HB 1434 – AS AMENDED BY THE SENATE

19Mar2008… 0770h

05/08/08 1629s

2008 SESSION

08-2166

08/10

HOUSE BILL ***1434***

AN ACT relative to the regional greenhouse gas initiative and authorizing cap-and-trade programs for controlling carbon dioxide emissions.

SPONSORS: Rep. Kaen, Straf 7; Rep. Harvey, Hills 21; Rep. Barry, Hills 19; Sen. Hassan, Dist 23; Sen. Fuller Clark, Dist 24; Sen. Bragdon, Dist 11; Sen. Odell, Dist 8; Sen. Larsen, Dist 15

COMMITTEE: Science, Technology and Energy

AMENDED ANALYSIS

This bill authorizes a cap-and-trade program for CO_2 emissions pursuant to the regional greenhouse gas initiative.

This bill also establishes an energy conservation and efficiency board.

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Explanation: Matter added to current law appears in ***bold italics.***

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eight

AN ACT relative to the regional greenhouse gas initiative and authorizing cap-and-trade programs for controlling carbon dioxide emissions.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Findings.

I. New Hampshire signed a Memorandum of Understanding (MOU) with 9 other states wherein each state agreed to propose legislation or seek regulatory approval to implement an electric power sector cap and trade program on CO_2 emissions, known as the regional greenhouse gas initiative (RGGI). The MOU outlines the primary elements of RGGI including:

(a) Establishing a total CO_2 emissions allowance cap for the region as well as individual state allowance budgets;

(b) Setting aside a minimum of 25 percent of the state's allowances for consumer benefit and other strategic energy purposes;

(c) The limited use of documented CO_2 emission reductions outside the electric power sector to help with compliance and the expanded use of such reductions when certain price thresholds for allowances are exceeded; and

(d) Cooperation with other states in implementing the RGGI program.

II. RGGI is a modest first step in addressing greenhouse gas emissions consistent with the direction of the New England Governors/ Eastern Canadian Premiers goals and provides leadership in promoting a federal or international plan.

III. According to a recent economic study by the University of New Hampshire, implementation of the regional greenhouse gas initiative is in the best economic interests of New Hampshire and investment in energy efficiency and conservation will help to reduce energy costs for New Hampshire citizens.

IV. For these reasons, the general court supports the implementation of RGGI to achieve CO_2 emissions reductions through an electric power sector cap and trade program that encourages energy conservation and efficiency.

2 New Subdivision; Regional Greenhouse Gas Initiative. Amend RSA 125-O by inserting after section 18 the following new subdivision:

Regional Greenhouse Gas Initiative

125-O:19 Statement of Purpose and Findings. The general court finds that global climate change is a significant environmental problem which could already be contributing to changes in New Hampshire average temperatures, frequency of extreme storm events, number of days with snow cover, timing of spring river flows, and date of spring blooms. Recent studies and scientific evidence indicate that global climate change is caused by a buildup of natural and manmade greenhouse gases in the atmosphere. Carbon dioxide (CO_2) is a significant greenhouse gas that contributes to global climate change. Therefore, the purpose of this subdivision is to reduce greenhouse gas emissions resulting from energy use in New Hampshire.

125-O:20 Definitions. In this subdivision:

I. "Affected CO_2 source" means any source with one or more fossil fuel-fired electricity generating units having a nameplate rated capacity equal to or greater than 25 megawatts.

II. "Budget allowances" means those RGGI allowances comprising the state annual budget for CO_2 emissions specified in RSA 125-O:21, II.

III. "Commission" means the public utilities commission.

IV. "Compliance period" means a 3 calendar year time period, unless extended one calendar year by a stage-2 trigger event. The first compliance period is from January 1, 2009 to December 31, 2011, unless a stage-2 trigger event extends the first compliance period to December 31, 2012. Each subsequent sequential 3 calendar year period is a separate compliance period subject to a one-year extension if a stage-2 trigger event occurs during the compliance period. The compliance period shall never be longer than 4 calendar years.

V. "Consumer price index" or "CPI" means the U.S. Department of Labor, Bureau of Labor Statistics unadjusted consumer price index for all urban consumers for the U.S. city average, for all items on the latest reference base, or if such index is no longer published, such other index as the department determines is appropriate. The CPI for any calendar year is the 12-month average of the CPI published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

VI. "Department" means the department of environmental services.

VII. "Early reduction allowances" means allowances provided to affected CO_2 sources for eligible projects undertaken which have the effect of reducing emissions at the affected CO_2 source by an absolute reduction of emissions during calendar years 2006, 2007, and 2008, from a baseline approved by the department, through emission rate improvements or permanently reducing utilization of one or more units at a source.

VIII. "International trading programs" means international programs approved by the department such as the European Emission Trading Scheme (ETS) and offset credits established under the Clean Development Mechanism (CDM) to be used to obtain equivalent RGGI offset allowances pursuant to RSA 125-O:22, II(b).

IX. “Market settling period” means the first 14 months of any compliance period.

X. “Offset allowances” means allowances issued to projects determined to be eligible by the department undertaken outside of the electric power sector to reduce CO_2 or CO_2 equivalent emissions.

XI. “PSNH” means Public Service Company of New Hampshire or any successor to the company’s public utility franchise.

XII. “Regional greenhouse gas initiative” or “RGGI” or “RGGI program” means the program to implement the memorandum of understanding (MOU) between signatory states, dated December 20, 2005, as amended on August 8, 2006 and April 20, 2007, and the corresponding model rule to establish a regional CO_2 emissions budget and allowance trading program for emissions from fossil fuel-fired electricity generating units.

XIII. “Regional organization” means a non-profit organization formed by the signatory states to RGGI to provide technical and administrative assistance for such things as: emissions and allowance tracking, offsets development and implementation, allowance market monitoring, and data collection. The organization shall have no regulatory or enforcement authority.

XIV. “Retire” means submitting a RGGI allowance to the department for compliance or other purpose or retaining a RGGI allowance by the department such that the allowance may never be sold or otherwise used again.

XV. “RGGI allowances” means a limited authorization to emit one ton of CO_2 issued by the department or other RGGI signatory state in accordance with this subdivision or the RGGI program and shall include budget allowances, offset allowances, and early reduction allowances.

XVI. “Stage-one trigger event” means a 12-month rolling average CO_2 allowance price that is equal to or greater than $7 in 2005 dollars, such figure adjusted annually on January 1 of each calendar year according to the consumer price index, but only when such a rolling average price occurs in any 12-month period beginning after the end of the market settling period.

XVII. “Stage-2 trigger event” means a 12-month rolling average CO_2 allowance price that is equal or greater than $10 in 2005 dollars, such figure adjusted annually on January 1 of each calendar year according to the consumer price index plus 2 percentage points, but only when such a rolling average price occurs in any 12-month period beginning after the end of the market settling period.

125-O:21 Carbon Dioxide Emissions Budget Trading Program.

I. The department shall establish and enforce a CO_2 emissions budget trading program consistent with this subdivision that shall be in substantial accordance with the RGGI program.

II. The program shall include a statewide annual budget allowance of 8,620,460 tons during the years 2009 through 2014. Beginning January 1, 2015 and ending December 31, 2018, the budget shall decline by 215,512 tons per year, resulting in a 10 percent total reduction from the initial budget, after which it shall remain unchanged until further legislative action.

III. The department shall make available for sale at one or more auctions all of the budget allowances for a given year, except for those granted or reserved under RSA 125-O:22, VI, 125-O:24, and 125-O:25. The department may also make available for sale at one or more auctions a portion of future year budget allowances. Such auctions may be conducted in coordination with other states. Revenues from the sale of allowances shall be deposited in the greenhouse gas emissions reduction fund established under RSA 125-O:23.

IV. The department shall grant to affected CO_2 sources early reduction allowances, at no cost, for projects eligible to receive such allowances.

V. The department shall grant offset allowances to owners of eligible offset projects located in New Hampshire.

VI. The department and the commission shall report on an annual basis to the air pollution advisory committee under RSA 125-J:11 and the legislative oversight committee on electric utility restructuring under RSA 374-F:5, on the status of the implementation of RGGI in New Hampshire with emphasis on the prices and availability of RGGI allowances to affected CO_2 sources, and the trends in electric rates for New Hampshire businesses and ratepayers. The report shall include but not be limited to:

(a) The number of allowances sold in the RGGI program and the type of entities purchasing allowances;

(b) The number of unsold allowances in the RGGI program;

(c) The available price data of allowances from the regional auction and secondary markets;

(d) Market monitoring reports;

(e) The CO_2 emissions by affected source, state, and RGGI region;

(f) The spending of revenues from auction allowances by each RGGI state; and

(g) The allocation and spending of the greenhouse gas emissions reduction fund, including associated energy savings and emissions reductions.

VII. The department may establish and enforce the CO_2 emissions budget trading program in cooperation and coordination with other states or countries that are participating in regional, national or international CO_2 emissions trading programs with the same or similar purpose including:

(a) Entering into any agreement or arrangement with the representatives of other states, including the formation of a for-profit or non-profit corporation, any form of association or any other form of organization, in this or another state; and

(b) Participating in any such corporation, association, or organization, and in any activity in furtherance of the purposes of this subdivision, in any capacity including, but not limited to, as directors or officers.

VIII. Any actions taken under this subdivision by the department or the commission shall not constitute a waiver of sovereign immunity and shall not be deemed consent to suit outside of New Hampshire.

125-O:22 Compliance; Permit Required.

I. Each affected CO_2 source shall obtain and retire a quantity of RGGI allowances equivalent to its CO_2 emissions from fossil-fuel fired generation for each compliance period.

II. An affected CO_2 source may use offset allowances for up to 3.3 percent of its compliance obligation, except that in a given compliance period:

(a) If a stage-one trigger event occurs, an affected CO_2 source may use offset allowances for up to 5 percent of its compliance obligation; and

(b) If a stage-2 trigger event occurs, the compliance period shall be extended to 4 years and an affected CO_2 source may use offset allowances for up to 10 percent of its compliance obligation, including offset allowances or credits permanently retired from eligible international trading programs, as approved by the department.

III. Purchasers or acquirers of RGGI allowances may retain unused RGGI allowances without limit. Affected CO_2 sources may use retained RGGI allowances in future compliance periods.

IV. No person shall operate an affected CO_2 source without a temporary or operating permit issued by the department in accordance with this chapter and RSA 125-C. An affected CO_2 source that is in operation upon the effective date of this subdivision, shall submit a complete application for a permit modification to the department no later than January 1, 2009. Applications for permits shall be upon such forms, and shall include such information as the commissioner requires under rules adopted pursuant to RSA 541-A. The commissioner shall act upon a permit application within a reasonable period of time.

V. In addition to the provisions set forth in RSA 125-O:7, an affected CO_2 source that fails to obtain and retire sufficient RGGI allowances during a compliance period, in accordance with RSA 125-O:22, I, shall obtain and surrender 3 RGGI budget or early reduction allowances in the next compliance period for each RGGI allowance that the affected CO_2 source was short in obtaining compliance.

VI. Budget allowances shall be provided to affected CO_2 sources as needed and upon request for CO_2 emissions in periods of operation during which an Operating Procedure 4 capacity deficiency alert is in force as established by the ISO New England Inc. The department shall reserve from auction for such emergency conditions a quantity of allowances equal to one percent of the annual budget allowances which shall be the maximum made available in a given year under this paragraph. The department shall directly sell these allowances to the affected CO_2 sources at the last regional auction clearing price. Those allowances reserved but not sold in a given year as provided in this paragraph shall be auctioned the following calendar year.

VII. Upon recommendation of the commission, the governor with consent of the executive council may declare an emergency supply crisis, and the governor and council may allow affected CO_2 sources to forgo strict compliance with paragraph I for a given compliance period and be given reprieve from any associated penalties, provided that those affected CO_2 sources obtain and retire an additional number of allowances during the next compliance period equivalent to any shortfall in allowances that may have occurred for the compliance period during which the declared emergency was made.

VIII. A distribution company may recover the actual, prudent and reasonable costs of investments in carbon emissions reduction or capture technologies through its default service charge pursuant to RSA 369-B:3, IV(b)(1)(A), provided that the commission first determines that the investment is in the public interest.

125-O:23 Greenhouse Gas Emissions Reduction Fund.

I. There is hereby established a greenhouse gas emissions reduction fund. This nonlapsing, special fund shall be continually appropriated to the public utilities commission to be expended in accordance with this section. The state treasurer shall invest the moneys deposited therein, as provided by law. Income received on investments made by the state treasurer shall also be credited to the fund. All programs supported by these funds shall be subject to audit by the public utilities commission as deemed necessary. A portion of the fund moneys shall be used to pay for commission and department costs to administer this subdivision, including contributions for the state's share of the costs of the RGGI regional organization. Any new employee positions to be paid for using fund moneys shall be approved by the fiscal committee of the general court pursuant to RSA 124:15. The public utilities commission shall transfer from the fund to the department such costs as may be budgeted and expended, or otherwise approved by the fiscal committee and the governor and council, for the department's cost of administering this subdivision.

II. Fund moneys shall be used to support energy efficiency, conservation, and demand response programs to reduce greenhouse gas emissions generated within the state, which may include programs proposed and administered by private entities, as well as by the department, the commission, and other state and local governmental agencies. Such programs may include, but not be limited to, improving the electrical and thermal energy efficiency of New Hampshire's residential housing and commercial building stock via weatherization, energy auditing, energy efficiency related work force training and development, revolving loan funds for efficiency related investment, related industrial process and control systems, integration of passive solar heating and ventilation systems, efforts to increase adherence to energy related building and electrical codes. These funds shall not be transferred or used for any other purpose.

III. At least 10 percent of the moneys shall be used to assist low-income residential customers, as defined by the commission and in a manner compatible with other low-income programs administered by the commission, to reduce total energy use including heating fuels and to foster the development and retrofitting of highly efficient and affordable housing.

IV. Notwithstanding paragraphs I, II, and III, all amounts in excess of the threshold prices listed below for any allowance sale made prior to January 1, 2016 that is deposited in the fund shall be rebated to all electric ratepayers in the state on a per-kilowatt-hour basis, in a timely manner, to be determined by the commission. For the following years listed, the threshold price shall be:

(a) 2009 and 2010, \$6/ton.

(b) 2011 and 2012, \$9/ton.

(c) 2013 and 2014, \$12/ton.

(d) 2015, \$15/ton.

(e) After 2015, no threshold price.

V. In the event that the commission finds that a significant amount of unencumbered dollars have accumulated in the greenhouse gas emissions reduction fund, and are not needed for program purposes, the commission shall refund such unencumbered dollars to rate payers in a timely manner.

VI. All penalties collected pursuant to this subdivision shall be deposited in the greenhouse gas emissions reduction fund.

VII. In selecting programs to be funded under this section the commission shall consider, at a minimum, the extent to which the proposed program can be expected to:

(a) Reduce greenhouse gas emissions from all fuels used to provide electricity, heating, and cooling in New Hampshire;

(b) Be cost-effective;

(c) Reduce New Hampshire's peak electric load;

(d) Promote market transformation, innovative technology and economic development, and energy cost savings; and

(e) Otherwise be consistent with the public interest and the purposes of this subdivision.

125-O:24 Conversion of Allowances.

I. PSNH shall receive credit for allowances received prior to the inception of the RGGI program in the manner described in this section.

II. PSNH shall submit all necessary documentation to the department by January 30, 2009 relative to compliance with RSA 125-O:3, III(d).

III. PSNH shall submit all necessary documentation to the department within 90 days of effective date of this paragraph relative to RSA 125-O:5, III.

IV. As soon as practicable after the start of the program, the department shall determine the number of allowances previously allocated to PSNH under RSA 125-O:3, II or awarded to PSNH under RSA 125-O:5, III, that remain in PSNH's account of CO_2 allowances held by the department as banked allowances, after the company has completed compliance with the emissions cap of RSA 125-O:3, III(d) for the 2007 and 2008 calendar years.

V. At the distribution rate specified in paragraph VI, the department shall grant to PSNH budget allowances, at no cost, equivalent to the total of the banked allowances pursuant to paragraph IV minus the early reduction allowances granted to PSNH under RSA 125-O:21, IV. PSNH shall be obligated to apply for early reduction allowances for any eligible projects it has undertaken.

VI. The department shall grant budget allowances pursuant to this section as expeditiously as possible, but in no event shall the amount of budget allowances granted pursuant to this section total more than 2.5 million allowances per year in years 2009, 2010, and 2011, and 1.5 million allowances in each year thereafter. For each budget allowance granted, one banked allowance shall be retired.

VII. In the event the state no longer participates in the RGGI program due to legislative action or the RGGI program becomes invalid or unenforceable as determined by the department and certified to the secretary of state, the department shall cease granting budget allowances pursuant to paragraphs V and VI. Notwithstanding the other provisions of this section, PSNH shall have no right or claim to receive any additional budget allowances under this section beyond those already granted to it up to that point in time when participation in the program has ceased or the program has become invalid or unenforceable. If this point in time occurs part way through a year, the number of budget allowances given to PSNH for that year shall be pro-rated based on the distribution rate in effect for that year, provided the total amount of allowances calculated pursuant to paragraph IV has not already been granted to PSNH.

VIII. The department shall not grant budget allowances after December 31, 2014 pursuant to this section without legislative authorization to continue the granting of allowances. Notwithstanding the other provisions of this section, PSNH shall have no right or claim to receive any additional budget allowances under this section beyond those already granted by December 31, 2014, should the legislature not authorize continuation of the allowance granting.

IX. No remaining banked allowances held by the department originating from the calculation performed under paragraph IV, shall be used for RGGI compliance purposes after the department ceases to grant budget allowance in accordance with paragraph VII or VIII. These remaining banked allowances shall not be used for compliance or exchanged for value in any existing or future federal program. When developing future state programs, the legislature may recognize the existence of these remaining banked allowances when determining the future compliance obligations of PSNH.

125-O:25 Set Aside for Voluntary Purchase of Renewable Energy Certificates.

I. The department shall reserve from auction, for retirement purposes, a quantity of budget allowances, not to exceed one percent of the annual budget, equivalent to the CO_2 emissions reductions associated with renewable energy certificates recognized under RSA 362-F and purchased voluntarily by electricity customers and not resold.

II. Budgeted allowances reserved under paragraph I not retired at the end of each year shall be auctioned the following calendar year.

125-O:26 Auction of Budget Allowances. Any rules adopted by the department relative to auctions, pursuant to RSA 125-O:8, I(d), shall provide that they:

I. Shall be conducted based on the schedule and frequency adopted by the department in consultation with other entities participating in the RGGI program;

II. Shall include the sale of allowances for current and future years to promote transparency and price stability in a manner to be determined by the department in coordination with the regional organization;

III. Shall include auction design elements that minimize allowance price volatility, guard against bidder collusion, and mitigate the potential for market manipulation;

IV. Shall include provisions to address, and to the extent practicable minimize, the potential for allowance market price volatility during the initial control period of the RGGI program;

V. Shall include provisions to ensure the continued market availability of allowances to entities regulated under a greenhouse gas emissions allowance trading program, taking into account the outcomes of auctions and monitoring of the allowance market, which may include the adoption of a flexible process that allows for ongoing modification of auction design and procedures in response to allowance market conditions and allowance market monitoring data, provided that the process allows for public comment and input; and

VI. May be open to all qualified participants, and all qualified participants may sell or otherwise agree to transfer any or all allowances to any eligible entity.

125-O:27 Review of the New Hampshire RGGI Program. At the time of the 2012 comprehensive review by the signatory states as required in the MOU, the commission and the department shall concurrently review New Hampshire specific elements of the RGGI program, in particular 125-O:23, IV and 125-O:25 and include the results of such review in the agencies' annual report under RSA 125-O:21, VI.

125-O:28 Cost Recovery. If the owner of an affected CO_2 source is a public utility pursuant to RSA 362:2 that provides electric distribution service pursuant to RSA 374-F, the owner may recover through the utility's default service charge all prudently incurred costs of complying with the requirements of this subdivision in a manner approved by the public utilities commission. In the event PSNH sells an affected CO_2 source, any cost recovery associated with this chapter shall be governed by RSA 369-B:3-a.

3 Carbon Dioxide Cap. Amend RSA 125-O:3, III(d) to read as follows:

(d) 5,425,866 tons annually applicable to total carbon dioxide (CO_2) emissions from the affected sources until December 31, [~~2010, and after December 31, 2010, a lower cap to be recommended by the department no later than March 31, 2004, with timely consideration by the legislature expected by July 1, 2005~~] ***2008***.

4 Emissions Trade and Banking. Amend RSA 125-O:6, I to read as follows:

I. Develop a trading and banking program to provide appropriate compliance flexibility in meeting the emission caps established under RSA 125-O:3, III ***and allowance requirements of RSA 125-O:21 and RSA 125-O:22***, and to encourage earlier and greater emissions reductions and the development of new emission control technologies in order to maximize the cost-effectiveness with which the environmental benefits of this chapter are achieved.

5 Rulemaking Authority. Amend RSA 125-O:8 to read as follows:

125-O:8 Rulemaking Authority.

I. The commissioner shall adopt rules under RSA 541-A, commencing no later than 180 days after the effective date of this section, relative to:

[~~I.~~] ***(a)*** The establishment of trading and banking programs as authorized by RSA 125-O:6, I.

[~~II.~~] ***(b)*** The establishment of a method for allocating allowances and other emissions reduction units or mechanisms as authorized by RSA 125-O:3, II and III.

[~~III.~~] ***(c)*** Emissions ***and allowance*** monitoring, ***tracking,*** recordkeeping, reporting, and other such actions as may be necessary to verify compliance with this chapter.

(d) The method and requirements for auctioning budget allowances under RSA 125-O:21, which may use regional organizations.

(e) Defining eligible projects for early reduction allowances under RSA 125-O:21, IV, and establishing criteria to quantify and grant such allowances.

(f) Defining eligible projects for offset allowances under RSA 125-O:21, V, and establishing criteria to quantify and grant such allowances, including the accreditation of third-party verifiers.

(g) The forms and information required on applications for a temporary or operating permit required under RSA 125-O:22.

II. The public utilities commission shall adopt rules, under RSA 541-A, to administer the greenhouse gas emissions reduction fund pursuant to RSA 125-O:23.

6 Compliance dates Amend RSA 125-O:9 to read as follows:

125-O:9 Compliance Dates. The owner or operator of each affected source shall comply with the provisions of this chapter, excluding the subdivision on mercury emissions, RSA 125-O:11 through 125-O:18, ***and the subdivision for CO_2 emissions, RSA 125-O:19 through RSA 125-O:28,*** by December 31, 2006.

7 Non-Severability. Amend RSA 125-O:10 to read as follows:

125-O:10 Non-Severability. No provision of ***RSA 125-O:1 through RSA 125-O:18*** of this chapter shall be implemented in a manner inconsistent with the integrated, multi-pollutant strategy or ***RSA 125-O:1 through RSA 125-O:18*** of this chapter [~~in its entirety~~], and to this end, the provisions of ***RSA 125-O:1 through RSA 125-O:18*** of this chapter are not severable.

8 New Subparagraph; Application of Receipts; State Treasurer. Amend RSA 6:12, I(b) by inserting after subparagraph (268) the following new subparagraph:

(269) Moneys deposited in the greenhouse gas emissions reduction fund established in RSA 125-O:23.

9 New Section; Energy Conservation and Efficiency Board. Amend RSA 125-O by inserting after section 5 the following new section:

125-O:5-a Energy Conservation and Efficiency Board.

I. An energy conservation and efficiency board is hereby created to seek opportunities to coordinate energy efficiency and demand response programs in the state. The board's duties shall include but not be limited to:

(a) Review available energy efficiency and conservation programs and incentives and compile a report of available efficiency and conservation resources in New Hampshire.

(b) Develop a plan to achieve the state's energy efficiency potential for all fuels, including setting goals and targets for energy efficiency that are meaningful and achievable.

(c) Provide written advice at least annually to the public utilities commission on the administration and allocation of energy efficiency funds under the commission's jurisdiction.

(d) Explore opportunities to coordinate programs targeted at saving more than one fuel resource, including coordination between the natural gas and other programs or projects which seek to reduce the use of other fuels.

(e) Develop tools to enhance outreach and education programs to increase knowledge about energy efficiency among New Hampshire residents and businesses.

(f) Expand upon the state government's efficiency programs to ensure that the state is providing leadership on energy efficiency, reducing its use of energy, and reducing the state's fuel costs.

(g) Encourage municipalities to increase investments in energy efficiency through financing tools, and to create municipal energy committees.

(h) Work with community action agencies and the office of energy and planning to explore ways to ensure that all customers participating in programs for low-income customers and the Low Income Home Energy Assistance Program (LIHEAP) have access to energy efficiency improvements in order to reduce their energy bills.

(i) Investigate potential sources of funding for energy efficiency and delivery mechanisms for such programs, coordinate efforts between funding sources to reduce duplication and enhance collaboration, and review investment strategies to increase access to energy efficiency.

II. The members of the board shall be as follows:

(a) The chairman of the public utilities commission, or designee.

(b) The director of the office of energy and planning, or designee.

(c) The consumer advocate, or designee.

(d) The commissioner of the department of environmental services, or designee.

(e) The commissioner of the department of resources and economic development, or designee.

(f) The president of the Business and Industry Association of New Hampshire, or designee.

(g) The executive director of the New Hampshire Municipal Association, or designee.

(h) A representative of energy services companies delivering energy efficiency services to residential and business customers, appointed by the chairman of the public utilities commission.

(i) The executive director of New Hampshire Legal Assistance, or designee.

(j) The president of the Homebuilders and Remodelers Association of New Hampshire, or designee.

(k) Two members of the house science, technology and energy committee appointed by the speaker of the house of representatives.

(l) One member of the senate energy, environment and economic development committee, appointed by the president of the senate.

(m) Three representatives from groups representing energy, environmental, consumer, and public health issues and knowledgeable in energy conservation policies and programs, appointed by the chairman of the public utilities commission.

(n) One representative from the investment community with expertise in efficiency investments and financing, appointed by the chairman of the public utilities commission.

(o) One representative from each of the utility-administered electric and natural energy efficiency programs, appointed by the chairman of the public utilities commission.

(p) The executive director of the New Hampshire Housing Finance Authority, or designee.

(q) The state fire marshal, or designee.

III. The chairman of the public utilities commission shall call the first meeting of the board. The board shall elect a chairperson from among its members. The board shall make an annual report on December 1 to the governor, the speaker of the house of representatives, the president of the senate, the house science, technology and energy committee, the senate energy, environment and economic development committee, and the public utilities commission, to provide an update on its activities and recommendations for action.

IV. No member of the board shall vote on a matter in which the member, or the organization or entity represented by or employing the member, has a direct financial interest.

10 Repeal. RSA 125-O:5, III, relative to emissions allowances to PSNH for energy efficiency, new renewable energy projects, or conservation and load management projects, is repealed.

11 Contingency. If HB 1561 of the 2008 legislative session becomes law, section 9 of this act shall not take effect. If HB 1561 does not become law, section 9 of this act shall take effect October 1, 2008.

12 Effective Date.

I. Section 9 of this act shall take effect as provided in section 11 of this act.

II. The remainder of this act shall take effect upon its passage.

LBAO

08-2166

Amended 04/24/08

HB 1434 FISCAL NOTE

AN ACT relative to the regional greenhouse gas initiative and authorizing cap-and-trade programs for controlling carbon dioxide emissions.

FISCAL IMPACT:

The Public Utilities Commission and Department of Environmental Services state this bill, **as amended by the House (Amendment #2008-0770h)**, will increase state restricted revenue, and have an indeterminable fiscal impact on state, county, and local expenditures in FY 2009 and each year thereafter. This bill will have no fiscal impact on county and local revenues.

METHODOLOGY:

The Public Utilities Commission (PUC) states that as part of the Regional Greenhouse Gas Initiative (RGGI), this bill establishes a carbon dioxide allowance cap and trade program for New Hampshire. This bill requires owners of fossil fuel burning power plants, such as coal and natural gas burning facilities, to purchase carbon dioxide allowances equivalent to their emissions by March 1 following the end of each three year compliance period. The first compliance period begins on January 1, 2009 and ends on December 31, 2011, unless a stage-two trigger event extends the first compliance period to December 31, 2012. The PUC assumes that power plants will purchase one-third of the three year total each year and annual emissions will be equal to the state allowance budget each year. This analysis calculates total ratepayer costs, but does not reflect potential savings from investment of revenue in increased energy efficiency. These costs include the costs to state, county, and local government customers, who comprise approximately 6% of the total ratepayers costs.

The PUC states that the statewide annual budget for allowances is 8,620,460 tons during the calendar years (CY) 2009 through 2014. Beginning January 1, 2015 and ending December 31, 2018, the budget declines by 215,512 tons per year. From this annual budget, the Department of Environmental Services (DES) is required to retire 1% of the allowances for voluntary purchases of renewable energy certificates. DES is also required to reserve 1% for use during an Operating Procedure 4 capacity deficiency alert established by the Independent System Operator of New England (ISQ-NE). DES shall also grant budget allowances to Public Service Company of New Hampshire (PSNH) pursuant to RSA 125-O:24, VI equal to 2.5 million allowances per year in CY 2009 through 2011, and 1.5 million allowances in any one year thereafter. For purposes of this analysis, the PUC assumes that the 1.5 million allowances will be granted to PSNH in CY 2012. These deductions lead to an adjusted allowance budget of approximately 6 million tons for CY 2009 through 2011, and 7 million tons in CY 2012. The PUC also assumes that affected sources will purchase allowances for future years. For any succeeding four years, 12.5% of future vintage allowances will be available in the current year. Accounting for future vintage allowances increases the total available allowances to approximately 10.3 million allowances in CY 2009, 9.2 million allowances in CY 2010, 8.1 million allowances in CY 2011, and 7.9 million allowances in CY 2012.

The total available allowances will be auctioned through the RGGI allowance market. This analysis assumes that the market price for future year allowances is equal to the market price for current year allowances. The economic analysis uses a range of market prices that are then multiplied by the total available allowances per year to determine the total annual revenues paid into the greenhouse gas emissions reduction fund. The minimum market price per allowance in this range is from an economic analysis prepared by Dr. Ross Gittell and Matt Magnusson of the Whittemore School of Business and Economics at the University of New Hampshire, which is based on projections by the University of Maryland, ICF Consulting, and Synapse Energy Economics, Inc. The minimum price is assumed to be $2.00 per allowance in CY 2009 through CY 2011, and $4.00 per allowance in CY 2012. Multiplying the low range allowance prices by the total available allowances yields minimum allowance revenue of approximately $20.5 million in CY 2009, $18.4 million in CY 2010, $16.2 million in CY 2011 and $31.8 million in CY 2012. The maximum market price per allowance is based on the threshold price established by this bill, above which revenue will be rebated to ratepayers. If the market price exceeds the threshold price of $12 per allowance in CY 2009 and 2010, $13 per allowance in CY 2011 and 2012, and $14 per allowance in CY 2013 and 2014, then the difference between the threshold price and the market price is to be directly rebated to customers. Any amounts that may be rebated are not shown as revenues or expenses in this analysis. The PUC states multiplying the high range allowance prices by the total available allowances yields maximum allowance revenue of approximately $123.1 million in CY 2009, $110.2 million in CY 2010, $105.0 million in CY 2011, and $103.2 million in CY 2012.

The revenue generated by allowances will be used to fund the greenhouse gas emissions reduction fund from which will be paid PUC administrative costs, and New Hampshire's share of the costs associated with participating in the RGGI allowance market. The fund will also be used to cover the annual cost of the RGGI regional organization which is estimated at approximately $150,000 in 2009, and $100,000 per year thereafter. Although this bill does not contain an appropriation or establish any new positions, the PUC states it would need to hire two full-time Utility Analyst III positions at a labor grade 28, step V to manage the greenhouse gas emissions reduction fund pursuant to RSA 125-O:23, and report to the legislature on an annual basis pursuant to RSA 125-O:21, VI. The PUC estimates salary and benefit costs of these positions would total approximately $179,300 in FY 2009, $185,600 in FY 2010, $209,300 in FY 2011, and $216,600 in 2012. The PUC cannot comment on any additional administrative costs for DES. The balance of revenue in the fund is assumed to be expended in the same year as received to support energy efficiency, conservation, and demand response programs to reduce greenhouse gas emissions generated within New Hampshire. In addition, at least 5% of the monies will be used to reduce the energy use of low-income residential customers. Due to the bill's lack of specificity in regard to the use of funds for energy efficiency, conservation, demand response, and low-income programs, and the lag in the use of funds, the exact value of benefits to New Hampshire ratepayers and ultimately state, county, and local entities resulting from these types of programs is indeterminable at this time.

The PUC adjusted the net effects to state, county and local government by the UNH study estimates of what the costs would have been without New Hampshire's participation in RGGI at both the minimum and maximum allowance price assumptions, without assuming any cost savings from increased investments in energy efficiency, conservation, and demand response.

The PUC states that according to the UNH Study, the total gross costs to ratepayers if New Hampshire joins RGGI, assuming the minimum allowance prices stated previously, less the value of allowances granted to PSNH by this bill, are approximately $14.8 million in CY 2009, $14.9 million in CY 2010, $15.2 million in CY 2011, and $34.9 million in CY 2012. If New Hampshire does not join RGGI, those RGGI compliance costs arising in other states will be reflected in regional wholesale prices paid by New Hampshire utilities and are estimated at approximately $6.8 million in CY 2009, $7.0 million in CY 2010, $7.2 million in CY 2011 and $14.9 million in CY 2012. The gross compliance cost to NH ratepayers of NH participation in RGGI as authorized by this bill were divided by the assumed total kilowatt hour (kWh) sales to all ratepayers to estimate the gross cost per kWh, before assuming any savings from increased energy efficiency. The PUC assumes that electricity sales that are supplied to state, county, and local government entities are 6% of total energy sold to retail ratepayers based on estimates provided by the utilities. Sufficient information was not available to break out the portion of government electricity sales between state, county and local levels. The estimated ranges of fiscal impact on state revenue, and state, county, and local expenditures by fiscal year is as follows:

Allowance Revenues

Deposited into Greenhouse Gas Emissions Reduction (GGER) Fund

FY 2009 FY
2010 FY 2011
FY 2012

Minimum $10,258,281 $19,439,004 $17,256,950 $23,957,189

Maximum $61,549,686 $116,634,024 $107,579,814 $104,108,602

Total Combined State, County, and Local Expenditures

(Assumes 100% Expenditure of GGER Fund & 6% of Annual Gross Ratepayer Costs)

FY 2009 FY
2010 FY 2011
FY 2012

Minimum $10,497,816 $19,917,941 $17,736,006 $24,795,841

Maximum $62,986,531 $119,507,653 $110,573,018 $107,611,671

Combined Net Increase to State, County, and Local Government Expenditures

(Allowance Revenues minus Total Combined Expenditures)

FY 2009 FY
2010 FY 2011
FY 2012

Minimum $239,535 $478,937 $479,056 $838,652

Maximum $1,436,845 $2,873,629 $2,993,204 $3,503,069

However, the PUC states that the above costs do not assume any potential costs savings from increased energy efficiency investments which are expected to be positive and offset some or all of the costs over time. The PUC states this bill caps carbon dioxide emissions until CY 2018. Therefore, the costs, revenues, and increased investment in energy efficiency associated with this proposed bill can be expected to extend beyond CY 2012 unless federal cap and trade legislation pre-empts it. Many energy efficiency, conservation and demand response measures, such as those installed under current utility sponsored programs, are expected to produce savings for longer than ten years.

The Department of Environmental Services (DES) concurs with the PUC's estimate of the bill's fiscal impact as stated above, and also expects the cost savings from energy efficiency investments to be positive and offset some or all of the costs over time. The Department further states that if allowance revenues collected approached the maximum amounts estimated by the PUC, it is anticipated that the revenues would initially be divided among doubling the existing energy efficiency programs, new programs through a Request for Proposals (RFP) process, and revolving loan funds for any further excess. The Department states doubling the existing energy efficiency programs using the existing infrastructure would result in rapid implementation and would likely offset the first few years of the estimated net fiscal impact on state, county, and local expenditures, and likely defray at least the lower end of the net fiscal impact in the later years. New programs (via an RFP process) may require time to ramp up to full implementation, but they would probably be in place to offset the net fiscal impact of this bill by at least FY 2011. The Department further states that the net impact to state, county, and local expenditures is highly likely to be at the low end of the costs projected by the PUC and could be zero.