

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1546

S.P. 482

In Senate, March 8, 2001

**An Act to Establish the Waste Motor Oil Disposal Site Remediation
Program.**

(EMERGENCY)

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

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MILLS of Somerset.

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

4 Whereas, waste oil was lawfully deposited between 1953 and
6 1981 at 4 locations in Maine: Wells, Plymouth, Casco and
Ellsworth; and

8 Whereas, the 119th Legislature created a loan program to
10 assist with the cleanup of the Wells site; and

12 Whereas, the remaining 3 sites require significant cleanup,
which will be extremely expensive; and

14 Whereas, many businesses that contributed waste oil to one
16 or more of the remaining 3 sites are no longer in business and
are unable to assist in the cleanup; and

18 Whereas, the costs of cleanup place an intolerable financial
20 burden on businesses throughout the State that did contribute
waste oil to one or more sites and that are current business
22 operations; and

24 Whereas, the public health, safety and welfare require that
the sites be cleaned up expeditiously; and

26 Whereas, it is in the public interest to ensure the
28 continued financial viability of the businesses that contributed
waste oil to one or more of the sites; and

30 Whereas, the Finance Authority of Maine has the means to
32 issue revenue bonds to fund the cost of the cleanup of these
remaining 3 sites; and

34 Whereas, the cost of retiring the bonds must be arranged;
36 and

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

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

46 **Sec. 1.** 5 MRSA §12004-F, sub-§18 is enacted to read:

48 18. Waste Motor Expenses Only 10 MRSA §1020
Oil Revenue Board

50 **Sec. 2.** 10 MRSA c. 110, sub-c. I-E is enacted to read:

2 4. Accounts within fund. The authority may divide the fund
into separate accounts as it determines necessary or convenient
for carrying out the purposes of this subchapter.

4
6 5. Revolving fund. The fund is a nonlapsing, revolving
fund. All money in the fund must be continuously applied by the
authority to carry out the purposes of this subchapter.

8
10 6. Premium. In addition to any other tax or charge imposed
under state or federal law, a premium is imposed on all motor oil
sold in the State at wholesale. The premium is in the amount of
12 20¢ per quart. The premium must be paid monthly by the
manufacturer or wholesaler to the State Tax Assessor. The State
14 Tax Assessor shall pay monthly all amounts received pursuant to
this subsection to the Treasurer of State and shall deposit the
16 funds in the fund. Costs of administration are paid by the fund.

18 **§1019. Waste Motor Oil Disposal Site Remediation Program**

20 1. Issue of securities. The authority shall issue revenue
obligation securities pursuant to subchapter III in an amount
22 sufficient to:

24 A. Pay the clean-up costs specified in any certificate of
determination issued by the board pursuant to section 1020;

26 B. Establish any capital reserve fund pursuant to section
28 1053; and

30 C. Pay the costs of the issuance of revenue obligation
32 securities.

34 2. Payment of proceeds. The authority shall pay proceeds
of the revenue obligation securities to or on behalf of the
Department of Environmental Protection and the United States
36 Environmental Protection Agency in the amounts specified in the
certificate of determination.

38 3. Revenue refunding securities. The board, or after its
dissolution the authority as the board's successor, may provide
40 for the issuance of revenue refunding securities pursuant to
subchapter III.

44 **§1020. Waste Motor Oil Revenue Board**

46 1. Membership. The Waste Motor Oil Revenue Board, as
established in Title 5, section 12004-F, subsection 18, consists
48 of 16 voting members. Five of the members are the chief
executive officer of the authority, who serves as the chair of
50 the board, the Commissioner of Economic and Community

2 Development, the Commissioner of Environmental Protection, the
3 Commissioner of Transportation and the Treasurer of State or
4 their respective designees, who must be in major
5 policy-influencing positions. The Governor shall appoint 11
6 additional members as follows:

7 A. Four individuals, each of whom is a principal of a
8 licensed franchised new motor vehicle dealer pursuant to
9 Title 29-A, chapter 9, subchapter III that has been
10 designated by the Department of Environmental Protection or,
11 in the case of the Howes Corner Federal Superfund Site in
12 Plymouth, the United States Environmental Protection Agency
13 as a responsible party;

14 B. One individual who is a principal of a used car dealer
15 licensed pursuant to Title 29-A, chapter 9, subchapter III
16 that has been designated by the Department of Environmental
17 Protection or, in the case of the Howes Corner Federal
18 Superfund Site in Plymouth, the United States Environmental
19 Protection Agency as a responsible party;

20 C. Two individuals, each of whom owns or operates a
21 business in this State that has as an integral element of
22 its business operations the repair and maintenance of motor
23 vehicles that are owned by 3rd parties in this State.
24 Either the appointee or the business must have been
25 designated by the Department of Environmental Protection or,
26 in the case of the Howes Corner Federal Superfund Site in
27 Plymouth, the United States Environmental Protection Agency
28 as a responsible party;

29 D. An individual who owns or operates a fleet of 25 or more
30 motor vehicles in the State. The individual must have been
31 designated by the Department of Environmental Protection or,
32 in the case of the Howes Corner Federal Superfund Site in
33 Plymouth, the United States Environmental Protection Agency
34 as a responsible party;

35 E. One individual who is employed by a person engaged in
36 the wholesale sale of motor oil in this State;

37 F. An officer or employee of a municipality that has been
38 designated by the Department of Environmental Protection or,
39 in the case of the Howes Corner Federal Superfund Site in
40 Plymouth, the United States Environmental Protection Agency
41 as a responsible party; and

42 G. An individual employed by a manufacturer or refiner of
43 motor oil or an individual employed by a trade association
44 of motor oil manufacturers or refiners.

2 2. Compensation. Members of the board are not entitled to
4 compensation but must be paid for their expenses pursuant to
 Title 5, section 12002-A.

6 3. Replacement or removal. Members of the board shall
8 serve a term of office ending the later of June 30, 2004 or any
10 date thereafter on which the board notifies the Governor that a
12 final remedy selection has been completed for each waste oil
14 site, but no later than December 31, 2024, on which date the
 board is dissolved and terminated. Any vacancy on the board must
 be filled by the Governor by appointment of an individual with
 the same qualifications. Any member of the board may be removed
 from office for cause by the Governor.

16 4. Certificate of determination. From time to time, the
18 board shall obtain from the Department of Environmental
20 Protection or the United States Environmental Protection Agency
 the final remedy selection, total response costs and response
 costs for each waste motor oil disposal site.

22 A. When the board finds that a substantially final
24 determination of the costs under this subsection for a waste
26 motor oil disposal site has been made, the board shall
28 determine those costs for that waste motor oil disposal site
30 that represent the collective share of the persons eligible
 under subsection 7 to have their share of those costs for
 the waste motor oil disposal site paid from the proceeds of
 revenue obligation securities.

32 B. Subsequent to the board's determination under paragraph
34 A, the board shall issue to the authority the board's
 certificate of determination setting forth the amount of:

36 (1) The eligible response costs paid or to be paid
 with respect to a waste motor oil disposal site;

38 (2) The total eligible response costs with respect to
40 that waste motor oil disposal site to be paid from the
 proceeds of revenue obligation securities;

42 (3) The proceeds of the revenue obligation securities
44 to be paid to or on behalf of the Department of
 Environmental Protection; and

46 (4) The proceeds of the revenue obligation securities
48 to be paid to or on behalf of the United States
 Environmental Protection Agency.

2 C. The board may issue to the authority no more than one
4 supplemental certificate of determination with respect to a
6 waste motor oil disposal site that may provide for the
8 payment from the proceeds of additional revenue obligation
10 securities of an amount equal to no more than 10% of the
 amount of costs initially certified to the authority for
 that waste motor oil disposal site. The board is not
 authorized to issue more than 2 certificates of
 determination to the authority for a waste motor oil
 disposal site.

12 **5. Eligibility.** For purposes of this section, "person"
14 means any natural person, corporation, partnership or other
16 entity identified as a responsible party at a waste motor oil
18 disposal site. The following persons who contributed waste motor
20 oil to a waste motor oil disposal site and who have been
22 designated by the Department of Environmental Protection or the
 United States Environmental Protection Agency as responsible
 parties with respect to any of the waste motor oil disposal sites
 are eligible to have their share of response costs and total
 response costs paid from the proceeds of revenue obligation
 securities issued pursuant to this subchapter:

24 A. Those persons who the board determines are no longer in
26 business and can not pay their share;

28 B. The State, any of its political subdivisions and any
30 agency, authority, department, board, commission or
 instrumentality of the State;

32 C. All franchised new car and truck dealers licensed
34 pursuant to Title 29-A, chapter 9, subchapter III or the
 successors in interest of any such franchised new car or
 truck dealers;

36 D. All used car dealers licensed in accordance with Title
38 29-A, chapter 9, subchapter III or the successors in
 interest of any such used car dealers;

40 E. Any person or the successor in interest to any person
42 that, as an integral element of its business, performed
44 repairs at repair facilities located in this State on motor
 vehicles, as defined in Title 29-A, section 101, subsection
 42, that are owned by 3rd parties; and

46 F. Any person or its successor in interest that performed
48 repairs on its own fleet of motor vehicles. The fleet at
50 all pertinent times must have included at least 25 vehicles
 registered, garaged and serviced in this State. The share
 of any such person is a ratio, the numerator of which is the

number of all vehicles garaged, serviced and registered in this State at the time of the certification by the board determined in subsection 4 and the denominator of which is the number of all vehicles in the person's total fleet, wherever garaged, serviced or registered.

6. Parties ineligible. The United States of America and any of its agencies, authorities, departments, boards, commissions or instrumentalities are not eligible to have any share of any of their obligation for response costs or total response costs covered by revenue obligation securities issued pursuant to section 1019.

7. Determinations regarding eligibility. In accordance with the standards set forth in subsection 5 and with the procedures set forth in Title 5, chapter 375, subchapter II for rulemaking, the board shall establish a registry of all persons who qualify to have their share of response costs and total response costs paid pursuant to this subchapter.

A. In order to establish the registry under this subsection, the board shall review the list of responsible parties prepared by the Department of Environmental Protection or the United States Environmental Protection Agency with respect to the waste motor oil disposal sites and must have access to all Department of Environmental Protection and United States Environmental Protection Agency records that relate in any way to the volume or composition of materials that may have been deposited in any waste motor oil disposal site. Copies of the registry must be made available to the public at the office of the Commissioner of Economic and Community Development, the office of the Commissioner of Environmental Protection and the office of the chief executive officer of the authority.

B. The board shall cause a list of persons on the registry under this subsection who used the respective waste motor oil disposal site for each waste motor oil disposal site to be published simultaneously, 2 times, 7 days apart, in the weekend edition of the following newspapers or any of their successors: the Bangor Daily News, the Portland Press Herald, the Kennebec Journal, the Morning Sentinel in Waterville, the Times Record in Brunswick, the Aroostook Republican, the Lewiston Sun-Journal and the Biddeford Saco OOB Courier.

C. Any responsible party may request reconsideration from the board of any board decision relating to eligibility for that responsible party. All requests for reconsideration must be mailed, postage prepaid, to the address designated by the board. All requests for reconsideration must be in

2 writing, may include any information the responsible party
3 desires to draw to the board's attention and must be
4 received by the board no later than 30 days from the 2nd
5 date of publication of notice in the newspapers identified
6 in this subsection. The chair of the board shall appoint a
7 subcommittee of 5 members to render a decision in writing
8 within 60 days of the date the board receives a request for
9 reconsideration. The chair may appoint multiple
10 subcommittees at the discretion of the chair. Each
11 subcommittee of the board may grant a request for
12 reconsideration, in whole or in part or may deny a request
13 for reconsideration.

14 D. Any responsible party may appeal a decision on
15 reconsideration to the Superior Court of Kennebec County
16 pursuant to Title 5, section 8058 within 30 days of the date
17 of the board's decision on reconsideration. An appeal under
18 this paragraph is nontestimonial. The record consists only
19 of written materials reviewed by the board and its decision
20 on reconsideration. The Superior Court shall issue its
21 decision within 45 days of the date of filing of the appeal.

22 **8. Staff.** The board shall retain independent counsel to be
23 paid out of the fund. The authority shall provide the board with
24 staff and clerical assistance, including such computer services
25 as the board may require, to be paid out of the fund. The chief
26 executive officer of the authority shall cause a record of the
27 proceedings of the board to be maintained. Records and
28 proceedings of the board are subject to Title 1, chapter 13,
29 subchapter I.

30 **9. Rules.** The board shall adopt rules necessary to
31 effectuate this subchapter. Rules adopted by the board under
32 this subchapter are routine technical rules as defined in Title
33 5, chapter 375, subchapter II-A.

34 **Sec. 3. 10 MRSA §1053, sub-§6,** as repealed and replaced by PL
35 1999, c. 531, Pt. G, §1, is amended to read:

36 **6. Securities outstanding.** The principal amount of revenue
37 obligation securities the authority may have outstanding at any
38 one time, to which subsection 5 is stated to apply in the trust
39 agreement or other document, may not exceed an aggregate
40 principal amount equal to \$777,000,000 \$842,000,000 as follows:

41 **A.** The sum of \$330,000,000 consisting of not more than
42 \$275,000,000 for loans and up to \$55,000,000 for use of bond
43 proceeds to fund capital reserve funds for revenue
44 obligation securities issued pursuant to this subchapter
45 relating to loans for electric rate stabilization projects;

2 B. The sum of \$120,000,000 consisting of not more than
3 \$100,000,000 for loans and up to \$20,000,000 for use of bond
4 proceeds to fund capital reserve funds for revenue
5 obligation securities issued pursuant to this subchapter
6 relating to loans for major business expansion projects;

8 C. The sum of \$57,000,000 consisting of not more than
9 \$45,000,000 for loans and up to \$12,000,000 for use of bond
10 proceeds to fund capital reserve funds for revenue
11 obligation securities issued pursuant to this subchapter
12 relating to workers' compensation residual market mechanism
13 projects;

14 D. The sum of \$150,000,000 less the aggregate outstanding
15 balance of mortgage loans secured by capital reserve funds
16 pursuant to section 1032 for all other revenue obligation
17 securities issued pursuant to this subchapter; and

20 E. The sum of \$120,000,000 consisting of not more than
21 \$100,000,000 for loans and up to \$20,000,000 for use of bond
22 proceeds to fund capital reserve funds for revenue
23 obligation securities issued pursuant to this subchapter
24 relating to loans for paper industry job retention projects.
25 ; and

26 F. The sum of \$65,000,000 for revenue obligation securities
27 issued pursuant to section 1019.

30 The amount of revenue obligation securities issued to refund
31 securities previously issued may not be taken into account in
32 determining the principal amount of securities outstanding, as
33 long as proceeds of the refunding securities are applied as
34 promptly as possible to the refunding of the previously issued
35 securities. In computing the total amount of revenue obligation
36 securities of the authority that may at any time be outstanding
37 for any purpose, the amounts of the outstanding revenue
38 obligation securities that have been issued as capital
39 appreciation bonds or as similar instruments are valued as of any
40 date of calculation at their then current accreted value rather
41 than their face value.

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

46 SUMMARY

48 This bill provides a financial mechanism for assisting with
49 the cleanup of waste oil disposal sites located in Plymouth,

2 Ellsworth and Casco, Maine. The bill authorizes the Finance
4 Authority of Maine to issue revenue obligation securities in
6 amounts up to \$65,000,000 to fund those clean-up costs. These
revenue obligation securities are to be retired with funds
derived from a 20¢ per quart premium on every quart of motor oil
sold in the State at wholesale.

8 The State and instrumentalities of the State, including the
10 Department of Transportation, the Department of Public Safety and
counties and municipalities, are eligible to participate in the
12 waste motor oil disposal site remediation program. The revenue
obligation securities will also cover the shares of those
14 businesses that maintained or repaired motor vehicles between
1953 and 1981 or their successors in interest and that had waste
motor oil deposited at one or more of the 3 sites. Any business
16 that operated a fleet of 25 or more vehicles for which it
performed its own maintenance and repairs and that contributed
18 waste motor oil to one or more of the 3 sites is eligible for
participation in the program. The United States Government and
20 its instrumentalities are not eligible to participate in the
program.

22 The 16-member Waste Motor Oil Revenue Board is created to
24 oversee the process and make determinations as to eligibility for
participation in the program.
26