A COMPARISON OF SEN. BARTLETT'S AND REP. FLETCHER'S PROPOSALS
AS PRESENTED MAY 6, 2009 TO JOINT SELECT COMMITTEE ON MAINE'S ENERGY FUTURE
Major differences highlighted

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
No Emergency Preamble	INCLUDES Emergency preamble
PART A **(repeal of current programs – programs repealed and moved to new entity on July 1, 2010)** ***ENERGY RESOURCES COUNCIL*** ***ENERGY AND CARBON TRUST*** ***ELECTRIC CONSERVATION PROGRAM*** ***SOLAR AND WIND REBATE PROGRAM*** ***NATRAL GAS CONSERVATION PROGRAM*** ***PUC PUBLIC INFO;*** ***PUC TRAINING SOLAR INSTALLERS AND ENERGY AUDITORS;*** ***FEDERAL ENERGY PROGRAMS;*** ***PUC SMALL BUSINESS LOAN PROGRAM;*** ***PUC/MSHA RENTAL PROPERTY DISCLOSURES***	**PART A** **(repeal of current programs – programs repealed and moved to new entity on July 1, 2010)** NO DIFFERENCES
PART B **§10102. Definitions** ***No differences in definitions*** (Sen. Bartlett's proposal keeps most of them with the sections they relate to)	**PART B** **§ 9302. Definitions** ***No differences in definitions*** (Rep. Fletcher's proposal puts many of them here at front of chapter)
§10103. Efficiency Maine Trust **1. Establishment; purpose.** The Efficiency Maine Trust, as established in Title 5, section 12004-G, subsection 10-C, is a public body	**§ 9303. Efficiency Maine Plus** **1. Establishment.** Efficiency Maine Plus is established as an

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corporate and politic and instrumentality of the state exercising essential government functions. The trust is established to: A. Provide uniform, integrated planning, program design and administration of energy efficiency programs pursuant to this chapter and any other provisions of law administered by the trust B. Reduce energy costs and improve security of the state and local economies. The trust shall administer cost-effective energy efficiency programs to help families and businesses meet their energy needs at the lowest cost and generally to improve the economic security of the State by: (1) Maximizing the use of cost-effective energy efficiency and weatherization; (2) Reducing economic insecurity from overdependence on price-volatile heating fuels; (3) Increasing new jobs and business development to deliver energy efficiency products and services; (4) Enhancing heating benefits for low-income eligible households through weatherization, thus improving the comfort and indoor air quality of these households and reducing the need for future fuel assistance; (5) Simplifying and enhancing consumer access to technical assistance and financial incentives for energy efficiency and weatherization by merging dispersed, uncoordinated programs under a single administrative unit possessing independent management and expertise; and (6) Using cost-effective energy efficiency investments to reduce greenhouse gas emissions; and C. Ensure that all expenditures of the trust are cost-effective in terms of avoided energy costs.	independent energy efficiency and renewable energy authority and is a public body corporate and politic and an instrumentality of the State. Efficiency Maine Plus shall plan, develop and implement energy conservation and efficiency programs, building weatherization programs, programs to reduce carbon emissions, programs to promote renewable sources of energy and other energy-related programs as specified in this chapter. (***goal language moved below for side-by-side comparison***) **3. Efficiency Maine Plus Council.** The Efficiency Maine Plus Council, as established in Title 5, section 12004-G, subsection 10-C, is created to develop, plan, coordinate and evaluate Efficiency Maine Plus programs in order to slow climate change, reduce dependence on foreign oil and stimulate the economy by reducing energy use and carbon emissions and promoting renewable sources of energy. The council shall establish programs to serve all energy consumers, including residential, nonprofit, business, commercial, industrial and public entity consumers.

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§10103. Efficiency Maine Trust **2. Governance; board.** The trust is governed by an independent board consisting of the following 9 voting members. A. The following 2 trustees serve ex officio: (1) The director of the Governor's Office of Energy Independence and Security; and (2) The director of Maine State Housing Authority. B. The following 7 trustees are appointed by the Governor and approved by the Senate: (1) A representative of commercial energy consumers; (2) A representative of industrial energy consumers; (3) A representative of small business energy consumers; (4) A representative of residential energy consumers; (5) A representative of low-income energy consumers; and (6) Two members who possess knowledge of energy conservation fund programs, carbon reduction programs, energy efficiency or climate change policy or substantial management expertise. C. Appointed trustees serve 3-year terms. If an appointed trustee is unable to complete the term, the Governor shall appoint a replacement for the remainder of the unexpired term.	**§ 9303. Efficiency Maine Plus** **5. Composition of council; chair; terms** . Efficiency Maine Plus is governed by a Council consisting of the following 9 voting members. A. The following 3 members serve ex officio: (1) The chair of the Public Utilities Commission; (2) The director of the Governor's Office of Energy Independence and Security; and (3) The director of Maine State Housing Authority. B. The following 6 members are appointed by the Governor and approved by the Senate: (1) A representative of commercial energy consumers; (2) A representative of industrial energy consumers; (3) A representative of small business energy consumers; (4) A representative of residential energy consumers; ; (5) ~~Two~~ One members who possesses knowledge of energy conservation fund programs, carbon reduction programs, energy efficiency or climate change ~~policy or substantial management expertise.~~ ; and (6) One member who possess financial knowledge and experience.

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D. The board shall elect a chair, a vice-chair, a secretary and a treasurer from among the voting members. Each officer serves for a one-year term and is eligible for reelection. E. A majority of the voting trustees constitutes a quorum. F. The board may elect an executive committee of not fewer than 4 trustees who, in intervals between meetings of the board, may transact such business of the trust as the board may authorize from time to time.	The director of the Governor's Office of Energy Independence and Security shall serve as the chair of the council. Members of the council serve 3-year terms. **6. Meetings; voting.** The council may meet as many times as necessary to carry out its responsibilities. An affirmative vote of 5 members is required for any action of the council.
§10103. Efficiency Maine Trust **4. Administration of trust; director.** The board shall appoint, using a full and competitive search process, a qualified full-time director of the trust. The director serves at the pleasure of the board. The director must have demonstrated experience in the planning, design or delivery of energy efficiency programs or the management of organizations that plan, design or deliver those programs. The board shall establish the rate and amount of compensation of the director and all other employees of the trust. The director: A. Serves as the president of the trust and as the liaison between the board and any committee of the Legislature having jurisdiction over energy matters; B. Is responsible for (1) Establishing an office for the trust; (2) Hiring and organizing staff for the trust and determining their qualifications, duties; and (3) Managing the trust's programs, services and staff and performing other duties as the board considers appropriate; and	**§ 9303. Efficiency Maine Plus** **2. Director; staff.** The ~~Governor shall appoint a director of Efficiency Maine Plus, subject to confirmation by the Senate~~ Council shall be responsible for hiring the director . The director must be a person qualified by training and experience to perform the duties of the office. A. The director serves ~~on a full-time basis for a 4-year term of office,~~ at the pleasure of the Council ~~and until a successor has been appointed and qualified.~~ The ~~Governor~~ Council shall establish the rate and amount of compensation of the director. B. ~~The powers and duties of Efficiency Maine Plus are vested solely in the director~~. The director or a representative shall provide staff and attend all meetings of the council. C. The director may act in all personnel matters and may employ technical or legal experts and any other officers, agents and employees that the director requires and shall determine their qualifications, duties and compensation. The director may delegate to the employees and agents any powers and duties that the director considers proper.

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C. May delegate to employees of the trust any powers and duties that the director considers proper.	
§10103. Efficiency Maine Trust **5. Program funding.** The board may apply for and receive grants from state, federal and private sources for deposit into appropriate program funds. The board may deposit in appropriate program funds the proceeds of any bonds issued for the purposes of programs administered by the trust. The board may also deposit any grants or other funds received by or from any entity with which the trust has an agreement or contract pursuant to this chapter if the board determines that receipt of those funds is consistent with the purposes of this chapter. **6. Administration fund.** The board shall establish an administration fund to be used solely to defray administrative costs. The trust may annually deposit funds authorized to be used for administrative costs under this chapter into the administration fund. Any interest on funds in the administration fund must be credited to the administration fund and any funds unspent in any fiscal year must either remain in the administration fund to be used to defray administrative costs or be transferred to program funds.	**§ 9304. Program funding; administration fund** **1. Program funding.** ~~The council or~~ Efficiency Maine Plus may apply for and receive grants from state, federal and private sources for deposit into appropriate program funds. ~~The council or~~ Efficiency Maine Plus also may deposit in appropriate program funds any grants or other funds received by or from any entity with which ~~the council or~~ Efficiency Maine Plus has an agreement or contract pursuant to this chapter if the council determines that receipt of those funds is consistent with the purposes of this chapter. **2. Administration fund.** Efficiency Maine Plus shall establish an administration fund to be used solely to defray administrative costs. Efficiency Maine Plus may annually deposit funds pursuant to this chapter into the administration fund up to a maximum in any fiscal year of 10% of all revenues received to fund Efficiency Maine Plus. Any interest on funds in the administration fund must be credited to the administration fund and any funds unspent in any fiscal year must either remain in the administration fund to be used to defray administrative costs or be transferred to program funds.
§10104. Duties. The duties of the trust are as set out in this subsection. **1. Generally.** In accordance with this section and other applicable law, the trust administers and disburses funds to promote energy efficiency in the State. The trust is responsible for accounting for, evaluating and monitoring all activities of the trust and all programs funded in whole or in part by the trust .	**§ 9303. Efficiency Maine Plus** **4. Council duties and authority.** The council shall establish and revise programs according to the goals and objectives in the quadrennial plan, approve program budgets and adopt protocols for evaluating program outcomes. The council: A. May determine the types of services and the extent to which program administration and implementation may be delivered by independent contractors; B. Shall provide uniform, integrated planning, program design and administration of the programs established under this chapter;

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2. Programs. The trust shall plan, design and administer programs to ensure that funds are expended for uses consistent with applicable state or federal law and so that the following principles of administration are met:	C. Shall ensure that funds are expended for uses consistent with the state or federal authorities that created the funds and in a manner that ensures that:
A. Programs are consumer oriented such that the processes for participation and program design are targeted to serve the multiple needs of energy consumers in this State;	(1) Processes for participation and program design are targeted to serve the multiple needs of energy consumers in this State;
B The effectiveness of programs is maximized by building up and centralizing expertise, addressing conflicts of interest, mitigating the influence of politics, promoting flexible, nimble program management and providing a champion for funding cost-effective energy efficiency;	(2) The effectiveness of programs is maximized by increasing and centralizing expertise, addressing conflicts of interest, mitigating the influence of politics, promoting flexible, nimble program management and providing a champion for funding cost-effective energy efficiency;
C. The efficiency with which programs are planned, designed, overseen and delivered is maximized; and	(3) The efficiency with which programs are planned, designed, overseen and delivered is maximized; and
D. Sufficient checks and balances are provided to ensure consistency with public policy and accountability for meeting the principles set out in paragraphs A to C so that energy efficiency programs in the State are sustainable for the long term.	(4) Sufficient checks and balances are provided to ensure consistency with public policy and accountability for meeting the principles set out in subparagraphs (1) to (3) so that energy efficiency programs in the State are sustainable for the long term;
3. Measures of performance. The trust shall develop quantifiable measures of performance to which it will be held accountable by the commission. Measures of performance must be negotiated between the trust and the commission and must be ratified by the commission, as provided in section 10119, prior to being incorporated into the triennial plan under subsection 4. The measures must be established for a 3-year period, with revisions allowable by mutual agreement. The trust shall also develop quantifiable measures of performance to which it will hold accountable all recipients of funding from the trust and recipients of funds used to deliver energy efficiency and weatherization programs that are incorporated in the triennial plan and approved by the trust. Such measures may include, but are not limited to, reduced energy consumption, reduced capacity demand for natural gas and electricity, reduced energy costs, reduced carbon dioxide emissions, program and overhead costs and cost-effectiveness, the number of	D. Shall adopt rules establishing ~~develop~~ quantifiable measures of performance ~~to which it will be held accountable to the Governor and the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. Measures of performance must be approved by negotiated between the council and the Governor and the joint standing committee. Measures must be established for a 4-year period, with revisions allowable by mutual agreement of the Governor and the joint standing committee.~~ The council shall by rule also develop quantifiable measures of performance to which it will hold accountable all recipients of funding from the council and recipients of funds used to deliver energy efficiency and weatherization programs that are incorporated in the quadrennial plan and approved by the council. Such measures may include, but are not limited to, reduced energy consumption, reduced capacity demand for natural gas and electricity,

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new jobs created by the award of trust funds, the number of energy efficiency trainings or certification courses completed and the amount of sales generated.	reduced energy costs, reduced carbon dioxide emissions, program and overhead costs and cost-effectiveness, the number of new jobs created, the number of energy efficiency trainings or certification courses completed and the amount of sales generated. Rules initially adopted under this paragraph are major substantive rules. Subsequent amendment to the rules are routine technical rules except that the council must provide copies of proposed amendments to the joint standing committee of the Legislature having jurisdiction over energy matters for review prior to adopting any amendment to the rules; E. May make recommendations to the Governor, the Legislature and other public officials regarding energy efficiency, weatherization and renewable energy programs; F. Shall coordinate energy efficiency and weatherization programs and carbon savings and renewable energy programs among the agencies that have responsibilities for these activities, in accordance with Title 2, section 9 and in such a way that these programs are complementary and that consumers can easily access programs from a single source; G. Shall consult with the Maine State Housing Authority on matters of mutual interest that may include low-income energy conservation and assistance programs, building weatherization programs, relationships with financial partners, use of databases to capture energy and carbon savings and training of energy auditors and weatherization contractors; and H. May establish technical advisory groups as needed for the purposes of gathering technical knowledge on any aspect of energy conservation or policy.
§10104. Duties. **4. Triennial plan**. The board shall vote on a detailed, triennial energy efficiency and conservation plan and make a full report of the vote to the commission in accordance with this subsection. The triennial plan must provide integrated planning, program design and implementation strategies for all energy efficiency and conservation programs administered by the trust, including but not limited to the electric efficiency and conservation programs	**§ 9305. Quadrennial energy efficiency and conservation plan** **1. Development.** The council shall develop a quadrennial energy efficiency and conservation plan, referred to in this section as "the plan." The plan must be designed to address the needs of all customer classes under subsection 2 in the public interest and be coordinated with the comprehensive

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under section 10110, the natural gas efficiency and conservation programs under section 10111, the Regional Greenhouse Gas Initiative Trust Fund under section 10109 and any state or federal funds or publicly directed funds accepted by or allocated to the trust for the purpose of investing in energy efficiency programs in the State. A. The triennial plan must be developed by the trust, in consultation with entities and agencies engaged in delivering efficiency programs in the State, to authorize and govern implementation of energy efficiency and weatherization programs in the State. (*see Sen. Bartlett's proposal on workforce development elsewhere in this side-by-side*) (1) Transmission and distribution utilities shall furnish data to the trust that the trust requests under this subsection subject to such confidential treatment as a utility may request and the board determines appropriate pursuant to section 10106 . The costs of providing the data are deemed reasonable and prudent expenses of the utilities and are recoverable in rates.	state energy plan pursuant to Title 2, section 9, subsection 3, paragraph C. The plan must outline strategies and goals to achieve the objectives set forth in section 9303, subsection 1. **2. Plan.** The plan shall address energy efficiency measures for all fuels and the needs of all customer classes, including, but not limited to, residential, commercial, industrial, business, not-for-profit and public consumers of energy. The plan must provide integrated planning, program design and implementation strategies for each program established in this chapter. The plan must include: A. Measurable energy efficiency goals that are supported by the priorities and the level of funding established in the plan; B. A general prioritization of energy efficiency and conservation fund programs and markets to be served for the 4-year period; C. Projected funding levels for the 4-year period and a clear accounting of how funds from revenue sources identified in this chapter will be deployed; D. Program strategies that integrate energy conservation related to electricity, natural gas and home heating fuels with renewable or efficient energy production technologies; ~~and~~ E. Activities or initiatives that promote the use of renewable energy such as wind, geothermal and solar power; and F. Strategies and measurable goals for workforce and business development.

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(2). Natural gas utilities shall furnish data to the trust that the trust requests under this subsection subject to such confidential treatment as a utility may request and the board determines appropriate pursuant to section 10106. The costs of providing the data are deemed reasonable and prudent expenses of the utilities and are recoverable in rates.	
(3) A designated state agency, community action agency or unit of local government eligible to apply for funds under 42 United States Code, Section 6863(c) shall submit to the trust for review and approval an initial 3-year implementation plan to be incorporated into the triennial plan. An agency or unit of local government may not submit any annual plans or application to the federal government pursuant to 42 United States Code, Section 6864 or make expenditures for purposes of implementing federal Weatherization Assistance Program funds until the board reviews and approves the plan or application. In reviewing the plan or application the board shall consider if it is consistent with the rest of the triennial plan, best practices of program administration, the state energy efficiency targets under paragraph F and the objective of integrating delivery of thermal and electric efficiency measures to the maximum extent practicable.	
B. In developing the triennial plan, the staff of the trust shall consult the board and provide the opportunity for the board to provide input on drafts of the plan.	**3. Public hearing.** The council shall hold at least one public hearing and invite, accept, review and consider comments and suggestions from interested parties prior to adopting or substantially revising the plan.
C. The board shall review and approve the triennial plan by affirmative vote of 2/3 of the voting members upon a finding that the plan is consistent with the statutory authority for each source of funds that will be used to implement the plan, the state energy efficiency targets in paragraph F and the best practices of program administration under subsection 2. The plan must include, but is not limited to, efficiency and conservation program budget allocations, objectives, targets, measures of performance, program designs,	

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program implementation strategies, timelines and other relevant information. D. The board shall deliver the triennial plan to the commission for its review and approval. The commission shall reject elements of the plan that propose to use funds generated pursuant to sections 10110 (electric SBC), 10111 (natural gas SBC) or any heating fuel SBC if the plan fails to reasonably explain how these elements of the program would achieve the objectives and implementation requirements of (electric conservation program, natural gas conservation program, any heating fuels programs) or the negotiated measures of performance under section 10012, subsection 1. Funds generated under these statutory authorities may not be used pursuant to the triennial plan unless and until those elements of the plan proposing to use the funds have been approved by the commission. The commission shall approve or reject any elements of the triennial plan within 60 days of its delivery to the commission. E. The trust shall determine the period to be covered by the triennial plan except that the period of the plan may not interfere with the delivery of any existing contracts to provide energy efficiency services that were previously procured pursuant to efficiency and conservation programs administered by the commission. F. It is an objective of the triennial plan to design, coordinate and integrate sustained energy efficiency and weatherization programs that are available to all energy consumers in the State, regardless of fuel type, that advance the targets of: (1) Reducing by 20% the State's dependence on imported heating fuels by 2020; (2) Capturing all cost-effective energy efficiency resources available for electric and natural gas utility ratepayers;	**§ 9303. Efficiency Maine Plus** **1. Establishment.** ....(see above for other portions of this subsection) Efficiency Maine Plus shall plan, develop, coordinate and implement energy efficiency and renewable energy programs to meet the following goals: A. Reduce greenhouse gas emissions to 10% below 1990 levels by 2020, as established by the state climate action plan under Title 38, section 577; B. Weatherize 100% of Maine residences and 50% of Maine businesses by 2030; C. Reduce peak-load electric energy consumption by 100 megawatts by

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(3) Saving residential and commercial heating consumers not less than $3 for every $1 of program funds invested by 2020 in heating and cooling cost-effective measures that cost less than conventional energy supply;	2020; and D. Increase new jobs and business development to deliver energy efficiency and renewable energy products and services.
(4) Building stable private sector jobs providing clean energy and energy efficiency products and services in the State by 2020; and	
(5) Reducing greenhouse gas emissions from the heating and cooling of buildings in the State by amounts consistent with the State goals established in Title 38, section 576.	**§ 9305. Quadrennial energy efficiency and conservation plan**
6. Updated plans. Within 30 days of completion of the annual report: A. The director shall submit to the board an annual update plan describing any significant changes to the triennial plan under subsection 4 related to program budget allocations, goals, targets, measures of performance, program designs, implementation strategies, timelines and other relevant information for the year ahead for all funds administered and managed by the trust. The director, any contractor, grantee or agency delivering programs may not execute any significant changes until approved by the board and, in the case of significant changes to programs using funds generated by assessments under this chapter, also by the commission using the same standard as for the triennial plan; and B. An agency administering weatherization or efficiency programs for low-income persons shall submit to the trust an annual update plan describing any significant changes to the triennial plan related to program budget allocations, goals, targets, measures of performance, program designs and timelines and other relevant information for all efficiency and weatherization programs agency administers.	4. **Plan updates.** The council shall update the plan to reflect any significant changes in the comprehensive state energy plan submitted pursuant to Title 2, section 9, subsection 3, paragraph C and may update the plan more frequently than quadrennially if the council considers it necessary.

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Expenditures for any significant changes to the approved plan may not be authorized until the board has reviewed and approved any subsequent annual update plan. All annual update plans must be presented to the commission and the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. **8. Other duties.** The trust shall do all things necessary or convenient to carry out the lawful purposes of the trust.	**5. Plan adoption and presentation.** The first plan must be developed and adopted on or after July 1, 2010. The plan and any plan updates must be presented within 60 days of adoption to the Governor and the joint standing committee of the Legislature having jurisdiction over energy matters. ***Note: in the transition provisions in both proposals, the first plan must be presented to the board of the entity for approval by July 1, 2010***. (see Sen. Bartlett's proposal, Part C (3) and Rep. Fletcher's proposal, Part E (3))
§10104. Duties. **5. Report.** The trust shall report by December 1st of each year to the commission and the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. The report must include: A. A description of actions taken by the trust pursuant to this section, including descriptions of all energy efficiency, weatherization and conservation programs implemented during the prior 12 months and all programs that the trust plans to implement during the next 12 months, a description of how the trust determines the cost-effectiveness of each program and its assessment of the cost-effectiveness of programs implemented during the prior 12 months; B. An accounting of:	**§ 9319. Reporting** Beginning in ~~2012,~~ 2011, the council shall report by February 1st of each year to the Governor and the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. The report must include: **1. Council actions.** A description of actions taken by the council and Efficiency Maine Plus pursuant to this chapter, including descriptions of programs implemented during the prior 12 months and programs, projects and activities that the council plans to implement during the next 12 months, a description of how the council determines the cost-effectiveness of each program and its assessment of the cost-effectiveness of programs implemented during the prior 12 months; **2. Accounting.** An accounting of: A. Funds received from the Public Utilities Commission from

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(1) Assessments made on each transmission and distribution utility pursuant to section 10110 (electric SBC) during the prior 12 months and projected assessments during the next 12 months and total deposits into and expenditures from the program fund during the prior 12 months and projected deposits into and expenditures from the program funds during the next 12 months; (2) Assessments made pursuant to section 10111 (natural gas SBC) during the prior 12 months and projected assessments during the next 12 months and total deposits into and expenditures from the natural gas conservation fund during the prior 12 months and projected deposits into and expenditures from the natural gas conservation fund during the next 12 months; and (3) Any heating fuel assessments made for the purposes of section 10118 during the prior 12 months and projected assessments during the next 12 months and total deposits into and expenditures from the Heating Fuels Efficiency and Weatherization Fund during the prior 12 months and projected deposits into and expenditures from the Heating Fuels Efficiency and Weatherization Fund during the next 12 months; (4) Total funds received and expended in the State on energy efficiency and weatherization pursuant to the Weatherization Assistance Program of the United States Department of Energy and the Low-income Home Energy Assistance Program of the United States Department of Health and Human Services;	assessments made pursuant to Title 35-A, chapter 96 and funds received from all other sources; B. Total deposits into and expenditures from the program funds during the prior 12 months and projected deposits into and expenditures from the program funds for the next 12 months; C. The amount and source of any grants or funds deposited in the program funds during the previous 12 months and the projected amount and source of any grants or funds for the next 12 months; and D. Total deposits into and expenditures from the administration fund during the prior 12 months and projected deposits into and expenditures from the administration fund for the next 12 months;

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(5) The amount and source of any grants or funds deposited in the program fund pursuant to section 10110 during the previous 12 months and the projected amount and source of any such funds during the next 12 months; and (7) Total deposits into and expenditures from the conservation administration fund under section 10110 during the prior 12 months and projected deposits into and expenditures from the conservation administration fund during the next 12 months; C. Any recommendations for changes to the laws relating to energy conservation; and D. The performance of the trust and individual programs and program delivery agents or service providers in meeting the objectives, targets and measures of performance approved by the commission and contained in the triennial plan. The report must be approved by the board before being presented to the commission and the joint standing committee of the Legislature having jurisdiction over utilities and energy matters.	**3. Evaluation.** A general evaluation of: A. Funding sources and program areas and a recommendation as to whether any changes in funding or programming are needed; and B. Customer satisfaction with program delivery; **4. Performance.** A summary of measures of performance pursuant to section 9303, subsection 3, paragraph D; and **5. Recommendations.** Any recommendations for changes to law relating to energy conservation or renewable energy programs. This section takes effect July 1, 2010.
§10105. Powers. The trust shall execute its duties consistent with this subsection. **1. Funds**. The trust shall administer programs and funds in accordance with this chapter and other applicable laws. **2. Efficiency Maine projects; bonds**. The trust shall propose, develop and approve revenue bond projects as Efficiency Maine projects under Title 10, section 963-A, subsection 10-A .	

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2. Bylaws. The trust shall adopt bylaws, through the board, consistent with this section for the governance of its affairs.	
3. Employee compensation. The trust shall fix, through the board, the compensation of all employees of the trust.	(In Rep. Fletcher's proposal, §9303(2): *The board sets the salary of the director and the director sets the salary of other employees*)
4. Purchasing agent rules. Notwithstanding Title 5, section 1831, the trust is not subject to rules adopted by the State Purchasing Agent in selecting service providers pursuant to this subsection. The trust shall adopt rules establishing procedures governing the selection of service providers under this section. The trust shall consult with the State Purchasing Agent in developing the rules.	**§ 9306. Rulemaking**
5. Rules. The board shall adopt rules for establishing and administering the trust and its programs. These rules must include:	The council may adopt rules as necessary to administer this chapter. These rules may include:
A. Provisions for the expenditure of trust funds, including, but not limited to, the development of program budgets, criteria for energy efficiency and conservation programs and other consumer benefit programs, the process for project selection and approval, minimum requirements for project monitoring and verification and the cost-effectiveness tests to be used for measuring and comparing program benefits and costs; and	**1. Expenditure.** Provisions for the expenditure of funds, including, but not limited to, the development of program budgets, criteria, procedures and standards for energy efficiency and renewable energy programs and other consumer benefit programs, the process for project selection and approval, minimum requirements for project monitoring and verification and the cost-effectiveness tests to be used for measuring and comparing program benefits and costs;
B. Provisions for the independent evaluation of program expenditures to ensure cost-effectiveness of projects to improve energy efficiency or to reduce greenhouse gases.	**2. Evaluation.** Provisions for the independent evaluation of program expenditures to ensure cost-effectiveness of projects to improve energy efficiency or to reduce greenhouse gases; and
Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.	
§10104. Duties.	
7. Certification. The trust shall by rule establish certification standards for energy auditors, installers of energy efficiency measures, or other service providers that provides services under programs administered by the trust. Rules adopted under this subsection are routine technical rules as defined in	**3. Standards.** Provisions for establishing standards for training and certification of energy auditors, weatherization technicians and contractors and solar and wind energy system installers. Rules adopted pursuant to this section are routine technical rules as

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Title 5, chapter 375, subchapter 2-A.	defined in Title 5, chapter 375, subchapter 2-A.
§10105. Powers. **6. Public instrumentality**. In the operation or dissolution of the trust, no part of the net earnings of the trust may benefit any member, officer or employee except that the trust may pay reasonable compensation for services rendered and otherwise hold, manage and dispose of its property in furtherance of the purposes of the trust. **§10106. Freedom of access; confidentiality.** The proceedings of the board and records of the trust are subject to the freedom of access law, Title 1, Chapter 13, except as specifically provided in this subsection. **1. Confidential records.** The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A: A. A record obtained or developed by the trust that: (1) A person, including the trust, to whom the record belongs or pertains has requested be designated confidential; and (2) The board has determined contains information that gives the owner or a user an opportunity to obtain business or competitive advantage over another person who does not have access to the information, except through the trust's records, or access to which by others would result in a business or competitive disadvantage, loss of business or other significant detriment, other than loss or denial of financial assistance from the trust, to any person to whom the record belongs or pertains; B. A financial statement or tax return of an individual or any other record obtained or developed by the trust the disclosure of which would constitute an invasion of personal privacy, as determined by the board;	***No comparable provisions in Rep. Fletcher's proposal***

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The trust shall provide to a legislative committee, on written request signed by the chairs of that committee, any information or records, including information designated confidential under this subsection, specified in the written request. The information or records may be used only for the lawful purposes of the committee and in any action arising out of any investigation conducted by it. **2. Exceptions.** Notwithstanding subsection 1, the following are not confidential and are public records: A. Any otherwise confidential information the confidentiality of which the board determines to have been satisfactorily and effectively waived; B. Any otherwise confidential information that has already lawfully been made available to the public; **3. Disclosure prohibited; further exceptions**. A trustee, officer, director, employee, agent, other representative of the trust or other person may not knowingly divulge or disclose records designated confidential by this section, except that the board may, in its discretion, make or authorize any disclosure of information of the following types or under the following circumstances: A. Impersonal, statistical or general information; B. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person; C. To a financing institution or credit reporting service; D. Information necessary to comply with any federal or state law or rule or with any agreement pertaining to financial assistance; E. If necessary to ensure collection of any obligation in which it has or	

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
may have an interest; F. In any litigation or proceeding in which the trust has appeared, introduction for the record of any information obtained from records designated confidential by this section; and G. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, provided that any such order appears to have first been served on the person to whom the confidential information sought pertains or belongs and provided that any such order appears on its face or otherwise to have been issued or made upon lawful authority. **§10107. Conflicts of interest; financial disclosure statements** Each trustee, the director and each employee of the trust is an "executive employee" for purposes of Title 5, section 18 and each trustee and the director is also an "executive employee" for purposes of Title 5, section 18-A and section 19. **§10108. Liability.** The trust is a government entity under the Maine Tort Claims Act and the liability and immunity of the trust, trustees, the director and all other employees of the trust are governed by that act.	
PART G **Workforce development** **Sec. X. Workforce Development**. The Department of Labor, the Public Utilities Commission and the Maine State Housing Authority shall: **1. Needs assessment**. By September 1, 2009, perform an assessment of the energy efficiency and green industry workforce development needs in this State; **2. Plan.** Develop, in consultation with the University of Maine	**§ 9305. Quadrennial energy efficiency and conservation plan** **2. Plan.** (*see above for most of text—this piece repeated here for side-by-side purposes*) .... The plan must include: F. Strategies and measurable goals for workforce and business development.

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system, community colleges and appropriate private sector entities, a specific, detailed plan for providing classroom training, on-the job training and other workforce development strategies to meet the identified need. The plan must provide for the use of federal weatherization, State Energy Program and Workforce Investment Act funds received by the State pursuant to the American Reinvestment and Recovery Act of 2009 as well as long-term funding that is available to support energy efficiency and green industry workforce development. **3. Report; legislation.** Submit to the Joint Standing Committee on Utilities and Energy by September 30, 2009, a report detailing the energy efficiency and green industry workforce development needs in this State as determined under subsection 1, the plan developed under subsection 2, and a status report on the implementation of the plan using federal weatherization, State Energy Program and Workforce Investment Act funds received by the State pursuant to the American Reinvestment and Recovery Act of 2009. The report must include recommended legislation to implement the proposed plan on a sustained, long-term basis. The Joint Standing Committee on Utilities and Energy may submit legislation on the subject matter of the report to the 2nd Regular Session of the 124th Legislature.	
§ 10119. Commission oversight of Efficiency Maine Trust **1. Negotiated measures of performance.** The commission shall negotiate measures of performance with the Efficiency Maine Trust to be incorporated in the triennial plan. The commission shall ratify final measures of performance if it finds that these measures satisfy the requirements of this chapter, including the principles described in section 10104, subsection 2 and are in the public interest. The commission and the trust may revise one or more of the measures of performance at any time by mutual agreement. **2. Independent evaluation of programs.** The commission shall arrange for an independent evaluation of each major program administered by the trust or incorporated into the triennial plan. Each major program must be	**§ 9320. Independent analysis of programs** Beginning July 1, 2010, the council shall arrange for an independent

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
evaluated at least once every 3 years. The evaluation must include an accounting audit of the programs and an evaluation of each program's effectiveness. The evaluation must measure actual and lifetime energy saved, carbon dioxide saved, energy costs saved, demand or capacity reductions, other quantifiable benefits, cost of programs and administration, cost-effectiveness of programs, jobs created and other measures that the evaluator, in consultation with the commission, may establish. The evaluations must be conducted by a competent professional with expertise in energy efficiency matters, including the management of cost-effective energy efficiency programs. For purposes of this subsection, "major program" means a program with an annual budget of more than $500,000. **3. Report to Legislature.** The commission shall submit a report of the independent evaluation conducted pursuant to subsection 2 to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. **4. Regulation.** The trust may not expend any funds from assessments made under this chapter until the commission approves the trust's triennial plan as well as implementing plans for any programs funded in whole or in part from such assessments. The commission on its own motion or upon recommendation of the Public Advocate may open an investigation of practices or acts of the trust. If the commission, upon investigation, finds that the trust has failed to comply with any requirement of this chapter or other requirements of law in the use or expenditure of any funds from assessments made under this chapter, the commission may issue an appropriate order directing the trust to take necessary actions to bring the trust into compliance with the law and may suspend or limit the authority of the trust to expend or encumber any funds derived from assessments made under this chapter until the commission finds the trust has come into compliance with the law. **4. Oversight and evaluation fund.** The commission may establish an oversight and evaluation fund to be used solely to defray the commission's projected costs of overseeing the trust, including but not limited to negotiating measures of performance with the trust, reviewing and approving the trust's triennial plan and contracting with expert 3rd-party resources to provide technical assistance or impartial evaluation of the performance of energy efficiency programs administered by the trust. The commission may assess the trust and deposit in the oversight and evaluation fund an amount up to an	evaluation of each major program implemented under this chapter. Each major program must be evaluated at least once every 5 years. The evaluation must include an accounting audit of the program and an evaluation of the program's effectiveness in meeting the goals of this chapter. The evaluations must be conducted by a competent professional with expertise in energy efficiency matters, including the management of cost-effective energy efficiency programs. For purposes of this subsection, "major program" means a program with an annual budget of more than $500,000.

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
amount not to exceed 1% of the total funds administered by the trust. Any interest on funds in the oversight and evaluation fund must be credited to the oversight and evaluation fund and any funds unspent in any fiscal year must either remain in the oversight and evaluation fund to be used for the purposes specified in this subsection or be transferred to the program fund. **Sec. X. Effective Date.** ..... July 1, 2010	
Sec. 4. 30-A MRSA §4741, sub-§15, as amended by PL 1991, c. 871, §2, is further amended to read: **15. State weatherization, conservation and fuel assistance agency for low-income persons.** The Maine State Housing Authority is designated the weatherization, energy conservation and fuel assistance agency for low-income persons in the State and in accordance with Title 35-A, section 10104, subsection 4 may apply for, receive, distribute and administer federal funds on behalf of the State for weatherization, energy conservation and fuel assistance pursuant to the Weatherization Assistance for Low-income Persons Program administered through the United States Department of Energy and the Low-income Home Energy Assistance Program administered through the United States Department of Health and Human Services in accordance with rules adopted under the Maine Administrative Procedure Act;	**Sec. B-5. 30-A MRSA §4741, sub-§15,** as amended by PL 1991, c. 871, §2, is further amended to read: **15. State weatherization, conservation and fuel assistance agency.** The Maine State Housing Authority is designated the weatherization, energy conservation and fuel assistance agency for the State and may apply for, receive, distribute and administer federal funds on behalf of the State for weatherization, energy conservation and fuel assistance pursuant to the Weatherization Assistance for Low-income Persons Program administered through the United States Department of Energy and the Low-income Home Energy Assistance Program administered through the United States Department of Health and Human Services in accordance with rules adopted under the Maine Administrative Procedure Act. The Maine State Housing Authority may consult and coordinate with the Efficiency Maine Plus Council on matters of mutual interest that may include building weatherization programs, relationships with financial partners, use of databases to capture energy and carbon savings and training of energy auditors and weatherization contractors;

Programs to be administered by new entity; where proposals are the same:
On July 1, 2010, abolish and transfer functions to new entity
• Carbon Savings Trust (use of RGGI fund unchanged except:
  • Sen. Bartlett's draft keeps allowed administrative costs at current level: 5% (see §10109(4)(F)
  • Rep. Fletcher's draft increases allowed administrative costs to 10% -- see §9308(5)(G)
• Maine Energy Conservation Board
• These PUC energy functions
	see other column

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
○ electric efficiency programs ○ note: Sen. Bartlett's draft includes references here to PUC approval of programs – no PUC role in Rep. Fletcher's draft ○ Sen. Bartlett's draft allows 9% for administrative expenses; Rep. Fletcher's allows 10% ○ federal energy programs, ○ training programs (both add specific provision providing for certification of energy auditors) ○ work with MSHA on rental disclosure forms/standards ○ provider of public information about energy efficiency and • natural gas conservation program *(programs different in draft, but Sen. Bartlett's intent is that his draft be modified to be the same as Rep. Fletcher's -- only largest utility (Unitil) assessed at least 3%* • PUC solar and wind rebate program • Both proposals also abolish Energy Resources Council	
Where programs differ	**Where programs differ** **§ 9316. Unregulated Fuels Energy Conservation Program** **1. Funds received.** All funds collected from unregulated fuels are to be held in a separate unregulated fuels fund for the purposes of energy conservation and to benefit consumers of unregulated fuels. In the event funds are not expended or contracted for expenditure within 2 years of being collected from consumers, the council shall return the value of those funds to consumers by appropriate reductions in the assessment collected. The council shall design and establish programs to achieve energy conservation goals for unregulated fuels as established in and in accordance with the quadrennial plan.

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
	2. Implementation. To the extent revenues allow, the council may implement and monitor programs and measures to increase electric, gas and heating fuel energy efficiency, distributed renewable energy production, combined heat and power installation and effective load management in this section. **3. Effective date.** This section takes effect July 1, 2010. **§ 9317. Building weatherization program** **1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings. A. "Authorized provider" means an organization authorized by the council to provide services under the program. B. "Program" means the building weatherization program established by the council under this section. C. "Qualified contractor" means an individual who has met minimum training and insurance requirements established by the council. D. "Qualified energy auditor" means an individual qualified to perform energy audits as determined by the council, including persons who are certified or otherwise qualified as energy auditors by the Maine State Housing Authority, the commission or other entity approved by the council. E. "Weatherization" means any modifications to a building conducted in accordance with the requirements of the program that reduces heat loss through the walls, windows, doors, foundation or any other aspect of the building's envelope. **2. Building weatherization program.** The council may establish a building weatherization program available to middle-income and upper-income homeowners and to commercial building owners that includes at a minimum pre-weatherization energy audits, weatherization services, post-weatherization
§ 10118. Heating Fuels Efficiency and Weatherization Program **2. Program.** All funds deposited in the fund must be administered by	

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
the trust to reduce heating fuel consumption consistent with the purpose and targets of the trust and the triennial plan and to achieve the following goals: A. By 2030, to provide cost-effective energy efficiency and weatherization measures to substantially all homes and businesses that wish to participate in programs established by the trust under this section.	audits and financing of the costs of the energy audits and weatherization services. A. The goals of the program are to: (1) Substantially improve the energy efficiency of and reduce carbon emissions from the State's building stock by reducing annual fuel consumption for heating and cooling by at least 20% in those buildings that receive weatherization services; (2) Provide convenient and low-cost weatherization services to homeowners and commercial building owners; and (3) Meet the objectives of the quadrennial plan of weatherizing all residential units and 50% of businesses in the State by 2030. B. Efficiency Maine Plus, ~~through a cooperative agreement with the Maine State Housing Authority, may~~shall administer the program ~~except with respect to weatherization of housing for low-income persons, which portion of the program is administered by the Maine State Housing Authority~~. Program administration includes but is not limited to: (1) Working with banks and other private partners on program delivery; (2) Oversight of data collection and management; (3) Quality control of work done by qualified energy auditors and qualified contractors; (4) Marketing, public outreach, media relations and advertising of the program; (5) Customer interface through the Internet and on the telephone;

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
	(6) Establishing customer incentives to maximize participation in the program; (7) Trouble-shooting program elements and resolving problems; and (8) Coordination with other agencies involved in program administration and delivery.
§ 10118. Heating Fuels Efficiency and Weatherization Program	
1. Fund established; use of money. There is established Heating Fuels Efficiency and Weatherization Fund, referred to in this subsection as "the fund". The fund is a nonlasping fund and is administered by the Efficiency Maine Trust in accordance with this section Any interest earned on funds in the fund must be credited to the fund and funds not spent in any fiscal year remain in the fund to be used in accordance with this subsection. The trust may receive and deposit in the fund funds from the following sources:	**3. Federal funds; other funds.** The council may establish a weatherization fund to be used solely for the purposes of this section. The council may establish accounts within the fund and may receive funds from the following sources:
A. Any funds collected from an assessment on heating fuels;	
B. Federal funds and awards received by the board that may be used for the purposes of this section;	A. Federal funds and awards received by the council for the purposes of this section;
C. The proceeds of any bonds issued for the purposes of this section;	B. The proceeds of any bonds issued for the purposes of this section;
D. Principal and interest received from the repayment of loans made from the fund;	C. Principal and interest received from the repayment of loans made from the fund;
E. Any interest earned on investment of fund balances; and	D. Any interest earned on investment of fund balances; and
F. Any other funds from public or private sources received in support of the purposes for which the fund is established, and any private funds that are loaned or granted to building owners by private partners approved by the board.	E. Any other funds from public or private sources received in support of the purposes for which the fund is established, and any private funds that are loaned or granted to building owners by private partners approved by the council, the commission or the Maine State Housing Authority.

A COMPARISON OF SEN. BARTLETT'S AND REP. FLETCHER'S PROPOSALS
AS PRESENTED MAY 6, 2009 TO JOINT SELECT COMMITTEE ON MAINE'S ENERGY FUTURE
Major differences highlighted

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
The trust may annually deposit funds received pursuant to this section into the administration fund, up to a maximum in any fiscal year of 10% of the revenues received under this section.	The council may annually deposit funds received pursuant to this section into the administration fund, up to a maximum in any fiscal year of 10% of the revenues received under this section. Funds in the weatherization fund not spent in any fiscal year do not lapse and remain in the fund to be used in accordance with this section.
3. Rulemaking. The board may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.	**4. Rulemaking.** The council may adopt rules or policies to implement this section. The rules may include but are not limited to rules that: A. Establish an energy-audit-based program under which priorities for weatherization are those recommendations from an energy audit that are cost-effective and will result in no less than a 20% savings in energy consumed; B. Establish a minimum package of weatherization services to be delivered to residents and businesses through a statewide network of authorized providers and supported by participating financial institutions; C. Establish standards and criteria for a statewide network of authorized providers and partnering financial institutions; D. Establish standards for qualified energy auditors and qualified contractors that includes certification requirements and professional or commercial liability and worker's compensation insurance; E. Provide for connecting database systems for purposes of monitoring the performance of building weatherization through energy audits and capturing the data so that the monetary value of energy and carbon savings can be realized; F. Establish program parameters or incentives to increase consumer participation in the program, based on best available information; G. Provide for the creation and maintenance of a network of financial partners that can provide cost-effective financing for the program and establish standards for financial partners' participation in the program;

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
4. Effective date. This section takes effect July 1, 2010.	H. Provide for establishing and maintaining relationships with public and private partners who can support program administration, publicity, media relations, cost of materials and advertising for the program; and I. Provide easily accessible outreach and program information to ensure maximum participation. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
PART C **15. Heating Fuels Efficiency and Weatherization Program.** The board of Efficiency Maine Trust, in consultation with stakeholders, shall develop a proposed heating fuel weatherization and efficiency program to implement Title 35-A, section 10118 through the use of a system benefit charge on # 2 heating oil, kerosene, propane and wood fuel used for heating purposes, including cord wood and wood pellets. The proposal must include specific assessment and collection mechanisms and amounts for the system benefit charge, identification of the appropriate entities to be assessed and provisions for appropriate exceptions and rebates, including but not limited to exceptions or rebates for low-income consumers. **SEN. BARTLETT AMENDMENT DISCUSSED AT MEETING: The proposal must also include a recommended level for the natural gas system benefit charge assessed under Title 35-A section 10111.** By the first Monday in January 2010, the trust shall submit its proposal together with draft legislation to implement the proposal to the joint standing committee of the Legislature having jurisdiction over utilities and energy, which, after receiving the report, may submit legislation relating to heating fuel weatherization and efficiency programs and a system benefit charge on heating fuels.	***No comparable provision in Rep. Fletcher's proposal***
PART D ***Efficiency Maine Bonds*** for EMT projects issued by FAME – ***See Sen.***	***No comparable provision in Rep. Fletcher's draft***

A COMPARISON OF SEN. BARTLETT'S AND REP. FLETCHER'S PROPOSALS
AS PRESENTED MAY 6, 2009 TO JOINT SELECT COMMITTEE ON MAINE'S ENERGY FUTURE
Major differences highlighted

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
Bartlett's draft;	
PART C ***Transition – only substantive difference relates to PUC employees:*** **9. Employees of the Public Utilities Commission.** Employees who were employees of the Public Utilities Commission energy efficiency or renewable energy programs on June 30, 2009 retain their employee rights, privileges and benefits, including sick leave, vacation and seniority, provided under the Civil Service Law or collective bargaining agreements, unless they accept employment with Efficiency Maine Trust in which case, they ***shall elect whether to continue as*** state employees ***or to*** work under new agreements. For employees who are not offered or who do not accept employment at Efficiency Maine Trust, the Department of Administrative and Financial Services, Bureau of Human Resources shall provide employment assistance.	**PART E** ***Transition – only substantive difference relates to PUC employees:*** **9. Employees of the Public Utilities Commission.** Employees who were employees of the Public Utilities Commission energy efficiency or renewable energy programs on June 30, 2009 retain their employee rights, privileges and benefits, including sick leave, vacation and seniority, provided under the Civil Service Law or collective bargaining agreements, unless they accept employment with Efficiency Maine Plus in which case, they will not be state employees and will work under new agreements. For employees who are not offered or who do not accept employment at Efficiency Maine Plus, the Department of Administrative and Financial Services, Bureau of Human Resources shall provide employment assistance.
No comparable provision in Sen. Bartlett's proposal	**Sec. C-1. Task force established.** Executive task force on efficiency in state facilities (**see Rep. Fletcher's draft**) Task force charge: examine ways of advancing the goals of improving energy efficiency, increasing energy conservation and increasing the energy independence of the State by better management of state facilities. The task force shall develop recommendations that, to the extent possible, do not require additional state positions or increased appropriations from the General Fund.
PART F **Transmission Corridors** **Sec. 3. 5 MRSA §282, sub-§9** is enacted to read: **9. Energy Independence Fund; revenues from occupancy of state**	**PART G** **Sec. G-3. 5 MRSA §282, sub-§9** is enacted to read: **9. Energy Independence Fund; revenues from occupancy of state assets.** To establish an energy independence fund from the revenues derived

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
assets. To establish an energy independence fund for revenues derived from the utilization of state assets for energy transmission systems. Each year, the first $50,000,000 in revenues collected from such utilization must be transferred by the Treasurer of State to Efficiency Maine Trust for deposit by the trust in program funds pursuant to Title 35-A, section 10103, subsection 5. Thereafter the Treasurer shall deposit additional revenues received into the energy independence fund for use as allocated by the Legislature.	from ~~transportation commerce corridors pursuant to Title 23, section 345 and state waters and coastal islands pursuant to Title 5, section 3347~~ the utilization of state assets for energy transmission. The revenues must be used for the following purposes: A. To ensure methodical transition to energy independence and security for the people, communities, economy and environment of the State; B. To transform the ways homes and businesses are heated, energy is used and people and cargo are transported; and C. To gain independence from foreign oil and to maximize energy efficiency, to enhance renewable energy sources and to invest in an economic development strategy to ensure a vibrant, environmentally sound and prosperous future.
Sec. 4. Commission established. The Commission to Study Energy Infrastructure, referred to in this section as "the commission" is established. **1. Membership**. The commission consists of 13 members appointed as follows: A. Three members of the Senate appointed by the President of the Senate; B. Seven members of the House of Representatives appointed by the Speaker of the House; and C. Three members appointed by the Governor. **2. Chairs**. The first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the Commission. **3. Appointments; convening**. All appointments must be made no later than 30 days following the effective date of this section. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the commission.	***No comparable study provision in Rep. Fletcher's draft***

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
4. Duties; corridors; plan. The commission shall examine the feasibility and effects of the state entering into agreements for leasing or otherwise allowing the use of state-owned lands or assets, including submerged lands, the rights-of-way of the state highway system, the federal interstate highway system, state-owned or state-controlled rail corridors or other state transportation corridors, for the installation of lines, cables, pipelines or other structures for the transmission of energy resources, communication transmission systems or related facilities. The commission shall develop a recommended plan governing such agreements that addresses at least the following: A. Appropriate valuation, pricing and allocation methodologies to maximize the long-term public value through the most efficient and effective use of the state-owned lands and assets; and B. The potential effect of such agreements on renewable energy development in Maine; the development of other energy projects in Maine, including but not limited to liquefied natural gas terminals; energy consumers and ratepayers; and natural resources and the environment. In developing the plan, the commission shall review and analyze the information, analysis and results of the *New England States Regional Energy Blueprint* being prepared by ISO-NE for the New England Governors and the New England States' Committee on Electricity. The commission shall also examine and monitor proposed or pending federal energy legislation that may significantly affect energy policy in this State. The commission may also examine and develop findings and recommendations concerning other proposed or potential energy infrastructure and transmission projects that may have significant effects on state energy policy, including but not limited to projects relating to electric transmission systems, including new lines, system upgrades or the development of a smart-grid, or natural gas systems, including pipelines and liquefied natural gas terminals. **5. Staff; consultants; other assistance**. The Legislative Council shall provide staffing services to the commission. The commission shall seek input from relevant agencies, stakeholders and persons with expertise. All agencies with relevant expertise shall provide technical or other assistance	

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
requested by the commission. The commission may retain consultants and other experts to assist the commission in its work. **7. Report.** No later than December 2, 2009 the Commission shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Second Regular Session of the 124th Legislature. The Joint Standing Committee on Utilities and Energy is authorized to introduce a bill related to the subject matter of the report to the Second Regular Session of the 124th Legislature upon receipt of the report **8. Funding.** The following funds are allocated to fund the work of the study: (OFPR: ***insert allocation of $200,000 from the Public Utilities Commission to the Legislature to fund the study***)	
Sec. 5. Legislative review of corridor plans. **1. Definitions**. For purposes of this section the following terms have the following meanings: A. "Energy facilities" means lines, cables, pipelines or other structures for the transmission of energy resources, including but not limited to electricity, natural gas or oil. B. "Significant occupancy agreement" means an occupancy agreement that: (1) Involves a high voltage direct current electric transmission line; (2) Involves energy facilities of a size or type designed or intended to facilitate the transmission of energy resources to and from locations outside the state; or (3) Is substantially different from any previous occupancy agreement entered into by a state authority, including but not limited to with respect to the type of transportation corridors to be occupied, the manner of occupancy by energy facilities,	***No comparable study provision in Rep. Fletcher's draft***

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
the physical extent of occupancy by energy facilities, the type of energy facilities involved, or the amount or calculation of any required consideration. C. "State authority" includes but is not limited to the Governor, the Department of Transportation, the Maine Turnpike Authority or any other state entity, agency or authority. D. "Transportation corridors" means the state highway system, the federal interstate highway system, state-owned or state-controlled rail corridors or other state transportation corridors. **2. Prohibition.** No state authority may enter into a significant occupancy agreement allowing the longitudinal installation of energy facilities in state transportation corridors until the Legislature approves a plan governing such agreements. **3. Limitations; exceptions.** Nothing in this section prohibits a state authority from undertaking feasibility studies or exploratory negotiations for a significant occupancy agreement. Nothing in this section prohibits a state authority from entering into a limited agreement to engage in further negotiations after legislative authorization of a plan, provided that any such limited agreement is subject to the express condition that all such further negotiations will occur only if permitted by and only in accordance with all provisions, terms, conditions and limitations of such legislatively authorized plan. A state authority shall ensure that any study, negotiation or preliminary agreement is undertaken or entered into with the full awareness by all parties of the provisions of this section. Nothing in this section prohibits a state authority from entering into an agreement allowing occupancy of state transportation corridors by energy facilities for which an application for a certificate of public convenience or necessity was pending before the Public Utilities Commission on April 1, 2009, provided the occupancy agreement does not involve substantially different terms or conditions from any previous occupancy agreement entered into by a state authority with respect to the type of transportation corridors to be occupied, the manner of occupancy, the physical extent of occupancy or the amount or calculation of any required consideration. **4. Repeal.** This section is repealed 90 days after the adjournment of	

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
the Second Regular Session of the 124th Legislature	
PART H **Sec. X. 2 MRSA §9,** as enacted by PL 2007, c. 656, Pt. C, §1, is amended to read: **§ 9. Governor's Office of Energy Independence and Security** **1. Office established.** The Governor's Office of Energy Independence and Security, referred to in this section as "the office," is established in the Executive Department to carry out responsibilities of the State relating to energy resources, planning and development. The office is directly responsible to the Governor. **2. Director.** The office is under the control and supervision of the Director of the Governor's Office of Energy Independence and Security, referred to in this section as "the director." The director is appointed by the Governor and serves at the pleasure of the Governor. **2-A. Powers.** The director may request from Efficiency Maine Trust, established in Title 35-A, chapter 97, and the trust may provide from funds available to it funding sufficient to carry out the duties of the office under section 3 and any other applicable law. **3. Duties.** The director is responsible for the execution of the duties of the office. The director shall: A. ~~Chair~~ Be a member of the ~~Energy Resources~~Efficiency Maine Trust Board ~~Council~~, established under Title 5, section ~~3327~~12004-G, subsection 10-C; B. In collaboration with ~~the Energy Resources Council and other~~ relevant state agencies, coordinate state energy policy and actively foster cooperation with Efficiency Maine Trust, established in Title 35-A, chapter 97; C. ~~Prepare~~In consultation with the Efficiency Maine Trust Board,	**Sec. D-1. 2 MRSA §9,** as enacted by PL 2007, c. 656, Pt. C, §1, is amended to read: **§ 9. Governor's Office of Energy Independence and Security** **1. Office established.** The Governor's Office of Energy Independence and Security, referred to in this section as "the office," is established in the Executive Department to carry out responsibilities of the State relating to energy resources, planning and development. The office is directly responsible to the Governor. **2. Director.** The office is under the control and supervision of the Director of the Governor's Office of Energy Independence and Security, referred to in this section as "the director." The director is appointed by the Governor and serves at the pleasure of the Governor. **2-A. Powers.** The director may request from Efficiency Maine Plus, established in Title 10, chapter 1005, and Efficiency Maine Plus may provide from program funds or the administrative fund under Title 10, chapter 1005, funding sufficient to carry out the duties required under section 3 and any other appropriate law. **3. Duties.** The director is responsible for the execution of the duties of the office. The director shall: A. Chair the ~~Energy Resources~~Efficiency Maine Plus Council, established under Title 5, section ~~3327~~12004-G, subsection 10-C; B. In collaboration with the ~~Energy Resources~~Efficiency Maine Plus Council and other relevant state agencies, coordinate state energy policy and actively promote interagency coordination of energy programs in coordination with Efficiency Maine Plus, established in Title 10, chapter 1005; C. ~~Prepare~~In consultation with Efficiency Maine Plus, established in

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
established in Title 35-A, chapter 97, prepare and submit a comprehensive state energy plan to the Governor and the Legislature by January 15, 2009 and every 2 years thereafter;	Title 10, chapter 1005, prepare and submit a comprehensive state energy plan to the Governor and the Legislature by January 15, 2009 and every 2 years thereafter;
C-1. By February 1st of each year, prepare and submit to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters an annual report that describes the activities of the office during the previous calendar year in carrying out its duties under this subsection and describe the State's progress in implementation of the state energy plan prepared pursuant to paragraph C. After receipt and review of the annual report required under this paragraph, the joint standing committee of the Legislature having jurisdiction over utilities and energy matters may submit legislation relating to energy policy.	C-1. By February 1st of each year, prepare and submit to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters an annual report that describes the activities of the office during the previous calendar year in carrying out its duties under this subsection and describe the State's progress in implementation of the state energy plan prepared pursuant to paragraph C. After receipt and review of the annual report required under this paragraph, the joint standing committee of the Legislature having jurisdiction over utilities and energy matters may submit legislation relating to energy policy.
D. In collaboration with other relevant state agencies, private industry and nonprofit organizations, collect and analyze energy data, including, but not limited to, data on energy supply, demand and costs in this State with consideration of all available energy sources;	D. In collaboration with other relevant state agencies, private industry and nonprofit organizations, collect and analyze energy data, including, but not limited to, data on energy supply, demand and costs in this State with consideration of all available energy sources;
E. Coordinate the dissemination of energy information to the public and the media;	E. Coordinate the dissemination of energy information to the public and the media;
F. Provide technical assistance and information to the Governor and the Legislature regarding the State's short-range and long-range energy needs and the resources to meet those needs;	F. Provide technical assistance and information to the Governor and the Legislature regarding the State's short-range and long-range energy needs and the resources to meet those needs;
G. Seek funds and partnerships with public and private sources to support the goals of the office, including, but not limited to, promoting energy efficiency, demand-side management and distributed generation;	G. Seek funds and partnerships with public and private sources to support the goals of the office, including, but not limited to, promoting energy efficiency, demand-side management and distributed generation;
H. Work with transmission and distribution utilities, state agencies involved in the permitting of energy generation facilities and other relevant entities to negotiate agreements that create value for electricity consumers with developers of renewable generation who are interested in building energy generation facilities or developing or utilizing energy transmission infrastructure in this State. This paragraph does not authorize the director to be a signatory to any such agreement unless that authority is otherwise granted by law. The director shall report on activities undertaken pursuant to this paragraph by February 1, 2009, and	H. Work with transmission and distribution utilities, state agencies involved in the permitting of energy generation facilities and other relevant entities to negotiate agreements that create value for electricity consumers with developers of renewable generation who are interested in building energy generation facilities or developing or utilizing energy transmission infrastructure in this State. This paragraph does not authorize the director to be a signatory to any such agreement unless that authority is otherwise granted by law. The director shall report on activities undertaken pursuant to this paragraph by February 1, 2009, and

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annually thereafter, to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters; I. Monitor energy transmission capacity planning and policy affecting this State and the regulatory approval process for the development of energy infrastructure pursuant to Title 35-A, section 122 and make recommendations to the Governor and the Legislature as necessary for changes to the relevant laws and rules to facilitate energy infrastructure planning and development; and J. Take action as necessary to carry out the goals and objectives of the state energy plan prepared pursuant to paragraph C.	annually thereafter, to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters; I. Monitor energy transmission capacity planning and policy affecting this State and the regulatory approval process for the development of energy infrastructure pursuant to Title 35-A, section 122 and make recommendations to the Governor and the Legislature as necessary for changes to the relevant laws and rules to facilitate energy infrastructure planning and development; and J. Take action as necessary to carry out the goals and objectives of the state energy plan prepared pursuant to paragraph C.

PART E
 	
Affordable housing, MSHA program funded through revenue bonds – See Sen. Bartlett's draft;
 	
• no revenue bonds may be issued before FY 10-11; the revenue stream from the real estate transfer tax to service the bonds is not authorized until FY 11-12)
• Authorizes, but does not require MSHA to issue bonds of $30M or more a year (allowing MSHA to decide not to issue bonds if it determines it is imprudent), up to a total of $200M
• Requires MSHA to report annually on the program
• Formula for the use of the real estate transfer tax (used to support the revenue bonds): Of the revenues that come to the state:
  o ½ continues to go to the current HOME fund, subtracting current amounts designated for the historical rehabilitation tax credit
  o ½ to the General Fund – when revenue bonds under the bill begin to be issued by MSHA, redirects to MSHA amounts certified by MSHA as necessary to meet the bond obligations in each fiscal year.
• Purposes of the program: Construction and substantial rehabilitation of multifamily rental units and replacement of old mobile homes:
  o At least 30% to senior housing units
	no comparable provision in Rep. Fletcher's proposal

A COMPARISON OF SEN. BARTLETT'S AND REP. FLETCHER'S PROPOSALS
AS PRESENTED MAY 6, 2009 TO JOINT SELECT COMMITTEE ON MAINE'S ENERGY FUTURE
Major differences highlighted

Sen. Bartlett's Proposal	Rep. Fletcher's Proposal (mark-up of LD 1201)
o At least 30% to housing units for persons of any age o At least 10% for units for persons with special needs o At least 10% for replacement of old mobile homes	