

MAINE STATE LEGISLATURE

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MINORITY
NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 1672, L.D. 2339, Bill, "An Act to Provide Assistance in the Cleanup of the Plymouth Waste Oil Site"

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

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

Whereas, in order to provide financial assistance in a timely fashion through a loan program to persons obligated to pay for the feasibility study at the Plymouth waste oil site, the program must be established as soon as possible; 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. 10 MRSA §963-A, sub-§42-E is enacted to read:

42-E. Plymouth waste oil site remedial study. "Plymouth waste oil site remedial study" means a remedial investigation and feasibility study undertaken in accordance with 40 Code of Federal Regulations, Section 300.430 with respect to the Portland-Bangor Waste Oil Services Site in Plymouth designated by the United States Environmental Protection Agency as a National Priorities List site.

COMMITTEE AMENDMENT

P. 018

2 **Sec. 2. 10 MRSA §1023-L**, as corrected by RR 1999, c. 1, §§12
and 13, is amended to read:

4

§1023-L. Waste Oil Clean-up Fund

6

1. **Fund established.** The Wells Waste Oil Clean-up Fund,
referred to in this section as the "fund," is established under
the jurisdiction and control of the authority.

10

2. **Sources of money.** The following money must be paid into
the fund:

12

A. All money appropriated for inclusion in the fund or
appropriated to the authority for use in providing financial
assistance to responsible parties as defined in section
963-A, subsection 47-A, subject to any restrictions
applicable to the appropriation;

18

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

22

C. Subject to any pledge, contract or other obligation any
money the authority receives in repayment of advances from
the fund;

26

D. Money transferred from the available balance in the
Underground Oil Storage Replacement Fund, subject to the
limitations of section 1024-A;

30

E. Money transferred from the available balance in the
Maine Rainy Day Fund pursuant to Title 5, section 1513,
subsection 1-P; and

34

F. Any other money available to the authority and directed
by the authority to be paid into the fund.

38

3. **Eligibility to participate in loan program.** The
authority may use money in the fund to carry out any power of the
authority under this section, under section 1023-M or under
section 1026-R, including, but not limited to, the pledge or
transfer and deposit of money in the fund as security for and the
application of money in the fund in payment of principal,
interest and other amounts due on insured loans. Money in the
fund may be used for direct loans or deferred loans for all or
part of the waste oil disposal site clean-up project when the
authority determines that:

48

2 A. The applicant is determined to be a responsible party
with respect to the waste oil disposal site and the
4 applicant is domiciled or has a principal place of business
in the State;

6 B. If the applicant is not a unit of local government, the
applicant demonstrates financial need for the assistance;

8 C. There is a reasonable likelihood that the applicant will
10 be able to repay the loan; and

12 D. An agreement has been reached with an entity that has
assumed liability for total response costs at the Wells
14 waste oil disposal site and the applicant is a participant
in that agreement.

16 The authority, pursuant to Title 5, chapter 375, subchapter II,
18 shall adopt rules for determining eligibility, feasibility,
terms, conditions, security and fees for the loans, including
20 deferred loans. The authority may not issue deferred loans for
eligible parties who have received payments under subsection 8.
22 The authority shall adopt rules that provide for a simplified
loan application process for loan requests of under \$2000. Rules
24 adopted pursuant to this subsection are routine technical rules
as defined in Title 5, chapter 375, subchapter II-A. The
26 authority may charge an interest rate as low as 0% or up to a
maximum rate equal to the prime rate of interest as published in
28 The Wall Street Journal, depending on the financial ability of
the applicant to pay as determined by the authority. The maximum
30 the authority may loan, or issue as a deferred loan, to any one
borrower, including related entities as determined by the
32 authority, is \$50,000. Money in the fund not needed currently to
meet the obligations of the authority as provided in this section
34 or section 1023-M may be invested as permitted by law. Any costs
incurred by the authority in administering this fund may be taken
36 from interest from all sources of the fund.

38 **4. Accounts within fund.** The authority may divide the fund
into separate accounts as it determines necessary or convenient
40 for carrying out this section or section 1023-M, including, but
not limited to, accounts reserved for direct loan funds for waste
42 oil cleanup.

44 **5. Payments on loans from fund; proceeds from mortgage or
security interests.** All proceeds of loans and proceeds from
46 mortgage or security interests from the fund must be applied by
the authority to the Underground Oil Storage Replacement Fund.

48 **6. Lapse to Groundwater Oil Clean-up Fund upon cleanup of
50 waste oil disposal site.** Within 30 days after the Department of

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Environmental Protection notifies the authority that the waste oil disposal site has been remediated and the total response costs have been paid and that the Plymouth waste oil site remedial study has been completed and the costs of that study paid, the authority shall transfer all amounts remaining in the fund to the Groundwater Oil Clean-up Fund.

7. Direct payment program. The direct payment program is managed as follows.

A. The authority shall pay to each person, eligible under this subsection, \$2,000 upon presentation by the person to the authority of a canceled check or other evidence determined sufficient by the authority to demonstrate payment of the person's share of total response costs at the waste oil disposal site, unless the authority determines that the payment made by the person at that site was in an amount less than \$2,000, in which case the authority shall pay to that person an amount equal to the amount that person paid in relation to the site. All payments made under this subsection must be from funds transferred from the Maine Rainy Day Fund.

B. Any person eligible under this subsection who presents an invoice for that person's share of total response costs at the site, but who has not yet paid the invoice, receives a negotiable instrument from the authority made payable jointly to that person and any entity identified by the Department of Environmental Protection as assuming liability for total response costs at the site. The negotiable instrument must be in the amount of \$2,000, unless the authority determines that the payment to be made by the person at the site will be in an amount less than \$2,000, in which case the authority shall pay to the person an amount equal to the amount the person is to pay in relation to the site. All payments made under this subsection must be from funds transferred from the Maine Rainy Day Fund.

C. After the payments authorized in paragraphs A and B have been made, additional payments must be made from the available balance from funds transferred from the Maine Rainy Day Fund to all persons who received funds under paragraphs A and B who have paid their settlement share of total response costs, and whose total liability at the site exceeds the amount the persons received under paragraph A or B. Distributions under this paragraph are proportionate to the amount each person paid as the person's share of total response costs at the site. Payments made pursuant to this subsection may not exceed the person's settlement share of total response costs attributable to eligible persons as

2 defined in this subsection multiplied by the total orphan
share percentage at the waste oil disposal site. The
3 authority may not issue deferred loans for eligible persons
4 who have received payments pursuant to this subsection.
This distribution must occur on April 1, 2000. Any
5 remaining funds in the fund must be transferred to the
Groundwater Oil Clean-up Fund.

8 For purposes of this subsection, "person" means any natural
9 person domiciled in this State; a corporation or partnership in
10 the State; the State; any agency, authority, department,
11 commission, municipality, quasi-municipal corporation,
special-purpose district or other instrumentality of the State; a
12 political subdivision of the State, including but not limited to
those defined in Title 14, chapter 741 and Title 30-A, chapter
13 225; any other entity identified as a responsible party at the
waste oil disposal site whose waste oil is identified as
14 delivered to the waste oil disposal site and picked up from an
address or location within the State in the records compiled by
15 the Department of Environmental Protection or the United States
Environmental Protection Agency or their agents, provided that
16 neither the Federal Government nor any of its agencies,
authorities, departments, boards, commissions or
17 instrumentalities are eligible to have any share of their
obligation for response costs paid by the fund.

26 **8. Determinations regarding eligibility.** The authority
27 shall establish a registry of all persons who qualify under
subsection 7 to have a portion of their share of total response
28 costs paid pursuant to this section. The authority shall adopt
rules relating to eligibility, including the calculation of an
29 eligible person's proportionate share, procedures to ensure that
money paid pursuant to this section is used to settle an eligible
30 person's liabilities related to the waste oil disposal site and
repayment of any amounts in excess of that person's share. Rules
31 adopted pursuant to this subsection are routine technical rules
as defined in Title 5, chapter 375, subchapter II-A.

38 **Sec. 3. 10 MRSA §1023-M** is enacted to read:

40 **§1023-M. Plymouth Waste Oil Feasibility Grant Program**

42 **1. Use of fund established.** Money in the Waste Oil Clean-up
43 Fund created under section 1023-L may be used by the authority to
44 carry out the purposes of this section. As used in this section,
45 the term "fund" refers to the Waste Oil Clean-up Fund.

46 **2. Eligibility to participate in grant program.** To the
47 extent money is available in the fund, the authority shall use
48 that money to provide direct payments to persons who have paid or
49 will pay for the cleanup of the waste oil disposal site.

2 are obligated to pay a share of the costs of the Plymouth waste
3 oil site remedial study when the authority determines that:

4 A. The applicant has joined a group of persons potentially
5 responsible for remedial costs associated with the
6 Portland-Bangor Waste Oil Services Site in Plymouth
7 designated by the United States Environmental Protection
8 Agency as a National Priorities List site and has, as a
9 member of that group, become obligated under an agreement
10 with an entity conducting the remedial study to pay a
11 portion of the cost of the remedial study;

12 B. The applicant has signed the Administrative Order by
13 Consent pursuant to United States Environmental Protection
14 Agency Docket No. CERCLA 1-2000-0004; and

15 C. The applicant is not a state or federal agency.

16 Direct payments to any person made under this section may not
17 exceed the amount the person has paid or is obligated to pay
18 toward the cost of the remedial study. The authority, pursuant
19 to Title 5, chapter 375, subchapter II, may adopt rules relating
20 to eligibility and payment terms for direct payments under this
21 section. Rules adopted pursuant to this subsection are routine
22 technical rules as defined in Title 5, chapter 375, subchapter
23 II-A.

24 **Sec. 4. PL 1999, c. 505, Pt. A, §15** is amended to read:

25 **Sec. A-15. Transfer of funds to the Waste Oil Clean-up Fund.**

26 On the effective date of this Act, \$4,000,000 is transferred from
27 the Underground Oil Storage Replacement Fund to the Wells Waste
28 Oil Clean-up Fund. Funds transferred under this Act may only be
29 used for the loan program pursuant to the Maine Revised Statutes,
30 Title 10, section 1023-L and the direct payment program pursuant
31 to Title 10, section 1023-M.

32 **Sec. 5. Report; authority to report legislation.**

33 By January 1, 2001, the Department of Environmental Protection shall report to
34 the joint standing committee of the Legislature having
35 jurisdiction over natural resources matters with regard to the
36 Portland-Bangor Waste Oil Services Site in Plymouth on the
37 following: the results of the remedial investigation and
38 feasibility study; whether any settlement has been reached with
39 regard to remediation of the site; the total amount of the
40 responsible party remedial costs under any settlement agreement;
41 the total number of parties to any settlement agreement; and the
42 amount of the orphan share of the remedial costs.

2 The joint standing committee of the Legislature having
jurisdiction over natural resources matters may report out a bill
4 to the First Regular Session of the 120th Legislature concerning
the Plymouth waste oil site.

6 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.'

8
Further amend the bill by inserting at the end before the
10 summary the following:

12
FISCAL NOTE

14
The Finance Authority of Maine will incur some minor
16 additional costs to adopt rules and administer the Waste Oil
Clean-up Fund. These costs can be absorbed within the
18 authority's existing budgeted resources.

20 The Department of Environmental Protection will incur some
minor additional costs to submit a required report to the
22 Legislature. These costs can be absorbed within the department's
existing budgeted resources.'

24
SUMMARY

26
This amendment, which is the minority report of the Joint
28 Standing Committee on Natural Resources, replaces the bill. The
amendment:
30

32 1. Creates a direct payment program for persons who are
obligated to pay for the remedial investigation and feasibility
34 study at the Plymouth waste oil site; and

36 2. Adds an emergency preamble and emergency clause and a
fiscal note to the bill.