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An Act To Establish the Maine Transmission Mitigation Trust Fund

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, transmission lines capable of transmitting electricity at voltages above 100 kilovolts cause harm to Maine's scenic beauty and neighborhood quality of life; and

Whereas, such transmission lines cause harm to property values and tax revenues to municipalities; and

Whereas, the existence of such transmission lines imposes financial costs to Maine electricity ratepayers; and

Whereas, such transmission lines may cause harm to the health of Maine residents; 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,

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 36 MRSA c. 117 is enacted to read:

CHAPTER 117

excise tax on transmission lines

§ 1651. Definitions

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

1. High-voltage electric transmission property. "High-voltage electric transmission property" means property of any kind used in the transmission of electricity at a voltage of 100 kilovolts or more, including without limitation land, easements, leasehold interests, poles, towers, foundations, structures, wires, transformation equipment, insulators, breakers, switches, meters and other fixtures. "High-voltage electric transmission property" does not include transformation equipment and other property used solely to reduce the voltage of electricity from a voltage of 100 kilovolts or more to a voltage of less than 100 kilovolts.

2. Transmission line owner. "Transmission line owner" means a person owning high-voltage electric transmission property.

§ 1652. Rate of tax

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

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

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

§ 1654. Contributions; Maine Transmission Mitigation Trust Fund

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

PART B

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

30-D.

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

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

§ 3218. Maine Transmission Mitigation Trust Fund

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

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

- B. "Trust" means the Maine Transmission Mitigation Trust established in subsection 2.
- C. "Trust fund" means the Maine Transmission Mitigation Trust Fund established in subsection 2.
- D. "Trustee" means a trustee of the trust.

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

- A. The commission shall appoint 3 trustees.
- B. A trustee serves a 3-year term. If a trustee is unable to complete the term, the commission shall appoint a replacement for the remainder of the unexpired term. A trustee may serve a maximum of 2 consecutive terms.
- C. A trustee has a fiduciary duty to customers in the administration of the trust fund. Upon accepting appointment as a trustee, each trustee must acknowledge the fiduciary duty to use the trust funds only for the purposes set forth in this section.
- D. The trustees shall ensure that the goals and objectives of the trust, as established in this section and in rules adopted by the trust, are carried out.

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

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

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

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

A. On January 1st of each year, the trustees shall distribute 20% of the trust fund, up to \$10,000,000, to municipalities that have submitted winning bids seeking funding for projects to install underground utility infrastructure. The remaining money in the trust fund must be distributed to each customer in proportion to that customer's purchases of electricity transmitted over the State's transmission and distribution utilities.

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

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

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

SUMMARY

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