

# MAINE STATE LEGISLATURE

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**MAJORITY**

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**ENERGY, UTILITIES AND TECHNOLOGY**

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**STATE OF MAINE**

**SENATE**

**129TH LEGISLATURE**

**FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "f" to S.P. 565, L.D. 1711, Bill, "An Act To Promote Solar Energy Projects and Distributed Generation Resources in Maine"

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

**'PART A**

**Sec. A-1. 35-A MRSA §3201, sub-§11-A** is enacted to read:

**11-A. Investor-owned transmission and distribution utility.** "Investor-owned transmission and distribution utility" has the same meaning as in section 3104, subsection 1, paragraph A.

**Sec. A-2. 35-A MRSA §3201, sub-§13-A** is enacted to read:

**13-A. Nameplate capacity.** "Nameplate capacity" means the installed or rated capacity of a power generator.

**Sec. A-3. 35-A MRSA §3209-A**, as amended by PL 2019, c. 16, §1, is further amended to read:

**§3209-A. Net energy billing**

The commission may adopt or amend rules governing net energy billing. Rules adopted or amended under this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. ~~"Net energy billing" means a billing and metering practice under which a customer is billed on the basis of the difference between the kilowatt hours delivered by a transmission and distribution utility to the customer over a billing period and the kilowatt hours delivered by the customer to the transmission and distribution utility over the billing period, taking into account accumulated unused kilowatt hour credits from the previous billing period.~~

**1. Definitions.** As used in this section, the following terms have the following meanings.

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1       A. "Customer" means a customer of a transmission and distribution utility in the  
2       State.

3       B. "Distributed generation resource" means an electric generating facility that uses a  
4       renewable fuel or technology under section 3210, subsection 2, paragraph B-3 and is  
5       located in the service territory of a transmission and distribution utility in the State.

6       C. "Net energy billing" means a billing and metering practice under which a  
7       customer is billed on the basis of the difference between the kilowatt-hours delivered  
8       by a transmission and distribution utility to the customer over a billing period and the  
9       kilowatt-hours delivered by the customer to the transmission and distribution utility  
10       over the billing period, taking into account accumulated unused kilowatt-hour credits  
11       from the previous billing period.

12       2. Financial interest required. The commission shall allow a customer to  
13       participate in net energy billing if the customer has a financial interest in a distributed  
14       generation resource or in a generation resource that has a net energy billing arrangement  
15       on the effective date of this section, including facility ownership, a lease agreement or a  
16       power purchase agreement.

17       3. Shared financial interest for investor-owned utility customers; limitation.  
18       Multiple customers of an investor-owned transmission and distribution utility that have  
19       distinct billing accounts with that utility may share a financial interest in a distributed  
20       generation resource under subsection 2. Any number of customers of an investor-owned  
21       transmission and distribution utility with a shared financial interest in a distributed  
22       generation resource may participate in net energy billing, except that the number of  
23       eligible customers or meters is limited to 10 for a shared financial interest in a distributed  
24       generation resource located in the service territory of an investor-owned transmission and  
25       distribution utility located in an area administered by the independent system  
26       administrator for northern Maine or any successor of the independent system  
27       administrator for northern Maine unless the commission determines that the utility's  
28       billing system can accommodate more than 10 accounts or meters for the purpose of net  
29       energy billing.

30       4. System size. The nameplate capacity of a distributed generation resource that  
31       may be used for net energy billing must be less than 5 megawatts, except that, if a  
32       municipality is the customer participating in net energy billing, the nameplate capacity of  
33       a distributed generation resource located in that municipality that may be used for the net  
34       energy billing may be 5 megawatts or more, as long as less than 5 megawatts of metered  
35       electricity from the resource is used for net energy billing.

36       Sec. A-4. 35-A MRSA §3209-B is enacted to read:

37       §3209-B. Commercial and institutional net energy billing

38       The commission shall establish by rule, in accordance with this section, a net energy  
39       billing program for commercial and institutional customers of investor-owned utilities.

40       1. Definitions. As used in this section, the following terms have the following  
41       meanings.

- 1           A. "Commercial and institutional net energy billing program" or "program" means  
2           the net energy billing program established pursuant to this section.
- 3           B. "Commercial or institutional customer" or "customer" means a nonresidential  
4           customer of an investor-owned transmission and distribution utility in the State.
- 5           C. "Distributed generation resource" has the same meaning as in section 3209-A,  
6           subsection 1. paragraph B.
- 7           D. "Net energy billing" means the system of bill credits available under the program  
8           as described in subsection 5.
- 9           2. Financial interest. The program must allow a commercial or institutional  
10           customer to participate in the program if the customer has a financial interest in a  
11           distributed generation resource, including facility ownership, a lease agreement or a  
12           power purchase agreement.
- 13           3. System size. The nameplate capacity of a distributed generation resource that  
14           may be used for net energy billing under this section must be less than 5 megawatts.
- 15           4. Shared financial interest; limitation. Multiple commercial or institutional  
16           customers that have distinct billing accounts with an investor-owned transmission and  
17           distribution utility may share a financial interest in a distributed generation resource  
18           under subsection 2. Any number of commercial or institutional customers may  
19           participate in net energy billing with a shared interest in a distributed generation resource,  
20           except that the number of customers or meters is limited to 10 for a shared interest in a  
21           distributed generation resource located in the service territory of an investor-owned  
22           transmission and distribution utility located in an area administered by the independent  
23           system administrator for northern Maine or any successor of the independent system  
24           administrator for northern Maine unless the commission determines that the utility's  
25           billing system can accommodate more than 10 accounts or meters for the purpose of net  
26           energy billing.
- 27           5. Tariff rate; bill credits. The commission shall establish by rule a tariff rate for  
28           customers participating in the program. The initial tariff rate must be established no later  
29           than December 1, 2019.
- 30           A. The tariff rate must equal the standard offer service rate established under section  
31           3212 that is applicable to the customer receiving the credit plus 75% of the effective  
32           transmission and distribution rate for the rate class that includes the smallest  
33           commercial customers of the investor-owned transmission and distribution utility.
- 34           B. A customer participating in the program must receive for electricity delivered to  
35           the electric grid from a distributed generation resource in which the customer has a  
36           financial interest a bill credit based on the tariff rate to apply against the costs of  
37           electricity delivered to the customer by the investor-owned transmission and  
38           distribution utility.
- 39           C. A bill credit under the program as described in paragraph B may be applied to any  
40           portion of a customer's electricity bill. Credits that remain unused at the end of any  
41           billing period may be carried forward for up to one year from the end of that billing  
42           period.

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1 D. A customer participating in the program who remains eligible to participate in the  
2 program must be allowed to receive a bill credit based on the tariff rate for a period of  
3 no less than 20 years from the date of first receiving the credit.

4 6. Rules. The commission shall adopt rules to implement this section. Rules adopted  
5 under this subsection are routine technical rules as defined in Title 5, chapter 375,  
6 subchapter 2-A.

7 **Sec. A-5. Reports.** By December 1, 2021, the Public Utilities Commission shall  
8 provide a report to the joint standing committee of the Legislature having jurisdiction  
9 over energy matters on the status of metering and billing system capabilities for  
10 investor-owned transmission and distribution utilities in the State. The report must  
11 include capabilities of systems to reliably offer time-differentiated rates for delivery and  
12 supply of energy; the commission's level of confidence in metering and billing systems to  
13 provide accurate information to utilities, consumers and the commission; the capacity of  
14 systems to accommodate rates for bidirectional flow of power for customers with  
15 distributed energy resources; and the degree to which systems are being used to achieve  
16 the smart grid policy goals under the Maine Revised Statutes, Title 35-A, section 3143.  
17 The commission shall report on any changes to rates or rules or other changes the  
18 commission intends to adopt to increase the effectiveness of systems under this paragraph  
19 and may make recommendations to the joint standing committee.

20 The joint standing committee of the Legislature having jurisdiction over energy  
21 matters may report out legislation based on any recommendations under this section to  
22 the Second Regular Session of the 130th Legislature.

23 **Sec. A-6. Evaluation.** The Public Utilities Commission shall evaluate net energy  
24 billing under the Maine Revised Statutes, Title 35-A, section 3209-A when the total  
25 amount of generation capacity involved in net energy billing in the State reaches 10% of  
26 the total maximum load of transmission and distribution utilities in the State or 3 years  
27 after the effective date of this Act, whichever comes first. The commission shall evaluate  
28 the effectiveness of net energy billing in achieving state policy goals and providing  
29 benefits to ratepayers and submit a report to the joint standing committee of the  
30 Legislature having jurisdiction over energy matters with its findings. The joint standing  
31 committee may report out legislation based on the recommendations.

32 **Sec. A-7. Rules.** Notwithstanding Public Law 2019, chapter 16, section 2, the  
33 Public Utilities Commission may adopt rules prior to July 1, 2020 to implement the  
34 changes made by this Act to Title 35-A, section 3209-A. Notwithstanding Title 35-A,  
35 section 3209-A, rules adopted for this purpose prior to July 1, 2020 are routine technical  
36 rules, as defined in Title 5, chapter 375, subchapter 2-A.

37 **PART B**

38 **Sec. B-1. 35-A MRSA c. 34-C is enacted to read:**

39 **CHAPTER 34-C**

40 **DISTRIBUTED GENERATION**

1 **§3481. Definitions**

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

4 **1. Bid rate.** "Bid rate" means the rate proposed under a qualified bid for the output  
5 of a distributed generation resource in response to a competitive procurement solicitation.

6 **2. Clearing price.** "Clearing price" means the highest bid rate accepted by the  
7 commission for a procurement under this chapter.

8 **3. Commercial or institutional customer.** "Commercial or institutional customer"  
9 means a nonresidential customer of an investor-owned transmission and distribution  
10 utility in the State.

11 **4. Credit rate.** "Credit rate" means the per-kilowatt-hour rate used to calculate the  
12 monetary value of a distributed generation resource. The credit rate is equal to the  
13 per-kilowatt-hour rate in the long-term contracts entered into between a standard buyer or  
14 a transmission and distribution utility and a project sponsor and must be the same for all  
15 subscribers of a particular shared distributed generation resource.

16 **5. Distributed generation resource.** "Distributed generation resource" means an  
17 electric generating facility with a nameplate capacity of less than 5 megawatts that uses a  
18 renewable fuel or technology under section 3210, subsection 2, paragraph B-3 and is  
19 located in the service territory of a transmission and distribution utility in the State.

20 **6. Energy storage system.** "Energy storage system" means a commercially  
21 available technology that uses mechanical, chemical or thermal processes for absorbing  
22 energy and storing it for a period of time for use at a later time.

23 **7. Investor-owned transmission and distribution utility.** "Investor-owned  
24 transmission and distribution utility" has the same meaning as in section 3104, subsection  
25 1, paragraph A.

26 **8. Kilowatt.** "Kilowatt" means 1,000 watts, measured in alternating current.

27 **9. Kilowatt-hour.** "Kilowatt-hour" means one kilowatt of power sustained for one  
28 hour.

29 **10. Megawatt.** "Megawatt" means 1,000,000 watts, measured in alternating current.  
30 When used in reference to a generation resource, a megawatt is measured by the  
31 generator's nameplate capacity.

32 **11. Nameplate capacity.** "Nameplate capacity" means the installed or rated  
33 capacity of a power generator.

34 **12. Offer.** "Offer" means a proposal to install and operate a distributed generation  
35 resource of a specified capacity in exchange for a contract with a standard buyer  
36 designated pursuant to section 3483.

37 **13. Output.** "Output" means energy, capacity, renewable energy certificates and all  
38 other environmental attributes and market products that are available or may become  
39 available from a distributed generation resource.

1 14. Project sponsor. "Project sponsor" means an entity or its successor or assignee  
2 that owns or operates:

3 A. A shared distributed generation resource on behalf of subscribers; or

4 B. A commercial or institutional distributed generation resource.

5 15. Qualified bid. "Qualified bid" means a bid to supply the output from a  
6 distributed generation resource that the commission determines meets the minimum  
7 qualification requirements established by rule.

8 16. Rate. "Rate" means a price per kilowatt-hour of delivered energy as measured  
9 by a revenue grade meter, as defined by the commission by rule, at a distributed  
10 generation resource's point of connection to the electric grid.

11 17. Shared distributed generation resource. "Shared distributed generation  
12 resource" means a distributed generation resource that is selected in a procurement under  
13 section 3486 the beneficial use of the output of which is owned by or allocated to  
14 subscribers.

15 18. Subscriber. "Subscriber" means a retail customer of a transmission and  
16 distribution utility that owns or has the right to a subscription and that has identified an  
17 account to which the subscription is attributed.

18 19. Subscription. "Subscription" means a proportional interest in a shared  
19 distributed generation resource. Each subscription must be sized to represent at least one  
20 kilowatt of the resource's generating capacity.

21 **§3482. Specific measures to support distributed generation**

22 1. Procurements. The commission shall procure distributed generation resources in  
23 the shared distributed generation and commercial or institutional distributed generation  
24 market segments using the targets and procurement methods described in this chapter.

25 2. Participation in wholesale markets. The commission and investor-owned  
26 transmission and distribution utilities shall take all commercially reasonable steps to  
27 promote the participation of distributed generation resources in serving the State's energy  
28 needs and in the wholesale electricity, capacity and ancillary service markets.

29 3. Change in tax treatment. If a change in federal tax laws, regulations or policy  
30 materially modifies the burdens or costs to customers or utilities associated with the  
31 procurements under this chapter, the commission shall issue a report to the joint standing  
32 committee of the Legislature having jurisdiction over energy matters describing the  
33 impact of these changes and recommending any actions necessary to maintain the  
34 benefits of the procurements under this chapter.

35 4. Timely interconnection. The commission shall ensure the timely review and  
36 execution of interconnection requests and the timely completion of work needed for the  
37 safe, reliable and cost-effective interconnection of distributed generation resources. The  
38 commission shall establish by rule requirements for investor-owned transmission and  
39 distribution utilities to interconnect distributed generation resources to the grid and  
40 financial penalties to ensure timely actions by those utilities to achieve the procurements  
41 under sections 3485 and 3486.

1 **§3483. Standard buyer**

2 A standard buyer designated pursuant to this section shall aggregate the output of the  
3 portfolio of distributed generation resources procured pursuant to this chapter and sell or  
4 use the output of the resources in a manner that maximizes the value of the portfolio of  
5 the resources to all ratepayers.

6 **1. Designation of standard buyer.** Each investor-owned transmission and  
7 distribution utility serves as the standard buyer in its service territory, except that the  
8 commission may designate another entity to serve as the standard buyer if the  
9 commission determines that the designation is in the best interest of customers in the  
10 service territory. The commission shall oversee the activities of the standard buyer to  
11 ensure compliance with this chapter.

12 **2. Obligations of standard buyer.** A standard buyer shall:

13 A. Serve as counterparty to long-term contracts with project sponsors pursuant to  
14 section 3486;

15 B. If the standard buyer is not an investor-owned transmission and distribution  
16 utility, reimburse an investor-owned transmission and distribution utility for any bill  
17 credit or payment to a subscriber or project sponsor pursuant to section 3486;

18 C. Establish reasonable measurement and verification requirements for distributed  
19 generation resources;

20 D. Provide information needed to allocate costs and benefits pursuant to subsection  
21 3; and

22 E. Provide aggregate data regarding the output of distributed generation resources  
23 pursuant to sections 3485 and 3486.

24 **3. Standard buyer cost allocation.** The commission and each standard buyer  
25 designated pursuant to subsection 1 shall implement a transparent mechanism to track and  
26 recover or distribute the eligible costs and benefits under this subsection incurred by  
27 procuring distributed generation resources pursuant to this chapter. These eligible costs  
28 and benefits must be reviewed by the commission annually and allocated to and  
29 recovered from customers of the investor-owned transmission and distribution utility in  
30 whose territory the distributed generation resource is located through a process  
31 established by rule of the commission. The process established by the commission must  
32 be similar to the allocation of costs and benefits of long-term energy contracts in section  
33 3210-F. Eligible costs and benefits include:

34 A. Incremental costs of serving as the standard buyer;

35 B. All payments or bill credits to customers, subscribers and project sponsors under  
36 each procurement pursuant to sections 3485 and 3486; and

37 C. All revenue from sale of the output of distributed generation resources procured  
38 pursuant to this chapter.

39 **4. Entities other than the standard buyer.** The commission shall ensure that the  
40 rules and procedures established under this chapter provide opportunities for entities



1 other than the standard buyer to aggregate and sell the output of distributed generation  
2 resources in the applicable markets.

3 **§3484. Procurement methods**

4 **1. Initial competitive procurement.** The following standards and methods apply to  
5 the initial competitive procurement of distributed generation resources associated with  
6 commercial or institutional customer accounts under section 3485 and of shared  
7 distributed generation resources under section 3486:

8 A. On or before January 1, 2020, the commission shall adopt rules for each initial  
9 competitive solicitation of the first block of distributed generation resources under  
10 sections 3485 and 3486. The rules must include the form of contract provided under  
11 subsection 7;

12 B. The commission shall accept bids for 30 calendar days beginning on or before  
13 July 1, 2020 and review the bids based on the requirements under subsections 4, 5  
14 and 6. The commission may select qualified bids in excess of the first block if the  
15 commission determines that the incremental procurement is in the public interest. If  
16 the commission selects qualified bids in excess of the first block, the commission  
17 shall reduce the quantity procured in subsequent block procurements. If the  
18 commission selects bids totaling less than the first block in the initial competitive  
19 procurement, the quantity procured in subsequent block procurements must increase  
20 by the difference between the first block and the number of megawatts submitted in  
21 the initial competitive procurement. If pursuant to subsections 4 and 5 no bids are  
22 accepted, the commission shall:

23 (1) Conduct a new initial competitive procurement under this subsection within 9  
24 months; and

25 (2) Study the reasons for the inability of the procurement to secure the target  
26 amount and submit a report of its findings and any recommended legislation to  
27 the joint standing committee of the Legislature having jurisdiction over energy  
28 matters;

29 C. The commission shall issue a public notice of the initial competitive procurement  
30 results no later than 30 calendar days after the bid acceptance period has ended. The  
31 public notice must include the name, sponsor, size and location of each selected  
32 project and the awarded contract price; and

33 D. The applicable standard buyer shall enter into a contract with the selected project  
34 or projects for a term of 20 years at a specified contract rate equal to the clearing  
35 price to be paid as a bill credit to the commercial or institutional customer or the  
36 subscribers of a shared distributed generation resource, as applicable.

37 **2. Subsequent block contract rate procurements.** Subsequent to the initial  
38 competitive procurement under subsection 1, the remaining procurement under sections  
39 3485 and 3486 must proceed pursuant to the following:

40 A. The commission shall procure 4 additional blocks of contracted distributed  
41 generation resources to meet the overall procurement goal specified in section 3485  
42 for commercial or institutional distributed generation resources and in section 3486

1 for shared distributed generation resources. Each procurement block size equals 1/4  
2 of the difference between the overall procurement goal and the quantity procured  
3 under subsection 1. These blocks are numbered sequentially, starting with 2.  
4 Subsequent procurements are assigned to a particular block, starting with  
5 procurement block 2 and finishing with procurement block 5;

6 B. The block contract rate for procurement block 2 must equal 97% of the clearing  
7 price determined in subsection 1. Each successive procurement block must have a  
8 block contract rate equal to 97% of the preceding block;

9 C. Block 2 must be opened immediately following the initial competitive  
10 procurement for bids qualifying under subsection 4;

11 D. The applicable standard buyer shall enter into a contract with each qualified  
12 project for a term of 20 years at a specified contract rate equal to the block contract  
13 rate of the procurement block then open and paid as a bill credit to the commercial or  
14 institutional customer or the subscribers of a shared distributed generation resource,  
15 as applicable;

16 E. Each contract awarded pursuant to this subsection reduces the available capacity  
17 in the current procurement block. If an awarded contract exceeds the remaining  
18 capacity of its procurement block, then that block is closed and the next block opened  
19 and the contract rate is set at the block contract rate for the block filled by this award  
20 and any overprocurement in one block is subtracted from the quantity available in the  
21 next block. If a contract award exceeds the capacity of procurement block 5, the  
22 entire quantity of the offer is awarded at the block contract rate for procurement  
23 block 5 and no further contracts may be awarded except under subsection 7; and

24 F. The commission may by rule establish incentives in the procurement of  
25 distributed generation resources including, but not limited to, incentives to support  
26 resources that pair with energy storage systems, development of dual-use projects,  
27 siting of resources that provide locational benefits to the distribution system and other  
28 siting criteria developed in consultation with the Department of Environmental  
29 Protection and the Department of Agriculture, Conservation and Forestry.

30 3. Failure to complete timely procurement. If any procurement block remains  
31 unfilled for more than 12 months from the time the previous block was filled;

32 A. The commission shall suspend procurements under subsection 2 pending  
33 completion of the process described in this subsection;

34 B. The commission shall review and may amend the rules adopted under subsection  
35 1, paragraph A or the standard contract under subsection 7 for a new competitive  
36 procurement of long-term contracts for the output of at least the first block of  
37 distributed generation resources as part of the procurement goal in section 3485,  
38 subsection 1 or section 3486, subsection 1. The commission shall publish any  
39 amendments and a new bid acceptance period for not less than 6 months and not  
40 more than 9 months;

41 C. The commission shall accept bids for 30 calendar days from the date established  
42 in paragraph B and review the bids based on the requirements set forth in subsections  
43 4, 5 and 6 and the adopted rules. The commission may select qualified bids in excess

1 of the first block if the commission determines that the incremental procurement is in  
2 the public interest and the incremental procurement reduces the quantity procured in  
3 subsequent procurements;

4 D. The commission shall issue a public notice of the procurement results no later  
5 than 30 calendar days after the bid acceptance period under paragraph C has ended.  
6 The public notice must include the name, sponsor, size and location of each selected  
7 project and the awarded contract price;

8 E. The applicable standard buyer shall enter into a contract with the project or  
9 projects selected under paragraph C for a term of 20 years at a specified contract rate  
10 equal to the highest selected offer rate as adjusted under subsection 6 to be paid as a  
11 bill credit to the commercial or institutional customer or the subscribers of a shared  
12 distributed generation resource, as applicable;

13 F. The commission shall reopen procurements under subsection 2 unless no contracts  
14 are awarded under paragraph E. The quantity procured under paragraph C must be  
15 subtracted from the current procurement block and the block contract rate for that  
16 procurement block must be set at the clearing price set under paragraph E. The block  
17 contract rate for each subsequent procurement block must be set at 97% of the newly  
18 established rate for the preceding procurement block; and

19 G. If no contracts are awarded under paragraph E, the commission shall:  
20 (1) Conduct another competitive solicitation under this subsection with the bid  
21 acceptance period to open approximately 12 months after the bid acceptance  
22 period determined in paragraph B; and  
23 (2) Examine the reasons for the inability of the procurement to secure the target  
24 amount and submit a report of its findings and any recommended legislation to  
25 the joint standing committee of the legislature having jurisdiction over energy  
26 matters.

27 **4. Bid or offer qualification.** The commission shall establish minimum  
28 requirements for bids or offers in a solicitation under this section, including:

- 29 A. Demonstration of site control;  
30 B. A fully executed interconnection service agreement with an investor-owned  
31 transmission and distribution utility;  
32 C. Demonstration that all required federal, state and local approvals and  
33 nonministerial permits for the project have been obtained. For the purposes of this  
34 paragraph, "nonministerial permit" means a permit for which one or more officials  
35 consider various factors and exercise discretion in deciding whether to issue or deny  
36 the permit;  
37 D. The capacity to make a financial assurance deposit at the time a contract is  
38 signed; and  
39 E. The following requirements based on the procurement type:  
40 (1) For a commercial or institutional distributed generation resources  
41 procurement, if a participating commercial or institutional customer is not the

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1 party making the bid, an agreement from a customer that would receive bill  
2 credits under section 3485, subsection 2; and

3 (2) For a shared distributed generation resources procurement, demonstration of  
4 experiencing fulfilling the obligation to subscribers of shared distributed  
5 generation resources.

6 The commission may by rule require a bidder to pay a reasonable bidding fee to defray  
7 administrative costs.

8 **5. Ensuring competition.** Prior to each solicitation under subsections 1 to 3, the  
9 commission shall establish standards to ensure that the solicitation has a sufficient  
10 number of unique bidders and quantity of qualified bids to be determined competitive. If  
11 the commission concludes that a solicitation is not competitive, the commission may  
12 reduce the target procurement quantities to produce the greatest quantity that may be  
13 procured consistent with this subsection and shall defer to subsequent solicitations the  
14 capacity reduced in the solicitation.

15 **6. Bid selection.** Following a review of bids received in the solicitations under  
16 subsections 1 to 3, and after any adjustment to the target quantity under subsection 5, the  
17 commission shall select one or more winning bids that, in the aggregate, meet the target  
18 procurement quantity. If there are multiple qualified bids at the same offer rate, the  
19 commission shall give preference to the qualified bid or bids that minimize the cost to the  
20 standard buyers or, if there is no difference in cost, to the bid that was submitted first.

21 In evaluating bids in a competitive solicitation, the commission shall evaluate a qualified  
22 bid for a project that is located on previously developed or impacted land at 90% of the  
23 offered rate. For the purposes of this subsection, "previously developed or impacted  
24 land" means areas covered by impervious surfaces, capped landfills or brownfield sites as  
25 defined by the Department of Environmental Protection. If a bid under this subsection is  
26 accepted, the contract rate for each accepted bid for a project located on previously  
27 developed or impacted land must be paid a rate equal to the clearing price.

28 **7. Standard contract and milestones.** Prior to a solicitation, the commission shall  
29 provide, in consultation with the standard buyer or standard buyers, a standard contract  
30 that commits the standard buyer and a project sponsor to commercially reasonable  
31 behavior and includes provisions including an interconnection fee list and interconnection  
32 schedule to ensure that the project proceeds to commercial operation on a reasonable  
33 timeline. The standard contracts for all standard buyers must be substantially identical to  
34 the extent commercially reasonable.

35 A qualified project must be commercially operable within 18 months of being awarded a  
36 contract. The commission may grant an extension for good cause. If a project fails to  
37 meet a milestone, the project sponsor is in default and the sponsor's contract must be  
38 cancelled. The capacity associated with a cancelled project must be added to the  
39 currently open procurement block. If procurement block 5 has been filled and  
40 procurements closed, the defaulted quantity must be added to procurement block 5 and  
41 new offers must be accepted under subsection 2.

1 **§3485. Commercial or institutional distributed generation resources procurement**

2 **1. Procurement amounts.** By July 1, 2024, the commission shall procure 125  
3 megawatts of the output of distributed generation resources associated with commercial  
4 or institutional customer accounts by conducting an initial competitive solicitation for the  
5 first block of 25 megawatts pursuant to section 3484 to establish market-based, declining  
6 block contract rates to procure the remaining 100 megawatts.

7 **2. Determination of bill credit.** The bill credit allocated to a commercial or  
8 institutional customer must be based on the total kilowatt-hours of energy production of  
9 the distributed generation resource for the previous month. For each billing month, the  
10 value of the credit must be calculated by multiplying the number of kilowatt-hours by the  
11 contract rate. A payment to a commercial or institutional customer must be credited  
12 against the customer's monthly electricity bill in accordance with section 3487. The  
13 monthly energy production must be determined by a revenue-grade meter installed and  
14 paid for by the participating commercial or institutional customer.

15 **3. Exemption.** A commercial or institutional customer is not considered a public  
16 utility or competitive electricity provider solely as a result of entering into a contract with  
17 a standard buyer under this section.

18 **§3486. Shared distributed generation resources procurement**

19 **1. Procurement amounts.** By July 1, 2024, the commission shall procure 250  
20 megawatts of the output of shared distributed generation resources by conducting an  
21 initial competitive solicitation for the first block of 50 megawatts pursuant to section  
22 3484 to establish market-based, declining block contract rates to procure the remaining  
23 200 megawatts.

24 **2. Payment and minimum subscription.** The project sponsor and subscribers of a  
25 distributed generation resource that receives a contract under this section must receive the  
26 contract rate for the output of a shared distributed generation resource that is fully  
27 subscribed. For any portion not subscribed, the project sponsor must receive the  
28 wholesale rate obtained by the standard buyer for resale of the shared distributed  
29 generation resource output. Requirements for minimum subscriptions include:

30 A. At least 50% of the total nameplate capacity of a shared distributed generation  
31 resource must be subscribed by subscriptions of 25 kilowatts or less or at least 20%  
32 of the total nameplate capacity must be subscribed by subscriptions of 25 kilowatts or  
33 less if subscriptions from a municipality or units of municipal government account  
34 for more than 30% of the total nameplate capacity, unless subscriptions from a  
35 municipality or units of municipal government account for more than 50% of the total  
36 nameplate capacity of a shared distributed generation resource; and

37 B. At least:

38 (1) Ten percent of the total nameplate capacity of a shared distributed generation  
39 resource must be subscribed by households with low or moderate income or by  
40 organizations serving households with low or moderate income if the  
41 subscriptions serve to directly reduce the electricity costs for households with  
42 low or moderate income; or

1           (2) If a municipality or unit of municipal government accounts for more than  
2           50% of the subscriptions to a shared distributed generation resource, 5% of the  
3           total nameplate capacity of the shared distributed generation resource must be  
4           subscribed by households with low or moderate income or by organizations  
5           servicing households with low or moderate income if the subscriptions serve to  
6           directly reduce the electricity costs for households with low or moderate income.

7           Subscriptions from municipalities or units of municipal government may not account for  
8           more than 70% of the nameplate capacity of a shared distributed generation resource. For  
9           the purposes of this subsection, "household with low or moderate income" means a  
10           household that provides proof of participation in a utility, municipal, state or federal  
11           income-based assistance program or a household that provides proof of household  
12           income up to 80% of the median income for the county or metropolitan area where the  
13           household is located.

14           **3. Determination of subscriber bill credit.** The bill credit allocated to each  
15           subscriber from a shared distributed generation resource must be based on the subscriber's  
16           percentage interest of the total production of the shared distributed generation resource  
17           for the previous month. For each billing month, the value of the credit allocated to a  
18           subscriber must be calculated by multiplying the number of kilowatt-hours constituting  
19           the subscriber's share by the contract rate. On a monthly basis, the project sponsor shall  
20           provide to the investor-owned transmission and distribution utility in a standardized and  
21           electronic format a list of subscribers and subscriber information required to calculate the  
22           bill credit to be provided to each subscriber. A credit to a subscriber must be applied  
23           against the subscriber's monthly electricity bill in accordance with section 3487 no later  
24           than one billing month following the month during which the energy was generated by  
25           the shared distributed generation resource. The investor-owned transmission and  
26           distribution utility shall provide a monthly record to the project sponsor of the credit  
27           applied to a subscriber within a month after the credits are applied to the subscriber's bill.

28           The monthly output available for allocation as subscribed or unsubscribed energy must be  
29           determined by a revenue-grade meter installed and paid for by the project sponsor.

30           **4. Exemption.** A project sponsor or subscriber is not considered a public utility or  
31           competitive electricity provider solely as a result of the project sponsor's or subscriber's  
32           interest or participation in a shared distributed generation resource.

33           **5. Renewable energy credits.** Prior to a project sponsor's entering into a contract  
34           with a subscriber under this section, the commission shall provide to the sponsor a  
35           standard disclosure to be distributed by the sponsor to all participating subscribers that  
36           describes the effect of selling the renewable attributes of exported electricity to the  
37           standard buyer and explains how a subscriber may participate in the voluntary renewable  
38           energy credit market. The commission shall establish a mechanism to allow a subscriber  
39           with a share of less than 25 kilowatts to purchase renewable energy credits up to the  
40           amount of and of a substantially equivalent type to that which the subscriber has sold to  
41           the standard buyer at a price equal to 80% of market value.

42           **6. Consumer protection.** The commission shall establish by rule consumer  
43           protection standards to protect subscribers from fraud and other unfair and deceptive  
44           business practices. The commission may impose administrative penalties under chapter

1 15 upon a project sponsor and may order restitution for any party injured by a violation  
2 for which a penalty may be assessed pursuant to chapter 15.

3 The commission through its own counsel or through the Attorney General may apply to  
4 the Superior Court of any county of the State to enforce any lawful order made or action  
5 taken by the commission pursuant to this subsection, and the court may issue any  
6 preliminary or final order that the court determines proper.

7 **7. Disclosures.** Prior to the sale or resale of a subscription in a shared distributed  
8 generation resource or proposed shared distributed generation resource, a project sponsor  
9 selling or reselling the subscription shall provide a disclosure to potential subscribers that  
10 includes the following:

11 A. A good faith estimate of the annual kilowatt-hours to be delivered by the shared  
12 distributed generation resource based on the size of the subscriber's interest;

13 B. A plain language explanation of the terms under which the bill credit under  
14 section 3487 will be calculated;

15 C. A plain language explanation of the contract provisions regulating the disposition  
16 or transfer of the subscription; and

17 D. A plain language explanation of the costs and benefits to the potential subscriber,  
18 based on the subscriber's current usage for the term of the proposed contract.

19 The commission may establish a standard disclosure to be provided to potential  
20 subscribers by a project sponsor to disclose the information under this subsection and  
21 other information as the commission determines necessary to protect the interests of  
22 potential subscribers.

23 **8. Transfer of subscriptions.** A subscriber may transfer or assign a subscription to  
24 the associated project sponsor or to any person or entity that qualifies to be a subscriber in  
25 the shared distributed generation resource. A project sponsor must provide a process for  
26 assignment or transfer of a subscription. A project sponsor may not impose transfer fees  
27 on a subscriber that moves to a different location within the same utility service territory.

28 **9. Project sponsor report.** One year after commercial operation of a shared  
29 distributed generation resource commences, the project sponsor must submit to the  
30 commission a report detailing compliance with this subsection and subsections 3, 5, 7 and  
31 8.

32 **§3487. Bill credits; utility costs paid by project sponsor**

33 **1. Credit assigned to a customer's bill.** If the value of a credit to be applied to a  
34 customer's bill under this chapter is less than the amount owed by the customer at the end  
35 of the applicable billing period, the customer must be billed for the difference between  
36 the amount shown on the bill and the value of the available credit. If the value of the  
37 credit to be applied to a customer's bill under this chapter is greater than the amount owed  
38 by the customer at the end of the billing period, the remaining value of the credit must  
39 carry over from month to month.

40 **2. Utility costs paid by project sponsor.** If a project sponsor pays an investor-  
41 owned transmission and distribution utility's costs associated with billing and collection  
42 from a subscriber, at the request of the project sponsor the utility shall bill the subscriber

1 on behalf of the project sponsor. Costs under this subsection are subject to review by the  
 2 commission.

3 **§3488. Rules**

4 The commission shall adopt rules to implement this chapter. Rules adopted under  
 5 this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

6 **Sec. B-2. Rulemaking timeline.** By January 1, 2020, the Public Utilities  
 7 Commission shall adopt rules in accordance with the Maine Revised Statutes, Title 35-A,  
 8 section 3488 to implement the provisions of Title 35-A, sections 3484, 3485 and 3486.

9 **Sec. B-3. Appropriations and allocations.** The following appropriations and  
 10 allocations are made.

11 **PUBLIC UTILITIES COMMISSION**

12 **Public Utilities - Administrative Division 0184**

13 Initiative: Provides allocation for one Staff Attorney position and 2 Utility Analyst  
 14 positions and associated All Other costs.

15	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2019-20</b>	<b>2020-21</b>
16	POSITIONS - LEGISLATIVE COUNT	3,000	3,000
17	Personal Services	\$309,168	\$428,719
18	All Other	\$25,815	\$22,939
19			
20	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$334,983</b>	<b>\$451,658</b>

21 **Public Utilities - Administrative Division 0184**

22 Initiative: Provides funding for consulting services.

23	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2019-20</b>	<b>2020-21</b>
24	All Other	\$400,000	\$400,000
25			
26	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$400,000</b>	<b>\$400,000</b>

27 **PUBLIC UTILITIES COMMISSION**  
 28 **DEPARTMENT TOTALS**

29		<b>2019-20</b>	<b>2020-21</b>
30	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$734,983</b>	<b>\$851,658</b>
31			
32	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$734,983</b>	<b>\$851,658</b>

33  
 34 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
 35 section number to read consecutively.



**SUMMARY**

This amendment replaces the bill. The amendment:

1. Changes the net energy billing law to:

a. Allow a customer to participate if the customer has a financial interest in a distributed generation resource, which is defined as a generator with a capacity of less than 5 megawatts that uses a renewable resource and is located in the service territory of a transmission and distribution utility in this State;

b. Permit any number of customers of an investor-owned transmission and distribution utility to share the financial interest, except in the northern Maine grid, where the limit is 10, unless the Public Utilities Commission finds the utility system can accommodate a higher number; and

c. Add a new commercial and institutional net energy billing program that provides for a tariff rate for the energy exported by the distributed generation resource that is based on the applicable standard offer rate for the customer plus a percentage of the transmission and distribution utility rate for a specific class of customers;

2. Requires the Public Utilities Commission to report on metering and billing issues to the joint standing committee on utilities and energy and to evaluate net energy billing when certain events occur; and

3. Creates a requirement for the procurement of distributed generation resources by each investor-owned electric utility, or by a separate buyer, if one is designated by the commission. The amendment:

a. Directs procurements of 125 megawatts of output associated with commercial and institutional accounts and 250 megawatts of shared distributed generation resources to be achieved by July 1, 2024;

b. Directs that procurements must be through a competitive bidding process with solicitations for certain blocks of output and contract rates, after the first block, set in declining relation to the previous block;

c. Provides procedures to address cases of under-procurement for any block;

d. Requires subscriptions to certain portions of shared distributed generation resources to satisfy certain minimum requirements related to the types and sizes of subscribers or subscriptions; and

e. Provides for consumer protections and transparency requirements.

4. Adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**

(See attached)



# 129th MAINE LEGISLATURE

LD 1711

LR 1803(02)

## An Act To Promote Solar Energy Projects and Distributed Generation Resources in Maine

Fiscal Note for Bill as Amended by Committee Amendment "A" (S. 295)  
 Committee: Energy, Utilities and Technology  
 Fiscal Note Required: Yes

### Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$734,983	\$851,658	\$863,576	\$875,825
<b>Revenue</b>				
Other Special Revenue Funds	\$734,983	\$851,658	\$863,576	\$875,826

#### Fiscal Detail and Notes

This bill makes changes to the laws regarding net energy billing, adds additional reporting requirements for the Public Utilities Commission (PUC) and creates requirements for the procurement of distributed generation resources. The PUC has indicated that the changes to net energy billing rules and distributed generation requirements of the bill will require additional staff and resources to complete. This bill includes Other Special Revenue Funds allocations of \$334,983 in fiscal year 2019-20 and \$451,658 in fiscal year 2020-21 for two Utility Analyst positions, one Staff Attorney position and associated position costs. The bill also includes ongoing allocations of \$400,000 beginning in fiscal year 2019-20 for contracted consulting services.

The PUC is funded by an assessment set to produce sufficient revenue for the expenditures allocated by the Legislature for operating the PUC. The increased allocations in this bill require a corresponding increase in revenue from the assessment on transmission and distribution utilities. These costs may eventually be passed on to customers through scheduled rate cases.