

# MAINE STATE LEGISLATURE

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Date 6/20/23

Majority

L D 1347

(Filing No H-605)

**ENERGY, UTILITIES AND TECHNOLOGY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
131ST LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H P 861, L.D 1347, "An Act to Eliminate the Current Net Energy Billing Policy in Maine"

Amend the bill by striking out the title and substituting the following  
**'An Act to Reduce the Cost of Net Energy Billing for Ratepayers'**

Amend the bill by striking out the emergency preamble and substituting the following  
**'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies, and**

**Whereas, Maine's net energy billing programs will add to ratepayers' energy bills unless the current programs are amended, and**

**Whereas, long-term contracting and the development of optional programs will reduce the number of the projects that otherwise would participate in net energy billing, and**

**Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety, now, therefore,'**

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

**'Sec. 1. 2 MRSA §9, sub-§6-A is enacted to read**

**6-A. Distributed Solar and Energy Storage Program. The Distributed Solar and Energy Storage Program is established to provide funding to foster the continued growth of cost-effective distributed solar facilities and energy storage systems. The office, as funding allows, shall develop the program no later than July 1, 2024.**

**A As used in this subsection, the following terms have the following meanings**

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COMMITTEE AMENDMENT "A" to H P 861, L D 1347

1           (1) "Distributed solar facility" means a solar electricity generating facility  
2           interconnected to a transmission and distribution utility as defined in Title 35-A,  
3           section 102, subsection 20-B

4           (2) "Energy storage system" has the same meaning as in Title 35-A, section 3481,  
5           subsection 6

6           (3) "Program" means the Distributed Solar and Energy Storage Program  
7           established in this subsection

8           B The program must be designed to obtain and provide available federal funds to  
9           support cost-effective distributed solar facilities and energy storage systems. The office  
10           shall consult with the Public Utilities Commission and the Office of the Public  
11           Advocate in developing and administering the program.

12           C In order to support the office's activities in administering the program, the office  
13           may request funding from the Public Utilities Commission for the office's  
14           administrative costs, which may include, but are not limited to, costs associated with  
15           hiring consultants and office personnel and contracting for technical analysis. If the  
16           office requests funding in accordance with this paragraph, the commission may provide  
17           funding, to the extent available, from the Public Utilities Commission Reimbursement  
18           Fund under Title 35-A, section 117.

19           D The office shall apply for available federal funds to fund the program, including,  
20           but not limited to, funds from the United States Environmental Protection Agency's  
21           Greenhouse Gas Reduction Fund.

22           E By January 15th of each year, the office shall provide a report to the joint standing  
23           committee of the Legislature having jurisdiction over energy matters summarizing its  
24           activities under the program and evaluating the program's benefits and costs to  
25           ratepayers.

26           F Except as provided in paragraph C, ratepayer funds may not be used to implement  
27           the program or to provide funding under the program to distributed solar facilities or  
28           energy storage systems.

29           **Sec. 2. 35-A MRSA §120, sub-§6-A, as enacted by PL 2021, c 236, §2, is**  
30           **amended to read**

31           **6-A. Microgrids.** Beginning February 1, 2025, any activities undertaken by the  
32           commission related to new microgrids as defined in section 3351, subsection 1, paragraph  
33           B, including whether any new microgrids have been approved, and

34           **Sec. 3. 35-A MRSA §120, sub-§6-B is enacted to read**

35           **6-B. Net energy billing data.** Distributed generation resources, as defined in section  
36           3209-A, subsection 1, paragraph B, participating in net energy billing arrangements under  
37           section 3209-A or 3209-B. The commission shall include in the report

38           A The name, size and location of the resource,

39           B The compensation received by the resource under the net energy billing  
40           arrangement, expressed as a total dollar number and price per kilowatt-hour, for the  
41           12-month period preceding the report and for the entire period since the resource began  
42           participation in the arrangement, and

**COMMITTEE AMENDMENT**

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1            C The name and address of the entity owning or controlling the resource, and  
2            **Sec. 4. 35-A MRSA §3209-A, sub-§3**, as enacted by PL 2019, c 478, Pt A, §3, is  
3 amended to read

4            **3. Shared financial interest for investor-owned utility customers; limitation.**  
5 Multiple customers of an investor-owned transmission and distribution utility that have  
6 distinct billing accounts with that utility may share a financial interest in a distributed  
7 generation resource under subsection 2 Any number of Subject to the limitations specified  
8 in subsection 3-A, customers of an investor-owned transmission and distribution utility  
9 with a shared financial interest in a distributed generation resource may participate in net  
10 energy billing, except that the number of eligible customers or meters is limited to 10 for a  
11 shared financial interest in a distributed generation resource located in the service territory  
12 of an investor-owned transmission and distribution utility located in an area administered  
13 by the independent system administrator for northern Maine or any successor of the  
14 independent system administrator for northern Maine unless the commission determines  
15 that the utility's billing system can accommodate more than 10 accounts or meters for the  
16 purpose of net energy billing

17            **Sec. 5. 35-A MRSA §3209-A, sub-§3-A** is enacted to read

18            **3-A. Shared financial interest; 10-customer limitation beginning September 1,**  
19 **2023.** Beginning September 1, 2023, the following limitations apply

20            A Except as provided in paragraph B, no more than 10 customers of an investor-  
21 owned transmission and distribution utility may share a financial interest in a  
22 distributed generation resource and participate in net energy billing under this section.  
23 In order to qualify to participate in net energy billing under this paragraph, the  
24 distributed generation resource must be located on the same side of a meter as one of  
25 the 10 customers and serve the electric load of that customer and at least 50% of the  
26 net energy billing credits associated with the output of the distributed generation  
27 resource must be allocated to that customer

28            B The limitation under paragraph A does not apply to a customer participating in net  
29 energy billing under this section pursuant to a net energy billing agreement that was  
30 entered into prior to September 1, 2023.

31            **Sec. 6. 35-A MRSA §3209-A, sub-§4**, as enacted by PL 2019, c 478, Pt A, §3, is  
32 amended to read

33            **4. System size.** The Subject to the limitations specified in subsection 4-A, the  
34 nameplate capacity of a distributed generation resource that may be used for net energy  
35 billing must be less than 5 megawatts, except that, if a municipality is the customer  
36 participating in net energy billing, the nameplate capacity of a distributed generation  
37 resource located in that municipality that may be used for the net energy billing may be 5  
38 megawatts or more, as long as less than 5 megawatts of metered electricity from the  
39 resource is used for net energy billing

40            **Sec. 7. 35-A MRSA §3209-A, sub-§4-A** is enacted to read

41            **4-A. System size beginning September 1, 2023.** Beginning September 1, 2023, the  
42 following limitations apply

# COMMITTEE AMENDMENT

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1 A Except as provided in paragraph B, the nameplate capacity of a distributed  
2 generation resource that may be used for net energy billing under this section may not  
3 be more than 660 kilowatts, except that, if a municipality is the customer participating  
4 in net energy billing, the nameplate capacity of a distributed generation resource  
5 located in that municipality that may be used for the net energy billing may be greater  
6 than 660 kilowatts as long as not more than 660 kilowatts of metered electricity from  
7 the resource is used for net energy billing.

8 B The limitation under paragraph A does not apply to a customer participating in net  
9 energy billing under this section pursuant to a net energy billing agreement that was  
10 entered into prior to September 1, 2023.

11 **Sec. 8. 35-A MRSA §3209-B, sub-§3**, as enacted by PL 2019, c 478, Pt A, §4, is  
12 amended to read:

13 **3. System size.** ~~The~~ Subject to the limitations specified in subsection 3-A, the  
14 nameplate capacity of a distributed generation resource that may be used for net energy  
15 billing under this section must be less than 5 megawatts

16 **Sec. 9. 35-A MRSA §3209-B, sub-§3-A** is enacted to read

17 **3-A. System size beginning September 1, 2023.** Beginning September 1, 2023, the  
18 following limitations apply.

19 A Except as provided in paragraph B, the nameplate capacity of a distributed  
20 generation resource that may be used for net energy billing under this section may not  
21 be more than 660 kilowatts.

22 B The limitation under paragraph A does not apply to a customer participating in net  
23 energy billing under this section pursuant to a net energy billing agreement that was  
24 entered into prior to September 1, 2023.

25 **Sec. 10. 35-A MRSA §3209-B, sub-§4**, as enacted by PL 2019, c 478, Pt A, §4,  
26 is amended to read

27 **4. Shared financial interest; limitation.** Multiple commercial or institutional  
28 customers that have distinct billing accounts with an investor-owned transmission and  
29 distribution utility may share a financial interest in a distributed generation resource under  
30 subsection 2. ~~Any number of~~ Subject to the limitations specified in subsection 4-A,  
31 commercial or institutional customers may participate in net energy billing with a shared  
32 interest in a distributed generation resource, except that the number of customers or meters  
33 is limited to 10 for a shared interest in a distributed generation resource located in the  
34 service territory of an investor-owned transmission and distribution utility located in an  
35 area administered by the independent system administrator for northern Maine or any  
36 successor of the independent system administrator for northern Maine unless the  
37 commission determines that the utility's billing system can accommodate more than 10  
38 accounts or meters for the purpose of net energy billing.

39 **Sec. 11. 35-A MRSA §3209-B, sub-§4-A** is enacted to read

40 **4-A. Shared financial interest; 10-customer limitation beginning September 1,**  
41 **2023.** Beginning September 1, 2023, the following limitations apply.

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1        A Except as provided in paragraph B, no more than 10 customers of an investor-  
2        owned transmission and distribution utility may share a financial interest in a  
3        distributed generation resource and participate in net energy billing under this section  
4        In order to qualify to participate in net energy billing under this paragraph, the  
5        distributed generation resource must be located on the same side of a meter as one of  
6        the 10 customers and serve the electric load of that customer and at least 50% of the  
7        net energy billing credits associated with the output of the distributed generation  
8        resource must be allocated to that customer

9        B The limitation under paragraph A does not apply to a customer participating in net  
10       energy billing under this section pursuant to a net energy billing agreement that was  
11       entered into prior to September 1, 2023

12       **Sec. 12. 35-A MRSA §3209-C** is enacted to read

13       **§3209-C. Review of compensation; alteration**

14        1. Review of compensation. Notwithstanding the provisions of sections 3209-A and  
15        3209-B, the commission may periodically review and by rule alter the amount of  
16        compensation that a customer with a financial interest in a distributed generation resource  
17        receives as a result of participating in net energy billing under section 3209-A or 3209-B  
18        In making any alteration under this section, the commission shall use a standard or  
19        representative distributed generation resource to assess the amount of compensation  
20        provided under section 3209-A or 3209-B and shall ensure that any alteration provides a  
21        reasonable opportunity for the recovery of reasonable costs, as determined by the  
22        commission, and a reasonable rate of return The commission may not increase any  
23        compensation above the lowest amount that would be received under section 3209-B

24        2. Alteration. Notwithstanding the provisions of sections 3209-A and 3209-B, the  
25        commission may modify by rule the requirements under section 3209-A or 3209-B to the  
26        extent necessary to allow the State or a distributed generation resource participating in a  
27        net energy billing arrangement under section 3209-A or 3209-B to qualify for federal grants  
28        or subsidies that benefit ratepayers in this State

29        3. Rules. Rules adopted pursuant to this section are major substantive rules as defined  
30        in Title 5, chapter 375, subchapter 2-A

31       **Sec. 13. 35-A MRSA §3209-D** is enacted to read

32       **§3209-D. Competitive solicitation for qualifying net energy billing projects**

33        No later than January 1, 2024, the commission shall conduct a competitive solicitation  
34        in order to select net energy billing resources for contracts under this section For purposes  
35        of this section, "net energy billing resource" means a distributed generation resource that  
36        is the subject of a net energy billing arrangement under section 3209-A or 3209-B

37        1. Bid selection. The commission shall select for a contract under this section any bid  
38        relating to a net energy billing resource that the commission finds will result in substantial  
39        savings to ratepayers as compared to the cost of the net energy billing resource remaining  
40        in a net energy billing arrangement under section 3209-A or 3209-B In reviewing bids  
41        and establishing a contract price under this section, the commission shall determine and  
42        consider the levelized cost of the energy that will be purchased under the contract

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1 2. Contracts. The commission shall direct an investor-owned transmission and  
2 distribution utility in whose service territory a selected net energy billing resource is located  
3 to enter into an appropriate long-term contract of up to 20 years with the bidder of that net  
4 energy billing resource

5 3. Exclusive contract. A net energy billing resource that is awarded a contract under  
6 this section is ineligible for net energy billing under section 3209-A or 3209-B, and the  
7 commission shall require all net energy billing arrangements or agreements to be  
8 terminated as a condition of awarding a contract under this section

9 **Sec. 14. 35-A MRSA §3209-E is enacted to read**

10 **§3209-E. Net energy billing cost management**

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

13 A "Distributed generation resource" has the same meaning as in section 3209-A,  
14 subsection 1, paragraph B

15 B "Net energy billing cost" means a cost borne by ratepayers that is determined by the  
16 commission to be reasonably attributable to distributed generation resources  
17 participating in net energy billing arrangements under section 3209-A or 3209-B

18 C "Opt-in program" means a program to reduce net energy billing costs in which a  
19 distributed generation resource may elect to participate

20 2. Opt-in programs. The commission may develop and implement one or more opt-  
21 in programs in accordance with this section

22 A The commission shall conduct one or more proceedings to examine and evaluate  
23 opt-in program designs, including, but not limited to, designs that include long-term  
24 financial mechanisms and buy-down arrangements. In conducting an examination and  
25 evaluation in accordance with this paragraph, the commission shall consult with the  
26 Finance Authority of Maine and give preference to designs that enable the continued  
27 development and operation of distributed generation resources

28 B After examining and evaluating opt-in programs under paragraph A, if the  
29 commission finds the implementation of an opt-in program to be in the public interest,  
30 the commission shall establish and implement the opt-in program by rule

31 C The commission may not require a distributed generation resource to participate in  
32 an opt-in program established in accordance with this section

33 3. Rules. The commission may adopt rules to implement this section. Rules adopted  
34 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,  
35 subchapter 2-A.

36 **Sec. 15. 35-A MRSA §3474, sub-§1-A is enacted to read:**

37 1-A. Conformance with commission purposes. Notwithstanding any provision of  
38 this Title to the contrary, the commission may adopt rules and develop policies consistent  
39 with the purpose established in section 101 to govern the development of solar energy  
40 generation resources that have a nameplate capacity of less than 5 megawatts and are  
41 located in the service territory of a transmission and distribution utility in the State. Rules

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1 adopted pursuant to this section are routine technical rules as defined in Title 5, chapter  
2 375, subchapter 2-A

3 **Sec. 16. Distributed Solar and Energy Storage Program design.** In  
4 developing the Distributed Solar and Energy Storage Program established under the Maine  
5 Revised Statutes, Title 2, section 9, subsection 6-A, the Governor's Energy Office shall  
6 ensure that the program is designed to address the recommendations contained in the Final  
7 Report of the Distributed Generation Stakeholder Group dated January 6, 2023 and  
8 submitted by the office to the Joint Standing Committee on Energy, Utilities and  
9 Technology pursuant to Public Law 2021, chapter 390, section 4

10 **Sec. 17. Appropriations and allocations.** The following appropriations and  
11 allocations are made

12 **EXECUTIVE DEPARTMENT**

13 **Distributed Solar and Energy Storage Program N470**

14 Initiative Provides allocations to establish the program

15	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2023-24</b>	<b>2024-25</b>
16	All Other	\$500	\$500
17			
18	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$500</u>	<u>\$500</u>

19

20 **EXECUTIVE DEPARTMENT**

21 **DEPARTMENT TOTALS**

22		<b>2023-24</b>	<b>2024-25</b>
23	<b>OTHER SPECIAL REVENUE FUNDS</b>	\$500	\$500
24			
25	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u>\$500</u>	<u>\$500</u>

26 **PUBLIC UTILITIES COMMISSION**

27 **Public Utilities - Administrative Division 0184**

28 Initiative Provides allocations for expenditures related to contracted consulting services  
29 and related STA-CAP

30	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2023-24</b>	<b>2024-25</b>
31	All Other	\$385,735	\$0
32			
33	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$385,735</u>	<u>\$0</u>

34

35 **PUBLIC UTILITIES COMMISSION**

36 **DEPARTMENT TOTALS**

37		<b>2023-24</b>	<b>2024-25</b>
38	<b>OTHER SPECIAL REVENUE FUNDS</b>	\$385,735	\$0
39			
40	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u>\$385,735</u>	<u>\$0</u>

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1	<b>SECTION TOTALS</b>	<b>2023-24</b>	<b>2024-25</b>
2			
3	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$386,235</b>	<b>\$500</b>
4			
5	<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$386,235</b>	<b>\$500</b>
6			

7 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
8 number to read consecutively

9 **SUMMARY**

10 This amendment replaces the bill and changes the title and does the following

11 1 It establishes the Distributed Solar and Energy Storage Program to provide federal  
12 funds to foster continued growth of cost-effective distributed solar facilities and energy  
13 storage systems

14 2 It requires the Public Utilities Commission to provide data on distributed generation  
15 resources participating in net energy billing in the commission's annual report to the  
16 Legislature

17 3 Beginning September 1, 2023, it limits the number of customers who may share a  
18 financial interest in a distributed generation resource in the kilowatt-hour net energy billing  
19 program to 10 customers and requires that the distributed generation resource be located  
20 on the same side of the meter as one of the 10 customers and that at least 50% of the  
21 generation of credits associated with the output of the distributed generation resource be  
22 allocated to that customer

23 4 Beginning September 1, 2023, it limits the nameplate capacity of a distributed  
24 generation resource participating in the kilowatt-hour net energy billing program to 660  
25 kilowatts unless the customer of the distributed generation resource is a municipality

26 5 It allows the commission to periodically review and alter the amount of  
27 compensation that a customer with a financial interest in a distributed generation resource  
28 may receive under the kilowatt-hour and tariff rate net energy billing programs

29 6 It allows the commission to modify the requirements of the kilowatt-hour and tariff  
30 rate net energy billing programs to the extent necessary for the State or a distributed  
31 generation resource to qualify for federal grants or subsidies that benefit ratepayers in this  
32 State

33 7 Beginning September 1, 2023, it limits the nameplate capacity of a distributed  
34 generation resource participating in the tariff rate net energy billing program to 660  
35 kilowatts

36 8. Beginning September 1, 2023, it limits the number of customers who may share a  
37 financial interest in a distributed generation resource in the tariff rate net energy billing  
38 program to 10 customers and requires that the distributed generation resource be located  
39 on the same side of the meter as one of the 10 customers and that at least 50% of the  
40 generation of credits associated with the output of the distributed generation resource be  
41 allocated to that customer





# 131st MAINE LEGISLATURE

LD 1347

LR 1811(02)

## An Act to Eliminate the Current Net Energy Billing Policy in Maine

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-605)  
 Committee: Energy, Utilities and Technology

Fiscal Note Required: Yes

### Fiscal Note

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$386,235	\$500	\$500	\$500
<b>Revenue</b>				
Other Special Revenue Funds	\$385,735	\$0	\$0	\$0

#### Fiscal Detail and Notes

This bill makes certain adjustments to the Net Energy Billing Program rules and institutes new reporting requirements for the Public Utilities Commission (PUC) regarding the program activities. The bill also establishes the Distributed Solar and Energy Storage Program within the Governor's Energy Office (GEO). The GEO is required to obtain any available federal funding to fund the program, but the bill allows the GEO to request funding from the PUC Reimbursement Fund for administrative expenses. The fiscal note assumes that the funding will come from the PUC Reimbursement Fund and the bill includes Other Special Revenue Funds allocations of \$500 to establish the program and allow funding from that source to be expended.

The PUC has indicated that provisions of this bill will require additional activities that are unable to be absorbed within existing resources. The bill provides a one-time allocation of \$385,735 in fiscal year 2023-24 for contracted consulting services. Since the PUC is funded by assessments on impacted utilities set to produce sufficient revenue for the expenditures needed to operate, the increased allocations in this bill will require a corresponding increase in revenue from those assessments.