

MAINE STATE LEGISLATURE

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ROS

Date: 4/12/22

(Filing No. S-546)

REPORT C

ENERGY, UTILITIES AND TECHNOLOGY

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

130TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "C" to S.P. 432, L.D. 1350, "An Act To Expand Maine's Clean Energy Economy"

Amend the bill by striking out the title and substituting the following:

'An Act To Expand Maine's Clean Energy Economy and Reduce Costs'

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

Sec. 1. 10 MRSA §963-A, sub-§10-A, as enacted by PL 2009, c. 372, Pt. D, §4, is amended to read:

10-A. Efficiency Maine project. "Efficiency Maine project" means a project approved by the Efficiency Maine Trust Board, as established in Title 5, section 12004-G, subsection 10-C, to carry out the purposes of Title 35-A, chapter 97 relating to increasing energy efficiency or conservation or to the generation of electric energy or storage of energy.

Sec. 2. 35-A MRSA §3210, sub-§2, ¶A-1, as amended by PL 2019, c. 477, §1, is further amended to read:

A-1. "Alternative compliance payment rate" means a certain dollar amount per kilowatt-hour set by the commission that a competitive electricity provider may pay to the commission to satisfy the portfolio requirements of subsections 3, 3-A, 3-B and 3-C.

Sec. 3. 35-A MRSA §3210, sub-§9, as amended by PL 2021, c. 199, §1, is further amended to read:

9. Alternative compliance payment. The commission shall allow competitive electricity providers to satisfy the portfolio requirements for Class I resources under subsection 3-A, Class IA resources under subsection 3-B and, thermal renewable energy credits under subsection 3-C and Class II resources under subsection 3 through an alternative compliance payment mechanism in accordance with this subsection.

COMMITTEE AMENDMENT

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1 A. The commission shall set the alternative compliance payment ~~rate~~ rates by rule,
 2 which may not be greater than \$50 for the requirements under subsections 3-A, 3-B
 3 and 3-C, and not greater than \$5 for the requirement under subsection 3, and shall
 4 publish the alternative compliance payment ~~rate~~ rates by January 31st of each year. In
 5 setting the ~~rate~~ rates, the commission shall take into account prevailing market prices,
 6 historical prices, standard-offer service prices for electricity, reliance on alternative
 7 compliance payments to meet the requirements of subsections 3, 3-A, 3-B and 3-C and
 8 investment in Class I and Class IA resources and thermal renewable energy credits in
 9 the State during the previous calendar year, including investments that may affect the
 10 availability or price of Class II resources. In setting the alternative compliance payment
 11 rate for Class II resources, the commission shall balance the costs to ratepayers in the
 12 State with the interest of Class II resource investors in receiving a reasonable return on
 13 their investment.

14 B. The commission shall collect alternative compliance payments to meet the
 15 requirements of subsections 3, 3-A and 3-B made by competitive electricity providers
 16 and shall deposit all funds collected under this paragraph in the Energy Efficiency and
 17 Renewable Resource Fund established under section 10121, subsection 2 to be used to
 18 fund research, development and demonstration projects relating to renewable energy
 19 technologies and to fund rebates for cost-effective renewable energy technologies.

20 C. The commission shall collect alternative compliance payments to meet the
 21 requirements of subsection 3-C made by competitive electricity providers and shall
 22 deposit all funds collected under this paragraph in the Thermal Energy Investment
 23 Fund established under section 10128, subsection 2 to be used to fund incentives and
 24 low-interest or no-interest loans to businesses, municipalities, educational institutions
 25 and nonprofit entities in the State for the installation of new thermal energy-derived
 26 projects.

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

29 **Sec. 4. 35-A MRSA §3210, sub-§11**, as enacted by PL 2019, c. 477, §1, is amended
 30 to read:

31 **11. Report; ~~Class IA resource and thermal~~ renewable energy credit portfolio**
 32 **requirements.** By March 31, ~~2024~~ 2023 and every 5 years thereafter, the ~~commission~~
 33 Governor's Energy Office shall submit a report to the joint standing committee of the
 34 Legislature having jurisdiction over energy matters based on a review, conducted in
 35 consultation with the ~~Governor's Energy Office~~ commission, of the status and impacts of
 36 the implementation of the portfolio requirements for ~~Class IA~~ renewable resources under
 37 ~~subsection~~ subsections 3, 3-A and 3-B and thermal renewable energy credits under
 38 subsection 3-C. The review must be completed through a public process and must include
 39 consideration of impacts of these renewable portfolio requirements on energy prices and
 40 assessment of benefits including but not limited to on greenhouse gas emissions and the
 41 economy of the State. ~~The report required under this subsection may be submitted in~~
 42 ~~conjunction with the report required under subsection 3-A, paragraph C.~~ After reviewing
 43 the report required under this subsection, the committee may report out legislation
 44 regarding renewable portfolio requirements.

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1 **Sec. 5. 35-A MRSA §3210-G, sub-§1**, as enacted by PL 2019, c. 477, §2, is
2 amended to read:

3 **1. Competitive procurement.** The commission shall conduct 2 competitive
4 solicitations pursuant to paragraph A and 2 competitive solicitations pursuant to paragraph
5 B-1 in order to select Class IA resources for contracts under this section.

6 A. Through the competitive solicitations under this section described in subparagraphs
7 (1) and (2), the commission shall procure an amount of energy or renewable energy
8 credits from Class IA resources that is equal to 14% of the retail electricity sales in this
9 State for the period from January 1, 2018 to December 31, 2018, as determined by the
10 commission.

11 (1) The commission shall initiate a first competitive solicitation under this
12 paragraph and ensure that the solicitation results in the approval of contracts by
13 December 31, 2020 for energy or renewable energy credits equal to at least 7% of
14 retail electricity sales for the period from January 1, 2018 to December 31, 2018,
15 as determined by the commission. If the commission determines that contracts for
16 an amount greater than 7% of retail electricity sales will provide financial benefits
17 to ratepayers, it may approve contracts by December 31, 2020 for up to 10% of
18 retail electricity sales.

19 (2) No later than January 15, 2021, the commission shall initiate a 2nd competitive
20 solicitation under this paragraph for an amount of energy or renewable energy
21 credits equal to the difference between 14% of retail electricity sales and the
22 amount approved in contracts by December 31, 2020.

23 B. To the extent sufficient resources are available, with respect to the competitive
24 solicitations described in paragraph A, subparagraphs (1) and (2), 75% of the energy
25 or renewable energy credits contracted under this section pursuant to these competitive
26 solicitations must come from Class IA resources that begin commercial operations after
27 June 30, 2019 and 25% must come from Class IA resources that began commercial
28 operations on or prior to June 30, 2019.

29 B-1. Through the competitive solicitations described in subparagraphs (1) and (2), the
30 commission shall procure additional energy or renewable energy credits from Class IA
31 resources.

32 (1) The commission shall initiate a competitive solicitation under this paragraph
33 and ensure that the solicitation results in the approval of contracts by March 31,
34 2024 for energy or renewable energy credits equal to at least 7.5% of the retail
35 electricity sales in this State for the period from January 1, 2021 to December 31,
36 2021 reduced by the amount of Class IA resources procured pursuant to section
37 3210-I by January 1, 2023, as determined by the commission.

38 (2) If the commission finds that any contracts entered into under paragraph A are
39 unlikely to result in the procurement of the energy specified in the contracts, the
40 commission shall initiate by January 31, 2024 a competitive solicitation to procure
41 an equivalent amount of energy.

42 B-2. To the extent sufficient resources are available, with respect to the competitive
43 solicitations described in paragraph B-1, subparagraphs (1) and (2), 100% of the energy
44 or renewable energy credits contracted under this section pursuant to those competitive

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solicitations must come from Class IA resources that begin commercial operations after June 30, 2022.

B-3. In conducting a solicitation and selecting Class IA resources for contracts under this section, the commission shall give special consideration to selection of projects in economically depressed areas of the State as determined by the commission.

B-4. In conducting a solicitation and selecting Class IA resources for contracts under this section, the commission shall give consideration to evidence of project viability, including, but not limited to, the submission of a preapplication with the relevant siting authority or the submission of an interconnection request with the New England independent system operator.

B-5. In conducting a solicitation and in selecting Class IA resources for contracts under this section, the commission shall give consideration to the expected effect of selected Class IA resources on other renewable resources, as defined in section 3210, subsection 2, paragraph C, due to congestion and curtailment.

B-6. In conducting a solicitation and selecting Class IA resources for contracts under paragraph B-1, the commission shall consider bids submitted by the Efficiency Maine Trust in accordance with section 10130.

C. In conducting a solicitation and selecting Class IA resources for contracts under this section, the commission ~~in consultation with the Department of Agriculture, Conservation and Forestry and the Department of Environmental Protection~~ shall weigh the benefits to ~~ratepayers and the benefits to the State's economy~~ of solicited bids as follows:

- (1) A weight of 70% must be given to the benefits to ratepayers; and
 - (1-A) A weight of 15% must be given to the extent to which the Class IA resource uses previously developed or contaminated lands, including but not limited to agricultural land the Department of Agriculture, Conservation and Forestry has found to be contaminated with perfluoroalkyl and polyfluoroalkyl substances, as defined in Title 38, section 1614, or otherwise minimizes impacts to natural lands or working lands, as defined by the commission in consultation with the Department of Environmental Protection and the Department of Agriculture, Conservation and Forestry; and
- (2) A weight of ~~30%~~ 15% must be given to benefits to the economy, which may include, but are not limited to:
 - ~~(a) Capital investments by the Class IA resource to improve long term viability of an existing facility;~~
 - ~~(b) Payments by the Class IA resource for the harvest of wood fuel;~~
 - (c) Employment resulting from the construction and operation of the Class IA resource;
 - (d) Payments by the Class IA resource to a host community, whether or not required by law or rule;
 - (e) Excise, income, property and sales taxes paid by the Class IA resource;
 - (f) Purchases of goods and services by the Class IA resource; and

COMMITTEE AMENDMENT

1 (g) Avoided emissions resulting from the operation of the Class IA resource.

2 D. The commission shall, in accordance with this paragraph, allow give special
3 consideration to energy storage systems to participate participating in solicitations or
4 be awarded contracts under this section.

5 (1) The commission shall permit an energy storage system to bid on solicitations
6 or to be contracted under this section only if the energy storage system is connected
7 to the State's electricity grid, paired as a complementary resource with a Class IA
8 resource and either:

9 (a) Colocated with the Class IA resource, whether metered jointly with or
10 separately from the Class IA resource; or

11 (b) Located at a different location from the Class IA resource and the
12 commission finds, using a method published by the commission, that inclusion
13 of the energy storage system would result in a reduction in greenhouse gas
14 emissions. The commission shall apply the method consistently to all
15 applicable bids and contracts.

16 (2) A bid under this section that includes an energy storage system must include 2
17 separate bid proposals, one with the energy storage system and one without. The
18 commission shall assess the bid proposals based on the benefits to ratepayers,
19 which may include, but are not limited to:

20 (a) Reduction in costs;

21 (b) Decrease in peak electricity demand;

22 (c) Deferral of investments in the transmission and distribution system;

23 (d) Deferral of capital investments in new generating capacity;

24 (e) Increase in the electricity grid's overall flexibility, reliability and resiliency;
25 and

26 (f) Reduction in greenhouse gas emissions.

27 (3) An energy storage system that is not colocated with a Class IA resource may
28 receive renewable energy credits only for stored energy generated from a Class IA
29 resource.

30 (4) If chosen for a contract under this section, an energy storage system must
31 remain stationary ~~and under the same ownership~~ throughout the contract term.

32 (5) The commission may permit an energy storage system to be paired with and
33 added to a Class IA resource after that resource has been awarded a contract.

34 For the purposes of this paragraph, "energy storage system" means a commercially
35 available technology that uses mechanical, chemical or thermal processes for absorbing
36 energy and storing it for a period of time for use at a later time.

37 E. In advance of conducting a solicitation under this section and in coordination with
38 the Governor's Energy Office and the Office of the Public Advocate, the commission
39 shall seek opportunities to coordinate the solicitation with other New England states,
40 entities designated by those states or other buyers in order to achieve a positive or
41 neutral effect on the ratepayers in this State.

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Sec. 6. 35-A MRSA §3210-G, sub-§4 is enacted to read:

4. Rules. The commission may adopt rules necessary for the implementation of this section. Rules adopted by the commission may include, but are not limited to, provisions stipulating the financial security mechanisms that will be required as a condition of the selection of Class IA resources for contracts under this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 7. 35-A MRSA §3210-J is enacted to read:

§3210-J. Efficiency Maine generation program supply savings adjustment

Notwithstanding any provision of this Title to the contrary, the commission shall ensure that the program supply savings adjustment in accordance with section 10130, subsection 6 is included in the retail rates of all electric ratepayers of all transmission and distribution utilities in the State.

Sec. 8. 35-A MRSA §10130 is enacted to read:

§10130. Renewable energy and storage savings and investment program

1. Renewable Energy and Storage Savings and Investment Program. The trust shall establish and administer the Renewable Energy and Storage Savings and Investment Program, referred to in this section as "the program," to reduce the costs to ratepayers of meeting the State's climate and energy goals by facilitating the decarbonization of electricity through the financing and ownership of renewable energy generation projects and energy storage systems. Under the program, the trust may:

A. Finance and own renewable energy generation projects and energy storage systems and may acquire in the name of the trust, by purchase, lease or otherwise, real property and rights or easements in the State;

B. Make contracts for the development, construction, operation and maintenance of renewable energy generation projects and energy storage systems by 3rd parties;

C. Use the proceeds of bonds issued for Efficiency Maine projects under Title 10, chapter 110 for the purposes of the program; and

D. Engage in any and all activities necessary to accomplish the purposes of the program.

For the purposes of this section, "renewable energy generation project" means a facility that generates electricity using a fuel or source of energy that is renewable and that produces zero greenhouse gas emissions when used to generate electricity, including hydroelectric generators, onshore or offshore wind power installations, solar photovoltaic arrays and installations, geothermal installations and tidal power generators. For the purposes of this section, "energy storage system" means a facility that uses mechanical, chemical or thermal processes for absorbing energy and storing it for a period of time for use at a later time.

2. Procurement bid. The trust shall submit a bid for at least 25% of the megawatts solicited under each procurement conducted by the commission under section 3210-G, subsection 1, paragraph B-1. If the trust is awarded a contract or contracts pursuant to section 3210-G, the trust shall take necessary action to ensure the development of

1 renewable energy generation projects and energy storage systems to fulfill its obligations
2 under the contract or contracts.

3 **3. Additional approval.** The trust may finance and own renewable energy generation
4 projects and energy storage systems in addition to any renewable energy generation
5 projects and energy storage systems developed under subsection 2. The trust may submit a
6 plan to the commission to finance and own such projects and systems. The commission
7 shall approve the plan if it determines that the plan would help meet the State's climate
8 goals as established by Title 38, section 576-A and Title 38, section 577, subsection 1 and
9 renewable resource goals established in section 3210 in a manner that minimizes the impact
10 to ratepayers to the greatest extent possible and is in compliance with all applicable
11 requirements of this Title. If the plan is approved by the commission, the trust shall sell
12 100% of the output and associated environmental attributes from the renewable energy
13 generation projects and energy storage systems developed under the plan into the relevant
14 wholesale markets in the ISO-NE region as defined in section 1902, subsection 3. All sales
15 must be at the spot market price or its equivalent for those outputs for which a spot market
16 does not exist.

17 **4. Ownership.** The beneficial title to the outputs or environmental attributes
18 associated with any renewable energy generation project or energy storage system owned
19 by the trust may not be held by any entity other than the trust prior to the point of sale. For
20 the purposes of this section, "environmental attributes" means any and all credits, benefits,
21 emissions reductions, offsets and allowances attributable to a renewable energy generation
22 project, the production of electrical energy from the renewable energy generation project
23 and its displacement of conventional energy generation.

24 **5. Fund established.** There is established the Renewable Energy and Storage Savings
25 and Investment Program Fund, referred to in this section as "the fund." The fund is a
26 nonlapsing fund administered by the trust. All funds received by the trust pursuant to
27 subsection 6 and from the sales of output and associated environmental attributes under the
28 program must be deposited in the fund. The trust may seek and accept other funding for the
29 program from any other sources, public or private. Any funds accepted for use in the
30 program must be deposited in the fund for use by the trust in accordance with this section.
31 Funds not spent in any fiscal year remains in the fund to be used for the purposes of this
32 section. Any interest earned on funds in the fund must be credited to the fund.

33 **6. Funding.** In order to fund the program, the trust shall determine the program supply
34 savings adjustment that is included in the retail rates of electric ratepayers pursuant to
35 section 3210-J. Expenses incurred in carrying out the program and in repaying bonds
36 issued for Efficiency Maine projects under Title 10, chapter 110 for the purposes of the
37 program may be paid from funds provided under section 3210-J to the trust. The trust shall
38 fund the program with a \$500,000 loan from other resources of the trust, which must be
39 repaid within 3 years at an interest rate of 3% per annum from the sale of output from the
40 trust's renewable energy generation projects and energy storage systems and from the
41 program supply savings adjustment. The start-up revenues must be made available for the
42 purposes of this section within 30 days of the effective date of this subsection.

43 **7. Exemption from taxes.** The property and income of the trust under the program
44 and the bonds issued for the purposes of the program are exempt from taxation as provided
45 in this subsection.

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1 A. Except as provided in subsection 8, the trust is exempt from taxation or assessment
2 on any property acquired or used by it for the purposes provided in this section.

3 B. The trust, in administering the program under this section, is performing an essential
4 governmental function and is exempt from taxation on its income except as may be
5 required by the laws of the United States.

6 C. The bonds or other securities and obligations issued for the purposes of the program
7 and their transfer and the income therefrom, including any profits made on their sale,
8 are exempt from taxation within the State.

9 8. Payments in lieu of property taxes. The trust shall make payments in lieu of taxes
10 on all real and personal property it owns under the program in an amount equal to that
11 which would otherwise be imposed by a county, a municipality, a district, the State or other
12 taxing authority on such real and personal property.

13 **Sec. 9. Report.** The Efficiency Maine Trust shall report by December 1, 2022 to the
14 joint standing committee of the Legislature having jurisdiction over energy and utility
15 matters on the Renewable Energy and Storage Savings and Investment Program established
16 under the Maine Revised Statutes, Title 35-A, section 10130. The report must include a
17 description of actions taken by the trust under the program and recommendations for
18 changes to the laws to further enhance or clarify the program and the trust's authority and
19 responsibilities under the program. The joint standing committee of the Legislature having
20 jurisdiction over energy and utility matters may report out legislation related to the program
21 to the 131st Legislature in 2023.'

22 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
23 number to read consecutively.

24 **SUMMARY**

25 The amendment does the following:

26 1. It requires the Public Utilities Commission to establish an alternative compliance
27 payment rate by rule for competitive electricity providers to satisfy the portfolio
28 requirements for Class II resources and establishes a maximum rate for that alternative
29 compliance option of \$5. In establishing the alternative compliance payment rate, the
30 amendment adds that the commission must balance the interests of resource investors with
31 the interests of ratepayers. In establishing the alternative compliance rates for Class I, Class
32 IA, Class II and thermal renewable energy credits, the commission must consider historical
33 prices in addition to other factors.

34 2. It requires the Governor's Energy Office, in consultation with the Public Utilities
35 Commission, to review the impacts of the State's renewable resource portfolio requirements
36 and submit a report to the joint standing committee of the Legislature having jurisdiction
37 over energy matters by March 31, 2023 and every 5 years thereafter.

38 3. It establishes an additional competitive solicitation for energy or renewable energy
39 credits by March 31, 2024 equal to at least 7.5% of the retail electricity sales in this State
40 for the period from January 1, 2021 to December 31, 2021 reduced by the amount of Class
41 IA resources procured pursuant to the Maine Revised Statutes, Title 35-A, section 3210-I.
42 The amendment also provides that the commission must initiate an additional solicitation
43 if it finds that any contracts entered into under a previous procurement under Title 35-A,

1 section 3210-G, subsection 1, paragraph A are unlikely to result in the procurement of
2 energy specified in the contract. The amendment also requires the commission, in
3 conducting the solicitation and selection of Class IA resources for contracts, to give special
4 consideration to selection of projects in economically depressed areas of the State and to
5 consider evidence of project viability and to consider the expected effect of selected Class
6 IA resources on other renewable resources due to congestion and curtailment. The
7 amendment also changes the benefits that may be considered by the commission in
8 conducting a solicitation for Class IA resources in weighing benefits to ratepayers and the
9 State's economy. In advance of conducting a solicitation for Class IA resources, the
10 commission, in coordination with the Governor's Energy Office and the Office of the Public
11 Advocate, is required to seek opportunities to coordinate the solicitation with other New
12 England states, entities designated by those states or other buyers in order to achieve a
13 positive or neutral effect on the ratepayers in this State.

14 4. It provides the commission with rule-making authority for renewable energy
15 portfolio standard procurement.

16 5. It creates and details the functions of the Renewable Energy and Storage Savings
17 and Investment Program, a program established and administered by the Efficiency Maine
18 Trust. The program provides for the financing and ownership of renewable energy
19 generation projects and energy storage systems by the trust. The trust is required to submit
20 a bid or bids for at least 25% of the megawatts solicited under each procurement conducted
21 by the commission under Title 35-A, section 3210-G, subsection 1, paragraph B-1. If the
22 trust is awarded a contract or contracts pursuant to Title 35-A, section 3210-G, the trust is
23 directed to take necessary action to ensure the development of renewable energy generation
24 projects and energy storage systems to fulfill its obligations under the contract or contracts.
25 If approved by the commission, the trust may finance and own renewable energy generation
26 projects and energy storage systems in addition to any renewable energy generation
27 projects and energy storage systems developed in accordance with an accepted bid under
28 Title 35-A, section 3210-G, subsection 1, paragraph B-1. The program is initially funded
29 with a \$500,000 loan from the trust.

30 6. It directs the Efficiency Maine Trust to report, by December 1, 2022, to the joint
31 standing committee of the Legislature having jurisdiction over energy and utility matters
32 on the Renewable Energy and Storage Savings and Investment Program and include a
33 description of actions taken by the trust under the program and recommendations for
34 changes to the laws to further enhance or clarify the program and the trust's authority and
35 responsibilities under the program.

36 **FISCAL NOTE REQUIRED**

37 (See attached)



130th MAINE LEGISLATURE

LD 1350

LR 1499(03)

An Act To Expand Maine's Clean Energy Economy

Fiscal Note for Bill as Amended by Committee Amendment "C" (S-516)

Committee: Energy, Utilities and Technology

Fiscal Note Required: Yes

Fiscal Note

Current biennium cost increase - Efficiency Maine Trust
Current biennium revenue increase - Efficiency Maine Trust

Fiscal Detail and Notes

This bill directs the Efficiency Maine Trust (EMT) to establish the Renewable Energy and Storage Savings and Investment Program (RESSIP). The program provides for the financing and ownership of renewable generation projects and energy storage systems by the trust. The bill allows EMT to issue revenue bonds that will be backed by electric ratepayers through the sale of the output of projects in relevant wholesale markets administered by New England independent operator ISO-NE. The bonds do not constitute a debt of the State and are payable solely from the operating revenue of the RESSIP program. It is important to clarify that this fiscal note does not attempt to quantify or include the cost to the EMT to issue these bonds or the potential costs to ratepayers to finance them.

The bill also allows the RESSIP to borrow up to \$500,000 for 3 years at 3% from the EMT to fund start-up costs. The EMT has sufficient resources to provide the loan. To the extent that RESSIP program costs exceed the revenues from the program's operation, the bill provides that EMT may recover these costs through an assessment added to electricity rates as authorized by the Public Utilities Commission.

Assets owned by the EMT through the RESSIP are exempt from sales and income taxes and, to the extent that future electricity sales by taxable utilities are reduced, there will be a reduction in General Fund and Local Government Fund revenue. Assets owned by EMT through the RESSIP are also exempt from property taxes, but must make payments in lieu of property taxes equal to any loss of property tax revenue.

Any additional costs to various departments and agencies from the other provisions in this bill are expected to be minor and can be absorbed within existing budgeted resources.