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TESTIMONY OF
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MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

SPEAKING IN OPPOSITION TO L.D. 1498

**AN ACT TO PREVENT INCREASED HEATING FUEL, NATURAL GAS, GASOLINE
AND DIESEL FUEL PRICING IN MAINE BY PROHIBITING ADOPTION OF RULES
LIMITING GREENHOUSE GAS EMISSIONS**

SPONSORED BY REP. STETKIS

**BEFORE THE JOINT STANDING COMMITTEE
ON
ENVIRONMENT AND NATURAL RESOURCES**

DATE OF HEARING:

MAY 3, 2021

Senator Brenner, Representative Tucker, and members of the Committee, I am Jeffrey Crawford, Director of the Bureau of Air Quality at the Maine Department of Environmental Protection, speaking in opposition to L.D. 1498.

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Before I outline the Department's specific concerns, it is important to remember that Legislative authorization is already necessary for the Department to create any new programs that involve collection and distribution of funds. Additionally, any program that results in a proposal for new regulatory obligations is subject to the Maine Administrative Procedure Act and must go through the same public process as more conventionally generated rule proposals. The changes to the laws governing Maine's climate change efforts proposed in L.D. 1498 are unnecessary, redundant to existing requirements, or both. These changes include:

- 1) The Department's rules implementing the Maine Climate Action Plan as required by 38 MRS 576-A(4) would become major substantive rules pursuant to the Maine Administrative Procedures Act.
- 2) The Department of Environmental Protection or the Department of Transportation would be prohibited from adopting rules that would increase the cost of heating fuel, natural gas, gasoline or diesel fuel through a variety of programs including taxes, permit limits or fees without express Legislative approval.
- 3) The state would be prohibited from joining a multistate consortium or coalition that requires the state to implement a policy that would increase the price of fuel without prior Legislative approval.

Climate Change. As we have all learned over the last few decades, climate change is one of the greatest threats facing humanity today. The consequences of climate change include increased severity of storm events, increasing numbers of severe storm events, rising sea levels, droughts, species migration, and increasing instability throughout society as we attempt to adapt to these changes. Scientists around the world agree that the most important driver of climate change today is the atmospheric accumulation of greenhouse gases derived from human activities, primarily from the combustion of fossil fuels. Reducing the emission of greenhouse gases is a goal shared by nearly 200 countries, and reduction of fossil fuel use is key to reducing these emissions.

In Maine, the lion's share of greenhouse gas emissions are the result of energy production from burning fossil fuels for motor vehicle transportation and for space heating. According to the Eighth Biennial Report on Progress toward Greenhouse Gas Reduction Goals, presented to this Committee in January of last year, petroleum products accounted for 84% of all carbon dioxide (CO₂) emissions in the State for 2017. Clearly, if we are to make meaningful progress in reducing greenhouse gas emissions, reducing the use of fossil fuels will be a critical factor in our success.

The Value of Multijurisdictional Activities. The Department participates in a wide range of multijurisdictional activities, ranging from regulatory programs such as the California Low Emission Vehicle Program to non-regulatory programs such as the Zero Emission Vehicle Memoranda of Understanding for light, medium and heavy-duty vehicles. And while Maine could choose to develop and rely solely on "home grown" programs, experience with a wide range of air quality issues has demonstrated that multistate programs provide greater emission reductions at a lower cost.

Maine's participation in the Regional Greenhouse Gas Initiative (RGGI) illustrates the effectiveness of interjurisdictional cooperation. The program rules adopted by the Department require fossil fuel-burning power plants of 25 MW or more to purchase and hold allowances equivalent to their CO₂ emissions. In the most recent three-year control period, participation in the program cost affected power plants in Maine approximately \$15,350,000. During that same period, Maine received over \$30,770,000 from RGGI auction proceeds, or more than two dollars for every dollar spent. The funds were invested in programs that directly benefitted electricity customers in Maine, including insulating homes, subsidizing high-efficiency appliances and equipment upgrades, and providing rate relief to energy-intensive manufacturers. Overall, CO₂ emissions from RGGI units within the State of Maine have decreased by over 75% from levels emitted during the 2006-2008 baseline period. While the Department was not authorized by the

Legislature to begin rulemaking to allow participation in RGGI until 2007, Maine began working with eight other states in 2003 to establish the framework for the program. It was this pre-legislative cooperation that provided the impetus for the legislation, not the other way around. The restrictions in this bill would make it difficult, if not impossible for Maine to become involved in such a group effort in the future, and would severely restrict our ability to help craft programs that more fully address Maine's unique needs.

As the RGGI program clearly shows, while there is a cost associated with this type of program, when the program is properly implemented and administered, the benefits will far outweigh those costs. To ensure that any such programs are maximally beneficial to Maine citizens, it is essential that the Department be able to fully participate in early discussions and negotiations on program scope and design.

Bill Impacts. As previously noted, Department (and Maine Department of Transportation) rules implementing the Maine Climate Action Plan (and the recommendations of the Maine Climate Council) would all become major substantive rulemakings, requiring Legislative review and approval, no matter their significance or impacts on the public and the regulated community. Even the greenhouse gas accounting rules that codify the Department's methods for measuring and estimating greenhouse gas emissions from various source categories, and for calculating gross and net annual greenhouse gas emissions for the State would be major substantive rules.

The prohibition against the Department of Environmental Protection and the Department of Transportation adopting rules that would increase the cost of fuels through a wide variety of programs seems targeted at multistate efforts such as the Transportation Climate Initiative, a multistate cap-and trade program for greenhouse gases from the transportation fuel sector that Maine has not joined. Even if Maine did join this, or another initiative, as previously noted, we could not implement the program without seeking specific legislative authority (as with the RGGI).

Finally, the prohibition against joining a multistate consortium or fails to recognize the very nature of these agreements. Not only are these voluntary agreements in which participants retain all their rights and sovereignty (and are free to withdraw at any time), but they are also collaborative efforts that build upon the needs of all participants, from initial program development on through implementation.

In closing, the proposed bill unnecessarily complicates the rulemaking process, hinders multistate collaborative efforts, and fails to recognize the Legislature's existing authority. I appreciate the opportunity to provide you with our comments, and I will be happy to answer any questions you may have.