

# MAINE STATE LEGISLATURE

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L.D. 229

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"REPORT A"

6

NATURAL RESOURCES

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10 Reproduced and distributed under the direction of the Clerk of  
the House.

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
117TH LEGISLATURE  
FIRST REGULAR SESSION

14

16

18

20 COMMITTEE AMENDMENT "A" to H.P. 181, L.D. 229, Bill, "An  
Act to Abolish the Maine Waste Management Agency"

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

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

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**Whereas,** this legislation proposes to abolish the Maine  
Waste Management Agency and to transfer certain of its functions  
to other state agencies; and

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**Whereas,** the Governor's budget plan for fiscal year 1995-96  
provides no funding for continued activities of the Maine Waste  
Management Agency; and

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**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,

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

**COMMITTEE AMENDMENT**

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**PART A**

**Sec. A-1. 2 MRSA §6, sub-§2**, as repealed and replaced by PL 1993, c. 349, §1, is amended to read:

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

- Superintendent of Banking;
- Bureau of Consumer Credit Protection Superintendent;
- State Tax Assessor;
- Superintendent of Insurance;
- Associate Commissioner for Programs, Department of Mental Health and Mental Retardation;
- Associate Commissioner of Administration, Department of Mental Health and Mental Retardation;
- Associate Commissioner for Institutional Management; and
- ~~Executive-Direector, -Maine-Waste-Management-Agency, -and~~
- Deputy Commissioner, Department of Administrative and Financial Services.

**Sec. A-2. 2 MRSA §6, sub-§4**, as amended by PL 1991, c. 780, Pt. Y, §4, is further amended to read:

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

- Director of the Bureau of Parks and Recreation;
- Director of Public Lands;
- Director of Employee Relations;
- Director, Bureau of Air Quality Control;
- Director, Bureau of Land Quality Control;
- Director, Bureau of Water Quality Control;
- Director, Bureau of Oil and Hazardous Materials Control;

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Director, Bureau of Administration; and  
~~Director, Office of Planning;~~  
~~Director, Office of Waste Reduction and Recycling;~~  
~~Director, Office of Siting and Disposal Operations; and~~  
Executive Director, Board of Environmental Protection.

**Sec. A-3. 3 MRSA §927, sub-§9, ¶B**, as repealed and replaced by PL 1991, c. 376, §11, is amended to read:

B. Independent agencies:

- (1) Maine Conservation School;
- (2) Office of State Historian;
- (3) Maine Arts Commission;
- (4) Maine State Museum Commission;
- (5) Maine Historic Preservation Commission;
- (6) Maine Health Care Finance Commission;
- (7) Board of Occupational Therapy Practice;
- (8) Board of Respiratory Care Practitioners;
- (9) Radiologic Technology Board of Examiners;
- (10) Maine Library Commission; and
- ~~(11) --Maine Waste Management Agency; and~~
- (12) Maine Court Facilities Authority.

**Sec. A-4. 5 MRSA §931, sub-§1, ¶K**, as amended by PL 1993, c. 349, §6, is further amended to read:

K. All major policy-influencing positions listed in sections 932 to 953-A 952;

**Sec. A-5. 5 MRSA §953-A**, as enacted by PL 1989, c. 585, Pt. A, §4, is repealed.

**Sec. A-6. 5 MRSA §12004-I, sub-§22**, as repealed and replaced by PL 1989, c. 585, Pt. A, §6, is repealed.

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2           **Sec. A-7. 32 MRSA §1723, sub-§2**, as enacted by PL 1991, c.  
718, §1, is amended to read:

4  
6           **2. Alternative labels.** ~~The Maine-Waste-Management-Agency~~  
State Planning Office may approve use of other nationally or  
8 internationally recognized label coding systems for special  
purpose plastic bottles or rigid plastic containers.

10           **Sec. A-8. 32 MRSA §1726**, as enacted by PL 1989, c. 585, Pt.  
12 C, §16, is amended to read:

14           **§1726. Rules and enforcement**

16           ~~The Maine-Waste-Management-Agency--Office-of-Waste-Reduction~~  
and-Recycling State Planning Office shall adopt and enforce rules  
18 implementing the provisions of this chapter including, but not  
limited to, criteria for labeling containers made of more than  
20 one plastic resin. In adopting rules, the office shall consult  
with ~~the-Waste-Management-Advisory-Council~~, the Department of  
22 Agriculture, Food and Rural Resources, plastic container  
manufacturers and distributors, and the recycling industry.  
24 Rules shall must be adopted in accordance with the provisions of  
Title 5, chapter 375.

26           **Sec. A-9. 32 MRSA §1732, sub-§1**, as enacted by PL 1989, c.  
28 849, §1, is amended to read:

30           **1. Agency.** "Agency" means the ~~Maine--Waste--Management~~  
Agency State Planning Office.

32           **Sec. A-10. 32 MRSA §1866-A, sub-§3**, as enacted by PL 1991, c.  
34 591, Pt. R, §4 and affected by §18, is amended to read:

36           **3. Over-redemption of beverage container deposits.** When a  
deposit initiator pays out more in refund values than it collects  
38 in deposits during the course of a calendar year, the deposit  
initiator may apply to the Treasurer of State for a reimbursement  
40 from the Maine Solid Waste Management Fund equal to 50% of the  
amount of over-redeemed minimum deposits. The Treasurer of State  
42 shall reimburse documented claims of over-redeemed minimum  
deposits.

44           **Sec. A-11. 36 MRSA §2526, sub-§5**, as amended by PL 1991, c.  
46 846, §30, is further amended to read:

48           **5. Application.** This section applies to equipment  
purchased and placed into use during the period from January 1,  
1990 to June 30, 1991 or ~~in-any-tax-year-beginning-on-or-after~~  
50 from January 1, 1993 to June 30, 1995.

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2           **Sec. A-12. 36 MRSA §5219-D, sub-§5**, as amended by PL 1991, c.  
4           846, §37, is further amended to read:

6           **5. Application.** This section applies to equipment  
8           purchased and placed into use during the period from January 1,  
          1990 to June 30, 1991 or ~~in any tax year beginning on or after~~  
          from January 1, 1993 to June 30, 1995.

10          **Sec. A-13. 38 MRSA §343-D, sub-§1**, as amended by PL 1993, c.  
12          500, §2 and affected by §5, is further amended to read:

14          **1. Appointment; composition.** The committee consists of 16  
          voting members.

16           A. The Governor shall appoint 2 representatives from the  
18           business community, 2 elected or appointed municipal  
          officials who are not owners or representatives of owners of  
20           small business stationary sources, and 2 representatives of  
          organized labor.

22           B. The President of the Senate shall appoint one member  
24           from a public health organization, one member from an  
          environmental organization and one public member who is an  
26           owner or represents an owner of a small business stationary  
          source.

28           C. The Speaker of the House of Representatives shall  
30           appoint one member from a public health organization, one  
          member from an environmental organization and one public  
32           member who is an owner or represents an owner of a small  
          business stationary source.

34           D. The commissioner shall appoint a designee to represent  
          the department.

36           E. The Senate Minority Leader and the House Minority Leader  
38           shall each appoint one member who is an owner or represents  
          an owner of a small business stationary source.

40           F. The Director of the Bureau of Air Quality Control shall  
42           appoint a designee to represent the bureau.

44           The Commissioner of Labor, the Director of the Maine Emergency  
46           Management Agency and the Executive Director of the ~~Maine-Waste~~  
          Management--Agency State Planning Office serve as ex officio  
48           members and do not vote on committee matters.

50           As used in this subsection, unless the context otherwise  
          indicates, a "small business stationary source" means a source

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COMMITTEE AMENDMENT "A" to H.P. 181, L.D. 229

that meets the eligibility requirements of 42 United States Code Annotated, Section 7661f.

**Sec. A-14. 38 MRSA §1303-C, sub-§35**, as enacted by PL 1989, c. 585, Pt. E, §4, is amended to read:

**35. State waste management and recycling plan.** "State waste management and recycling plan" means the plan adopted by the agency former Maine Waste Management Agency pursuant to chapter 24, subchapter II, and subsequent plans developed by the State Planning Office pursuant to Title 5, section 3305, subsection 1, paragraph L and may also be referred to as "state plan."

**Sec. A-15. 38 MRSA §1310-N, sub-§1, ¶B**, as repealed and replaced by PL 1993, c. 680, Pt. A, §37, is amended to read:

**B.** In the case of a disposal facility other than a facility owned by the State, the facility provides a substantial public benefit, determined in accordance with subsection 3-A; and

**Sec. A-16. 38 MRSA §1310-N, sub-§3**, as repealed and replaced by PL 1993, c. 680, Pt. A, §37, is repealed.

**Sec. A-17. 38 MRSA §1310-N, sub-§3-A** is enacted to read:

**3-A. Public benefit determination.** Public benefit determination is made in the following manner.

**A.** For the following facilities, the department determines public benefit and shall employ a rebuttable presumption of public benefit:

**(1) Solid waste disposal facilities less than 6 acres in size that accept only inert fill, construction and demolition debris, debris from land clearing and wood wastes; and**

**(2) Solid waste disposal facilities used exclusively for the disposal of waste generated by the owner of the facility except that the facility may accept, on a nonprofit basis, waste not generated by the owner provided that the amount so accepted does not exceed 15% of all solid waste accepted on an annual average.**

**B.** For all other facilities, the commissioner shall make the determination of public benefit in accordance with section 1310-AA, and the commissioner's determination under that section is not subject to review by the department or

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the board as part of the licensing process under this section.

**Sec. A-18. 38 MRSA §1310-N, sub-§9** is enacted to read:

9. Host community agreements. The following provisions apply to an application for a license for a commercial solid waste disposal facility.

A. The department may not issue a license for a commercial solid waste disposal facility unless the applicant has demonstrated that it has:

- (1) Complied with municipal ordinances requiring host community benefits;
- (2) Negotiated in good faith with the municipality in which the facility is proposed to be located to formulate a host community agreement;
- (3) Developed and will implement a host community agreement; or
- (4) Renegotiated, if appropriate, the terms of an existing host community agreement.

B. Based upon the nature, size and projected impacts of the proposed facility, host community agreements must, when applicable, include provisions regarding:

- (1) Improvement, maintenance and repair of local roads directly affected by traffic to and from the facility and of other infrastructural elements directly affected by the facility;
- (2) Development and maintenance of adequate local emergency response capacity to accommodate the facility;
- (3) Financial support for personnel or other means to provide technical assistance to the municipality in interpreting data and to advise the municipality on other technical issues concerning the facility; and
- (4) Other issues determined on a case-specific basis by the applicant and municipality to be appropriate given the nature of the proposed facility.

The department shall adopt rules concerning the expenditure of funds made available to a municipality under the provisions of subparagraph (3) to ensure that funds are



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2 used to provide direct technical support to the municipality  
3 necessary for the conduct of municipal planning and decision  
4 making.

6 **Sec. A-19. 38 MRSA §1310-R, sub-§3, ¶C,** as affected by PL  
1989, c. 890, Pt. A, §40 and amended by Pt. B, §247, is repealed.

8 **Sec. A-20. 38 MRSA §1310-R, sub-§4,** as affected by PL 1989, c.  
10 890, Pt. A, §40 and amended by Pt. B, §248, is repealed.

12 **Sec. A-21. 38 MRSA §1310-S, sub-§4,** as amended by PL 1991, c.  
1991, §1, is further amended to read:

14 **4. Financial assistance.** The commissioner shall reimburse  
16 or make assistance grants for the direct expenses of intervention  
of any party granted intervenor status under subsection 3, not to  
18 exceed \$50,000. The board shall adopt rules governing the award  
and management of intervenor assistance grants and reimbursement  
20 of expenses to ensure that the funds are used in support of  
direct, substantive participation in the proceedings before the  
22 department. Allowable expenses include, without limitation,  
hydrogeological studies, waste generation and recycling studies,  
24 traffic analyses, the retention of expert witnesses and attorneys  
and other related items. Expenses not used in support of direct,  
26 substantive participation in the proceedings before the  
department, including attorney's fees related to court appeals,  
are not eligible for reimbursement under this subsection.  
28 Expenses otherwise eligible under this section that are incurred  
by the municipality after notification pursuant to subsection 1,  
30 are eligible for reimbursement under this subsection only if a  
completed application is accepted by the department. The  
32 commissioner may make an additional assistance grant not to  
exceed \$50,000 to any party granted intervenor status under  
34 subsection 3 on an application for the expansion of a commercial  
36 solid waste disposal facility that accepts only special waste for  
landfilling when the intervenor demonstrates to the commissioner  
38 that the size, nature, location, geological setting or other  
relevant factors warrant additional expenditures for technical  
assistance. The board shall also establish rules governing:

40 A. The process by which an intervenor under subsection 3  
42 may gain entry to the proposed facility site for purposes of  
reasonable inspection and site investigations under the  
44 auspices of the department; and

46 B. The reduction in the maximum level of reimbursable costs  
48 to the extent the municipality establishes by local  
ordinance any substantially similar financial requirements  
of the applicant.

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2           **Sec. A-22. 38 MRSA §1310-X, sub-§2**, as amended by PL 1993, c. 355, §52, is further amended to read:

4           **2. Relicense or transfer of license.** The department may  
6 relicense or approve a transfer of license for a commercial solid  
waste disposal or biomedical waste disposal or treatment facility  
8 after September 30, 1989, if the facility had been previously  
licensed by the department as a commercial solid waste disposal  
10 or biomedical waste disposal or treatment facility prior to  
October 6, 1989, and all other provisions of law have been  
12 satisfied.

14           **Sec. A-23. 38 MRSA §1310-X, sub-§3, ¶C**, as repealed and  
replaced by PL 1991, c. 297, §1, is amended to read:

16           C. For a commercial solid waste disposal facility ~~and prior~~  
18 ~~to the adoption of the state plan and siting criteria under~~  
~~chapter 24, the department determines that the proposed~~  
20 ~~expansion is consistent with the provisions of section~~  
~~1310-R, subsection 3, paragraph A 1 or, after the adoption~~  
22 ~~of the state plan and siting criteria under chapter 24, the~~  
agency determines that the provisions of section 2157 are  
24 met the commissioner or the department determines as  
provided in section 1310-N, subsection 3-A that the facility  
26 provides a substantial public benefit.

28           **Sec. A-24. 38 MRSA §1310-AA** is enacted to read:

30           **§1310-AA. Public benefit determination**

32           **1. Application for public benefit determination.** Prior to  
submitting an application under section 1310-N for a license for  
34 a new or expanded solid waste disposal facility, a person must  
apply to the commissioner for a determination of whether the  
proposed facility provides a substantial public benefit.

36           **2. Process.** Determinations by the commissioner under this  
38 section are not subject to Title 5, chapter 375, subchapter IV.  
The commissioner shall provide public notice of the filing of an  
40 application under this section and shall accept written public  
comment on the application for 20 days after the date of the  
42 notice. In making the determination of whether the facility  
provides a substantial public benefit, the commissioner shall  
44 consider the state plan, written information submitted in support  
of the application and any other written information the  
46 commissioner considers relevant. The commissioner may hold a  
public meeting in the vicinity of the proposed facility to take  
48 public comments and shall consider those comments in making the  
determination. The commissioner shall issue a decision on the  
50 matter within 60 days of receipt of the application.

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2 The commissioner's decisions under this section may be appealed  
3 to the board, but the board is not authorized to assume  
4 jurisdiction of a decision under this section.

6 3. Standards for determination. The commissioner shall  
7 find that the proposed facility provides a substantial public  
8 benefit if the applicant demonstrates to the commissioner that  
9 the proposed facility:

10 A. Meets immediate, short-term or long-term capacity needs  
11 of the State;

12 B. Except for expansion of a commercial solid waste  
13 disposal facility that accepts only special waste for  
14 landfilling, is consistent with the state waste management  
15 and recycling plan; and

16 C. Is not inconsistent with local, regional or state waste  
17 collection, storage, transportation, processing or disposal.

18 4. Application. This section does not apply to facilities  
19 described in section 1310-N, subsection 3-A, paragraph A or to  
20 facilities owned by the State.

21 Sec. A-25. 38 MRSA §1316-C, last ¶, as enacted by PL 1991, c.  
22 517, Pt. A, §2, is amended to read:

23 Funds recovered under this section must be deposited into  
24 the Maine-Solid-Waste Tire Management Fund.

25 Sec. A-26. 38 MRSA §1316-F is enacted to read:

26 §1316-F. Tire Management Fund

27 The Tire Management Fund is created within the department as  
28 a nonlapsing dedicated fund to pay the costs of tire stockpile  
29 abatement, remediation and cleanup. All funds appropriated or  
30 allocated to the fund must be deposited in the fund and the fund  
31 may accept grants, bequests, gifts or contributions from any  
32 person, corporation or governmental entity. The fund must be  
33 used for the purposes set forth in section 1316-B. Permissible  
34 uses include providing financial incentives to tire processors to  
35 make the processing of tires economically feasible. The  
36 department shall report to the joint standing committee of the  
37 Legislature having jurisdiction over natural resources matters by  
38 March 1, 1996 on how the funds have been spent.

39 Sec. A-27. 38 MRSA §1382, first ¶, as amended by PL 1991, c.  
40 517, Pt. B, §2, is further amended to read:

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COMMITTEE AMENDMENT "A" to H.P. 181, L.D. 229

Members of the board of trustees are appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over natural resources and to confirmation by the Legislature. The board of trustees consists of 8 members as follows: one member from the Department of Environmental Protection; one member from the Department of Agriculture, Food and Rural Resources; one member from the Maine Waste-Management-Agency State Planning Office; one member from an environmental interest group; one member from the Maine Waste Water Control Association; one member from the Maine Municipal Association; one member representing users of sludge or residuals; and one member representing generators of sludge and residuals.

Sec. A-28. 38 MRSA c. 24 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 24

SOLID WASTE MANAGEMENT AND RECYCLING

Sec. A-29. 38 MRSA c. 24, sub-c. I is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER I

GENERAL PROVISIONS

Sec. A-30. 38 MRSA §2101-A is enacted to read:

§2101-A. Definitions

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

- 1. Agency. "Agency" means the State Planning Office.
- 2. Office. "Office" means the State Planning Office.

Sec. A-31. 38 MRSA §2102, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-32. 38 MRSA §2103, as amended by PL 1991, c. 517, Pt. B, §§5 and 6, is repealed.

Sec. A-33. 38 MRSA §§2104 to 2110, as enacted by PL 1989, c. 585, Pt. A, §7, are repealed.

**COMMITTEE AMENDMENT**



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2 including recycling, composting, landspreading, incineration or  
3 landfilling.

4 2. Waste reduction and recycling assessment. The state  
5 plan must include an assessment of the extent to which waste  
6 generation could be reduced at the source and the extent to which  
7 recycling can be increased.

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10 3. Determination of existing and potential disposal  
11 capacity. The state plan must identify existing solid waste  
12 disposal and management capacity within the State and the  
13 potential for expansion of that capacity.

14 4. Projected demand for capacity. The state plan must  
15 identify the need in the State for current and future solid waste  
16 disposal capacity by type of solid waste, including  
17 identification of need over the next 5-year, 10-year and 20-year  
18 periods.

19  
20 **Sec. A-38. 38 MRSA §2124**, as enacted by PL 1989, c. 585, Pt.  
21 **A, §7**, is amended to read:

22  
23 **§2124. Reports**

24  
25 The agency office shall submit the adopted plan and  
26 subsequent revisions to the Governor, the department and the  
27 joint standing committee of the Legislature having jurisdiction  
28 over natural resource matters.

29  
30 **Sec. A-39. 38 MRSA §2125**, as corrected by RR 1993, c. 1,  
31 **§136**, is amended to read:

32  
33 **§2125. Evaluation of municipal implementation of solid waste**  
34 **management hierarchy**

35  
36 The agency office shall ~~adopt~~, ~~by rule~~, develop a system for  
37 acknowledging implementation by municipalities of the solid waste  
38 management hierarchy set forth in section 2101 and the goals for  
39 solid waste management adopted in the waste management and  
40 recycling plan. The system must include the following elements.

41  
42 **1. Evaluation.** Municipalities shall report annually,  
43 except as provided by the agency office, on their solid waste  
44 management practices. The annual report must include provisions  
45 for designating how much of each type of solid waste is generated  
46 and how that solid waste is managed. The agency office shall  
47 assist municipal reporting by developing a municipal waste stream  
48 assessment model. The model must rely on actual waste data  
49 whenever possible, but incorporate default generation estimates  
50 when needed. Default generation estimates must incorporate

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factors such as commercial activity, geographical differences and municipal population.

2. Progress report. The agency office shall use the municipal annual reports and other appropriate information to prepare an annual report to the Governor and the Legislature on the progress made by municipalities toward implementing the solid waste management hierarchy.

Sec. A-40. 38 MRSA c. 24, sub-c. III is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER III

WASTE REDUCTION AND RECYCLING

Sec. A-41. 38 MRSA §2131, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-42. 38 MRSA §2132, sub-§1, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

1. State recycling goal. It is the policy of the State to recycle or compost, by January 1, 1994 1998, 50% of the municipal solid waste generated each year. ~~The Legislature establishes an interim goal of recycling, by January 1, 1992, 25% of the municipal solid waste generated each year.~~

Sec. A-43. 38 MRSA §2132, sub-§2, as amended by PL 1991, c. 517, Pt. B, §7, is further amended to read:

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

Sec. A-44. 38 MRSA §2133, sub-§1, as amended by PL 1991, c. 517, Pt. B, §§8 and 9, is repealed.

Sec. A-45. 38 MRSA §2133, sub-§1-A is enacted to read:

1-A. Recycling progress. Municipalities are not required to meet the state recycling goal in section 2132, but they must demonstrate reasonable progress toward that goal. The office shall determine reasonable progress.

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2           **Sec. A-46. 38 MRSA §2133, sub-§2**, as enacted by PL 1989, c.  
585, Pt. A, §7, is repealed.

4           **Sec. A-47. 38 MRSA §2133, sub-§§2-A and 2-B** are enacted to  
read:

6                   **2-A. Technical and financial assistance program.** A program  
8 of technical and financial assistance for waste reduction and  
10 recycling is established in the office to assist municipalities  
12 with managing solid waste. The director shall administer the  
program in accordance with the waste management hierarchy in  
section 2101.

14                   **2-B. Household hazardous waste collection.** The office may,  
16 within available resources, award grants to eligible  
18 municipalities, regional associations, sanitary districts and  
sewer districts for household hazardous waste collection and  
disposal programs. In implementing this program, the office  
shall attempt to:

20                    A. Coordinate the household hazardous waste collection  
22 programs with overall recycling and waste management;

24                    B. Encourage regional economies of scale;

26                    C. Coordinate programs between private and public  
28 institutions; and

30                    D. Maximize opportunities for federal grants and pilot  
programs.

32           **Sec. A-48. 38 MRSA §2133, sub-§3**, as amended by PL 1991, c.  
517, Pt. B, §10, is further amended to read:

34                    **3. Recycling capital investment grants.** The office may  
36 make grants to eligible municipalities, regional associations,  
38 sanitary districts and sewer districts for the construction of  
40 public recycling and composting facilities and the purchase of  
42 recycling and composting equipment. The office may establish  
44 requirements for local cost sharing of up to 25% of the total  
grant amount. ~~The office shall give preference to recycling  
programs that require the participation of the waste generators  
served.~~

46           **Sec. A-49. 38 MRSA §2133, sub-§4, ¶B**, as enacted by PL 1989,  
c. 585, Pt. A, §7, is repealed.

48           **Sec. A-50. 38 MRSA §2133, sub-§5**, as repealed and replaced by  
50 PL 1991, c. 517, Pt. B, §11, is repealed.



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Sec. A-51. 38 MRSA §2133, sub-§6 is enacted to read:

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6. Recycling demonstration grants. The office may make demonstration grants to eligible municipalities, regional associations or other public organizations to pilot waste reduction, recycling and composting programs and to test their effectiveness and feasibility.

Sec. A-52. 38 MRSA §2134, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

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**§2134. Market development and assistance**

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The office shall design and implement a market development strategy and marketing assistance programs, consistent with the recycling component of the state plan, which shall must include, without limitation, the following elements:

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

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

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

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

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

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

8 ~~B.-- Market opportunities in Canada and other export markets;~~

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

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

18 6. Reuse of waste. Assisting Assistance to industries in  
19 promoting the reuse of industrial and commercial wastes that are  
20 suitable raw materials for other processes. ~~The office shall~~  
21 ~~coordinate these efforts with waste exchanges in the northeastern~~  
22 ~~United States.~~

24 Sec. A-53. 38 MRSA §2135, as enacted by PL 1989, c. 585, Pt.  
25 A, §7, is repealed.

26 Sec. A-54. 38 MRSA §2135-A, as enacted by PL 1991, c. 517,  
27 Pt. A, §3, is repealed.

30 Sec. A-55. 38 MRSA §2136, as enacted by PL 1989, c. 585, Pt.  
31 A, §7, is repealed.

32 Sec. A-56. 38 MRSA §2137, as enacted by PL 1989, c. 585, Pt.  
33 A, §7, is amended to read:

36 **§2137. State Government recycling and waste reduction**

38 The office, in cooperation with the Department of  
39 Administration Administrative and Financial Services, shall  
40 assess the status of recycling efforts undertaken directly by the  
41 State for its own solid waste and shall evaluate existing  
42 programs and develop necessary new programs for recycling to  
43 reduce the generation of solid waste by the State. ~~The programs~~  
44 ~~shall include, without limitation, recycling of office papers,~~  
45 ~~cardboard, used motor oil, yard waste and other materials~~  
46 ~~produced by the State for which recycling markets exist or may be~~  
47 ~~developed.~~

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

13  
14 **2. Capitol complex recycling program.** The State House and  
15 the State Office Building shall constitute the Capitol complex  
16 recycling demonstration area. The House of Representatives, the  
17 Senate, the office of the Governor, and each department that  
18 occupies space in the State House or the State Office Building  
19 shall, by July 1, 1990, institute a recycling program for its  
20 respective offices in these buildings. The program shall  
21 include, at a minimum, office paper, corrugated cardboard and  
22 containers subject to the returnable container law, Title 32,  
23 chapter 28, which are sold in the Capitol complex. The program  
24 shall include procedures for collecting and storing recyclable  
25 materials, bins or containers for storing materials, and  
26 contractual and other arrangements with buyers.

27  
28 **3. Recycling.** By January 1, 1991, each Each state agency  
29 outside the Capitol complex shall establish and implement a  
30 source separation and collection program for recyclable materials  
31 produced as a result of agency operations, including, at a  
32 minimum, high grade paper and corrugated paper. The source  
33 separation and collection program shall must include, at a  
34 minimum, procedures for collecting and storing recyclable  
35 materials, bins or containers for storing materials, and  
36 contractual and other arrangements with buyers. Each agency  
37 shall appoint a recycling coordinator for every 50 employees at a  
38 minimum and shall conduct educational programs for its employees  
39 on the recycling program.

40  
41 **4. Waste reduction.** By January 1, 1991, each Each state  
42 agency shall establish and implement a waste reduction program  
43 for materials used in the course of agency operations. The  
44 program shall must be designed and implemented to achieve the  
45 maximum feasible reduction of waste generated as a result of  
46 agency operations.

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

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

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

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

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

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

E. Each campus of the University of Maine System shall assess the status of its recycling efforts, evaluate existing programs and, within available resources, develop necessary new programs for recycling to reduce the generation of solid waste by the campus.

Sec. A-57. 38 MRSA §2138, as amended by PL 1991, c. 492, §4, is further amended to read:

**§2138. Office paper recycling program**

1. **Office paper recycling mandated.** Any person employing 15 or more people at a site within the State shall implement an

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office paper and corrugated cardboard recycling program according to the following schedule.

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

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

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

The office shall provide technical and market development marketing assistance and direction to entities within the State to assist in with meeting this schedule requirement. Municipalities and regional associations may assist employers in attaining the objectives of this section.

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

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

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

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

6. Beneficial use of office paper. Any person subject to the requirements of this section may use any office paper or corrugated cardboard as fuel in industrial boilers for the generation of heat, steam or electricity if these materials would otherwise be placed in a landfill, the office determines that there is no reasonably available market in the State for recycling these materials and if the materials are incinerated as

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~~a-substitute-for,-or-supplement-to,-fossil-or-biomass-fuels-that  
constitute-the-primary-fuels-incinerated-in-the-industrial-boiler.~~

Sec. A-58. 38 MRSA §2139, as amended by PL 1989, c. 700, Pt. A, §170, is further amended to read:

**§2139. Public education**

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

1. **Public education.** The office shall develop and disseminate educational material designed to establish broad public understanding and compliance with the State's recycling and waste reduction goals.

2. **Kindergarten to grade 12 curriculum.** In cooperation with the Department of Education, the office shall develop a curriculum suitable for use in programs from kindergarten through high school and provide assistance to educators in using the curriculum.

Sec. A-59. 38 MRSA c. 24, sub-c. IV is amended by repealing the subchapter headnote and enacting the following in its place:

**SUBCHAPTER IV**

**FACILITY SITING AND DEVELOPMENT**

Sec. A-60. 38 MRSA §2151, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-61. 38 MRSA §2151-A is enacted to read:

**§2151-A. Indemnification**

The office shall defend and indemnify any employee of the office, including the director, and any member of the Facility Siting Board against expenses actually and necessarily incurred by the person in connection with the defense of any action or proceeding in which the person is made party by reason of past or present association with the office with regard to the powers and duties set forth in this article.

Sec. A-62. 38 MRSA §2152, sub-§1, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

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

Sec. A-63. 38 MRSA §2153, as amended by PL 1991, c. 794, §2, is further amended to read:

§2153. Siting criteria

1. Siting criteria. ~~By September 1, 1992, the Facility Siting Board shall amend its~~ With regard to state-owned facilities, the office shall administer rules adopted by the former Maine Waste Management Agency, Office of Siting and Disposal Operations, for siting criteria for solid waste disposal facilities. The office may revise rules as necessary based on the following factors.

A. A site may be located anywhere within the State and need not be in proximity to the site of waste generation.

A-1. ~~Agency-owned sites~~ Sites for the disposal of special waste may not be located within a 5-mile radius of an existing commercial special waste landfill or a commercial incineration facility.

B. To the extent possible, a site must be located in proximity to the transportation systems, including existing or potential railroad systems, that are used to convey waste to the site or to convey residuals and materials to be recycled from the site.

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

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

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

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

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2 Regulation Commission, including ground water standards,  
geological standards and standards to protect public  
4 drinking water supplies.

6 G. Existing uses on adjacent properties, including public  
or private schools, may not be in significant conflict with  
8 or significantly jeopardized by the use of a site.

10 **Sec. A-64. 38 MRSA §2154, sub-§1**, as amended by PL 1991, c.  
794, §3, is further amended to read:

12 **1. Initial site screening.** The Facility Siting Board shall  
conduct a site screening and selection process to identify solid  
14 waste disposal capacity sufficient to meet the projected needs  
identified in the state planning process under section ~~2123~~  
16 2123-A, subsection 6 4. The Facility Siting Board shall consider  
the need for geographic distribution of facilities to adequately  
18 serve all regions of the State. The Facility Siting Board also  
shall consider in its site selection process the need for  
20 landfill capacity to dispose of incinerator ash resulting from  
the combustion of domestic and commercial solid waste generated  
22 within its jurisdiction. Prior to recommending a site, the  
Facility Siting Board shall hold a public hearing in every  
24 municipality or plantation identified in the screening process as  
a potential site. For potential sites within an unincorporated  
26 township, the Facility Siting Board shall hold a public hearing  
within the vicinity of the proposed site. Prior to submitting a  
28 recommended site to the department for review, the Facility  
Siting Board shall must find that the recommended site meets the  
30 standards adopted under section 2153.

32 **Sec. A-65. 38 MRSA §2156, sub-§1**, as amended by PL 1991, c.  
794, §5, is further amended to read:

34 **1. State facility required.** The office shall develop  
36 facilities sufficient to meet the projected needs for municipal  
solid waste identified in the analysis conducted under section  
38 ~~2123~~ 2123-A, subsection 6 4 and to serve all geographic areas of  
the State. The office may develop facilities sufficient to meet  
40 the projected needs for special waste identified in the analysis  
conducted under section ~~2123~~ 2123-A, subsection 6 4 and to serve  
42 all geographic areas of the State.

44 **Sec. A-66. 38 MRSA §2156, sub-§3**, as enacted by PL 1989, c.  
585, Pt. A, §7, is amended to read:

46 **3. Office ownership.** The agency office shall maintain  
48 ownership of any solid waste disposal facility it develops and  
shall maintain full control over the use of the facility or  
50 facilities.

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2           **Sec. A-67. 38 MRSA §2157**, as amended by PL 1993, c. 732, Pt.  
B, §3, is repealed.

4           **Sec. A-68. 38 MRSA §2158**, as amended by PL 1989, c. 890, Pt.  
6 A, §40 and Pt. B, §290, is repealed.

8           **Sec. A-69. 38 MRSA §2163**, as enacted by PL 1989, c. 585, Pt.  
A, §7, is repealed.

10           **Sec. A-70. 38 MRSA §2164**, as amended by PL 1991, c. 808, §1,  
12 is repealed.

14           **Sec. A-71. 38 MRSA §2175-B** is enacted to read:

16           **§2175-B. Payment in lieu of taxes**

18           The office shall annually pay a municipality an amount in  
19 lieu of taxes equal to the amount of property taxes on a solid  
20 waste disposal facility owned or operated by the office not paid  
21 to that municipality during the previous calendar year. In the  
22 case of an unorganized territory, the office shall annually pay  
23 the amount to the State Tax Assessor who shall deposit that  
24 amount in the Unorganized Territory Education and Services Fund  
25 established in Title 36, chapter 115. If the office disagrees  
26 with the amount determined to be due in lieu of taxes under this  
27 section, it may appeal to the State Board of Property Tax Review  
28 as provided in Title 36, section 271.

30           **Sec. A-72. 38 MRSA §2176, first ¶**, as amended by PL 1993, c.  
31 310, Pt. B, §10, is further amended to read:

32           In addition to payment in lieu of taxes provided in section  
33 ~~2105~~ **2175-B**, the agency office shall make impact payments to a  
34 municipality in which a solid waste disposal facility is located  
35 or, in the case of an unorganized territory, to the State Tax  
36 Assessor upon request by the community involved or by the State  
37 Tax Assessor. The agency shall base its impact payments on  
38 measurable criteria including, without limitation:

40           **Sec. A-73. 38 MRSA §2201, first ¶**, as repealed and replaced by  
41 PL 1991, c. 824, Pt. A, §88, is amended to read:

44           The Maine Solid Waste Management Fund, referred to in this  
45 section as the "fund," is established as a nonlapsing fund to  
46 support programs administered by the ~~Maine--Waste--Management~~  
47 Agency State Planning Office and the Department of Environmental  
48 Protection. The fund must be segregated into 2 subsidiary  
49 accounts. The first subsidiary account, called operations,  
50 receives all fees established and received under article 1. The

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2nd subsidiary account, called administration, receives all fees established under this article and under Title 36, chapter 719, all funds recovered by the department as reimbursement for departmental expenses incurred to abate imminent threats to public health, safety and welfare posed by the illegal disposal of solid waste and all unclaimed deposits returned to the State under Title 32, chapter 28.

Sec. A-74. 38 MRSA §2202, sub-§1, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

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

Sec. A-75. 38 MRSA §2203, sub-§3, as enacted by PL 1991, c. 517, Pt. B, §16, is amended to read:

3. Imported special waste. In addition to any other fee assessed under this section and to support those regulatory and administrative costs associated with imported special wastes, an administrative fee of \$2 per ton, or the maximum fee on out-of-state waste authorized by federal law, whichever is greater, is imposed on special waste brought into the State for disposal, except that an administrative fee of \$2 per cubic yard is imposed on asbestos brought into the State for disposal. The fee must be assessed at the first point of disposal, processing or treatment within the State.

Sec. A-76. 38 MRSA §2204, sub-§2, as amended by PL 1993, c. 85, §2, is repealed.

Sec. A-77. 38 MRSA §2204, sub-§3, as amended by PL 1993, c. 310, Pt. C, §3, is further amended to read:

3. Imported municipal solid waste. To support those regulatory and administrative costs associated with imported municipal solid wastes, an administrative fee of \$4 per ton, or the maximum fee on out-of-state waste authorized by federal law, whichever is greater, is assessed on any municipal solid waste originating outside the State and delivered to a commercial solid waste disposal facility or solid waste disposal facility owned by the agency office or a regional association for disposal.

Sec. A-78. 38 MRSA §§2205 and 2206, as enacted by PL 1989, c. 585, Pt. A, §7, are amended to read:

§2205. Fee payments

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

8 1. **Quarterly reports.** Each fee payment shall ~~shall~~ must be  
accompanied by a form prepared and furnished by the agency  
10 department and completed by the operator. The form shall ~~shall~~ must  
state the total weight or volume of solid waste disposed of at  
12 the facility during the payment period and provide any other  
aggregate information ~~deemed~~ determined necessary by the agency  
14 department to carry out the purposes of this chapter. The form  
shall ~~shall~~ must be signed by the operator.

16 2. **Timeliness of payment.** The operator shall ~~be~~ is deemed  
18 to have made a timely payment of the fee if the operator complies  
with all of the following:

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

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

28 C. The letter transmitting the payment that is received by  
the agency department is postmarked by the United States  
30 Postal Service on or prior to the final day on which the  
payment is to be received.

32 3. **Discount.** Any operator that makes a timely payment of  
34 the fee as provided in this section shall ~~be~~ is entitled to apply  
against the fee payable a discount of 1% of the amount of the fee  
36 collected.

38 4. **Refunds.** Any operator who believes the fee was overpaid  
by the operator may file a petition for refund to the agency  
40 department. If the agency department determines that the  
operator has overpaid the fee, the agency department shall refund  
42 to the operator the amount due the operator, together with  
interest at a rate established by the agency department.

44 5. **Alternative proof of payment.** For purposes of this  
46 section, presentation of a receipt indicating that the payment  
was mailed by registered or certified mail on or before the due  
48 date shall ~~be~~ is evidence of timely payment.

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2 6. Interest. If an operator fails to make a timely payment  
of the fee, the operator shall pay interest on the unpaid amount  
4 due at the rate established by the ~~agency,~~ department from the  
last day for timely payment to the date paid.

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

14 8. Assessment notice. If the ~~agency~~ department determines  
that any operator has not made a timely payment of the fee, the  
16 ~~agency-will~~ department shall send the operator a written notice  
of the amount of the deficiency, within 30 days of determining  
18 the deficiency. When the operator has not provided a complete  
and accurate statement of the weight or volume of waste received  
20 at the facility for the payment period, the ~~agency~~ department may  
estimate the weight or volume in the notice.

22 The operator charged with the deficiency shall-~~have~~ has 30 days  
24 to pay the deficiency in full or, if the operator wishes to  
contest the deficiency, forward the amount of the deficiency to  
26 the ~~agency~~ department for placement in an escrow account with the  
Treasurer of State or any bank in the State, or post an appeal  
28 bond in the amount of the deficiency. The bond shall ~~shall~~ must be  
executed by a surety licensed to do business in the State and be  
30 satisfactory to the ~~agency~~ department. Failure to forward the  
money or appeal bond to the ~~agency~~ department within 30 days  
32 shall-~~result~~ results in a waiver of all legal rights to contest  
the deficiency.

34 If, through the administrative or judicial review of the  
36 deficiency, it is determined that the amount of deficiency shall  
must be reduced, the ~~agency~~ department shall within 30 days remit  
38 the appropriate amount to the operator, with any interest  
accumulated by the escrow deposit.

40 The amount determined after administrative hearing or after  
42 waiver of administrative hearing shall-~~be~~ is payable to the  
~~agency~~ department and shall-~~be~~ is collectible.

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

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2 9. **Filing of appeals.** Notwithstanding any other provision  
of law, all appeals of final agency department actions concerning  
4 the fee shall must be filed with the agency department pursuant  
to section 2206.

6 **§2206. Hearings and appeals**

8 The agency department shall establish rules governing  
10 procedures for hearings and appeals under this article consistent  
with Title 5, chapter 375.

12 **Sec. A-79. 38 MRSA §2213, sub-§1, ¶A,** as enacted by PL 1989,  
14 c. 585, Pt. A, §7, is amended to read:

16 A. The project has been determined to be consistent with  
the state plan pursuant to section 2157 1310-AA, if  
18 applicable, and the necessary permits have been obtained  
from the department;

20 **PART B**

22 **Sec. B-1. 5 MRSA §3305, sub-§1, ¶H,** as amended by PL 1991, c.  
24 780, Pt. DDD, §21, is further amended to read:

26 H. Compile, analyze and maintain information useful to the  
development of industry in the State concerning resources,  
28 sites, space, equipment, adequate housing, contracts,  
materials, transportation, markets, labor supply, population  
30 trends and other economic considerations and shall measure  
and monitor economic distress and poverty in the State on an  
32 on-going basis. The State Planning Office, in conjunction  
with the Department of Economic and Community Development,  
34 shall study problems peculiar to the industry and economy of  
this State with a view toward the broader utilization of our  
36 natural resources, which studies shall must be advanced by  
coordination of research with existing private and  
38 governmental agencies and educational institutions, and may  
be advanced by contractual relations with persons or  
40 organizations equipped to conduct the needed research. The  
State Planning Office shall, upon request from the Governor  
42 or any state department, assist in the preparation of  
reports regarding the responsibilities and duties provided  
44 by this subsection, including regular analysis of poverty  
and economic distress. The State Planning Office shall  
46 coordinate its activities pursuant to this paragraph with  
the Bureau of Child and Family Services to meet the annual  
reporting needs of the bureau; and

48 **Sec. B-2. 5 MRSA §3305, sub-§1, ¶K,** as enacted by PL 1989, c.  
50 501, Pt. DD, §12, is amended to read:

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- 2 K. Coordinate the development of energy policy, including:
- 4 (1) Collecting and analyzing energy data from all
- 6 available energy sources in the State. The director
- 8 shall afford confidential treatment to information,
- 10 documents and data dealing with sales of individual
- 12 companies that are engaged in the wholesale and retail
- 14 trade of petroleum products in the State, upon request
- 16 of the individual companies;
- 18 (2) Preparation of an energy resources plan to be
- 20 submitted to the Governor and the Legislature every 2
- 22 years that includes a description of historical energy
- 24 demand by end-use sector and energy resources used to
- 26 meet that demand and a forecast of energy demand by
- 28 end-use sector for the next 5 years, 10 years and 20
- 30 years, which shall must include an electric and gas
- 32 forecast;
- 34 (3) Encouragement and direction or sponsorship of
- 36 research, experiments and demonstration projects within
- 38 the State to develop alternate energy sources,
- 40 particularly, but not limited to, those sources that
- 42 rely on renewable natural resources of the State, such
- 44 as solar energy, water of tides and rivers, forests,
- 46 winds and other sources which to date have not been
- 48 fully explored or utilized; and
- 50 (4) Provision of conservation alternatives to proposed
- new electric power generating plants and assessment of
- the long-term and short-term energy savings realized by
- the conservation alternatives;

**Sec. B-3. 5 MRSA § 3305, sub-§1, ¶¶ L and M are enacted to read:**

- 36 L. Coordinate the development of solid waste management
- 38 policy including:
- 40 (1) Collecting and analyzing solid waste management
- 42 and recycling data from all available sources including
- 44 commercial and municipal entities;
- 46 (2) Preparing a solid waste management and recycling
- 48 plan to be submitted to the Governor and the
- 50 Legislature every 2 years; and
- (3) Providing technical and financial assistance to
- municipalities in waste reduction and recycling
- activities; and

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2 M. Own, design, develop or operate, or contract with  
3 private parties to operate, a solid waste disposal facility,  
4 as provided in Title 38, chapter 24, subchapter IV.

6 **Sec. B-4. 5 MRSA §3305-A** is enacted to read:

8 **§3305-A. Authority to own and operate solid waste disposal**  
9 **facility**

10 The office has all necessary power and authority to own,  
11 design, develop and operate a solid waste disposal facility or  
12 facilities as provided in Title 38, chapter 24, subchapter IV,  
13 including:

14 **1. Title to property.** Authority to take and hold title to  
15 the facility;

16 **2. Contracts.** Authority to assume all rights and  
17 obligations under existing agreements related to the facility and  
18 to enter into contracts and agreements on behalf of the State as  
19 the office may consider necessary or appropriate in connection  
20 with the facility; and

21 **3. Rules.** Authority to adopt and amend rules in accordance  
22 with chapter 375, subchapter II.

23 **Sec. B-5. 10 MRSA §1055** is enacted to read:

24 **§1055. Revenue obligation securities for waste facilities, waste**  
25 **disposal services or recycling projects**

26 In addition to any other powers and for the purposes of this  
27 chapter and Title 38, chapter 24, the authority may exercise  
28 powers and authority previously granted to the former Maine Waste  
29 Management Agency in Title 38, sections 2211 to 2222.

30 **Sec. B-6. 38 MRSA §2211, sub-§1-A** is enacted to read:

31 **1-A. Agency.** "Agency" means the Finance Authority of Maine.

32 **Sec. B-7. Report; task force.** The State Planning Office shall  
33 convene a task force to develop recommendations for a state  
34 policy regarding the potential development and operation of the  
35 state-owned solid waste disposal facility at Carpenter Ridge.  
36 The State Planning Office shall include on the task force  
37 legislators who are members of the Joint Standing Committee on  
38 Natural Resources. The State Planning Office shall submit a  
39 report to the Joint Standing Committee on Natural Resources by  
40 February 1, 1996 describing the status of the application for a

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license for the Carpenter Ridge waste facility and setting forth any recommendations the task force has developed for operation of the facility, including recommendations as to when and how the facility might be developed and operated, what changes in state law would be advisable to allow for operation of the facility and any other issues the task force considers appropriate.

The task force shall also examine state policy regarding the ban on development of new commercial solid waste disposal facilities and shall submit any recommendations regarding that policy in the report required in this section. The report must also include information on the importation of out-of-state waste into Maine and the export of Maine waste and recent congressional action on legislation relating to state authority to regulate the importation of waste.

PART C

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

	1995-96	1996-97
<b>ENVIRONMENTAL PROTECTION, DEPARTMENT OF</b>		
<b>Solid Waste Management</b>		
Positions	(-9.0)	(-9.0)
Personal Services	(\$458,654)	(\$457,385)
All Other	(53,488)	(55,070)
Provides for the deappropriation of funds for solid waste management functions.		
<b>DEPARTMENT OF ENVIRONMENTAL PROTECTION</b>		
<b>TOTAL</b>	<b>(\$512,142)</b>	<b>(\$512,455)</b>

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

	1995-96	1996-97
<b>ENVIRONMENTAL PROTECTION, DEPARTMENT OF</b>		

COMMITTEE AMENDMENT



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**Solid Waste Management**

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Positions	(9.0)	(9.0)
Personal Services	\$458,654	\$457,385
All Other	53,488	55,070
	<hr/>	<hr/>
TOTAL	\$512,142	\$512,455

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Provides for the funding transfer of 9 positions and associated operating costs from the General Fund to the Solid Waste Management Fund.

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**Solid Waste Management**

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Positions - Other Count	(-3.0)	(-3.0)
Personal Services	(\$122,256)	(\$124,447)
All Other	(58,034)	(65,537)

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TOTAL	<hr/> (\$180,290)	<hr/> (\$189,984)
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Provides for the deallocation of funds through the deletion of one Data Control Clerk position and one Environmental Specialist III position, the addition of one Environmental Specialist II position and the transfer of one Clerk Typist III position and one Environmental Specialist IV position to the Maine Environmental Protection Fund and the reduction of support funds.

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**Tire Stockpile Clean-up Program**

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All Other	\$418,726	\$180,780
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Provides for the allocation of funds to accomplish the cleanup of tire stockpiles.

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**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
TOTAL**

<hr/> \$750,578	<hr/> \$503,251
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**COMMITTEE AMENDMENT**

**EXECUTIVE DEPARTMENT**

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**Planning Office**

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Positions - Other Count	(6.0)	(6.0)
Personal Services	\$282,203	\$273,572
All Other	656,339	161,135

Provides allocations for the transfer of one Development Program Manager position and one Planner II position from the Office of Waste Reduction and Recycling; one Planner II position and one Clerk Typist III position from the Office of Siting and Disposal Operations; and one Senior Planner position and one Planner II position from the Office of Planning within the Maine Waste Management Agency to the State Planning Office. It also provides allocations for technical assistance to municipalities and, in fiscal year 1995-96, for a contract payment of \$500,000 to Lincoln Pulp and Paper.

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**EXECUTIVE DEPARTMENT  
TOTAL**

\$938,542	\$434,707
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**WASTE MANAGEMENT AGENCY,  
MAINE**

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**Administration - Office of the  
Executive Director**

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Positions - Other Count	(-3.0)	(-3.0)
Personal Services	(\$169,349)	(\$167,156)
All Other	(97,044)	(100,306)
<b>TOTAL</b>	<b>(\$266,393)</b>	<b>(\$267,462)</b>

Provides for the deallocation of funds through the elimination of the Maine Waste Management Agency.

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**Office of Planning**

Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(\$217,382)	(\$215,208)
All Other	(100,567)	(105,287)
<b>TOTAL</b>	<u>(\$317,949)</u>	<u>(\$320,495)</u>

Provides for the deallocation of funds from the elimination of the Maine Waste Management Agency.

**Office of Siting and Disposal Operations**

Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(\$203,452)	(\$206,748)
All Other	(835,531)	(501,672)
Capital Expenditures	(7,000)	(7,000)
<b>TOTAL</b>	<u>(\$1,047,983)</u>	<u>(\$715,420)</u>

Provides for the deallocation of funds from the elimination of the Maine Waste Management Agency.

**Office of Waste Reduction and Recycling**

Positions - Other Count	(-5.0)	(-5.0)
Personal Services	(\$265,107)	(\$263,348)
All Other	(690,718)	(1,021,425)
Capital Expenditures	(7,000)	(7,000)
<b>TOTAL</b>	<u>(\$962,825)</u>	<u>(\$1,291,773)</u>

Provides for the deallocation of funds from the elimination of the Maine Waste Management Agency.

**MAINE WASTE MANAGEMENT AGENCY TOTAL**

<u>(\$2,595,150)</u>	<u>(\$2,595,150)</u>
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**TOTAL ALLOCATIONS**

<u>(\$906,030)</u>	<u>(\$1,657,192)</u>
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PLS

2           **Sec. C-3. Allocation.** The following funds are allocated from  
4 the Maine Environmental Protection Fund to carry out the purposes  
of this Act.

	1995-96	1996-97
6 <b>ENVIRONMENTAL PROTECTION,</b>		
8 <b>DEPARTMENT OF</b>		
10 <b>Maine Environmental Protection Fund</b>		
12           Positions - Other Count	(2.0)	(2.0)
13           Personal Services	\$88,686	\$89,747
14           All Other	16,850	17,051
16           Provides for the allocation		
17           of funds for the transfer of		
18           one Clerk Typist III position		
19           and one Environmental		
20           Specialist IV position from		
21           the Solid Waste Management		
22           Fund.		
24 <b>DEPARTMENT OF ENVIRONMENTAL</b>		
25 <b>PROTECTION</b>		
26 <b>TOTAL</b>	\$105,536	\$106,798

28           **Sec. C-4. Transition provisions.** The following provisions apply  
30 to the reassignment of the duties and responsibilities of the  
former Maine Waste Management Agency.

32           1. Except as otherwise provided in this section, the  
33 Director of the State Planning Office shall assume all remaining  
34 duties and responsibilities of the former Maine Waste Management  
35 Agency, its officers and its executive director, including  
36 administration of any rules adopted by that agency relating to  
these remaining duties. By December 1, 1995, the director shall  
38 submit legislation to the Second Regular Session of the 117th  
Legislature to revise all remaining references to the Maine Waste  
40 Management Agency in the Maine Revised Statutes to conform to the  
intent of this Act.

42           2. All rules and procedures in effect, in operation or  
43 adopted on the effective date of this Act in or by the former  
44 Maine Waste Management Agency or any of its administrative units  
45 or officers remain in effect until rescinded, revised or amended  
46 by the proper authority.

48           3. Six authorized positions and incumbent personnel in the  
49 Maine Waste Management Agency are transferred to the State  
50 Planning Office. Those employees retain their accrued fringe

# COMMITTEE AMENDMENT

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2 benefits, including vacation and sick leave, health and life insurance and retirement benefits.

4 4. Notwithstanding the provisions of the Maine Revised  
6 Statutes, Title 5, all accrued expenditures, assets, liabilities,  
8 balances or appropriations, allocations, transfers, revenues or  
10 other available funds in an account or subdivision of an account  
12 of the former Maine Waste Management Agency must be transferred  
14 to the proper account by the State Controller upon the request of  
16 the State Budget Officer and with the approval of the Governor.  
18 Notwithstanding any other provision of law, the Department of  
Administrative and Financial Services is authorized to allot  
funds through a financial order, upon approval of the State  
Budget Officer and the Governor, in order to meet all outstanding  
obligations of the former Maine Waste Management Agency that are  
not specifically transferred to any other unit of State  
Government.

20 5. The Department of Administrative and Financial Services  
22 shall serve as the fiscal agent for the former Maine Waste  
24 Management Agency for the purpose of effecting the repeal of that  
26 agency. The duties of the Department of Administrative and  
28 Financial Services are limited to those required to close out the  
30 agency and include functions such as processing payment vouchers,  
32 preparing budget documents, processing contract documents,  
34 preparing human resource documents, preparing the final personnel  
36 payrolls and other related administrative activities required.  
Except for records transferred to the State Planning Office or  
the Department of Environmental Protection as necessary to enable  
those agencies to continue functions previously performed by the  
Maine Waste Management Agency, essential records related to the  
agency must be transferred to the Department of Administrative  
and Financial Services to be maintained and stored pursuant to  
standard procedure. This subsection is effective retroactively  
to May 1, 1995.

38 6. All personal property and equipment previously belonging  
40 to or allocated for the use of the former Maine Waste Management  
Agency must be transferred to the State Planning Office.

42 7. All existing forms, licenses, letterheads and similar  
44 items bearing the name of or referring to the Maine Waste  
46 Management Agency may be used by the State Planning Office and  
the Department of Environmental Protection until existing  
supplies of those items are exhausted.

48 8. All real estate held by the former Maine Waste  
Management Agency is transferred to the State Planning Office.

**COMMITTEE AMENDMENT**



concerning uncontrolled tire stockpiles. The amounts of any dedicated revenue that may be received by the fund can not be determined at this time. Future allocations will be required to authorize expenditures from the fund if any revenue is received.

The Governor's proposed current services budget includes changes that may affect this bill's impact on the Maine Waste Management Agency, the Department of Environmental Protection and the State Planning Office. This estimate of the fiscal impact may need to be adjusted based on final legislative actions on the current services budget.'

### STATEMENT OF FACT

This amendment is the majority report. This amendment replaces the bill. It makes the following changes in the laws governing solid waste management:

1. It abolishes the Maine Waste Management Agency effective July 1, 1995 and transfers its essential services and responsibilities to the State Planning Office. Those responsibilities include preparation and revision of the state solid waste management and recycling plan; collection and analysis of municipal solid waste management reports and recycling rates; provision of technical and financial assistance to municipalities in managing solid waste, including awarding grants for recycling and composting programs; provision of market development and market assistance programs; and siting, ownership and operation of such state solid waste disposal facilities as are needed;

2. It ends eligibility for the solid waste reduction investment tax credit with equipment purchased before July 1, 1995;

3. It places responsibility for determining whether a solid waste disposal facility provides a substantial benefit on the Commissioner of Environmental Protection. Except for facilities currently exempt from the Maine Waste Management Agency public benefit determination process, the amendment requires applicants for solid waste disposal facilities to apply to the Commissioner of Environmental Protection for a public benefit determination before applying to the Department of Environmental Protection for a license under the Maine Revised Statutes, Title 38, section 1310-N. Application for public benefit determination does not trigger the notice requirements or assistance fee payments;

4. It provides that a proposed solid waste disposal facility may meet the public benefit test by filling immediate, short-term or long-term capacity needs of the State;

5. It requires an applicant for a solid waste disposal facility license to work with the host municipality to determine host community benefits, either through meeting the requirements of a municipal ordinance, negotiating in good faith to form an agreement or complying with an existing or revised host community benefit. The host community benefit agreement must, if appropriate, include a provision for financial support for personnel or other means to provide technical assistance to the municipality in interpreting data and advising on technical issues;

6. It allows the Commissioner of Environmental Protection to award host communities additional assistance grants of up to \$50,000 when the size, location or other features of the proposed facility warrant additional expenditures. It is anticipated that this would occur only when a facility proposes multiple phases or cells in a single application;

7. It clarifies that a facility may not be relicensed or allowed to expand as a commercial solid waste disposal facility unless the facility had been licensed as a commercial solid waste disposal facility prior to October 6, 1989;

8. It establishes a dedicated fund to pay the costs of tire abatement at uncontrolled tire stockpiles;

9. It extends the deadline for meeting the state recycling goal of 50% of municipal solid waste from January 1, 1994 to January 1, 1998 and includes composting in the 50% calculation;

10. It provides that municipalities are not required to meet the State's 50% recycling goal, but they must make reasonable progress toward that goal, and deletes provisions imposing a surcharge on municipalities that do not meet the 50% goal;

11. It repeals the provision requiring each campus of the University of Maine System to report its recycling program, and instead requires each campus to do a self-assessment of recycling efforts and to develop new programs if funds are available;

12. It repeals the business technical and financial assistance program for recycling, which the Maine Chamber of Commerce and Industry has agreed to undertake;



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- 2           13. It amends provisions imposing an administrative fee on imported waste;
- 4           14. It requires the Department of Environmental Protection to collect waste fees previously collected by the Maine Waste Management Agency;
- 6           15. It clarifies the powers of the State Planning Office to perform the duties transferred to it;
- 8           16. It grants power previously granted to the Maine Waste Management Agency to the Finance Authority of Maine to issue revenue obligation bonds;
- 10           17. It requires the State Planning Office to convene a task force, including Legislators, to examine state policy regarding operation of the State's waste management site at Carpenter Ridge and to examine state policy regarding the ban on commercial solid waste disposal facilities;
- 12           18. It deallocates positions from the Maine Waste Management Agency, transfers positions to the State Planning Office to perform some of the Maine Waste Management Agency's functions, provides funding for the tire program and for payment of the \$500,000 due to Lincoln Pulp and Paper if the State receives a license to operate the facility. It provides for the transfer of money for Department of Environmental Protection positions to the Maine Solid Waste Management Fund; and
- 14           19. It also adds a fiscal note to the bill.

**COMMITTEE AMENDMENT**