

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1366

H.P. 1020

House of Representatives, April 29, 1993

**An Act to Undedicate Certain Revenues of the Department of
Environmental Protection.**

(EMERGENCY)

Reference to the Committee on Appropriations and Financial Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative BENNETT of Norway.
Cosponsored by Representatives: BAILEY of Township 27, BARTH of Bethel, BRUNO of Raymond, CAMERON of Rumford, CARLETON of Wells, DONNELLY of Presque Isle, KNEELAND of Easton, KUTASI of Bridgton, LIBBY of Buxton, LINDAHL of Northport, LORD of Waterboro, NICKERSON of Turner, PLOWMAN of Hampden, QUINT of Paris, ROBICHAUD of Caribou, SIMONEAU of Thomaston, SPEAR of Nobleboro, TARDY of Palmyra, TRUE of Fryeburg, YOUNG of Limestone, Senators: CAREY of Kennebec, HALL of Piscataquis, HANLEY of Oxford, SUMMERS of Cumberland.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, certain adjustments to the fiscal management of revenues received by the Department of Environmental Protection are essential prior to the start of the next fiscal year; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 38 MRS §341-H is enacted to read:

§341-H. Certain departmental revenues credited to General Fund

Notwithstanding any other provision of law to the contrary, all revenues received by the department after the effective date of this section under the provisions of the following sections, excepting federal funds and funds that would be forfeited if not dedicated to a particular purpose, must be credited to the General Fund:

1. Section 341-G. Board of Environmental Protection Fund, section 341-G; and

2. Section 351. Maine Environmental Protection Fund, section 351.

Sec. 2. 38 MRS §349, sub-§10 is enacted to read:

10. Disposition of penalties. Except as provided in this subsection, all fines and penalties assessed under this section or any other section of law administered by the department accrue to the General Fund. The following types of fines and penalties may accrue to funds administered by the department as provided by the laws establishing those funds:

A. The reimbursement or recovery of costs incurred by the department, including legal costs, in remediating or mitigating the environmental effects resulting from a violation of the laws administered by the department; and

B. Late payment penalties of any kind authorized by law.

Sec. 3. 38 MRS §551, first ¶, as amended by PL 1989, c. 500, §1, is further amended to read:

2 The Maine Coastal and Inland Surface Oil Clean-up Fund is
3 established to be used by the department as a nonlapsing,
4 revolving fund for carrying out the purposes of this subchapter.
5 The fund ~~shall be~~ is limited to \$6,000,000, the sum of which
6 ~~shall include~~ includes all funds credited under this section and
7 any funds loaned to the Ground Water Oil Clean-up Fund
8 established pursuant to subchapter II-B. The Department of
9 Environmental Protection shall collect fees in accordance with
10 subsection 4. To this fund ~~shall be~~ are credited all license
11 fees, ~~penalties,~~ reimbursements and other fees and charges
12 related to this subchapter, and to this fund ~~shall be~~ are charged
13 any and all expenses of the department related to this
14 subchapter, including administrative expenses, costs of removal
15 of discharges of pollutants, restoration of water supplies and
16 ~~3rd-party~~ 3rd-party damages covered by this subchapter. Except
17 as provided under section 349, all fines and penalties related to
18 this subchapter accrue to the General Fund.

19
20 **Sec. 4. 38 MRSA §569-A, first ¶,** as enacted by PL 1991, c. 817,
21 §26, is amended to read:

22 The Ground Water Oil Clean-up Fund is established to be used
23 by the department as a nonlapsing, revolving fund for carrying
24 out the purposes of this subchapter. The balance in the fund is
25 limited to \$15,000,000. To this fund are credited all
26 registration fees, fees for late payment or failure to register,
27 ~~penalties,~~ transfer fees, reimbursements, assessments and other
28 fees and charges related to this subchapter. To this fund are
29 charged any and all expenses of the department related to this
30 subchapter, including administrative expenses, payment of
31 3rd-party damages covered by this subchapter, costs of removal of
32 discharges of oil and costs of cleanup of discharges, including,
33 but not limited to, restoration of water supplies and any
34 obligations of the State pursuant to Title 10, section 1024,
35 subsection 1. Except as provided under section 349, fines and
36 penalties related to this chapter accrue to the General Fund.

37
38 **Sec. 5. 38 MRSA §1316-C, last ¶,** as enacted by PL 1991, c. 517,
39 Pt. A, §2, is amended to read:

40 Funds recovered under this section must be deposited into
41 the Maine Solid Waste Management Fund, except that fines and
42 penalties accrue to the General Fund unless otherwise provided
43 under section 349.

44
45
46 **Sec. 6. 38 MRSA §1319-D, first ¶,** as amended by PL 1987, c.
47 750, §4, is further amended to read:

48 The Maine Hazardous Waste Fund is established to be used by
49 the department as a nonlapsing, revolving fund for carrying out
50 the department's responsibilities under this subchapter. All
51 fees, ~~penalties,~~ interest and other charges under this subchapter

2 shall--be are credited to this fund. This fund shall--be is
3 charged with the expenses of the department related to this
4 subchapter, including costs of removal or abatement of discharges
5 and costs of the inspection or supervision of hazardous waste
6 activities and hazardous waste handlers. Except as provided in
7 section 349, fines and penalties levied under this subchapter
8 accrue to the General Fund.

9
10 **Sec. 7. 38 MRSA §1367, last ¶,** as amended by PL 1987, c. 192,
11 §31, is further amended to read:

12 Funds recovered under this section shall must be deposited
13 into the Uncontrolled Sites Fund and shall be used by the
14 department to carry out the purposes of this chapter.
15 Notwithstanding the preceding sentence, all fines and penalties
16 related to this chapter accrue to the General Fund except as
17 provided in section 349.

18
19 **Sec. 8. Statutory revision.** The Commissioner of Environmental
20 Protection shall prepare recommendations to amend or repeal the
21 sections cited in the Maine Revised Statutes, Title 38, section
22 341-H and any other related provisions to provide for the
23 crediting of revenues, excepting federal funds and funds that
24 would be forfeited if not dedicated to a particular purpose,
25 received under those sections to the General Fund. On or before
26 November 1, 1993, the commissioner shall submit these
27 recommendations to the Revisor of Statutes and the Joint Standing
28 Committee on Energy and Natural Resources as a departmental
29 legislative proposal to the Second Regular Session of the 116th
30 Legislature. Any balance in the funds cited in Title 38, section
31 341-H as of July 1, 1993 must be expended in accordance with
32 allocations made by the Joint Standing Committee on
33 Appropriations and Financial Affairs.

34
35 **Emergency clause.** In view of the emergency cited in the
36 preamble, this Act takes effect July 1, 1993.

37
38
39 **STATEMENT OF FACT**

40
41 This bill undedicates the Maine Environmental Protection
42 Fund and the related Board of Environmental Protection Fund.
43 These funds receive much of the licensing revenues of the
44 Department of Environmental Protection. The Commissioner of
45 Environmental Protection is directed to develop and submit
46 legislation to the Second Regular Session of the 116th
47 Legislature to conform the many provisions of the Maine Revised
48 Statutes, Title 38 regarding revenues to the intent of this bill.

49
50 In addition, this bill provides a general provision that
51 fines and penalties levied under the State's environmental laws
52 go to the General Fund. An exception to this general rule is

2 provided for cost recovery actions and late payment penalties to certain funds.