

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1350

H.P. 951

House of Representatives, March 31, 2009

An Act To Establish the Maine Transmission Mitigation Trust Fund

(EMERGENCY)

Reference to the Committee on Utilities and Energy suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MARTIN of Eagle Lake.
Cosponsored by Senator JACKSON of Aroostook and
Representatives: BRIGGS of Mexico, CLARK of Millinocket, HILL of York, WALSH INNES
of Yarmouth, SMITH of Monmouth, SUTHERLAND of Chapman, TREAT of Hallowell,
TRINWARD of Waterville, WATSON of Bath.

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§1652. Rate of tax

An excise tax of \$4.25 per megawatt-hour of electricity transmitted over a transmission line is levied upon the transmission line owner and imposed at the point where the megawatt-hour of electricity is placed on the transmission line.

§1653. Transmission line owner reports of transmission and payment of taxes

A transmission line owner shall keep, as a part of the transmission line owner's permanent records, a record of all megawatt-hours transmitted over high-voltage electric transmission property and the point where each megawatt-hour of electricity is first placed on the high-voltage electric transmission property. These records must be open for inspection by the State Tax Assessor at all times. A transmission line owner shall, on or before the last day of each month, render a report to the State Tax Assessor stating the number of megawatt-hours transmitted by the transmission line owner during the preceding calendar month on forms to be furnished by the State Tax Assessor and, at the same time, shall pay to the State Tax Assessor the tax under section 1652 on all megawatt-hours reported as transmitted over high-voltage electric transmission property. If it appears to the State Tax Assessor from an inspection of records or otherwise that an additional tax is due or overpayment of tax has been made, additional assessments or refunds must be made by the State Tax Assessor to the transmission line owner.

§1654. Contributions; Maine Transmission Mitigation Trust Fund

The State Tax Assessor shall determine annually the total amount of tax revenue collected under this chapter. The State Tax Assessor shall deduct the cost of administering the transmission line tax under section 1652 from those revenues and report the remainder to the Treasurer of State, who shall credit that amount to the Maine Transmission Mitigation Trust Fund established in Title 35-A, section 3218.

PART B

Sec. B-1. 5 MRSA §12004-G, sub-§30-D is enacted to read:

30-D.

<u>Public Utilities</u>	<u>Maine Transmission</u>	<u>Not Authorized</u>	<u>35-A MRSA §3218</u>
	<u>Mitigation Trust</u>		

Sec. B-2. 35-A MRSA §3218 is enacted to read:

§3218. Maine Transmission Mitigation Trust Fund

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

A. "Customer" means a customer of the State's transmission and distribution utilities.

B. "Trust" means the Maine Transmission Mitigation Trust established in subsection 2.

1 C. "Trust fund" means the Maine Transmission Mitigation Trust Fund established in
2 subsection 2.

3 D. "Trustee" means a trustee of the trust.

4 **2. Establishment of trust; trust fund.** The Maine Transmission Mitigation Trust
5 and the Maine Transmission Mitigation Trust Fund are established to support the goal of
6 mitigating the impact of transmission lines in this State. The trust fund is established as a
7 nonlapsing fund administered by the trust for the purposes established in this section.
8 The trust is authorized to receive, and shall deposit in the trust fund and expend in
9 accordance with this section, revenue resulting from the transmission line tax pursuant to
10 Title 36, section 1652. The trust fund may not be used for any other purpose, and money
11 in the trust fund is considered to be held in trust for the purposes of benefiting customers.

12 A. The commission shall appoint 3 trustees.

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

16 C. A trustee has a fiduciary duty to customers in the administration of the trust fund.
17 Upon accepting appointment as a trustee, each trustee must acknowledge the
18 fiduciary duty to use the trust funds only for the purposes set forth in this section.

19 D. The trustees shall ensure that the goals and objectives of the trust, as established
20 in this section and in rules adopted by the trust, are carried out.

21 **3. Trust inviolability.** The trustees may take legal action in the name of the trust to
22 oppose efforts to reduce, impair, postpone or terminate the amount of revenues arising
23 from the transmission line tax established by Title 36, section 1652.

24 The State pledges to, contracts with, and agrees with the trustees and customers that
25 neither the State nor any of its agencies, including the commission, may limit, alter,
26 amend, reduce or impair the trust, its funds or any rights under the trust or ownership of
27 the trust or security interest in the trust. The State acknowledges that such owners,
28 holders and trustees may and will rely on this pledge, contract and agreement and that any
29 such limitation, alteration, amendment, reduction or impairment without adequate
30 provision will irreparably harm such owners, holders and trustees.

31 **4. Money invested.** Any revenue received from the transmission line tax pursuant to
32 Title 36, section 1652 is the property of the trust and must be deposited in the trust fund.
33 Money in the trust fund not currently needed to meet obligations under Title 36, section
34 1654 or for the purposes of this section must be deposited with the Treasurer of State to
35 the credit of the trust fund and may be invested as provided by law. Interest on these
36 investments must be credited to the trust fund. The State may not assess any indirect
37 charges on any revenue received from the transmission line tax pursuant to this section.

38 **5. Administration of trust fund; expenditures.** The trust fund must be
39 administered in accordance with this subsection.

40 A. On January 1st of each year, the trustees shall distribute 20% of the trust fund, up
41 to \$10,000,000, to municipalities that have submitted winning bids seeking funding

1 for projects to install underground utility infrastructure. The remaining money in the
2 trust fund must be distributed to each customer in proportion to that customer's
3 purchases of electricity transmitted over the State's transmission and distribution
4 utilities.

5 B. No more than 5% of trust fund receipts in any one year may be used for the total
6 administrative costs of the trust.

7 C. The trustees shall adopt rules for establishing and administering the trust, the trust
8 fund and its programs. These rules must include provisions for the expenditure of
9 funds, including, but not limited to, the development of program budgets, criteria for
10 selection of municipal underground utility infrastructure projects and the process for
11 project selection and approval. Rules adopted pursuant to this subsection are major
12 substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

13 **Emergency clause.** In view of the emergency cited in the preamble, this
14 legislation takes effect July 1, 2009.

15 **SUMMARY**

16 This bill imposes a state excise tax on certain high-voltage electric transmission
17 property. This bill also creates the Maine Transmission Mitigation Trust, which manages
18 the Maine Transmission Mitigation Trust Fund. The revenue from the imposition of the
19 state excise tax on certain high-voltage electric transmission property is deposited in the
20 trust fund. The trustees of the trust shall distribute 20% of the trust fund, up to
21 \$10,000,000, annually to municipalities that have submitted winning bids for projects to
22 install underground utility infrastructure. The remainder of the trust fund must be paid to
23 Maine electricity ratepayers in proportion to each customer's purchases of electricity
24 transmitted over the State's transmission and distribution utilities.