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An Act To Compensate Maine Residents for the Impacts of High-voltage Transmission Lines

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 of 100 kilovolts or greater may 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 of municipalities; and

Whereas, the existence of such transmission lines imposes financial costs on 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 §459 is enacted to read:

§ 459. State tax on high-voltage electric transmission property

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

A. "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. Tax imposed. A tax is imposed on high-voltage electric transmission property at the rate of 10 mills multiplied by the just value of the property. Just value and ownership of the property must be determined as of the April 1st preceding the assessment. In determining the just value, the State Tax Assessor shall consider the operating income generated by the high-voltage electric transmission property.

3. Returns to State Tax Assessor. Each person owning or leasing high-voltage electric transmission property that on the first day of April in any year is situated, whether permanently or temporarily, within this State shall, on or before the 20th day of April in that year, return to the State Tax Assessor a complete list of such property on a form to be furnished by the State Tax Assessor.

4. Assessment and procedure. The State Tax Assessor shall assess the tax specified in subsection 2 on high-voltage electric transmission property owned or leased by any person. The tax on high-voltage electric transmission property must be assessed and paid in accordance with this subsection.

A. The State Tax Assessor shall make the assessment by May 30th of each year.

B. The tax assessment must be paid no later than the August 15th following the date of assessment.

5. Collection. Taxes assessed under this section by the State Tax Assessor must be enforced as generally provided by this Title.

6. Local property taxation. High-voltage electric transmission property subject to taxation under this section continues to be subject to ordinary local property taxation. The tax imposed by this section is in addition to ordinary local property taxation.

7. Contributions; Maine Transmission Mitigation Fund. The State Tax Assessor shall determine annually the total amount of tax revenue collected under this section. The State Tax Assessor shall deduct the cost of administering this section 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 3603.

Sec. A-2. Application. This Part applies to high-voltage electric transmission property in use on or after April 1, 2009.

PART B

Sec. B-1. 35-A MRSA c. 36 is enacted to read:

CHAPTER 36

MITIGATION OF IMPACT OF TRANSMISSION LINES

§ 3601. Definitions

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

1. **Customer.** "Customer" means a customer of the State's transmission and distribution utilities.
2. **Transmission line tax.** "Transmission line tax" means the tax imposed on high-voltage electric transmission property pursuant to Title 36, section 459.
3. **Trust.** "Trust" means the Maine Transmission Mitigation Trust established in section 3602.
4. **Trust fund.** "Trust fund" means the Maine Transmission Mitigation Trust Fund established in section 3603.
5. **Trustee.** "Trustee" means a trustee of the trust.

§ 3602. Maine Transmission Mitigation Trust established

1. **Trust established; purpose.** The Maine Transmission Mitigation Trust is established, effective July 1, 2009. The trust may receive and shall deposit in the trust fund and expend in accordance with this section revenue resulting from the transmission line tax.

2. **Trustees.** The commission shall appoint 3 trustees to the trust.

A. 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 that trustee's unexpired term. A trustee may serve a maximum of 2 consecutive terms.

B. A trustee has a fiduciary duty to the customers in the administration of the trust fund. Upon accepting appointment as a trustee, each trustee must acknowledge the fiduciary duty to use the money in the trust fund only for the purposes set forth in this chapter.

C. Each trustee shall ensure that the goals and objectives of the trust are achieved.

3. **Protection of trust.** 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.

4. **Rulemaking.** 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 projects placing electric utility infrastructure underground 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.

§ 3603. Maine Transmission Mitigation Trust Fund established

1. Trust fund established; purpose. The Maine Transmission Mitigation Trust Fund is established effective July 1, 2009 to support the goal of mitigating the impact of transmission lines on this State. The trust fund is established as a nonlapsing fund administered by the trust for the purposes established in this chapter. 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.

2. Revenue source; investment. Any revenue received from the transmission line tax is the property of the trust and must be deposited in the trust fund. Money in the trust fund not needed to meet the purposes of this chapter must be deposited with the Treasurer of State to the credit of the trust fund and may be invested by the Treasurer of State 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.

3. 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 place electric utility infrastructure underground. Any 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 during the immediately prior calendar year.

B. A maximum of 5% of trust fund receipts in any one year may be used for the total administrative costs of the trust.

4. Trust fund inviolability. The State pledges to, contracts with and agrees with the trustees and the customers that, for the proceeds of the transmission line tax 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 those owners, holders and trustees.

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 at the rate of 10 mills multiplied by the just value of that property. This bill also creates the Maine Transmission Mitigation Trust, which manages the Maine Transmission Mitigation Trust Fund, also created in this bill. The revenue from the excise tax is deposited in the Maine Transmission Mitigation Trust Fund. Annual distributions from the fund of 20% of the trust fund, up to \$10,000,000 annually, are made to municipalities that submit winning bids for electricity infrastructure projects placing transmission lines underground. The remainder of the Maine Transmission Mitigation 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.