

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1547

H.P. 1114

House of Representatives, May 8, 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 MURPHY of Berwick.

STATE OF MAINE

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

An Act to Mandate Source Separation and Recycling of Solid Waste.



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

3 Sec. 1. 38 MRSA c. 18 is enacted to read:

5 CHAPTER 18

7 MANDATORY SOURCE SEPARATION AND RECYCLING

9 §1761. Short title

11 This chapter shall be known and may be cited as the
13 "Mandatory Source Separation and Recycling Act."

15 §1762. Legislative findings

17 The Legislature finds that removing certain materials from
19 the municipal solid waste stream will decrease the flow of solid
21 waste to sanitary landfill facilities, aid in the conservation
23 and recovery of valuable resources, conserve energy in the
25 manufacturing process and increase the supply of reusable raw
27 materials for the State's industries; and that the recycling of
reusable waste materials will reduce substantially the required
capacity of proposed resource recovery facilities and contribute
to their overall combustion efficiency, thereby resulting in
significant cost savings in the planning, construction and
operation of these resource recovery facilities.

29 The Legislature further finds that the expeditious
31 identification of local, national and international markets and
33 distribution networks for recyclable materials is a prerequisite
to the orderly development of mandatory statewide recycling
programs, and that the State must institute and complete studies
of market stimulation for recyclable materials.

35 The Legislature further finds that the State may most
37 appropriately demonstrate its long-term commitment to proper
39 solid waste management by establishing a mandatory statewide
41 source separation and recycling program and by increasing the
purchase of recycled paper and paper products by the various
agencies and instrumentalities of State Government.

43 The Legislature therefore declares that it is in the public
45 interest to mandate the source separation of marketable waste
47 materials on a statewide basis so that reusable materials may be
49 returned to the economic mainstream in the form of raw materials
51 or products rather than be disposed of at the State's
overburdened landfills, and further declares that the recycling
of marketable materials by every municipality in this State, and
the development of public and private sector recycling activities
on an orderly and incremental basis, will further demonstrate the
State's long-term commitment to an effective and coherent solid
waste management strategy.

1
3 §1763. Definitions

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

9 1. Beverage. "Beverage" means milk, alcoholic beverages,
11 including beer or other malt beverages, liquor, wine, vermouth
13 and sparkling wine, and nonalcoholic beverages, including fruit
15 juice, mineral water and soda water and similar nonalcoholic
17 carbonated and noncarbonated drinks intended for human
19 consumption.

21 2. Beverage container. "Beverage container" means an
23 individual, separate, hermetically sealed, or made airtight with
25 a metal or plastic cap, bottle or can composed of glass, metal,
27 plastic or any combination thereof, containing a beverage.

29 3. Department. "Department" means the Department of
31 Environmental Protection.

33 4. Designated recyclable materials. "Designated recyclable
35 materials" means those recyclable materials, including metal,
37 glass, paper or plastic containers, food waste, corrugated and
39 other cardboard, newspaper, magazines or high-grade office paper
41 designated in a district recycling plan to be source separated in
43 a municipality pursuant to this Act.

45 5. Disposition. "Disposition" or "disposition of
47 designated recyclable materials" means the transportation,
49 placement, reuse, sale, donation, transfer or temporary storage
51 for a period not exceeding 6 months of designated recyclable
materials for all possible uses, except for disposal as solid
waste.

6. District. "District" means a solid waste management
district.

7. District recycling plan. "District recycling plan"
means the plan prepared and adopted by the governing body of the
county or counties within a district and approved by the
department to implement the goals of this Act.

8. Market. "Market" or "markets" means the disposition of
designated source separated recyclable materials in a
municipality which entails a disposition cost less than the cost
of transporting the recyclable materials to solid waste
facilities and disposing of them as municipal solid waste at the
facility utilized by the municipality.

9. Municipality. "Municipality" means any city, town,
township or village situated within the boundaries of this State.

1
3 10. Municipal solid waste stream. "Municipal solid waste
5 stream" means all residential, commercial and institutional solid
7 waste generated within the boundaries of any municipality.

9 11. Paper. "Paper" means and includes all newspaper,
11 high-grade office paper, fine paper, bond paper, offset paper,
13 xerographic paper, mimeograph paper, duplicator paper and related
15 types of cellulosic material containing not more than 10% by
17 weight or volume of noncellulosic material such as laminates,
19 binders, coatings or saturants.

21 12. Paper product. "Paper product" means any paper items
23 or commodities, including, but not limited to, paper napkins,
25 towels, corrugated and other cardboard, construction materials,
27 toilet tissue, paper and related types of cellulosic products
29 containing not more than 10% by weight or volume of noncellulosic
31 material such as laminates, binders, coatings or saturants.

33 13. Plastic container. "Plastic container" means any
35 hermetically sealed, or made airtight with a metal or plastic
37 cap, container with a minimum wall thickness of not less than
39 0.010 inches and composed of thermoplastic synthetic polymeric
41 material.

43 14. Postconsumer waste material. "Postconsumer waste
45 material" means any product generated by a business or consumer
47 which has served its intended end use, and which has been
49 separated from solid waste for the purposes of collection,
51 recycling and disposition and which does not include secondary
waste material or demolition waste.

15. Recyclable material. "Recyclable material" means those
materials which would otherwise become municipal solid waste, and
which may be collected, separated or processed and returned to
the economic mainstream in the form of raw materials or products.

16. Recycled paper. "Recycled paper" means any paper
having a total weight consisting of not less than 50% secondary
waste paper material.

17. Recycled paper product. "Recycled paper product" means
any paper product consisting of not less than 50% secondary waste
paper material.

18. Recycling. "Recycling" means any process by which
materials which would otherwise become solid waste are collected,
separated or processed and returned to the economic mainstream in
the form of raw materials or products.

19. Recycling center. "Recycling center" means any
facility designed and operated solely for receiving, storing,

1 processing and transferring source separated, nonputrescible or
3 source separated commingled nonputrescible metal, glass, paper,
5 plastic containers and corrugated and other cardboard, or other
7 recyclable materials approved by the department.

9 20. Recycling services. "Recycling services" means the
11 services provided by persons engaging in the business of
13 recycling, including the collection, processing, storage,
15 purchase, sale or disposition, or any combination thereof, of
17 recyclable materials.

19 21. Secondary waste material. "Secondary waste material"
21 means waste material generated after the completion of a
23 manufacturing process.

25 22. Secondary waste paper material. "Secondary waste paper
27 material" means paper waste generated after the completion of a
29 papermaking process, such as postconsumer waste material,
31 envelope cuttings, bindery trimmings, printing waste, cutting and
33 other converting waste, butt rolls and mill wrappers. Secondary
35 waste paper material shall not include fibrous waste generated
37 during the manufacturing process, such as fibers recovered from
39 waste water or trimmings of paper machine rolls, fibrous
41 byproducts of harvesting, extractive woodcutting processes or
43 forest residue such as bark.

45 23. Source separated recyclable materials. "Source
47 separated recyclable materials" means recyclable materials,
49 including, but not limited to, paper, metal, glass, food waste,
51 office paper and plastic which are kept separate and apart from
53 residential, commercial and institutional solid waste by the
55 generator thereof for the purposes of collection, disposition and
57 recycling.

59 §1764. District designation

61 The following counties or aggregates of counties shall
63 determine the solid waste management districts for the purposes
65 of this subchapter:

67 1. Region I. Region I: York County;

69 2. Region II. Region II: Cumberland County;

71 3. Region III. Region III: Androscoggin, Kennebec,
73 Sagadahoc, Knox and Lincoln Counties;

75 4. Region IV. Region IV: Waldo, Hancock, Penobscot and
77 Piscataquis Counties;

79 5. Region V. Region V: Aroostook County;

1 6. Region VI. Region VI: Washington County; and

3 7. Region VII. Region VII: Oxford, Franklin and Somerset
4 Counties.

5 §1765. District functions

7
8 The purposes of each district formed under this chapter are
9 to plan, construct, maintain, operate or otherwise provide for a
10 system of waste management for solid waste and special waste
11 generated within the district and, in conjunction with
12 municipalities and businesses, foster recycling, utilization,
13 disposal and resource recovery for public purposes and for the
14 health, welfare, comfort and convenience of the inhabitants of
15 the district. Each district may provide for the recycling,
16 utilization, disposal or resource recovery of special waste and
17 agricultural waste if so decided by the directors of the
18 district. It is anticipated that, in the furtherance of the
19 purpose and declaration of policy of this chapter, each district
20 may contract and otherwise act in conjunction with a variety of
21 public, private and municipal firms, other districts,
22 corporations and persons.

23 §1766. Membership; terms; compensation

24 There is established within each designated solid waste
25 management district a board of directors comprised as follows.

26
27
28 1. County appointments. The county commissioners of the
29 counties within the district shall select one county commissioner
30 and 2 public members from the district to serve on the board of
31 directors.

32
33 2. Municipal appointments. The municipal officers within
34 the district shall caucus and elect 3 municipal officers from
35 municipalities within the district to the solid waste management
36 district board of directors.

37
38 3. Joint selections. The 6 members shall select a 7th
39 member who shall be a resident of the district.

40
41 4. Terms of office. The members of the board of directors
42 shall each serve 3-year terms, except, of the initial 3 municipal
43 appointments, each district caucus shall select one member for a
44 one-year term, one member for a 2-year term and one member for a
45 3-year term. If the board member ceases to be a municipal
46 officer during the term of membership, the board member shall
47 resign the membership and the next district caucus shall elect a
48 qualified municipal officer to fill the membership for the
49 remainder of the unexpired term.

1 5. Chair of board of directors. The members of the board
2 of directors shall elect a chair from among their number.

3 6. Compensation. A director shall receive no compensation
4 for services, but shall be entitled to the necessary expenses,
5 including traveling expenses, incurred in the discharge of duties.

6
7 §1767. Powers and duties
8

9 1. General. Each district formed under this chapter shall
10 have the power, within the district, to provide for the planning,
11 financing, construction, equipping, operation and maintenance of
12 facilities for the handling or disposal of solid and special
13 waste, including resource recovery and recycling; to generate
14 revenues from those activities; to make contracts with persons,
15 firms, corporations, partnerships, limited partnerships and other
16 entities, whether private, public or municipal; and, in general,
17 do all other things necessary or incidental for the exercise of
18 its powers or the accomplishment of the purposes of the district.

19 2. Sue and be sued. Each district may sue or initiate or
20 appear in any proceeding. The district may be sued in accordance
21 with Title 1, section 409; Title 5, chapter 375; or Title 14,
22 chapter 741.

23 3. Acquisition of property; eminent domain. A district may
24 acquire and hold real and personal property which it determines
25 necessary for its purposes and is granted the right of eminent
26 domain. For those purposes, a district may take and hold, either
27 by exercising its right of eminent domain or by purchase, lease
28 or otherwise, for public uses, any land, real estate, easements
29 or interest in real estate necessary for constructing,
30 establishing, maintaining and operating disposal, recycling,
31 resource recovery and utilization facilities.

32 No property may be so taken unless the property is located within
33 the district.

34 4. Gifts and grants. The district may apply for and accept
35 gifts, loans or other property from the United States, the State
36 or any person for any of its purposes, enter into any agreement
37 required in that connection and hold, use and dispose of the
38 money or property in accordance with the terms of the gift,
39 grant, loan or agreement.

40 5. Property exempt from taxation. Property, both real and
41 personal, rights and franchises of a district are exempt from
42 taxation.

43 6. Facilities and services. A district may construct,
44 equip, develop, expand, improve and operate solid and special
45 waste facilities and disposal services as it determines necessary
46

1 and may negotiate contracts for the use of public or private
2 facilities and services.

3
4 7. Rates and charges. A district may establish and collect
5 rates and charges for the facilities and services provided by the
6 district and may negotiate and collect rates and charges for
7 facilities and services contracted for by the district. Rates
8 and charges shall be subject to this chapter.

9
10 8. Disposition of property. A district may purchase, sell,
11 lease, acquire, convey, mortgage, improve and use real and
12 personal property in connection with the purposes of the district.

13
14 9. Disposition of products and energy. A district may make
15 agreements pertaining to the purchase, sale and use of products,
16 including the generation, transmission and sale of energy in
17 connection with the purposes of the district.

18
19 10. Contracts. A district has the power to make contracts,
20 including, but not limited to, the power to:

21 A. Contract with architects, engineers, financial and legal
22 consultants and other experts for services;

23
24 B. Contract with persons, firms, corporations, limited
25 partnerships, partnerships, associations, authorities and
26 agencies for the operation of waste facilities and for
27 services relating to the recycling and disposal of solid
28 waste, resource conservation and resource recovery;

29
30 C. Contract for the handling of solid waste on the basis of
31 guaranteed amounts, whether delivered for disposal and
32 accepted for disposal or not, with payments based on the
33 guaranteed amounts, whether actually disposed of or not.
34 The payments may be variable and may be determined by
35 formulas expressed in those contracts;

36
37 D. Contract with the State, the United States or any
38 subdivision or agency thereof for services; and

39
40 E. Contract with any municipality for the services of that
41 municipality or its facilities.

42
43
44 11. Use of bidding processes. A district may use a
45 negotiated or competitive bid process or any other process which
46 may be advantageous to the district. The determination of the
47 process shall be made by and at the discretion of the directors
48 of the district.

49
50 12. Employees; services. A district may employ and
51 establish salaries and qualifications for such professional,

1 clerical and administrative staff personnel as may be necessary
2 for the operation of the district.

3
4 13. Siting of waste facilities. A district shall identify
5 and designate candidate sites and may review applications for new
6 or expanded waste facilities within the district pursuant to this
7 chapter.

8
9 14. Development of plan. A district shall develop, approve,
10 revise and implement a solid waste management plan for its
11 jurisdiction.

12
13 15. Bonding powers. A district may issue bonds, notes or
14 other debt instruments under this chapter.

15
16 16. Regulating solid waste disposal and recycling
17 activities. A district may adopt rules to regulate the handling,
18 collection, transportation, resource conservation, resource
19 recovery and disposal of solid and special waste within the
20 district. This authority does not extend to environmental
21 impacts, licensing or permitting of facilities and is limited to
22 service delivery and management concerns.

23
24 17. Annual audit. Each year, an audit shall be made of the
25 accounts of the district and authorized agents of a certified
26 public accounting firm appointed by the directors shall have
27 access to all necessary books and records. Upon the completion
28 of each audit, a report shall be made to the chair of the
29 district board of directors and a copy shall be sent to the
30 authority.

31
32 18. Hold hearings; rules. The directors may hold hearings
33 and adopt rules to regulate the delivery of waste disposal
34 services, including the handling, delivery, transportation,
35 recycling, utilization, resource recovery and disposal of solid
36 waste within the district.

37 §1768. Solid waste management plans

38
39 1. Plan required. Each district shall, within 6 months of
40 the effective date of this Act and after consultation with each
41 municipality within the region, prepare and adopt a district
42 recycling plan to implement the goals of this Act.

43
44 2. Plan requirements. Each district recycling plan
45 required pursuant to this section shall include, but not be
46 limited to the designation of:

47
48 A. A district recycling coordinator;

49
50 B. The recyclable materials to be source separated in each
51 municipality which shall include, in addition to leaves, at

1 least 3 other recyclable materials separated from the
2 municipal solid waste stream;

3
4 C. The strategy for the collection, marketing and
5 disposition of designated source separated recyclable
6 materials in each municipality; and

7
8 D. Recovery targets in each municipality to achieve the
9 maximum feasible recovery of recyclable materials from the
10 municipal solid waste stream which shall include, at a
11 minimum, the following schedule:

12
13 (1) The recycling of at least 15% of the prior year's
14 total municipal solid waste stream by the end of the
15 first full year succeeding the adoption and approval by
16 the department of the district recycling plan; and

17
18 (2) The recycling of at least 25% of the 2nd preceding
19 year's total municipal solid waste stream by the end of
20 the 2nd full year succeeding the adoption and approval
21 by the department of the district recycling plan.

22
23 For the purposes of this paragraph, "total municipal solid
24 waste stream" means the sum of the municipal solid waste
25 stream disposed of as solid waste, as measured in tons, plus
26 the total number of tons of recyclable materials recycled.

27
28 3. Existing recycling services; priority. Each district
29 recycling plan, in designating a strategy for the collection,
30 marketing and disposition of designated recyclable materials in
31 each municipality, shall accord priority consideration to persons
32 engaging in the business of recycling or otherwise lawfully
33 providing recycling services on behalf of a region or
34 municipality on January 1, 1989, if that person continues to
35 provide recycling services prior to the adoption of the plan and
36 that person has not discontinued these services for a period of
37 90 days or more between January 1, 1989, and the date on which
38 the plan is adopted.

39
40 4. Plan modification. Each district recycling plan may be
41 modified after adoption pursuant to a procedure set forth in the
42 adopted plan as approved by the department.

43 §1769. Recycling services

44
45 1. Deadline for contracts. Each district shall, within 6
46 months of the adoption and approval by the department of the
47 district recycling plan required pursuant to section 1768,
48 solicit proposals from, review the qualifications of and enter
49 into contracts or agreements on behalf of municipalities with
50 persons providing recycling services or operating recycling
51 centers for the collection, storage, processing and disposition

1 of recyclable materials designated in the district recycling plan
3 in those instances where these services are not otherwise
5 provided by the municipality, interlocal service agreement or
joint service program, or other private or public recycling
program operator.

7 2. Temporary exemption. In the event that a district is
9 unable to enter into contracts or otherwise execute agreements to
11 market specific designated recyclable materials in order to
13 achieve the designated recovery targets set forth in the district
15 recycling plan, the district may petition the department for a
17 temporary exemption from the provisions of subsection 1 for these
19 specified materials. The department is authorized to grant, deny
21 or conditionally grant the exemption. If the exemption is
23 denied, the department shall assist the district in identifying
25 and securing markets for the recyclable materials designated in
the district recycling plan. Any exemption granted by the
department shall not exceed one year in duration, and shall be
granted or renewed only upon a finding that the district has made
a good faith effort to identify and secure markets for its
recyclable materials. Each district shall continue to solicit
those recycling services necessary to achieve the maximum
feasible recovery targets in each municipality as set forth in
the district recycling plan.

27 §1770. Exemption

29 Any district which has prepared and adopted a district
31 recycling plan which has been approved by the department prior to
33 January 1, 1990, shall be exempt from the provisions of sections
35 1768 and 1769. To be eligible for an exemption pursuant to this
37 section, a district shall have established and implemented a
district-wide mandatory source separation and recycling program
for at least 3 recyclable materials, in addition to leaves, and
shall have demonstrated that it has secured markets for these
materials.

39 §1771. Municipal recycling coordinator

41 Each municipality in this State shall, within 30 days of the
43 effective date of this Act, designate one or more persons as the
45 municipal recycling coordinator. Each municipality shall
establish and implement a municipal recycling program in
accordance with the following requirements and schedule.

47 1. Collection system deadline. Within 6 months of the
49 adoption by the district and approval by the department of the
51 district recycling plan required pursuant to section 1768, each
municipality shall provide for a collection system for the
recycling of the recyclable materials designated in the district
recycling plan as may be necessary to achieve the designated
recovery targets set forth in the plan in those instances where a

1 recycling collection system is not otherwise provided for by the
3 generator or by the district, interlocal service agreement or
5 joint service program, or other private or public recycling
7 program operator.

9 2. Municipal ordinance adoption. The governing body of
11 each municipality shall, if it has not already done so, within 30
13 days of the effective date of any contracts or agreements entered
15 into by the local government unit to market one or more of the
17 specific designated recyclable materials as required by section
19 1769, adopt an ordinance which requires persons generating
21 municipal solid waste within its municipal boundaries to source
23 separate from the municipal solid waste stream, in addition to
25 leaves, the specified recyclable materials for which markets have
27 been secured and, unless recycling is otherwise provided for by
29 the generator, place these specified recyclable materials for
31 collection in the manner provided by the ordinance.

33 3. Municipal plan review and revision. The governing body
35 of each municipality shall, within 30 days of the effective date
37 of the ordinance adopted pursuant to subsection 2 and at least
39 once every 36 months thereafter, conduct a review and make
41 necessary revisions to any municipal land use plans and
43 development regulations. These revisions shall reflect changes
45 in state and municipal policies and objectives concerning the
47 collection, disposition and recycling of designated recyclable
49 materials.

51 The revised municipal land use plan shall include provisions for
the collection, disposition and recycling of recyclable materials
designated in the municipal recycling ordinance adopted pursuant
to subsection 2, and for the collection, disposition and
recycling of designated recyclable materials within any
development proposal for the construction of 50 or more units of
single-family residential housing or 25 more units of
multi-family residential housing and any commercial or industrial
development proposal for the utilization of 1,000 square feet or
more of land.

4. Exemption of certain commercial and institutional
entities. The governing body of a municipality may exempt
persons occupying commercial and institutional premises within
its municipal boundaries from the source separation requirements
of the ordinance adopted pursuant to subsection 2 if those
persons have otherwise provided for the recycling of the
recyclable materials designated in the district recycling plan
from solid waste generated at those premises. To be eligible for
an exemption pursuant to this subsection, a commercial or
institutional solid waste generator annually shall provide
written documentation to the municipality of the total number of
tons recycled.

1 5. Reports. The governing body of each municipality shall,
2 on or before July 1, 1991, and on or before July 1st of each year
3 thereafter, submit a recycling tonnage report to the department
4 in accordance with rules adopted by the department.

5
6 6. Notice. The governing body of each municipality shall,
7 within 6 months of the effective date of the ordinance adopted
8 pursuant to subsection 2 and at least once every 6 months
9 thereafter, notify all persons occupying residential, commercial
10 and institutional premises within its municipal boundaries of
11 local recycling opportunities and the source separation
12 requirements of the ordinance. In order to fulfill the
13 notification requirements of this subsection, the governing body
14 of a municipality may, in its discretion, place an advertisement
15 in a newspaper circulating in the municipality, post a notice in
16 public places where public notices are customarily posted,
17 include a notice with other official notifications periodically
18 mailed to residential taxpayers, or any combination thereof, as
19 the municipality deems necessary and appropriate.

20 §1772. Bids by solid waste collectors and transporters may be
21 required

22
23 A municipality may require that every solid waste collector
24 or solid waste transporter bid on a contract for the collection
25 or disposition of recyclable materials, if required to do so by
26 the district recycling plan of the region in which the collector
27 or transporter engages in solid waste collection or
28 transportation services.

29
30 §1773. Plastic or bimetal beverage containers

31
32 1. Types of containers limited. No plastic or bimetal
33 beverage container may be identified as a recyclable container
34 unless the department determines that a convenient and
35 economically feasible recycling system for that specific
36 container is available.

37
38 2. Rule-making authority. The department shall adopt, upon
39 consultation with the appropriate industries and pursuant to the
40 Maine Administrative Procedure Act, Title 5, chapter 375, any
41 rules necessary to implement the provisions of this section.

42 §1774. Recycling of plastic or bimetal beverage containers

43
44 1. Determination deadline. Within 18 months of the
45 effective date of this Act, the department shall make a written
46 determination as to whether a convenient and economically
47 feasible mechanism for the collection, recycling and marketing of
48 plastic or bimetal beverage containers is available to districts
49 and municipalities in this State. A determination by the
50 department that such a mechanism is available shall be based upon
51

1 a finding that the manufacturers of plastic or bimetal beverage
2 containers and the beverage manufacturing industries have
3 achieved, by the end of the previous 12 months, the recycling, on
4 a percentage basis, of plastic or bimetal beverage containers at
5 a rate at least equal to the recovery rates achieved for glass or
6 aluminum beverage containers during that one-year period,
7 whichever is less.

9 2. Department findings transmitted. If the department
10 makes a written determination that the manufacturers of plastic
11 or bimetal beverage containers and the beverage manufacturing
12 industries have not achieved the recycling of plastic or bimetal
13 beverage containers at a recovery rate at least equal to that
14 achieved for glass or aluminum beverage containers as provided in
15 subsection 1, the department shall transmit its findings to the
16 Governor and the Legislature, including appropriate
17 recommendations for the proper disposition or recycling of these
18 containers.

19 **§1775. Report on recycling of automobile tires**

20 Within 18 months of the effective date of this Act, the
21 department shall prepare a report on convenient and economically
22 feasible methods for the disposition of recycling of scrap
23 automobile tires which may be available to districts and
24 municipalities. The department shall investigate various methods
25 for the recovery or reuse of automobile tires from the municipal
26 solid waste stream, including, but not limited to, incineration,
27 artificial reef construction, retreading, asphalt paving material
28 manufacture, sludge composting and energy recovery, and shall
29 report its findings to the Governor and the Legislature,
30 including a recommendation that a deposit be imposed on
31 automobile tires, if warranted by the findings.

32 **§1776. Disposal of leaves**

33 1. Leaf composting facilities. Within 12 months of the
34 effective date of this Act, all leaves collected by a
35 municipality pursuant to the provisions of section 1777 shall be
36 transported to a leaf composting facility. Each district
37 recycling plan shall identify the leaf composting facility or
38 facilities to be utilized by each municipality within the
39 region. Any 2 or more districts may negotiate an interdistrict
40 agreement for the development or use of a leaf composting
41 facility. Notwithstanding any law or rule to the contrary, the
42 Public Utilities Commission shall not have jurisdiction over, or
43 otherwise regulate the tariffs or return of, a leaf composting
44 facility approved by the department.

45 2. Acceptance of leaves at landfills. No sanitary landfill
46 facility in this State may accept for final disposal truckloads
47 composed primarily of leaves at any time, except that leaves
48 may be accepted for final disposal at any time, except that leaves
49 may be accepted for final disposal at any time, except that leaves
50 may be accepted for final disposal at any time, except that leaves
51 may be accepted for final disposal at any time, except that leaves

1 source separated from solid waste may be accepted by a sanitary
3 landfill facility in those instances where the facility has
5 provided and maintains for that purpose separate leaf composting
7 facilities, and the composted leaves are utilized as part of the
9 final vegetative cover for the landfill, or for other uses as a
11 soil conditioning material.

13 **§1777. Collection of leaves**

15 Within 12 months of the effective date of this Act, each
17 municipality in this State shall, by a duly adopted ordinance of
19 its governing body, provide for a collection system for leaves
21 generated from residential premises, and require that persons
23 occupying residential premises within its municipal boundaries
25 shall, for the period from September 1st to December 1st of each
27 year, source separate leaves from solid waste generated at those
29 premises and, unless leaves are stored or recycled for composting
31 or mulching by the generator, place the leaves for collection in
33 the manner provided by the ordinance.

35 **§1778. Public land maintenance; compost material preferred**

37 All state and local agencies responsible for the maintenance
39 of public lands in this State shall, to the maximum extent
41 practicable and feasible, give due consideration and preference
43 to the use of compost materials in all land maintenance
45 activities which are to be paid for with public funds.

47 **§1779. Purchase of recycled paper products; bid specifications**

49 Notwithstanding any other law, the State Purchasing Agent of
51 the Bureau of Purchases in the Department of Administration
53 shall, upon consultation with the department, review and modify
55 all bid and product specifications relating to the purchase of
57 recycled paper or recycled paper products so that the
59 specifications do not discriminate against, but encourage the
61 maximum purchase of products made from, recycled paper or
63 recycled paper products. Preference shall be given to recycled
65 paper or recycled paper products with the highest percentage of
67 postconsumer waste material.

69 **§1780. State purchase of recycled paper products**

71 1. Contracts for competitively priced products. In
73 purchasing any paper or paper products for use by the various
75 agencies and departments of State Government or for any
77 municipality or school administrative unit, the State Purchasing
79 Agent of the Bureau of Purchases in the Department of
81 Administration, whenever the price is competitive for the purpose
83 intended, shall make contracts available for those items which
85 are manufactured or produced from recycled paper or recycled
87 paper products. For the purposes of this section, "competitive"

1 means a price within 10% of the price of items which are
2 manufactured or produced from virgin paper products.

3
4 2. Purchase of virgin products. The purchasing agent,
5 after formal advertisement and solicitation of proposals for
6 recycled paper or recycled paper products, and having received no
7 competitive proposals for recycled paper or recycled paper
8 products, may award the contract for paper or paper products
9 manufactured or produced from virgin paper products in the manner
10 prescribed by law. Any award or contract made for virgin paper
11 products shall not relieve the director of any future obligation
12 to make available contracts for recycled paper or recycled paper
13 products as provided in subsection 1.

14 §1781. Purchase of recycled paper products for educational
15 facilities

16
17 Municipalities and the Department of Educational and
18 Cultural Services may permit any school administrative unit to
19 cooperatively purchase recycled paper or products made from
20 recycled paper products.

21
22 §1782. State purchases of recycled paper products; requirements

23
24 1. Spending minimums. The total dollar amount of recycled
25 paper or recycled paper products purchased by the State shall be
26 as follows: not less than 10% of the paper or paper products
27 purchased on or after July 1, 1990, shall be made from recycled
28 paper or recycled paper products; not less than 30% by July 1,
29 1991; and not less than 45% by July 1, 1992.

30
31 Priority procurement consideration shall be given to recycled
32 paper or recycled paper products with the highest percentage of
33 postconsumer waste material.

34
35 2. Future obligation. The purchasing agent, after formal
36 advertisement and solicitation of proposals for recycled paper or
37 recycled paper products, and having received no competitive
38 proposals for recycled paper or recycled paper products, may
39 award the contract for paper or paper products manufactured or
40 produced from virgin paper products in the manner prescribed by
41 law. Any award or contract made for virgin paper products shall
42 not relieve the director of any future obligation to purchase
43 recycled paper or recycled paper products as provided in
44 subsection 1.

45
46 §1783. Review of bids by Commissioner of Transportation

47
48 Notwithstanding any other law, the Commissioner of
49 Transportation shall, upon consultation with the department,
50 review and modify all bid and paving material and subbase
51 specifications relating to the purchase of recyclable asphalt

1 pavement, crushed concrete subbase, foundry slag and paving
3 materials utilizing recycled materials, including, but not
5 limited to, crumb rubber from automobile tires, ash, glass and
7 glassy aggregates, to provide that the specifications encourage
9 the maximum purchase of recyclable asphalt pavement and paving
11 materials utilizing recycled materials.

13 §1784. Review of bid specifications for asphalt purchase

15 Notwithstanding any other provision of law, the Commissioner
17 of Transportation shall, upon consultation with the department,
19 review and modify if necessary all bid specifications relating to
21 the purchase of asphalt or recycled asphalt pavement to provide
23 that the specifications encourage the use of fuel derived from
25 waste oil as a furnace or boiler fuel by manufacturers of asphalt
27 or recycled asphalt pavement.

29 §1785. Solid waste facility approval

31 1. Registration statement or engineering design approval.

33 Notwithstanding any other provisions of law, on or after July 1,
35 1990, the department shall not issue a registration statement or
37 engineering design approval for any new or expanded solid waste
39 facility in any region unless the person or party proposing to
41 construct or operate the facility submits written documentation
43 and any other evidence the department may require demonstrating
45 to the department's satisfaction that the goals of the relevant
47 district recycling plan required by section 1768 have been
49 incorporated into the plans for the proposed facility.

51 2. Rule-making authority. The department may adopt,
pursuant to the Maine Administrative Procedure Act, Title 5,
chapter 375, any rules necessary to implement the provisions of
this section.

§1786. Utility franchises

1. Resource recovery facility approval. Notwithstanding

any other provision of law, on or after July 1, 1990, the Public
Utilities Commission shall not award a franchise to any person or
party proposing to construct or operate a resource recovery
facility unless the person or party proposing to construct or
operate the facility submits written documentation and any other
evidence the board may require demonstrating to the satisfaction
of the board that the goals of the relevant district recycling
plan required by section 1768 have been incorporated into the
plans for the proposed facility.

2. Rule-making authority. The Public Utilities Commission
may adopt, pursuant to the Maine Administrative Procedure Act,
Title 5, chapter 375, any rules necessary to implement the
provisions of this section.

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§1787. Recycling services

1. Provision of recycling services. Any person engaged in the business of solid waste collection or solid waste disposal may engage in recycling or otherwise provide recycling services.

2. Jurisdiction over rates. Notwithstanding any other provision of law, the Public Utilities Commission shall not have jurisdiction over charges or rates for recycling or services provided by persons engaging in the business of recycling or otherwise providing recycling services in this State. The revenues generated by persons engaging in the business of recycling or otherwise providing recycling services shall not be included within the computation of current or adjusted tariffs established pursuant to law for solid waste collection.

§1788. Recycling centers

1. Certain approval unnecessary. Notwithstanding any other provision of law, no recycling center may be required by the department to obtain a registration statement, engineering design approval or approval of an environmental and health impact statement prior to the commencement of operations.

2. Acceptance of unseparated waste prohibited. No recycling center may receive, store, process or transfer any waste material other than source separated nonputrescible or source separated commingled nonputrescible metal, glass, paper or plastic containers, and corrugated and other cardboard without the prior approval of the department.

§1789. Recycling equipment

1. Tax credit. A taxpayer who purchases recycling equipment certified by the Commissioner of Environmental Protection pursuant to subsection 2, to be used exclusively within this State, except for vehicles which are to be used primarily within this State, shall be entitled to a credit as provided herein against the tax imposed pursuant to Title 29 in an amount equal to 50% of the cost of the recycling equipment. The amount of the credit claimed in the tax year for which certification of equipment is received, and the amount of credit claimed therefor in each tax year thereafter, shall not exceed 20% of the amount of the total credit allowable and shall not exceed 50% of the tax liability which would be otherwise due. For the purposes of this section, "recycling equipment" means new vehicles used exclusively for the transportation of postconsumer waste material, or new machinery or new apparatuses used exclusively to process postconsumer waste material and manufacturing machinery used exclusively to produce finished

1 products, the composition of which is at least 50% postconsumer
2 waste materials.

3
4 "Postconsumer waste material" means any product generated by a
5 business or consumer which has served its intended end use, and
6 which has been separated from solid waste for the purposes of
7 collection, marketing and disposition and which does not include
8 secondary waste material or demolition waste. "Secondary waste
9 material" means waste material generated after the completion of
10 a manufacturing process.

11
12 2. Certificate. In order to qualify for the tax credit
13 pursuant to subsection 1, the taxpayer shall apply for a
14 certification from the Commissioner of Environmental Protection
15 that certifies that the equipment purchased qualifies as
16 recycling equipment as defined in subsection 1. The
17 certification shall specifically indicate the date of purchase, a
18 description of the equipment and the cost, and state that the
19 equipment has not previously qualified for a credit pursuant to
20 this section either for the owner or for a previous owner.

21
22 Upon certification, the Commissioner of Environmental Protection
23 shall submit a copy thereof to the taxpayer and the Bureau of
24 Taxation. When filing a tax return that includes a claim for a
25 credit pursuant to this section, the taxpayer shall include a
26 copy of the certification and a statement that the recycling
27 equipment is in use in the applicable tax year and is used
28 exclusively in this State, except for vehicles which shall be
29 used primarily in this State. Any credit shall be valid in the
30 tax year in which the certification is approved and any unused
31 portion may be carried forward into subsequent years as provided
32 in subsection 1.

33
34 The Commissioner of Environmental Protection, in consultation
35 with the Bureau of Taxation, shall adopt rules establishing
36 technical specifications and certification requirements for the
37 qualification of recycling equipment for the credit established
38 pursuant to this section.

39
40 3. Report. On or before January 31st of each year, the
41 Commissioner of Environmental Protection shall submit a report to
42 the Governor, the State Treasurer and the Legislature setting
43 forth the number of certifications that were approved during the
44 preceding calendar year and the cost of each type of recycling
45 equipment which has been certified as qualifying for the credit.

46 §1790. Motor oil containers

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48 1. Sale of containers. On or after July 1, 1990, no person
49 may sell, or offer for sale, at retail or at wholesale for direct
50 retail sale in this State any motor oil in containers for use off
51 the premises unless:

1
3 A. Every container of lubricating or other oil is clearly
5 marked or labeled as containing a recyclable material which
shall be disposed of after use only at a used oil collection
center; and

7 B. The motor oil retailer conspicuously posts and
9 maintains, at or near the point of sale, a durable and
11 legible metal sign, not less than 11 inches by 15 inches in
13 size, informing the public of the importance of the proper
15 collection and disposal of used oil, and how and where used
oil may be properly disposed. For the purposes of this
section, "motor oil retailer" means any person who sells to
consumers more than 500 gallons of lubricating or other oil
annually in containers for use off the premises where sold.

17 2. Rule-making authority. The Commissioner of
19 Environmental Protection shall adopt, pursuant to the Maine
21 Administrative Procedure Act, Title 5, chapter 375, any rules
necessary to implement this section.

23 §1791. Used oil collection centers

25 1. Sign posted. On or after July 1, 1990, every owner or
27 operator of a used oil collection center shall post and maintain
29 a durable and legible metal sign, not less than 11 inches by 15
31 inches in size, in a prominent location, informing the public
33 that it is a collection site for the disposal of used oil. For
the purposes of this section, "used oil collection center" means
any reinspection station permitted by the Division of Motor
Vehicles, retail service station which has a used oil collection
tank on the premises or any site which accepts used oil for
recycling.

35 2. Rule-making authority. The Commissioner of
37 Environmental Protection shall adopt, pursuant to the Maine
39 Administrative Procedure Act, Title 5, chapter 375, any rules
necessary to implement this section.

41 §1792. Statewide Mandatory Source Separation and Recycling
Program Fund

43 1. Fund established. The "Statewide Mandatory Source
45 Separation and Recycling Program Fund" is established as a
47 special account in the Department of Finance. The fund shall be
49 administered by the State Treasurer and shall be the depository
51 of all funds appropriated by the Legislature pursuant to this Act
or any subsequent Act for the purpose of assisting districts and
municipalities in the implementation of the district and
municipal recycling program requirements of this Act, and for
studies of markets for recyclable materials as provided in this
Act.

1
2 2. State aid formula. The money in the fund shall be
3 allocated and used to provide state aid to districts and
4 municipalities for implementing the recycling program
5 requirements of this Act. The amount of this state aid shall be
6 calculated based on the proportion which the housing units of a
7 district or municipality bears to the total housing units in the
8 State, except that no municipality may receive less than .001% of
9 the amount apportioned to aid all municipalities. Total housing
10 units shall be determined using the most recent federal decennial
11 population estimates for the State and its municipalities.

12
13 3. Distribution. Within 30 days of the effective date of
14 this Act, the State Treasurer shall pay and distribute to each
15 district and municipality in this State, from money in the
16 Statewide Mandatory Source Separation and Recycling Program Fund,
17 an amount equal to the district's or municipality's proportionate
18 share of the state aid as calculated pursuant to subsection 2.

19 **§1793. Use of funds**

20
21 1. Studies. Of the money appropriated from the General
22 Fund to the Statewide Mandatory Source Separation and Recycling
23 Program Fund pursuant to this Act, 4% shall be dedicated to
24 studies of markets for recyclable materials, and of local,
25 national and international distribution networks for recyclable
26 materials. These funds shall be distributed by the Commissioner
27 of Environmental Protection through the Office of Recycling as
28 grants to qualified colleges and universities in this State or
29 contracts to private firms which can demonstrate the
30 administrative and technical capability to undertake studies of
31 this nature. Each study shall focus on a particular recyclable
32 material, including, but not limited to, automobile tires, paper,
33 and plastic beverage containers. In contracting for these
34 studies, the Office of Recycling shall specify that consideration
35 shall be accorded to alternative pricing structures and marketing
36 strategies, including so-called "negative pricing," in order to
37 determine whether the competitive disposition and marketing of
38 recyclable materials may be achieved through means other than
39 traditional price structures and commodity sales and transactions.

40
41 2. Distribution of studies. The Office of Recycling shall,
42 within 9 months of the effective date of this Act, transmit
43 copies of the studies prepared pursuant to subsection 1 to each
44 district and municipality in the State. These studies shall be
45 made available to the general public at a cost not to exceed the
46 cost of reproduction and distribution.

47
48 **§1794. Office of Recycling**

49
50 1. Office established. There is established in the
51 Department of Environmental Protection the Office of Recycling.

1 The Office of Recycling shall be under the immediate supervision
2 of an administrator who shall be appointed by the Commissioner of
3 Environmental Protection and who shall be in the unclassified
4 service of the State.

5 2. Administrator. The administrator shall administer the
6 work of the Office of Recycling under the direction of the
7 commissioner and perform any other functions of the department as
8 the commissioner may prescribe.

11 **§1795. Implementation report**

13 The Commissioner of Environmental Protection shall prepare a
14 report to the Legislature concerning the implementation of this
15 Act, including recommendations necessary to ensure the
16 achievement of the state recycling plan goals and the success of
17 regional and municipal recycling programs in meeting the
18 designated recovery targets set forth in the district recycling
19 plans, if warranted by the circumstances. This report shall be
20 transmitted to the Legislature not later than April 1, 1993, and
21 shall be revised, and modified if necessary, at least once every
22 3 years thereafter.

23 **Sec. 2. Transition clause.** The Department of Environmental
24 Protection shall commence a study, culminating in a written
25 report with recommended legislation as follows.

26 **1. Study.** The study shall identify the areas of conflict,
27 inconsistencies or overlap between this Act and existing law,
28 including the following:

29 **A.** All powers, duties and responsibilities currently vested
30 in the department and the Board of Environmental Protection
31 with respect to the disposal of nonhazardous solid waste
32 under the Maine Revised Statutes, Title 38, chapters 13 and
33 17, and any other provision of law, which are to be assumed
34 by the authority;

35 **B.** All public and private funds, all contractual rights and
36 obligations and any other vested interest in or applying to
37 the department for the purpose of planning and implementing
38 nonhazardous waste management activities and waste
39 facilities which are to be transferred, conveyed to or
40 assumed by the authority; and

41 **C.** Any other area in which this Act may overlap, repeal by
42 implication or be inconsistent or in conflict with existing
43 law.

44 **2. Report; date.** The written report under subsection 1,
45 together with implementing legislation to resolve all conflicts
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1 or inconsistencies, shall be submitted to the 114th Legislature
by December 1, 1989.

3

5 **Sec. 3. Effective date.** This Act shall take effect immediately,
except that section 1788 shall be applicable on and after the
7 first day of the 6th month following enactment and shall expire
on December 31, 1998, except that any unused credits claimed
9 prior to January 1, 1999, shall be allowable after December 31,
1998, in accordance with the provisions of section 1788.

11

STATEMENT OF FACT

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15 This bill, which is modeled after the current New Jersey
law, establishes a statewide mandatory source separation and
17 recycling program and 7 regional solid waste management districts
to develop and implement a statewide solid waste management
19 system. Local governments currently responsible for providing
waste disposal services are becoming hard pressed to provide
adequate services at reasonable costs, making large-scale
21 processing and recycling of solid waste necessary to achieve
maximum environmental and economic benefits for the people of the
23 State. The use of regional solid waste management districts
would supply valuable assistance to local efforts for solid waste
25 management and would coordinate the variety of existing
operations into a unified program.

27

29 This bill also requires the Department of Environmental
Protection to commence a study, culminating in a written report
with implementing legislation to be submitted to the Legislature
31 by December 1, 1989, identifying and resolving any conflicts
between this bill and existing law.