

# MAINE STATE LEGISLATURE

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L.D. 420

DATE: 3-20-02

(Filing No. H-961)

MAJORITY  
UTILITIES AND ENERGY

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10 Reproduced and distributed under the direction of the Clerk of  
the House.

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
120TH LEGISLATURE  
SECOND REGULAR SESSION

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COMMITTEE AMENDMENT "A" to H.P. 330, L.D. 420, Bill, "An  
Act to Strengthen Energy Conservation"

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Amend the bill by inserting after the title and before the  
enacting clause the following:

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

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Whereas, funds for conservation programs have been collected  
pursuant to existing law and there is an immediate need to put in  
place changes to the law in order to ensure efficient and  
effective use of those funds; and

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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, '

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Further amend the bill by striking out everything after the  
enacting clause and before the summary and inserting in its place  
the following:

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'Sec. 1. 5 MRSA §3305-B, sub-§§2 to 5, as enacted by PL 1999,  
c. 336, §2, are repealed.

48

Sec. 2. 35-A MRSA §3153-A, sub-§1, ¶E, as amended by PL 1999,  
c. 398, Pt. A, §58 and affected by §§104 and 105, is further  
amended to read:

COMMITTEE AMENDMENT

2 E. Transmission and distribution utility financing or  
4 subsidization of capital improvements undertaken by  
ratepayers to conserve electricity used by the ratepayers in  
6 the future. This paragraph applies to future programs for  
utility financing of energy conservation or load management  
8 as long as the goal of such programs is to economically  
defer or eliminate the need for transmission and  
distribution plant upgrades. In addition to programs  
10 undertaken pursuant to this paragraph, programs may be  
undertaken pursuant to section 3211 ~~3211-A~~ to achieve goals  
12 other than that identified in this paragraph;

14 Sec. 3. 35-A MRSA §3211, as repealed and replaced by PL 1999,  
c. 336, §3, is repealed.

16 Sec. 4. 35-A MRSA §3211-A is enacted to read:

18 **§3211-A. Conservation programs**

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

24 A. "Administrative costs" means costs of the commission  
26 that are funded pursuant to and associated with the  
implementation of this section, including, but not limited  
28 to, costs of program planning and evaluation, costs of  
securing necessary expertise, costs associated with contract  
30 formation and administration and costs of monitoring and  
enforcing contractual obligations.

32 B. "Administration fund" means the conservation  
34 administration fund established by the commission pursuant  
to subsection 6.

36 C. "Available funds" means funds available in the program  
38 fund.

40 D. "Conservation programs" means programs developed by the  
42 commission pursuant to this section designed to reduce  
inefficient electricity use.

44 E. "Prior conservation efforts" means programs to promote  
46 conservation undertaken at the direction or with the  
authorization of the commission prior to March 1, 2002.

48 F. "Program fund" means the conservation program fund  
established by the commission pursuant to subsection 5.

2           G. "Service provider" means a public or private provider of  
4           energy conservation services or an entity selected by the  
              commission to contract with such providers or otherwise  
6           arrange the delivery of conservation programs.

8           H. "Total conservation expenditures" means expenditures of  
              a transmission and distribution utility associated with  
10           prior conservation efforts plus assessments paid by the  
              utility pursuant to this section.

12           2. Programs. The commission shall develop and, to the  
              extent of available funds, implement conservation programs in  
14           accordance with this section. The commission shall establish  
              and, on a schedule determined by the commission, revise  
16           objectives and an overall energy strategy for conservation  
              programs. Conservation programs implemented by the commission  
18           must be consistent with the objectives and an overall energy  
              strategy developed by the commission and be cost effective, as  
20           defined by the commission by rule or order. In defining "cost  
              effective," the commission may consider the extent to which a  
22           program promotes sustainable economic development or reduces  
              environmental damage to the extent the commission can quantify or  
24           otherwise reasonably identify such effects.

26           A. The commission shall consider, without limitation,  
              conservation programs that:

28                   (1) Increase consumer awareness of cost-effective  
30                   options for conserving energy;

32                   (2) Create more favorable market conditions for the  
                      increased use of efficient products and services; and

34                   (3) Promote sustainable economic development and  
36                   reduced environmental damage.

38           B. The commission shall:

40                   (1) Target at least 20% of available funds to programs  
                      for low-income residential consumers, as defined by the  
42                   commission by rule;

44                   (2) Target at least 20% of available funds to programs  
                      for small business consumers, as defined by the  
46                   commission by rule; and

48                   (3) To the greatest extent practicable, apportion  
                      remaining available funds among customer groups and  
50                   geographic areas in a manner that allows all other

COMMITTEE AMENDMENT "A" to H.P. 330, L.D. 420

2 customers to have a reasonable opportunity to  
3 participate in one or more conservation programs.

4 C. The commission shall hold at least one public hearing  
5 and invite, accept, review and consider comments and  
6 suggestions from interested parties prior to adopting or  
7 substantially revising conservation programs or the  
8 objectives and overall strategy for conservation programs.

10 D. The commission shall monitor conservation planning and  
11 program development activities in the region and around the  
12 country.

14 E. The commission shall implement conservation programs by  
15 contracting with service providers in accordance with  
16 subsection 3.

18 F. The commission shall monitor and evaluate the delivery  
19 of conservation programs by service providers and assess the  
20 cost-effectiveness of programs in meeting the objectives and  
21 overall strategy established by the commission.

22 G. The commission, to the extent possible, shall coordinate  
23 its efforts with other agencies of the State with  
24 energy-related responsibilities.

26 H. The commission shall secure sufficient technical and  
27 administrative expertise to carry out its responsibilities  
28 pursuant to this section by:

30 (1) Contracting with appropriate entities with  
31 relevant expertise and experience;

34 (2) Establishing one or more advisory groups composed  
35 of persons with relevant expertise and experience; or

36 (3) Any other reasonable means developed by the  
37 commission.

40 I. The commission may coordinate its efforts under this  
41 section with similar efforts in other states in the  
42 northeast region and enter into agreements with public  
43 agencies or other entities in or outside of the State for  
44 joint or cooperative conservation planning or conservation  
45 program delivery, if the commission finds that such  
46 coordination or agreements would provide demonstrable  
47 benefits to citizens of the State and be consistent with  
48 this section, the conservation programs and the objectives  
and overall strategy for the conservation programs.

2           3. Implementation. The commission shall seek to implement  
4           the delivery of conservation programs in all regions of the State  
6           on an equitable basis and to citizens at all income levels. The  
8           commission may arrange the delivery of conservation programs by  
10           contracting with service providers. The commission shall select  
12           service providers in accordance with this subsection.

14           A. The commission shall select service providers through a  
16           competitive bidding process.

18           B. To the extent practicable, the commission shall  
20           encourage the development of resources, infrastructure and  
22           skills within the State by giving preference to in-state  
24           service providers.

26           C. Notwithstanding paragraph A:

28                   (1) The commission may select a service provider for  
30                   one or more conservation programs without employing a  
32                   competitive bidding process if the commission finds  
34                   that the selection of the service provider will promote  
36                   the efficient and effective delivery of conservation  
                    programs and is consistent with the objectives and  
                    overall strategy of the conservation programs; and

(2) For the delivery of conservation programs to low-  
                    income residential consumers, the commission, without  
                    employing a competitive bidding process, may utilize  
                    the delivery system for the Weatherization Assistance  
                    for Low-income Persons Program administered through the  
                    United States Department of Energy and the network of  
                    for-profit and not-for-profit entities who have held  
                    contracts with transmission and distribution utilities  
                    to deliver conservation services to low-income and  
                    residential customers.

Notwithstanding Title 5, section 1831, the commission is not  
                    subject to rules adopted by the State Purchasing Agent in  
                    selecting service providers pursuant to this subsection. The  
                    commission shall adopt rules establishing procedures governing  
                    the selection of service providers under this subsection. The  
                    commission shall consult with the State Purchasing Agent in  
                    developing the rules.

46           4. Funding level. The commission shall assess transmission  
48           and distribution utilities to collect funds for conservation  
50           programs and administrative costs in accordance with this  
                    subsection. The amount of all assessments by the commission  
                    under this subsection plus expenditures of a transmission and

2 distribution utility associated with prior conservation efforts  
3 must result in total conservation expenditures by each  
4 transmission and distribution utility that:

6 A. Are based on the relevant characteristics of the  
7 transmission and distribution utility's service territory,  
8 including the needs of customers;

10 B. Do not exceed .15 cent per kilowatt-hour;

12 C. Are no less than 0.5% of the total transmission and  
13 distribution revenues of the transmission and distribution  
14 utility; and

16 D. Are proportionally equivalent to the total conservation  
17 expenditures of other transmission and distribution  
18 utilities, unless the commission finds that a different  
19 amount is justified; however, any increase in an assessment  
20 on a transmission and distribution utility by the commission  
21 must be based on factors other than the achievement of  
22 proportional equivalency.

24 5. Conservation program fund. The commission shall  
25 establish a conservation program fund to be used solely for  
26 conservation programs.

28 A. The commission shall deposit all assessments collected  
29 pursuant to this section, other than funds deposited in the  
30 administration fund, into the program fund.

32 B. Any interest earned on funds in the program fund must be  
33 credited to the program fund.

34 C. Funds not spent in any fiscal year remain in the program  
35 fund to be used for conservation programs.

36 D. The commission may apply for and receive grants from  
37 state, federal and private sources for deposit in the  
38 program fund and also may deposit in the program fund any  
39 grants or other funds received by or from any entity with  
40 which the commission has an agreement or contract pursuant  
41 to this section if the commission determines that receipt of  
42 those funds would be consistent with the purposes of this  
43 section. If the commission receives any funds pursuant to  
44 this paragraph, it shall establish a separate account within  
45 the program fund to receive the funds and shall keep those  
46 funds and any interest earned on those funds segregated from  
47 other funds in the program fund.

48 6. Conservation administration fund. The commission shall

2 establish a conservation administration fund to be used solely to  
4 defray administrative costs. The commission annually may deposit  
6 funds collected pursuant to this section into the administration  
8 fund up to a maximum in any fiscal year of \$1,300,000. Any  
interest on funds in the administration fund must be credited to  
the administration fund and any funds unspent in any fiscal year  
must either remain in the administration fund to be used to  
defray administrative costs or be transferred to the program fund.

10 7. Prior conservation efforts. Except as otherwise  
12 directed by the commission, transmission and distribution  
14 utilities shall continue to administer contracts associated with  
16 prior conservation efforts. Such contracts may not be renewed,  
extended or otherwise modified by transmission and distribution  
utilities in a manner that results in any increased expenditures  
associated with those contracts.

18 8. Resolution of disputes. Upon receipt of an appropriate  
20 filing by a party to a contract relating to prior conservation  
22 efforts, the commission shall adjudicate a dispute relating to  
the interpretation or administration of the contract by the  
transmission and distribution utility.

24 In the case of a dispute filed after the effective date of this  
26 subsection, the commission shall refer the dispute to commercial  
28 arbitration in accordance with this paragraph. Each party to the  
30 contract shall select an arbitrator who is not a current employee  
32 of the party. The selected arbitrators shall then select a 3rd  
34 arbitrator. If the arbitrators can not agree on the 3rd  
36 arbitrator, each party shall submit to the commission a list of  
38 at least 3 arbitrators who have no previous or current interest  
40 in the contract and, to the extent practicable, have special  
42 competence and experience with respect to the subject matter  
44 involved in the dispute. The commission shall choose the 3rd  
arbitrator from among the persons on the lists provided by the  
parties. After their selection, the arbitrators shall promptly  
hear and determine the controversy pursuant to the rules of the  
American Arbitration Association for the conduct of commercial  
arbitration proceedings, except that if such rules conflict with  
any procedural rules established by the commission or applicable  
provisions of the laws of this State relating to arbitration, the  
applicable commission rules or provisions of state law govern the  
arbitration. The arbitrators shall submit their decision to the  
commission.

46 A. The commission shall accept or reject the decision  
48 within 30 days of its submission, unless the commission  
requires additional time, in which case it may extend its  
review for another 30 days.



2           B. If the commission does not reject the decision within 30  
4           days or, if it extends its review period an additional 30  
            days, within 60 days, the decision is deemed accepted.

6           C. If the commission rejects the decision, the commission  
            shall adjudicate the dispute.

8  
10           A decision by the commission under this subsection, including a  
12           decision by the arbitrators that is deemed accepted by the  
            commission pursuant to paragraph B, is enforceable in a court of  
            law.

14           9. Cost recovery. The commission shall include all  
16           assessments under this section in the rates of transmission and  
            distribution utilities.

18           10. Rules. The commission shall adopt rules necessary to  
20           implement this section. Rules adopted under this section are  
            routine technical rules as defined in Title 5, chapter 375,  
22           subchapter II-A.

24           11. Report. The commission shall report by December 1st of  
26           each year to the joint standing committee of the Legislature  
            having jurisdiction over utilities and energy matters. The  
            report must include:

28           A. A description of actions taken by the commission  
30           pursuant to this section, including descriptions of all  
32           conservation programs implemented during the prior 12 months  
34           and all conservation programs that the commission plans to  
36           implement during the next 12 months, a description of how  
            the commission determines the cost effectiveness of each  
            conservation program and its assessment of the cost  
            effectiveness of programs implemented during the prior 12  
            months;

38           B. An accounting of:

40                   (1) Assessments made on each transmission and  
42                   distribution utility pursuant to this section during  
                    the prior 12 months and projected assessments during  
                    the next 12 months;

44                   (2) Total deposits into and expenditures from the  
46                   program fund during the prior 12 months and projected  
48                   deposits into and expenditures from the program fund  
                    during the next 12 months;

50                   (3) The amount and source of any grants or funds

2 deposited in the program fund pursuant to subsection 5,  
3 paragraph D during the previous 12 months and the  
4 projected amount and source of any such funds during  
5 the next 12 months; and

6 (4) Total deposits into and expenditures from the  
7 administration fund during the prior 12 months and  
8 projected deposits into and expenditures from the  
9 administration fund during the next 12 months; and

10 C. Any recommendations for changes to law relating to energy  
11 conservation.

12  
13 **Sec. 5. PL 1997, c. 316, §5,** as amended by PL 1997, c. 558, §2,  
14 is further amended to read:

15  
16 **Sec. 5. Conservation and qualifying facility contracts.** All  
17 existing contracts and agreements in effect as of March 1, 2000  
18 between electric utilities and energy resource providers,  
19 including but not limited to qualifying facilities, continue in  
20 effect notwithstanding any other provision of this Act, and the  
21 rights of the parties to these contracts and agreements may not  
22 be abrogated or diminished as a result of implementing this Act.

23  
24 All existing electric utilities shall provide each  
25 qualifying facility, each party to a contract entered into solely  
26 for the purpose of restructuring a contract with a qualifying  
27 facility except an affiliated interest and each demand-side  
28 management or conservation provider, broker or host with whom it  
29 has contracts as of March 1, 2000 the option to have the contract  
30 or contracts:

31  
32 1. Retained by the transmission and distribution utility  
33 if it is the same legal entity as the electric utility that  
34 entered into the contract or contracts; or

35  
36 2. Assigned by the existing electric utility to the  
37 transmission and distribution utility if it exists as a distinct  
38 legal entity after implementation of the provisions of this Act.

39  
40 If contracts with qualifying facilities in existence on  
41 March 1, 2000 contain provisions for the simultaneous purchase of  
42 energy, or energy and capacity, by an electric utility from a  
43 qualifying facility and by a qualifying facility from an electric  
44 utility, the transmission and distribution utility shall continue  
45 to sell at retail all transmission and distribution services to  
46 the qualifying facility, including the transmission of any  
47 energy, or energy and capacity, the qualifying facility may  
48 obtain in the competitive market. In the case of each such  
49 qualifying facility contract ~~and each demand-side management or~~

2 ~~conservation--contract~~ assigned or retained as provided for in  
3 this section, any requirement pursuant to the contract that the  
4 ~~qualifying facility or customer or host implementing demand-side~~  
5 ~~management--or--conservation--measures~~ remain a customer of the  
6 electric utility that was an original party to the contract or  
7 any requirement pursuant to the contract to purchase a certain  
8 amount of electricity from that electric utility is deemed to be  
9 fully satisfied by the qualifying facility, or customer, ~~or host~~  
10 (a) remaining a customer of the transmission and distribution  
11 utility that has retained the contract, or to whom it has been  
12 assigned pursuant to the option provided for in this section, (b)  
13 receiving any such required amounts of electricity by making  
14 purchases in the competitive energy market, and (c) receiving  
15 such purchases over the facilities of the transmission and  
16 distribution utility. ~~The transmission and distribution utility~~  
17 ~~shall--make--payments--required--under--any--such--demand-side~~  
18 ~~management--or--conservation--contracts--or--this--Act--and--is--entitled~~  
19 ~~to--collect--these--payments--in--rates--and--charges--as--provided--for--in~~  
20 ~~the--Maine--Revised--Statutes,--Title--35--A.~~

21 The Legislature finds that the execution of contracts  
22 relating to programs to promote conservation undertaken at the  
23 direction or with the authorization of the Public Utilities  
24 Commission prior to September 19, 1997, the effective date of  
25 this Act, occurred prior to the restructuring of the electric  
26 industry, the divestiture of generation assets by transmission  
27 and distribution utilities and the creation of a real-time market  
28 in New England for the purchase and sale of electricity and that  
29 these significant legal, physical and financial changes in the  
30 electric industry justify certain changes in the legal standards  
31 under which such contracts are administered and interpreted.  
32 Therefore, the Public Utilities Commission and arbitrators shall  
33 use the standards established in this paragraph when deciding any  
34 contract disputes pursuant to the Maine Revised Statutes, Title  
35 35-A, section 3211-A, subsection 8. Notwithstanding any  
36 provision of Title 35-A, a contract relating to programs to  
37 promote conservation undertaken at the direction or with the  
38 authorization of the commission prior to September 19, 1997 and  
39 administered subsequent to March 1, 2000 is deemed to be  
40 performed in accordance with the terms of that contract if (a)  
41 the project subject to the contract reduces by at least any  
42 amount specifically required by the contract the electric  
43 consumption of the facility at which the project is installed in  
44 comparison with the consumption that would have occurred but for  
45 the installation of the project, regardless of the source of  
46 electricity used by the facility; (b) the demand-side management  
47 or conservation measures are of the same general purpose and  
48 nature as those originally installed; even if not identical to  
49 those originally installed; (c) the facility at which the project  
50 was installed remains interconnected with the transmission and

2 distribution utility's system; and (d) if the contract requires a  
4 specific minimum kilowatt-hour quantity of electricity to be  
6 purchased through the transmission and distribution utility, such  
8 purchases are made. However, all other terms and provisions of  
10 the contract not related to (a), (b), (c) or (d) in the previous  
12 sentence or the source, delivery or purchase of power remain in  
14 full force and effect.

16 The transmission and distribution utility shall make  
18 payments required under any such demand-side management or  
20 conservation contracts or this Act and is entitled to collect  
22 those payments in rates and charges as provided for in the Maine  
24 Revised Statutes, Title 35-A.

26 **Sec. 6. Transition benefits; utility employees.** A transmission and  
28 distribution utility may file with the Public Utilities  
30 Commission a plan in accordance with this section for providing  
32 transition services and benefits for eligible employees. For the  
34 purposes of this section, "eligible employees" means full-time or  
36 part-time employees of a transmission and distribution utility  
who are not officers of the utility; who are responsible for  
administering programs to promote conservation undertaken by the  
utility at the direction or with the authorization of the  
commission; who are employed by the utility on February 1, 2002;  
and who are laid off as a result of the transfer of the  
administration of programs to promote conservation to the Public  
Utilities Commission pursuant to this Act.

38 The plan must be filed prior to the transmission and  
40 distribution utility laying off eligible employees or 120 days  
42 after the effective date of this Act, whichever is first. If  
44 the plan is consistent with this section and the Public Utilities  
46 Commission finds the plan reasonable, the commission shall  
approve the plan. In approving a plan, the commission may  
establish a reasonable date after which employees who are laid  
off are considered not to be eligible employees.

38 **1. Employee notice.** Prior to filing the plan with the  
40 Public Utilities Commission, the transmission and distribution  
42 utility shall inform its employees and their certified  
44 representatives of the provisions of the proposed plan and, in  
46 accordance with applicable law, shall confer with those employees  
or their certified representatives regarding the impact of the  
proposed plan on those employees and measures to minimize any  
resulting hardships on those employees.

48 **2. Commission notice.** While a plan is in effect, a  
transmission and distribution utility shall file notice with the  
Public Utilities Commission within 5 business days of laying off

any eligible employees.

2  
3. **Substantive plan.** The transmission and distribution  
4 utility's plan must:

6 A. Include a program to assist eligible employees in  
8 maintaining fringe benefits and obtaining employment that  
makes use of their potential;

10 B. For 2 years after the effect date of this Act, provide  
12 to eligible employees retraining services and out-placement  
14 services and benefits, including intensive screening for  
vocational interests and aptitude;

16 C. Provide full tuition for 2 years at the University of  
18 Maine or a vocational or technical school in the State or  
20 provide other reasonable retraining services of value equal  
to full in-state tuition for 2 years at the University of  
Maine, at the discretion of the eligible employee;

22 D. For 24 months or until permanent replacement coverage is  
24 obtained through reemployment, whichever comes first,  
26 provide continued health care insurance at the benefit and  
contribution levels existing during employment with the  
utility; and

28 E. Provide severance pay equal to 2 weeks of current base  
30 pay for each year of full-time employment and one week of  
current base pay for each year of part-time employment.

32 The plan may include provisions for providing early retirement  
benefits.

34 4. **Cost recovery.** The Public Utilities Commission shall  
36 allocate the reasonable accrual increment cost of the services  
38 and benefits provided under a plan approved by the commission  
40 pursuant to this section to ratepayers through charges collected  
42 by the transmission and distribution utility. All charges  
collected must be transferred to a system benefits administrator  
in the transmission and distribution utility and used to provide  
services and benefits pursuant to the requirements of this  
section.

44 **Sec. 7. Interim programs.** In order to avoid a significant  
46 delay in the implementation of conservation programs pursuant to  
48 the Maine Revised Statutes, Title 35-A, section 3211-A, the  
Public Utilities Commission may use funds from the conservation  
50 program fund established pursuant to Title 35-A, section 3211-A,  
subsection 5 to implement on a short-term basis conservation  
programs that the commission finds to be cost effective. The

commission is not required to satisfy the requirements of Title 35-A, section 3211-A before implementing such programs. Any programs implemented under this section must terminate no later than December 31, 2003. Funds in the conservation program fund not used for short-term programs under this section must be used in accordance with Title 35-A, section 3211-A.

**Sec. 8. Report.** The Public Utilities Commission shall examine the feasibility of requiring transmission and distribution utilities to transfer the administration of contracts associated with prior conservation efforts to the commission. The commission shall report its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters no later than January 1, 2004. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters may report out legislation to the 121st Legislature relating to the administration of contracts associated with prior conservation efforts.

**Sec. 9. Appropriations and allocations.** The following appropriations and allocations are made.

**EXECUTIVE DEPARTMENT**

**State Planning Office**

Initiative: Deallocates funds to reflect the repeal of the energy conservation program within the State Planning Office and the consequent elimination of one Policy Development Specialist position. The deallocation amount for fiscal year 2001-02 assumes an effective date of April 1, 2002.

<b>Other Special Revenue Funds</b>	<b>2001-02</b>	<b>2002-03</b>
Positions - Legislative Count	(-1,000)	(-1,000)
Personal Services	(\$16,476)	(\$82,050)
All Other	(15,438)	(68,652)
Total	(\$31,914)	(\$150,702)

**EXECUTIVE DEPARTMENT  
DEPARTMENT TOTALS**

	<b>2001-02</b>	<b>2002-03</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>(\$31,914)</b>	<b>(\$150,702)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$31,914)</b>	<b>(\$150,702)</b>

**PUBLIC UTILITIES COMMISSION**

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**Conservation Administration Fund**

Initiative: Allocates funds for 3 Utility Analyst positions and related costs associated with the administration of energy conservation programs.

<b>Other Special Revenue Funds</b>	<b>2001-02</b>	<b>2002-03</b>
Positions - Legislative Count	(3,000)	(3,000)
Personal Services	\$77,175	\$324,135
All Other	1,222,825	975,865
<b>Total</b>	<b>\$1,300,000</b>	<b>\$1,300,000</b>

**Conservation Program Fund**

Initiative: Allocates funds to capitalize the conservation program fund to support the development of energy conservation programs.

<b>Other Special Revenue Funds</b>	<b>2001-02</b>	<b>2002-03</b>
All Other	\$500	\$500

**PUBLIC UTILITIES COMMISSION**

**DEPARTMENT TOTALS**

	<b>2001-02</b>	<b>2002-03</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$1,300,500</b>	<b>\$1,300,500</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$1,300,500</b>	<b>\$1,300,500</b>

**SECTION TOTALS**

	<b>2001-02</b>	<b>2002-03</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$1,268,586</b>	<b>\$1,149,798</b>
<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$1,268,586</b>	<b>\$1,149,798</b>

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

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

FISCAL NOTE

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2001-02                      2002-03

APPROPRIATIONS/ALLOCATIONS

Other Funds                                      \$1,268,586                      \$1,149,798

This bill repeals the provisions of law that established the responsibility for developing and monitoring the implementation of energy conservation programs within the Executive Department, State Planning Office, removes the responsibility for administering new conservation programs from transmission and distribution utilities and directs the Public Utilities Commission to develop and administer conservation programs funded through assessments on transmission and distribution utilities.

This bill includes Other Special Revenue funds allocations of \$1,300,000 and \$1,300,000 in fiscal years 2001-02 and 2002-03, respectively, for the conservation administration fund established within the Public Utilities Commission for 3 Utility Analyst positions and related costs associated with the administration of the conservation programs.

This bill establishes the conservation program fund to be administered by the Public Utilities Commission for energy conservation programs. Other Special Revenue funds allocations of \$500 in fiscal year 2001-02 and \$500 in fiscal year 2002-03 are included to capitalize the fund.

Assessing transmission and distribution utilities for the costs of developing and administering conservation programs will increase dedicated revenues to the Public Utilities Commission. The amount can not be determined at this time but is expected to be significant.

Repealing the requirement that the Public Utilities Commission assess transmission and distribution utilities for the cost of funding the energy conservation program developed by the State Planning Office will reduce dedicated revenues collected by the Public Utilities Commission and transferred to the conservation program fund within the State Planning Office. The estimated reductions of dedicated revenue to the Public Utilities Commission are \$31,914 and \$150,702 in fiscal years 2001-02 and 2002-03, respectively.

The repeal of the energy conservation program within the State Planning Office will result in the elimination of one Policy Development Specialist position. The bill includes Other



2 Special Revenue funds deallocations of \$31,914 and \$150,702 in  
3 fiscal years 2001-02 and 2002-03, respectively. As a further  
4 consequence of the repeal of this program, there may be an  
5 unencumbered balance of funds previously transferred to the State  
6 Planning Office from the Public Utilities Commission. This  
7 remaining balance will be transferred back to the Public  
8 Utilities Commission at the close of fiscal year 2001-02; the  
9 amounts can not be determined at this time.'

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11 **SUMMARY**

12 This amendment, which is the majority report of the Joint  
13 Standing Committee on Utilities and Energy, replaces the bill.  
14 This amendment:

15  
16 1. Removes the responsibility for developing and monitoring  
17 the implementation of conservation programs from the State  
18 Planning Office;

19  
20 2. Removes responsibility for administering new  
21 conservation programs from transmission and distribution  
22 utilities;

23  
24 3. Directs the Public Utilities Commission to develop and  
25 administer conservation programs funded through assessments on  
26 transmission and distribution utilities;

27  
28 4. Establishes goals and guidelines for the commission in  
29 undertaking its responsibilities with respect to conservation  
30 programs;

31  
32 5. Directs the commission to secure relevant expertise in  
33 carrying out its conservation-related responsibilities;

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35 6. Allows the commission to use a portion of the funds  
36 collected for conservation programs for administrative costs of  
37 the commission in carrying out its responsibilities;

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39 7. Requires the commission to report annually to the joint  
40 standing committee of the Legislature having jurisdiction over  
41 utilities and energy matters on funds raised and spent and  
42 activities taken with respect to conservation programs;

43  
44 8. Authorizes transmission and distribution utilities to  
45 create transition benefit plans for employees who are laid off as  
46 a result of the transfer to the commission of the administration  
47 of conservation programs;

COMMITTEE AMENDMENT "A" to H.P. 330, L.D. 420

2 9. In order to facilitate start-up of conservation  
programs, authorizes the commission to implement on a short-term  
4 basis, without satisfying all the procedural requirements of the  
new law, conservation programs that the commission finds to be  
6 cost effective;

8 10. Requires the commission to adjudicate contract disputes  
relating to the administration of existing conservation-related  
10 contracts by transmission and distribution utilities, establishes  
an arbitration process to settle such disputes, and establishes  
12 certain standards for contract interpretation by the commission  
and arbitrators in settling such disputes;

14 11. Requires the commission to report on the feasibility of  
assuming the administration of existing conservation-related  
16 contracts;

18 12. Adds an emergency preamble and emergency clause to the  
bill; and

20 13. Adds an appropriations and allocations section to the  
22 bill and a fiscal note.