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No. 1458

H.P. 1073

House of Representatives, April 12, 2011

**An Act To Transfer Recycling Technical Assistance and Solid Waste
Policy Responsibilities from the State Planning Office to the
Department of Environmental Protection**

(EMERGENCY)

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative MOULTON of York.
Cosponsored by Senator SULLIVAN of York and
Representatives: GRAHAM of North Yarmouth, HINCK of Portland.

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

3 **Whereas,** recycling and solid waste management responsibilities require substantial
4 state resources; and

5 **Whereas,** consolidation of these responsibilities is important to conserve these
6 limited state resources; and

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

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

12 **Sec. 1. 5 MRSA §3305, sub-§1, ¶N,** as amended by PL 1997, c. 393, Pt. B, §4, is
13 repealed and the following enacted in its place:

14 N. Plan for sufficient, environmentally secure disposal capacity for the State's
15 municipal solid waste; and

16 **Sec. 2. 38 MRSA §1303-C, sub-§35,** as amended by PL 1997, c. 393, Pt. B, §9,
17 is further amended to read:

18 **35. State waste management and recycling plan.** "State waste management and
19 recycling plan" means the plan adopted by the former Maine Waste Management Agency
20 pursuant to chapter 24, subchapter ~~H~~ 2 and subsequent plans developed by the State
21 Planning Office pursuant to Title 5, section 3305, subsection 1, paragraph N and plans
22 developed by the department pursuant to section 2122 and may also be referred to as
23 "state plan."

24 **Sec. 3. 38 MRSA §1304, sub-§4,** as amended by PL 1995, c. 656, Pt. A, §22, is
25 further amended to read:

26 **4. Technical assistance.** The commissioner is authorized to establish guidelines for
27 effective waste management, to provide technical assistance to persons planning,
28 constructing or operating waste facilities; and to conduct applied research activities in the
29 field of waste management, disposal technology and environmental effects, including
30 methods of recycling hazardous or solid waste, sludge or septage. ~~The commissioner~~
31 ~~shall cooperate with the office in the design and delivery of this assistance.~~

32 **Sec. 4. 38 MRSA §1304, sub-§13,** as amended by PL 1995, c. 656, Pt. A, §23, is
33 further amended to read:

34 **13. Innovative disposal and utilization.** Recognizing that environmentally suitable
35 sites for waste disposal are in limited supply and represent a critical natural resource, the
36 commissioner may investigate and implement with the approval of the board innovative
37 programs for managing, utilizing and disposing of solid waste. Innovative programs may

1 include agricultural and forest land spreading of wood-derived ash, utilization of ash
2 resulting from combustion of municipal solid waste, paper mill sludges, municipal waste
3 water treatment plant sludges and the composting of yard wastes. ~~The office~~ department
4 shall first determine that the proposed innovative disposal and waste management
5 programs are consistent with the state plan. The commissioner shall review proposed
6 innovative programs for each waste category and shall apply all controls necessary to
7 ensure the protection of the environment and public health consistent with this chapter.
8 The board may adopt application review procedures designed to review individual
9 applications and their individual waste sources with prior approval of classes of disposal
10 or utilization sites. The board shall adopt provisions for municipal notification prior to
11 use of individual utilization sites.

12 **Sec. 5. 38 MRSA §1309**, as amended by PL 2001, c. 22, §1, is further amended to
13 read:

14 **§1309. Interstate cooperation**

15 The Legislature encourages cooperative activities by the department ~~and the office~~
16 with other states for the improved management of hazardous and solid waste; for
17 improved, and as far as is practicable, uniform state laws relating to the management of
18 hazardous and solid waste; and compacts between this and other states for the improved
19 management of hazardous and solid waste.

20 **Sec. 6. 38 MRSA §1316-G**, as amended by PL 2007, c. 655, §§12 to 14, is further
21 amended to read:

22 **§1316-G. Tire stockpile abatement program**

23 The State shall undertake a program to eliminate tire stockpiles. The program is
24 under the direction of the department with assistance from other agencies, including ~~the~~
25 ~~State Planning Office~~, the Department of the Attorney General, the Maine State Police,
26 the Maine National Guard and the Department of Corrections.

27 **1. Tire stockpile abatement.** The department shall, as available resources allow:

28 A. Estimate the number of tires that are stockpiled and that pose a significant risk to
29 the environment or public health;

30 B. Develop a tire stockpile reduction priority plan based on environmental and
31 public health risks;

32 C. Seek the cooperation and assistance of private and governmental landowners or
33 tire stockpile operators to reduce the size and number of tire stockpiles;

34 D. Assist tire stockpile owners and operators willing to cooperate within the law;

35 E. Utilize enforcement powers unilaterally or in conjunction with the Department of
36 the Attorney General or the Maine State Police or other parties to abate health, safety
37 and environmental risks posed by tire stockpiles when voluntary cooperation is not
38 provided by landowners or operators;

39 F. Develop or cause to be developed site-specific tire stockpile abatement plans;

- 1 G. Give preference in implementing site-specific tire stockpile abatement activities
2 to the processing of tires for removal and beneficial use while mitigating fire risk;
- 3 H. Educate the public and encourage use of tires based on consideration of
4 environmental and public health impacts as well as market conditions; and
- 5 I. Contract for services to reduce tire stockpiles and abate significant risk to the
6 environment and public health at tire stockpile sites.

7 **2. Market development.** ~~The State Planning Office shall, as available resources~~
8 ~~allow, assist the department generally in implementation of subsection 1. The assistance~~
9 ~~may include, but is not limited to, encouraging the beneficial reuse of whole tires and~~
10 ~~processed tires inside or outside the State. The office department may also~~ make
11 recommendations to the Legislature regarding legislation that would enhance the
12 beneficial reuse of waste tires or processed tires.

13 **3. Business retention and new technology.** The Department of Economic and
14 Community Development, as available resources allow, shall lead a cooperative effort
15 involving the department, ~~the State Planning Office~~ and the Finance Authority of Maine
16 to identify measures the State can take to provide a favorable environment for the
17 retention of businesses assisting in the processing of waste tires. This cooperative effort
18 must also provide for the introduction of viable new technologies to cost-effectively
19 convert waste tires to commodities that can be utilized for beneficial reuse and for energy
20 production.

21 **Sec. 7. 38 MRSA §1652, sub-§2,** as amended by PL 1997, c. 195, §1, is further
22 amended to read:

23 **2. Schools.** A school or school administrative ~~district~~ unit shall comply with the
24 provisions of this section except that a food service providing such services to satellite
25 facilities at the school or school administrative ~~district~~ unit serviced by central kitchen
26 facilities not at the same location is exempt. A school or school administrative ~~district~~
27 unit may submit a request to the ~~Executive Department, State Planning Office~~ department
28 for a 3-year waiver from the provisions of this section. The ~~State Planning Office~~
29 department may grant the requested waiver as long as:

30 A. The request includes an explanation of the ~~district's~~ unit's financial hardship and
31 a waste reduction plan. The plan must be designed to achieve the goal of using
32 durable containers in place of disposable containers, unless it is shown that the use of
33 durable containers is not feasible and alternative goals are proposed. The plan must
34 include a proposed capital plan for the acquisition of necessary equipment; and

35 B. The school or school administrative ~~district~~ unit has held a public hearing on the
36 proposal to use polystyrene containers and the waste reduction plan.

37 The ~~State Planning Office~~ department may renew the waiver for 2-year periods if it finds
38 that the school or school administrative ~~district~~ unit has made reasonable progress toward
39 implementing the waste reduction plan. The ~~State Planning Office~~ department, within
40 available resources, may provide technical and financial assistance to schools and school
41 administrative ~~districts~~ units to assist them with meeting the goal of using durable
42 containers.

1 **Sec. 8. 38 MRSA §1668**, as enacted by PL 1999, c. 779, §2, is amended to read:

2 **§1668. Education program**

3 The department ~~and the Executive Department, State Planning Office~~ shall
4 implement an education program relating to mercury-added products ~~no later than~~
5 ~~January 1, 2001~~. The program must provide information to the public about labeled
6 mercury-added products, the requirements of the law regarding the source separation of
7 waste mercury-added products and collection programs that are available to the public.

8 **Sec. 9. 38 MRSA §1669**, as enacted by PL 1999, c. 779, §2, is amended to read:

9 **§1669. Technical assistance to municipalities**

10 The department shall ~~coordinate with the Executive Department, State Planning~~
11 ~~Office to~~ assist interested municipalities and regional associations in developing
12 collection programs for mercury-added products.

13 **Sec. 10. 38 MRSA §2101-A, sub-§3** is enacted to read:

14 **3. Supracompetitive price.** "Supracompetitive price" means a price greater than
15 what can be sustained in a competitive market.

16 **Sec. 11. 38 MRSA §2122**, as amended by PL 1995, c. 588, §2, is further amended
17 to read:

18 **§2122. State waste management and recycling plan**

19 The ~~office~~ department shall prepare ~~an analysis of, and~~ a plan for; the management,
20 reduction and recycling of solid waste for the State. The plan must be based on the
21 priorities and recycling goals established in sections 2101 and 2132. The plan must
22 provide guidance and direction ~~to municipalities~~ in planning and implementing waste
23 management and recycling programs at the state, regional and local levels and in making
24 a recycling and source reduction determination in accordance with section 1310-N,
25 subsection 5-A and a public benefit determination in accordance 1310-AA, subsection 3,
26 paragraph B.

27 **1. Consultation.** In developing the state plan, the ~~office~~ department shall consult
28 with the ~~department~~ office on matters concerning solid waste disposal capacity and
29 state-owned solid waste disposal facilities and the Solid Waste Management Advisory
30 Council. The ~~office~~ department shall solicit public input and may hold hearings in
31 different regions of the State.

32 **2. Revisions.** The ~~office~~ department shall revise the analysis by January 1, ~~1998~~
33 2012 and every 5 years after that time to incorporate changes in waste generation trends,
34 changes in waste recycling and disposal technologies, development of new waste
35 generating activities and other factors affecting solid waste management as the ~~office~~
36 department finds appropriate.

1 **3. Submission.** The department shall submit the plan under this section and any
2 subsequent revisions to the Governor and the joint standing committee of the Legislature
3 having jurisdiction over environment and natural resources matters.

4 **Sec. 12. 38 MRSA §2122-A** is enacted to read:

5 **§2122-A. State plan contents**

6 The state plan must be based on the comprehensive analysis of solid waste generated,
7 recycled and disposed of in the State, including consideration of the solid waste
8 generation and disposal capacity report prepared in accordance with section 2124-A. The
9 state plan includes the following elements:

10 **1. Waste reduction and recycling assessment.** An assessment of the extent to
11 which waste generation could be reduced at the source and the extent to which recycling
12 can be increased;

13 **2. Trends.** Statewide trends in solid waste management;

14 **3. Policy assessment.** An assessment of the effectiveness of solid waste
15 management policy;

16 **4. Waste generation assessment.** An assessment of waste generation trends in the
17 State; and

18 **5. Other.** Any factors affecting solid waste management the department determines
19 appropriate.

20 **Sec. 13. 38 MRSA §2123-A**, as enacted by PL 1995, c. 465, Pt. A, §36 and
21 affected by Pt. C, §2, is repealed.

22 **Sec. 14. 38 MRSA §2123-C, sub-§1**, as enacted by PL 2007, c. 192, §4, is
23 amended to read:

24 **1. Solid Waste Management Advisory Council.** The Solid Waste Management
25 Advisory Council, referred to in this section as "the council," is established to advise and
26 assist the office and department in reviewing, as may be appropriate:

27 A. State solid waste management policy, including the timeline and establishment
28 process for the development of a state-owned solid waste disposal facility;

29 B. Host community benefits;

30 C. The development of commercial solid waste facilities and the economic
31 competitiveness of commercial facilities;

32 D. The appropriateness of developing regional disposal facilities to better serve
33 municipalities and businesses;

34 E. The continued development and expansion of beneficial reuse and recycling;

35 F. The proper role of municipal zoning and other local control in regard to siting,
36 expansion and operation of solid waste disposal facilities; ~~and~~

1 ~~G. Other related matters as considered appropriate and necessary.~~

2 H. The state waste management and recycling plan in accordance with section
3 2122-A;

4 I. The solid waste generation and disposal capacity report developed in accordance
5 with section 2124-A; and

6 J. Related matters as appropriate and necessary.

7 **Sec. 15. 38 MRSA §2123-C, sub-§7,** as enacted by PL 2007, c. 192, §4, is
8 amended to read:

9 **7. Staff.** The ~~office~~ department shall provide the council with all necessary staff.

10 **Sec. 16. 38 MRSA §2124,** as amended by PL 1995, c. 465, Pt. A, §37 and affected
11 by Pt. C, §2, is repealed.

12 **Sec. 17. 38 MRSA §2124-A,** as amended by PL 2007, c. 583, §8, is further
13 amended to read:

14 **§2124-A. Solid waste generation and disposal capacity report**

15 ~~By January 1, 2008 and annually thereafter, the~~ The office shall submit annually a
16 report to the joint standing committee of the Legislature having jurisdiction over
17 environment and natural resources matters, the Governor and the department setting forth
18 information on statewide generation of solid waste, statewide recycling rates and
19 available disposal capacity for solid waste.

20 ~~The report submitted under this section must include an analysis of how changes in~~
21 ~~available disposal capacity have affected or are likely to affect disposal prices. When the~~
22 ~~office determines that a decline in available landfill capacity has generated or has the~~
23 ~~potential to generate supracompetitive prices, the office shall include this finding in its~~
24 ~~report and shall include recommendations for legislative or regulatory changes as~~
25 ~~necessary.~~

26 ~~Beginning on January 1, 2009 and every odd numbered year thereafter, the report~~
27 ~~submitted under this section must include an analysis of how the rate of fill at each solid~~
28 ~~waste landfill has affected the expected lifespan of that solid waste landfill. The January~~
29 ~~2009 report must also include an analysis of the solid waste disposal needs of the State as~~
30 ~~of January 1, 2009 for the next 3, 5 and 10 years.~~

31 ~~Beginning on January 1, 2010 and every even numbered year thereafter, the report~~
32 ~~submitted under this section must include an analysis of consolidation of ownership in the~~
33 ~~disposal, collection, recycling and hauling of solid waste.~~

34 Data collected under this section must include the source, type and amount of solid
35 waste currently generated and the types of solid waste management employed, including
36 recycling, composting, landspreading, incineration and landfilling. The department shall
37 provide the data under this paragraph to the office for purposes of developing the report
38 required by this section.

1 The report submitted under this section must include:

2 **1. Waste generation.** A computation of solid waste generated in the State;

3 **2. Recycling.** A calculation of the statewide recycling rate;

4 **3. Determination of existing and potential disposal capacity.** An analysis of
5 existing solid waste disposal and management capacity within the State and the potential
6 for expansion of that capacity;

7 **4. Projected demand for capacity.** An analysis of the need in the State for current
8 and future solid waste disposal capacity by type of solid waste, including identification of
9 need over the next 3-year, 5-year, 10-year and 20-year periods;

10 **5. Fill rates.** For every odd-numbered year, an analysis of how the rate of fill at
11 each solid waste landfill has affected the expected lifespan of that solid waste;

12 **6. Recommendation for development.** Pursuant to section 2156-A, a
13 recommendation for construction and operation of a state-owned solid waste disposal
14 facility, when appropriate;

15 **7. Supracompetitive prices.** An analysis of how changes in available solid waste
16 disposal capacity have affected or are likely to affect disposal prices. When the office
17 determines that a decline in available landfill capacity has generated or has the potential
18 to generate supracompetitive prices, the office shall include this finding in the report and
19 recommendations for legislative and regulatory changes, if necessary; and

20 **8. Consolidation of ownership.** Every even-numbered year, an analysis of
21 consolidation of ownership in the disposal, collection, recycling and hauling of solid
22 waste.

23 The joint standing committee of the Legislature having jurisdiction over solid waste
24 matters may report out legislation related to the report submitted pursuant to this section.

25 **Sec. 18. 38 MRSA §2132, sub-§2,** as amended by PL 2005, c. 220, §4, is further
26 amended to read:

27 **2. Goal revision.** The ~~office~~ department shall recommend revisions, if appropriate,
28 to the state recycling goal and waste reduction goal established in this section. The ~~office~~
29 department shall submit its recommendations and any implementing legislation to the
30 joint standing committee of the Legislature having jurisdiction over environment and
31 natural ~~resource~~ resources matters.

32 **Sec. 19. 38 MRSA §2132, sub-§3,** as amended by PL 1995, c. 552, §1, is further
33 amended to read:

34 **3. Beneficial use of waste.** The use of waste paper, waste plastics, waste wood,
35 including wood from demolition debris, used motor vehicle tires or corrugated cardboard
36 as a fuel in industrial boilers or waste-to-energy facilities for the generation of heat, steam
37 or electricity constitutes recycling only for the purposes of determining whether the goals

1 in subsection 1 are met and for determining municipal progress as provided in section
2 2133. In order for the use of waste under this subsection to constitute recycling, the
3 office department must determine that there is no reasonably available market in the State
4 for recycling that waste and the wastes must be incinerated as a substitute for, or
5 supplement to, fossil or biomass fuels incinerated in the industrial boiler or waste-to-
6 energy facility.

7 **Sec. 20. 38 MRSA §2133**, as amended by PL 2003, c. 567, §§1 and 2, is further
8 amended to read:

9 **§2133. Municipal recycling**

10 **1-A. Recycling progress.** Municipalities are not required to meet the state recycling
11 goal in section 2132, but they must demonstrate reasonable progress toward that goal.
12 The office department shall determine reasonable progress.

13 **2-A. Technical and financial assistance program.** A program of technical and
14 financial assistance for waste reduction and recycling is established in the office
15 department to assist municipalities with managing solid waste. The office department
16 may also provide planning assistance to municipalities and regional organizations for
17 managing municipal solid waste. Planning assistance may include cost and capacity
18 analysis and education and outreach activities. The ~~director~~ commissioner shall
19 administer the program in accordance with the waste management hierarchy in section
20 2101. Preference in allocating resources under this section must be given to
21 municipalities that take advantage of regional economies of scale.

22 **2-B. Household hazardous waste collection.** The office department may, within
23 available resources, award grants to eligible municipalities, regional associations, sanitary
24 districts and sewer districts for household hazardous waste collection and disposal
25 programs. In implementing this program, the office department shall attempt to:

- 26 A. Coordinate the household hazardous waste collection programs with overall
27 recycling and waste management;
- 28 B. Encourage regional economies of scale;
- 29 C. Coordinate programs between private and public institutions;
- 30 D. Maximize opportunities for federal grants and pilot programs; and
- 31 E. ~~By January 1, 2002 and as necessary thereafter, fund~~ Fund capital improvements
32 and operating expenses to facilitate the development of collection programs
33 throughout the State for hazardous waste that is universal waste, as identified in
34 board rules, generated by households, small-quantity generators, public schools and
35 municipalities.

36 Preference in allocating resources under this subsection must be given to municipalities
37 that participate in a household hazardous waste collection region as defined in subsection
38 2-D.

39 At a minimum, the office department shall award grants to public schools and
40 municipalities for reasonable costs incurred as a result of managing waste mercury-added

1 products generated by those public schools and municipalities, in compliance with the
2 requirements in sections 1663 and 1664, that would not otherwise be incurred by
3 complying with existing laws, rules or regulations as of July 15, 2002.

4 **2-C. Business technical assistance program.** The ~~office~~ department may, as
5 resources allow, assist the business community to develop state programs and services
6 that are designed to promote the solid waste hierarchy and that are desired by and
7 financially supported by the business community. ~~The office shall coordinate these~~
8 ~~efforts in conjunction with the department.~~

9 **2-D. Preference for other state grants and investments.** When awarding grants or
10 making a discretionary investment under any of the programs under paragraphs A and B,
11 a state agency shall give preference to a municipality that is part of a household
12 hazardous waste collection region. For purposes of this subsection, "household
13 hazardous waste collection region" means a region made up of 2 or more municipalities
14 that work together to establish a collection center to accept the household hazardous
15 waste of residents of each municipality for disposal on a year-round basis. This
16 subsection applies to:

17 A. Programs that assist in the acquisition of land for conservation, natural resource
18 protection, open space or recreational facilities under Title 5, chapter 353; and

19 B. Programs intended to:

20 (1) Accommodate or encourage additional growth and development;

21 (2) Improve, expand or construct public facilities; or

22 (3) Acquire land for conservation or management of specific economic and
23 natural resource concerns.

24 This subsection does not apply to state grants or other assistance for sewage treatment
25 facilities, public health programs or education.

26 The ~~office~~ department shall work with state agencies to prepare mechanisms for
27 establishing preferences in specific investment and grant programs as described in
28 paragraphs A and B.

29 **3. Recycling capital investment grants.** The ~~office~~ department may make grants to
30 eligible municipalities, regional associations, sanitary districts and sewer districts for the
31 construction of public recycling and composting facilities and the purchase of recycling
32 and composting equipment. The ~~office~~ department may establish requirements for local
33 cost sharing of up to 50% of the total grant amount.

34 **4. Recycling incentives.** The ~~office~~ department shall develop and implement a
35 program of incentives to encourage public recycling programs to reach maximum feasible
36 levels of recycling and to meet the recycling goal of section 2132.

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

1 **7. Recycling progress reports.** Municipalities shall report annually, on forms
2 provided by the office department, on their solid waste management and recycling
3 practices. The annual report must include how much of each type of solid waste is
4 generated and how that solid waste is managed. The office department shall assist
5 municipal reporting by developing a municipal waste stream assessment model. The
6 model must rely on actual waste data whenever possible, but incorporate default
7 generation estimates when needed. Default generation estimates must incorporate factors
8 such as commercial activity, geographical differences and municipal population.

9 **Sec. 21. 38 MRSA §2134**, as amended by PL 1995, c. 656, Pt. A, §39, is further
10 amended to read:

11 **§2134. Marketing assistance**

12 The office department shall provide marketing assistance, which may include the
13 following elements:

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

26 **4. Brokering service.** Provision for marketing and brokering services for materials
27 when municipal and regional association efforts to market the material and the
28 information clearinghouse are inadequate.

29 **Sec. 22. 38 MRSA §2138, sub-§1**, as amended by PL 1995, c. 656, Pt. A, §41, is
30 further amended to read:

31 **1. Office paper recycling mandated.** Any person employing 15 or more people at a
32 site within the State shall implement an office paper and corrugated cardboard recycling
33 program.

34 The office department may provide technical and marketing assistance and direction to
35 entities within the State to assist with meeting this requirement. Municipalities and
36 regional associations may assist employers in attaining the objectives of this section.

37 **Sec. 23. 38 MRSA §2138, sub-§3**, as enacted by PL 1989, c. 585, Pt. A, §7, is
38 repealed.

39 **Sec. 24. 38 MRSA §2140**, as amended by PL 1995, c. 656, Pt. A, §43, is further
40 amended to read:

1 **§2140. Interstate and national initiatives**

2 The ~~office~~ department may participate in interstate and national initiatives to adopt
3 uniform state laws when practicable, and to enter compacts between the State and other
4 states for the improved management, recycling and reduction of solid waste.

5 **Sec. 25. 38 MRSA §2154, sub-§1**, as amended by PL 1995, c. 465, Pt. A, §63
6 and affected by Pt. C, §2, is further amended to read:

7 **1. Initial site screening.** The Facility Siting Board shall conduct a site screening
8 and selection process to identify solid waste disposal capacity sufficient to meet the
9 projected needs identified ~~in the state planning process~~ under section ~~2123-A, 2124-A,~~
10 subsection 4. The Facility Siting Board shall consider the need for geographic
11 distribution of facilities to adequately serve all regions of the State. The Facility Siting
12 Board also shall consider in its site selection process the need for landfill capacity to
13 dispose of incinerator ash resulting from the combustion of domestic and commercial
14 solid waste generated within its jurisdiction. Prior to recommending a site, the Facility
15 Siting Board shall hold a public hearing in every municipality or plantation identified in
16 the screening process as a potential site. For potential sites within an unincorporated
17 township, the Facility Siting Board shall hold a public hearing within the vicinity of the
18 proposed site. Prior to submitting a recommended site to the department for review, the
19 Facility Siting Board must find that the recommended site meets the standards adopted
20 under section 2153.

21 **Sec. 26. 38 MRSA §2156-A, sub-§1**, as enacted by PL 1995, c. 588, §6, is
22 amended to read:

23 **1. Planning for development.** The office shall plan for the development of facilities
24 sufficient to meet needs for municipal solid waste identified in the ~~state plan and any~~
25 ~~revisions to the plan~~ report required under section 2124-A and to serve all geographic
26 areas of the State. The office may plan for the development of facilities sufficient to meet
27 needs for special waste identified in the ~~state plan and any revisions to the plan~~ report
28 requested under section 2124-A and to serve all geographic areas of the State.

29 **Sec. 27. 38 MRSA §2162**, as repealed and replaced by PL 1999, c. 736, §2, is
30 repealed and the following enacted in its place:

31 **§2162. Submission of report recommending construction of state-owned facility**

32 When the department, in consultation with a regional association, finds that disposal
33 capacity is projected to be needed for bulky wastes, construction or demolition waste or
34 land-clearing debris and that the regional association is not able to pursue the siting,
35 establishment and operation of a waste facility, the department may submit a report
36 recommending the construction and operation of a state-owned solid waste disposal
37 facility that will fulfill the disposal need to the joint standing committee of the Legislature
38 having jurisdiction over environment and natural resources matters. The report must
39 include a review of disposal options outside of the State; a review of existing efforts to
40 reduce, reuse, recycle, compost and incinerate the affected waste streams and the impact
41 of these efforts on capacity requirements; a thorough economic analysis of the facility's

1 expected costs; and commitments from entities to use the facility and projected revenues.
2 The joint standing committee of the Legislature having jurisdiction over environment and
3 natural resources matters may report out legislation authorizing the construction and
4 operation of a state-owned solid waste disposal facility in response to a report submitted
5 pursuant to this section.

6 **Sec. 28. 38 MRSA §2232, first ¶**, as amended by PL 1995, c. 656, Pt. A, §65, is
7 further amended to read:

8 An incineration facility shall submit an annual report to the office department no later
9 than 90 days after the end of the ~~incineration facility's fiscal~~ calendar year. For
10 reasonable cause shown and upon written application by an incineration facility, the
11 office department may grant an extension of the 90-day period. The report must be
12 certified by an appropriate executive officer of the incineration facility as being complete
13 and accurate. The office department may prescribe the form of the annual report and the
14 number of copies that must be submitted. The department shall provide the solid waste
15 management and recycling data to the office for purposes of developing the report
16 required under section 2124-A. The report must include the following information:

17 **Sec. 29. 38 MRSA §2232, sub-§4**, as amended by PL 1995, c. 656, Pt. A, §66, is
18 further amended to read:

19 **4. Expenditures.** The total expenditures of the incineration facility during the last
20 completed fiscal year including details of those expenditures as required by the office
21 department; and

22 **Sec. 30. 38 MRSA §2232, sub-§5**, as amended by PL 1995, c. 656, Pt. A, §66, is
23 further amended to read:

24 **5. Other information.** Any other information required by the office department.

25 **Sec. 31. 38 MRSA §2235**, as amended by PL 1995, c. 656, Pt. A, §67, is further
26 amended to read:

27 **§2235. Use of files**

28 The office department shall keep on file for public inspection and use all reports
29 submitted under this subchapter.

30 **Sec. 32. 38 MRSA §2236**, as amended by PL 1995, c. 656, Pt. A, §68, is further
31 amended to read:

32 **§2236. Limitation**

33 Nothing in this subchapter may be construed to create or expand any office
34 department authority over financial, organizational or rate regulation of incineration
35 facilities.

1 **Sec. 33. Transition provisions.** The following provisions govern the transfer of
 2 recycling technical assistance and solid waste policy responsibilities from the Executive
 3 Department, State Planning Office to the Department of Environmental Protection.

4 1. All existing rules, regulations and procedures in effect relating to recycling
 5 technical assistance and solid waste policy responsibilities in operation or adopted by the
 6 State Planning Office or any of its administrative units or officers are hereby declared in
 7 effect and continue in effect until rescinded, revised or amended by the proper authority.

8 2. All existing contracts, agreements and compacts relating to recycling technical
 9 assistance and solid waste policy responsibilities currently in effect in the State Planning
 10 Office continue in effect.

11 3. All records, property and equipment relating to recycling technical assistance and
 12 solid waste policy responsibilities previously belonging to or allocated for the use of the
 13 State Planning Office become, on the effective date of this Act, part of the property of the
 14 Department of Environmental Protection.

15 **Sec. 34. Appropriations and allocations.** The following appropriations and
 16 allocations are made.

17 **EXECUTIVE DEPARTMENT**

18 **Planning Office**

19 Initiative: Transfers one Senior Planner position and 2 Planner II positions from the State
 20 Planning Office, Solid Waste Management program to the Department of Environmental
 21 Protection, Remediation and Waste Management program and related All Other.

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24 OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
25 POSITIONS - LEGISLATIVE COUNT	(3,000)	(3,000)
26 Personal Services	(\$215,150)	(\$221,569)
27 All Other	(\$355,165)	(\$358,115)
28		
29 OTHER SPECIAL REVENUE FUNDS TOTAL	<u>(\$570,315)</u>	<u>(\$579,684)</u>

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31 EXECUTIVE DEPARTMENT		
32 DEPARTMENT TOTALS	2011-12	2012-13
33		
34 OTHER SPECIAL REVENUE FUNDS	(\$570,315)	(\$579,684)
35		
36 DEPARTMENT TOTAL - ALL FUNDS	<u>(\$570,315)</u>	<u>(\$579,684)</u>

37 **ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

38 **Remediation and Waste Management**

1 Initiative: Transfers one Senior Planner position and 2 Planner II positions from the State
 2 Planning Office, Solid Waste Management program to the Department of Environmental
 3 Protection, Remediation and Waste Management program and related All Other.

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OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	3.000	3.000
Personal Services	\$215,150	\$221,569
All Other	\$355,165	\$358,115
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$570,315</u>	<u>\$579,684</u>

ENVIRONMENTAL PROTECTION, DEPARTMENT OF DEPARTMENT TOTALS	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	\$570,315	\$579,684
DEPARTMENT TOTAL - ALL FUNDS	<u>\$570,315</u>	<u>\$579,684</u>

SECTION TOTALS	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	\$0	\$0
SECTION TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$0</u>

25 **Emergency clause.** In view of the emergency cited in the preamble, this
 26 legislation takes effect when approved.

27 **SUMMARY**

28 This bill:

29 1. Gives the following recycling technical assistance and solid waste disposal policy
 30 responsibilities, which are currently the responsibilities of the Executive Department,
 31 State Planning Office, to the Department of Environmental Protection:

- 32 A. Determining reasonable municipal recycling progress;
- 33 B. Providing technical and financial assistance to municipalities;
- 34 C. Providing technical assistance to businesses;
- 35 D. Collecting municipal solid waste management and recycling reports and data;
- 36 E. Providing recycling marketing assistance;

- 1 F. Assisting entities with meeting office paper recycling requirements;
- 2 G. Participating in national and interstate initiatives for uniform state laws;
- 3 H. Collecting incinerator reports and data;
- 4 I. Preparing the state waste management and recycling plan; and
- 5 J. Staffing the Solid Waste Management Advisory Council; and
- 6 2. Provides that the State Planning Office keep the following recycling technical
- 7 assistance and solid waste disposal policy responsibilities:
 - 8 A. Preparing the waste generation and disposal capacity report;
 - 9 B. Planning for development of solid waste disposal facilities; and
 - 10 C. Recommending development of state-owned solid waste disposal facilities.