returned to the soils as fertilizers and includes
37 waste pesticides when generated by a farmer in his own use,
38 provided that he triple rinses each emptied pesticide container
39 in accordance with departmental rules and disposes of the
40 pesticide residues in a manner consistent with the disposal
41 instructions on the pesticide label.

42
43 46. Wood wastes. "Wood wastes" means brush, stumps,
44 lumber, bark, woodchips, shavings, slabs, edgings, slash, and
45 sawdust, which are not mixed with other waste.

46
47 **Sec. 5. 38 MRSA §1304, sub-§1, as amended by PL 1981, c. 470,**
48 **Pt. A, §171, is further amended to read:**

49
50 **1. Rules.** Subject to the Maine Administrative Procedure
51 Act, Title 5, chapter 375, the board may adopt, amend and enforce
rules as it deems necessary to govern waste management, including

1 the location, establishment, construction and alteration of waste
2 facilities as the facility affects the public health and welfare
3 or the natural resources of the State. The rules shall be
4 designed to encourage~~---logical---utilization---of---recoverable~~
5 ~~resources,~~ minimize pollution of the state's State's air, land
6 and surface and ground water resources, prevent the spread of
7 disease or other health hazards, prevent contamination of
8 drinking water supplies and protect public health and safety. In
9 adopting these rules, the board shall also consider economic
10 impact, technical feasibility and such differences as are created
11 by population, hazardous or solid waste, sludge or septage volume
12 and geographic location.

13
14 **Sec. 6. 38 MRSA §1304, sub-§3,** as enacted by PL 1973, c. 387,
15 is repealed.

16 **Sec. 7. 38 MRSA §1304, sub-§4,** as amended by PL 1987, c. 883,
17 §1, is further amended to read:

18
19 4. **Technical assistance.** The department is authorized to
20 establish guidelines for effective waste management, to provide
21 technical assistance to persons planning, constructing or
22 operating waste facilities, and to conduct applied research
23 activities in the field of waste management, disposal technology
24 and environmental effects, including methods of recycling
25 hazardous or solid waste, sludge or septage. ~~The department~~
26 ~~shall develop a pilot program to provide grants for the~~
27 ~~identification, design and development of tire and white goods~~
28 ~~disposal facilities, including pickup of these items, and stump~~
29 ~~and demolition debris disposal facilities by municipalities,~~
30 ~~county governments and regional planning agencies.~~ The
31 department shall cooperate with the agency in the design and
32 delivery of this assistance.

33
34 **Sec. 8. 38 MRSA §1304, sub-§5,** as repealed and replaced by PL
35 1979, c. 383, §7, is repealed.

36
37 **Sec. 9. 38 MRSA §1304, sub-§11,** as enacted by PL 1985, c. 157,
38 is amended to read:

39
40 11. **Imported waste report.** The board shall report to the
41 Legislature on the solid waste imported and disposed of in the
42 State. The report shall include consideration of the following
43 areas:

44
45 A. The categories of imported waste materials, including
46 hazardous waste, solid waste and any other waste material
47 designated by the board as special waste;

48
49 B. The volumes or weights, as appropriate, of imported
50 waste;

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

1 C. The method of disposal, including, but not limited to,
3 incineration and landfilling, the location of the disposal
sites receiving the imported waste and the estimated
5 remaining capacity of each site;

7 D. The states of origin of the imported waste and the
regulations governing the disposal of these wastes in their
9 respective states of origin; and

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

13 The board shall submit the report to the joint standing committee
of the Legislature having jurisdiction over natural resources.
15 The first report shall be due on or before January 1, 1986, and
thereafter the report shall be made to the First Regular Session
17 of the Legislature. Beginning with the First Regular Session of
19 the Legislature in 1991, the report shall be developed in
21 cooperation with the agency, shall be issued jointly by the
agency and the department to the Legislature and shall be
incorporated in the initial and subsequent state solid waste
management plans.

23 The commissioner may, by rule, require any person importing or
25 disposing of imported hazardous waste, solid waste or any other
imported waste designated by the board as special waste, to
27 report the volumes, weights and types of waste imported and
report on the state of origin.

29 **Sec. 10. 38 MRSA §1304, sub-§13,** as enacted by PL 1987, c.
31 517, §12, is amended to read:

33 **13. Innovative disposal and utilization.** Recognizing that
environmentally suitable sites for waste disposal are in limited
35 supply and represent a critical natural resource, the
commissioner may investigate and implement with the approval of
37 the board innovative programs for managing, utilizing and
disposing of solid waste. Innovative programs may include
39 agricultural and forest land spreading of wood-derived ash,
utilization of ash resulting from combustion of municipal solid
41 waste, paper mill sludges and municipal waste water treatment
43 plant sludges. The agency shall first determine that the
proposed innovative disposal and waste management programs are
45 consistent with the state plan. The board shall review proposed
innovative programs for each waste category and shall apply all
47 controls necessary to ensure the protection of the environment
and public health consistent with this chapter. The board may
49 adopt application review procedures designed to review individual
applications and their individual waste sources with prior
51 approval of classes of disposal or utilization sites. The board
shall adopt provisions for municipal notification prior to use of
individual utilization sites.

1
2 **Sec. 11. 38 MRSA §1304, sub-§§14 and 15**, as enacted by PL 1987,
3 c. 517, §12, are repealed.

5 **Sec. 12. 38 MRSA §1304-B, sub-§1**, as enacted by PL 1983, c.
6 380, §1, is amended to read:

7
8 1. Findings and purpose. The Legislature makes the
9 following findings of fact. The Subject to the provisions of
10 chapter 24, the State requires each municipality to provide for
11 the disposal facility--of services for domestic and commercial
12 solid waste generated within the municipality. Solid waste
13 contains valuable recoverable resources, including energy. Many
14 municipalities have found that energy recovery reduces the cost
15 of solid waste disposal. Energy recovery technology is complex
16 and the equipment requires a steady supply of waste to operate
17 efficiently. Because of the complicated technology, most energy
18 recovery facilities have high capital costs and long payback
19 periods. In order to remain cost effective throughout their
20 lives, these energy recovery facilities require a guaranteed,
21 steady supply of waste. Consequently, municipalities utilizing
22 energy recovery facilities are usually required to enter
23 long-term agreements to provide the facilities with specific
24 amounts of waste. In order to make these energy recovery
25 facilities financially feasible, and thereby simultaneously
26 improve the environmental impacts and the economics of municipal
27 solid waste disposal, municipalities shall have the legal
28 authority to control the handling of solid waste generated within
29 their borders.

31 The purpose of this section is to promote the recovery of
32 resources from solid waste by creating one of the conditions
33 which make energy recovery economically feasible, assuring
34 municipalities the authority to guarantee a steady supply of
35 solid waste to specific waste facilities.

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

39
40 2. Flow control. Municipalities Subject to the provisions
41 of chapter 24, municipalities are expressly authorized to enact
42 ordinances that control solid waste collection, its
43 transportation or its delivery to a specific facility, when the
44 purpose and effect of such an ordinance is to gain management
45 control over solid waste and enable the reclamation of resources,
46 including energy, from these wastes. This authorization includes,
47 but is not limited to, ordinances:

49 A. Requiring segregation of wastes;

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

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

7
9 **Sec. 14. 38 MRSA §1304-B, sub-§3, as amended by PL 1987, c.
517, §16, is repealed.**

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

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

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

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

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

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

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

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

47 **§1309. Interstate cooperation**

49 The Legislature encourages cooperative activities by the
51 department and the agency with other states for the improved
management of hazardous and solid waste; for improved, and so as
far as is practicable, uniform state laws relating to the

1 management of hazardous and solid waste; and compacts between
2 this and other states for the improved management of hazardous
3 and solid waste.

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

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

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

13 Sec. 23. 38 MRSA §1310-M, as enacted by PL 1987, c. 517,
14 §25, is repealed.

17 Sec. 24. 38 MRSA §1310-N, first ¶, as enacted by PL 1987, c.
18 517, §25, is amended to read:

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

29 Sec. 25. 38 MRSA §1310-N, sub-§2, as enacted by PL 1987, c.
30 517, §25, is repealed.

31 Sec. 26. 38 MRSA §1310-N, sub-§3, as enacted by PL 1987, c.
32 517, §25, is repealed and the following enacted in its place:

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

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

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

51 C. Subsequent to the adoption of the state plan and for
52 those facilities subject to chapter 24, subchapter IV, the

1 agency shall determine whether or not the proposed facility
2 meets the requirements of section 2157.

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

5 **Sec. 28. 38 MRSA §1310-N, sub-§5, ¶B**, as enacted by PL 1987, c.
6 517, §25, is amended to read:

7 B. The applicant has shown consistency with the most-recent
8 ~~state-recycling-plan approved by the Legislature pursuant to~~
9 ~~section 1310-M, subsection 3~~ recycling provisions of the
10 state plan.

11 **Sec. 29. 38 MRSA §1310-O**, as enacted by PL 1987, c. 517,
12 §25, is repealed.

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

15 2. **Recycling.** The recycling requirements shall apply as
16 follows.

17 A. The board shall apply the provisions of section 1310-N,
18 subsection 5, paragraph A, when relicensing any solid waste
19 disposal facility, except that, to the extent that waste
20 disposal contracts in effect on ~~the effective date of this~~
21 ~~article June 29, 1987~~, are inconsistent with section 1310-N,
22 subsection 5, paragraph A, in which case, those provisions
23 shall apply at the expiration of the term of those contracts
24 without consideration of any renewals or extensions of those
25 contracts.

26 B. The board shall require an applicant for a new or
27 expanded solid waste disposal facility or for a license
28 renewal submitting a complete application prior to the
29 ~~approval by the Legislature of the first state recycling~~
30 ~~plan pursuant to section 1310-M, subsection 3~~, adoption of
31 the state plan to demonstrate that the applicant ~~has~~
32 ~~considered recycling alternatives that are reasonably within~~
33 ~~the applicant's control~~ facility furthers the purposes of
34 section 2101 and satisfies the regulations under section
35 1310-N.

36 C. The provisions of section 1310-N, subsection 5,
37 paragraph B, do not apply to the relicensing of any solid
38 waste disposal facility licensed prior to ~~the effective date~~
39 ~~of this article June 29, 1987.~~

40 3. **Public benefit.** The public benefit requirements shall
41 apply as follows.

1 ~~A. The board shall require an applicant for a new or~~
2 ~~expanded solid waste disposal facility submitting a complete~~
3 ~~application prior to the initial adoption of the capacity~~
4 ~~needs analysis pursuant to section 1310-O to submit such~~
5 ~~information as the board requires to demonstrate that the~~
6 ~~proposed facility provides a substantial public benefit,~~
7 ~~including such information described in section 1310-O.~~

9 A-1. The board shall require an applicant for a new or
10 expanded solid waste disposal facility submitting a complete
11 application prior to the initial adoption of the state plan
12 to submit such information as the board requires to
13 demonstrate that the proposed facility provides a
14 substantial public benefit, including the information
15 described in former section 1310-O.

17 B. The provisions of section 1310-N, subsection 1,
18 paragraph B, and section 1310-N, subsection 3, do not apply
19 to the relicensing of a solid waste disposal facility
20 licensed prior to ~~the effective date of this article~~ June
21 29, 1987.

23 C. The board shall apply the provisions of section 1310-N,
24 subsection 3, paragraph A, to any application for a waste
25 disposal facility receiving ash resulting from the
26 combustion of municipal solid waste or from fuel derived
27 from municipal solid waste when the application was accepted
28 as complete by the department prior to July 1, 1989, and is
29 still pending before the department on or after the date of
30 the initial adoption of the state plan under chapter 24.

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

33 4. Incineration facilities. The board shall not license
34 any new incineration facility prior to the adoption of the state
35 plan and siting criteria.

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

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

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

49 §1310-U. Municipal ordinances

1 1. Solid waste disposal facilities. Except as provided in
2 this subsection and subsection 2 and 3, a municipality may not
3 regulate any solid waste disposal facility. A municipality may
4 adopt a local ordinance authorizing the municipal officers to
5 issue a local permit containing the same findings, conclusions
6 and conditions contained in a license issued by the department
7 for a solid waste disposal facility located within the
8 municipality's jurisdiction. The municipality may also attach to
9 the permit additional conditions for the operation of solid waste
10 disposal facilities on any issues not specifically addressed in a
11 condition of the department's license. Such conditions may not
12 unreasonably restrict the operation of the facility and must be
13 attached to the local permit by the municipal officers within 90
14 days of issuance of the department's license or within 30 days of
15 a final decision by the department to relicense the facility.

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

27 B. The host municipality of a solid waste disposal facility
28 shall have a right to the all information from the
29 department and the solid waste disposal facility operator
30 for all solid waste disposal facilities licensed under
31 chapter 13, pursuant to Title 1, chapter 13, subchapter 1.
32 All information provided under this section shall be made
33 available to the citizen advisory committee, if one has been
34 established under chapter 24, and the public by the host
35 municipality.

37 C. The department shall provide all of the following
38 information to the municipal officers of host municipalities
39 of solid waste disposal facilities licensed under chapter 13:

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

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

48 (3) Copies of all air, soil and water quality
49 monitoring data, including leachate and ash testing
50

1 results, collected by the department at such
2 facilities, within 5 working days after complete
3 laboratory analysis becomes available to the
4 department; and

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

7
8
9 D. The operator of the facility shall provide the host
10 municipality copies of all air, soil and water quality
11 monitoring data, including leachate and ash testing results,
12 conducted by or on behalf of the operator, within 5 days
13 after that information becomes available to the operator.

14 E. The municipality shall provide all of the following
15 information to the department:

16
17 (1) Copies of any inspection report of the facility
18 within 5 working days of the preparation of the report;

19
20 (2) Prompt notification of all enforcement or emergency
21 orders for those facilities, including but not limited
22 to, abatement orders, cessation orders, final civil
23 penalty assessments and consent orders and decrees and
24 notices of violation;

25
26 (3) Copies of all air, soil and water quality
27 monitoring data, including leachate and ash testing
28 results, collected by the municipality at such
29 facilities, within 5 working days after complete
30 laboratory analysis becomes available to the
31 municipality and

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

34
35
36 2. Certification; right to inspect facilities and issue
37 orders. The rights of a host municipality to inspect solid waste
38 disposal facilities and issue orders are governed by this
39 subsection.

40
41 A. The department shall establish and conduct a training
42 program to certify host municipality inspectors. This
43 program shall be made available to persons who have been
44 designated by the municipality. The department shall offer
45 training programs at least twice a year. The department
46 shall pay for the host inspection training program. The
47 department may certify and decertify host municipality
48 inspectors pursuant to rules promulgated by the Board of
49 Environmental Protection.

50
51

1 B. Certified inspectors are authorized to enter property,
2 inspect records required by the department, take samples and
3 conduct inspections in accordance with departmental
4 regulations applicable to employees of the department. A
5 certified inspector may order the operator of a solid waste
6 disposal facility to cease any operation or activity at the
7 facility which constitutes an immediate threat to public
8 health or safety or to the environment. The inspector shall
9 notify the department and the municipal officers of the host
10 municipality within 2 hours of issuing such an order.

11 3. Department inspections. Whenever any host municipality
12 notifies the department of an order issued pursuant to a local
13 permit requirement under this section, which gives the department
14 reason to believe that any solid waste disposal facility,
15 licensed under chapter 13, 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 4. Other solid waste facilities. Under the municipal home
25 rule authority granted by the Constitution of Maine, Article
26 VIII, Part Second and Title 30-A, section 3001, municipalities,
27 except as provided in this section, may enact ordinances with
28 respect to solid waste facilities other than solid waste disposal
29 facilities which contain such standards as the municipality finds
30 reasonable, including, without limitation, conformance with
31 federal and state solid waste rules; fire safety; traffic safety;
32 levels of noise which can be heard outside the facility; distance
33 from existing residential, commercial or institutional uses;
34 ground water protection; and compatibility of the solid waste
35 facility with local zoning and land use controls; provided,
36 however, that the standards are not more strict than those
37 contained in this chapter and in chapter 3, articles 5-A and 6
38 and the rules adopted thereunder. Municipal ordinances shall use
39 definitions consistent with those adopted by the department.

40 5. Filing. A municipality adopting an ordinance under this
41 section shall forward a copy of the ordinance to the department
42 within 30 days of its adoption.

43 Sec. 34. 38 MRSA §1310-X is enacted to read:

44 §1310-X. Future commercial landfills

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

1 The board shall not approve an application for a new
2 commercial solid waste disposal facility after March 1, 1990.
3 The board may relicense or approve a transfer of license for
4 commercial solid waste disposal facilities after March 1, 1990,
5 if those facilities had been previously licensed by the board
6 prior to the effective date of this section, and all other
7 provisions of law have been satisfied.

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

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

13 B. The board determines that the proposed expansion is
14 contiguous with the existing facility and is located on
15 property owned by the licensee on the effective date of this
16 section;

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

21 D. After the adoption of the state plan and siting criteria
22 under chapter 24, the agency determines that the provisions
23 of section 2157 are met.

24 Sec. 35. 38 MRSa §§1604 and 1605 are enacted to read:

25 §1604. Connectors

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

29 §1605. Plastic bag.

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

33 Sec. 36. 38 MRSa §1706, as enacted by PL 1983, c. 820, §2, is
34 amended to read:

35 §1706. Relationship to other law

36 This chapter provides an additional and alternative method
37 for carrying out the purposes of this chapter and is supplemental
38 and additional to powers conferred by other laws, including the
39 provisions of chapter 13, pertaining to solid waste, and is not
40 in derogation of any powers now existing. The exercise of

1 authority under this chapter is subject to any restriction
 2 imposed under chapter 24.

3

4 **Sec. 37. Application of definitions.** A facility licensed or with
 5 a completed application pending before the Board of Environmental
 6 Protection prior to July 1, 1989, is not a commercial waste
 7 facility or a commercial solid waste disposal facility solely
 8 because it receives or will receive ash resulting from the
 9 combustion of municipal solid waste or fuel derived from
 10 municipal solid waste.

11

PART F

12

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

15

16

1989-90 **1990-91**

17

CONSERVATION, DEPARTMENT OF

18

**Maine Land Use Regulation
 Commission**

19

All Other \$3,000 \$3,000

20

21

Provides funds for the costs
 of hearings involved with
 rulemaking for siting
 criteria.

22

23

24

25

**DEPARTMENT OF CONSERVATION
 TOTAL**

\$3,000 \$3,000

26

27

FINANCE, DEPARTMENT OF

28

Bureau of Taxation

29

Positions (3.0) (3.0)

30

Personal Services \$72,440 \$172,023

31

All Other 33,000 37,050

32

Capital Expenditures 23,000 27,235

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42

Provides funds for the
 administrative costs of
 collection of the advance
 disposal fees and the
 investment tax credit. These
 funds and the loss of General
 Fund revenues resulting from
 the investment tax credit
 will be reimbursed to the

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

1	General Fund by an annual		
3	transfer from the Maine Solid		
	Waste Fund.		
5	DEPARTMENT OF FINANCE		
	TOTAL	<u>\$128,440</u>	<u>\$236,308</u>
7			
9	ECONOMIC AND COMMUNITY		
	DEVELOPMENT, DEPARTMENT OF		
11	Office of Waste Recycling and		
	Reduction		
13			
	Positions	(-4.0)	(-4.0)
15	Personal Services	(\$83,179)	(\$120,415)
	All Other	(63,962)	(93,590)
17			
	Deappropriates funds to		
19	account for the transfer of		
	this office to the Maine		
21	Waste Management Agency.		
23	DEPARTMENT OF ECONOMIC AND		
	COMMUNITY DEVELOPMENT		
25	TOTAL	<u>(\$147,141)</u>	<u>(\$214,005)</u>
27	SOLID WASTE MANAGEMENT FUND		
29	Solid Waste Management Fund		
31	All Other	\$884,101	
33	Provides funds to be		
	transferred to the Maine		
35	Solid Waste Management Fund		
	on the effective date of this		
37	Act. The amount shall be		
	repaid in full by a transfer		
39	of revenues from the Maine		
	Solid Waste Management Fund		
41	to the General Fund in fiscal		
	year 1990-91.		
43			
	SOLID WASTE MANAGEMENT FUND		
45	TOTAL	<u>\$884,101</u>	
47			
	TOTAL APPROPRIATIONS	<u>\$868,400</u>	<u>\$25,303</u>
49			

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

1		1989-90	1990-91
3	ENVIRONMENTAL PROTECTION,		
5	DEPARTMENT OF		
7	Bureau of Solid Waste Management		
9	Positions	(25.0)	(25.0)
	Personal Services	\$586,168	\$757,860
11	All Other	114,303	737,661
	Capital Expenditures	48,000	48,960
13			
15	Provides funds for 10 new		
	positions and 15 positions		
17	which were funded by the		
	Environmental Protection		
19	Fund. Also includes \$325,000		
	in fiscal year 1990-91 to be		
21	transferred to the		
	Environmental Protection Fund.		
23	DEPARTMENT OF ENVIRONMENTAL		
	PROTECTION		
25	TOTAL	<u>\$748,471</u>	<u>\$1,544,481</u>
27	FINANCE AUTHORITY OF MAINE		
29	Waste Reduction and Recycling		
	Loan Fund		
31			
	All Other		\$400,000
33			
35	Provides funds for a		
	revolving loan fund to assist		
37	business projects related to		
	recycling and waste reduction.		
39	FINANCE AUTHORITY OF MAINE		
	TOTAL	<u>\$0</u>	<u>\$400,000</u>
41			
43	MAINE WASTE		
	MANAGEMENT AGENCY		
45	Administration - Office of the		
	Executive Director		
47			
	Positions	(3.0)	(3.0)
49	Personal Services	\$100,230	\$141,950
	All Other	86,427	97,670
51	Capital Expenditures	11,780	

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

1			
3	TOTAL	<u>\$198,437</u>	<u>\$239,620</u>
5	Provides funds for the		
7	salaries of the Executive		
9	Director, a Business Manager		
11	II and an Administrative		
13	Assistant; the per diem and		
15	expenses of the Waste		
17	Management Advisory Council;		
19	rental costs for the agency;		
21	and costs of services of the		
23	Department of the Attorney		
25	General.		
27	Office of Planning		
29	Positions	(4.0)	(4.0)
31	Personal Services	\$107,128	\$154,416
33	All Other	115,000	100,000
35	Capital Expenditures	50,000	
37			
39	TOTAL	<u>\$272,128</u>	<u>\$254,416</u>
41	Provides funds for the Office		
43	Director, 2 professional		
45	staff, a clerical position		
47	and data collection and		
49	information systems costs.		
51	Office of Waste Reduction and		
53	Recycling		
55	Positions	(5.0)	(5.0)
57	Personal Services	\$130,784	\$188,910
59	All Other	282,500	2,260,000
61	Capital Expenditures	25,000	
63			
65	TOTAL	<u>\$438,284</u>	<u>\$2,448,910</u>
67	Provides funds for one		
69	position in addition to the 4		
71	positions transferred from		
73	the Department of Economic		
75	and Community Development.		
77	Funds allocated in fiscal		
79	year 1990-91 also include		
81	\$2,250,000 for transportation		
83	subsidies, feasibility grants		
85	and capital investment grants.		

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**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	<u>\$151,270</u>	<u>\$707,025</u>

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**

<u>\$1,060,119</u>	<u>\$3,649,971</u>
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TOTAL ALLOCATIONS

<u>\$1,808,590</u>	<u>\$5,919,452</u>
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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	

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

1	Sharing		
3	All Other		(\$26,867)
5	Deallocates funds that will		
6	not be available due to the		
7	investment tax credit.		
9	(OFFICE OF) TREASURER OF STATE		
10	TOTAL	<u> </u>	<u> </u>
11		\$0	(\$26,867)
13	TOTAL ALLOCATIONS	<u> </u>	<u> </u>
14		\$29,027	\$13,403

FISCAL NOTE

17 The schedule below describes the fiscal impact of this bill
 19 on the following funds.

21 **General Fund:**

23		1989-90	1990-91
25	Appropriations		
27	Department of Agriculture, Food		
28	and Rural Resources	\$35,105	\$49,380
29	Department of Conservation(LURC)	\$3,000	\$3,000
31	Department of Economic and		
32	Community Development	(\$147,141)	(\$214,005)
33	Department of Finance (Taxation)	\$128,440	\$236,308
34	Solid Waste Management Fund	\$884,101	\$0
35		<u> </u>	<u> </u>
36	TOTAL APPROPRIATIONS	\$903,505	\$74,683
37			
39	Revenues:		
41	License Application Fees	\$0	\$162,500
42	Investment Tax Credit	\$0	(\$499,933)
43	Loan From General Fund	\$0	\$884,101
44	Transfers to General Fund	\$0	\$736,241
45	Changes for Attorney		
46	General Services	\$0	\$0
47			
49	TOTAL REVENUES	<u> </u>	<u> </u>
50		\$0	\$1,282,909
51	Net effect on General Fund revenues	<u> </u>	<u> </u>
		(\$903,505)	\$1,208,226

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

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

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STATEMENT OF FACT

This amendment is the minority report of the Joint Standing Committee on Energy and Natural Resources and replaces the original bill. The amendment establishes a comprehensive program for managing the State's solid waste. This program addresses all 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.

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

The Office of Planning is charged with continuing the solid waste planning efforts initiated in the past 2 years by the Department of Environmental Protection and the Department of Economic and Community Development. The initial plan will be adopted by March 1, 1990. The state plan will serve as the basis for long-range development of waste reduction and recycling efforts as well as the means to identify future needs for further disposal capacity.

The Office of Waste Reduction and Recycling has overall responsibility for promoting waste reduction and recycling through state and local efforts. The amendment establishes a statewide recycling goal of 50% by the year 1994 with an interim goal in 1992 of 25%. The office will administer a major grants program to fund local and regional recycling feasibility studies and to fund the capital investments needed to put these recycling programs into place. The office will assist in the development of recycling markets through its own efforts and in cooperation with the Finance Authority of Maine.

Under the general oversight of the Office of Waste Reduction and Recycling, State Government will undertake a mandatory office recycling program. The Legislature and the University of Maine System are both included in state recycling efforts.

Businesses throughout the State are directed to undertake recycling efforts for office paper and corrugated cardboard. These requirements are phased in over a 4-year period.

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

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

1 develop and apply siting criteria which consider regional needs,
2 transportation requirements, compatibility with waste reduction
3 and recycling efforts, cost implications, environmental
4 considerations and compatibility with neighboring land uses.

5
6 By July 1, 1991, the Facility Siting Board is directed to
7 identify sites for capacity needed in the near future by July 1,
8 1991. The office is directed to develop the needed facilities by
9 July 1, 1994. The amendment anticipates that the office will use
10 contractors for most of the technical work in site selection,
11 facility development and facility operation. Sites developed by
12 the Maine Waste Management Agency will stay in public ownership.
13 The agency is given revenue bonding authority to support the
14 capital investments necessary for facility development. The
15 bonds will be repaid through tipping fees.

16
17 The Office of Siting and Disposal Operations is also charged
18 with reviewing proposals from regional associations of
19 municipalities for disposal facilities used by these groups.
20 While expansions of existing commercial disposal facilities are
21 allowed after review, new commercial disposal facilities are
22 prohibited. Private facilities owned and used by waste
23 generators are exempt from review by the agency. These exempt
24 facilities still require approval by the Board of Environmental
25 Protection under existing environmental law.

26
27 Finally, the office is directed to undertake a household
28 hazardous waste collection program in conjunction with its
29 disposal operations.

30
31 A host community benefits program is established to ensure
32 communications with citizens in any town which becomes the site
33 of a disposal facility owned by the agency or a regional
34 association. A citizens advisory committee will be established
35 in every potential host community. The agency or regional
36 association, as appropriate, will make payments in lieu of taxes
37 and additional impact payments. Neighboring property owners will
38 be compensated for losses in real estate values and a quarterly
39 ground water sampling program will be established with complete
40 replacement of water supplies in the event of contamination.

41
42 Municipalities are empowered to enforce all conditions of
43 the state license for a facility owned by the agency or a
44 regional association. In addition, municipalities may attach
45 additional conditions in those areas not addressed in the
46 conditions of the state license. Municipalities, however, may
47 not prohibit the siting of such a facility if it has been
48 approved by the Board of Environmental Protection.

49
50 Municipal siting and regulatory authority over private and
51 commercial facilities must use standards consistent with those
established in state law.

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Disposal surcharges are imposed on all solid wastes being disposed of in commercial landfills and on special wastes being disposed of in any type of landfill. An additional surcharge may be imposed on the disposal of municipal solid waste from towns which fail to make reasonable progress towards meeting the state recycling goals.

Part B establishes an advance disposal fee on tires, auto batteries, white goods and brown goods. These fees are used to support the agency and the recycling grant programs.

Part C includes a number of initiatives designed to further waste reduction and recycling. The State Purchasing Agent is directed to aggressively pursue purchases of products with recycled content for state use. A price preference is established for paper with recycled content. The Finance Authority of Maine is authorized to establish a loan program to promote private sector activity in waste reduction and recycling. Municipalities are directed to review local procurement policies and are empowered to give a preference for the purchase of products with recycled content. This part also contains a requirement for a coding system to be used on most 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.

Part D expands the returnable beverage container law to include liquor, wine and most other beverages packaged in glass, metal or plastic. The handling fee is increased by 1¢ to support the redemption centers and to alleviate the burden on small businesses. This part also includes a prohibition on the sale of "plastic cans" which closely resemble aluminum cans and severely 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.

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 procedures governing siting of solid waste disposal facilities are modified to coordinate the activities of the department with the new Maine Waste Management Agency. This part also coordinates the authority of the Maine Land Use Regulation Commission with those of the department with regard to the siting of solid waste disposal facilities. Finally, this part prohibits

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

- 1 the use of plastic ring connectors and directs retailers to offer paper bags to all customers at the check-out counter.

Reported by the Minority 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-641)