

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 1431

H.P. 1025

House of Representatives, May 3, 1989

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MICHAUD of East Millinocket.

Cosponsored by Senator ERWIN of Oxford, Representative ALLEN of Washington and Representative WHITCOMB of Waldo.

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STATE OF MAINE

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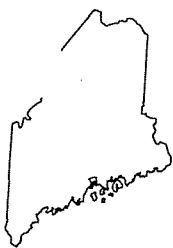
IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

---

An Act to Promote Reduction, Recycling and Integrated Management  
of Solid Waste and Sound Environmental Regulation.

---

(EMERGENCY)





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

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

11 **§1812-A. Report on purchase of recycled products**

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

27  
28 **Sec. 3. 5 MRSA §1812-B** is enacted to read:

29  
30 **§1812-B. Purchasing of paper and paper products**

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

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

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

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

49 **2. Federal guidelines and cooperative purchases.** To  
50 **qualify as having recycled material content, paper or paper**  
51 **products must have recycled material content which meets or**  
**exceeds the standards established for that paper or paper product**

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

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

22 **Sec. 4. 5 MRSA §§1812-C and 1812-D are enacted to read:**

23 **§1812-C. Use of composted materials**

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

35  
36 **§1812-D. Coordination of procurement information and policies**

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

46  
47 **Sec. 5. 30-A MRSA §5656 is enacted to read:**

48  
49 **§5656 Procurement of recycled goods**

1           1. Review of standards. Each municipality shall review its  
3           procurement procedures and specifications to identify procedures  
5           and specifications that explicitly discriminate against goods,  
7           supplies, equipment, materials and printing with recycled  
9           content. Each municipality may revise its procedures and  
11           specifications to:

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

17           B. Ensure, to the maximum extent economically feasible, that  
19           it purchases goods, supplies, equipment, materials and  
21           printing that may be recycled or reused when such goods,  
23           supplies, equipment, materials and printing are discarded.

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

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

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

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

51           Sec. 6. 32 MRSA c. 26 is enacted to read:

CHAPTER 26

CODING OF PLASTIC CONTAINERS

§1721. Definitions

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

1. Beverage. "Beverage" means any liquid produced or  
packaged for internal human consumption. Beverage includes, but  
is not limited to, water, ale, beer, spirits, soda water, and  
other carbonated and noncarbonated liquids.

2. Container. "Container" means any bottle, can, jar,  
case, package or other receptacle intended to hold, carry, and  
enclose beverages, food items or nonfood products.

1  
3 3. Rigid plastic container. "Rigid plastic container"  
5 means a container made of synthetic or natural polymerized resins  
7 or cellulose derivatives including, but not limited to, all  
9 materials listed in section 1723, which retains the same shape  
11 whether full or empty.

13 §1722. Coding of plastic containers

15 On or after January 1, 1991, no person may distribute, sell,  
17 or offer for sale any rigid plastic container unless that  
19 container has a molded label indicating the type of plastic resin  
21 used to produce the rigid plastic container.

23 §1723. Labels

25 1. Labels. The label shall appear on the bottom of the  
27 rigid plastic container and be clearly visible. This label shall  
29 consist of a number with letters placed below the number. The  
31 numbers and letters shall be as follows:

33 A. For polyethylene terephthalate, the letters "PETE" and  
35 the number 1;

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

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

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

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

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

51 G. For any other plastic resins, including containers  
composed of more than one resin, the letters "OTHER" and the  
number 7.

2. Ancillary symbols. Labels utilizing a chasing arrow  
symbol or any other configuration of arrows to indicate  
recyclable materials or products with recycled content shall be  
limited to products meeting the specifications established by the  
Office of Waste Reduction and Recycling, Maine Waste Management  
Authority pursuant to section 1725.

3. Multiplastic containers. Polyethylene terephthalate  
containers with affixed high-density polyethylene base cups shall  
be labeled with the letters, "PETE," and the number 1. Any other  
rigid plastic container where affixed materials and additives  
other than the single plastic resin used in the

1 container structure exceeds 2% by weight of the total container  
2 shall be labeled with the letters, "OTHER" and the number 7.

3 **§1724. Pharmaceutical exemption**

4  
5 Any rigid plastic container with a volume of 8 ounces or  
6 less which is used to package pharmaceutical products is exempt  
7 from this chapter.

8  
9 **§1725. Standard for recyclability and recycled content**

10  
11 The Office of Waste Reduction and Recycling, Maine Waste  
12 Management Authority shall establish standards by rule for  
13 recyclability and for recycled content for which the chasing  
14 arrow symbol may be used.

15  
16 **§1726. Penalties**

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

21  
22 **2. Separate violation.** Each container constitutes a  
23 separate offense.

24  
25 **§1727. Rules and enforcement**

26  
27 The Office of Waste Reduction and Recycling, Maine Waste  
28 Management Authority shall adopt and enforce rules implementing  
29 the provisions of this chapter. In adopting rules the office  
30 shall consult with the Recycling Advisory Council, the Department  
31 of Agriculture, Food and Rural Resources, plastic container  
32 manufacturers and distributors and the recycling industry. Rules  
33 shall be adopted in accordance with the provisions of Title 5,  
34 chapter 375.

35  
36 **Sec. 7. 32 MRSA §1868**, as amended by PL 1987, c. 373, §§4 and  
37 5, is further amended to read:

38  
39 **§1868. Prohibition on certain types of containers and holders**

40  
41 No beverage container shall may be sold or offered for sale  
42 to consumers in this State:

43  
44 **1. Flip tops.** In a metal container designed or constructed  
45 so that part of the container is detachable for the purpose of  
46 opening the container without the aid of a separate can opener;  
47 and

48  
49 **2. Connectors.** With In containers connected to each other  
50 by plastic rings or other plastic holding device, ~~which does not~~  
51 ~~decompose~~ ~~by~~ ~~photodegradation~~, ~~chemical~~ ~~degradation~~ ~~or~~



1 ~~biodegradation within a reasonable period of time upon exposure~~  
2 ~~to the elements, devices;~~

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

7  
8 4. Aseptic beverage packs. In a container composed of  
9 aseptic packaging composed of aluminum, paper and plastic, in  
10 combination thereof, where those materials are for practical  
11 reasons inseparable, and commonly referred to as a "brick-pack."

12  
13 **Sec. 8. 38 MRSA §1304-C is enacted to read:**

14 **§1304-C. Recycling duties and responsibilities of state agencies**  
15 **and the University of Maine System**

16  
17 1. Recycling. By January 1, 1991, each state agency shall  
18 establish and implement a source separation and collection  
19 program for recyclable materials produced as a result of agency  
20 operations, including, at a minimum, high grade paper and  
21 corrugated paper. The source separation and collection program  
22 shall include, at a minimum, procedures for collecting and  
23 storing recyclable materials, bins or containers for storing  
24 materials, and contractual and other arrangements with buyers.  
25 Each agency shall appoint a recycling coordinator for every 50  
26 employees at a minimum and shall conduct educational programs for  
27 its employees on the recycling program.

28  
29 2. Waste reduction. By January 1, 1991, each state agency  
30 shall establish and implement a waste reduction program for  
31 materials used in the course of agency operations. The program  
32 shall be designed and implemented to achieve the maximum feasible  
33 reduction of waste generated as a result of agency operations.

34  
35 3. Waste reduction and recycling plan. Each state agency  
36 shall prepare a waste reduction and recycling plan addressing the  
37 requirements of subsections 1 and 2. The plan shall be submitted  
38 to the Office of Waste Reduction and Recycling on or before July  
39 1, 1990, for approval as consistent with the goals and guidelines  
40 of this section and with the state waste management and recycling  
41 plan. The plan shall be updated on an annual basis to increase  
42 the amount of material recycled by taking advantage of any  
43 changed circumstances. Each department will complete an analysis  
44 of additional materials to determine recycling potential, and  
45 shall incorporate these materials into plan updates. Updated  
46 plans shall be submitted to the office for approval prior to  
47 adoption.

48  
49 4. Capitol complex recycling program. The State House and  
50 the State Office Building shall constitute the Capitol complex  
51 recycling demonstration area. The House of Representatives,

1 Senate, the office of the Governor, and each department that  
2 occupies space in the State House or State Office Building shall  
3 by July 1, 1990, institute a recycling program for its respective  
4 offices in these buildings. The program shall include, at a  
5 minimum, containers subject to the returnable container law,  
6 Title 32, chapter 28, which are sold in the Capitol complex,  
7 office paper and corrugated cardboard. The program shall include  
8 procedures for collecting and storing recyclable materials, bins  
9 or containers for storing materials, and contractual and other  
10 arrangements with buyers.

11  
12 5. University of Maine System. The following provisions  
13 shall apply to the University of Maine System.

14  
15 A. By January 1, 1991, each campus of the University of  
16 Maine System shall establish and implement a source  
17 separation and collection program for recyclable materials,  
18 including at a minimum, high grade paper, corrugated paper  
19 and glass. The source separation and collection program  
20 shall include procedures for collecting and storing  
21 recyclable materials, bins or containers for storing  
22 materials and contractual and other arrangements with  
23 buyers. Each campus shall appoint a recycling coordinator  
24 and shall conduct educational programs for students and  
25 employees on the recycling program.

26  
27 B. By January 1, 1991, each campus of the University of  
28 Maine System shall establish and implement a waste reduction  
29 program for materials used in the course of its operations.  
30 The program shall be designed and implemented to achieve the  
31 maximum feasible reduction of waste.

32  
33 C. By January 1, 1991, each campus of the University of  
34 Maine System shall establish a leaf composting program.

35  
36 D. Each campus of the university shall prepare a waste  
37 reduction, recycling and composting plan addressing the  
38 requirements of paragraphs A to C. The plan shall be  
39 submitted to the Office of Waste Reduction and Recycling on  
40 or before July 1, 1990, for approval as consistent with the  
41 goals and guidelines of this chapter and with the state  
42 waste management and recycling plan. Each campus shall  
43 complete an analysis of additional materials to determine  
44 recycling potential, and shall incorporate these materials  
45 into annual plan updates.

46  
47 Updated plans shall be submitted to the Office for approval  
48 prior to adoption.

49  
50 **Sec. 9. 38 MRSA §§1605 and 1606 are enacted to read:**

51 **§1605. Heavy metal contamination**

1  
3 After July 1, 1991, no person may sell or offer to sell in  
5 this State any packaging containers or materials using lead or  
7 cadmium as a stabilizer or pigment.

9 §1606. Plastic bags

11 After January 1, 1990, all retailers in Maine shall use  
13 paper bags to bag products at the point of retail sale unless the  
15 consumer requests a plastic bag.

17 **Sec. 10. Department of Transportation recycling project.** The  
19 Department of Transportation shall undertake a comprehensive  
21 program to evaluate the use of secondary recyclable materials in  
23 construction.

25 1. By January 1, 1991, the Department of Transportation  
27 shall, as part of its currently scheduled projects, undertake  
29 demonstration projects to determine the feasibility of using the  
31 following recyclable materials in road construction:

33 A. Ground rubber from automobile tires for road resurfacing  
35 or subbase materials;

37 B. Recycled mixed-plastic material for guard rail posts or  
39 right-of-way fence posts;

41 C. Construction steel, including reinforcing rods and  
43 I-beams, manufactured from scrap materials; and

45 D. Recycled glass and glass aggregates.

47 2. By January 1, 1992, the department shall report to the  
49 Joint Standing Committee on Natural Resources, the Joint Standing  
51 Committee on Transportation and the State Purchasing Agent on the  
maximum percentage of each secondary recyclable material that can  
be effectively utilized in road construction projects.  
Concurrent with the submission of the report, the department  
shall review and modify its standard road and bridge  
specifications to allow and encourage the use of secondary  
recyclable materials consistent with the findings of the  
demonstration projects.

53 3. The department shall also contract for the investigation  
55 and evaluation of the use of ground tire rubber as an additive to  
asphalt concrete and other alternatives which would utilize waste  
tires. The investigation shall include, but not be limited to:

57 A. Determining the type and amount of ground tire rubber  
59 that would provide acceptable properties in asphalt concrete  
61 mix;

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B. Determining preprocessing requirements and the method of incorporation of ground tire rubber in the asphalt concrete mix and identifying potential effects on pavement construction and performance;

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

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

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

The department shall complete this evaluation by March 1, 1990, and shall report its findings to the Joint Standing Committee on Natural Resources and the Joint Standing Committee on Transportation, and to the State Purchasing Agent.

4. The department shall submit a report on or before January 1st of the First Regular Session of the 115th Legislature to the Joint Standing Committee on Natural Resources and to the Joint Standing Committee on Transportation, concerning its implementation of this section.

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

**PART B**

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

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

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

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

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

1  
3 15. Wine cooler. "Wine cooler" means a beverage of less  
than 8% alcohol content by volume consisting of wine and:

5 A. Plain, sparkling or carbonated water; and

7 B. Any one or more of the following:

9 (1) Fruit juices;

11 (2) Fruit adjuncts;

13 (3) Artificial or natural flavors or flavorings;

15 (4) Preservatives;

17 (5) Coloring; or

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

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

25 §1863. Refund value

27 Every beverage container sold or offered for sale to a  
29 consumer in this State shall have a refund value. The refund  
value shall be as follows.

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

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

43 3. Wine and spirits containers. For wine and spirits  
45 containers of greater than 50 milliliters, the refund value shall  
47 not be less than 20¢. On January 1, 1992, the department shall  
49 issue a finding on the percentages of wine containers and spirits  
51 containers returned for deposit. If the department finds the  
return rate of wine containers was less than 60% during 1991,  
then on July 1, 1992, the refund value on wine containers shall  
not be less than 50¢. If the department finds the return rate of  
spirits containers was less than 60% during 1991, then on July 1,  
1992, the refund value of spirits containers shall not be less  
than 50¢.

1           **Sec. 4. 32 MRS**A §1866, sub-§4 as amended by PL 1979, c. 735,  
3 is further amended to read:

5           **4. Reimbursement by distributor.** In addition to the  
7 payment of the refund value, the distributor shall reimburse the  
9 dealer or local redemption center for the cost of handling  
beverage containers, in an amount which equals at least 2¢ ~~4¢~~ per  
returned container.

11           **Sec. 5. 32 MRS**A §1872 is enacted to read:

13           §1872. Data collection provisions

15           1. Deposit container registration. All containers that  
17 require a deposit and are offered for sale in the State must be  
19 registered with the Department of Agriculture, Food and Rural  
21 Resources, by the initiator of that deposit, by size and by  
package. The initiator shall list any and all distributors of  
the deposit containers, including, but not limited to, the  
initiator and the parties responsible for the pickup and recovery  
of the containers.

23           2. Monthly report. By the 15th of each month, the  
25 initiator must file a report with the Department of Agriculture,  
Food and Rural Resources indicating:

27           A. The total number of beverage containers by type of  
29 container, including, but not limited to, metal, glass or  
31 plastic, that the initiator sold within the State during the  
previous month;

33           B. The total number of beverage containers by type of  
35 container material that the initiator redeemed and paid a  
deposit for, from any source, during the previous month;

37           C. The total dollar amount of deposits collected in the  
39 previous month from the sale of beverage containers to any  
source in the State; and

41           D. The total dollar amount of deposits paid to any source  
43 for the pickup or redemption of beverage containers in the  
State.

45           3. Monthly report. The Department of Agriculture, Food and  
47 Rural Resources, shall compile the data collected pursuant to  
this section, and shall make the data available to the public on  
a monthly basis.

49           **Sec. 6. Advisory committee.** The Department of Agriculture,  
51 Food and Rural Resources shall form an advisory committee  
consisting of representatives of the Office of Waste Reduction  
53 and Recycling, the Bureau of Alcoholic Beverages, the

1 operator of the bailment warehouse, the certificate of approval  
2 holders for spirits and fortified wines, distributors of other  
3 affected beverages, operators of certified redemption facilities  
4 and other affected interests as the department finds necessary.  
5 The Department of Agriculture, Food and Rural Resources shall  
6 consult with the advisory committee in developing proposed rules  
7 for the implementation of sections 1 to 3 of this Part.

9 **PART C**

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

13  
14 In preparing estimates of expenditure and appropriation  
15 requirements for each fiscal year of the ensuing biennium for the  
16 Maine Waste Management Authority, the Bureau of the Budget shall  
17 recommend to the Governor an amount to support the activities of  
18 that agency pursuant to Title 38, chapter 24, which shall be no  
19 less than the amount of General Fund revenues estimated to be  
20 received from the advance disposal tax, as established in Title  
21 36, chapter 719, and from the waste stream products tax as  
22 established in Title 36, chapter 720, for each year of the  
23 ensuing biennium.

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

27 **CHAPTER 719**

29 **SOLID WASTE ADVANCE DISPOSAL TAX**

31 **§4831. Definitions**

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

35  
36 1. Brown good. "Brown good" means an electronic device  
37 containing printed circuit boards, capacitors, resistors or  
38 transistors that is not included in the definition of white goods  
39 and that weighs more than 10 pounds.

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

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

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

51 B. A person engaged in the business of selling tires, white  
goods, brown goods or lead-acid batteries in this State who

1 brings, or causes to be brought, into this State any tires,  
3 white goods, brown goods or lead-acid batteries for sale to  
a retailer; or

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

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

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

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

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

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

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

37 10. Sale. "Sale" means a transfer, exchange, barter or  
39 gift in any manner or by any means for a consideration. It  
41 shall include a gift for advertising by a person engaged in the  
business of selling tires, white goods, brown goods or lead-acid  
batteries.

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

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

51 13. Unclassified importer. "Unclassified importer" means  
any person, firm, corporation or association within this State.



1 other than a distributor, as defined in subsection 3, who  
2 imports, receives or acquires from outside the State, tires,  
3 white goods, brown goods or lead-acid batteries for use or sale  
4 within the State.

5  
6 14. White good. "White good" means any appliance employing  
7 electricity, natural gas or any liquified petroleum gas to supply  
8 heat or motive power:

9  
10 A. To preserve or cook food;

11  
12 B. To wash clothing, dishes, kitchen utensils, glasses or  
13 other related items; or

14  
15 C. To cool or heat air or water.

16  
17 §4832. Licenses

18  
19 A person engaging in the business of selling tires, white  
20 goods, brown goods or lead-acid batteries as a distributor shall  
21 secure a license from the State Tax Assessor before engaging in  
22 that business. A license application shall be made on a form  
23 prescribed by the State Tax Assessor and shall state the name and  
24 address of the applicant, address of the applicant's principal  
25 place of business and such other information as the State Tax  
26 Assessor may require for the proper administration of this  
27 chapter. The application shall be accompanied by a fee of \$25.  
28 A person outside the State who ships or transports tires, white  
29 goods, brown goods or lead-acid batteries to retailers in this  
30 State shall make application as a distributor and be granted by  
31 the State Tax Assessor a license subject to all the provisions of  
32 this chapter and agrees, upon applying for a license, to submit  
33 that person's books, accounts and records to examination by the  
34 Bureau of Taxation during reasonable business hours and to accept  
35 service of process by mail when service is made in any proceeding  
36 involving enforcement of this chapter.

37  
38 An unclassified importer before importing, receiving or  
39 acquiring tires, white goods, brown goods or lead-acid batteries  
40 from outside the State shall secure a license from the State Tax  
41 Assessor. There is no fee for that license.

42  
43 An issued license expires on July 31st of each year unless  
44 it is revoked earlier by the State Tax Assessor. The license  
45 shall be prominently displayed on the premises covered by the  
46 license and no license may be transferred to another person.

47  
48 The State Tax Assessor may revoke or suspend the license or  
49 licenses of any person for violation of this chapter. A license  
50 may not be revoked, cancelled or suspended until after notice and  
51 hearing by the State Tax Assessor.

1 §4833. Solid waste advance disposal tax on tires, white goods,  
3 brown goods or lead-acid batteries

5 1. Solid waste advance disposal tax. A solid waste advance  
7 disposal tax is imposed on the sale of:

9 A. Tires at the rate of \$1 per tire;

11 B. White goods at the rate of \$15 per white good;

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

15 D. Lead-acid batteries at the rate of \$1 per battery.

17 2. Imposition. The tax shall be imposed at the time the  
19 distributor or unclassified importer brings or causes to be  
21 brought into this State tires, white goods, brown goods or  
23 lead-acid batteries that are for sale to consumers or to  
25 retailers or for use at the time tires, white goods, brown goods  
27 or lead-acid batteries are manufactured or fabricated in this  
29 State for sale in this State.

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

31 §4834. Returns; payment of tax and penalty  
33

35 Every distributor or unclassified importer, on or before the  
37 last day of each month, shall render, on forms to be furnished by  
39 the State Tax Assessor, a report together with payment of the tax  
41 due under this chapter to the State Tax Assessor stating the  
43 quantity of all tires, white goods, brown goods or lead-acid  
45 batteries held, purchased, manufactured, brought in or caused to  
47 be brought in from outside the State or shipped or transported to  
49 retailers within the State during the preceding calendar month.  
51 Every distributor or unclassified importer shall keep a complete  
and accurate record at that distributor's or unclassified  
importer's principal place of business to substantiate all  
receipts of tires, white goods, brown goods or lead-acid  
batteries. This record shall be retained for a period of 2 years  
in such manner as to ensure permanency and accessibility for  
inspection.

The monthly reports must contain any further information as  
the State Tax Assessor prescribes and must show a credit for any  
tires, white goods, brown goods or lead-acid batteries exempted

1 as provided in section 4833, subsection 3. Records must be  
2 maintained to substantiate the exemption. Tires, white goods,  
3 brown goods or lead-acid batteries previously taxed that are  
4 returned to a manufacturer because the produce has become unfit  
5 for use or unsalable may be taken as a credit on a subsequent  
6 return upon receipt of the credit notice from the original  
7 supplier.

8 If the monthly report required by this chapter is not filed,  
9 or payment is not rendered by the last day of the month, the  
10 distributor or unclassified importer is subject to a forfeiture  
11 of \$1 a day for each day in arrears or 10% of the tax liability,  
12 whichever is the greater, together with interest at the rate of  
13 1% per month or the fraction of the interest due on demand by the  
14 State Tax Assessor, and is recoverable in a civil action. The  
15 State Tax Assessor may waive the forfeiture for cause.

16 §4835. The State Tax Assessor may estimate liability

17  
18 Whenever a distributor or unclassified importer neglects or  
19 refuses to file a report required by this chapter or files an  
20 incorrect or fraudulent report, the State Tax Assessor, from such  
21 information as the State Tax Assessor may obtain, shall fix the  
22 amount of taxes, forfeitures and interest payable and proceed to  
23 collect the amount fixed.

24  
25 In an action or proceeding for collection of the solid waste  
26 advance disposal fee, any forfeitures and interest imposed in  
27 connection with an assessment by the State Tax Assessor of the  
28 tax, forfeiture or interest due the State constitutes prima facie  
29 evidence of the claim of the State. The burden of proof is on  
30 the distributor or unclassified importer to show that the  
31 assessment was incorrect and contrary to law.

32 §4836. Disposition of taxes

33  
34 The revenue derived from the tax imposed by this chapter  
35 shall be deposited in the General Fund less the costs incurred by  
36 the State Tax Assessor in collecting the tax.

37  
38 **Sec. 3. 36 MRSA chapter 720 is enacted to read:**

39 CHAPTER 720

40 WASTE STREAM PRODUCTS TAX

41 §4840. Declaration and intent

42  
43 The Legislature declares that nonrecyclable packaging poses  
44 a significant and increasing burden on the State's disposal  
45 capacity and environment, and there is a need to reduce the  
46 amount of nonrecyclable packaging.

1 amount of packaging disposed in the State, and encourage the  
2 recycling of packaging materials. It is the intent of the  
3 Legislature to encourage manufacturers and sellers of consumer  
4 products to decrease excessive packaging, to package products in  
5 recyclable packaging, to encourage reusable packaging and to  
6 maximize the use of materials manufactured with substantial  
7 recycled content.

9 §4841. Definitions.

11 The following terms shall have the following meanings unless  
12 the context clearly indicates otherwise.

13 1. Bureau. "Bureau" means the Bureau of Taxation.

15 2. Container wholesaler. "Container wholesaler" means:

17 A. Every person who sells retail level packaging to a  
18 person or persons in the State and who:

21 (1) Maintains a place of business in the State;

23 (2) Solicits business either by employees, independent  
24 contractors, agents or other representatives, or by  
25 distribution of catalogs or other advertising matter; or

27 (3) Causes that product to be delivered in the State  
28 other than by common carrier or mail; and

29 B. Every person who did not purchase that retail level  
30 packaging from another container wholesaler, as defined in  
31 this subsection.

33 3. Distributor. "Distributor" means a person who sells  
34 waste stream products to a person or persons in the State and who:

37 A. Maintains a place of business in the State;

39 B. Solicits business either by employees, independent  
40 contractors, agents or other representatives, or by  
41 distribution of catalogs or other advertising matter; or

43 C. Causes that product to be delivered in the State other  
44 than by common carrier or mail.

45 4. Manufacturer. "Manufacturer" means every person  
46 bottling, canning, packing or otherwise packaging waste stream  
47 products for sale to distributors or wholesalers. In case of  
48 personal property manufactured in another country, the importer  
49 shall be considered the manufacturer.

51 5. Office. "Office" means the Office of Waste Reduction  
52 and Recycling, Maine Waste Management Authority.

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6. Receipt. "Receipt" means the "sale price" as defined in section 1752.

7. Recyclable. "Recyclable" means packaging containers or materials, exclusive of closures, labels, printing, fasteners, adhesives or caps or lids, which consist of 100% of one of the following materials: glass, aluminum, wood, paper, paperboard, polyethylene terephthalate, high density polyethylene, or cotton or woolen textiles. High density polyethylene means polyethylene of a density greater than .94 grams per milliliter and less than .965 grams per milliliter at a temperature of 23 degrees centigrade.

8. Recycled material. "Recycled material" means any material that has served its original intended use and is normally disposed of, or is a manufacturing byproduct and is normally disposed of, but which is instead returned to economic markets in the form of raw materials, feedstocks or end products. This term includes, but is not limited to, post-consumer material, industrial scrap material and overstock or obsolete inventories from distributors, wholesalers and other persons. This term shall not include material and other byproducts generated from and commonly reused within an original manufacturing process. Recycled materials include aluminum, cotton or woolen cloth, fiber, glass, metal, paper or paperboard, plastic, wood or any combination of those materials.

A. Determinations as to whether particular packaging is composed of 50% recycled material shall be based upon the weight of the packaging components. For a particular product, during a tax year, a taxpayer may elect to compute the percentage of recycled material by either:

(1) Computing on a package by package basis; or

(2) Computing on the basis of an annual aggregate. If the taxpayer chooses to compute packaging composition based on an annual aggregate, either of the following may be used:

(a) The manufacturer's annual national aggregate for the specific product; or

(b) The manufacturer's annual aggregate of the specific product delivered into the State.

9. Retail level packaging. "Retail level packaging" means any bag, sack, tray, can, bottle, tub, cup or other receptacle or material:

1           A. In which tangible personal property is placed, while off  
3           the retailer's premises, for purposes of or during retail  
          sale in the State and which is:

- 5                   (1) Not recyclable;  
7                   (2) Composed of less than 50% recycled material; or  
9                   (3) Both not recyclable and composed of less than 50%  
11                   recycled material.

13           10. Retail sale. "Retail sale" or "sale at retail" is  
          defined in section 1752.

15           11. Sale. "Sale" is defined in section 1752.

17           12. Tangible personal property. "Tangible personal  
19           property" is defined in section 1752.

21           13. Waste stream products. "Waste stream products" means  
          tangible personal property which is packaged in containers or  
23           with materials that:

25                   A. Are present on delivery to the person selling at retail;  
          and

27                   B. Are present on delivery to the person who purchases the  
29                   property at retail, or contain amounts or units of products  
          normally sold at retail, or both.

31           §4842. Tax on distributors of waste stream products

33                   1. Tax assessed. Effective July 1, 1990, there is levied a  
35                   tax on distributors for the privilege of distributing waste  
          stream products in the State. The tax imposed by this section is  
37                   in addition to other taxes imposed by law.

39                   2. Amount. The tax for each year shall be in an amount  
41                   equal to ½ of 1% of the distributor's taxable receipts from the  
43                   sale of waste stream products. A distributor's taxable receipts  
          are the distributor's gross receipts from the sale of waste  
45                   stream products sold to a person or persons of the State, reduced  
          by the receipts that are deducted under subsection 3 of this  
          section.

47                   3. Deductions. The following receipts shall be deducted  
          from gross receipts to arrive at taxable receipts under this  
49                   section:

51                   A. Receipts not to exceed \$500,000 from the sale of waste  
          stream products to a person or persons within this State;

1           B. Receipts from the sale of waste stream products delivered  
2           outside the State;

3  
4           C. Receipts from the sale of waste stream products delivered  
5           in the State, that the purchaser will resell to a person or  
6           persons outside the State. To claim an exemption for these  
7           receipts, a distributor shall have taken from the purchaser  
8           a certificate, signed by the purchaser, and bearing the  
9           purchaser's name and address and the number of the  
10           purchaser's registration certificate, to the effect that the  
11           property was purchased for resale outside the State;

12  
13           D. Receipts from the sale of waste stream products purchased  
14           from a Maine distributor, as distributor is defined in  
15           section 4841;

16  
17           E. Receipts from the sale of containers that are subject to  
18           a beverage container deposit under Title 32, chapter 28;

19  
20           F. Receipts from prescription medicines;

21  
22           G. Receipts in excess of \$800 from the sale of one unit of a  
23           particular waste stream product or, in the case of waste  
24           stream products not sold in units, from the sale of one  
25           quantity or amount of such product;

26  
27           H. Receipts from those waste stream products packaged in  
28           containers and with materials that are recyclable and also  
29           are composed of at least 50% recycled material;

30  
31           I. One-half of the distributor's receipts from those waste  
32           stream products packaged in containers and with materials  
33           that are recyclable but that are not composed of at least  
34           50% recycled material;

35  
36           J. One-half of the distributor's receipts from those waste  
37           stream products packaged in containers and with materials  
38           that are not recyclable but are composed of at least 50%  
39           recycled material.

40  
41           §4843. Tax on container wholesalers

42  
43           1. Tax assessed. Effective July 1, 1990, there is levied a  
44           tax on container wholesalers for the privilege of distributing  
45           retail level packaging in the State. The tax imposed by this  
46           section is in addition to other taxes imposed by law.

47  
48           2. Amount. The tax for each year shall be in an amount  
49           equal to 1¢ per unit for retail level packaging provided in  
50           individual units at retail in the State, and 1¢ per 40 square  
51           feet of retail level packaging that is provided in other than  
          individual units at retail in the State.

1  
3 3. Deductions. The tax assessed any taxpayer under this section shall be decreased by 1/2 on retail packaging that is:

5 A. Recyclable but that is not composed of at least 50% recycled material; or

7  
9 B. Composed of at least 50% recycled material, but that is not recyclable.

11 If packaging applied at a retail establishment is both recyclable and composed of at least 50% recycled material, it shall not be subject to tax under this section, as it is excluded from the definition of retail level packaging in section 4841 of this chapter.

17 §4844. Administration of taxes assessed

19 1. Distributor registration. Every distributor who can reasonably expect to generate annual gross receipts in excess of \$500,000 from the sale of waste stream products to a person or persons in the State and every container wholesaler, shall file a certificate of registration with the bureau, on a form prescribed by the bureau, not later than October 1, 1989, or in the case of persons commencing business after that date, within 3 days of commencing business. The bureau may, in its discretion, accept any existing certificate of registration filed by a person who is registered to collect sales and use or meals and rooms taxes.

29  
31 2. Monthly payment. Every distributor who can reasonably expect to generate annual gross receipts in excess of \$500,000 from the sale of waste stream products to a person or persons in the State and every container wholesaler shall, on or before the 30th day of the month following each calendar quarter, file a return with the bureau and pay the amount of the tax due.

37 3. Administration. Taxes imposed by this chapter shall be administered and enforced according to the provisions and penalties of chapter 7, and shall be assessed commencing July 1, 1990.

41  
43 4. Incorrect or insufficient returns. If a return required by this section is not filed, or if a return when filed is incorrect or insufficient, the amount of the tax due shall be determined by the bureau from any information available. For the purposes of the proper administration of this chapter and to prevent evasion of the tax imposed by section 4842, it shall be presumed that all receipts from the sale of tangible personal property are subject to tax until the contrary is established, and the burden of proving that any receipt is not taxable shall be on the distributor. Likewise, with respect to the tax imposed under section 4843, it shall be presumed that all sales of retail



1 level packaging are subject to tax until the contrary is  
2 established, and the burden of proving that any receipt is not  
3 taxable shall be on the container wholesaler.

5 **§4845. Duties of manufacturers and distributors of waste stream**  
6 **products**

7  
8 **1. Manufacturers; duties.** As of January 30, 1990,  
9 manufacturers of waste stream products that are to be sold at  
10 retail in the State shall inform distributors in the State  
11 whether the containers or packaging materials involved are  
12 recyclable and whether they are made of at least 50% recycled  
13 material. Information required under this section shall be  
14 stated on the invoice and may also be conveyed by means of  
15 labeling on the exterior of the container in which the product is  
16 shipped to the distributor or retailer. If a manufacturer fails  
17 to provide this information, the distributor shall be subject to  
18 taxes where due, but the bureau may abate penalties for errors  
19 due to lack of information, if the distributor demonstrates good  
20 faith efforts to acquire this information.

21  
22 **2. Reliance on manufacturer's information.** A distributor  
23 may rely on the representations made by a manufacturer under this  
24 section, unless the distributor knows that the information is  
25 false. False representations made by a manufacturer, or a  
26 failure to comply with the requirements of this section, is a  
27 violation subject to the provisions of chapter 225.

28  
29 **3. Distributor's; duties.** A distributor shall provide  
30 information relating to the amount of waste stream products sold  
31 at retail in the State, on the request of the distributor or  
32 manufacturer from whom waste stream products are received. If a  
33 distributor fails to provide this information, the requesting  
34 distributor or manufacturer shall be subject to taxes where due,  
35 but the bureau may abate penalties for errors due to this lack of  
36 information if the distributor demonstrates good faith efforts to  
37 acquire this information.

38  
39 **4. Out-of-state resale.** A distributor or manufacturer may  
40 rely on the representations made by a distributor or made by a  
41 purchaser who provides a certificate under section 4842,  
42 subsection 3, paragraph C, indicating that the property in  
43 question was purchased for resale outside the State, unless the  
44 distributor or manufacturer knows that the information is false.  
45 False representations made by a distributor or purchaser, or  
46 failure to comply with the requirements of this section, shall  
47 constitute a violation subject to the provisions of chapter 225.

48  
49 **5. Indication of taxability.** The first taxable distributor  
50 of waste stream products shall indicate on the invoice for waste  
51 stream products that it is a taxable entity, for the purposes of  
this chapter.

1                    §4846. Responsibilities of the bureau and office

3                    1. Duties of office. The office shall have the following  
5 duties in the implementation of this chapter:

7                    A. On request of the bureau, review particular packaging  
9 containers or materials and advise the bureau with regard to  
11 their recyclability and their use of recycled material;

13                    B. Provide technical advice to manufacturers, distributors  
15 and retailers of packaging to assist in their use of  
17 recyclable packaging and packaging of recycled material; and

19                    C. In consultation with the Recycling Advisory Council  
21 established pursuant to Title 38, section 2131, on or before  
23 January 15th of each year submit to the joint standing  
25 committee of the Legislature having jurisdiction over  
27 natural resources any appropriate recommendations for the  
29 amendment of the definitions of "recycled material" and  
31 "recyclable," as defined in section 4841. In making these  
33 recommendations, the office shall consider experience within  
35 the state and regional solid waste management districts  
37 regarding markets for waste material, technological  
39 developments, access or lack of access to recycling  
41 opportunities and other relevant factors.

43                    2. Powers and duties of bureau. The bureau shall have the  
45 following powers and duties in the implementation of this chapter:

47                    A. The bureau shall have the powers and duties, under  
49 chapter 7, and other powers necessary to implement the  
51 provisions of this chapter;

B. The bureau may retain the services of necessary  
technical and administrative personnel and expert witnesses,  
for particular proceedings relating to implementation of  
this chapter; and

C. The bureau shall annually compile aggregate information  
concerning waste stream products sold at retail in the State  
and whether the containers or packaging are recyclable or  
made of at least 50% recycled material, or both, and the  
revenue projected to be raised annually by the imposition of  
the tax created in this chapter. This report shall be  
submitted to the office and the joint standing committees of  
the Legislature having jurisdiction over natural resources  
and appropriations, and to the Recycling Advisory Council.

§4847. Disposition of taxes



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- (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 Authority.

**Sec. 2. 5 MRSA §12004-D, sub-§§4 and 5** are enacted to read:

<u>4. Maine Waste Management Authority</u>	<u>\$100 per day plus expenses</u>	<u>38 MRSA §2101</u>
<u>5. Regional Solid Waste Management Districts</u>	<u>\$100 per day plus expenses</u>	<u>38 MRSA §2140</u>

**Sec. 3. 5 MRSA §12004-I, sub-§22,** as enacted by PL 1987, c. 786, §5, is amended to read:

22. Envi- ronment: Natural Resources	Recycling Ad- visory Council	Legislative Per Diem	38 MRSA <del>§1310-L</del> <u>§2131</u>
--------------------------------------------	---------------------------------	-------------------------	-----------------------------------------------

**Sec. 4. 38 MRSA §1302,** as repealed and replaced by PL 1987, c. 517, §5, is repealed and the following enacted in its place:

**§1302. Declaration of policy**

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

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

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

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

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

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

31       **Sec. 5. 38 MRSA §1303, first ¶,** as repealed and replaced by PL  
32       1979, c. 383, §2, is repealed and the following enacted in its  
33       place:

34       The following words when used in this chapter or in chapter  
35       24 shall have the following meanings unless the context in which  
36       they are used clearly shows a different meaning.

37       **Sec. 6 38 MRSA §1303, sub-§3,** as repealed and replaced by PL  
38       1979, c. 383. §2, is repealed and the following enacted in its  
39       place:

40       3. Disposal. "Disposal" means the discharge, deposit,  
41       dumping, incineration, spilling, leaking or placing of any  
42       hazardous or solid waste, refuse-derived fuel, sludge or septage  
43       into or on any land, air or water so that the hazardous or solid  
44       waste, sludge or septage or any constituent thereof may enter the  
45       environment or be emitted into the air, or discharged into any  
46       waters, including ground waters.

1                   **Sec. 7. 38 MRSA §1303, sub-§§17 to 34, are enacted to read:**

3                   17. Authority. "Authority" means the Maine Solid Waste  
5                   Management Authority established in section 2101.

7                   18. Buyer. "Buyer" means a firm or operation purchasing  
9                   recyclable materials for processing or end use.

11                   19. Composting. "Composting" means the microbial  
13                   degradation of organic matter into a useful product.

15                   20. Curbside recycling. "Curbside recycling" means  
17                   scheduled collection of recyclable materials placed at curbside  
19                   by households.

21                   21. Drop-off recycling center. "Drop-off recycling center"  
23                   means a site where individuals can deliver separated recyclable  
25                   materials for processing before recycling.

27                   22. End user. "End user" means mills and other industrial  
29                   facilities where recyclable materials are returned to economic  
31                   markets in the form of raw materials, feedstocks or end products.

33                   23. Incinerator. "Incinerator" means a facility where  
35                   solid waste or refuse-derived fuel is disposed through  
37                   combustion, including combustion for the generation of  
39                   electricity. A facility which combusts less than 2% solid waste  
41                   or refuse-derived fuel on a heat input basis shall not be  
43                   considered an incinerator.

45                   24. Materials processing center. "Materials processing  
47                   center" means a facility that separates mixed recyclable  
49                   materials and processes the materials for sale to brokers or end  
51                   users.

25. Recyclable materials. "Recyclable materials" means  
                  materials that have served their original intended use and are  
                  separated from solid waste for reuse in manufacture and for which  
                  a recycling collection, processing and market system is  
                  functioning. The Director of the Office of Waste Reduction and  
                  Recycling may, through regulation, specify those materials that  
                  are to be included within the definition of recyclable materials.  
                  The materials to be included may change to reflect new  
                  technologies, economic conditions, characteristics of the waste  
                  stream, environmental effects or other factors.

26. Recycling. "Recycling" means the collection,  
                  separation, recovery and sale or reuse of metals, glass, paper,  
                  leaf waste, plastics and other materials that would otherwise be  
                  disposed of or processed as waste or the mechanized separation  
                  and treatment of waste, other than through combustion, and the

1 creation and recovery of reusable materials other than as a fuel  
2 for the generation of electricity.

3  
4 27. Refuse-derived fuel. "Refuse-derived fuel" means solid  
5 waste which has been processed prior to combustion to increase  
6 the heat input value of the waste.

7  
8 28. Regional waste management district. "Regional waste  
9 management district" or "district" means that entity established  
10 in section 2140.

11  
12 29. Regional waste management plan. "Regional waste  
13 management plan" means a plan adopted under chapter 24,  
14 subchapter IV, and may be referred to as "district plan" or  
15 "regional plan."

16  
17 30. Residual waste. "Residual waste" means waste resulting  
18 from the handling, processing, disposal or recycling of solid  
19 waste including, without limitation, front end waste and ash.

20  
21 31. Source separation. "Source separation" means the  
22 preparation of materials for recycling by separation from wastes  
23 at the point of generation.

24  
25 32. State waste management and recycling plan. "State  
26 waste management and recycling plan" means the plan adopted by  
27 the authority pursuant to chapter 24, subchapter II, and may also  
28 be referred to as "state plan."

29  
30 33. Yard waste. "Yard waste" means leaves, grass clippings  
31 and other organic wastes produced as part of yard and garden  
32 development and maintenance.

33  
34 34. Waste reduction. "Waste reduction" means an action  
35 that reduces waste at the point of generation and may also be  
36 referred to as "source reduction."

37  
38 **Sec. 8. 38 MRS.A §1304. sub-§1, as amended by PL 1981, c. 470,**  
39 **Pt. A, §171, is further amended to read:**

40  
41 1. Rules. Subject to the provisions of chapter 24 and the  
42 Maine Administrative Procedure Act, Title 5, chapter 375, the  
43 board may adopt, amend and enforce rules as it deems necessary to  
44 goveꝛn regulate the environmental, public health and safety  
45 effects of waste management, including the location,  
46 establishment, construction and alteration of waste facilities.  
47 The rules shall be ~~designed to encourage logical utilization of~~  
48 ~~reecoverable~~-resources, minimize pollution of the state's State's  
49 air, land and surface and ground water resources, prevent the  
50 spread of disease or other health hazards, prevent contamination  
51 of drinking water supplies and protect public health and safety.  
In adopting these rules, the board shall also consider economic

1 impact, technical feasibility and such differences as are created  
2 by population, hazardous or solid waste, sludge or septage volume  
3 and geographic location.

5 **Sec. 9. 38 MRSA §1304-B, sub-§2**, as amended by PL 1987, c. 517,  
6 §§14 and 15, is further amended to read:

7  
8 **2. Flow control.** Municipalities Subject to the provisions  
9 of chapter 24, municipalities are expressly authorized to enact  
10 ordinances that control solid waste collection, its  
11 transportation or its delivery to a specific facility, when the  
12 purpose and effect of such an ordinance is to gain management  
13 control over solid waste and enable the reclamation of resources,  
14 including energy, from these wastes. This authorization includes,  
15 but is not limited to, ordinances:

17 A. Requiring segregation of wastes;

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

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

25 **Sec. 10. 38 MRSA §1304-B, sub-§4-A, ¶¶A and B**, as enacted by PL  
26 1987, c. 517, §17, is amended to read:

29 A. No contract for waste disposal, transportation or  
30 handling services may prevent a municipality from recycling  
31 any portion of its solid waste, provided that any minimum  
32 BTU content level and ~~minimum-tonsage-level~~ required by that  
33 contract is maintained by the municipality.

35 B. No contract for waste disposal, transportation or  
36 handling services may prevent a municipality from meeting  
37 its obligations to supply a minimum BTU content level and  
38 ~~minimum-tonsage-level~~ required by that contract using solid  
39 waste generated outside its borders, provided that:

41 (1) The municipality is or will be unable, as the  
42 direct result of recycling or source reduction efforts,  
43 to meet the obligations using solid waste generated  
44 within its jurisdiction; and

45 (2) The municipality is liable for any damages caused  
46 by any solid waste it relies upon to satisfy the  
47 provisions of its contract.

49 **Sec. 11. 38 MRSA §1304-B, sub-§4-A, ¶¶D and E** are enacted to  
50 read:



1           D. Notwithstanding paragraphs A, B and C, a municipality or  
2           district with a contract with an incineration facility for  
3           waste disposal, transportation or handling services shall  
4           not be required to meet any minimum BTU content level or  
5           minimum tonnage level required by contract, provided that:

7                     (1) The municipality or district is or will be unable,  
8                     as the direct result of recycling or source reduction  
9                     efforts, to meet the obligations; and

11                    (2) The incineration facility will not be prevented  
12                    from meeting its obligations to provide electricity  
13                    pursuant to a contract with an electric utility.

15           E. No renewal of any contract upon termination or  
16           expiration of the original term and no new contract for  
17           municipal waste disposal, processing or collection may be  
18           entered into after the effective date of this chapter, if  
19           the renewed or new contract fails to conform to the  
20           applicable provisions of this chapter or chapter 24 or  
21           interferes with the implementation of a regional waste  
22           management plan adopted under chapter 24.

23           **Sec. 12. 38 MRSA §1304-B, sub-§7 is enacted to read:**

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

31           **Sec. 13. 38 MRSA §1305, sub-§1, as enacted by PL 1973, c. 387,**  
32           **is repealed.**

33           **Sec. 14. 38 MRSA c. 13, subchapter 1-A, art. II, as enacted by PL**  
34           **1987, c. 517, §25, is repealed.**

37           **Sec. 15. 38 MRSA §1310-N, sub-§3, as enacted by PL 1987. c.**  
38           **517, §25, is amended to read:**

39                     3. Public benefit determination. The board shall find that  
40                     a facility provides a substantial public benefit when the  
41                     applicant demonstrates that the proposed facility is consistent  
42                     with-and-will-serve-to-satisfy-the-capacity-needs-identified  
43                     pursuant-to-section-1310-Q identified in an approved regional  
44                     solid waste management plan as necessary to provide a district's  
45                     disposal capacity. The-board-shall-make-this-finding-when-it  
46                     determines-that-the-proposed-facility-is-designed-and-located-and  
47                     will-be-operated-so-that-it-meets-the-needs-identified-in-the  
48                     capacity-needs-analysis.

1           **Sec. 16. 38 MRSA §1310-N, sub-§4**, as enacted by PL 1987, c.  
517, §25, is repealed.

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

7           B. The applicant has shown consistency with the most  
8           ~~recent state recycling plan approved by the Legislature~~  
9           ~~pursuant to section 1310-M, subsection 3~~ recycling  
10           provisions of the approved regional plan for the  
11           district in which the facility is to be located.

13           **Sec. 18. 38 MRSA §1310-O**, as enacted by PL 1987, c. 517,  
§25, is repealed.

15           **Sec. 19. 38 MRSA §1310-R, sub-§§2 and 3**, as enacted by PL 1987,  
17 c. 517, §25 are amended to read:

19           2. **Recycling.** The recycling requirements shall apply as  
20 follows.

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

31           B. The board shall require an applicant for a new or  
32 expanded solid waste disposal facility or for a license  
33 renewal submitting a complete application prior to the  
34 ~~approval by the Legislature of the first state recycling~~  
35 ~~plan pursuant to section 1310-M, subsection 3,~~ adoption and  
36 approval of a regional plan for the district in which the  
37 facility is located to demonstrate that the ~~applicant has~~  
38 ~~considered recycling alternatives that are reasonably within~~  
39 ~~the applicant's control~~ facility furthers the purposes of  
40 section 2100.

43           C. The provisions of section 1310-N, subsection 5,  
44 paragraph B, do not apply to the relicensing of any solid  
45 waste disposal facility licensed prior to the effective date  
46 of this article.

47           3. **Public benefit.** The public benefit requirements shall  
48 apply as follows.

51           ~~A. The board shall require an applicant for a new or~~  
~~expanded solid waste disposal facility submitting a complete~~

1 application-prior-to-the-initial-adoption-of-the-capacity  
needs-analysis-pursuant-to-section-1310-O-to-submit-such  
3 information-as-the-board-requires-to-demonstrate-that-the  
proposed-facility-provides-a-substantial-public-benefit,  
5 including-such-information-described-in-section-1310-O.

7 A-1. The board shall require an applicant for a new or  
expanded solid waste disposal facility submitting a complete  
9 application prior to the initial adoption and approval of a  
regional plan for the district in which the facility is  
11 proposed to be located to submit such information as the  
board requires to demonstrate that the proposed facility  
13 provides a substantial public benefit, including such  
information described in former section 1310-O.

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

21 **Sec. 20. 38 MRS §1310-R, sub-§4** is enacted to read:

23 4. Incineration facilities. The board shall not license  
25 any new incineration facility unless the district in which it is  
proposed to be located has adopted an approved regional plan.

27 **Sec. 21. 38 MRS §1310-S, sub-§4, ¶A**, as enacted by PL 1987, c.  
29 517, §25, is amended to read:

31 A. The process by which an intervenor under subsection 3  
33 may gain entry to the proposed facility site for purposes of  
reasonable inspection and site investigations under the  
35 auspices of the board. Upon written request by the  
intervenor, the board may on a case-by-case basis authorize  
37 subsurface investigation activities additional to sampling  
by means of a hand-held auger, provided such investigations  
39 are conducted in a manner which will minimize adverse  
impacts to the site and not interfere with existing  
41 monitoring systems. In authorizing additional subsurface  
investigations, the board shall consider the need for the  
43 investigation activities proposed by the intervenor, and  
shall impose conditions on the proposed activities that will  
45 minimize adverse impacts on the site; and

47 **Sec. 22. 38 MRS §1310-X** is enacted to read:

49 §1310-X. Water supply testing for contiguous landowners

51 1. Required water sampling. Upon written request from  
persons owning land contiguous to a solid waste landfill, the  
operator of that landfill shall have quarterly sampling and

1 analysis conducted of private water supplies used by those  
2 persons for drinking water. Sampling and analysis shall be at  
3 the expense of the landfill operator.

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

11 3. Additional sampling required. If the analysis indicates  
12 possible contamination from a solid waste landfill, the  
13 department may conduct, or require the landfill operator to have  
14 the laboratory conduct, additional sampling and analysis to  
15 determine more precisely the nature, extent and source of  
16 contamination.

19 4. Written notice of rights. On or before December 1,  
20 1989, for permits issued under this chapter prior to October 1,  
21 1989, and at or before the time of permit issuance for permits  
22 issued under this chapter after October 1, 1989, the operator of  
23 each municipal waste landfill shall provide contiguous landowners  
24 with written notice of their rights under this section on a form  
25 prepared by the department.

27 **Sec. 23. 38 MRSA §1706**, as enacted by PL 1983, c. 820, §2, is  
28 amended to read:

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

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

39 **Sec. 24. 38 MRSA c. 24** is enacted to read:

41 **CHAPTER 24**  
43 **MAINE WASTE MANAGEMENT AUTHORITY**  
45 **SUBCHAPTER I**  
47 **MAINE WASTE MANAGEMENT AUTHORITY**  
48 **GOALS AND ESTABLISHMENT**

51 **§2100. Solid waste management hierarchy; recycling goals**



1           predecessor was appointed shall be appointed only for the  
2           remainder of that term. Each board member shall serve until  
3           the appointment and qualification of a successor.

4           B. No appointed board member may be an officer or employee  
5           of the United States Government or this State. All members  
6           of the board shall be residents of the State. Appointed  
7           members may be removed from the board by the Governor for  
8           cause.

9           C. The Commissioner of Environmental Protection and the  
10           Commissioner of Human Services shall serve as nonvoting, ex  
11           officio members of the board.

12           D. There shall be no more than 2 members who are residents  
13           of the same district.

14           4. Selection of officers. Annually, the board shall elect  
15           one of its appointed members as the chair of the board, another  
16           as vice-chair of the board and a 3rd member as treasurer of the  
17           board. Six members of the board shall constitute a quorum and  
18           the affirmative vote by 6 members shall be necessary for any  
19           action taken by vote of the board.

20           5. Compensation. The appointed board members shall be  
21           compensated as provided in Title 5, section 12004-D. The ex  
22           officio members of the board shall not receive any compensation  
23           for serving as a board member.

24           6. Meeting schedule. The board shall meet at least 4 times  
25           annually and at any time upon the call of its chair or upon the  
26           request in writing to the chair of 5 board members.

27           §2102. Powers and duties of the authority

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

31           A. Sue and be sued;

32           B. Have a seal and alter the seal at its pleasure;

33           C. Adopt from time to time and amend bylaws covering its  
34           procedure, publish those bylaws as necessary or advisable  
35           and cause records of its proceedings to be kept;

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

- 1           F. Acquire, hold and dispose of personal property;
- 3           G. Acquire in the name of the authority by purchase, lease  
5           or otherwise, real property and interests in real property  
7           determined necessary or desirable for its purposes and use  
            the property;
- 9           H. Establish and collect fees, assessments and other  
11           charges and expend money received as provided in this  
            chapter;
- 13           I. Make, modify and carry out contracts or agreements with  
15           the United States Government or any instrumentality or  
17           agency of the United States, this State or any of its  
19           agencies or instrumentalities, municipalities or bodies  
            existing therein, public corporations, private corporations,  
            partnerships, associations and individuals which are  
            necessary or useful in carrying out its powers, duties or  
            purposes;
- 21           J. Employ such assistants, agents, engineering,  
23           architectural and construction experts and inspectors and  
            attorneys and such other employees as it deems necessary or  
            desirable to carry out its purposes;
- 25           K. Obtain any information and conduct investigations useful  
27           or convenient for carrying out any of its purposes, powers  
            or duties;
- 29           L. Enter during normal working hours upon any lands, waters  
31           and premises in the State for the purpose of making surveys,  
33           soundings, drillings, examinations and inspections as it  
            deems necessary for the purpose of this chapter. The entry  
            shall not be deemed a trespass;
- 35           M. Procure insurance or other assurances in aid of any of  
37           its purposes;
- 39           N. Exercise any of its powers in the public domain of the  
41           United States, unless the exercise of those powers is not  
            permitted by the laws of the United States;
- 43           O. Exercise any of the powers, duties and authority of a  
45           regional solid waste management district when the authority  
47           finds, subject to the provisions of this subchapter, that  
            such exercise is necessary to accomplish the purposes of  
            this chapter; and
- 49           P. Take all other lawful actions necessary and incidental  
51           to these powers in carrying out the requirements of this  
            chapter.

1           2. Duties. The authority shall undertake the following  
2           duties:

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

5           B. Promote and emphasize recycling and waste reduction in  
6           the State;

7           C. Coordinate regional and municipal waste planning,  
8           recycling and waste reduction programs and provide technical  
9           assistance to districts, municipalities, state agencies and  
10           private entities to assist their implementation of this  
11           chapter;

12           D. Approve, partially approve or disapprove regional plans;

13           E. Initiate, conduct and support research, demonstration  
14           projects and investigations and coordinate all state agency  
15           research programs pertaining to waste management and  
16           recycling;

17           F. Encourage, and when appropriate, require districts and  
18           municipalities to carry out their duties under this chapter,  
19           using the full range of incentives and enforcement authority  
20           provided in this chapter;

21           G. Act on behalf of a district to ensure the development  
22           and operation of sufficient recycling and disposal capacity  
23           to properly manage the solid waste generated within the  
24           district's jurisdiction and for which the district is  
25           responsible where the district has not adopted and  
26           implemented a regional plan approved under this chapter;

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

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

35           J. Appoint such advisory committees as the authority finds  
36           necessary to assist it in carrying out the provisions of  
37           this chapter. The authority is authorized to pay reasonable  
38           and necessary expenses incurred by the members of those  
39           advisory committees in carrying out their functions.

40           §2103. Exemption from taxes; payment in lieu of taxes  
41  
42  
43  
44  
45  
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51



1           1. Exemption from taxes. The authority shall not be  
2 required to pay any taxes on any property required or used by it  
3 for the purposes provided in this chapter, nor may the authority  
4 be required to pay any tax upon its income, except as may be  
5 required by the laws of the United States.

7           2. Payment in lieu of taxes. The authority shall annually  
8 pay a municipality an amount in lieu of taxes equal to the amount  
9 of property taxes not paid to that municipality during the  
10 previous calendar year due to the statutory property tax  
11 exemption provided in this section. In the case of an  
12 unorganized territory, the authority shall annually pay the  
13 amount to the State Tax Assessor who shall deposit that amount in  
14 the Unorganized Territory Education and Services Fund established  
15 in Title 36, chapter 115. If the authority disagrees with the  
16 amount determined to be due in lieu of taxes under this  
17 subsection, it may appeal to the State Board of Property Tax  
18 Review as provided in Title 36, section 271.

19           §2104. Annual audit

21           Each year an audit shall be made of the accounts of the  
22 district, and for this purpose authorized agents of a certified  
23 public accounting firm appointed by the authority shall have  
24 access to all necessary papers, books and records. Upon the  
25 completion of each audit, a report shall be made to the chair of  
26 the board of directors and a copy shall be sent to the Governor  
27 and the Legislature.

29           §2105. Fiscal year

31           The fiscal year of the authority shall coincide with that of  
32 the State.

35           §2106. Executive director

37           1. Salary. The authority shall hire an executive director  
38 who shall serve at the pleasure of the authority. The salary of  
39 the executive director shall be established by the authority at  
40 the time of appointment.

41           2. Powers and duties. The executive director shall oversee  
42 day-to-day operations of the authority; hire appropriate staff  
43 members with approval of the authority; and carry out other  
44 responsibilities delegated by the authority subject to conditions  
45 and instructions which the authority finds appropriate.

47           §2107. Staff employees; conflict of interest; personal liability

49           1. Authority. The authority may hire, on a temporary or  
50 permanent basis, such staff as necessary, including legal counsel  
51 and financial experts.

1  
2 2. Civil Service Law. Employees of the authority shall be  
3 subject to Title 5, chapters 71 and 372 except that the executive  
4 director and the Director of the Office of Planning and Regional  
5 Coordination and the Director of the Office of Waste Reduction  
6 and Recycling shall not be subject to Title 5, chapters 71 and  
7 372.

8  
9 3. Conflict of interest. Notwithstanding Title 5, section  
10 18, subsection 1, each member of the authority and each employee,  
11 contractor, agent or other representative of the authority is  
12 deemed an "executive employee" solely for purposes of Title 5,  
13 section 18. In addition, Title 17, section 3104, shall be  
14 applicable, in accordance with its provisions, to all such  
15 representatives of the authority.

16  
17 4. Personal liability. Personal liability of authority  
18 members and employees shall be as provided in the Maine Tort  
19 Claims Act, Title 14, chapter 741, except that the authority  
20 shall indemnify a member or an employee against any liability  
21 arising out of an chapter or omission occurring within the course  
22 or scope of employment.

23 **§2108. Sunset**

24  
25 1. Justification report; evaluation and analysis. For  
26 purposes of the Maine Sunset Act, Title 3, chapter 23, the  
27 authority shall be considered an independent agency, with its  
28 first justification report in accordance with Title 3, section  
29 504, due no later than October 31, 1998, and the evaluation and  
30 analysis in accordance with Title 3, section 505, by the joint  
31 standing committee of the Legislature having jurisdiction over  
32 audit and program review due no later than December 31, 1999, but  
33 notwithstanding Title 3, sections 506 and 507, the authority  
34 shall not terminate.

35  
36 **§2109. Property**

37  
38 All property of the authority and all property held in the  
39 name of the State pursuant to this chapter shall be exempt from  
40 levy and sale by virtue of any execution, and no execution or  
41 other judicial process may be a lien upon its property held  
42 pursuant to this chapter, provided that the authority shall not  
43 lease, sell or otherwise convey any of its real or personal  
44 property or easements in property, franchises, buildings or  
45 structures, except that the authority may permit the erection or  
46 installation of electric power, telegraph, telephone, water,  
47 sewer or pipeline facilities.

48  
49 **§2110. Contractors; contracts**



1 entities continue to have a role in developing waste management  
2 and recycling facilities in the State, the plan shall provide  
3 guidance and direction to those entities.

5 1. Consultation. In developing the plan, the office shall  
6 consult with the Bureau of Solid Waste Management in the  
7 Department of Environmental Protection and the Office of Waste  
8 Reduction and Recycling, and shall submit its draft plan to these  
9 offices for review and written comment prior to publishing the  
10 plan as a proposed rule. The office shall also seek comment and  
11 advice on its draft plan from the Recycling Advisory Council.

13 2. Revisions. The office shall revise the analysis at  
14 least every 2 years to incorporate changes in the waste  
15 generation trends, changes in waste recycling and disposal  
16 technologies, the development of new waste generating activities  
17 and other factors affecting solid waste management as the office  
18 finds appropriate. If the office finds that rapidly changing  
19 conditions necessitate more timely revisions of the analysis, it  
20 may make those revisions pursuant to the rule-making provisions  
21 of Title 5, chapter 375, subchapter II, including emergency  
22 rulemaking if necessary.

23 §2122. Plan contents

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

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

34 B. The source of the waste;

36 C. The type of waste;

38 D. The costs and types of management technologies currently  
39 employed, including, without limitation, recycling,  
40 composting, landspreading, incineration or landfilling;

42 E. The costs of transporting solid waste to disposal or  
43 management facilities; and

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

48 2. Determination of existing and planned disposal  
49 capacity. The office shall identify existing solid waste  
50 disposal and management capacity within the State, and the  
51 potential for expansion of that capacity. The analysis shall  
include, but not be limited to:

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

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

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

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

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

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

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

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

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

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

D. The potential for recycling in various regions of the 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;

1           E. The potential for reducing waste quantities and toxicity  
3           by reduction at the source, and the amount and type of  
5           traditional disposal capacity that could be made available  
7           by implementing waste reduction measures. This assessment  
9           shall be based on the most recent waste reduction study  
11           prepared pursuant to section 2130; and

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

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

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

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

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

47           D. Identification of regional differences in available  
49           disposal capacity and recycling facilities. The office  
51           shall identify districts 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  
          as the office deems relevant.

5. State management goals and strategies. Based on the  
          information and analysis developed in subsections 1 to 4, the  
          office shall evaluate waste management options and identify  
          regional and statewide strategies for source reduction and  
          recycling, and which ensure the availability of cost effective  
          waste management and disposal capacity. These strategies shall  
          implement the priorities and the recycling goals in section  
          2100. Management and disposal alternatives shall be preferred  
          which do not foreclose the future ability of the State to reduce,  
          reuse and recycle waste.

1           A. The regional goals and strategies set forth in the state  
3           plan shall be the guidelines for the development of district  
            waste management plans.

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

13           **§2123. Hazardous waste planning**

15           1. Data collection and monitoring. In cooperation with the  
17           department, the authority shall collect and monitor data on the  
19           generation, transportation and handling of hazardous waste. It  
21           shall use that data to review the need for adequate hazardous  
            waste facilities for generators in this State and it shall  
            develop appropriate policies and recommendations to ensure that  
            suitable waste facilities are available.

23           2. Report. The department shall annually, prior to May  
25           1st, prepare and submit a report to the authority covering the  
            prior calendar year which shall include the following data:

27           A. The amount of hazardous waste by type that is generated,  
            handled or transported within the State;

29           B. The amount of hazardous waste by type that is handled at  
31           commercial hazardous waste facilities within the State;

33           C. The number of hazardous waste facility permits by type  
            currently active and the number granted and revoked in the  
35           year;

37           D. The amount of hazardous waste by type generated outside  
39           the State that was handled at permitted facilities within  
            the State, and the amount of hazardous waste generated  
41           within the State that was handled at facilities located  
            outside the State;

43           E. A list of hazardous waste facilities located within the  
45           State and those located outside the State which are  
            available for use by generators in the State; and

47           F. A list of known firms that provide testing, consulting,  
49           brokerage, waste exchange, transport or other services to  
            hazardous waste generators.

51           3. Facility needs plan. The office shall, prior to January  
            1st of each year, prepare a plan which shall consider the need

1 for new hazardous waste facilities. Specifically, it shall  
2 include:

3  
4 A. An identification of hazardous wastes generated within  
5 the State for which new commercial treatment facilities  
6 would be desirable and the preferred technologies to be  
7 utilized;

8  
9 B. An identification of hazardous wastes by type generated  
10 within the State which are capable of being reused and  
11 recycled and a corresponding reference to available  
12 technology or facilities;

13  
14 C. An identification of the hazardous wastes generated  
15 within the State for which treatment facilities are not  
16 currently available within or outside the State;

17  
18 D. A survey of generators of hazardous waste identified in  
19 paragraph C and facilities used by them, which provides the  
20 best estimates of future waste quantities, costs and  
21 capacity for the disposal of those wastes; and

22  
23 E. Identification of those geological areas of the State  
24 which, based on siting criteria in rules adopted by the  
25 United States Environmental Protection Agency or in rules  
26 adopted by the board, are unsuitable for hazardous waste  
27 disposal facilities.

28  
29 4. Legislative recommendations. The authority shall make  
30 an annual status report to the joint standing committee of the  
31 Legislature having jurisdiction over natural resources concerning  
32 hazardous waste management, which shall include any  
33 recommendations of the authority for legislative action to  
34 develop and establish needed hazardous waste facilities. These  
35 may include tax and other financial incentives or recommendations  
36 to directly, or through an instrumentality, acquire suitable  
37 sites for hazardous waste facilities or to construct and operate  
38 hazardous waste facilities. Recommendations in the annual status  
39 report shall be based solely on the information and plans  
40 prepared pursuant to this section and information obtained at  
41 public hearings.

42  
43 5. Procedural requirements. All policies, plans and  
44 recommendations adopted by the board under this section, except  
45 for the report in subsection 2, shall be subject to the notice  
46 and hearing requirements of the Maine Administrative Procedure  
47 Act, Title 5, chapter 375.

48 §2124. Regional review and coordination

49  
50 The office shall review each regional solid waste management  
51 plan submitted pursuant to section 2154 for consistency with the



1 goals and policies of this chapter and with the state waste  
2 management and recycling plan.

3  
4 1. Review and approval. Within 60 days after receiving a  
5 complete regional plan, the authority shall approve, partially  
6 approve or disapprove it, unless the authority gives written  
7 notice that additional time is necessary to complete its review.  
8 If the authority gives that notice, it shall have 30 additional  
9 days to render a decision.

11 A. The authority shall make specific findings in support of  
12 its action under this section. The findings shall identify  
13 components of the plan which comply with the review criteria  
14 and, where it has disapproved or partially approved the  
15 plan, describing any deficiencies in the proposed plan and  
16 the recommended measures for correcting the deficiencies.  
17 The authority shall also forward to the district copies of  
18 all written comments concerning the plan.

19  
20 B. The district shall have 60 days to correct any  
21 deficiencies in the plan and resubmit it to the authority  
22 for final review and approval or disapproval.

23  
24 C. The authority shall have 30 days to make its final  
25 decision or to request additional revisions. The  
26 authority's final approval, partial approval or disapproval  
27 shall constitute final agency action.

28  
29 D. In the event that a district fails to adopt a plan or  
30 adopts a deficient plan, the authority shall, within 90  
31 days, adopt a regional plan for the district.

32  
33 2. Partial approval. The authority may approve portions of  
34 the proposed regional plan which are consistent with the state  
35 plan and the provisions of this chapter. A district shall  
36 implement any portion of its plan approved under this subsection.

37  
38 3. Public notice. The authority shall provide public notice  
39 upon receipt of any regional plan and shall provide at least 30  
40 days after publication of the notice for written comment on the  
41 plan. The authority shall submit the plan to appropriate state  
42 agencies for review and comment.

43  
44 4. Review criteria. The authority shall approve any  
45 regional plan when it finds that:

46  
47 A. The plan is complete and accurate;

48  
49 B. The plan is consistent with the state plan, and the waste  
50 management hierarchy established in section 2100;



1 the office shall administer the office in accordance with the  
3 policies of the authority and consistent with the state waste  
5 management and recycling plan. The director shall serve at the  
7 pleasure of the executive director. The office shall administer  
9 programs of financial, technical and planning assistance to  
11 regional authorities, local governments, state agencies and  
13 businesses in planning for and achieving waste reduction and  
15 recycling objectives.

17 1. Technical and financial assistance program. The office  
19 shall develop a program of technical and financial assistance for  
21 municipalities and districts. This program shall include,  
23 without limitation:

25 A. Technical assistance necessary for municipalities and  
27 districts to meet the requirements of this chapter. The  
29 authority shall ensure that all its technical reports and  
31 planning documents are made available to municipalities and  
33 districts on a timely basis;

35 B. Grants to districts to hire the recycling coordinators  
37 required under this chapter;

39 C. Grants to fund the development of the recycling component  
41 of the regional plan, to initiate and conduct recycling  
43 feasibility studies, to coordinate regional recycling  
45 activities, to identify markets and develop a public  
47 education campaign; and

49 D. Grants to purchase collection and storage equipment and  
51 to fund activities which are consistent with regional plans  
and which primarily serve recycling or source reduction  
objectives and which are not duplicative of existing  
municipal efforts. Regional materials processing centers  
are eligible for funding under this section where the  
private sector is not adequately addressing regional needs  
and where the regional plan calls for such a facility.

2. Market development and assistance. There is established  
within the office a program of market development and assistance.

A. The office shall establish and administer a  
clearinghouse on recycling markets information. The office  
shall maintain a current list of municipal and regional  
recycling programs together with a description of the  
recyclables available through the programs. The office shall  
also maintain listings of brokers, handlers, processors,  
transporters and other persons providing services and  
potential markets for recyclables. The office shall  
actively promote the services of the clearinghouse and shall  
seek to match municipal recycling programs with appropriate  
recycling businesses. The office shall make its information

1           on recycling services available to private solid waste  
2           generators seeking markets or services for recyclables.

3  
4           B. The office shall provide direct marketing and brokering  
5           services for recyclables to municipalities and districts  
6           where private sector efforts and the information  
7           clearinghouse established in paragraph A are inadequate.

8  
9           C. On or before July 1, 1990, the office shall submit to  
10           the joint standing committee of the Legislature having  
11           jurisdiction over natural resources a market development  
12           report. The report shall be utilized in preparing the state  
13           waste management and recycling plan. The report shall  
14           include:

15                   (1) The current and projected capacity of existing  
16                   markets to absorb materials generated by municipal  
17                   recycling programs in the State;

18                   (2) Market conditions that inhibit or affect demand for  
19                   materials generated by municipal recycling programs;

20                   (3) Potential opportunities to increase demand for and  
21                   use of materials generated by municipal recycling  
22                   programs;

23                   (4) Market opportunities in Canada and other export  
24                   markets;

25                   (5) Recommendations for specific actions to increase  
26                   and stabilize the demand for materials generated by  
27                   regional and municipal recycling programs, including,  
28                   but not limited to, proposed legislation if necessary;

29                   (6) Specific recommendations on markets for recycled  
30                   materials for each district.

31  
32           By July 1, 1993, the office shall complete and submit an  
33           update of the study to the same joint standing committee of  
34           the Legislature, taking into account information developed  
35           since its completion.

36           The office shall adopt rules to implement the  
37           recommendations of the market development study required by  
38           this paragraph.

39           3. Procurement. Coordinating procurement of recycled  
40           materials, recycling and waste reduction efforts among state  
41           agencies.

42           4. Waste reduction. By July 1, 1990, the office shall  
43           submit to the joint standing committee of the Legislature having

1 jurisdiction over natural resources a waste reduction report.  
2 The report shall be utilized in preparing the state waste  
3 management and recycling plan.

5 A. The report shall include:

7 (1) A description of various mechanisms that could be  
8 utilized to stimulate and enhance waste reduction,  
9 including their advantages and disadvantages. The  
10 mechanisms to be analyzed shall include, but are not  
11 limited to, incentives for prolonging product life,  
12 methods for ensuring product recyclability, taxes for  
13 excessive packaging, tax incentives, prohibitions on  
14 the use of certain products and performance standards  
15 for products.

17 (2) Recommendations to stimulate and enhance waste  
18 reduction, including, but not limited to, proposed  
19 legislation if necessary.

21 B. By July 1, 1993, the office shall update the study,  
22 taking into account information developed since its  
23 completion.

25 5. Education. Conducting a comprehensive, innovative and  
26 effective public education program concerning the value of  
27 recycling and waste reduction and of public opportunities to  
28 participate in such activities, in cooperation with the  
29 Department of Education and Cultural Services.

31 §2131. Recycling Advisory Council

33 There is established a Recycling Advisory Council, referred  
34 to as the "council" in this section, to provide the authority  
35 with information and advice concerning the recycling needs and  
36 opportunities of the State.

37 1. Membership; terms. The Governor shall appoint 13  
38 members, with 2 members each representing municipal governments,  
39 statewide and local environmental organizations, the recycling  
40 industry and the waste disposal industry, one member representing  
41 industrial waste generators and 3 members from the general  
42 public. The Commissioner of Environmental Protection shall serve  
43 as an ex officio member. All members, except the commissioner,  
44 shall be appointed for a term of 3 years. For the initial  
45 appointments, 4 members shall be appointed for a term of one  
46 year; 4 members shall be appointed for a term of 2 years; and 4  
47 members shall be appointed for a term of 3 years. A vacancy  
48 shall be filled for the unexpired portion of the term. The  
49 council shall annually elect a chair from its membership.

51



1 powers conferred on it under this chapter and the implementation  
2 of its purpose and duties are essential governmental functions.

3 §2141. District boards; membership; terms

4  
5 Each district shall be governed by a board of directors,  
6 called "the board" within this subchapter, consisting of 7  
7 members appointed by the Governor, subject to review by the joint  
8 standing committee of the Legislature having jurisdiction over  
9 natural resources and to confirmation by the Legislature.

10  
11 1. Terms. Two of the members shall initially be appointed  
12 to terms of 2 years; 2 members to a term of 3 years; and 3  
13 members to a term of 4 years. The successor of each appointed  
14 member shall be appointed for a term of 4 years except that any  
15 person appointed to fill a vacancy occurring prior to the  
16 expiration of the term for which the predecessor was appointed  
17 shall be appointed only for the remainder of that term. Each  
18 board member shall serve until the appointment and qualification  
19 of a successor.

20  
21 2. Qualifications. The full membership of a board shall  
22 include residents of each county within the district and shall  
23 also include residents from towns in the following population  
24 categories:

25  
26 A. Towns with populations of 10,000 persons or more as  
27 determined in the most recent decennial census conducted by  
28 the United States Census Bureau;

29  
30 B. Towns with populations of 5,000 persons or more and less  
31 than 10,000 persons as determined in the most recent  
32 decennial census conducted by the United States Census  
33 Bureau; and

34  
35 C. Towns with populations of less than 5,000 persons as  
36 determined in the most recent decennial census conducted by  
37 the United States Census Bureau.

38  
39 No appointed board member may be an officer or employee of the  
40 United States Government or this State. All members of the board  
41 shall be residents of the district.

42  
43 3. Removal. Appointed members may be removed from a board  
44 by the Governor for cause.

45  
46 4. Selection of officers. Annually every board shall elect  
47 one of its appointed members as the chair of the board, another  
48 as vice-chair of the board and a 3rd as treasurer of the  
49 district. Five members of the board shall constitute a quorum  
50 and the affirmative vote by 5 members shall be necessary for any  
51 action taken by vote of the board.

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

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

§2142. Powers and duties

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

A. Sue and be sued;

B. Have a seal and alter the seal at its pleasure;

C. Adopt from time to time and amend bylaws covering its procedure, publish those bylaws as necessary or advisable and cause records of its proceedings to be kept;

D. 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;

E. Acquire, hold and dispose of personal property;

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

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

H. Make, modify and carry out contracts or agreements with the United States or any instrumentality or agency of the United States, this State or any of its agencies or instrumentalities, municipalities or bodies existing therein, public corporations, private corporations, partnerships, associations and individuals which are necessary or useful in carrying out its powers, duties or purposes;

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



- 1       J. Obtain any information and conduct investigations useful  
2       or convenient for carrying out any of its purposes, powers  
3       or duties;
- 5       K. Enter during normal working hours upon any lands, waters  
6       and premises in the State for the purpose of making surveys,  
7       soundings, drillings, examinations and inspections as it  
8       deems necessary for the purpose of this chapter. The entry  
9       shall not be deemed a trespass;
- 11       L. Procure insurance or other assurances in aid of any of  
12       its purposes;
- 13       M. Exercise any of its powers in the public domain of the  
14       United States, unless the exercise of those powers is not  
15       permitted by the laws of the United States; and
- 17       N. Take all other lawful actions necessary and incidental  
18       to these powers in carrying out the requirements of this  
19       chapter.
- 21       2. Duties. Each district shall:
- 23       A. Develop and adopt a regional solid waste management plan  
24       consistent with the state waste management and recycling  
25       plan and other provisions of this chapter;
- 27       B. Promote and emphasize recycling and waste reduction in  
28       its district;
- 31       C. Coordinate solid waste planning, recycling and waste  
32       reduction programs within its jurisdiction and provide  
33       technical assistance to municipalities and private  
34       businesses to assist their implementation of this chapter;
- 35       D. Ensure the development and operation of sufficient  
36       recycling and disposal capacity to properly manage the solid  
37       waste generated within its jurisdiction and for which the  
38       district is responsible;
- 41       E. Institute, in a court of competent jurisdiction,  
42       proceedings against any person to compel compliance with the  
43       provisions of this chapter and the terms and conditions of  
44       its approved regional plan;
- 45       F. Cooperate with appropriate federal, state, interstate and  
46       local units of government and with appropriate private  
47       organizations in carrying out its duties under this chapter;  
48       and  
49       and

1           G. Appoint such advisory committees as the district finds  
3           necessary to assist it in carrying out the provisions of  
            this chapter.

5           **§2143. Exemption from taxes; payment in lieu of taxes**

7           1. Exemption from taxes. The district shall not be  
            required to pay any taxes on any property required or used by it  
9           for the purposes provided in this chapter, nor may the district  
            be required to pay any tax upon its income, except as may be  
11           required by the laws of the United States.

13           2. Payment in lieu of taxes. The district shall annually  
            pay a municipality an amount in lieu of taxes equal to the amount  
15           of property taxes not paid to that municipality during the  
            previous calendar year due to the statutory property tax  
17           exemption provided in this section. In the case of an  
            unorganized territory, the district shall annually pay the amount  
19           to the State Tax Assessor who shall deposit that amount in the  
            Unorganized Territory Education and Services Fund established in  
21           Title 36, chapter 115. If the district disagrees with the amount  
            determined to be due in lieu of taxes under this subsection, it  
23           may appeal to the State Board of Property Tax Review as provided  
            in Title 36, section 271.

25           **§2144. Fiscal year**

27           The fiscal year of the district shall coincide with that of  
29           the State.

31           **§2145. Executive director**

33           1. Salary. Every district shall hire an executive director  
            who shall serve at the pleasure of the district board. The  
35           salary of the executive director shall be established by the  
            district at the time of appointment.

37           2. Powers and duties. The executive director shall oversee  
39           day-to-day operations of the district, hire appropriate staff  
            members with approval of the district board and carry out other  
41           responsibilities delegated by the district board subject to  
            conditions and instructions which the district board deems  
43           appropriate.

45           **§2146. Staff employees; conflict of interest; personal liability**

47           1. District. The district may hire, on a temporary or  
            permanent basis, such staff as necessary, including legal counsel  
49           and financial experts. The district shall hire a recycling  
            coordinator to assist municipalities in the implementation of  
51           district, municipal and private recycling programs.

1           2. Exempt from Civil Service Law. Employees of the  
2           district shall not be subject to Title 5, chapters 71 and 372.

3  
4           3. Conflict of interest. Notwithstanding Title 5, section  
5           18, subsection 1, each member of the district board and each  
6           employee, contractor, agent or other representative of the  
7           district is deemed an "executive employee" solely for purposes of  
8           Title 5, section 18. In addition, Title 17, section 3104, shall  
9           be applicable, in accordance with its provisions, to all such  
10           representatives of the district.

11  
12           4. Personal liability. Personal liability of board members  
13           and employees shall be as provided in the Maine Tort Claims Act,  
14           Title 14, chapter 741, except that the district shall indemnify a  
15           board member or an employee against any liability arising out of  
16           an act or omission occurring within the course or scope of  
17           employment.

18           **§2147. Property**

19  
20           All property of the district and all property held in the  
21           name of the State pursuant to this chapter shall be exempt from  
22           levy and sale by virtue of any execution, and no execution or  
23           other judicial process may be a lien upon its property held  
24           pursuant to this chapter; provided that the district shall not  
25           lease, sell or otherwise convey any of its real or personal  
26           property or easements in property, franchises, buildings or  
27           structures, except that the district may permit the erection or  
28           installation of electric power, telegraph, telephone, water,  
29           sewer or pipeline facilities.

30           **§2148. Contractors; contracts**

31  
32           1. Use authorized. A district may determine to carry out  
33           any authorized activity through use of contractors, subject to  
34           the requirements of law.

35  
36           2. Approval. Contracts and agreements for more than  
37           \$10,000 shall be awarded only after competitive bid and approval  
38           by the district board.

39  
40           3. Rules. The district shall comply with rules for the  
41           awarding of contracts adopted by the authority.

42           **§2149. Responsibility to accept solid waste**

43  
44           1. Time of responsibility. The district becomes  
45           responsible for providing a system for solid waste management  
46           when its board of directors declares the disposal system  
47           operational or July 1, 1992, whichever is earlier.

1           2. Types of waste. The district shall provide a system for  
management of all solid waste generated by residential and  
3           commercial activities within the member municipalities. The  
district may also provide for the management of compatible solid  
5           waste from industrial activities within its jurisdiction.

7           3. Collection sites or systems. Each municipality within a  
district shall be responsible for source separation of its solid  
9           waste, providing a collection site or system for the solid waste  
generated within the municipality and for the transportation of  
11           the solid waste to the waste facility designated by the district,  
together with all incident costs. Any municipality within the  
13           district may contract with the district to provide collection and  
transportation services.

15           4. Refusal of material. The district may refuse to accept  
17           any material which does not meet the definition of solid waste  
from residential, commercial or industrial activities.

19           5. Disposal. Disposal shall be in accordance with the  
21           environmental laws administered by the department.

23           6. Use of district owned or controlled facilities. The  
district may not accept for handling, treatment or disposal at  
25           any facility which it owns, operates or otherwise controls, any  
solid waste generated outside of its jurisdiction, unless the  
27           acceptance of such waste is consistent with the regional plan for  
the district. This prohibition shall also apply to any residual  
29           waste or other material resulting from the incineration of solid  
waste or refuse-derived fuel generated or produced outside of the  
31           district's jurisdiction.

33           §2150. Flow control

35           A district may adopt rules that control solid waste  
collection, its transportation or its delivery to a specific  
37           waste facility, when the purpose and effect of such an ordinance  
is to gain management control over solid waste. This  
39           authorization includes, but is not limited to, rules:

41           A. Requiring the separation and segregation of wastes; and

43           B. Requiring delivery of wastes generated within a  
municipality, or any portion of those wastes, to a  
45           designated solid waste facility.

47           §2151. Setting fees and other charges

49           The district board may from time to time establish and  
adjust a structure for fees, including penalty charges, for  
51           collection services and transportation and for disposal of solid

1 waste in and upon facilities operated by, on behalf of or under  
2 contract with, the district, subject to section 2166.

3

4 **§2152. Annual audit**

5

6 Each year an audit shall be made of the accounts of the  
7 district, and for this purpose authorized agents of a certified  
8 public accounting firm appointed by the district board shall have  
9 access to all necessary papers, books and records. Upon the  
10 completion of each audit, a report shall be made to the chair of  
11 the district board and a copy shall be sent to the municipal  
12 officers of each municipality within the district and to the  
13 authority.

14 **§2153. Surplus revenues**

15  
16 If, at the end of any fiscal year, the district has realized  
17 a surplus from operations for the fiscal year, after payment of  
18 or provision for all current expenses, current maintenance,  
19 repairs and replacements, current debt service on all outstanding  
20 bonds and notes of the district, all reserves for debt service,  
21 repairs and replacements, costs or current expenses as may be  
22 required by a trust agreement or resolution securing bonds or  
23 notes or as may otherwise be maintained by the district, and any  
24 other amounts which the district may be obligated by law or  
25 contract to pay or provide for, the district shall either:

26

27 1. Reduction in charges. Apply the surplus in the  
28 following fiscal year to a reduction in the rates, fees, rents or  
29 other charges established by the district for services provided;  
30 or

31

32 2. Reduction of capital debt. Apply the surplus to the  
33 reduction or provision for reduction of its outstanding capital  
34 debt.

35

36 **§2154. Schedule for submission of regional waste management**  
37 **plans**

38

39 1. Submission of plan. On or before March 1, 1991, each  
40 district shall submit to the authority a regional plan for solid  
41 waste generated within its boundaries. That plan shall be  
42 adopted according to the provisions of this subchapter and shall  
43 be consistent with the requirements of this chapter.

44

45 2. Plan revisions. Each district with an approved regional  
46 plan shall submit a revised plan to the authority:

47

48 A. At least 3 years prior to the time all remaining  
49 available permitted capacity for the district will be  
50 exhausted; and

51

1           B. When otherwise required by the authority.

3           3. Procedure for considering plan revisions. At least 30  
5 days before submitting any proposed plan revision to the  
7 authority, the district shall submit a copy of the proposed  
9 revision to the advisory committee established pursuant to  
11 section 2156 and to each municipality within the district. All  
substantial plan revisions shall be subject to the public  
participation requirements of section 2156. The plan revisions  
required by subsection 2 shall be considered substantial plan  
revisions.

13           §2155. Content of regional solid waste management plans

15           Any regional plan shall comply with the provisions of this  
17 section. The regional plan shall provide for the orderly  
19 extension of solid waste management systems in a manner that is  
21 consistent with the needs of the district and is also consistent  
with any existing state, regional or local plans affecting the  
development, use and protection of air, water, land or other  
natural resources.

23           1. Assessment of existing conditions. The plan shall  
25 include a thorough assessment of existing conditions.

27           A. The plan shall describe and explain the origin, content  
29 and weight or volume of solid waste currently generated  
31 within the district's boundaries, and the origin, content  
and weight or volume of solid waste that will be generated  
within the district's boundaries during the next 10 years.

33           B. The plan shall identify and describe the facilities  
35 where solid waste is currently being disposed or processed,  
37 the remaining available permitted capacity of those  
39 facilities and the capacity which could be made available  
41 through the reasonable expansion of those facilities. The  
plan shall also explain the extent to which existing  
facilities will be used during the life of the plan, and any  
capacity which could be made available through the  
reasonable expansion of those facilities.

43           For the purposes of this section, existing facilities shall  
45 include any solid waste facility, whether privately or  
47 publicly owned, which, on or before the district's  
initiation of planning, has a license from the department  
pursuant to section 1310-N.

49           C. The plan shall contain a description and analysis of  
51 existing and currently planned municipal and business waste  
reduction and recycling programs and their impact on waste  
generated within the district.

1           4. Recycling potential. In preparing the recycling  
2 component of its plan, each district shall take into account the  
3 provisions of subchapter V requiring municipalities to implement  
4 recycling programs and requiring recycling by businesses. The  
5 plan shall describe and evaluate:

7           A. The kind and weight or volume of materials that could be  
8 recycled, giving consideration, at a minimum, to the  
9 following materials: clear glass, colored glass, aluminum,  
10 steel and bimetallic cans, high grade office paper,  
11 newsprint, corrugated paper, plastics and leaf waste;

13           B. Potential benefits of recycling, including the potential  
14 solid waste reduction and the avoided cost of solid waste  
15 processing or disposal;

17           C. The compatibility of recycling with other solid waste  
18 processing or disposal methods, giving consideration to and  
19 describing anticipated and available markets for materials  
20 collected through municipal and business recycling programs;

21           D. Proposed or existing collection methods for recyclable  
22 materials;

25           E. Options for the processing, storage and sale of  
26 recyclable materials, including market commitments. The  
27 plan shall consider the results of the market development  
28 study required by section 2130, if the results are available;

29           F. Opportunities for municipal cooperation or agreement for  
30 the collection, processing and sale of recyclable materials;

31           G. Opportunities for composting of yard waste and other  
32 appropriate materials;

33           H. Estimated costs of operating and maintaining a recycling  
34 program, estimated revenue from the sale or use of materials  
35 and avoided costs of processing or disposal. This estimate  
36 shall be based on a comparison of public and private  
37 operation of some or all parts of the recycling program;

38           I. The role of persons engaged in the business of recycling  
39 on the effective date of this chapter, whether or not the  
40 persons are operating for profit; and

41           J. A public information and education program that will  
42 provide comprehensive and sustained public notice of  
43 recycling program features and requirements.

44           5. Capacity needs. Taking into account existing capacity  
45 and the potential for recycling and waste reduction, the plan  
46 shall estimate the recycling, handling, processing and disposal  
47 of materials.

1 capacity needed for the solid waste that will be generated in the  
3 district during the next 10 years. The estimate shall describe  
5 the primary variables affecting this estimate and the extent to  
7 which they can reasonably be expected to affect the estimate,  
including, but not limited to, the amount that recycling will  
reduce the waste stream, and the amount of residual waste created  
at solid waste disposal or processing facilities in the district.

9 6. Facility needs. The plan shall identify the number,  
11 size and type of solid waste facilities required to meet the  
district's capacity needs. For every proposed facility, the plan  
shall:

13  
15 A. Explain in detail how the facility is consistent with  
the waste management hierarchy and recycling goals in  
section 2100;

17  
19 B. Describe alternative facilities or programs, including,  
but not limited to, waste reduction or recycling facilities  
21 or programs that were considered and provide reasonable  
assurances that the district utilized a fair, open and  
23 competitive process for selecting such facilities or  
programs from among alternatives which were suggested to the  
district;

25  
27 C. Evaluate the environmental, energy, life cycle costs,  
costs of transportation to each facility considered and  
29 economic advantages and disadvantages of the proposed  
facility or program as well as the alternatives considered;

31 D. Provide for the maximum use of existing solid waste  
transfer stations as sites for recycling collection and  
33 processing centers;

35 E. Show that adequate provision for existing and reasonably  
anticipated future recycling has been made in designing the  
37 size of any proposed facility; and

39 F. Set forth a time schedule and program for planning,  
design, siting, construction and operation of each proposed  
41 facility or program.

43 7. Financing. The plan shall describe the expected cost  
and proposed methods of financing the proposed facilities,  
45 recycling programs or waste reduction programs.

47 8. Alternative sites. If the district determines under  
this section that additional processing or disposal capacity is  
49 needed by the district within 10 years, the district shall give  
public notice of that determination. The district shall provide  
51 a copy of that notice to the authority and the department. The  
district shall include in the plan a list of alternative sites



1 for the needed facilities identified under this section. The  
2 district shall notify the municipal officers of each municipality  
3 within which the alternative sites are located.

5 9. Implementing entities. The plan shall identify the  
6 governmental and nongovernmental entities that will be  
7 responsible for implementing the components of the plan on behalf  
8 of the district and describe the legal basis for that entity's  
9 authority to do so.

11 10. Public function. The district shall provide for public  
12 ownership of new municipal solid waste disposal facilities. When  
13 the district determines that it is in the public interest for  
14 recycling facilities to be a public function, the plan shall  
15 provide for the appropriate mechanisms for the purchase of land,  
16 buildings and equipment for recycling processing.

17 11. Interdistrict agreements. When the plan provides for  
18 the processing or disposal of waste generated within its borders  
19 by facilities located within other districts, the plan shall  
20 include an interdistrict agreement implementing this provision.  
21 The plan shall also include interdistrict agreements providing  
22 for the disposal or processing of waste generated outside of the  
23 district at facilities located within the district, and shall  
24 explain how such agreements are consistent with the state waste  
25 management and recycling plan.

27 12. Copies of ordinances and resolutions. The plan shall  
28 include any proposed ordinances, negotiated contracts or  
29 requirements, including flow control provisions, that will be  
30 used to ensure the efficient operation of any facilities proposed  
31 in the plan. For each ordinance, contract or requirement, the  
32 plan shall identify the municipalities of the district to be  
33 affected, the expected effective date and the implementing  
34 mechanism.

37 13. Public participation. The plan shall include provisions  
38 for public participation in the implementation of the plan,  
39 including, but not limited to, an advisory committee to provide  
40 oversight and to advise on the implementation of the plan and  
41 facility siting.

43 §2156. Development of regional waste management plans

45 1. Advisory committee. Prior to preparing a plan or  
46 substantial plan revisions for submission to the authority in  
47 accordance with the provisions of this chapter, the district  
48 shall form an advisory committee, which shall include  
49 representatives of all classes of municipalities within the  
50 district, citizen organizations, labor organizations,  
51 environmental groups, industry, the private solid waste industry  
operating within the district, the private recycling or scrap

1 material processing industry operating within the district, the  
2 regional recycling coordinator and any other persons deemed  
3 appropriate by the district. The advisory committee shall review  
4 the plan during its preparation, make suggestions and propose any  
5 changes it believes appropriate.

7 2. Public notice. The district shall provide written  
8 notice to the municipal officers of all municipalities within the  
9 district when plan development begins, and shall publish notice  
10 of the initiation of plan development in newspapers of general  
11 circulation in the district. The district shall also provide  
12 periodic written progress reports to each municipality concerning  
13 the preparation of the plan.

15 3. Review and comment. Prior to adoption, the district  
16 shall submit copies of the proposed plan for review and comment  
17 to the department and the authority, all municipalities within  
18 the district and all area-wide planning agencies. The district  
19 shall also make the proposed plan available for public review and  
20 comment, and shall publish notice of the availability of the  
21 proposed plan for public review and comment in newspapers of  
22 general circulation in the district. The period for review and  
23 comment shall be 60 days. The district shall hold at least 2  
24 public hearings, in different geographic parts of the district,  
25 on the proposed plan during this period. The plan subsequently  
26 submitted to the authority for approval shall be accompanied by a  
27 document containing written responses to comments made during the  
28 comment period.

29 4. Adoption of plan. The district shall adopt a plan  
30 within 60 days from the end of the public comment period, and  
31 shall submit the plan to the Office of Planning and Regional  
32 Coordination of the authority.

34 **§2157. Facility siting**

36 Within 6 months of the district's submission of its plan to  
37 the authority, the district shall adopt as an addendum to the  
38 plan a list of recommended sites for the facilities proposed in  
39 the regional plan.

41 1. Facilities outside of district. For any facility that  
42 is proposed to be located outside the district, the district  
43 shall explain in detail the reasons for selecting that facility.  
44 The district shall also provide any necessary interdistrict  
45 agreements.

47 2. Public hearings. The district shall hold a public  
48 hearing in each municipality within which the district may  
49 recommend the location of any waste disposal or refuse-derived  
50 fuel processing facility.

1        §2158. Facility development

3            The district shall initiate the development of necessary  
5            solid waste facilities as identified in the regional plan at  
7            least 3 years in advance of the projected capacity need. The  
9            district may undertake facility development itself or solicit  
11           proposals for development by private vendors. The district shall  
13           provide for solid waste disposal facilities by undertaking  
15           facility development itself, or contracting with private vendors  
17           for facility design, construction or operation.

19        §2159. Recycling planning and coordination

21           Each district shall have a recycling coordinator and shall  
23           provide technical and financial assistance to municipalities and  
25           coordinate regional recycling programs implementing the regional  
27           plan. The district shall:

29           1. Grants. Administer a program of grants to  
31           municipalities and groups of municipalities to design and  
33           implement source separation and collection programs that, to the  
35           maximum extent practicable and consistent with the regional plan,  
37           rely on regional materials processing centers and coordination  
39           among groups of municipalities.

41           A. The office shall develop application forms and procedures  
43           for grants under this subsection, including municipal cost  
45           sharing requirements.

47           B. Forty percent of all funds allocated or appropriated for  
49           grants made under this subsection shall be used to reimburse  
51           municipalities for capital expenditures in support of local  
             recycling programs when those expenditures are the result of:

(1) The initiation of recycling programs, consistent  
             with the provisions of this chapter, after July 1,  
             1989, and before the deadlines established under  
             section 2181; or

(2) Investments made in existing recycling programs,  
             consistent with the provisions of this chapter, after  
             July 1, 1989, and before the deadlines established  
             under section 2181.

The office may use any portion of the set-aside funds not  
             obligated under this paragraph for grants to any  
             municipality otherwise eligible under this subsection.

C. The office shall award grants under this subsection to  
             any municipality which has submitted a grant proposal  
             demonstrating that the municipality has met the requirements  
             of subchapter V;

1  
2 2. Leaf composting. Assist municipalities to design and  
3 implement leaf composting programs, and consistent with the  
4 regional plan, develop regional composting programs for leaf and  
5 other wastes. It is the responsibility of the district to ensure  
6 that sufficient leaf composting programs and facilities are  
7 available within the district by July 1, 1992, to manage leaf  
8 waste generated within the district;

9  
10 3. Information. Administer a public information and  
11 education program concerning waste reduction and recycling  
12 programs; and

13  
14 4. Feasibility studies. Investigate the feasibility of  
15 developing regional materials processing centers.

16  
17 §2160. Citizen advisory committee

18  
19 The municipal officers of each municipality identified in a  
20 regional plan as a proposed site for a waste disposal facility or  
21 a facility which produces refuse-derived fuel under this chapter  
22 and each contiguous municipality which may be affected by the  
23 construction or operation of that facility shall jointly  
24 establish a citizen advisory committee within 60 days of  
25 notification pursuant to section 2156.

26  
27 1. Membership. The committee shall be comprised of  
28 citizens from each affected municipality, including, but not  
29 limited to: a municipal health officer; a municipal officer; and  
30 at least 3 additional residents of the municipality, including  
31 abutting property owners and residents potentially affected by  
32 pollution from the proposed facility. In addition, each  
33 committee may include members representing any of the following  
34 interests: environmental and community groups; labor groups;  
35 professionals with expertise relating to landfills or  
36 incinerators; experts in the area of chemistry, epidemiology,  
37 hydrogeology and biology; and legal experts.

38  
39 2. Meetings. The committee shall meet as soon as practical  
40 following appointment of its members and shall select a chair  
41 from among its members. The committee shall establish procedures  
42 for the conduct of meetings.

43  
44 3. Responsibilities. Each committee established under this  
45 section shall have the authority to:

46  
47 A. Review proposed contracts, site analyses, applications  
48 and other documents relating to the location, construction,  
49 permitting and operation of the proposed facility;

50  
51 B. Hold periodic public meetings to solicit the opinions of  
residents concerning the proposed facility and any permit

1           applications, contracts or other provisions relating to the  
2           facility and the regional plan;

3  
4           C. Provide the district and department with any alternative  
5           contract provisions, permit conditions, plans or procedures  
6           it deems appropriate; and

7  
8           D. Serve as a liaison between the community and the  
9           district, authority, project developer or the department to  
10           facilitate communications during the siting and operation of  
11           the facility, and provide residents with updated information  
12           about the project, including providing lay explanations of  
13           any technical terms.

14  
15           4. Unincorporated townships and plantations. For the  
16           purposes of this subchapter, county commissioners shall act as  
17           municipal officers for unincorporated townships and assessors of  
18           plantations shall act as municipal officers for plantations.

19           §2161. Local hearings

20  
21           If the regional plan proposes specific sites for the  
22           location of any waste disposal or refuse-derived fuel processing  
23           facility, a hearing shall be held in each municipality within  
24           which a facility site is proposed.

25  
26           §2162. Dispute resolution

27  
28           A host municipality may establish a process, including, but  
29           not limited to, negotiation, mediation and arbitration to resolve  
30           disputes and to negotiate additional rights and benefits relating  
31           to the siting and operation of a waste disposal or refuse-derived  
32           fuel processing facility within the municipality. The citizen  
33           advisory committee shall be consulted and shall assist in the  
34           development and implementation of any process established under  
35           this section. At the option of the municipality, the authority  
36           may appoint a neutral mediator to resolve disputes. The  
37           municipality shall be eligible for grants from the authority to  
38           fund dispute resolution programs under this section.

39  
40           §2163. Facility information and inspection

41  
42           1. Right to information. The host municipality shall have a  
43           right to the following information from the department and  
44           facility operator. All information provided under this section  
45           shall be made available to the citizen advisory committee and the  
46           public by the host municipality.

47  
48           A. The department shall provide all of the following  
49           information to the municipal officers of host municipalities  
50           of facilities licensed under chapter 13:  
51

1           (1) Copies of any inspection report of the facility  
3           within 3 working days of the preparation of the report;

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

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

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

31           B. The operator of the facility shall provide to the host  
33           municipality copies of all air, soil and water quality  
35           monitoring data, including leachate and ash testing results,  
37           conducted by or on behalf of the operator, within 3 days  
39           after that information becomes available to the operator.

41           2. Right to inspect facilities and issue orders. The  
43           rights of a host municipality to inspect facilities and issue  
45           orders are governed by this subsection.

47           A. The department shall establish and conduct a training  
49           program to certify host municipality inspectors. This  
51           program shall be made available to persons who have been  
              designated by the municipality. The department shall hold  
              training programs at least twice a year. The authority  
              shall pay for the host inspection training program and for  
              50% of the municipalities' cost of employing a host  
              municipality inspector for a period not to exceed 5 years.  
              The department may decertify host municipality inspectors  
              pursuant to rules promulgated by the Board of Environmental  
              Protection.

B. Certified inspectors are authorized to enter property,  
              inspect records required by the department, take samples and  
              conduct inspections in accordance with departmental  
              regulations applicable to employees of the department. A  
              certified inspector may order the operator of a facility to  
              cease any operation or activity at the facility which  
              constitutes an immediate threat to public health and safety,  
              or which represents a violation of state environmental laws  
              or regulations, local environmental ordinances or the terms  
              or conditions of a permit issued under those laws,  
              regulations or ordinances. The order shall expire within 2

1 hours unless the inspector notifies the department and the  
2 municipal officers of the host municipality. The department  
3 may, after conducting an inspection, supersede the local  
4 inspector's order by issuing an order of its own which  
5 vacates or modifies the terms of the local order. If the  
6 department does not act to supersede the order, the order  
7 shall expire after 24 hours unless otherwise extended by a  
8 court of law.

9  
10 **3. Department inspections.** Whenever any host municipality  
11 presents information to the department which gives the department  
12 reason to believe that any facility, licensed under chapter 13,  
13 is in violation of any law or regulation protecting the  
14 environment, or any order or the condition of any permit issued  
15 pursuant thereto, the department shall promptly conduct an  
16 inspection of the facility.

17  
18 If the department finds that there is insufficient information to  
19 believe that there is a violation, the department shall, within  
20 10 working days of a municipality's request for an inspection,  
21 provide to the municipality a written explanation of its decision  
22 not to conduct an inspection.

23  
24 The department shall notify the host municipality of any  
25 inspection planned by the department. The department shall  
26 permit representatives of the host municipality to accompany the  
27 department on any inspection of the facility. Authorized  
28 representatives of the municipality may include, without  
29 limitation, a certified municipal inspector, a representative of  
30 a citizen advisory committee, a representative of a local health  
31 department and paid or unpaid technical advisors to the  
32 municipality.

33 **§2164. Property value offset**

34  
35 Owners of property which is contiguous to a district-owned  
36 or operated or authority-owned or operated facility licensed  
37 under chapter 13 are eligible for reimbursement for loss in  
38 property value directly attributable to the construction and  
39 operation of the facility. The authority shall issue rules to  
40 establish a formula and process for reimbursement, including,  
41 without limitation, definition of the impact area, a process for  
42 establishing baseline real estate values, a time frame within  
43 which the property value support program will be in effect,  
44 determination of the percentage of property value to be  
45 reimbursed, an accounting of real estate trends in the area and a  
46 determination of the reimbursement mechanism.

47  
48 **§2165. Bonds and Notes**

49  
50 **1. Authorization of bonds.** A district may provide by  
51 resolution of its members for the borrowing of money and the

1 issuance from time to time of bonds and notes for any of its  
2 corporate purposes, including, but not limited to:

3 A. Paying and refunding its indebtedness;

4  
5 B. Paying any necessary expenses and liabilities incurred  
6 under this chapter, including organizational and other  
7 necessary expenses and liabilities;

8  
9 C. Paying costs directly or indirectly associated with  
10 acquiring properties; paying damages; constructing,  
11 maintaining and operating waste facilities; making renewals,  
12 additions, extensions and improvements to the property or  
13 facilities; and covering interest payments during the period  
14 of construction and for such period as the district may  
15 determine;

16  
17 D. Providing such reserves for debt service, repairs and  
18 replacements or other capital or current expenses as may be  
19 required by a trust agreement or resolution securing bonds  
20 or notes; and

21  
22 E. Any combination of these purposes.

23  
24 Bonds may be issued under this chapter as general obligations of  
25 the district or as special obligations payable solely from  
26 particular funds. The principal, premium and interest on all  
27 bonds shall be payable solely from the funds provided for that  
28 purpose from revenues. All bonds issued under this chapter shall  
29 be legal obligations of the district. Bonds may be issued under  
30 this chapter without obtaining the consent of any commission,  
31 board, bureau or agency of the State and without any other  
32 proceedings or the happening of other conditions or things other  
33 than those proceedings, conditions or things which are  
34 specifically required by this chapter. Except as provided in  
35 this subchapter, bonds issued by the district under this chapter  
36 do not constitute a debt or liability of the State or a pledge of  
37 the faith and credit of the State, and a statement to that effect  
38 shall be recited on the face of the bonds.

39  
40 2. Notes. The district may provide, by resolution of its  
41 members, for the issuance from time to time of:

42  
43 A. Notes in anticipation of bonds authorized under this  
44 chapter;

45  
46 B. Notes in anticipation of the revenues to be collected or  
47 received in any year; or

48  
49 C. Notes in anticipation of the receipt of federal or state  
50 grants or other aid. The issuance of these notes shall be  
51 governed by the applicable provisions of this chapter



1           relating to the issuance of bonds, provided that notes in  
3           anticipation of revenue must mature no later than one year  
5           from their respective dates and notes issued in anticipation  
7           of federal or state grants or other aid and renewals thereof  
9           must mature no later than the expected date, as determined  
11           by the board of directors, of receipt of those grants or  
13           aid. The district may adjust the maturity date of notes  
15           issued in anticipation of federal or state grants or other  
          aid to reflect changes in the expected date of receipt.  
          Notes in anticipation of revenue issued to mature less than  
          one year from their dates may be renewed from time to time  
          by the issuance of other notes, provided that the period  
          from the date of an original note to the maturity of any  
          note issued to renew or pay the note or the interest thereon  
          may not exceed one year.

17           The district may enter into agreements with the State or the  
19           United States Government, or any agency of either, or any  
21           municipality, corporation, commission or board authorized to  
23           grant or loan money or to otherwise assist in the financing of  
25           projects of the type which the district is authorized to carry  
          out, and to accept grants and borrow money from any such  
          government, agency, municipality, corporation, commission or  
          board as may be necessary or desirable to accomplish the purposes  
          of the district.

27           3. Maturity; interest; form; temporary bonds. The bonds  
29           issued under this chapter shall be dated, shall mature at such  
31           time or times not exceeding 40 years from their date or dates and  
33           shall bear interest at such rate or rates as may be determined by  
35           the district or determined pursuant to a formula approved by the  
37           district or by a 3rd-party rate-setting agent selected by the  
39           district, and may be made redeemable before maturity, at the  
41           option of the district, at such price or prices and under such  
43           terms and conditions as may be fixed by the district prior to the  
45           issuance of the bonds. The district shall determine the form of  
47           the bonds, including any interest coupons to be attached, and the  
49           manner of execution of the bonds, and shall fix the denomination  
51           or denominations of the bonds and the place or places of payment  
          of principal and interest, which may be at any financial  
          institution having trust powers within or outside the State.  
          Bonds shall be executed in the name of the district by the manual  
          or facsimile signature of such officer or officers as may be  
          authorized in the resolution to execute the bonds, but at least  
          one signature on each bond shall be a manual signature. Coupons,  
          if any, attached to the bonds shall be executed with the  
          facsimile signature of the officer or officers of the district  
          designated in the resolution. In case any officer, whose  
          signature or facsimile signature appears on any bonds or coupons,  
          ceases to hold that office before the delivery of the bonds, the  
          signature or its facsimile shall nevertheless be valid and  
          sufficient for all purposes, as if that officer had remained in

1 office until the delivery. Notwithstanding any of the other  
2 provisions of this chapter or any recitals in any bonds issued  
3 under this chapter, all bonds shall be deemed to be negotiable  
4 instruments under the laws of this State. The bonds may be  
5 issued in coupon or registered form, or both, as the district  
6 may determine, and provision may be made for the registration of  
7 any coupon bonds as to principal alone and as to both principal  
8 and interest, and for the reconversion into coupon bonds of any  
9 bonds registered as to both principal and interest. The district  
10 may sell the bonds in the manner, either at public or private  
11 sale, and for such price as they may determine to be for the best  
12 interests of the district. The proceeds of the bonds of each  
13 issue shall be used solely for the purpose for which those bonds  
14 have been authorized and shall be disbursed in such manner and  
15 under such restrictions as the district may provide in the  
16 resolution authorizing the issuance of the bonds or in the trust  
17 agreement securing the bonds. The resolution providing for the  
18 issuance of bonds, and any trust agreement securing the bonds,  
19 may contain such limitations upon the issuance of additional  
20 bonds as the district may deem proper, and these additional bonds  
21 shall be issued under such restrictions and limitations as may be  
22 prescribed by that resolution or trust agreement. Prior to the  
23 preparation of definitive bonds, the district may, under like  
24 restrictions, issue interim receipts or temporary bonds, with or  
25 without coupons, exchangeable for definitive bonds when those  
26 bonds are executed and are available for delivery. The district  
27 may provide for the replacement of any bond which is mutilated,  
28 destroyed or lost.

29  
30 4. Pledges and covenants; trust agreement. In the  
31 discretion of the district, each or any issue of bonds may be  
32 secured by a trust agreement by and between the district and a  
33 corporate trustee, which may be any financial institution having  
34 trust powers within or outside the State.

35  
36 The resolution of the district authorizing the issuance of the  
37 bonds or the trust agreement may pledge or assign, in whole or in  
38 part, the revenues and other money held or to be received by the  
39 district and any accounts and contract or other rights to receive  
40 the revenues or money, whether then existing or thereafter coming  
41 into existence and whether then held or thereafter acquired by  
42 the district and the proceeds thereof, and may convey or mortgage  
43 the waste facilities or any other properties of the district. The  
44 resolution may also contain provisions for protecting and  
45 enforcing the rights and remedies of the bondholders, including,  
46 but not limited to, covenants setting forth the duties of the  
47 district in relation to the acquisition, construction,  
48 reconstruction, improvement, repair, maintenance, operation and  
49 insurance of its waste facilities or any of its other properties;  
50 the fixing and revising of rates, tolls, assessments, rents,  
51 tipping fees and transportation charges and other charges; the  
application of the proceeds of bonds; the custody, safeguarding

1 and application of revenues; the defining of defaults and  
3 providing for remedies in the event thereof, which may include  
5 the acceleration of maturities, the establishment of reserves and  
7 the making and amending of contracts. The resolution or trust  
9 agreement may set forth the rights and remedies of the  
11 bondholders and of the trustee, if any, and may restrict the  
13 individual right of action by bondholders as is customary in  
15 trust agreements or trust indentures securing bonds or debentures  
17 of corporations. In addition, the resolution or trust agreement  
19 may contain such other provisions as the district may deem  
21 reasonable and proper for the security of the bondholders,  
23 including means by which the resolution or trust agreement may be  
25 amended. All expenses incurred in carrying out the resolution or  
27 trust agreement may be treated as a part of the cost of  
29 operation. The pledge by any such resolution or trust agreement  
31 shall be valid and binding and shall be deemed continuously  
33 perfected for the purposes of the Uniform Commercial Code from  
35 the time when the pledge is made. All revenues, money, rights  
37 and proceeds so pledged and thereafter received by the district  
39 shall immediately be subject to the lien of the pledge without  
41 any physical delivery or segregation thereof or further action  
43 under the Uniform Commercial Code or otherwise, and the lien of  
45 the pledge shall be valid and binding as against all parties  
having claims of any kind in tort, contract or otherwise against  
the district irrespective of whether those parties have notice  
thereof.

27 The resolution authorizing the issuance of bonds under this  
29 chapter, or any trust agreement securing those bonds, may provide  
31 that all or a sufficient amount of revenues and assessments,  
33 after providing for the payment of the cost of repair,  
35 maintenance and operation and reserves therefor as may be  
37 provided in the resolution or trust agreement, shall be set aside  
39 at such regular intervals as may be provided in the resolution or  
41 trust agreement and deposited in the credit of a fund for the  
43 payment of the interest on and the principal of bonds issued  
45 under this chapter as the bonds shall become due, and the  
redemption price or purchase price of bonds retired by call or  
purchase. The use and disposition of money in or to the credit  
of the fund shall be subject to such regulations as may be  
provided in the resolution authorizing the issuance of the bonds  
or in the trust agreement securing the bonds and, except as may  
otherwise be provided in the resolution or trust agreement, the  
fund shall be a fund for the benefit of all bonds without  
distinction or priority of one over another.

47 5. Trust funds. Notwithstanding any other provision of  
49 law, all money set aside for payment of the bonds, or other  
51 purposes pursuant to the provisions of any trust agreement  
securing the bonds, shall be deemed to be trust funds, to be held  
and applied as provided by the trust agreement; provided that  
investment or deposit of those funds shall be subject to the

1 provisions applicable to municipal funds under Title 30-A,  
3 chapter 223, subchapter III-A. The resolution authorizing the  
5 issuance of bonds or the trust agreement securing the bonds shall  
7 provide that any officer to whom, or bank, trust company or other  
9 financial institution or fiscal agent to which, money shall be  
paid shall act as trustee of money and shall hold and apply the  
same for the purposes hereof, subject to such regulations as may  
be provided in the resolution or trust agreement or as may be  
required under this chapter.

11 6. Remedies. Any holder of bonds issued under this chapter  
13 or of any of the coupons appertaining to those bonds, and the  
15 trustee under any trust agreement, except to the extent the  
17 rights given may be restricted by the resolution authorizing the  
19 issuance of those bonds or trust agreement, may, either at law or  
21 in equity, by suit, action, mandamus or other proceeding,  
23 including proceedings for the appointment of a receiver to take  
25 possession and control of the properties of the district, protect  
27 and enforce any and all rights under the laws of the State or  
granted under this chapter or under the resolution or trust  
agreement, and may enforce and compel the performance of all  
duties required by this chapter or by the resolution or trust  
agreement to be performed by the district or by any officer of  
the district, including the fixing, charging and collecting of  
rates, fees and charges for the use of or for the services and  
facilities furnished by the district.

29 7. Refunding bonds. The district, by resolution, may issue  
31 refunding bonds for the purpose of paying any of its bonds at  
33 maturity or upon acceleration or redemption. The refunding bonds  
35 may be issued at such time prior to the maturity or redemption of  
37 the refunded bonds as the district deems to be in the public  
39 interest. The refunding bonds may be issued in sufficient  
41 amounts to pay or provide the principal of the bonds being  
43 refunded, together with any redemption premium thereon, any  
45 interest accrued or to accrue to the date of payment of those  
47 bonds, the expenses of issuance of the refunding bonds, the  
expenses of redeeming the bonds being refunded and such reserves  
for debt service or other capital or current expenses from the  
proceeds of the refunding bonds as may be required by a trust  
agreement or resolution securing bonds. The issuance of  
refunding bonds, the maturities and other details thereof, the  
security therefor, the rights of the holders thereof, and the  
rights, duties and obligations of the district in respect of the  
same shall be governed by the applicable provisions of this  
chapter relating to the issuance of bonds other than refunding  
bonds.

49 8. Tax exemption. All bonds, notes or other evidences of  
51 indebtedness issued under this chapter, and their transfer and  
the income therefrom, including any profit made on the sale

1 thereof, shall at all times be free from taxation within the  
2 State.

3  
4 9. Bonds declared legal investments. Bonds and notes  
5 issued by the district under this chapter are made securities in  
6 which all public officers and public bodies of the State and its  
7 political subdivisions, all insurance companies and associations  
8 and other persons carrying on an insurance business, trust  
9 companies, banks, bankers, banking associations, savings banks  
10 and savings associations, including savings and loan  
11 associations, credit unions, building and loan associations,  
12 investment companies, executors, administrators, trustees and  
13 other fiduciaries, pension, profit-sharing, retirement funds and  
14 other persons carrying on a banking business, and all other  
15 persons who are now, or may hereafter be, authorized to invest in  
16 bonds or other obligations of the State, may properly and legally  
17 invest funds, including capital in their control or belonging to  
18 them. The bonds and notes are made securities which may properly  
19 and legally be deposited with and received by any state,  
20 municipal or public officer, or any agency or political  
21 subdivision of the State, for any purpose for which the deposit  
22 of bonds or other obligations of the State is now or may  
23 hereafter be authorized by law.

24  
25 10. Negotiated or competitive bidding process. Any notes,  
26 bonds or other instruments of indebtedness may be the subject of  
27 a negotiated or competitive bidding process, or any other process  
28 which may be advantageous to the district, and determination of  
29 the process to be used shall be made by and at the discretion of  
30 the board of the district.

31 §2166. Charges

32  
33  
34 All persons utilizing district-owned or operated solid waste  
35 management facilities shall pay to the treasurer of the district  
36 the rates, tolls, assessments, rents, tipping fees,  
37 transportation charges and other charges established by the  
38 district for services provided by the district. In this  
39 subchapter, the words "other charges" include, but are not  
40 limited to, interest on delinquent accounts at a rate not to  
41 exceed the highest lawful rate set by the Treasurer of State for  
42 municipal taxes. The district may submit periodic bills directly  
43 to municipalities or to individual users.

44  
45 Rates, tolls, assessments, rents, tipping fees,  
46 transportation charges and other charges shall be established to  
47 provide revenue at least sufficient, together with any other  
48 money available to:

49  
50 1. Current operating expenses. Pay the current expenses of  
51 operating and maintaining the waste facilities of the district;

1           2. Payment of interest and principal. Pay the principal,  
2           premium and interest on all bonds and notes issued by the  
3           district under this chapter when due and payable;

5           3. Payments into reserve funds. Create and maintain such  
6           reserves as may be required by any trust agreement or resolution  
7           securing bonds and notes;

9           4. Repairs, replacements and renewals. Provide funds for  
10           paying the cost of all necessary repairs, replacements and  
11           renewals of the waste facilities of the district;

13           5. Payment of obligations. Pay or provide for any and all  
14           amounts which the district may be obligated to pay or provide for  
15           by law or contract, including any resolution or contract with or  
16           for the benefit of the holders of its bonds and notes; and

17           6. Closure and monitoring. Create and maintain such  
18           reserves, to be held in escrow, as may be required for closure  
19           activities and post-closure monitoring of solid waste disposal  
20           facilities in accordance with section 1310-P and reserves  
21           necessary for any corrective action.

23           §2167. Collection of unpaid charges

25           The treasurer of the district may collect the rates, tolls,  
26           assessments, rents, tipping fees, transportation charges and  
27           other charges established by the district and those charges shall  
28           be committed to the treasurer. The treasurer may, after demand  
29           for payment, sue in the name of the district in a civil action  
30           for any rate, toll, rent, assessment, tipping fee, transportation  
31           charge or other charges remaining unpaid in any court of  
32           competent jurisdiction. In addition, the treasurer may order the  
33           termination of service for nonpayment of any amount owed to the  
34           district by a private user.

37                           SUBCHAPTER V

39                           LOCAL WASTE REDUCTION AND RECYCLING

41           §2180. Local recycling responsibility

43           All municipalities shall cooperate in the development and  
44           implementation of district recycling plans, and municipal  
45           recycling programs shall be consistent with the district's plan  
46           and recycling goals. The district shall assist municipalities in  
47           designing and implementing source separation and collection  
48           programs that, to the maximum extent practicable, utilize  
49           regional materials processing centers.

51           §2181. Municipal implementation of recycling programs

1       Each municipality shall establish and implement a source  
3 separation and collection program for recyclable materials in  
5 accordance with the following schedule, based on the most recent  
7 population data available, including, but not limited to, census  
9 data:

11       1. Large towns. By July 1, 1991, each municipality that  
13 has a population of 10,000 or more people;

15       2. Medium towns. By July 1, 1992, each municipality that  
17 has a population of more than 5,000 people but less than 10,000  
19 people;

21       3. Small towns. By July 1, 1993, each municipality that  
23 has a population of less than 5,000 people.

25       For the purposes of this section only, any municipalities  
27 currently participating in a regional solid waste management  
29 program with one or more municipalities, which jointly use a  
31 single transfer station, shall be considered a single  
33 municipality for the purposes of determining population size.

35       §2182. Leaf composting

37       By July 1, 1992, all municipalities, regardless of  
39 population, shall establish a program for composting leaf waste,  
41 either within the municipality or in cooperation with other  
43 municipalities.

45       §2183. Submission for review; program contents

47       One year prior to the deadline established in section 2181,  
49 each municipality shall submit a proposed program to the district  
51 detailed the source separation and collection program. The  
53 program shall include all of the following elements:

55       1. Ordinances. An ordinance adopted by the governing body  
57 of the municipality, requiring all of the following:

59       A. Household separation of at least 3 materials deemed  
61 appropriate by the municipality, chosen from the following:  
63 glass, aluminum, steel and bimetallic cans, mixed paper,  
65 newsprint, corrugated paper and plastics. An ordinance may  
67 permit an owner, landlord or agent of an owner or landlord  
69 of multifamily rental housing properties with 4 or more  
71 units to comply with its responsibilities under this section  
73 by establishing a collection system for recyclable materials  
75 at each property. The collection system must include  
77 suitable containers for collecting and sorting materials,  
79 easily accessible locations for the containers, and written  
81 instructions to the occupants concerning the use and  
83 availability of the collection system:

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B. Separation of leaf waste from waste generated by households and other residential establishments until collection unless those persons have otherwise provided for the composting of leaf waste; and

C. Separation and storage of high grade office paper, corrugated paper, leaf waste and other materials deemed appropriate by the municipality, which are generated at commercial, municipal or institutional establishments and from community activities.

Nothing in the ordinance or regulation may be deemed to impair the ownership of separate materials by the person who generated them unless and until those materials are placed at curbside or similar location for collection by the municipality or its agents;

2. Collection system. Unless a municipality has a system whereby waste is individually dropped off at a transfer station or landfill by each household, the municipality shall provide for curbside collection of recyclable materials required to be separated by each household. The municipality shall provide for trucks and related equipment to collect recyclable materials from the curbside at least twice per month. Drop-off facilities shall provide for reasonable and convenient hours;

3. Composting of leaf waste. A program for composting leaf waste, either within the municipality or in cooperation with other municipalities;

4. Ordinance enforcement. Provisions to ensure compliance with the ordinance, including incentives and penalties;

5. Coordination. Provisions for the recycling of collected materials, including processing and marketing of collected materials, and how the municipal program coordinates with district recycling plans; and

6. Collection containers. For curbside programs, collection containers for household separation of recyclables.

**§2184. Notice**

Each municipality subject to this section shall establish a comprehensive and sustained public information and education program concerning recycling program features and requirements. As a part of this program, each municipality shall, at least 30 days prior to the initiation of the recycling program and at least once every 6 months thereafter, notify all persons occupying residential, commercial, institutional and municipal premises within its boundaries of the requirements of the ordinance.



1  
3 §2185. Implementation

5 A municipality shall implement its responsibilities for  
7 collection, transportation, processing and marketing materials  
9 under this section in one or both of the following ways:

11 1. Municipal operation. Collect, transport, process or  
13 market materials as required by this section; or

15 2. Contracted. Enter into contracts with other persons,  
17 including the authority or the district, for the collection,  
19 transportation, processing or marketing of materials as required  
21 by this subchapter. A person who enters into a contract under  
23 this subsection shall be responsible with the municipality for  
25 implementation of this section.

27 §2186. Preference for established recycling contractors

29 In implementing its recycling program, a municipality shall  
31 accord consideration for the collection, marketing and  
33 disposition of recyclable materials to persons engaged in the  
35 business of recycling on the effective date of this chapter,  
37 whether or not the persons were operating for profit.

39 §2187. Facilities operation and recycling

41 1. Leaf waste. After July 1, 1992, no solid waste disposal  
43 facility may accept leaf waste for disposal or processing, other  
45 than composting.

47 2. Drop-off centers. After July 1, 1991, no person may  
49 operate a waste disposal facility or transfer station for  
51 municipal solid waste unless the operator has established a  
drop-off center for the collection and sale of at least 3  
recyclable materials. The 3 materials shall be chosen from the  
following: glass, aluminum, steel and bimetallic cans, high  
grade office paper, mixed paper, newsprint, corrugated paper and  
plastics. The center must be located at the facility or in a  
place that is easily accessible to persons generating municipal  
solid waste that is processed or disposed of at the facility, and  
shall be open at least 8 hours per week, including 4 hours during  
evenings or weekends. Each operator shall, at least 30 days  
prior to the initiation of the drop-off center program and at  
least once every 6 months thereafter, provide effective public  
notice of the availability of the drop-off center.

3. Removal of recyclable materials. After July 1, 1991, no  
person may operate a waste disposal facility for municipal solid  
waste unless the operator has developed a program for the  
removal, to the greatest extent practicable, of recyclable  
materials, including plastics, high grade office paper, aluminum,

1 ferrous metal, glass and newspaper from the waste to be  
2 incinerated.

3

4 4. Removal of hazardous materials. After July 1, 1991, no  
5 person may operate an incinerator unless the operator has  
6 developed a program for the removal of hazardous materials, such  
7 as plastics, corrosive materials, batteries, pressurized cans and  
8 household hazardous materials from the waste to be incinerated.

9

10 §2188. Private sector recycling programs

11

12 1. Compliance with local ordinances. Any employer shall  
13 comply with local source separation and recycling ordinances  
14 established under this subchapter and section 1304-B and district  
15 recycling plans.

16 2. High grade office paper and corrugated paper recycling.  
17 Employers within the State shall establish and implement a source  
18 separation and collection program for recyclable materials at  
19 each site with 15 or more employees. Materials recycled shall  
20 include at a minimum, high grade office paper and corrugated  
21 paper. The program shall include procedures for collecting and  
22 storing recyclable materials, and contractual and other  
23 arrangements with buyers. Employers are encouraged to coordinate  
24 with local and regional recycling programs for collection and  
25 processing services. Employers shall implement this program  
26 according to the following schedule:

27  
28 A. Employers of 200 or more persons at a site shall  
29 implement a recycling program at each site by July 1, 1991;

30

31 B. Employers of 50 or more persons at a site shall  
32 implement a recycling program at each site by July 1, 1992;  
33 and

34

35 C. Employers of 15 or more persons at a site shall  
36 implement a recycling program at each site by July 1, 1993.

37

38 3. Technical assistance. The Office of Waste Reduction and  
39 Recycling and the district recycling coordinators shall assist  
40 employers in complying with this section by providing technical  
41 and market assistance.

42

43 **Sec. 25. Office of Waste Reduction and Recycling; Recycling Advisory**  
44 **Council.** The existing staff of the Office of Waste Recycling and  
45 Reduction in the Department of Economic and Community Development  
46 shall continue as staff to the Office of Waste Reduction and  
47 Recycling in the Maine Waste Management Authority created by this  
48 Act. The existing membership of the Recycling Advisory Council  
49 appointed under the Maine Revised Statutes, Title 38, section  
50 1310-L, as repealed in this Act, shall serve the remainder  
51

1 of their terms as members of the Recycling Advisory Council  
3 created by this Act.

5 **PART E**

7 **Sec. 1. 35-A MRSA §102, sub-§13**, as enacted by PL 1987, c.  
141, Pt. A, §6, is amended to read:

9 13. **Public utility.** "Public utility" includes every gas  
11 utility, solid waste disposal utility, natural gas pipeline  
13 utility, electric utility, telephone utility, telegraph utility,  
15 water utility, public heating utility and ferry, as those terms  
17 are defined in this section and each of those utilities is  
19 declared to be a public utility. "Public utility" does not  
include the operation of a radio paging service, as that term is  
defined in this section. Nothing in this subsection precludes  
the jurisdiction, control and regulation by the commission  
pursuant to private and special act of the Legislature.

21 **Sec. 2. 35-A MRSA §102, sub-§16-A** is enacted to read:

23 16-A. Solid waste. "Solid waste" means useless, unwanted  
25 or discarded solid material with insufficient liquid content to  
27 be free flowing, including, by way of example and not by  
29 limitation, rubbish, garbage, scrap materials, junk, refuse,  
inert fill material and landscape refuse, but does not include  
septic tank sludge or agricultural wastes. "Solid waste"  
includes fuel, whether solid, liquid or gas, derived from  
materials such as those listed.

31 **Sec. 3. 35-A MRSA §102, sub-§§16-B and 16-C** are enacted to  
33 read:

35 16-B. Solid waste disposal facility. "Solid waste disposal  
37 facility" includes all real estate, fixtures and personal  
39 property owned, controlled, operated or managed in connection  
41 with or to facilitate the disposal of solid waste, as defined in  
Title 38, chapter 13. A facility which incinerates municipal or  
industrial solid waste in small amounts which constitute less  
than 2% by weight of its fuel shall not be considered a disposal  
facility for the purposes of this subchapter.

43 16-C. Solid waste disposal utility. "Solid waste disposal  
45 utility" includes every person, the utility's lessees, trustees,  
47 receiver or trustees appointed by any court owning, controlling,  
operating or managing any solid waste disposal facility for  
compensation within this State.

49 **Sec. 4. 35-A MRSA §116, sub-§1**, as amended by PL 1987, c. 631,  
51 §4, is further amended to read:





1 Part A incorporates operational aspects of necessary  
recycling initiatives.  
3  
5 Part B includes an expansion of the existing beverage  
container deposit system.  
7  
9 Part C includes 2 tax provisions which generate revenues  
needed to manage the State's waste and, in the case of the  
waste stream products tax, provide an economic incentive to  
manufacturers to use recyclable packaging.  
11  
13 Part D includes all provisions necessary to establish a  
Maine Waste Management Authority and 7 regional solid waste  
management districts, and statewide recycling at the local  
and regional levels.  
15  
17 Part E makes provision for the equitable regulation of the  
rates charged for various waste management services.  
19  
21 Part F repeals provisions of the Civil Service Law that  
affect the Department of Environmental Protection.

23 Part A:

25 This part of the bill includes provisions to encourage state  
and local procurement of products with recycled content. These  
27 provisions expand upon existing statutory and executive  
provisions to set aggressive procurement goals together with  
29 legislative review to ensure close oversight, and are intended to  
spur market development and private sector recycling through  
31 government purchasing. These provisions are consistent with  
regional efforts to coordinate state procurement.  
33

35 This part also includes provisions to encourage the use of  
composted materials by state agencies in order to stimulate the  
market for these materials. Development of these markets is an  
37 essential complement to future municipal leaf composting programs  
which will be undertaken in the early 1990's.  
39

41 To facilitate the development of recycling markets for  
plastics, provisions are included requiring coding of plastic  
containers by resin type. These provisions are modeled closely  
43 on model legislation developed by the plastics industry. The  
provisions of this bill differ from the industry model in 2  
45 important ways. First, this bill prohibits the use of the  
"chasing arrow" recycling symbol as part of the coding system  
47 unless the Office of Waste Reduction and Recycling has determined  
that there is actually a market for the particular plastic  
49 container in question. This provision is consistent with the  
Northeast Recycling Council's recommendation. The 2nd difference  
51 concerns exemptions from the coding requirements. This bill

1 provides an exemption for small pharmaceutical product  
containers. The industry seeks a broader exemption.

3  
4 This part also includes a ban on the sale of 6-pack yokes,  
5 "plastic" cans and multimaterial aseptic packaging also known as  
6 "brick-paks." This part also bans the sale of packaging  
7 materials which include lead or cadmium. This part also directs  
8 retailers to use paper bags unless the consumer specifically  
9 requests otherwise. These provisions are designed to reduce the  
10 toxicity of the waste stream and to remove items from the waste  
11 stream which interfere with recycling programs.

12  
13 This part also establishes a comprehensive recycling program  
for state agencies and the University of Maine System.

14  
15 Finally, this part directs the Department of Transportation  
16 to undertake a study and demonstration program for the use of  
17 recycled materials such as shredded tires and crushed glass in  
18 transportation construction and maintenance projects. These  
19 provisions are intended to develop markets for these materials  
20 and to reduce current disposal problems associated with tires.

21  
22  
23 Part B:

24  
25 This part extends the existing beverage container deposit  
26 system to include all beverage containers except for  
27 dairy-derived products. This part establishes higher refund  
28 values for wine and liquor bottles to maintain the consumer  
29 incentive to return these large containers of higher priced  
30 products. This part also increases the handling fee from 2¢ to  
31 4¢ to offset the substantial effects of general inflation since  
32 the 2¢ handling fee was established in 1980. This part also  
33 establishes a data collection system to track the volume of  
34 containers and deposits in the bottle bill system. An advisory  
35 committee is established to assist the Department of Food,  
36 Agriculture and Rural Resources on the implementation of the  
37 expansion.

38  
39 Part C:

40  
41 Part C establishes an advance disposal tax on tires,  
42 lead-acid batteries, white goods and brown goods. This tax is  
43 imposed at the point of first sale in the State or the point of  
44 manufacture if manufactured within the State. The tax is set at  
45 \$1 per tire; \$15 per white or brown good and \$1 per lead-acid  
46 battery.

47  
48 This part also establishes a tax on packaging which is  
49 neither recyclable nor made from recycled material. This tax is  
50 imposed in 2 ways. First, a tax is imposed on the gross revenues  
51 (0.05%) on any company which first imports prepackaged consumer  
products intended for retail sale in Maine. Second, a tax of 1¢

1 cent per container is imposed on any empty packaging used in the  
2 State fast food containers and plastic shopping bags. There is a  
3 standard deduction of \$500,000 of gross revenues from the gross  
4 revenue portion of the tax, thus exempting most small  
5 businesses. A credit of 50% is available on all packaging which  
6 is made of 100% material which can be recycled. An additional  
7 50% credit is available for packaging which is made of  
8 predominantly recycled material.

9  
10 All revenues from these taxes are directed to the General  
11 Fund minus the costs of administration. This part directs the  
12 Bureau of the Budget to estimate the revenues from these 2 taxes  
13 and to include these revenues in its recommendations to the  
14 Governor for the budget of the Maine Waste Management Authority.

15 Part D:

16  
17 This part establishes the Maine Waste Management Authority  
18 and 7 regional solid waste management districts. This part also  
19 revises a number of provisions of solid waste law to conform it  
20 to the management system operated by the authority and the  
21 districts. Provision is made to protect the ability of  
22 municipalities to recycle waste material while sustaining the  
23 ability of those providing disposal services to meet their own  
24 contract obligations, specifically to electric utilities.

25  
26 This part also limits the authority of the Department of  
27 Environmental Protection to regulate the environmental, health  
28 and safety aspects of solid waste management. Responsibility for  
29 planning, facility development, education and promotion of sound  
30 waste management is transferred to the authority. The waste  
31 facility licensing process is amended to reflect this change.

32  
33 The rights of intervenors in the siting process are slightly  
34 modified to allow the Board of Environmental Protection to  
35 authorize, on a case-by-case basis, the intervenors to conduct  
36 on-site investigations beyond those contemplated under current  
37 law.

38  
39 This part also directs the operators of landfills to conduct  
40 drinking water supply testing for neighboring landowners.

41  
42 The Maine Waste Management Authority is composed of 2  
43 offices; the Office of Planning and Regional Coordination and the  
44 Office of Waste Reduction and Recycling. The Office of Waste  
45 Reduction and Recycling is moved to the authority from the  
46 Department of Economic and Community Development. The office  
47 retains primary responsibility for the development of recycling  
48 policy and will provide technical assistance to districts,  
49 municipalities and businesses. The office will act as a broker  
50 of last resort for recyclable materials. The authority is  
51 charged with developing an overall broad plan for the management



1 of solid waste in the State. While the authority is given the  
ultimate responsibility to ensure sound waste management, the  
3 regional districts are charged with developing detailed  
operations plans for actual management activities within their  
5 districts including recycling programs and disposal facilities.

7 This part establishes a specific hierarchy of waste  
management options favoring waste reduction and recycling over  
9 incineration and landfilling to guide the authority in developing  
the state plan. The authority is also given ambitious recycling  
11 goals toward which to strive. These goals provide for reducing  
the solid waste stream by 25% by January 1, 1992, and by 50% by  
13 January 1, 1995.

15 This bill requires state and regional management plans to  
specifically address the existing and future quantities of waste,  
17 the availability of existing capacity, the potential for waste  
reduction and recycling and the need for management capacity  
19 including recycling, transportation and disposal facilities. As  
noted earlier, the regional plans emphasize operational concerns  
21 while the state plan provides general guidance to ensure the  
coordinated development of a rational, efficient statewide waste  
23 management system. The bill requires that regional plans be  
reviewed and approved by the authority for consistency with the  
25 state plan, the recycling goals and the hierarchy of waste  
management options.

27 This part also includes a provision shifting responsibility  
29 for providing waste disposal capacity for household and  
commercial solid waste from municipalities, as in current law, to  
31 districts. Districts become responsible for accepting wastes  
generated within their jurisdiction on July 1, 1992.

33 This part also establishes a municipal inspector program,  
35 partially funded by the authority, with clear rights for  
municipalities to issue cease and desist orders where disposal  
37 facilities violated environmental laws or endanger public health  
or safety. Municipal rights to obtain DEP and other monitoring  
39 data and inspection reports are clarified.

41 Districts are charged with site election and facility  
development. Early public input is encouraged in the planning  
43 and site selection process. Local advisory groups are  
established to provide a liaison and better communications  
45 between citizens, municipalities and the districts, and grants  
are available to develop mediation and negotiation procedures at  
47 the option of the municipality.

49 The municipal zoning and enforcement authority as it exists  
under current law is reaffirmed in this bill.

51

1 This part also addresses the problem of waste which is  
2 disposed in the State but generated outside Maine. Waste  
3 disposal facilities owned by the authority or any district are  
4 prohibited from accepting waste generated outside their  
5 jurisdiction. Districts may accept out-of-district waste only  
6 where regional plans provide capacity for this waste, and where  
7 interdistrict agreements are in place. This part also provides  
8 that new disposal capacity shall be owned and controlled by the  
9 authority or districts, while retaining the option of contracting  
10 with private vendors to design, build or operate these facilities.

11 This part also requires municipalities to implement  
12 recycling programs consisting of household separation and  
13 collection of recyclable materials. These requirements are  
14 phased in over 4 years, based on population size, with towns of  
15 10,000 or more population establishing programs by July 1, 1991;  
16 towns of between 5,000 and 10,000 population establishing  
17 programs by July 1, 1992; and towns of less than 5,000 population  
18 establishing programs by July 1, 1993. Grants are available to  
19 fund programs which are designed to recycle 3 different materials  
20 and which incorporate implementing ordinances and enforcement  
21 mechanisms.

22 This part also provides that all towns, regardless of  
23 population, compost leaf waste in a local or regional program by  
24 July 1, 1992. Disposal of leaf waste is prohibited from disposal  
25 in landfills or incinerators by this date. Districts are  
26 required to assist municipalities in developing compost programs  
27 and are responsible for providing adequate leaf waste composting  
28 capacity by this date.

29 This part also provides for paper and cardboard recycling by  
30 businesses and other employers, phased in over 4 years based on  
31 the number of employees at each site.

32 Part E:

33 This part provides for the equitable regulation of the rates  
34 charged for various private sector waste management services.  
35 Contract review and regulation is performed by the Public  
36 Utilities Commission.

37 Part F:

38 This part repeals the provision of existing law which  
39 subjects 6 division director positions in the Department of  
40 Environmental Protection to political appointment. This  
41 amendment would return those positions into the classified  
42 service under the Civil Service Law.