

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1575

S.P. 535

In Senate, April 14, 2003

**An Act To Assist Brascan, the Successor to Great Northern Paper,
in Paying the Property Taxes Due to the Towns of Millinocket and
East Millinocket**

(EMERGENCY)

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator STANLEY of Penobscot. (GOVERNOR'S BILL)
Cosponsored by Representative LEMOINE of Old Orchard Beach and
Senators: CATHCART of Penobscot, NASS of York, Representatives: CLARK of Millinocket,
CLOUGH of Scarborough, DUPREY of Medway, FLETCHER of Winslow, McCORMICK of
West Gardiner.

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

4 **Whereas,** Great Northern Paper, Inc., the owner of 2 large
6 paper mills in the towns of Millinocket and East Millinocket, is
currently in bankruptcy; and

8 **Whereas,** the bankruptcy of Great Northern Paper, Inc., is
10 causing substantial economic hardship to the towns of Millinocket
and East Millinocket, to the employees and suppliers of Great
12 Northern Paper, Inc., and to the economy of the region; and

14 **Whereas,** part of the economic hardship occasioned by the
insolvency of Great Northern Paper, Inc., is that \$7.8 million of
16 property taxes due to the towns of Millinocket and East
Millinocket for the 2002-03 property tax year have not been paid,
18 and the assets of the bankrupt estate will not be sufficient to
pay the taxes; and

20 **Whereas,** Brascan Corporation, or its designee, has agreed to
22 purchase the mills and has also offered to alleviate the hardship
by paying the property taxes, and these payments will be made, in
24 part, by applying loan proceeds secured by Business Equipment Tax
Reimbursement program payments related to the mills; and

26 **Whereas,** the Business Equipment Tax Reimbursement program
28 payments are not payable by the State until after August 1, 2004,
which will delay the payment of taxes to the towns, and this
30 delay can be alleviated by this Act; and

32 **Whereas,** in order to facilitate the foregoing, this
legislation must be enacted prior to the purchase of the assets
34 of Great Northern Paper, Inc. by Brascan Corporation; and

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

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

44 **Sec. 1. Definitions.** As used in this Act, unless the context
otherwise indicates, the following terms have the following
46 meanings.

48 1. "Acquiring business" means a business that acquires
substantially all of the assets of Great Northern Paper, Inc.

50

2. "Authority" means the Finance Authority of Maine.

3. "BETR" means the Business Equipment Tax Reimbursement program established under the Maine Revised Statutes, Title 36, chapter 915.

4. "Bureau" means the Department of Administrative and Financial Services, Bureau of Revenue Services.

5. "Great Northern" means Great Northern Paper, Inc., Chapter 11 Debtor in Possession.

6. "Millinocket and East Millinocket mills BETR reimbursement" means the amount of the BETR reimbursement relating to the 2nd installment of property taxes assessed against Great Northern by Millinocket and East Millinocket for the 2002-03 property tax year, as certified by the bureau.

Sec. 2. Millinocket and East Millinocket BETR reimbursement loan program. Upon purchase by a business of substantially all of the assets of Great Northern, the authority shall provide a loan to the acquiring business in the amount of the Millinocket and East Millinocket mills BETR reimbursement, but not to exceed \$1,550,000, on the following terms and conditions.

1. The loan must be made at the closing of the purchase of the Great Northern assets by the acquiring business.

2. The loan proceeds must be used to pay property taxes due the Town of Millinocket or the Town of East Millinocket for the 2002-03 property tax year at the closing of the purchase of the assets of Great Northern.

3. Interest may not be charged on the loan. The authority may charge an origination fee not to exceed 1% of the loan amount. The loan terms must provide for repayment at the time the acquiring business receives the Millinocket and East Millinocket mills BETR reimbursement.

4. Prior to the closing of the purchase of the assets of Great Northern, the bureau shall certify to the authority the amount of the Millinocket and East Millinocket mills BETR reimbursement. Upon request by the acquiring business, the bureau shall process and deliver this certificate to the authority prior to closing.

5. The bureau shall pay the Millinocket and East Millinocket mills BETR reimbursement up to the amount of the loan to the acquiring business and the authority as copayees. Any amount of Millinocket and East Millinocket mills BETR

2 reimbursement in excess of the loan must be paid to the acquiring
business.

4 6. The authority may establish prudent terms and conditions
for the loan, including a first lien on the Millinocket and East
6 Millinocket mills BETR reimbursement.

8 **Sec. 3. Source of fund.** Notwithstanding any other provision of
law to the contrary, the loan described in section 2 may be made
10 by the authority out of the Economic Recovery Program Fund
established in the Maine Revised Statutes, Title 10, section
12 1023-I.

14 **Sec. 4. Payment of BETR claims.** Notwithstanding any provision
of the Maine Revised Statutes, Title 36, chapter 915 to the
16 contrary, the acquiring business is entitled to receive
reimbursement under BETR of all property taxes assessed against
18 Great Northern for 2002-03 and the subsequent property tax years
that qualify for reimbursement under BETR, as long as such taxes
20 are paid and were not previously reimbursed, regardless of
whether the taxes are paid by Great Northern or the acquiring
22 business.

24 Notwithstanding any provision of the Maine Revised Statutes,
Title 36, chapter 915 to the contrary, the acquiring business may
26 file a reimbursement claim and receive reimbursement under BETR
with respect to property tax payments made to the towns of
28 Millinocket and East Millinocket in 2003 for the 2002-03 property
tax year, but which payments were due from Great Northern to the
30 towns of Millinocket and East Millinocket in 2002, as if the
payments had been made in 2002.

32 Any BETR reimbursement made to the acquiring business must
34 exclude any costs or interest associated with late payment of
tax. Unless a provision of this Act provides otherwise, the
36 provisions of the Title 36, chapter 915 apply to any
reimbursement made to the acquiring business, including, but not
38 limited to Title 36, sections 6657 and 6658.

40 With respect to the Millinocket and East Millinocket mills
BETR reimbursement claim, in no event may more than one person
42 receive reimbursement for the same property tax payment.

44 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.
46

48 SUMMARY

50 Great Northern Paper, Inc., which is in bankruptcy, has not
paid property taxes in the amount of \$4.4 million to Millinocket
52 and \$3.4 million to East Millinocket for the 2002-03 property tax

2 year. The assets in the Great Northern bankruptcy estate will
not be sufficient to cover those taxes. Brascan Corporation,
4 which has agreed to purchase the Millinocket and East Millinocket
mills, has agreed to pay the unpaid property taxes, in part
6 through application of business equipment tax reimbursement, or
"BETR," program reimbursements and tax increment financing
8 payments. Under current provisions, the BETR payments would not
be received until at least August 2004, which would delay payment
of taxes until then. This bill provides for a loan from the
10 Finance Authority of Maine that will be used to pay Millinocket
and East Millinocket property taxes, with repayment of the loan
12 from BETR payments, and ensures that Brascan will receive the
BETR payments with respect to property taxes it will pay.