

MAINE STATE LEGISLATURE

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Minority

H. 322

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Date: 5/24/17

L.D. 1851
(Filing No. H-322)

Minority
NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 1290, L.D. 1851, Bill, "An Act To Establish the Regional Greenhouse Gas Initiative Act of 2007"

Amend the bill by inserting after the enacting clause and before section 1 the following:

'Sec. 1. 5 MRSA §12004-G, sub-§13-F is enacted to read:

13-F.

<u>Environment/ Natural Resources and Public Utilities</u>	<u>Energy and Carbon Savings Trust</u>	<u>Legislative per diem plus expenses</u>	<u>35-A MRSA §10008</u>
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Amend the bill by striking out section 1 and inserting the following:

'Sec. 1. 5 MRSA §12004-I, sub-§20-B is enacted to read:

20-B.

<u>Environment: Natural Resources and Public Utilities</u>	<u>Maine Energy Conservation Board</u>	<u>\$50 per day plus expenses</u>	<u>35-A MRSA §10007</u>
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Sec. 2. 35-A MRSA §3211-A, sub-§1, ¶C, as amended by PL 2003, c. 487, §2, is repealed.

Sec. 3. 35-A MRSA §3211-A, sub-§1, ¶H, as enacted by PL 2001, c. 624, §4, is repealed.'

Amend the bill by striking out section 3 and inserting the following:

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1 ‘Sec. 3. 35-A MRSA §3211-A, sub-§2, as amended by PL 2005, c. 569, §§1 and
2 2, is further amended to read:

3 **2. Programs.** The commission shall develop and, ~~to the extent of available funds,~~
4 implement conservation programs ~~in accordance with this section to help reduce energy~~
5 costs for electricity consumers in the State by the maximum amount possible. The
6 commission shall establish and, on a schedule determined by the commission, revise
7 objectives and an overall energy strategy for conservation programs. Conservation
8 programs implemented by the commission must be consistent with the objectives and an
9 overall energy strategy developed by the commission and be cost effective, as defined by
10 the commission by rule or order. In defining "cost effective," the commission may
11 consider the extent to which a program promotes sustainable economic development or
12 reduces environmental damage to the extent the commission can quantify or otherwise
13 reasonably identify such effects. Consistent with the other requirements of this section,
14 the commission, in adopting and implementing conservation programs, shall seek to
15 encourage efficiency in electricity use, provide incentives for the development of new,
16 energy-efficient business activity in the State and take into account the costs and benefits
17 of energy efficiency and conservation to existing business activity in the State.

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

- 19 (1) Increase consumer awareness of cost-effective options for conserving energy;
- 20 (2) Create more favorable market conditions for the increased use of efficient
21 products and services;
- 22 (3) Promote sustainable economic development and reduced environmental
23 damage; ~~and~~
- 24 (4) Reduce the price of electricity over time for all consumers by achieving
25 reductions in demand for electricity during peak use periods; and
- 26 (5) Reduce total energy costs for electricity consumers in the State by increasing
27 the efficiency with which electricity is consumed.

28 B. The commission, with regard to the assessment imposed under subsection 4,
29 shall:

- 30 (1) Target at least 20% of ~~available~~ funds to programs for low-income residential
31 consumers, as defined by the commission by rule;
- 32 (2) Target at least 20% of ~~available~~ funds to programs for small business
33 consumers, as defined by the commission by rule; and
- 34 (3) To the greatest extent practicable, apportion remaining ~~available~~ funds
35 among customer groups and geographic areas in a manner that allows all other
36 customers to have a reasonable opportunity to participate in one or more
37 conservation programs.

38 C. The commission shall hold at least one public hearing and invite, accept, review
39 and consider comments and suggestions from interested parties prior to adopting or

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1 substantially revising conservation programs or the objectives and overall strategy for
2 conservation programs.

3 D. The commission shall monitor conservation planning and program development
4 activities in the region and around the country.

5 E. The commission shall implement conservation programs by contracting with
6 service providers in accordance with subsection 3.

7 F. The commission shall monitor and evaluate the delivery of conservation
8 programs by service providers and assess the cost-effectiveness of programs in
9 meeting the objectives and overall strategy established by the commission.

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

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

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

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

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

18 I. The commission may coordinate its efforts under this section with similar efforts
19 in other states in the northeast region and enter into agreements with public agencies
20 or other entities in or outside of the State for joint or cooperative conservation
21 planning or conservation program delivery, if the commission finds that such
22 coordination or agreements would provide demonstrable benefits to citizens of the
23 State and be consistent with this section, the conservation programs and the
24 objectives and overall strategy for the conservation programs.

25 J. The commission shall encourage school facility managers to complete an energy
26 efficiency training and certification program established and conducted by the
27 commission under this section. To the extent the commission determines necessary
28 and appropriate to meet the goals of this paragraph, the commission may, in
29 accordance with the requirements of this section, establish incentive mechanisms to
30 encourage participation in this program. For purposes of this paragraph, "school
31 facility managers" means persons employed by school administrative units in this
32 State who are responsible for the design or operation of school administrative unit
33 facilities or the heating, ventilation or air conditioning systems or equipment used in
34 such facilities.

35 K. The commission, in conjunction with the trustees of the Energy and Carbon
36 Savings Trust, shall develop a triennial energy efficiency and conservation plan in
37 accordance with section 10007, subsection 6. The plan must seek to address the needs
38 of all customer classes of the transmission and distribution utilities in the public
39 interest.'

40 Amend the bill by striking out section 5 and inserting the following:

1 'Sec. 5. 35-A MRSA §3211-A, sub-§4, as amended by PL 2005, c. 459, §1, is
2 further amended to read:

3 **4. Funding level; base assessment.** The commission shall assess transmission and
4 distribution utilities to collect funds for conservation programs and administrative costs in
5 accordance with this subsection and shall make other assessments in accordance with
6 subsection 4-A. The amount of all assessments by the commission under this subsection
7 plus expenditures of a transmission and distribution utility associated with prior
8 conservation efforts must result in total conservation expenditures by each transmission
9 and distribution utility, not including expenditures on assessments under subsection 4-A,
10 that: are fixed at a rate of 0.145 cent per kilowatt-hour.

11 ~~A.—Are based on the relevant characteristics of the transmission and distribution~~
12 ~~utility's service territory, including the needs of customers;~~

13 ~~B.—Do not exceed .145 cent per kilowatt hour;~~

14 ~~C.—Except as provided in subsection 7 A, are no less than 0.5% of the total~~
15 ~~transmission and distribution revenues of the transmission and distribution utility;~~
16 ~~and~~

17 ~~D.—Are proportionally equivalent on a per kilowatt hour basis to the total~~
18 ~~conservation expenditures of other transmission and distribution utilities, unless the~~
19 ~~commission finds that a different amount is justified.'~~

20 Amend the bill by striking out section 6 and inserting the following:

21 'Sec. 6. 35-A MRSA §3211-A, sub-§4-A is enacted to read:

22 **4-A. Other assessments on transmission and distribution utilities.** The
23 commission shall assess each transmission and distribution utility based on the utility's
24 gross operating revenue as necessary to realize all available energy efficiency and
25 demand reduction resources in this State that are cost-effective, reliable and feasible after
26 consideration of the following:

27 A. The amount of assessments pursuant to subsection 4 and their payment schedule;

28 B. The funding for conservation programs provided by the Energy and Carbon
29 Savings Trust pursuant to section 10008;

30 C. The amount of payments received from a forward capacity market, as defined in
31 section 10008, subsection 1, paragraph B, as a result of conservation programs
32 funded under this chapter and under section 10008; and

33 D. Any other predictable sources of funding for or investment in energy conservation
34 and efficiency programs.

35 For the purposes of this subsection, "gross operating revenue" means revenue derived
36 from filed rates, except from sales for resale. The commission may correct any errors in
37 the assessments under this subsection by means of a credit or debit to the following year's
38 assessment rather than reassessing all utilities in the current year. The commission shall
39 determine the assessments under this subsection annually prior to May 1st and assess
40 each utility for its pro rata share for expenditure, including funds for energy conservation

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1 programs, during the fiscal year beginning July 1st. The commission may not charge any
2 assessment under this subsection until the Legislature has approved the commission's
3 budget in accordance with section 116. The commission shall separately identify any
4 recommended assessment under this subsection in its presentation of budget
5 recommendations contained in any current services budget legislation and any
6 supplemental budget legislation to the joint standing committee of the Legislature having
7 jurisdiction over public utilities matters pursuant to section 116. Each utility shall pay the
8 assessment charged to that utility under this subsection on the same schedule that
9 payment of assessments under subsection 4 is required.'

10 Amend the bill by striking out section 7 and inserting the following:

11 'Sec. 7. 35-A MRSA §3211-A, sub-§4-B is enacted to read:

12 4-B. Transmission and subtransmission voltage level. After July 1, 2007,
13 electricity customers receiving service at transmission and subtransmission voltage levels
14 are not eligible for new conservation programs undertaken under this section, and those
15 customers are not required to pay in rates any amount associated with the assessment
16 imposed on transmission and distribution utilities under subsection 4 or subsection 4-A.
17 To remove the amount of the assessment under subsection 4, the commission shall reduce
18 the rates of such customers that are in effect on July 1, 2007 by 0.145 cent per kilowatt-
19 hour at the time of the first rate adjustment following the effective date of this subsection.
20 For the purposes of this section, "transmission voltage levels" means 44 kilovolts or
21 more, and "subtransmission voltage levels" means 34.5 kilovolts.

22 Sec. 8. 35-A MRSA §3211-A sub-§5-B is enacted to read:

23 5-B. Support for Maine Energy Conservation Board. Notwithstanding any other
24 provision of this section, the Maine Energy Conservation Board established under section
25 10007 may apply to the commission for funding from the program fund for staff support
26 for the board; and, upon application of the board, the commission may provide up to 1%
27 of the total amount in the program fund to the board for that purpose.'

28 Amend the bill by striking out section 9 and inserting the following:

29 'Sec. 9. 35-A MRSA §3211-A, sub-§9, as enacted by PL 2001, c. 624, §4, is
30 repealed and the following enacted in its place:

31 9. Ratemaking and cost recovery. The assessments charged to utilities under this
32 section are just and reasonable costs for rate-making purposes and must be reflected in
33 the rates of transmission and distribution utilities.'

34 Amend the bill by striking out section 10 and inserting the following:

35 'Sec. 10. 35-A MRSA §10007 is enacted to read:

36 §10007. Maine Energy Conservation Board

37 1. Establishment. The Maine Energy Conservation Board, as established in Title 5,
38 section 12004-I, subsection 20-B and referred to in this section as "the board," is created

1 to assist the commission and the trustees of the Energy and Carbon Savings Trust in the
2 development, coordination and integration of planning for the State's energy conservation
3 efforts and to provide advice and counsel to the commission and the Energy and Carbon
4 Savings Trust on energy conservation and carbon dioxide reduction matters.

5 **2. Composition of board.** The board is composed of 7 voting members, none of
6 whom may have a financial interest in energy efficiency or conservation delivery;

7 A. A member representing commercial electrical consumers, appointed by the
8 commission;

9 B. A member representing industrial electrical consumers, appointed by the
10 commission;

11 C. A representative of the Office of the Public Advocate who represents the interest
12 of residential electrical consumers;

13 D. A member with significant knowledge of environmental issues and climate
14 change policy appointed by the commission;

15 E. A member representing small businesses in the State, appointed by the
16 commission;

17 F. The Commissioner of Environmental Protection or the commissioner's designee;
18 and

19 G. The director of the Governor's Office of Energy Independence and Security
20 within the Executive Department or the director's designee.

21 The commission may also appoint 3 nonvoting members representing transmission and
22 distribution utilities. The chair of the commission and one trustee of the Energy and
23 Carbon Savings Trust, appointed by the trustees, serve as nonvoting members.

24 **3. Terms; chair.** The term of a voting member of the board is 3 years. If a voting
25 member is unable to complete the term, the commission shall appoint a replacement for
26 the remainder of the unexpired term. A voting member may serve a maximum of 2
27 consecutive terms. The board shall select a chair and vice-chair from the board's voting
28 membership.

29 **4. Meetings; voting.** The board may meet up to 6 times annually. If a voting
30 member of the board is absent from more than one meeting without notice to the chair or
31 vice-chair, the commission may appoint a replacement. An affirmative vote of 5
32 members is required for any action.

33 **5. Staff.** The board may contract for technical expertise in energy efficiency
34 programs and administrative services and may apply to the commission and to the Energy
35 and Carbon Savings Trust for funding to support such staff services. The board may
36 expend for such staff services an amount not to exceed 1% of the total amount in the
37 conservation program fund established under section 3211-A, subsection 5 and the
38 Energy and Carbon Savings Trust Fund established in section 10008.

39 **6. Triennial energy efficiency and conservation plan.** The board shall vote on a
40 detailed triennial energy efficiency and conservation plan developed jointly by the
41 commission and the trustees of the Energy and Carbon Savings Trust pursuant to section

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1 3211-A, subsection 2, paragraph K and section 10008, subsection 7, referred to in this
2 subsection as "the plan," and make a full report of the vote to the commission and the
3 trustees of the Energy and Carbon Savings Trust in accordance with this subsection.

4 A. In developing the plan, the commission and the trustees of the Energy and Carbon
5 Savings Trust shall consult the board and provide the opportunity for the board to
6 provide input on drafts of the plan.

7 B. The board may review efficiency and conservation program budget allocations of
8 the commission and the Energy and Carbon Savings Trust and provide general
9 guidance to the commission and the trustees of the Energy and Carbon Savings Trust
10 on program implementation.

11 C. The board may present any recommended changes to the plan to the commission
12 and the trustees of the Energy and Carbon Savings Trust for review and final
13 approval. The commission and the trustees may adopt, modify or reject any
14 recommended changes presented by the board.

15 D. With respect to efficiency and conservation programs administered by the
16 commission, the first plan must be developed and adopted to address all programs
17 implemented on or after July 1, 2010.'

18 Amend the bill by striking out section 11 and inserting the following:

19 'Sec. 11. 35-A MRS §10008 is enacted to read:

20 **§10008. Energy and Carbon Savings Trust**

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

23 A. "Carbon dioxide allowance" has the same meaning as in Title 38, section 580-A,
24 subsection 2.

25 B. "Forward capacity market" means the program established by the regional
26 transmission organization that is in effect on the effective date of this paragraph and
27 compensates providers of electrical capacity with payments for the availability or
28 reduction of capacity as determined by the regional transmission organization.

29 C. "Regional transmission organization" means the independent systems operator
30 that administers and oversees the wholesale electricity markets in which the State
31 participates.

32 D. "Trade association aggregator" means an entity that gathers individual members
33 of a trade association together for the purpose of receiving electrical efficiency
34 services or bidding on electrical efficiency contracts.

35 E. "Trust" means the Energy and Carbon Savings Trust established in subsection 2.

36 F. "Trust fund" means the Energy and Carbon Savings Trust Fund established in
37 subsection 2.

38 G. "Trustee" means a trustee of the trust.

1 2. Establishment of trust; trust fund. The Energy and Carbon Savings Trust and
2 the Energy and Carbon Savings Trust Fund are established effective January 15, 2008 to
3 support the goals and implementation of the carbon dioxide cap-and-trade program
4 established under Title 38, section 580-B. The trust fund is established as a nonlapsing
5 fund administered by the trust for the purposes established in this section. The trust is
6 authorized to receive, and shall deposit in the trust fund and expend in accordance with
7 this section, revenue resulting from the sale of carbon dioxide allowances, pursuant to
8 Title 38, section 580-B, and any forward capacity market or other capacity payments
9 from the regional transmission organization that may be attributable to projects funded by
10 the trust. The trust fund may not be used for any other purpose, and money in the trust
11 fund is considered to be held in trust for the purposes of benefiting consumers.

12 A. The commission shall appoint 3 trustees for the Energy and Carbon Savings
13 Trust. The commission shall appoint a diverse set of trustees who possess knowledge
14 of high-efficiency energy conservation programs, carbon reduction programs or
15 policy or substantial management expertise.

16 B. A trustee serves a 3-year term. If a trustee is unable to complete the term, the
17 commission shall appoint a replacement for the remainder of the unexpired term.
18 Trustees may serve a maximum of 2 consecutive terms.

19 C. The trustees may meet periodically and may participate in all meetings of the
20 Maine Energy Conservation Board, as established in section 10007. If a trustee is
21 absent from more than one meeting of the trustees without notice, the commission
22 may appoint a replacement. An affirmative vote of two-thirds of the trustees is
23 required for any action.

24 D. The trustees have a fiduciary duty to the customers of the State's transmission and
25 distribution utilities in the administration of the trust fund. Upon accepting
26 appointment as a trustee, each trustee must acknowledge the fiduciary duty to use the
27 trust funds only for the purposes set forth in this section.

28 E. The trustees shall ensure that the goals and objectives of the trust, as established
29 in this section and in rules adopted by the trust, are carried out. The trustees shall
30 represent the interests of the trust in the development of the triennial energy
31 efficiency and conservation plan pursuant to section 10007, subsection 6.

32 3. Trust inviolability. The trustees may take legal action in the name of the trust to
33 oppose efforts to reduce, impair, postpone or terminate the amount of revenues arising
34 from the regional greenhouse gas initiative established under Title 38, chapter 3-B.

35 The State pledges to, contracts with, and agrees with the purchasers of carbon dioxide
36 allowances and trustees for the proceeds of those allowances that neither the State nor any
37 of its agencies, including the commission, may limit, alter, amend, reduce or impair the
38 trust, its funds or any rights under the trust or ownership of the trust or security interest in
39 the trust. The State acknowledges that such owners, holders and trustees may and will
40 rely on this pledge, contract and agreement and that any such limitation, alteration,
41 amendment, reduction or impairment without adequate provision will irreparably harm
42 such owners, holders and trustees.

43 4. Money invested. Any revenue received from the sale of carbon dioxide
44 allowances, pursuant to Title 38, section 580-B, and any forward capacity market

1 payments administered by the regional transmission organization or other capacity
2 payments that may be attributable to projects funded by the trust are the property of the
3 trust and must be deposited in the trust fund. Money in the trust fund not currently needed
4 to meet obligations under Title 38, section 580-B or for the purposes of this section must
5 be deposited with the Treasurer of State to the credit of the trust fund and may be
6 invested as provided by law. Interest on these investments must be credited to the trust
7 fund.

8 **5. Ceiling on energy efficiency spending.** There is established a ceiling on energy
9 efficiency spending from the trust equal to \$5 per carbon dioxide allowance. Until that
10 price ceiling is adjusted or removed, only the first \$5 of each carbon dioxide allowance
11 sold and deposited in the trust fund may be awarded to or directed to qualified projects
12 for purposes of energy efficiency improvements. While the ceiling is in place, revenue
13 received by the trust from an allowance value above \$5 must be transferred to the
14 commission for use used by the commission pursuant to sections 301 and 1322 for
15 rebates to electric ratepayers calculated on a per-kilowatt-hour basis.

16 **6. Administration of trust fund; expenditures; projects.** The trust fund must be
17 administered in accordance with this subsection.

18 A. The trust fund must be administered and expenditures authorized by a program
19 administrator selected by the trustees whose qualifications must include demonstrated
20 expertise in the management of electricity efficiency programming and supervision of
21 energy efficiency personnel. The administrator shall report to the trustees. The
22 administrator shall hire and organize staff resources for the trustees.

23 B. During the years 2009, 2010 and 2011, not less than 85% of the trust fund must be
24 allocated for measures, investments and arrangements that reduce electricity
25 consumption, and not more than 15% must be allocated for fossil fuel conservation
26 measures, investments and arrangements. Subject to the apportionment between fossil
27 fuel and electricity conservation pursuant to this subsection, the trust shall fund
28 conservation programs that give priority to measures with the highest benefit-to-cost
29 ratio, as long as cost-effective collateral efficiency opportunities are not lost, and that:

30 (1) Reliably reduce greenhouse gas production by fossil fuel combustion in the
31 State at the lowest cost in trust funds per unit of emissions; or

32 (2) Reliably reduce the consumption of electricity in the State at the lowest cost
33 in trust funds per kilowatt-hour saved.

34 C. Expenditures from the trust fund relating to conservation of electricity and
35 mitigation or reduction of greenhouse gases must be made predominantly on the basis
36 of a competitive bid process for long-term contracts, subject to rules adopted by the
37 trust. Rules adopted to implement the competitive bid process under this paragraph
38 may not include an avoided cost methodology for compensating successful bidders.
39 Bidders may propose contracts designed to produce greenhouse gas savings or
40 electricity conservation savings, or both, on a unit cost basis. Contracts must be
41 commercially reasonable and may require liquidated damages to ensure performance.
42 Contracts must provide sufficient certainty of payment to enable commercial
43 financing of the conservation measure purchased and its installation.

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1 D. The trustees may target bid competitions in areas or to participants as they
2 consider necessary, as long as the requirements of paragraph B are satisfied.

3 E. Nonelectric savings programs must be used to maximize fossil-fueled energy
4 efficiency and conservation and associated greenhouse gas reductions, subject to the
5 apportionment between fossil fuel and electricity conservation set forth in paragraph
6 B.

7 F. The size of a project funded by the trust is not limited as long as funds are
8 awarded to maximize energy efficiency and support greenhouse gas reductions and to
9 fully implement the triennial energy efficiency and conservation plan developed by
10 the commission and the trustees pursuant to section 10007, subsection 6.

11 G. No more than 5% of trust fund receipts in any one year may be used for the total
12 administrative costs:

13 (1) Of the trust related to this section;

14 (2) Of the Department of Environmental Protection in administering the
15 allowance auction under Title 38, chapter 3-B; and

16 (3) Of the Attorney General, including activities pertaining to the tracking and
17 monitoring of allowance trading activity and managing and evaluating the trust's
18 funding of conservation programs.

19 Of the trust fund receipts used for administrative costs under this paragraph, no more
20 than 40% in any one year may be used for the administration of the trust.

21 H. In order to minimize administrative costs and maximize program participation
22 and effectiveness, the trustees and the commission shall, to the greatest extent
23 feasible, coordinate the delivery of and make complementary the energy efficiency
24 programs under this section, section 3211-A and section 3210-C.

25 I. Notwithstanding Title 5, section 1831, the trustees are not subject to rules adopted
26 by the State Purchasing Agent in selecting service providers pursuant to this section.
27 The trustees shall consider delivery of efficiency programs by means of contracts
28 with service providers that participate in competitive bid processes for reducing
29 energy consumption within individual market segments or for particular end uses.

30 J. A trade association aggregator is eligible to participate in competitive bid
31 processes under this subsection.

32 K. Notwithstanding any other provision of this section, the Maine Energy
33 Conservation Board established under section 10007 may apply to the trust for
34 funding from the trust fund for staff support for the board, and upon application of
35 the board the trust may provide up to 1% of the total amount in the trust fund in any
36 fiscal year to the board for that purpose.

37 L. Trust fund receipts may fund research approved by the Department of
38 Environmental Protection in an amount of up to \$100,000 per year to develop new
39 categories for carbon dioxide emissions offset projects, as defined in Title 38, section
40 580-A, subsection 6, that are located in the State. Expenditures on research pursuant
41 to this paragraph are not considered administrative costs under paragraph G.

1 7. Triennial energy efficiency and conservation plan. The trustees, in conjunction
2 with the commission, shall develop a triennial energy efficiency and conservation plan in
3 accordance with section 10007, subsection 6.

4 8. Rulemaking. The trustees shall adopt rules for establishing and administering the
5 trust, the trust fund and its programs. These rules must include:

6 A. Provisions for the expenditure of funds, including, but not limited to, the
7 development of program budgets, criteria for energy efficiency and conservation
8 programs and other consumer benefit programs, the process for project selection and
9 approval, minimum requirements for project monitoring and verification and the cost-
10 effectiveness tests to be used for measuring and comparing program benefits and
11 costs subject to subsection 6, paragraph B; and

12 B. Provision for the independent evaluation of program expenditures to ensure cost-
13 effectiveness of projects to improve energy efficiency or to reduce greenhouse gases.

14 Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5,
15 chapter 375, subchapter 2-A.'

16 Amend the bill in section 13 in §580-A by inserting after subsection 7 the following:

17 '8. Combined cycle system. "Combined cycle system" means a system composed
18 of one or more combustion turbines, heat recovery system generators and steam turbines
19 configured to improve overall efficiency of electrical generation or steam production.'

20 Amend the bill in section 13 in §580-A to renumber the subsections to read
21 consecutively.

22 Amend the bill in section 13 in §580-B by striking out subsections 6, 7 and 8 and
23 inserting the following:

24 '6. Waiver of enforcement; suspension of compliance obligation. The
25 commissioner has authority, under the exceptional circumstances set out in paragraphs A
26 and B, to waive or suspend requirements of this chapter.

27 A. If the regional greenhouse gas initiative results in price levels for allowances that
28 will result in immediate and irreparable harm to the operations of a carbon dioxide
29 budget unit regulated under this chapter, including but not limited to the termination
30 of business at that location, the commissioner may, in consultation with the Attorney
31 General and the chair of the Public Utilities Commission, grant a temporary waiver of
32 enforcement not to exceed one year for any violation by an individual regulated
33 carbon dioxide budget unit of a requirement of this chapter.

34 B. In cases of emergency events that are beyond the control of a carbon dioxide
35 budget unit, the commissioner may temporarily suspend the compliance obligation
36 under a particular permit until such time as the emergency no longer is in effect.

37 The department shall adopt rules for the implementation of this subsection. Rules adopted
38 pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375,
39 subchapter 2-A and must be submitted to the Legislature by January 15, 2008 for review

1 by the Joint Standing Committee on Natural Resources during the Second Regular
2 Session of the 123rd Legislature.

3 7. Allocation of carbon dioxide emissions allowances. The department shall
4 allocate 100% of the annual carbon dioxide emissions allowances for public benefit to
5 produce funds for carbon reduction and energy conservation, as specified in Title 35-A,
6 section 10008. Except as provided in subsection 8, the department shall sell the carbon
7 dioxide emissions allowances at public auction, in accordance with rules adopted under
8 subsection 4. Revenue resulting from the sale of allowances must be deposited in the
9 Energy and Carbon Savings Trust Fund established under Title 35-A, section 10008.

10 8. Combined heat and power incentive; set aside. The department shall set aside a
11 portion of the State's annual carbon dioxide emissions allowances in an allowance
12 account for carbon dioxide budget units that are combined heat and power units and are
13 located at integrated manufacturing facilities. The department shall use these allowances
14 for existing carbon dioxide budget units to reflect only that portion of each unit's
15 emissions related to electricity and thermal power generated at a carbon dioxide budget
16 unit that is a combined heat and power unit, whether it is a combined cycle system or
17 other energy generation configuration of which the carbon dioxide budget unit is a part,
18 that are not transmitted across the facilities of a transmission and distribution utility.

19 The department shall adopt rules setting forth the proper treatment of combined heat and
20 power units. The rules may distinguish between combined heat and power units that
21 commence operation after July 1, 2007 and those that commence operation before July 1,
22 2007. Rules adopted pursuant to this subsection are routine technical rules as defined in
23 Title 5, chapter 375, subchapter 2-A.'

24 Amend the bill in section 13 in §580-B by striking out subsection 10 and inserting the
25 following:

26 '10. Annual report. The department and the trustees of the Energy and Carbon
27 Savings Trust established pursuant to Title 35-A, section 10008 shall submit a joint report
28 to the joint standing committees of the Legislature having jurisdiction over natural
29 resources matters and utilities and energy matters by March 15, 2009 and each year
30 thereafter. The report must assess and address:

31 A. The reductions of greenhouse gas emissions from carbon dioxide budget units,
32 conservation programs funded by the Energy and Carbon Savings Trust pursuant to
33 Title 35-A, section 10008 and carbon dioxide emissions offset projects;

34 B. The improvements in overall carbon dioxide emissions and energy efficiency
35 from sources that emit greenhouse gases including electrical generation and fossil
36 fuel fired units;

37 C. The maximization of savings through systemic energy improvements statewide;

38 D. Research and support of new carbon dioxide offset allowance categories for
39 development in the State;

40 E. Management and cost-effectiveness of the State's energy conservation and carbon
41 reduction programs and efforts funded by the Energy and Carbon Savings Trust
42 established pursuant to Title 35-A, section 10008; and

1 F. The extent to which funds from the Energy and Carbon Savings Trust established
2 pursuant to Title 35-A, section 10008 serve customers from all classes of the State's
3 transmission and distribution utilities.

4 The department and the trustees of the Energy and Carbon Savings Trust may include in
5 the report any proposed changes to the program established under this chapter.

6 The joint standing committee of the Legislature having jurisdiction over natural resources
7 matters may submit legislation relating to areas within the committee's jurisdiction in
8 connection with the program. The joint standing committee of the Legislature having
9 jurisdiction over utilities and energy matters may submit legislation relating to areas
10 within the committee's jurisdiction in connection with the program.'

11 Amend the bill by striking out sections 14 and 15 and inserting the following:

12 **'Sec. 14. Major substantive rulemaking; authority for legislation.** Major
13 substantive rules provisionally adopted pursuant to the Maine Revised Statutes, Title
14 35-A, section 10008 must be submitted to the Legislature by January 15, 2009 for review
15 by the joint standing committee of the Legislature having jurisdiction over utilities and
16 energy matters during the First Regular Session of the 124th Legislature. The joint
17 standing committee is authorized to submit legislation to the First Regular Session of the
18 124th Legislature regarding establishment and administration of the Energy and Carbon
19 Savings Trust.

20 **Sec. 15. Ceiling on energy efficiency spending.** Eight months prior to the
21 expiration of the first compliance obligation period established under rules of the
22 Department of Environmental Protection pursuant to the Maine Revised Statutes, Title
23 38, section 580-B, the Public Utilities Commission, following the receipt of public input
24 and consultation with the trustees of the Energy and Carbon Savings Trust under Title
25 35-A, section 10008 and based on an analysis of the efficacy of energy efficiency, rebates
26 or other funded purposes in reducing energy costs, shall provide its recommendation to
27 the joint standing committee of the Legislature having jurisdiction over utilities and
28 energy matters regarding changing or removing the energy efficiency spending ceiling
29 established in Title 35-A, section 10008, subsection 5.'

30 Amend the bill by striking out sections 17 and 18 and inserting the following:

31 **'Sec. 17. Report; recommendations for consolidating energy efficiency**
32 **responsibilities.** The Office of the Public Advocate shall report on options, with a
33 recommended timeline, for integrating the programmatic responsibilities and
34 organizational structure and functions with respect to energy efficiency and conservation
35 within the Public Utilities Commission and the Energy and Carbon Savings Trust under
36 the Maine Revised Statutes, Title 35-A, section 10008. In its study and recommendations
37 for consolidation, the Office of the Public Advocate shall consider the responsibilities of
38 the Maine Energy Conservation Board, established under Title 35-A, section 10007, in
39 relation to the Public Utilities Commission and the Energy and Carbon Savings Trust.
40 The Office of the Public Advocate shall submit a report of its recommendations including
41 the identification of the administrative benefits and increases in effectiveness that will be
42 realized by the consolidation of energy efficiency functions into a single entity, including

1 any recommended legislation, by January 15, 2008 to the Joint Standing Committee on
2 Utilities and Energy. After receipt and review of the report, the committee may submit
3 legislation on this issue to the Second Regular Session of the 123rd Legislature.

4 **Sec. 18. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title
5 35-A, section 10007, subsection 3, of the original appointments of voting members of the
6 Maine Energy Conservation Board, one member serves an initial term of one year, one
7 member serves an initial term of 2 years and one member serves an initial term of 3 years.
8 An initial term of one or 2 years may not be considered a full term for purposes of
9 limiting the number of terms for which a member may serve.

10 **Sec. 19. Maine Energy Conservation Board; initial appointments.** The
11 Public Utilities Commission shall make the original appointments required under the
12 Maine Revised Statutes, Title 35-A, section 10007, subsection 2, paragraphs A, B, D and
13 E to the Maine Energy Conservation Board no later than February 15, 2008.

14 **Sec. 20. Reports; implementation of the Regional Greenhouse Gas**
15 **Initiative Act of 2007 and energy efficiency programs.** The Public Utilities
16 Commission, referred to in this section as "the commission," the Department of
17 Environmental Protection, referred to in this section as "the department," and the Energy
18 and Carbon Savings Trust, referred to in this section as "the trust," shall submit reports to
19 the joint standing committees of the Legislature having jurisdiction over utilities and
20 energy matters and natural resources matters in accordance with this section.

21 1. By January 15, 2008, the commission shall report on:

22 A. Cost-effectiveness criteria, including a detailed description of the process,
23 evaluation and measurement system used by the commission to achieve cost-effective
24 energy efficiency pursuant to the Maine Revised Statutes, Title 35-A, section
25 3211-A;

26 B. Energy efficiency programs, including a detailed outline of the energy efficiency
27 programs that the commission is likely to pursue to implement the requirements of
28 Title 35-A, section 3211-A, subsection 2;

29 C. Energy efficiency program budget proposals, including a detailed outline of the
30 resources necessary to achieve reductions in electricity consumption in the State of
31 2%, 4%, 6%, 8% and 10%, and the order and priority of the implementation of
32 energy efficiency programs;

33 D. Peak demand reduction strategies, including peak demand periods and options
34 available to reduce peak demand and lower electricity prices during peak demand
35 periods; and

36 E. An economic analysis regarding the impact of electric rate increases of \$0.002 per
37 kilowatt hour and \$0.005 per kilowatt hour on the economy of the State. The analysis
38 must be based on a summary of existing analyses that predict the impact of price
39 increases on economic development and must be conducted in consultation with the
40 Office of the Public Advocate and the Executive Department, State Planning Office.

41 2. By March 15, 2008:

42 A. The trust shall report on a preliminary draft of the major substantive rules
43 required under Title 35-A, section 10008, subsection 8; and

- 1 B. The commission and the trust shall report on a preliminary plan for the triennial
2 energy efficiency and conservation plan required under Title 35-A, section 10007,
3 subsection 6.
- 4 3. By September 30, 2007, and quarterly thereafter to December 31, 2011:
 - 5 A. The commission shall report on electricity pricing and usage, including a
6 methodology for tracking natural gas prices, marginal prices in the regional energy
7 market and electricity usage in a way that provides indicators of price impacts from
8 the Regional Greenhouse Gas Initiative;
 - 9 B. The department shall report on the states that have approved implementation of
10 the Regional Greenhouse Gas Initiative, including specifics of the distribution
11 process for carbon dioxide allowances, the allowance percentage for the public
12 benefit, the quantity of allowances in tons and specific timetables for the
13 implementation of the Regional Greenhouse Gas Initiative;
 - 14 C. The department shall report on carbon dioxide emissions and electricity
15 production in the State by generators that are subject to the cap-and-trade program
16 under the Regional Greenhouse Gas Initiative; and
 - 17 D. The commission shall report on estimated funds available in the conservation
18 program fund under Title 35-A, section 3211-A, subsection 5 for each year from
19 2007 to 2011 under the provisions of Title 35-A, section 3211-A, subsections 4, 4-A
20 and 4-B.

21 **Sec. 21. Temporary transfer of funds authorized.** For purposes of funding
22 activities of the Energy and Carbon Savings Trust under the Maine Revised Statutes, Title
23 35-A, section 10008, the Public Utilities Commission may, upon request of the trust,
24 transfer to the Energy and Carbon Savings Trust Fund, established pursuant to Title 35-A,
25 section 10008, subsection 2, on October 1, 2008, up to \$175,000 of previously collected
26 but unallocated funds in the conservation program fund under Title 35-A, section 3211-A,
27 subsection 5. Notwithstanding any other provision of law, there is no limitation on the use
28 of funds transferred to the trust under this section for the administrative costs of the trust.
29 Once the trust has collected \$175,000 in the Energy and Carbon Savings Trust Fund
30 through the sale of carbon dioxide emissions allowances and any forward capacity market
31 or other capacity payments from the regional transmission organization that may be
32 attributable to projects funded by the trust, the trust shall transfer to the conservation
33 program fund an amount equal to the amount transferred from the conservation program
34 fund to the trust under this section.

35 **Sec. 22. Rulemaking; legislative direction.**
36 1. Because the State has a number of integrated manufacturing facilities that produce
37 electricity and heat or steam for use in manufacturing other products and that may sell
38 electricity transmitted on the electric grid, rules adopted by the Department of
39 Environmental Protection pursuant to the Maine Revised Statutes, Title 38, chapter 3-B
40 must be designed in a way that recognizes the highly efficient production and
41 consumption of energy at these facilities, prevents harm from regulatory uncertainty and
42 unintended or unnecessary effects on these facilities and ensures their availability, as
43 needed from time to time, to enhance the reliability of the electric grid serving this State.

1. 0. 2.

COMMITTEE AMENDMENT "B" to H.P. 1290, L.D. 1851

1 2. Because it is the Legislature's intent that all revenues derived from the sale of
2 carbon dioxide emissions allowances be used for high-efficiency electricity and fossil
3 fuel conservation to reduce greenhouse gases and minimize the costs of carbon reduction
4 to Maine electric consumers, rules adopted by the Energy and Carbon Savings Trust
5 under Title 35-A, section 10008 must be designed to ensure that proceeds deposited in the
6 Energy and Carbon Savings Trust Fund accruing from the sale of carbon dioxide
7 emissions allowances be expended solely for energy efficiency and related improvements
8 that serve to enhance the reliability of the State's electric grid.

9 3. Rules adopted by the Department of Environmental Protection pursuant to Title
10 38, chapter 3-B must establish a system under which proceeds from the sale of carbon
11 dioxide emissions allowances may be returned to the electric customers as direct credits
12 on their bills at times of heightened price pressure in regional allowance markets, thereby
13 ameliorating grid instability at those times.

14 4. Because certain carbon dioxide budget units have substantially reduced carbon
15 dioxide emissions from their facilities prior to the effective date of this Act and operate as
16 highly efficient resources, rules adopted by the Department of Environmental Protection
17 pursuant to Title 38, chapter 3-B must require such carbon dioxide budget units to meet
18 only the compliance obligation for that portion of power sold to the grid and require that
19 allowances associated with such units' so-called "behind-the-meter" electrical generation
20 must be retired from the system. Such rules must be designed to recognize that full
21 operation of generating units in existence on the effective date of this Act, including
22 highly efficient cogeneration facilities, is essential for the stability of the State's electric
23 grid at times of peak demand for electricity.'

24 Amend the bill by inserting after section 19 the following:

25 'Sec. 20. Appropriations and allocations. The following appropriations and
26 allocations are made.

27 EXECUTIVE DEPARTMENT

28 Public Advocate 0410

29 Initiative: Provides funds for contractual services to assist in meeting specified study
30 requirements.

31	OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
32	All Other	\$15,000	\$0
33			
34	OTHER SPECIAL REVENUE FUNDS TOTAL	\$15,000	\$0

35 EXECUTIVE DEPARTMENT

36 DEPARTMENT TOTALS 2007-08 2008-09

37 OTHER SPECIAL REVENUE FUNDS \$15,000 \$0

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "B" to H.P. 1290, L.D. 1851

1			
2	DEPARTMENT TOTAL - ALL FUNDS	<u>\$15,000</u>	<u>\$0</u>
3	PUBLIC UTILITIES COMMISSION		
4	Conservation Administration Fund 0966		
5	Initiative: Provides funds for 2 Utility Analyst positions and general operating expenses.		
6	OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
7	POSITIONS - LEGISLATIVE COUNT	2.000	2.000
8	Personal Services	\$167,106	\$236,277
9	All Other	\$15,087	\$13,599
10			
11	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$182,193</u>	<u>\$249,876</u>
12	Conservation Administration Fund 0966		
13	Initiative: Provides funds for consultant services to meet additional report requirements.		
14	OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
15	All Other	\$275,000	\$0
16			
17	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$275,000</u>	<u>\$0</u>
18	PUBLIC UTILITIES COMMISSION		
19	DEPARTMENT TOTALS	2007-08	2008-09
20			
21	OTHER SPECIAL REVENUE FUNDS	\$457,193	\$249,876
22			
23	DEPARTMENT TOTAL - ALL FUNDS	<u>\$457,193</u>	<u>\$249,876</u>
24	SECTION TOTALS	2007-08	2008-09
25			
26	OTHER SPECIAL REVENUE FUNDS	\$472,193	\$249,876
27			
28	SECTION TOTAL - ALL FUNDS	<u>\$472,193</u>	<u>\$249,876</u>
29			
30	Amend the bill by relettering or renumbering any nonconsecutive Part letter or		
31	section number to read consecutively.		

COMMITTEE AMENDMENT

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SUMMARY

This amendment is the minority report. The amendment includes the changes to the bill contained in the majority report and makes the following additional changes: it changes the effective date of the Energy and Carbon Savings Trust from October 1, 2008 to January 15, 2008; it requires initial appointments to the Maine Energy Conservation Board to be made no later than February 15, 2008; it adds requirements that the Public Utilities Commission, the Department of Environmental Protection and the Energy and Carbon Savings Trust submit reports to the Legislature related to the implementation of the Regional Greenhouse Gas Initiative Act of 2007 and energy efficiency programs; and it adds an appropriations and allocations section.

FISCAL NOTE REQUIRED
(See attached).



123rd MAINE LEGISLATURE

LD 1851

LR 2605(03)

An Act To Establish the Regional Greenhouse Gas Initiative Act of 2007

Fiscal Note for Bill as Amended by Committee Amendment "B"
 Committee: Natural Resources
 Fiscal Note Required: Yes

Fiscal Note

	2007-08	2008-09	Projections 2009-10	Projections 2010-11
Appropriations/Allocations				
Other Special Revenue Funds	\$472,193	\$249,876	\$803,102	\$803,102
Revenue				
Other Special Revenue Funds	\$0	\$0	\$16,062,040	\$16,062,040
Transfers				
Other Special Revenue Funds	\$0	\$0	\$0	\$0

Fiscal Detail and Notes

This bill establishes a statewide carbon dioxide cap and trade program for fossil fuel fired electrical generating units within the state. It also authorizes the sale of carbon dioxide emission allowances and creates an Energy and Carbon Savings Trust effective October 1, 2008. The sale of carbon dioxide offset allowances will be deposited as dedicated revenue in the Energy and Carbon Savings Trust Fund. The specific amount and timing of the collection of the Other Special Revenue Funds revenue will depend on when the first auction takes place and the negotiated price per carbon dioxide emission allowance. Both are unknown at this time but the revenue could be collected at the end of fiscal year 2008-09 or beginning in fiscal year 2009-10.

Based on the assumption that allowances could trade at \$3 per ton, the estimated annual revenue would be \$16,062,040 beginning in fiscal year 2009-10, of which not more than 5% or \$803,102 would be available for administrative costs for the DEP to administer allowance auctions, PUC-related activities of the Trust and the Maine Energy Conservation Board and for the AG for enforcement activities. This legislation requires initial appointments to the Maine Energy Conservation Board be made no later than February 15, 2008 and allows the Maine Energy Conservation Board to hire staff and apply to the PUC and the Energy and Carbon Savings Trust for funding to support such staff. It allows the Board to expend up to 1% of the Conservation Fund for staff services, which is estimated to be approximately \$130,000 for fiscal year 2007-08, \$160,000 for fiscal year 2008-09 and \$170,000 in fiscal year 2009-10. It also provides up to \$100,000 annually from Trust Fund revenue to fund research approved by the DEP for the development of new categories of carbon dioxide emissions offset projects.

This legislation authorizes a temporary transfer of up to \$175,000 of funds from the PUC's Conservation Fund for use by the Energy and Carbon Savings Trust. It further provides for repayment of such funds as soon as sufficient funds have accumulated in the Energy and Carbon Savings Trust Fund. It also modifies existing assessment provisions of the PUC to achieve additional energy efficiency and demand reduction and exempts certain transmission and sub-transmission classes of customers from paying certain assessments.

The bill includes an additional Other Special Revenue Funds allocation of \$182,193 to the PUC in fiscal year 2007-08 and \$249,876 in fiscal year 2008-09 to provide funds for two Utility Analyst positions to assist in meeting the requirements of this legislation. The PUC is required to prepare and submit three extensive reports, including a preliminary draft of the triennial energy efficiency and conservation plan. Included in this bill is an additional Other Special Revenue Funds allocation to the PUC of \$275,000 in fiscal year 2007-08 to permit payment for consultant services to assist with the additional reporting requirements and other ongoing responsibilities.

The Public Advocate within the Executive Department will receive an Other Special Revenue Funds allocation of \$15,000 in fiscal year 2007-08 for contractual services to meet study requirements set forth in the bill.