

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1994

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Legislative Document

No. 1957

H.P. 1432

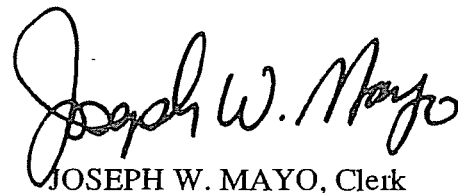
House of Representatives, March 1, 1994

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### **An Act to Provide Funding to Support Maine Energy Policy.**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.  
Reference to the Committee on Taxation suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative TARDY of Palmyra.  
Cosponsored by Representatives: COFFMAN of Old Town, FARNUM of South Berwick,  
GWADOSKY of Fairfield, KUTASI of Bridgton, NORTON of Winthrop, RUHLIN of Brewer,  
SMALL of Bath, SPEAR of Nobleboro, SULLIVAN of Bangor, WHITCOMB of Waldo,  
Senators: BUSTIN of Kennebec, CAREY of Kennebec, LUTHER of Oxford, SUMMERS of  
Cumberland.

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

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4       **Sec. 1. 35-A MRSA §3101, sub-§2**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

6       **2. Fuel cost.** Subject to the approval of the commission, each electric utility shall include as part of its base rates a reasonable cost for fuel to provide its customers with electricity. The cost of fuel shall include fuel consumed in the electric utility's generating stations and the cost of power purchased by the electric utility for use in this State, pursuant to rules promulgated by the commission under this section and in accordance with the requirements of subsection 4. The amount to be included in a utility's base rates shall be determined at the time of general rate adjustment under section 307 or 1303 and shall be based upon the utility's reasonable costs of fuel during the test year used for the rate adjustment less all accumulated balances allocated from an energy assistance account as provided under Title 36, section 4905 in accordance with rules adopted by the commission.

22       **Sec. 2. 36 MRSA c. 720** is enacted to read:

24                               **CHAPTER 720**

26                               **SPECIAL QUALIFYING FACILITIES TAX**  
28                               **ON EXCESS REVENUES**

30       **§4901. Short title**

32       This chapter may be known and cited as the "Special Qualifying Facilities Tax on Excess Revenues Act."

34       **§4902. Definitions**

36       As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

38               **1. Base price.** "Base price" is that amount that is a reasonable and appropriate charge for each kilowatt hour of electricity sold by a qualifying facility.

42               **2. Base revenue.** "Base revenue" means the product of the base price multiplied by the total number of kilowatt hours of electricity sold by the qualifying facility during the calendar year.

44               **3. Excess revenue.** "Excess revenue" of a qualifying facility means the amount by which its gross revenue exceeds its base revenue during the calendar year.

2           4. Gross revenue. "Gross revenue" means all revenues of a  
4           qualifying facility for the sale of electricity during the  
          calendar year.

6           5. Qualifying facility. "Qualifying facility" has the same  
8           meaning as in Title 35-A, section 3303, subsection 7.

10           §4903. Tax imposed

12           1. Imposition of tax. A tax is imposed for each taxable  
14           year on the excess revenue of every qualifying facility at the  
          applicable percentage as determined in subsection 2.

16           2. Applicable percentage. For purposes of this section,  
          the applicable percentage is as follows.

18           A. For excess revenue that exceeds base revenue up to 50%,  
20           the applicable percentage is 33%.

22           B. For excess revenue that exceeds base revenue by over  
          50%, the applicable percentage is 66%.

24           3. Exemption. This tax does not apply to any municipal  
26           solid waste energy recovery facility as defined in Title 35-A,  
          section 3303, subsection 6.

28           §4904. Initial base price and 2-year review

30           The initial base price is 6¢ for each kilowatt hour of  
32           electricity sold by a qualifying facility. Beginning in 1996,  
          the commission shall review the initial base price every 2 years.

34           §4905. Commission report

36           Beginning with the First Regular Session of the 118th  
38           Legislature, the commission shall report every 2 years to the  
          joint standing committee of the Legislature having jurisdiction  
40           over public utilities matters on:

42           1. Rate relief. The amount of revenues collected pursuant  
44           to this chapter and an accounting of the use of these funds to  
          provide rate relief to utility customers; and

46           2. Base price review and recommendations. The result of  
48           its base price review, any recommendations for adjustment of the  
          base price and legislation to implement any recommended  
          adjustment.

§4906. Administration and collection

2  
4 1. Purchasing utility to withhold tax. When the purchasing  
6 utility pays the qualifying facility for electricity, the  
8 purchasing utility shall compute the tax imposed by section 4903  
and withhold that tax from the amount paid to the qualifying  
facility. Any purchasing utility that fails to withhold and pay  
over the tax imposed by section 4903 and in accordance with this  
section is liable for such tax.

10  
12 2. Withheld tax to be reported and paid to State. On the  
14 15th day of the 2nd month following any month during which a  
16 purchasing utility paid for electricity purchased from one or  
18 more qualifying facilities, the purchasing utility shall pay over  
to the State Tax Assessor the taxes required to be withheld under  
subsection 1 and report the following information with respect to  
each qualifying facility from which electricity has been  
purchased:

20 A. The name, address and taxpayer identification number of  
22 the qualifying facility;

24 B. The number of kilowatt hours purchased from the  
qualifying facility;

26 C. The price paid per kilowatt hour and the total price  
28 paid for the applicable month; and

30 D. The taxes withheld.

32 3. Withholding and payment of initial tax. For electricity  
34 purchased by a purchasing utility from any qualifying facility  
36 for the period from January 1, 1994 to the effective date of this  
38 chapter, the purchasing utility shall compute and withhold any  
40 tax due for that period in equal monthly installments commencing  
with the first date when tax is withheld as set forth in  
subsection 1 to January 15, 1995. Any initial tax withheld  
pursuant to this subsection must be paid to the State Tax  
Assessor on the next regular payment date as specified in  
subsection 2.

42 4. Report. Every qualifying facility, on or before March  
44 15th annually, shall report to the State Tax Assessor its gross  
46 revenue received from any purchasing utility for the prior  
48 calendar year and the total number of kilowatt hours of  
50 electricity sold by the qualifying facility to any purchasing  
utility during the prior calendar year, on forms furnished by the  
State Tax Assessor, and pay to the State Tax Assessor the amount  
of the tax due as determined by section 4903 less amounts  
required to be withheld according to subsection 1.

2           5. State Tax Assessor to determine amount of tax. The  
3           State Tax Assessor or the assessor's duly authorized agent may  
4           enter any place of business of a qualifying facility or any  
5           purchasing utility and duly inspect any books and records of the  
6           qualifying facility or any purchasing utility for the purpose of  
7           determining the amount of tax due under this chapter.

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9           **§4907. Use of money received**

10           Money received under this chapter by the Treasurer of State  
11           must be used for the following purposes.

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13           1. Collection and enforcement. A maximum amount of 1% of  
14           the total tax collected annually under this chapter may be used  
15           for the collection of the tax and the enforcement of this chapter.

16  
17           2. Balance. The balance of the amount must be deposited  
18           into an energy assistance account, which must be used by the  
19           Public Utilities Commission to offset that portion of the  
20           electric rates of all ratepayers of a utility that purchases  
21           power from a qualifying facility that is attributable to the cost  
22           of purchased power component of the fuel clause adjustment for  
23           that utility as set forth in Title 35-A, section 3101 and in  
24           accordance with rules adopted by the Public Utilities Commission  
25           to implement this subsection.

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27           **§4908. Miscellaneous**

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29           1. Income tax. Nothing in this chapter may be construed or  
30           otherwise interpreted to exempt the qualifying facility from  
31           income tax under Part 8.

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33           2. Public Utilities Commission. Nothing in this chapter  
34           may be construed or otherwise interpreted to place qualifying  
35           facilities under the jurisdiction, control or regulation of the  
36           Public Utilities Commission.

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38           Sec. 3. Application. Section 2 of this Act applies to tax  
39           years beginning on or after January 1, 1994.

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43           **STATEMENT OF FACT**

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45           This bill provides rate relief for electric ratepayers by  
46           assessing a tax on the excess revenues of nonutility electric  
47           power generators. The proceeds from this tax will be allocated  
48

2 to rate relief by the Public Utilities Commission. This tax does  
not apply to municipal solid waste energy recovery facilities.

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8 This document has not yet been reviewed to determine the  
need for cross-reference, stylistic and other technical  
amendments to conform existing law to current drafting standards.

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