

# SENATE BILL 521

M4, C5, P1

4lr0607  
CF 4lr1952

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By: **Senators Pinsky, Hershey, Mathias, and Middleton**

Introduced and read first time: January 29, 2014

Assigned to: Finance and Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Agriculture – Poultry Litter – Energy–Generating Cooperative Program**

3 FOR the purpose of establishing a Poultry Litter Energy–Generating Cooperative  
4 Program; prohibiting the rates and structure of the Program from being used for  
5 distributed generation from other sources of energy; requiring the State  
6 Department of Agriculture to consult with the Energy–Generating Cooperative  
7 Advisory Committee on the administration of the Program; providing for the  
8 credit structure for the energy generated from an energy–generating  
9 cooperative; providing for the allocation of unsubscribed energy; requiring an  
10 energy–generating cooperative to pay a certain infrastructure use and  
11 distribution rate to an electric company; authorizing a cooperative organization  
12 to contract with a third party for certain purposes; prohibiting the Department,  
13 the Public Service Commission, and an electric company from changing the  
14 terms of a contract entered into under this Act; establishing the  
15 Energy–Generating Cooperative Advisory Committee; providing for the  
16 membership, staffing, duties, meetings, and structure of the Committee;  
17 prohibiting members of the Committee from receiving certain compensation, but  
18 authorizing the reimbursement of certain expenses; requiring the Committee to  
19 assist the Department with the development and implementation of the  
20 Program; requiring the Committee to create two subcommittees and specifying  
21 the duties of each subcommittee; requiring the Committee to make a certain  
22 report to the Department; requiring the Department, in coordination with the  
23 Maryland Energy Administration, to make a certain report to the General  
24 Assembly on or before a certain date; providing for the regulation of electricity  
25 from a certain source in a certain manner; requiring the Administration to meet  
26 certain requirements of this Act; defining certain terms; stating certain findings  
27 of the General Assembly; and generally relating to energy–generating  
28 cooperatives.

29 BY adding to

30 Article – Agriculture

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 10–2001 through 10–2009 to be under the new subtitle “Subtitle 20.  
2 Poultry Litter”  
3 Annotated Code of Maryland  
4 (2007 Replacement Volume and 2013 Supplement)

5 BY adding to  
6 Article – Public Utilities  
7 Section 7–306.1  
8 Annotated Code of Maryland  
9 (2010 Replacement Volume and 2013 Supplement)

10 BY adding to  
11 Article – State Government  
12 Section 9–2009  
13 Annotated Code of Maryland  
14 (2009 Replacement Volume and 2013 Supplement)

15 Preamble

16 WHEREAS, The State of Maryland produces nearly 500,000 tons of poultry  
17 litter every year; and

18 WHEREAS, Poultry litter has nearly equivalent levels of phosphorus and  
19 nitrogen, but many crops require significantly less phosphorus than nitrogen, and  
20 application of poultry litter may result in phosphorus–saturated soils; and

21 WHEREAS, High levels of phosphorus in the Chesapeake Bay lead to algae  
22 blooms, oxygen–deprived environments, poor water quality, degraded habitats, and  
23 low populations of many species of fish and shellfish; and

24 WHEREAS, In order to meet the Environmental Protection Agency’s  
25 Chesapeake Bay Total Maximum Daily Load, the State of Maryland must reduce  
26 phosphorus loads to the Chesapeake Bay by 14.9% below 2010 levels by 2025; and

27 WHEREAS, Poultry litter is a beneficial resource that can be used to generate  
28 clean energy, helping the State achieve its renewable energy portfolio standard; and

29 WHEREAS, Utilizing poultry litter as an energy source will reduce the overall  
30 cost of energy for farmers who raise poultry; now, therefore,

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
32 MARYLAND, That the Laws of Maryland read as follows:

33 **Article – Agriculture**

34 **SUBTITLE 20. POULTRY LITTER.**

1 **10-2001.**

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
3 INDICATED.

4 (B) "COMMISSION" MEANS THE PUBLIC SERVICE COMMISSION.

5 (C) "COMMITTEE" MEANS THE ENERGY-GENERATING COOPERATIVE  
6 ADVISORY COMMITTEE.

7 (D) "COOPERATIVE MEMBER" MEANS A RETAIL CUSTOMER OF AN  
8 ENERGY-GENERATING COOPERATIVE WHO:

9 (1) OWNS A SUBSCRIPTION TO THE COOPERATIVE;

10 (2) HAS A RESIDENCE OR PLACE OF BUSINESS THAT IS LOCATED  
11 IN THE SAME ELECTRIC COMPANY SERVICE TERRITORY AS THE COOPERATIVE  
12 CUSTOMER'S ORGANIZATION; AND

13 (3) HAS IDENTIFIED ONE OR MORE INDIVIDUAL METERS OR  
14 ACCOUNTS TO WHICH THE SUBSCRIPTION SHALL BE ATTRIBUTED.

15 (E) (1) "COOPERATIVE ORGANIZATION" MEANS AN ORGANIZATION  
16 WHOSE SOLE PURPOSE IS TO BENEFICIALLY OWN OR OPERATE AN  
17 ENERGY-GENERATING COOPERATIVE FOR A COOPERATIVE MEMBER.

18 (2) "COOPERATIVE ORGANIZATION" MAY BE ANY FOR-PROFIT OR  
19 NONPROFIT ENTITY ORGANIZED UNDER STATE LAW.

20 (F) (1) "ENERGY-GENERATING COOPERATIVE" MEANS A RENEWABLE  
21 ENERGY FACILITY THAT:

22 (I) GENERATES ELECTRICITY FROM THE ANAEROBIC  
23 DECOMPOSITION OF POULTRY LITTER;

24 (II) CREDITS ITS GENERATED ELECTRICITY TO ITS  
25 COOPERATIVE MEMBERS;

26 (III) IS LOCATED IN THE SAME ELECTRIC COMPANY SERVICE  
27 TERRITORY AS ITS COOPERATIVE MEMBERS;

28 (IV) HAS AT LEAST TWO COOPERATIVE MEMBERS;

1                   **(V) DOES NOT UTILIZE MORE THAN 20,000 TONS OF**  
2 **POULTRY LITTER IN A SINGLE YEAR; AND**

3                   **(VI) MAY BE OWNED BY ANY PERSON, INCLUDING A PUBLIC**  
4 **SERVICE COMPANY OR A COOPERATIVE ORGANIZATION.**

5                   **(2) “ENERGY-GENERATING COOPERATIVE” DOES NOT INCLUDE A**  
6 **RENEWABLE ENERGY FACILITY THAT BURNS POULTRY LITTER TO GENERATE**  
7 **ENERGY.**

8                   **(G) “PROGRAM” MEANS THE POULTRY LITTER ENERGY-GENERATING**  
9 **COOPERATIVE PROGRAM.**

10                   **(H) “POULTRY LITTER” MEANS THE FECAL AND URINARY EXCRETIONS**  
11 **OF POULTRY, INCLUDING WOOD SHAVINGS, SAWDUST, STRAW, RICE HULLS, AND**  
12 **OTHER BEDDING MATERIAL FOR THE DISPOSITION OF MANURE.**

13                   **(I) “SUBSCRIPTION” MEANS AN INTEREST IN AN ENERGY-GENERATING**  
14 **COOPERATIVE.**

15 **10-2002.**

16                   **THE GENERAL ASSEMBLY FINDS THAT ENERGY-GENERATING**  
17 **COOPERATIVES THAT USE POULTRY LITTER AS AN ENERGY SOURCE ALLOW**  
18 **RESIDENTS AND BUSINESSES INCREASED ACCESS TO RENEWABLE ELECTRICITY**  
19 **WHILE ENCOURAGING PRIVATE INVESTMENT IN RENEWABLE RESOURCES,**  
20 **STIMULATING IN-STATE ECONOMIC GROWTH, ENHANCING CONTINUED**  
21 **DIVERSIFICATION OF THE STATE’S ENERGY RESOURCE MIX, AND PROTECTING**  
22 **THE CHESAPEAKE BAY BY REDUCING THE NUTRIENT LOAD ENTERING THE BAY.**

23 **10-2003.**

24                   **DUE TO THE NATURE AND COMPLEXITY OF ANAEROBIC DECOMPOSITION**  
25 **OF POULTRY LITTER, THE RATES AND STRUCTURE OF THE PROGRAM**  
26 **ESTABLISHED IN THIS SECTION MAY NOT BE USED FOR DISTRIBUTED**  
27 **GENERATION FROM OTHER SOURCES OF ENERGY.**

28 **10-2004.**

29                   **(A) THERE IS A PROGRAM ON ENERGY-GENERATING COOPERATIVES**  
30 **ADMINISTERED BY THE DEPARTMENT.**

31                   **(B) THE DEPARTMENT SHALL CONSULT WITH THE COMMITTEE ON THE**  
32 **ADMINISTRATION OF THE PROGRAM.**

1 **10-2005.**

2 (A) THE COOPERATIVE ORGANIZATION SHALL NOTIFY THE ELECTRIC  
3 COMPANY OF THE CREDIT AMOUNT TO BE POSTED ON EACH COOPERATIVE  
4 MEMBER'S BILL.

5 (B) AN ELECTRIC COMPANY SHALL CREDIT KILOWATT-HOURS TO A  
6 COOPERATIVE MEMBER ON A MONTHLY BASIS FOR THE COOPERATIVE  
7 MEMBER'S PORTION OF THE ENERGY-GENERATING COOPERATIVE.

8 (C) IF ELECTRICITY GENERATED BY THE ENERGY-GENERATING  
9 COOPERATIVE IS NOT FULLY ALLOCATED TO COOPERATIVE MEMBERS, THE  
10 ELECTRIC COMPANY SHALL RECEIVE THE REMAINING UNSUBSCRIBED ENERGY  
11 AT NO COST.

12 **10-2006.**

13 (A) THE ENERGY-GENERATING COOPERATIVE SHALL PAY AN  
14 INFRASTRUCTURE USE AND DISTRIBUTION RATE TO THE ELECTRIC COMPANY.

15 (B) THE INFRASTRUCTURE USE AND DISTRIBUTION RATE PAID BY THE  
16 ENERGY-GENERATING COOPERATIVE UNDER SUBSECTION (A) OF THIS SECTION  
17 SHALL BE 25% OF THE DISTRIBUTION RATE NORMALLY CHARGED BY THE  
18 ELECTRIC COMPANY TO A CUSTOMER OF THE SAME CLASS AS THE SUBSCRIBER.

19 **10-2007.**

20 (A) A COOPERATIVE ORGANIZATION MAY CONTRACT WITH A THIRD  
21 PARTY FOR THE THIRD PARTY TO FINANCE, BUILD, OWN, OR OPERATE AN  
22 ENERGY-GENERATING COOPERATIVE.

23 (B) THE DEPARTMENT, THE COMMISSION, AND THE ELECTRIC  
24 COMPANY MAY NOT CHANGE THE TERMS OF THE CONTRACT.

25 **10-2008.**

26 (A) THERE IS AN ENERGY-GENERATING COOPERATIVE ADVISORY  
27 COMMITTEE.

28 (B) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

1           **(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY**  
2 **THE PRESIDENT OF THE SENATE;**

3           **(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY**  
4 **THE SPEAKER OF THE HOUSE;**

5           **(3) THE SECRETARY, OR THE SECRETARY'S DESIGNEE;**

6           **(4) THE DIRECTOR OF THE MARYLAND ENERGY**  
7 **ADMINISTRATION, OR THE DIRECTOR'S DESIGNEE;**

8           **(5) THE CHAIR OF THE PUBLIC SERVICE COMMISSION, OR THE**  
9 **CHAIR'S DESIGNEE; AND**

10           **(6) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:**

11                   **(I) ONE REPRESENTATIVE OF THE ELECTRIC UTILITY**  
12 **INDUSTRY;**

13                   **(II) ONE REPRESENTATIVE OF THE POULTRY INDUSTRY;**

14                   **(III) ONE POULTRY FARMER; AND**

15                   **(IV) ONE REPRESENTATIVE OF THE ENVIRONMENTAL**  
16 **COMMUNITY.**

17           **(C) THE SECRETARY, OR THE SECRETARY'S DESIGNEE, AND THE**  
18 **DIRECTOR OF THE MARYLAND ENERGY ADMINISTRATION, OR THE DIRECTOR'S**  
19 **DESIGNEE, SHALL COCHAIR THE COMMITTEE.**

20           **(D) THE STATE UNITS REPRESENTED ON THE COMMITTEE SHALL**  
21 **PROVIDE STAFF FOR THE COMMITTEE.**

22           **(E) A MEMBER OF THE COMMITTEE:**

23                   **(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE**  
24 **COMMITTEE; BUT**

25                   **(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE**  
26 **STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE**  
27 **BUDGET.**

28           **(F) THE COMMITTEE SHALL:**

1           (1) ASSIST THE DEPARTMENT WITH THE DEVELOPMENT AND  
2 IMPLEMENTATION OF THE PROGRAM;

3           (2) CREATE A SUBCOMMITTEE ON ENVIRONMENT AND A  
4 SUBCOMMITTEE ON ENERGY FROM AMONG MEMBERS OF THE COMMITTEE;

5           (3) REPORT TO THE DEPARTMENT ON THE SUBCOMMITTEES'  
6 RECOMMENDATIONS UNDER SUBSECTION (G) OF THIS SECTION IN ORDER TO  
7 ASSIST THE DEPARTMENT WITH THE REPORT REQUIRED UNDER § 10-2009 OF  
8 THIS SUBTITLE; AND

9           (4) MEET AT LEAST ONCE EACH YEAR TO EVALUATE THE  
10 PERFORMANCE OF THE PROGRAM AND MAKE RECOMMENDATIONS FOR  
11 IMPROVEMENTS TO THE PROGRAM.

12           (G) (1) THE SUBCOMMITTEE ON ENVIRONMENT ESTABLISHED UNDER  
13 SUBSECTION (F)(2) OF THIS SECTION SHALL EVALUATE AND MAKE  
14 RECOMMENDATIONS TO THE COMMITTEE ON:

15                   (I) THE MOST EFFICIENT, COST-EFFECTIVE, AND  
16 ENVIRONMENTALLY SOUND METHODS FOR UTILIZING POULTRY LITTER;

17                   (II) WHETHER ANAEROBIC DECOMPOSITION OF POULTRY  
18 LITTER IS AN APPROPRIATE METHOD TO REDUCE THE STATE'S NUTRIENT LOAD  
19 TO THE CHESAPEAKE BAY;

20                   (III) THE POTENTIAL FOR REDUCED AIR EMISSIONS FROM  
21 ANAEROBIC DECOMPOSITION OF POULTRY LITTER; AND

22                   (IV) ANY OTHER ISSUE THE COMMITTEE DETERMINES IS  
23 NECESSARY.

24           (2) THE SUBCOMMITTEE ON ENERGY ESTABLISHED UNDER  
25 SUBSECTION (F)(2) OF THIS SECTION SHALL EVALUATE AND MAKE  
26 RECOMMENDATIONS TO THE COMMITTEE ON:

27                   (I) A TARIFF STRUCTURE FOR POULTRY LITTER  
28 ENERGY-GENERATING COOPERATIVES THAT ALLOWS AN ELECTRIC COMPANY  
29 TO RECOVER FOR DISTRIBUTION COSTS AND ADMINISTRATIVE COSTS WHILE  
30 ENCOURAGING POULTRY LITTER ENERGY-GENERATING COOPERATIVES BY  
31 CONSIDERING:

- 1                                   1.    **AVOIDED TRANSMISSION AND DISTRIBUTION LINE**  
2 **LOSSES;**
- 3                                   2.    **TRANSMISSION AND DISTRIBUTION UPGRADE**  
4 **DEFERRALS;**
- 5                                   3.    **AVOIDED INTERCONNECTION COSTS;**
- 6                                   4.    **ANCILLARY SERVICES AND VOLT-AMPERE**  
7 **REACTIVE SUPPORT;**
- 8                                   5.    **REDUCED LAND COSTS;**
- 9                                   6.    **DEMAND CHARGE MANAGEMENT; AND**
- 10                                  7.    **ELECTRIC SERVICE RELIABILITY;**

11                                   **(II) A CREDIT MECHANISM TO OPERATE THE**  
12 **ENERGY-GENERATING COOPERATIVE AT LEAST COST;**

13                                   **(III) WHETHER AN ENERGY-GENERATING COOPERATIVE**  
14 **AND ITS COOPERATIVE MEMBERS SHOULD BE COMPENSATED FOR AVOIDED**  
15 **TRANSMISSION AND DISTRIBUTION COSTS;**

16                                   **(IV) THE SIZE AND NUMBER OF ENERGY-GENERATING**  
17 **COOPERATIVES THAT THE STATE CAN SUPPORT; AND**

18                                   **(V) ANY OTHER ISSUE THAT THE COMMITTEE DETERMINES**  
19 **IS NECESSARY.**

20 **10-2009.**

21                                   **ON OR BEFORE DECEMBER 31, 2015, THE DEPARTMENT, IN**  
22 **COORDINATION WITH THE MARYLAND ENERGY ADMINISTRATION, SHALL**  
23 **REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE**  
24 **STATE GOVERNMENT ARTICLE, ON:**

25                                   **(1) A TARIFF STRUCTURE THAT ENCOURAGES POULTRY LITTER**  
26 **ENERGY-GENERATING COOPERATIVES AND ALLOWS AN ELECTRIC COMPANY TO**  
27 **RECOVER FOR DISTRIBUTION COSTS;**

28                                   **(2) AN APPROPRIATE CREDIT MECHANISM THAT ALLOWS THE**  
29 **ENERGY-GENERATING COOPERATIVE TO BE OPERATED AT LEAST COST;**



1                   **(3) WHETHER AN ENERGY-GENERATING COOPERATIVE AND ITS**  
2 **COOPERATIVE MEMBERS SHOULD BE COMPENSATED FOR AVOIDED**  
3 **TRANSMISSION AND DISTRIBUTION COSTS;**

4                   **(4) THE AMOUNT AND TYPE OF NECESSARY OVERSIGHT;**

5                   **(5) THE SIZE AND NUMBER OF ENERGY-GENERATING**  
6 **COOPERATIVES THAT THE STATE CAN SUPPORT; AND**

7                   **(6) THE MOST EFFICIENT, COST-EFFECTIVE, AND**  
8 **ENVIRONMENTALLY SOUND METHODS FOR UTILIZING POULTRY LITTER.**

9   **Article – Public Utilities**

10 **7-306.1.**

11                   **THE REGULATION OF ELECTRICITY GENERATED BY**  
12 **ENERGY-GENERATING COOPERATIVES AS DEFINED IN § 10-2001 OF THE**  
13 **AGRICULTURE ARTICLE SHALL BE GOVERNED UNDER TITLE 10, SUBTITLE 20**  
14 **OF THE AGRICULTURE ARTICLE.**

15   **Article – State Government**

16 **9-2009.**

17                   **THE ADMINISTRATION SHALL COMPLY WITH THE REQUIREMENTS THAT**  
18 **APPLY TO IT UNDER TITLE 10, SUBTITLE 20 OF THE AGRICULTURE ARTICLE.**

19                   **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
20 **June 1, 2014.**