



SIERRA CLUB

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To: Joint Committee on Environment and Natural Resources
From: David von Seggern, Sierra Club Maine Chapter Volunteer
Date: February 24, 2025
Re: **Testimony in Opposition to L.D. 495** *“An Act to Require Rules Designed to Reduce Climate Change to Include Estimates of the Reduction in Adverse Climate Effects and of the Cost to Consumers”*:

Senator Tepler, Representative Doudera, and members of the Joint Committee on Environment and Natural Resources,

I am testifying on behalf of Sierra Club Maine, representing over 22,000 supporters and members statewide. Founded in 1892, Sierra Club is one of our nation's oldest and largest environmental organizations. We work diligently to amplify the power of our 3.8 million members and supporters nation-wide. We urge you to oppose L.D. 495, which is a climate-change-skeptic bill that seeks to distract our agencies from their duties and overburden them.

L.D. 495 appears to be an attempt to apply cost/benefit analysis (CBA) to Department of Environmental Protection (DEP) rules that relate to reducing greenhouse gas emissions in Maine. However, while “costs” are called out in this proposed legislation, “benefits” are not. It proposes to merely quantify the “...level of adverse effects on the climate that will be prevented...” We recommend, if this bill is to be considered, that it be amended to require an estimation of benefits to be used in computing a cost/benefit ratio.

This proposed legislation is an attempt to avoid making rules which place any additional financial burdens on the residents of Maine, taxpayers, and ratepayers or rules which are relatively ineffective in reducing greenhouse gases. In theory, this may seem practical, but it fails to recognize the costs of doing nothing to address the climate crisis, which include significant damage to coastal infrastructure, disruption to the economy, and increased costs for adaptation measures, among the most costly. We need an all-of-the-above approach to climate change, not to be slow-walking agency rules until concrete CBAs are completed. This bill would also place additional burdens on the DEP to make these estimates and then update them periodically. We argue that the climate crisis is such a threat that it demands quick and certain action aimed at reducing greenhouse gas emissions without trying to necessarily achieve favorable CBA ratios. This bill, as currently worded, would not provide an answer to the question “what is the cost of doing nothing?”

The application of CBA is questioned in legal frameworks. For instance, the Berkeley Public Policy Journal¹ says:

“Although CBA has important implications on public policy and gives a solid foundation for evaluating possible policy decisions, its hyper-fixation on monetary costs can be problematic for legislating...”

And the Harvard Law School Journal² says:

“Potential justifications [for avoiding CBA] include the technical difficulty of quantifying costs and benefits; the relevance of values such as equity, dignity, and fair distribution; and the existence of welfare effects that are not captured by monetized costs and benefits.”

In fact, the very cautious Intergovernmental Panel on Climate Change, which advises the parties to the UN Framework Convention of Climate Change, has for several years called not only for reducing greenhouse gases as fast as possible but for also removing those that have already been emitted since carbon dioxide lasts for hundreds of years and methane has an impact 80 times as powerful as CO₂ in a 20-year timeframe. Both are at levels well above the levels that have supported human health for millenia. In preindustrial times, CO₂ was at about 280 ppm, but now well above 400 ppm and rising, clearly above the 350 ppm that Jim Hansen and his colleagues found might be a safe limit. Methane concentration is now at about 1.95 ppm and rising, far exceeding the normal, preindustrial 0.76 ppm.

The EPA last year announced grants to states for reducing and removing greenhouse gases; and Washington and California set up programs to research, develop, assess, govern and deploy methods of removing greenhouse gases wherever practical. Maine’s Rep. Chellie Pingree led a successful effort to include in the Inflation Reduction Act the funds and authority for the USDA to fund greenhouse gas removal work, including a Natural Resource Conservation Service fund of \$19.3 billion so rural communities could do just that. Those funds were recently blocked by the Trump Administration so that visitors to the Ellsworth Office on February 12th were told that the staff could not talk about them, let alone discuss how Mainers might access those funds to help manage forests and farms to better sequester CO₂ or to help dairy barns and sewage treatment plants remove the dense streams of methane flowing from those facilities.

¹ Edge, D., Berkeley Public Policy Journal, Spring/Summer, The Role of Cost-Benefit Analysis in Public Policy Decision-Making, 2024.

<https://bppj.studentorg.berkeley.edu/2021/12/14/the-role-of-cost-benefit-analysis-in-public-policy-decision-making/>

² Sunstein, C., Harvard Law School Journal, Cost-Benefit Analysis and Arbitrariness Review, 2015. <https://journals.law.harvard.edu/elr/wp-content/uploads/sites/79/2015/10/Sunstein.pdf>

Clearly state or federal funds should be provided on a rational basis to reduce greenhouse gas emissions in Maine; and we expect they will be without this bill, as both state³ and federal⁴ administrative procedure acts generally bar regulations that are arbitrary, capricious or otherwise not in accordance with the law.

Lastly, we ask the committee to consider the whole body of Maine regulations. In how many instances is there a requirement for CBA? Why should the legislature single out greenhouse gas reduction for a type of further reckoning that is not applied to a whole gamut of other state regulations. Contrary to the federal government, which has a broad requirement for CBA under Executive Order 12866⁵, Maine has no similar sweeping requirement. The question that arises is whether the anomalous treatment of DEP rules related to greenhouse gas reduction is justified. We think not. For this and above reasons, we oppose this proposed legislation.

We ask the committee to oppose L.D. 495 and encourage continued exploration of all just and reasonable legislative pathways to reduce the emissions of greenhouse gases in the state of Maine.

David von Seggern
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³Maine Revised Statutes, Title 5, Chapter 375.

<https://legislature.maine.gov/statutes/5/title5ch375sec0.htm>

⁴ Administrative Procedures Act, *Office of the Federal Register*.

<https://www.archives.gov/federal-register/laws/administrative-procedure>

⁵Congressional Research Service, Cost-Benefit Analysis in Federal Agency Rulemaking, 2024.

<https://crsreports.congress.gov/product/pdf/IF/IF12058>