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Date: (Filing No. S- )

**ENVIRONMENT AND NATURAL RESOURCES**

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE  
SENATE  
128TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 115, L.D. 349, Bill, “An Act To Establish a Mattress Stewardship Program”

Amend the bill by striking out the title and substituting the following:

**'An Act To Facilitate the Recycling of Discarded Mattresses'**

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**'Sec. 1. 38 MRSA §1611** is enacted to read:

**§1611. Mattress recycling**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Discarded mattress" means a mattress that a person discards, abandons or sends for recycling.

B. "Foundation" means any ticking-covered structure used to support a mattress and composed of one or more of the following: a constructed frame, foam or a box spring. "Foundation" does not include a bed frame or base made of wood, metal or other material that rests upon the floor and serves as a brace for a mattress.

C. "Fund" means the Mattress Recycling Grant Fund established in subsection 3.

D. "Mattress" means any resilient material or combination of materials that is enclosed by ticking, used alone or in combination with other products, and intended or promoted for sleeping upon. "Mattress" includes any foundation, renovated foundation or renovated mattress. "Mattress" does not include:

(1) An unattached mattress pad or an unattached mattress topper, including any item with resilient filling, with or without ticking, intended for use with or on top of a mattress;

(2) A sleeping bag or pillow;

**COMMITTEE AMENDMENT**

- 1           (3) A car bed;
- 2           (4) Juvenile products, including a carriage, basket, dressing table, stroller,  
3           playpen, infant carrier, lounge pad, crib bumper or any pad for such products;
- 4           (5) A product that contains liquid-filled or gas-filled ticking, including a  
5           waterbed or air mattress that does not contain upholstery material; or
- 6           (6) Any upholstered furniture not otherwise containing a detachable mattress,  
7           including, but not limited to, a fold-out sofa bed or a futon.
- 8           E. "Mattress core" means the principal support system present in a mattress,  
9           including, but not limited to, springs, foam, an air bladder, a water bladder or resilient  
10           filling.
- 11           F. "Mattress recycling fee" or "fee" means the amount added to the purchase price of  
12           mattresses sold in the State in accordance with subsection 2.
- 13           G. "Program" means the Mattress Recycling Grant Program established in subsection  
14           4.
- 15           H. "Recycling" has the same meaning as in section 1771, subsection 7. "Recycling"  
16           does not include the renovation of a mattress.
- 17           I. "Renovate" or "renovation" means to alter a mattress for the purpose of resale  
18           including replacing the ticking or filling of a mattress, to add filling to a mattress or  
19           to replace mattress components with new or recycled materials. "Renovate" does not  
20           include stripping a mattress of its ticking or filling without adding new material or  
21           sanitizing or sterilizing a mattress without otherwise altering the mattress.
- 22           J. "Retailer" means a person that offers a mattress for sale in the State in a retail sale,  
23           as defined in Title 36, section 1752, subsection 11, including remote sales conducted  
24           through sales outlets, catalogs or the Internet or any other similar electronic means.
- 25           K. "Sell" or "sale" means any transfer of title for consideration, including remote  
26           sales conducted through sales outlets, catalogs or the Internet or any other similar  
27           electronic means.
- 28           L. "Ticking" means the outermost layer of fabric or material of a mattress. "Ticking"  
29           does not include any layer of fabric or material quilted together with, or otherwise  
30           attached to, the outermost layer of fabric or material of a mattress.
- 31           M. "Upholstery material" means all material, loose or attached, between the ticking  
32           and the mattress core.
- 33           **2. Mattress recycling fee.** Except as provided in paragraph D, beginning January 1,  
34           2018 and ending December 31, 2021, a retailer shall apply a mattress recycling fee of \$5,  
35           in accordance with this subsection, to each mattress sold at retail in the State.
- 36           A. A retailer that first sells a mattress in the State shall add the mattress recycling fee  
37           to the purchase price of the mattress. The fee must be clearly visible on invoices or  
38           functionally equivalent billing documents as a separate line item.

1           B. Notwithstanding Title 36, section 1811, or any other provision of law to the  
2           contrary, the mattress recycling fee imposed under this subsection is not subject to  
3           the sales tax.

4           C. A retailer that adds the mattress recycling fee to the purchase price of a mattress  
5           shall remit to the department on a quarterly basis payment of all mattress recycling  
6           fees collected on mattresses sold in the State during the quarter, except that the  
7           retailer may retain \$1 of each mattress recycling fee collected to cover the  
8           administrative costs incurred by the retailer in collecting, remitting and otherwise  
9           administering the fee.

10          D. A retailer that has established a program for the recycling of discarded mattresses,  
11          the cost of which is included in the purchase price of mattresses sold by the retailer,  
12          may apply to the commissioner for an exemption from the requirements of this  
13          subsection. The commissioner shall grant the exemption upon a finding that the  
14          program established by the retailer adequately provides for the recycling of discarded  
15          mattresses.

16          E. Fee payments received by the department pursuant to this subsection must be  
17          deposited into the fund.

18          **3. Mattress Recycling Grant Fund.** The Mattress Recycling Grant Fund is  
19          established as a dedicated, nonlapsing fund to be administered by the department to  
20          support programs, projects, initiatives or activities designed to increase the recycling and  
21          diversion from disposal of discarded mattresses in the State in accordance with subsection  
22          4. The fund receives all fees collected under subsection 2.

23          **4. Mattress Recycling Grant Program.** The Mattress Recycling Grant Program is  
24          established to provide grants to public and private entities to assist in the development,  
25          implementation or improvement of programs, projects, initiatives or activities designed to  
26          increase the recycling and diversion from disposal of discarded mattresses in the State.

27          A. The department shall administer the program and may disburse revenue from the  
28          fund based on approved grant requests from public and private applicants. The  
29          department may provide grants for the documented costs of application proposals  
30          consistent with the criteria in paragraph B and the priorities in paragraph C. Costs  
31          incurred by the department in the development and administration of the program  
32          may be paid with revenue from the fund, except that such costs may not exceed 10%  
33          of the revenue deposited in the fund in a calendar year.

34          B. The department may disburse grants under this subsection from the fund, to the  
35          extent that funds are available, on a quarterly basis, to any public or private entity  
36          demonstrating, in the department's determination, that a proposed program, project,  
37          initiative or activity is likely to increase the recycling and diversion from disposal of  
38          discarded mattresses within a particular community, municipality or region or the  
39          State. Programs, projects, initiatives or activities eligible for funding include, but are  
40          not limited to, municipal or regional mattress recycling programs, including the  
41          establishment of such programs or the purchase of infrastructure, equipment or other  
42          items necessary to implement such programs, including, but not limited to, storage  
43          containers or other structures for holding collected discarded mattresses; and  
44          programs or business models designed to provide equipment for or otherwise

1 establish or support the collection, transportation for recycling, processing or  
2 recycling of discarded mattresses in the State or the incineration or combustion of  
3 discarded mattresses in the State for the generation of heat, steam or electricity.

4 C. The department shall give priority in the awarding of funds under this subsection  
5 to applicants based in the rural areas of the State and to those proposed programs,  
6 projects, initiatives or activities that will, in the department's determination, support  
7 the recycling and diversion from disposal of discarded mattresses primarily in the  
8 rural areas of the State and that otherwise meet the department's eligibility criteria.  
9 The awarding of funds under this subsection must be consistent with the solid waste  
10 management hierarchy established under section 2101 and must be prioritized to  
11 provide the most benefit to the State in terms of increasing the recycling and  
12 diversion from disposal of discarded mattresses in the State.

13 D. The department may require, as a condition of grant approval, that an applicant  
14 demonstrate its ability to provide in-kind contributions relating to the grant applied  
15 for or to provide a certain level of matching funding to supplement the grant applied  
16 for.

17 E. Revenue from the fund disbursed by the program is subject to audit as determined  
18 by the department, and the recipient of any such funding must agree to be subject to  
19 audit and to cooperate with the auditor as a condition of receiving funding.

20 **5. Report.** Beginning February 15, 2019 and annually thereafter, the department  
21 shall submit a report to the joint standing committee of the Legislature having jurisdiction  
22 over environmental and natural resources matters containing information on the revenues  
23 added to the fund in the prior calendar year; the revenues disbursed from the fund in the  
24 form of approved grants in the prior calendar year, including a brief description of each  
25 approved grant; updated data or information, if available, as to the effect of the program  
26 on the recycling and diversion from disposal of discarded mattresses in the State; and any  
27 recommendations for improvements or changes to the program, including, but not limited  
28 to, changes to the fee structure under subsection 2 to better support the purposes of the  
29 program. The report may be included in the report required pursuant to section 1772,  
30 subsection 1.

31 **6. Rulemaking.** The department may adopt rules to implement this section. Rules  
32 adopted pursuant to this subsection are routine technical rules as defined in Title 5,  
33 chapter 375, subchapter 2-A.

34 **7. Repeal.** This section is repealed December 31, 2022.

35 **Sec. 2. Appropriations and allocations.** The following appropriations and  
36 allocations are made.

37 **ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

38 **Mattress Recycling Grant Fund N242**

39 Initiative: Provides allocations for one part-time Environmental Specialist III position to  
40 administer the Mattress Recycling Grant Program and for program grants to entities and  
41 businesses.

|   |                                    |                |                |
|---|------------------------------------|----------------|----------------|
| 1 | <b>OTHER SPECIAL REVENUE FUNDS</b> | <b>2017-18</b> | <b>2018-19</b> |
| 2 | POSITIONS - LEGISLATIVE COUNT      | 0.500          | 0.500          |
| 3 | Personal Services                  | \$22,114       | \$44,229       |
| 4 | All Other                          | \$199,030      | \$398,058      |
| 5 |                                    |                |                |
| 6 | OTHER SPECIAL REVENUE FUNDS TOTAL  | \$221,144      | \$442,287      |
| 7 |                                    |                |                |

8 **SUMMARY**

9 This amendment, which is the majority report of the committee, replaces the bill,  
 10 changes the title and applies, starting January 1, 2018 and ending December 31, 2021, a  
 11 recycling fee of \$5 on each mattress sold at retail in the State. This mattress recycling fee  
 12 will be deposited in the Mattress Recycling Grant Fund to support the Mattress Recycling  
 13 Grant Program, which are both established in the amendment. Revenue in the Mattress  
 14 Recycling Grant Fund will be used by the Department of Environmental Protection to  
 15 provide grants under the Mattress Recycling Grant Program to public and private entities  
 16 demonstrating that a proposed program, project, initiative or activity is likely to increase  
 17 the recycling and diversion from disposal of discarded mattresses within a particular  
 18 community, municipality or region or the State. These provisions are repealed December  
 19 31, 2022.

20 The amendment also adds an appropriations and allocations section.

21 **FISCAL NOTE REQUIRED**

22 **(See attached)**