Sponsor: ENF pursuant to Joint Order, H.P. 63
Drafter: JC
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LR: 1989(1)
Date: May 13, 2009

An ACT Regarding Maine's Energy Future

DRAFT COMMITTEE BILL
MAJORITY REPORT
MAY 14, 2009
final AMENDED VERSION

language changes relating to decisions of May 13th shown are boxed

PART A

(repeal of current programs)

Sec. X. 5 MRSA §949, sub-§1, ¶D, as amended by PL 2007, c. 482, §3, is further amended to read:

D. Director of Technical Analysis; and

Sec. X. 5 MRSA §949, sub-§1, ¶D-1, as enacted by PL 2007, c. 482, §4, is repealed. ***(DIRECTOR OF ENERGY PROGRAMS AT PUC)***

Sec. X. 5 MRSA §3327, as amended by PL 2007, c. 656, Pt. C, §§3 to 5, is repealed.***(ENERGY RESOURCES COUNCIL)***

Sec. X. 5 MRSA §12004-G, sub-§13-F, as enacted by PL 2007, c. 317, §1, is repealed. ***(ENERGY AND CARBON TRUST)***

Sec. X. 35-A MRSA §3211-A, as amended by PL 2007, c. 317, §§3 to 13, is repealed. ***(ELECTRIC CONSERVATION PROGRAM)***

Sec. X. 35-A MRSA §3211-C, as amended by PL 2007, c. 493, §§1 to 3 and c. 661, Pt. D, §1, is repealed. ***(SOLAR AND WIND REBATE PROGRAM)***

Sec. X. 35-A MRSA §4711, as enacted by PL 2005, c. 110, §1, is repealed. ***(NATRAL GAS CONSERVATION PROGRAM)***

Sec. X. 35-A MRSA c. 95, as amended, is repealed. ***(CURRENT ENERGY CHAPTER – PUC PUBLIC INFO; PUC TRAINING SOLAR INSTALLERS AND ENERGY AUDITORS; FEDERAL ENERGY PROGRAMS; PUC SMALL BUSINESS LOAN PROGRAM; PUC/MSHA RENTAL PROPERTY DISCLOSURES; ENERGY CONSERVATION BOARD; ENERGY AND CARBON TRUST)***

Sec. X. Effective Date. This Part takes effect July 1, 2010.

PART B

(New entity and programs)

Sec. X. 5 MRSA §12004-G, sub-§10-C is enacted to read:

10-C.

Energy Efficiency Maine Trust Expenses Only 35-A MRSA §10103

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~~ 8 [***from MSHA***] 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. X. 35-A MRSA c. 97 is enacted to read:

Chapter 97

EFFICIENCY MAINE TRUST ACT

§ 10101. Short title

This chapter may be known as the "Efficiency Maine Trust Act."

§10102. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Administrative costs. "Administrative costs" means costs of Efficiency Maine Trust in carrying out its responsibilities under this chapter, including, but not limited to, costs of:

~~A. Program planning, implementation and evaluation;~~ [***Group A***]

B. Securing necessary expertise;

C. Contracting for program delivery; and

D. Monitoring and enforcing contractual obligations.

2. Administration fund. "Administration fund" means the administration fund established pursuant to section 10103.

3. Alternative energy resources. "Alternative energy resources" means non-fossil fuel energy resources, including but not limited to biomass, wood, wood pellets, solar, wind, or geothermal resources.

4. Board. "Board" means the Board of Trustees of the Efficiency Maine Trust.

5. Director. "Director" means the Director of the Efficiency Maine Trust.

6. Forward capacity market. "Forward capacity market" means the program established by the regional transmission organization that is in effect on the effective date of this paragraph and compensates providers of electrical capacity with payments for the availability or reduction of capacity as determined by the regional transmission organization. [***OPLA technical change – term is used more than once in chapter, so definition moved here***]

7. Program funds. "Program funds" means any of the funds established pursuant to this chapter, other than the administration fund, to fund Efficiency Maine Trust programs.

8. Regional transmission organization "Regional transmission organization" means the independent systems operator that administers and oversees the wholesale electricity markets in which the State participates. [***OPLA technical change – term is used more than once in chapter, so definition moved here***]

9. Triennial plan. "Triennial plan" means the plan required under section 10104, subsection 4.

10. Trust. "Trust" means the Efficiency Maine Trust.

11. Trustee. "Trustee" means a member of the board.

§10103. Efficiency Maine Trust

1. Establishment; purpose. The Efficiency Maine Trust, ~~as~~ is established in Title 5, section 12004-G, subsection 10-C and this chapter for the purposes of developing, planning, coordinating, and implementing energy efficiency and alternative energy resources programs in the state to:

A. Provide uniform, integrated planning, program design and administration of ~~energy efficiency~~ such 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 consistent with applicable requirements of this chapter or other law to help ~~families~~ individuals [***NRCM***] 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, including, consistent with other applicable requirements of this chapter or other law, measures that improve the energy efficiency of energy-using systems, such as heating and cooling systems, through system upgrades or conversions, including conversions to energy efficient systems that rely on renewable energy sources such as biomass, wood, wood pellets, solar, wind, or geothermal resources. [*from Sen. Smith and Mike Saxl*];~~

(1) Maximizing the use of cost-effective weatherization and energy efficiency measures, including measures that improve the energy efficiency of energy-using systems, such as heating and cooling systems and system upgrades to energy efficient systems that rely on alternative energy resources

(2) Reducing economic insecurity from overdependence on price-volatile fossil ~~heating~~ fuels;

(3) Increasing new jobs and business development to deliver energy efficiency and alternative energy resources products and services;

(4) Enhancing heating benefits for households of all income levels though implementation of cost-effective efficiency programs, including weatherization programs, that will produce comfort, indoor air quality, and reduced energy costs for those households and reduce ~~reducing~~ the need for future fuel assistance;

(5) Simplifying and enhancing consumer access to technical assistance and

financial incentives relating to ~~for~~ energy efficiency and the use of alternative energy resources by merging or coordinating dispersed~~, uncoordinated~~ [***MSHA]*** 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.

D. Actively promote investment in cost-effective energy efficiency measures and systems that utilize alternative energy resources that reduce overall energy costs for Maine consumers.

Nothing in this chapter is intended or may be construed to constitute a mandate that would prevent the sale of carbon emission reductions into a voluntary carbon market. [***from MSHA***]

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~~:

A. The director of the Governor's Office of Energy Independence and Security;

B. The director of Maine State Housing Authority; and

B. Seven members appointed by the Governor, reviewed by the joint standing committee of the Legislature having jurisdiction over energy matters and approved by the Senate. Among these 7 members must be persons who adequately represent the interests of commercial energy consumers, industrial energy consumers, small business energy consumers, residential energy consumers and low-income energy consumers. Also among these appointed members must be persons with knowledge of and experience in financial matters and consumer advocacy, and who possess substantial management expertise or knowledge of or experience with conservation fund programs, carbon reduction programs, or energy efficiency or climate change policy. The requirements of this paragraph may be met through the appointment of one or more persons who satisfy more than one of the requirements, provided that at any one time the 7 members include among them members who adequately represent the identified interests and who posses the required knowledge, expertise and experience.

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.

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~~–5 [ENF May 11] 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.

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

C. May delegate to employees of the trust any powers and duties that the director considers proper.

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 receive, and shall deposit in appropriate program funds, revenue resulting from any forward capacity market or other capacity payments from the regional transmission organization that may be attributable to projects funded those by funds. [***Sen. Bartlett clarifying change***] 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.

§10104. Duties.

1. **Generally**. In accordance with this section and other applicable law, the trust administers and disburses funds and coordinates programs [*MSHA*] to promote energy efficiency and increased utilization of alternative energy resources 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 .

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:

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;

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~~ timely [*ENF May 11*]]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

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.

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~~

[~~***ENF May 11***]] 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~~ administered or funded by the trust [***MSHA***]. Such measures may include, but are not limited to, reduced energy consumption, increased utilization of alternative energy resources reduced capacity demand for natural gas ~~and~~ electricity and fossil fuels, reduced carbon dioxide emissions, program and overhead costs and cost-effectiveness, the number of 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.

4. Triennial plan. The board shall vote on a detailed, triennial energy efficiency alternative energy resources and conservation plan that includes the quantifiable measures of performance developed under subsection 3 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 alternative energy resources and conservation programs administered by the trust, including but not limited to the electric efficiency and conservation programs under section 10110, the natural gas efficiency and conservation programs under section 10111, the Regional Greenhouse Gas Initiative Trust Fund under section 10109 ~~and~~ the Heating Fuels Efficiency and Weatherization Fund under section 10118 and any state or federal funds or publicly directed funds accepted by or allocated to the trust for the purposes of this chapter ~~purpose of investing in energy efficiency programs in the State.~~ The triennial plan must include provisions for the application of appropriate program funds to support workforce development efforts that are consistent with and promote the ~~energy efficiency~~ purposes of the trust. The plan must be ~~coordinated~~ consistent with the comprehensive state energy plan pursuant to Title 2, section 9, subsection 3, paragraph C.

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 or coordinate implementation of energy efficiency and weatherization programs in the State.

(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.

(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.

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.

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, program implementation strategies, timelines and other relevant information.

D. Prior to submission of the triennial plan to the commission, the trust shall offer to provide a detailed briefing on the draft plan to the committee of the legislature having jurisdiction over utilities and energy and, at the request of the committee, shall provide such a briefing and opportunity for input from the committee. After providing such opportunity for input and making any changes as a result of any input received, the board shall deliver the plan to the commission for its review and approval. The commission shall open a proceeding and issue an order either approving the plan, approving the plan with modifications or rejecting ~~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 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. The board, within 15 days of final commission approval of its plan shall submit the plan to the joint standing committee of the Legislature having jurisdiction over energy

matters together with any explanatory or other supporting material as the committee may request and, at the request of the committee, shall provide a detailed briefing on the final plan. After receipt of the plan, the joint standing committee of the legislature having jurisdiction over energy matters may submit legislation relating to the plan.

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) Weatherizing 100% of Maine residences and 50% of Maine businesses by 2030;

(2) Reducing peak-load electric energy consumption by 100 megawatts by 2020

(3) Reducing Maine's consumption of liquid fossil fuels by at least 30 % by 2030

(4) By 2020, achieving electricity and natural gas savings of at least 30% and heating fuel savings of at least 20% as defined in and determined pursuant to the measures of performance ratified-by the commission under section 10119;

(5) Capturing all cost-effective energy efficiency resources available for electric and natural gas utility ratepayers;

(6) 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;

(7) Building stable private sector jobs providing clean energy and energy

efficiency products and services in the State by 2020; and

(8) 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.

The trust shall preserve where possible and appropriate the opportunity for carbon emission reductions to be monetized and sold into a voluntary carbon market. Any program of the trust that supports weatherization of buildings must be voluntary and may not constitute a mandate that would prevent the sale of emission reductions generated through weatherization measures into a voluntary carbon market.

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:

(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~~ by [*MSHA*] 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;

(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

(6) 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.

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

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.

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 Title 5, chapter 375, subchapter 2-A.

8. Approval of Maine State Housing Authority plans. After July 1, 2010, the Maine State Housing Authority shall, prior to applying for federal funds on behalf of the State pursuant to Title 30-A, Section 4741, subsection 15 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, submit to the board for its review and ~~approval~~ input the authority's implementation plans for the use of such funds. The plans must provide for coordination by the Maine State Housing Authority in its use of such funds with the programs administered by the trust under this chapter. The Maine State Housing Authority shall include in its plan any recommendations of the board to the extent consistent with the applicable federal guidelines governing the use of the funds ~~implement programs using such funds in accordance with the plan approved by the board~~.

~~8.~~ 9. Coordination with other entities. Consistent with the requirements of this chapter and other applicable laws, the board shall coordinate the activities and programs of state agencies and authorities that relate to the purposes of this chapter in order to align such activities and programs with the plans and programs of the trust. For purposes of this subsection, activities and programs of state agencies and authorities that relate to the purposes of this chapter include but are not limited to efficiency programs relating to state facilities administered by the Department of Financial and Administrative Services, Bureau of General Services, the adoption, amendment and maintenance of the Maine Uniform Building and Energy Code by the Technical Building Codes and Standards Board, established in Title 5, section 12004-G, subsection 5-A and located within the Department of Public Safety, energy efficiency or green energy workforce development activities of the Department of Labor or the Maine Jobs Council, ~~the development of a comprehensive state energy plan by the Office of Energy Independence and Security under Title 2, Section 9~~, and energy efficiency and weatherization programs administrated by the Maine State Housing Authority. [***ENF May 11***]]

10. Independent analysis of programs. The trust shall arrange for an independent evaluation of each major program implemented under this section. 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 section. the evaluations must be conducted by a competent professional with expertise in energy efficiency matters, including the management of

cost-effective energy efficiency programs. The trust shall include the results of all evaluations conducted under this subsection in the annual report submitted pursuant to subsection 5. For purposes of this subsection, "major program" means a program with an annual budget of more than $500,000.

11. Other duties. The trust shall do all things necessary or convenient to carry out the lawful purposes of the trust.

§10105. Powers and duties

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 .

3. Bylaws. The trust shall adopt bylaws, through the board, consistent with this section for the governance of its affairs.

4. Employee compensation. The trust shall fix, through the board, the compensation of all employees of the trust.

5. 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~~ chapter. ~~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.~~ The trust shall consider delivery of programs by means of contracts with service providers that participate in competitive bid processes for providing services within individual market segments or for particular end uses.[***Sen. Bartlett change – language closely tracks RGGI language in 10109***]

6. Rules. The board shall adopt rules for establishing and administering the trust and its programs. These rules must 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

B. Provisions for the independent evaluation of program expenditures to ensure

cost-effectiveness of projects to improve energy efficiency or to reduce greenhouse gases.

Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

7. ~~Public instrumentality~~ Self-dealing prohibited.[*OPLA technical change*] 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.

8. Recommendations; advisory groups. The trust may make recommendations to the Governor, the Legislature and other public officials regarding energy efficiency, weatherization and renewable energy programs. The trust may establish technical advisory groups as needed for the purposes of gathering technical knowledge on any aspect of energy conservation or policy. [***ENF May 11***]

§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~~;

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;

C. Impersonal, statistical or general information;

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 and in conformity with legislative freedom of access criteria, 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 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.

§ 10109. Regional Greenhouse Gas Initiative Trust Fund

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Carbon dioxide allowance" has the same meaning as in Title 38, section 580-A, subsection 2.

~~B. "Forward capacity market" means the program established by the regional transmission organization that is in effect on the effective date of this paragraph and compensates providers of electrical capacity with payments for the availability or reduction of capacity as determined by the regional transmission organization.~~

~~C. "Regional transmission organization" means the independent systems operator that administers and oversees the wholesale electricity markets in which the State participates.~~ [***OPLA technical change – definitions moved to beginning of chapter***]

D. "Trade association aggregator" means an entity that gathers individual members of a trade association together for the purpose of receiving electrical efficiency services or bidding on electrical efficiency contracts.

E. "Trust fund" means the Regional Greenhouse Gas Initiative Trust Fund.

2. Establishment of Regional Greenhouse Gas Initiative Trust Fund. The Regional Greenhouse Gas Initiative Trust Fund is established and is the successor to the fund that was established under section 10008 effective July 1, 2008. The trust fund is established to support the goals and implementation of the carbon dioxide cap-and-trade program established under Title 38, section 580-B. The trust fund is established as a nonlapsing fund administered by the trust for the purposes established in this section. The trust is authorized to receive, and shall deposit in the trust fund and expend in accordance with this section, revenue resulting from the sale of carbon dioxide allowances, pursuant to Title 38, section 580-B, and any forward capacity market or other capacity payments from the regional transmission organization that may be attributable to

projects funded by the trust under this section.[***Sen. Bartlett clarification – see change to 10103(5)***] The trust fund may not be used for any other purpose and money in the trust fund is considered to be held in trust for the purposes of benefiting consumers.

A. The trustees have a fiduciary duty to the customers of the State's transmission and distribution utilities in the administration of the trust fund. Upon accepting appointment as a trustee, each trustee must acknowledge the fiduciary duty to use the trust funds only for the purposes set forth in this section.

B. The trustees shall ensure that the goals and objectives of the trust fund, as established in this section and in rules adopted by the trust, are carried out. The trustees shall represent the interests of the trust fund in the development of the triennial plan.

3. Ceiling on energy efficiency spending. There is established a ceiling on energy efficiency spending from the trust fund equal to $5 per carbon dioxide allowance. Until that price ceiling is adjusted or removed, only the first $5 of each carbon dioxide allowance sold and deposited in the trust fund may be awarded to or directed to qualified projects for purposes of energy efficiency improvements. While the ceiling is in place, revenue received by the trust from an allowance valued above $5 must be transferred to the commission for use by the commission pursuant to sections 301 and 1322 for rebates to electric ratepayers calculated on a per-kilowatt-hour basis. The commission shall adopt rules to implement this subsection. The rules must establish a system under which proceeds from the sale of carbon dioxide allowances may be returned to electric ratepayers as direct credits on their bills at times of heightened price pressure in regional carbon dioxide allowance markets due to an extraordinary circumstance. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [***Energy and Carbon Trustees (reflects changes made by LD 276)***]

4. Expenditures; projects. For the subaccount holding revenue from the sale of carbon dioxide allowances pursuant to Title 38, section 580-B, the funds from the trust fund must be expended in accordance with this subsection.

A. During the years 2009, 2010 and 2011, not less than 85% of the trust fund must be allocated for measures, investments and arrangements that reduce electricity consumption, and not more than 15% must be allocated for fossil fuel conservation measures, investments and arrangements. Subject to the apportionment between fossil fuel and electricity conservation pursuant to this subsection, the trust shall fund conservation programs that give priority to measures with the highest benefit-to-cost ratio, as long as cost-effective collateral efficiency opportunities are not lost, and that:

(1) Reliably reduce greenhouse gas production by fossil fuel combustion in the State at the lowest cost in trust funds per unit of emissions; or

(2) Reliably reduce the consumption of electricity in the State at the lowest cost

in trust funds per kilowatt-hour saved.

B. Expenditures from the trust fund relating to conservation of electricity and mitigation or reduction of greenhouse gases must be made predominantly on the basis of a competitive bid process for long-term contracts, subject to rules adopted by the trust. Rules adopted to implement the competitive bid process under this paragraph may not include an avoided cost methodology for compensating successful bidders. Bidders may propose contracts designed to produce greenhouse gas savings or electricity conservation savings, or both, on a unit cost basis. Contracts must be commercially reasonable and may require liquidated damages to ensure performance. Contracts must provide sufficient certainty of payment to enable commercial financing of the conservation measure purchased and its installation.

C. The trustees may target bid competitions in areas or to participants as they consider necessary, as long as the requirements of paragraph A are satisfied.

D. Nonelectric savings programs must be used to maximize fossil-fueled energy efficiency and conservation and associated greenhouse gas reductions, subject to the apportionment between fossil fuel and electricity conservation set forth in paragraph A.

E. The size of a project funded by the trust is not limited as long as funds are awarded to maximize energy efficiency and support greenhouse gas reductions and to fully implement the triennial energy efficiency and conservation plan developed by the trust pursuant to section 10009, subsection 5, paragraph D.

~~F. No more than 5% of trust fund receipts in any one year may be used for the total administrative costs:~~

~~(1) Of the trust related to this section;~~

~~(2) Of the Department of Environmental Protection for participating in the regional organization as defined in Title 38, section 580-A, subsection 20 and for administering the allowance auction under Title 38, chapter 3-B; and~~

~~(3) Of the Attorney General, including activities pertaining to the tracking and monitoring of allowance trading activity and managing and evaluating the trust's funding of conservation programs.~~

~~Of the trust fund receipts used for administrative costs under this paragraph, no more than 40% in any one year may be used for the administration of the trust.~~

G. No more than $800,000 of trust fund receipts in any one year may be used for the costs of administering the trust pursuant to this section. The limit on administrative costs established in this paragraph does not apply to the following costs that may be funded by the trust:

(1) Costs of the Department of Environmental Protection for participating in the regional organization as defined in Title 38, section 580-A, subsection 20 and for administering the allowance auction under Title 38, chapter 3-B; and

(2) Costs of the Attorney General for activities pertaining to the tracking and monitoring of allowance trading activity and managing and evaluating the trust's funding of conservation programs.

[***Energy and Carbon Trustees (reflects changes made by LD 276)***]

G. In order to minimize administrative costs and maximize program participation and effectiveness, the trustees ~~and the commission~~ shall, to the greatest extent feasible, coordinate the delivery of and make complementary the energy efficiency programs under this section and other programs under this chapter. ~~section 3210-C and section 3211-A.~~ [***OPLA technical correction***]

H. Notwithstanding Title 5, section 1831, the trustees are not subject to rules adopted by the State Purchasing Agent in selecting service providers pursuant to this section. The trustees shall consider delivery of efficiency programs by means of contracts with service providers that participate in competitive bid processes for reducing energy consumption within individual market segments or for particular end uses.

I. A trade association aggregator is eligible to participate in competitive bid processes under this subsection.

J. Trust fund receipts may fund research approved by the Department of Environmental Protection in an amount of up to $100,000 per year to develop new categories for carbon dioxide emissions offset projects, as defined in Title 38, section 580-A, subsection 6, that are located in the State. Expenditures on research pursuant to this paragraph are not considered administrative costs under paragraph F.

5. Effective Date. This section takes effect July 1, 2010.

[***OPLA technical note: the following sections amending Title 38 will be moved in final draft to the end of this Part since they are not part of this new EMT chapter***]

Sec. X. 38 MRSA §580-B, sub-§7, as enacted by PL 2007, c. 317, §17, is amended to read:

7. Allocation of carbon dioxide emissions allowances. The department shall allocate 100% of the annual carbon dioxide emissions allowances for public benefit to produce funds for carbon reduction and energy conservation, as specified in Title 35-A, section ~~1000~~10109. Except as provided in subsection 8, the department shall sell the carbon dioxide emissions allowances at public auction, in accordance with rules adopted under subsection 4. Revenue resulting from the sale of allowances must be deposited in

the ~~Energy and Carbon Savings~~Regional Greenhouse Gas Initiative Trust Fund established under Title 35-A, section ~~10008~~10109.

Sec. X. 38 MRSA §580-B, sub-§7-A, as enacted by PL 2007, c. 608, §7, is amended to read:

7-A. Voluntary renewable energy market set-aside. The department shall set aside a portion of the State's annual carbon dioxide emissions budget in a voluntary renewable market set-aside account. The allowances from this account must be retired in an amount equal to the amount of carbon dioxide emissions reduced by the voluntary purchase of eligible renewable energy credits by persons in the State up to the amount held in the set-aside account. For purposes of this subsection, "eligible renewable energy credits" means renewable energy credits generated within the states that are participating in the regional greenhouse gas initiative.

Before February 1, 2010, the portion of the State's annual carbon dioxide emissions budget that is set aside in a voluntary renewable market set-aside account pursuant to this subsection may not exceed 2% of that budget. The department shall report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by January 15, 2010 as to whether that 2% cap is appropriate. By January 31, 2010, the ~~Energy and Carbon Savings~~Efficiency Maine Trust, established under Title 35-A, section ~~10008~~10109, in consultation with the department, shall establish the cap on the portion of the State's annual carbon dioxide emissions budget that is set aside in a set-aside account.

Sec. X. 38 MRSA §580-B, sub-§10, as enacted by PL 2007, c. 317, §17, is amended to read:

10. Annual report. The department and the trustees of the ~~Energy and Carbon Savings~~Efficiency Maine Trust established pursuant to Title 35-A, section ~~10008~~10103 shall submit a joint report to the joint standing committees of the Legislature having jurisdiction over natural resources matters and utilities and energy matters by March 15, 2009 and each year thereafter. The report must assess and address:

A. The reductions of greenhouse gas emissions from carbon dioxide budget units, conservation programs funded by the ~~Energy and Carbon Savings~~Efficiency Maine Trust pursuant to Title 35-A, section ~~10008~~10109 and carbon dioxide emissions offset projects;

B. The improvements in overall carbon dioxide emissions and energy efficiency from sources that emit greenhouse gases including electrical generation and fossil fuel fired units;

C. The maximization of savings through systemic energy improvements statewide;

D. Research and support of new carbon dioxide offset allowance categories for development in the State;

E. Management and cost-effectiveness of the State's energy conservation and carbon

reduction programs and efforts funded by the ~~Energy and Carbon Savings~~Efficiency Maine Trust established pursuant to Title 35-A, section ~~10008~~10109; ~~and~~

F. The extent to which funds from the ~~Energy and Carbon Savings~~Efficiency Maine Trust established pursuant to Title 35-A, section ~~10008~~10109 serve customers from all classes of the State's transmission and distribution utilities; and

G. The revenues and expenditures of the Energy and Carbon Savings Trust Fund, established pursuant to Title 35-A, section 10109. [***Energy and Carbon Trustees (reflects changes made by LD 276)]***

The department and the trustees of the ~~Energy and Carbon Savings~~Efficiency Maine Trust may include in the report any proposed changes to the program established under this chapter.

The joint standing committee of the Legislature having jurisdiction over natural resources matters may submit legislation relating to areas within the committee's jurisdiction in connection with the program. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters may submit legislation relating to areas within the committee's jurisdiction in connection with the program.

Effective Date. Above amendments to Title 38 take effect July 1, 2010

§ 10111. Electric efficiency and conservation programs

mark-up of current law (3211-A) showing changes:

[*OPLA NOTE: in final draft this modified section will appear as new language, since the language is being moved into this new chapter*]

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Administrative costs" means costs of the trust that are funded pursuant to and associated with the implementation of this section, including, but not limited to, costs of program planning and evaluation, costs of securing necessary expertise, costs associated with contract formation and administration and costs of monitoring and enforcing contractual obligations.

B. "Administration fund" means the conservation administration fund established by the trust pursuant to subsection 6.

D. "Conservation programs" means programs developed by the trust pursuant to this section designed to reduce inefficient electricity use.

E. "Prior conservation efforts" means programs to promote conservation undertaken at the direction or with the authorization of the commission prior to March 1, 2002.

F. "Program fund" means the conservation program fund established by the trust pursuant to subsection 5.

G. "Service provider" means a public or private provider of energy conservation services or an entity selected by the trust to contract with such providers or otherwise arrange the delivery of conservation programs.

I. "Trade association aggregator" means an entity that gathers individual members of a trade association together for the purpose of receiving electrical efficiency services or bidding on electrical efficiency contracts.

2. Programs. The trust shall develop and implement conservation programs to help reduce energy costs for electricity consumers in the State by the maximum amount possible. The trust shall establish and, on a schedule determined by the trust, revise objectives and an overall energy strategy for conservation programs. Conservation programs implemented by the trust must be consistent with the objectives and an overall energy strategy developed by the trust and approved by the commission and be cost effective, as defined by the trust by rule or order. In defining "cost effective," the trust may consider the extent to which a program promotes sustainable economic development or reduces environmental damage to the extent the trust can quantify or otherwise reasonably identify such effects. Consistent with the other requirements of this section, the trust, in adopting and implementing conservation programs, shall seek to encourage efficiency in electricity use, provide incentives for the development of new, energy-efficient business activity in the State and take into account the costs and benefits of energy efficiency and conservation to existing business activity in the State.

A. The trust shall consider, without limitation, conservation programs that:

(1) Increase consumer awareness of cost-effective options for conserving energy;

(2) Create more favorable market conditions for the increased use of efficient products and services;

(3) Promote sustainable economic development and reduced environmental damage;

(4) Reduce the price of electricity over time for all consumers by achieving reductions in demand for electricity during peak use periods; and

(5) Reduce total energy costs for electricity consumers in the State by increasing the efficiency with which electricity is consumed.

B. The trust, with regard to the assessment imposed under subsection 4, shall:

(1) Target at least 20% of funds to programs for low-income residential

consumers, as defined by the commission by rule;

(2) Target at least 20% of funds to programs for small business consumers, as defined by the commission by rule; and

(3) To the greatest extent practicable, apportion remaining funds among customer groups and geographic areas in a manner that allows all other customers to have a reasonable opportunity to participate in one or more conservation programs.

C. The trust 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 conservation programs or the objectives and overall strategy for conservation programs.

D. The trust shall monitor conservation planning and program development activities in the region and around the country.

E. The trust shall implement conservation programs by contracting with service providers in accordance with subsection 3.

F. The trust shall monitor and evaluate the delivery of conservation programs by service providers and assess the cost-effectiveness of programs in meeting the objectives and overall strategy established by the commission.

G. The trust, to the extent possible, shall coordinate its efforts with the commission and other agencies of the State with energy-related responsibilities.

H. The trust shall secure sufficient technical and administrative expertise to carry out its responsibilities pursuant to this section by:

(1) Contracting with appropriate entities with relevant expertise and experience;

(2) Establishing one or more advisory groups composed of persons with relevant expertise and experience; or

(3) Any other reasonable means developed by the trust.

I. The trust may coordinate its efforts under this section with similar efforts in other states in the northeast region and enter into agreements with public agencies or other entities in or outside of the State for joint or cooperative conservation planning or conservation program delivery, if the trust finds that such coordination or agreements would provide demonstrable benefits to citizens of the State and be consistent with this section, the conservation programs and the objectives and overall strategy for the conservation programs.

J. The trust shall encourage school facility managers to complete an energy

efficiency training and certification program established and conducted by the ~~commission~~ trust [***OPLA technical correction – May 11***] under this section. To the extent the trust determines necessary and appropriate to meet the goals of this paragraph, the trust may, in accordance with the requirements of this section, establish incentive mechanisms to encourage participation in this program. For purposes of this paragraph, "school facility managers" means persons employed by school administrative units in this State who are responsible for the design or operation of school administrative unit facilities or the heating, ventilation or air conditioning systems or equipment used in such facilities.

K. The trust shall develop a triennial energy efficiency and conservation plan in accordance with section ~~1000~~710104, subsection ~~6~~ 4. The plan must seek to address the needs of all customer classes of the transmission and distribution utilities in the public interest.

3. Implementation. The trust shall seek to implement the delivery of conservation programs in all regions of the State on an equitable basis and to citizens at all income levels. The trust may arrange the delivery of conservation programs by contracting with service providers. The trust shall select service providers in accordance with this subsection.

A. The trust shall select service providers through a competitive bidding process.

B. To the extent practicable, the trust shall encourage the development of resources, infrastructure and skills within the State by giving preference to in-state service providers.

C. Notwithstanding paragraph A:

(1) The trust may select a service provider for one or more conservation programs without employing a competitive bidding process if the trust finds that the selection of the service provider will promote the efficient and effective delivery of conservation programs and is consistent with the objectives and overall strategy of the conservation programs; and

(2) For the delivery of conservation programs to low-income residential consumers, the trust, without employing a competitive bidding process, may utilize the delivery system for the Weatherization Assistance for Low-income Persons Program administered through the United States Department of Energy and the network of for-profit and not-for-profit entities who have held contracts with transmission and distribution utilities to deliver conservation services to low-income and residential customers.

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 subsection. The trust shall consult with the State Purchasing Agent in

developing the rules.

A trade association aggregator is eligible to participate in competitive bid processes under this subsection.

4. Funding level; base assessment. The commission shall assess transmission and distribution utilities to collect funds for conservation programs and administrative costs in accordance with this subsection and shall make other assessments in accordance with subsection 4-A. The amount of all assessments by the commission under this subsection plus expenditures of a transmission and distribution utility associated with prior conservation efforts must result in conservation expenditures by each transmission and distribution utility, not including expenditures on assessments under subsection 4-A, that are fixed at a rate of 0.145 cent per kilowatt-hour.

4-A. Other assessments on transmission and distribution utilities. The commission shall assess each transmission and distribution utility based on the utility's gross operating revenue as necessary to realize all available energy efficiency and demand reduction resources in this State that are cost-effective, reliable and feasible after consideration of the following:

A. The amount of assessments pursuant to subsection 4 and their payment schedule;

B. The funding for conservation programs provided by the Regional Greenhouse Gas Initiative Trust Fund pursuant to section ~~10008~~10010;

C. The amount of payments received from a forward capacity market, as defined in section ~~10008~~10010, subsection 1, paragraph B, as a result of conservation programs funded under this chapter and under section ~~10008~~10010; and

D. Any other predictable sources of funding for or investment in ~~energy~~ conservation ~~and efficiency~~ programs.

For the purposes of this subsection, "gross operating revenue" means revenue derived from filed rates, except from sales for resale. The commission may correct any errors in the assessments under this subsection by means of a credit or debit to the following year's assessment rather than reassessing all utilities in the current year. The commission shall determine the assessments under this subsection annually prior to May 1st and assess each utility for its pro rata share for expenditure, including funds for energy conservation programs, during the fiscal year beginning July 1st. The commission may not charge any assessment under this subsection until the Legislature has approved the commission's budget in accordance with section 116. The commission shall separately identify any recommended assessment under this subsection in its presentation of budget recommendations contained in any current services budget legislation and any supplemental budget legislation to the joint standing committee of the Legislature having jurisdiction over public utilities matters pursuant to section 116. Each utility shall pay the assessment charged to that utility under this subsection on the same schedule that payment of assessments under subsection 4 is required.

4-B. Transmission and subtransmission voltage level. After July 1, 2007, electricity customers receiving service at transmission and subtransmission voltage levels are not eligible for new conservation programs undertaken under this section, and those customers are not required to pay in rates any amount associated with the assessment imposed on transmission and distribution utilities under subsection 4 or subsection 4-A. To remove the amount of the assessment under subsection 4, the commission shall reduce the rates of such customers that are in effect on July 1, 2007 by 0.145 cent per kilowatt-hour at the time of the first rate adjustment following the effective date of this subsection. For the purposes of this section, "transmission voltage levels" means 44 kilovolts or more, and "subtransmission voltage levels" means 34.5 kilovolts.

5. Conservation program fund. The trust shall establish a conservation program fund to be used solely for conservation programs.

A. The commission shall deposit all assessments collected pursuant to this section, other than funds deposited in the administration fund, into the program fund.

B. Any interest earned on funds in the program fund must be credited to the program fund.

C. Funds not spent in any fiscal year remain in the program fund to be used for conservation programs.

D. The commission or the trust may apply for and receive grants from state, federal and private sources for deposit in the program fund and also may deposit in the program fund any grants or other funds received by or from any entity with which the commission or trust has an agreement or contract pursuant to this section if the commission receives prior written consent from the trust that receipt of those funds would be consistent with the purposes of this section. If the commission or trust receives any funds pursuant to this paragraph, they shall establish a separate account within the program fund to receive the funds and shall keep those funds and any interest earned on those funds segregated from other funds in the program fund.

~~**5-A. Support for Energy Resources Council.** Notwithstanding any other provision of this section:~~

~~A. The Energy Resources Council established under Title 5, section 3327 may apply to the commission for funding from the program fund to support projects and activities of the council related to energy conservation; and~~

~~B. The commission may provide up to $200,000 in any fiscal year to the Energy Resources Council established under Title 5, section 3327 from the program fund if the funds are needed for particular projects or activities directed by the Legislature to be undertaken by the council, or the commission finds the projects or activities are generally consistent with the overall purposes of this section.~~

~~**5-B. Support for Maine Energy Conservation Board.** Notwithstanding any other provision of this section, the Maine Energy Conservation Board established under section 10007 may apply to the commission for funding from the program fund for staff support for the board; and, upon application of the board, the commission may provide up to 1% of the total amount in the program fund to the board for that purpose.~~

6. Conservation administration fund. The trust shall establish a conservation administration fund to be used solely to defray administrative costs. The commission, at the direction of the trust, may annually deposit funds collected pursuant to this section into the administration fund up to a maximum in any fiscal year of ~~$1,300,000~~up to 9% of total funds received pursuant to subsections 4 and 4-A. 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 the program fund.

7. Prior conservation efforts. Except as otherwise directed by the commission, transmission and distribution utilities shall continue to administer contracts associated with prior conservation efforts. Such contracts may not be renewed, extended or otherwise modified by transmission and distribution utilities in a manner that results in any increased expenditures associated with those contracts.

7-A. Funds held in trust. All funds collected from electricity consumers pursuant to this section are collected under the authority and for the purposes of this section and are deemed to be held in trust for the purposes of benefiting electricity consumers. In the event funds are not expended or contracted for expenditure within 2 years of being collected from consumers, the commission shall return the value of those funds to consumers by appropriate reductions in the assessment collected pursuant to subsection 4.

8. Resolution of disputes. Upon receipt of an appropriate filing by a party to a contract relating to prior conservation efforts, the commission shall adjudicate a dispute relating to the interpretation or administration of the contract by the transmission and distribution utility.

In the case of a dispute filed after the effective date of this subsection, the commission shall refer the dispute to commercial arbitration in accordance with this paragraph. Each party to the contract shall select an arbitrator who is not a current employee of the party. The selected arbitrators shall then select a 3rd arbitrator. If the arbitrators can not agree on the 3rd arbitrator, each party shall submit to the commission a list of at least 3 arbitrators who have no previous or current interest in the contract and, to the extent practicable, have special competence and experience with respect to the subject matter involved in the dispute. The commission shall choose the 3rd arbitrator from among the persons on the lists provided by the parties. After their selection, the arbitrators shall promptly hear and determine the controversy pursuant to the rules of the American Arbitration Association for the conduct of commercial arbitration proceedings, except that if such rules conflict with any procedural rules established by the commission or

applicable provisions of the laws of this State relating to arbitration, the applicable commission rules or provisions of state law govern the arbitration. The arbitrators shall submit their decision to the commission.

A. The commission shall accept or reject the decision within 30 days of its submission, unless the commission requires additional time, in which case it may extend its review for another 30 days.

B. If the commission does not reject the decision within 30 days or, if it extends its review period an additional 30 days, within 60 days, the decision is deemed accepted.

C. If the commission rejects the decision, the commission shall adjudicate the dispute.

A decision by the commission under this subsection, including a decision by the arbitrators that is deemed accepted by the commission pursuant to paragraph B, is enforceable in a court of law.

9. Ratemaking and cost recovery. The assessments charged to utilities under this section are just and reasonable costs for rate-making purposes and must be reflected in the rates of transmission and distribution utilities.

10. Rules. The ~~commission~~trust shall adopt rules necessary to implement this ~~section~~subsection. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter ~~II-A~~2-A.

11. Effective Date. This section takes effect July 1, 2010.

~~**11. Report.** The trust shall report by December 1st of each year to 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 conservation programs implemented during the prior 12 months and all conservation programs that the trust plans to implement during the next 12 months, a description of how the trust determines the cost-effectiveness of each conservation program and its assessment of the cost-effectiveness of programs implemented during the prior 12 months;~~

~~B. An accounting of:~~

~~(1) Assessments made on each transmission and distribution utility pursuant to this section during the prior 12 months and projected assessments during the next 12 months;~~

~~(2) Total deposits into and expenditures from the program fund during the prior~~

~~12 months and projected deposits into and expenditures from the program fund during the next 12 months;~~

~~(3) The amount and source of any grants or funds deposited in the program fund pursuant to subsection 5, paragraph D during the previous 12 months and the projected amount and source of any such funds during the next 12 months; and~~

~~(4) Total deposits into and expenditures from the administration fund during the prior 12 months and projected deposits into and expenditures from the administration fund during the next 12 months;~~

~~C. Any recommendations for changes to law relating to energy conservation; and~~

~~D. The status of the progress towards meeting the goals of subsection 2, paragraph J and the strategies that have been implemented to meet those goals. The report also must include an accounting, to the extent available, of the energy savings that have been achieved by school administrative units after their school facility managers have been certified pursuant to subsection 2, paragraph J. A school administrative unit is not required to incur additional costs in order to supply information to the commission for its report.~~

~~12. **Independent analysis of programs.** The commission shall arrange for an independent evaluation of each major program implemented under this section. 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 section. The evaluations must be conducted by a competent professional with expertise in energy efficiency matters, including the management of cost-effective energy efficiency programs. The trust shall include the results of all evaluations conducted under this subsection in the annual report submitted pursuant to subsection 11. For purposes of this subsection, "major program" means a program with an annual budget of more than $500,000.~~

§10111. Natural gas conservation program

1. **Program established.** In accordance with the goals and objectives of the triennial plan, the trust shall establish a cost-effective conservation program to promote the efficient use of natural gas. Each natural gas utility in the State that serves at least 5000 residential customers [***Sen. Bartlett – original intent; same language as in Rep. Fletcher's proposal***] shall contribute data and other relevant information to assist in the development of the program. In determining whether the program is cost-effective, the trust may consider whether it promotes sustainable economic development or reduces greenhouse gas emissions to the extent the trust can quantify or otherwise reasonably identify such effects. The trust shall seek to encourage efficiency in natural gas use, provide incentives for the development of new, energy-efficient business activity in the State and take into account the cost and benefits of energy efficiency and conservation to

existing business activity in the State.

A. The trust shall consider, without limitation, a natural gas conservation program that:

(1) Increases consumer awareness of cost-effective options for conserving energy;

(2) Creates more favorable market conditions for the increased use of efficient products and services; and

(3) Promotes sustainable economic development and reduced environmental damage.

B. The trust shall apportion available funds such that:

(1) A reasonable percentage of the available funds is directed to programs for low-income residential consumers, as defined by the trust. The trust shall establish the percentage based on an assessment of the opportunity for cost-effective conservation measures for such consumers, including an assessment of the number of low-income residential consumers that may be eligible for such programs;

(2) A reasonable percentage of the available funds is directed to programs for small business consumers, as defined by the trust. The trust shall establish the percentage based on an assessment of the opportunity for cost-effective conservation measures for such consumers. In defining "small business" for the purposes of this subparagraph, the trust shall consider definitions of that term used for other programs in this State that assist small businesses; and

(3) To the greatest extent practicable, the remaining available funds are apportioned in a manner that allows all other consumers to have a reasonable opportunity to participate in one or more conservation programs.

2. **Funding level.** The natural gas conservation fund, which is a nonlapsing fund, is established to carry out the purposes of this section. The commission shall assess each gas utility that serves at least 5000 residential customers an amount that is 3% of the gas utility's delivery revenues as defined by commission rule. ~~The commission shall assess each gas utility an amount that is 2% of the gas utility's delivery revenues as defined by commission rule.~~ [***Sen. Bartlett –original intent***] At the request of the trust, the commission may assess a higher amount, provided the commission finds that the proposed use of the additional funds by the trust is in the public interest, is likely to be cost-effective and is consistent with the purposes of this section. All amounts collected under this subsection must be transferred to the natural gas conservation fund. Any interest on funds in the fund must be credited to the fund. Funds not spent in any fiscal year remain in the fund to be used for the purposes of this section. In the event that funds

are not expended, transferred or contracted for expenditure within 2 years of being collected from consumers, the commission shall return the value of those funds to consumers by appropriate reductions in the assessment collected.

The assessments charged to gas utilities under this section are just and reasonable costs for rate-making purposes and must be reflected in the rates of gas utilities.

All funds collected from natural gas consumers pursuant to this section are collected under the authority and for the purposes of this section and are deemed to be held in trust for the purposes of benefiting natural gas consumers. In the event funds are not expended or contracted for expenditure within 2 years of being collected from consumers, the commission shall return the value of those funds to consumers by appropriate reductions in the assessment collected pursuant to this subsection.

Rules adopted by the commission under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Rules. The trust may adopt rules necessary to implement this section. Rules adopted by the trust under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4. Effective Date. This section takes effect July 1, 2010.

§ 10112. Solar and wind energy rebate program

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Qualified solar energy system" means a solar photovoltaic system or a solar thermal system.

B. "Qualified solar thermal water system installer" means a person who has been certified by the trust to install solar thermal systems designed to heat water and who holds a current license from the State as a master plumber, as a master oil burner technician or as a propane and natural gas technician or has been certified as a type II, type III or universal heating, ventilation and air conditioning refrigeration technician through a certification program approved by the United States Environmental Protection Agency.

C. "Qualified wind energy system" means any device, such as a wind charger, windmill or wind turbine and associated facilities, with a peak generating capacity of 100 kilowatts or less that converts wind energy to electrical energy for use primarily in a residence, public facility or place of business that is located in an area with demonstrated wind power potential.

D. "Solar photovoltaic system" means a solar energy device with a peak generating

capacity of 100 kilowatts or less used for generating electricity for use in a residence or place of business.

E. "Solar thermal system" means a configuration of solar collectors and a pump, heat exchanger and storage tank or fans designed to heat water or air for the purpose of space heating, domestic water heating or both space and domestic water heating. Solar thermal system types include forced circulation, integral collector storage, thermosyphon and self-pumping systems.

2. **Solar and wind energy rebate program.** To the extent that funds are available in the fund established in subsection 5 and the requirements of subsection 3 are satisfied, an owner or tenant of residential or commercial property located in the State is entitled to a rebate for a qualified solar energy system that is installed in accordance with this subsection after July 1, 2005 that will be connected to the electrical grid or a qualified wind energy system that is installed in accordance with this subsection after January 1, 2009 that will be connected to the electrical grid. The trust shall set rebate levels for qualified solar energy systems and qualified wind energy systems. In setting rebate levels, the trust may consider market demand for qualified solar energy systems and qualified wind energy systems, program implementation experience and other factors relevant to the solar and wind energy rebate program.

A. To qualify for a rebate, a solar photovoltaic system must be installed by a master electrician who has been certified by a North American board of certified energy practitioners or by a master electrician working in conjunction with a person who has been certified by a North American board of certified energy practitioners.

B. To qualify for a rebate, a solar thermal system designed to heat water must be installed by a qualified solar thermal water system installer and, if the solar thermal system is designed to heat potable water, it must be installed by a qualified solar thermal water system installer who holds a current license as a master plumber or by a qualified solar thermal water system installer working in conjunction with a master plumber.

C. To qualify for a rebate, the electrical components of a qualified wind energy system must be installed by a master electrician or by a factory trained and approved dealer for the qualified wind energy system working under the supervision of a master electrician.

In the case of a newly constructed residence, the rebate must be available to the original owner or occupant.

3. **Energy audit requirement; solar photovoltaic system.** To qualify for a rebate for a solar photovoltaic system under this section, an owner or tenant of residential or commercial property located in the State must demonstrate to the satisfaction of The trust that an energy audit has been completed.

4. **Limitation to residents of State.** Participation in the solar and wind energy rebate program established in this section is limited to residents of the State.

5. Funding. The commission shall assess transmission and distribution utilities to collect funds for the solar and wind energy rebate program established in this section. The amount of all assessments by the commission under this section must result in total program expenditures by each transmission and distribution utility that do not exceed 0.005 cent per kilowatt-hour. To the extent practicable, the commission shall establish and collect the assessment in a manner that is consistent with the assessment made under section 10111. There is established a solar and wind energy rebate program fund to be used by the trust solely for the purposes of this section. All assessments made under this section must be transferred to a solar and energy rebate fund. Any interest on funds in the fund must be credited to the fund. Funds not spent in any fiscal year remain in the fund to be used for the purposes of this section. The trust shall determine the allotment of the fund in each fiscal year between solar photovoltaic system rebates, solar thermal system rebates and qualified wind energy system rebates, with a minimum of 20% of the fund provided to each of the 3 types of rebates.

6. Repeal. This section is repealed December 31, 2010.

7 . Effective Date. This section takes effect July 1, 2010.

§10113. Training for installers of solar equipment

1. Installation training. To the extent that funds and resources allow, the trust shall establish training programs for installers of solar equipment that most effectively meet the needs of the public. The trust:

A. May develop separate programs for different solar technologies or applications when the trust determines that the skills or training for the installation of those technologies or applications merit the distinction;

B. Shall confer with the Plumbers' Examining Board and the Electricians' Examining Board when it develops the course content and requirements;

C. Shall determine the content of the training, the hours required for course completion and the manner in which applicants must demonstrate proficiency in solar equipment installation;

D. Shall issue a certificate of completion to individuals who meet the requirements the trust has established;

E. May establish reasonable course fees. All fees must be paid to the Treasurer of State to be used by the trust for the purposes of this section;

F. Shall determine terms for the expiration and renewal of an applicant's certificate of completion; and

G. Shall determine an appropriate means of maintaining recognition of the training received by persons holding certificates issued pursuant to former Title 32, chapter 87 or under former Title 35-A, section 10002.

2. Qualifications for installing solar equipment. A certificate of completion issued by the trust pursuant to subsection 1 does not exempt the holder from any applicable licensing requirements for activities involved in installing solar equipment, including but not limited to licensing requirements established in Title 32, chapter 17 or 49.

3. Effective Date. This section takes effect July 1, 2010.

§ 10114. Training for energy auditors

1. Auditor training. To the extent that funds and resources allow, the trust shall set standards for training programs for energy auditors that most effectively meet the needs of the public and that satisfy the requirements of funding sources. For the purposes of this subsection, an energy auditor is a person who is trained to prepare a report that delineates the energy consumption characteristics of a building, identifies appropriate energy efficiency operations and maintenance procedures and recommends appropriate energy efficiency measures. The trust:

A. May develop separate programs for audits of different building types and functions when the trust determines that the skills or training needed to perform these audits merit the distinction;

B. Shall determine the content of the training, the hours required for course completion and the manner in which applicants must demonstrate proficiency in energy auditing;

C. Shall issue a certificate of completion to individuals who meet the requirements the trust has established;

D. May establish reasonable course fees. All fees collected by the trust must be ~~paid to the Treasurer of State to be~~ [***from MSHA***] used ~~by the trust~~ for the purposes of this section;

E. Shall determine terms for the expiration and renewal of an applicant's certificate of completion;

F. Shall determine an appropriate means of maintaining recognition of the training received by persons holding a certification; ~~and~~

G. Shall work with state agencies and other interested parties to establish certification standards ~~through which~~ for energy auditors who perform any work under programs administered by the trust ~~are certified~~ [***OPLA language clarification***] and;

H. Shall recognize other established training programs which offer certification consistent with the trust's energy auditor training standards. [*Group A*]

2. Effective Date. This section takes effect July 1, 2010.

§ 10115. Federal energy programs

1. Programs. The trust shall oversee and administer:

A. The United States Department of Energy State Energy Program; and

B. Other federally funded programs and projects related to Trust programs.

2. Effective Date. This section takes effect July 1, 2010. [*OPLA technical correction* May 11]

§ 10116. Energy Conservation Small Business Revolving Loan Program

1. Program and fund. The trust shall establish the Energy Conservation Small Business Revolving Loan Program, referred to in this subsection as "the program," and the Energy Conservation Small Business Revolving Loan Fund, referred to in this subsection as "the fund." The fund consists of federal capitalization grants and awards made to the State for the purposes for which the fund is established; any amounts that the trust deposits in the fund from the assessment on public utilities pursuant to Title 35-A, section 10111 or from other program funds, to the extent that use of such funds for the Energy Conservation Small Business Revolving Loan Program will be consistent with the requirements governing the use of such funds [*from NRCM*]; principal and interest received from the repayment of loans made from the fund; any interest earned on investment of fund balances; and any other funds from any public or private source received for use of any of the purposes for which the fund is established. The fund is a nonlapsing revolving fund account.

A. The trust shall credit all repayments of loans made to businesses, including interest, penalties and other fees and charges related to fund loans, to the fund account.

B. Money in the fund not needed to meet the current obligations of the program must be deposited with the Treasurer of State to the credit of the fund account and may be invested in such manner as is provided by law. Interest received on that investment must be credited to the fund account.

C. At the end of each fiscal year, all unencumbered balances in the fund account may be carried forward to be used for the purposes specified in this subsection.

2 . Effective Date. This section takes effect July 1, 2010.

§ 10117. Energy efficiency of rental properties

1. Residential energy efficiency disclosure statement. The trust and the Maine State Housing Authority shall prepare a residential energy efficiency disclosure statement form for landlords and other lessors of residential properties to use to disclose to tenants and lessees information about the energy efficiency of the property in order to comply with Title 14, section 6030-C. The trust and the Maine State Housing Authority shall post and maintain the statement required by this subsection on the Internet in a format that is easily accessible by the public.

2. Suggested energy efficiency standards. The trust and the Maine State Housing Authority shall prepare suggested energy efficiency standards for landlords and other lessors of residential property that is used by the tenant or lessee as a primary residence. The trust and the Maine State Housing Authority shall post and maintain the standards required by this subsection on the Internet in a format that is easily accessible by the public.

3 . Effective Date. This section takes effect July 1, 2010.

§ 9318. Public information and outreach

1. General. The Trust shall provide to the public information about renewable energy technologies and energy efficiency practices. In providing public information, the trust shall consider:

A. The aspects of renewable energy technologies and energy efficiency practices about which the public needs information;

B. The most effective means of providing the information; and

C. The members of the public who would most benefit from public information.

2. Funding. The trust may seek federal funding for the purposes of this section and, to the extent necessary, may charge reasonable fees to cover the costs of training or other services provided pursuant to this section. All fees must be paid to the Trust and used to reimburse the trust for its expenses in providing the service for which the fee is charged.

3. Effective Date. This section takes effect July 1, 2010.

§ 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:

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;

C. 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;

E. 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.

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.

2. Program. All funds deposited in the fund must be administered by the trust in accordance with the following.

A. All funds deposited in the fund must be administered by the trust to reduce heating fuel consumption consistent with the purpose and targets of the trust and the triennial plan to achieve the following goal:

~~A.~~ (1) 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.

B. Funds from the fund may only be used for programs that provide cost-effective energy efficiency and weatherization measures for the benefit of heating fuel consumers or to efficiency service providers serving those customers and in accordance with the following.

(1) Program categories must include low-income, single-family and 2-family residential units, multifamily residential units, small business, commercial and institutional and such other categories as the trust determines appropriate;

(2) Within program categories, the trust may differentiate between programs for new construction and in existing buildings; and

(3) Cost-effective energy-efficiency measures must include measures that improve the energy efficiency of energy-using systems, such as heating and cooling systems, through system upgrades or conversions, including conversions to energy efficient systems that rely on renewable energy sources ~~such as biomass, wood, wood pellets, solar, wind, or geothermal resources.~~ or systems that rely on effective energy efficiency technologies [***from Sen. Smith and Mike Saxl – amended by ENF May 11***];

C. Program designs approved by the trust must contain:

(1) Incentives to consumers to purchase and install cost-effective efficiency and weatherization products and services identified by a certified ~~assessor~~ auditor ***[OPLA tech. change May 11***, except in the case of programs to deliver education, training or certifications;

(2) A schedule of customer co-payments and loan options for prescribed products and services. Programs for low-income consumers may provide exemptions from the co-payment and schedule;

(3) A plan for integrating delivery of heating fuel efficiency and weatherization measures with electric efficiency measures; and

(4) A system for the equitable allocation of costs among the contributing funds or subaccounts administered by the trust where more than one efficiency opportunity is achieved.

D. Other eligible program measures may include, but are not limited to training or certification of energy auditors, insulation installers, mechanical heating system installers and maintenance technicians and building energy inspectors. [***from Group A with sub-paragraph from Sen. Smith and Mike Saxl***]

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. Effective date. This section takes effect July 1, 2010.

§ 10119. Commission oversight of Efficiency Maine Trust

1. Measures of performance. The ~~commission~~ trust shall incorporate

~~negotiate~~ ~~approve~~ [ENF May 11] measures of performance ~~with the Efficiency Maine Trust to be incorporated~~ in the triennial plan. The measures of performance must define the electricity, natural gas and heating fuel savings targets established in section 10103, subsection 4, paragraph F and specify the measures for assessing progress in meeting the targets [***from Opportunity ME***]. The commission shall ratify measures of performance incorporated in the triennial plan 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 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 or the Attorney General 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. The commission may adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. 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 amount not to exceed 1% of the total funds administered by the trust and the trust shall transfer that amount to the commission to be deposited into the oversight and evaluation fund. 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 trust for deposit in appropriate program funds.

Sec. X. Effective Date. This Part (those sections establishing new programs, but not those sections creating the trust itself) takes effect July 1, 2010.

PART C
Transition

Sec. E-1. Transition. The following provisions apply to the establishment of Efficiency Maine Trust pursuant to the Maine Revised Statutes, Title 35-A, chapter 97.

1. Board appointed. ~~By July 1, 2009, the~~ Within 30 days of the effective date of this Act the Governor shall ~~appoint~~ post nominations for the appointment of the members ~~and chair~~ of the Efficiency Maine Trust Board. Within 30 days after Senate confirmation of board members the board shall appoint the director of Efficiency Maine Plus ~~no later than October 1, 2009~~. and within 90 days of their confirmation the board ~~The trust~~ shall establish bylaws ~~no later than December 1, 2009~~.

2. Staggered terms. Notwithstanding Title 35-A, section 10103, subsection 2, in making the initial appointments of members to the Efficiency Maine Trust Board pursuant to section 10103, subsection 2, paragraph B, the Governor shall appoint ***2 members to serve an initial term of 1 year, 2 members to serve an initial term of 2 years and 3 members to serve an initial term of 3 years***. Members appointed to initial 3 year terms must include persons who represent the interests of business consumers and individual consumers.

3. Triennial plan. The director of Efficiency Maine Trust shall hire or contract staff as needed to support the Efficiency Maine Trust and to prepare the triennial plan according to Title 35-A, section 10104 for ~~Council~~ commission approval by July 1, 2010. The Efficiency Maine Trust may study existing rules, conduct research, appoint technical advisory groups or hold public meetings in preparation for transitioning to the new structure and to support the development of the triennial plan.

4. Interim budget. The director of Efficiency Maine Trust shall prepare a budget for the period between October 1, 2009 and July 1, 2010 and submit it to the Efficiency Maine Trust Board for approval. The Efficiency Maine Trust Board shall submit the approved budget to Public Utilities Commission, which shall provide full funding for the activities indicated in the budget from the Public Utilities Commission Reimbursement Fund established under Title 35-A, section 117. Use of such funds for such purposes is deemed by the Legislature to be consistent with the purposes of Public Utilities Commission Reimbursement Fund. ~~conservation fund and the Energy Carbon Savings Trust pursuant to the Maine Revised Statutes, Title 35-A, section 10008~~. ~~Employees employed by Efficiency Maine Trust between October 1, 2009 and July 1, 2010 are on the payroll of the Public Utilities Commission until July 1, 2010.~~ The commission and Efficiency Maine Trust may enter into any arrangements necessary to achieve a smooth and efficient transition under this Act.

ALLOCATIONS TO BE PROVIDED BY OFPR

5. Rules. ***On July 1, 2010, a***ll rules adopted by the Public Utilities Commission pursuant to Title 35-A, sections 3211-A, 3211-C and 4711 and Title 35-A, chapter 95, and rules adopted by the Energy and Carbon Savings Trust pursuant to Title 35-A, section 10008 are deemed to be rules of Efficiency Maine Trust and continue in effect until amended or rescinded by Efficiency Maine Trust.

6. Contracts. All contracts of the Public Utilities Commission entered into pursuant to Title 35-A, sections 3211-A and 3211-C and Title 35-A, chapter 95 remain in effect, and the commission shall administer those contracts in accordance with the law in effect at the time the contracts were entered except as otherwise may be directed by the Efficiency Maine Trust. ***On July 1, 2010,*** Efficiency Maine Trust is the successor to the conservation programs managed under the name Efficiency Maine at the Public Utilities Commission. Contracts that are in place on July 1, 2010 may be extended for up to 2 years, subject to the approval of the trust, in order to maintain a smooth transition to the new program structure.

7. Transfer of funds. All accrued expenditures, assets, liabilities, balances or appropriations, allocations, transfers, revenues or other available funds in an account or subdivision of an account pertinent to energy efficiency, energy conservation or

renewable energy programs must be transferred to the corresponding account in Efficiency Maine Trust by July 1, 2010. After July 1, 2010, fees that are collected under Title 35-A, chapter 97 must be transferred to Efficiency Maine Trust on a monthly basis.

8. Program staff and contracting. The director of Efficiency Maine Trust shall hire program management staff and contract for services to implement this Act. In hiring and contracting, the director shall give preference to state employees and contractors who were employed by the Public Utilities Commission and working on energy efficiency and renewable energy programs as of June 30, 2009.

9. Employees of the Public Utilities Commission. 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. Any other state employees who accept employment with the trust prior to July 1, 2010 may elect 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. Nothing in this Act may be construed to interfere with the rights of employees of Efficiency Maine Trust to organize for collective bargaining purposes in accordance with applicable law.

10. Records. All records pertaining to duties that are performed by the Public Utilities Commission and are transferred to Efficiency Maine Trust effective July 1, 2010 must be transferred to Efficiency Maine Trust by July 1, 2010.

11. Property and equipment. All property and equipment pertaining to the duties that are performed by the Public Utilities Commission and are transferred to Efficiency Maine Trust effective July 1, 2010 must be transferred to Efficiency Maine Trust by July 1, 2010.

12. American Recovery and Reinvestment Act. Funds that are allocated to the State pursuant to the federal American Recovery and Reinvestment Act of 2009, Public Law 111-5, prior to July 1, 2010 to programs or funds that are repealed in Part A of this Act must be transferred by July 1, 2010 to the corresponding fund or program established in Part B of this Act. The Public Utilities Commission staff shall cooperate with, consult with and jointly plan with the director of Efficiency Maine Trust for the expansion of existing programs and establishment of new programs related to new funding for the state energy program resulting from the federal American Recovery and Reinvestment Act of 2009, Public Law 111-5.

13. Adoption of state standards. In accordance with Title 35-A, section 10114 and 10104, subsection 7, before January 1, 2012 the Efficiency Maine Trust Board shall adopt certification standards for energy auditors, installers of energy efficiency measures and

other service providers that provide services under programs administered by the trust. The board shall review and use any standards developed by the Public Utilities Commission as the starting point for standards it adopts.

14. Revisor's review, cross-references. The Revisor of Statutes shall review the Maine Revised Statutes and include in the errors and inconsistencies bill submitted to the Second Regular Session of the 124th Legislature pursuant to Title 1, section 94 any sections necessary to correct and update any cross-references in the statutes to provisions of law repealed in this Act.

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 and appropriate funding mechanisms. In developing proposed funding mechanisms, the board shall consider a comprehensive list of options including but not limited to a system benefit charge on # 2 heating oil, kerosene, and propane ~~and wood fuel used for heating purposes, including cord wood and wood pellets~~, bonds, federal funds and grants, funds in the Energy and Carbon Savings Trust Fund, General Fund appropriations, and potential revenues from the leasing of state-owned lands for energy facilities. To the extent the proposal includes a system benefit charge, it must include specific-assessment and collection mechanisms and amounts for the funding options identified, identification of the appropriate entities to be assessed and provisions for appropriate exceptions and rebates, including but not limited to exceptions or rebates for vulnerable ~~low-income~~ consumers. The proposal must also include recommendations for any appropriate changes to the assessment on natural gas under title 35-A, section 10111 as a result of the establishment of the system benefit charge. [***Sen. Bartlett – original intent***] The board shall identify changes in the proposed program and funding mechanism that would be required to obtain all achievable, cost-effective energy efficiency and alternative energy resources ~~heating efficiency potential in the state,~~ as identified by studies conducted by the trust and others ~~public utilities Commission~~. [***Group A***] By the first Monday in January ~~2010~~ 2011 [***Group A***], 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 the on-going sustainable funding mechanism that will support the realization of the state's energy efficiency and alternative energy resources goals. ~~a system benefit charge on heating fuels.~~

PART D

Sec. X. 5 MRSA §12004-G, sub-§10-C is enacted to read:

10-C.

Sec. X. 10 MRSA §963-A, sub-§10, ¶R, as corrected by RR 1999, c. 1, §8, is amended to read:

R. Any paper industry job retention project; ~~and~~

Sec. X. 10 MRSA §963-A, sub-§10, ¶S, as reallocated by RR 1999, c. 1, §9, is amended to read:

S. Any transmission facilities project~~.~~; and

Sec. X. 10 MRSA §963-A, sub-§10, ¶T is enacted to read:

T. An Efficiency Maine project.

Sec. X. 10 MRSA §963-A, sub-§10-A is enacted to read:

10-A. Efficiency Maine project. "Efficiency Maine project" means a project approved by the board of Efficiency Maine Trust, as established in Title 35-A, section 10103, to carry out the purposes of Title 35-A, chapter 97 relating to increasing energy efficiency or conservation..

Sec. X. 10 MRSA §1043, sub-§2, ¶K, as amended by PL 2003, c. 506, §3, is further amended to read:

K. In the case of a paper industry job retention project, the applicant is creditworthy and there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other sources of revenues and collateral pledged to the repayment of those securities. To assist in making its determination the authority may engage, at the borrower's expense, independent consultants to assist in the evaluation of the project. In making this determination, the authority shall consider factors it considers necessary to measure and evaluate the sufficiency of the pledged revenues to repay the securities, including:

(1) Whether individuals or entities obligated to repay the securities have demonstrated sufficient revenues from the project or from other sources to repay the securities and a strong probability that those revenues will continue to be available for the term of the securities;

(2) Whether the applicant demonstrates a strong probability that the project will continue to operate and to provide the public benefits projected to be created for the term of the securities;

(3) Whether the applicant demonstrates that the benefits projected to be created by the project are enhanced through the use of financial assistance from the

authority;

(4) Whether the applicant's creditworthiness is demonstrated by such factors as historical financial performance, management ability and the applicant's plan for marketing products or service and its ability to access conventional financing;

(5) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry. In assessing projected financial performance, the authority must consider the value and effect of any contractual labor cost reductions that will be in effect at the time the financial assistance is provided;

(6) Whether collateral securing the repayment obligation, valued in place and in use, is reasonably sufficient under the circumstances;

(7) Whether the owner will make an important equity contribution to the project. If the applicant requests financing assistance from the authority in an amount greater than $25,000,000, the amount financed by the authority may not exceed $25,000,000 plus 50% of the total project costs in excess of $25,000,000. If other financing is subordinate to the financing provided by the authority, the amount financed by the authority may not exceed $25,000,000 plus 70% of the total project costs in excess of $25,000,000; and

(8) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from the authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority; ~~and~~

Sec. X. 10 MRSA §1043, sub-§2, ¶L, as enacted by PL 2003, c. 506, §4, is amended to read:

L. In the case of transmission facilities projects, the applicant is creditworthy and there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other source of revenues and collateral pledged to the repayment of those securities. In order to make this determination, the authority shall consider such factors as it considers necessary and appropriate in light of the special purpose or other nature of the business entity owning the project to measure and evaluate the project and the sufficiency of the pledged revenues to repay the obligations, including:

(1) Whether the individuals or entities obligated to repay the obligations have demonstrated sufficient revenues from the project or from other sources to repay the obligations and a strong probability that those revenues will continue to be available for the term of the revenue obligation securities;

(2) Whether the applicant demonstrates a strong probability that the project will continue to operate and provide the public benefits projected to be created for the term of the revenue obligation securities;

(3) Whether the applicant demonstrates that the benefits projected to be created by the project are enhanced through the use of financing assistance from the authority;

(4) Whether the applicant's creditworthiness is demonstrated by factors such as its historical financial performance, management ability, plan for marketing its product or service and ability to access conventional financing;

(5) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry;

(6) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority;

(7) Whether collateral securing the repayment obligation is reasonably sufficient under the circumstances;

(8) Whether the proposed project enhances the opportunities for economic development;

(9) The effect that the proposed project financing has on the authority's financial resources; and

(10) Whether the Northern Maine Transmission Corporation, as established in section 9202, has recommended the project.

Upon request by the authority, state agencies, including but not limited to the Public Utilities Commission, shall provide necessary assistance to the authority in evaluating the feasibility of the project and its importance for northern Maine. In providing assistance, the Public Utilities Commission shall consider whether the proposed project enhances the competitiveness of the wholesale and retail energy market; how the proposed project is likely to affect energy prices for Maine residents; whether the proposed project will augment or enhance the reliability and stability of the grid; and whether there is likely to be a long-term need for the product as produced by the proposed project.

The authority may establish, pursuant to rules adopted in accordance with Title 5,

chapter 375, subchapter 2, application procedures, approval criteria and reasonable fees for transmission facilities projects. Rules adopted by the authority under this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. In addition, the authority may require the applicant to pay the reasonable costs of an evaluation of the project risks by an independent consultant. If the authority directs the applicant to pay for such an independent evaluation of the project, the authority shall make every reasonable effort, in its discretion, to minimize the cost of the evaluation and any delay such an evaluation may cause in authority action.

The authority may not finance any project involving an electric transmission line capable of operating at 69 kilovolts or more unless the Public Utilities Commission has issued a certificate of public convenience for the construction of the line pursuant to Title 35-A, section 3132~~.~~; and

Sec. X. 10 MRSA §1043, sub-§2, ¶M is enacted to read:

M. In the case of Efficiency Maine projects, there is a reasonable likelihood that the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the authority shall consider Efficiency Maine Trust's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge Efficiency Maine Trust reasonable fees and expenses. The authority may require that it be indemnified, defended and held harmless by Efficiency Maine Trust for any liability or cause of action arising out of or with respect to the bonds. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 or other provision of law. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of Efficiency Maine Trust under Title 35-A, chapter 97.

Sec. X. Effective Date. This Part takes effect July 1, 2010.

PART E
Affordable housing

Sec. 1. 30-A MRSA c. 201, sub-c. 7-A is enacted to read:

SUBCHAPTER 7-A

MAINE ENERGY, HOUSING AND ECONOMIC RECOVERY PROGRAM

§ 4861. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Authority.** "Authority" means the Maine State Housing Authority.

2. **Fund.** "Fund" means the Maine Energy, Housing and Economic Recovery Fund established in section 4863.

3. **Program.** "Program" means the Maine Energy, Housing and Economic Recovery Program established in section 4862.

§ 4862. Maine Energy, Housing and Economic Recovery Program

1. **Operator of program.** The Maine Energy, Housing and Economic Recovery Program is established. The authority shall operate the program. The program may be operated in conjunction with other programs of the authority.

2. **Purposes of the program.** The purposes of the program are to:

A. Establish stable, reliable, long-term capital funding sources dedicated to providing affordable housing for families in the State;

B. Substantially increase the supply of housing that is affordable, safe, appropriately sized and located near jobs and services;

C. Improve the energy efficiency of residential housing in the State through construction of new units, replacement of older substandard units and substantial rehabilitation of existing units;

D. Stimulate the State's economy and create jobs through investment in the construction and rehabilitation of affordable rental housing;

E. Replace hazardous, unhealthy and inefficient manufactured homes that do not meet the United States Department of Housing and Urban Development standards under 24 Code of Federal Regulations, Part 3280; and

F. Reduce the State's greenhouse gas emissions, lower dependence on foreign oil and ease the energy burden on households in the State by increasing the energy efficiency of housing in the State.

3. **Program elements.** The authority shall achieve the purposes of the program by applying the resources of the program to support construction or substantial rehabilitation of multifamily affordable rental housing units and replacement of manufactured housing units that do not meet the United States Department of Housing

and Urban Development regulations, 24 Code of Federal Regulations, Part 3280. The ~~resources of the program shall be allocated in the following manner:~~ authority in allocating the resources of the programs shall seek to achieve the following targets over time:

A. At least 30% to the construction or substantial rehabilitation of multifamily affordable rental housing units serving seniors, as defined by the authority ~~by rule~~ [***from MSHA***];

B. At least 30% to the construction or substantial rehabilitation of multifamily affordable rental housing units serving persons of any age;

C. At least 10% to the construction or substantial rehabilitation of multifamily affordable rental housing units serving populations with special needs, as defined by the authority ~~by rule~~ [***from MSHA***];and

D. At least 10% to the replacement of manufactured housing units that do not meet the United States Department of Housing and Urban Development regulations, 24 Code of Federal Regulations, Part 3280. ~~No more than 50% of the funds allocated under this paragraph may be used to provide replacement housing in the form of "newer mobile homes," as described in section 4358, subsection 1, paragraph A, subparagraph (1)~~ ~~[***from Maine Tomorrow; MSHA***].~~

In designing and implementing the program, the authority shall provide for the needs of rural communities through flexible standards for development size and income eligibility. No more than 30% of program resources may be allocated to projects of all types under these flexible standards. [***from Maine Tomorrow***]

§ 4863. Maine Energy, Housing and Economic Recovery Fund

The Maine Energy, Housing and Economic Recovery Fund is established under the jurisdiction and control of the authority. The fund is nonlapsing and may be invested in the same manner as permitted for investment of other state funds.

1. Purposes. Money in the fund may be applied by the authority for the purposes of the program:

A. To reduce the rate of interest on or the principal amount of such mortgage loans as the authority determines;

B. To make mortgage loans and such other types of loans or grants as the authority determines;

C. To fund reserve funds for, pay capitalized interest on, pay costs of issuance of or otherwise secure and facilitate the sale of the bonds issued under this subchapter;

D. To pay the administrative costs of the program; and

E. To pay, in whole or in part, principal, interest, sinking fund payments or other costs on bonds issued by the Authority for the purposes of this program.

F. In any other reasonable manner to support the purposes of the program.

2. Sources of funds. The fund consists of:

A. All money transferred to the fund pursuant to Title 36, section 4641-B, subsection 4;

B. Subject to any pledge, contract or other obligation under this subchapter, any money the authority receives in repayment of advances from the fund;

C. Subject to any pledge, contract or other obligation under this subchapter, all interest, dividends and pecuniary gains from the investment of money of the fund; and

D. Any other money available to the authority and directed by the authority to be paid into the fund.

3. Funds as security. Money in the fund may, in whole or in part, be pledged or transferred and deposited as security for and applied in payment of principal of, interest on or redemption premiums on bonds issued for the purposes of this subchapter.

4. Division of fund. The authority may divide the fund into any separate accounts that it finds necessary to accomplish the purposes of this subchapter.

5. Reporting. By March 1, 2010, the ~~executive~~ [*MSHA*] director of the authority shall report to the joint standing committee of the Legislature having jurisdiction over affordable housing matters regarding the authority's actions taken to implement this subchapter. Not later than March 1, 2011 and March 1st of each year thereafter, the executive director shall report to the joint standing committee of the Legislature having jurisdiction over affordable housing matters on the status of the fund. The report must include, but is not limited to, the amount of revenue bonds issued under this subchapter, the type, location and cost of projects receiving bond proceeds, the number of housing units created by each project, the number of direct construction jobs created or maintained by each project, the amount of direct construction wages paid in creating or maintaining those jobs, and the total amount of building materials purchased in the development of each project.

§ 4864. Bonds

Beginning in fiscal year 2010-11, pursuant to its authority under this chapter, the authority may issue revenue bonds from time to time, to be known as Maine Energy, Housing and Economic Recovery Fund revenue bonds, to carry out the purposes of the

program. Notwithstanding any other provision of law, the authority may have in the aggregate principal amount outstanding at any one time Maine Energy, Housing and Economic Recovery Fund revenue bonds up to but not exceeding $200,000,000, excluding refunding bonds. The authority may issue in any fiscal year revenue bonds under this subchapter in an amount of $30,000,000 or more, as determined appropriate by the authority for the purposes of the program.

Sec. 2. 36 MRSA §4641-B, sub-§4, ¶A, as enacted by PL 2007, c. 539, Pt. WW, §2, is repealed.

Sec. 3. 36 MRSA §4641-B, sub-§4, ¶A-1 is enacted to read:

A-1. In fiscal year 2009-10, the Treasurer of State shall:

(1) Credit to the General Fund 1/2 of the revenues derived from the tax imposed by section 4641-A, subsection 1; and

(2) Credit an additional $3,320,000 of the revenues derived from the tax imposed by section 4641-A, subsection 1 to the General Fund, after which the Treasurer shall pay on a monthly basis the remaining revenues derived from the tax imposed by section 4641-A, subsection 1 to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

Sec. 4. 36 MRSA §4641-B, sub-§4, ¶A-2 is enacted to read:

A-2. In fiscal year 2010-11, the Treasurer of State shall:

(1) Credit to the General Fund 1/2 of the revenues derived from the tax imposed by section 4641-A, subsection 1; and

(2) Credit an additional $3,720,000 of the revenues derived from the tax imposed by section 4641-A, subsection 1 to the General Fund, after which the Treasurer shall pay on a monthly basis the remaining revenues derived from the tax imposed by section 4641-A, subsection 1 to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

Sec. 5. 36 MRSA §4641-B, sub-§4, ¶A-3 is enacted to read:

A-3. In fiscal year 2011-12, the Treasurer of State shall:

(1) Credit to the General Fund an amount equal to 1/2 of the revenues derived from the tax imposed by section 4641-A, subsection 1 minus the amounts certified and paid to the Maine State Housing Authority under this subparagraph. The Treasurer of State shall on a monthly basis pay the revenues otherwise to be credited to General Fund under this subparagraph to the Maine

State Housing Authority, which shall deposit the funds in the Maine Energy, Housing and Economic Recovery Fund established in Title 30-A, section 4863, until the total amount paid equals the amount certified by the authority pursuant to this subparagraph, after which the Treasurer of State shall credit to the General Fund any remaining amounts due to the General Fund under this subparagraph. At the beginning of the fiscal year the authority shall certify to the State Tax Assessor the amount to be deposited in the Maine Energy, Housing and Economic Recovery Fund under this subparagraph. The authority shall certify the amount that is necessary and sufficient to meet the authority's obligations relating to bonds issued by or planned to be issued by the authority under Title 30-A, section 4864; and

(2) Credit an additional $3,830,000 of the revenues derived from the tax imposed by section 4641-A, subsection 1 to the General Fund, after which the Treasurer shall pay on a monthly basis the remaining revenues derived from the tax imposed by section 4641-A, subsection 1 to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

Sec. 6. 36 MRSA §4641-B, sub-§4, ¶A-4 is enacted to read:

A-4. In fiscal year 2012-13, the Treasurer of State shall:

(1) Credit to the General Fund an amount equal to 1/2 of the revenues derived from the tax imposed by section 4641-A, subsection 1 minus the amounts certified and paid to the Maine State Housing Authority under this subparagraph. The Treasurer of State shall on a monthly basis pay the revenues otherwise to be credited to General Fund under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Maine Energy, Housing and Economic Recovery Fund established in Title 30-A, section 4863, until the total amount paid equals the amount certified by the authority pursuant to this subparagraph, after which the Treasurer of State shall credit to the General Fund any remaining amounts due to the General Fund under this subparagraph. At the beginning of the fiscal year the authority shall certify to the State Tax Assessor the amount to be deposited in the Maine Energy, Housing and Economic Recovery Fund under this subparagraph. The authority shall certify the amount that is necessary and sufficient to meet the authority's obligations relating to bonds issued by or planned to be issued by the authority under Title 30-A, section 4864; and

(2) Credit an additional $3,950,000 of the revenues derived from the tax imposed by section 4641-A, subsection 1 to the General Fund, after which the Treasurer shall pay on a monthly basis the remaining revenues derived from the tax imposed by section 4641-A, subsection 1 to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

Sec. 7. 36 MRSA §4641-B, sub-§4, ¶A-4 is enacted to read:

A-4. In fiscal year 2013-14 and thereafter, the Treasurer of State shall:

(1) Credit to the General Fund an amount equal to 1/2 of the revenues derived from the tax imposed by section 4641-A, subsection 1 minus the amounts certified and paid to the Maine State Housing Authority under this subparagraph. The Treasurer of State shall on a monthly basis pay the revenues otherwise to be credited to General Fund under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Maine Energy, Housing and Economic Recovery Fund established in Title 30-A, section 4863, until the total amount paid equals the amount certified by the authority pursuant to this subparagraph, after which the Treasurer of State shall credit to the General Fund any remaining amounts due to the General Fund under this subparagraph. At the beginning of the fiscal year the authority shall certify to the State Tax Assessor the amount to be deposited in the Maine Energy, Housing and Economic Recovery Fund under this subparagraph. The authority shall certify the amount that is necessary and sufficient to meet the authority's obligations relating to bonds issued by or planned to be issued by the authority under Title 30-A, section 4864; and

(2) Pay on a monthly basis the ½ the revenues derived from the tax imposed by section 4641-A, subsection 1 to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

PART F

Sec. 1. 5 MRSA §282, sub-§7, as amended by PL 2001, c. 333, §2, is further amended to read:

7. **Value of fringe benefits.** To ensure that all publications that state the salary of an employee or of a position in State Government also include a statement of the dollar value of the fringe benefit package provided. For purposes of this subsection, "fringe benefits" includes an employer's cost of an employee's health insurance, dental insurance and retirement but does not include the amount paid to cover any unfunded liability; ~~and~~

Sec. 2. 5 MRSA §282, sub-§8, as enacted by PL 2001, c. 333, §3, is further amended to read:

8. **Serve as director of Clean Government Initiative.** To serve as a director, along with the Commissioner of Environmental Protection, of the Clean Government Initiative established in Title 38, section 343-H~~.~~; and

Sec. 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 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, which 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 invest in and transform the ways homes and businesses are heated, energy is used and people and cargo are transported;

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; and

D. To reduce energy costs statewide.

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, including members from each of the 2 parties holding the largest number of seats in the Legislature;

B. Five members of the House of Representatives appointed by the Speaker of the House including members from each of the 2 parties holding the largest number of seats in the Legislature; and

C. Five 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.

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.

The commission shall also examine the policy issues relating to the construction or installation in this State of energy facilities greater than 75 miles in length and shall develop a plan regarding such facilities. The commission in developing the plan shall evaluate the need for changes in methods of taxation to ensure protection of the public health, safety and welfare.

In developing the plan, the commission shall review and analyze relevant reports and information, including but not limited to 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.~~ The commission may also consider ways in which Maine's electric transmission systems, including new lines, system upgrades or the development of a smart-grid, or the development of natural gas systems, including pipelines and liquefied natural gas terminals can help Maine achieve its energy goals.

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 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 reimbursement account 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 greater than 75 miles in length; 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, 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 installation of energy facilities in state transportation corridors until a law approving a plan governing such agreements is enacted. No state authority

may issue a permit for an energy facility greater than 75 miles in length until a law approving a plan governing the permitting of such facilities is enacted. No state authority may sell or lease state lands for the installation of an energy facility greater than 75 miles in length until a law approving a plan governing the sale or lease of state lands for such installations is enacted.

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 regarding a significant occupancy agreement after enactment of law approving a plan governing such agreements, 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 that 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. Nothing in this section prohibits a state authority from issuing permits for 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. Nothing in this section is intended to apply to the operation, maintenance or alteration of licensed or permitted operating pipeline facilities or their appurtenances, including but not limited to tanks, piers, pumps and valves, that were installed prior to the effective date of this act, even if such operation, maintenance or alteration activity requires a permit from a state authority. Nothing in this section prohibits any state authority from entering into a submerged lands lease for any pier and appurtenances related to a licensed marine oil terminal facility, provided the application for such lease was pending prior to the effective date of this act. Nothing in this section amends or alters the jurisdiction of any state authority or agency, including but not limited to the public utilities commission and the board of environmental protection, regarding the siting or determination of need for any energy facilities that may be the subject of a significant occupancy agreement or exempts any energy facilities from obtaining approvals required by applicable law. Nothing in this section prohibits a state authority from issuing a permit or license pursuant to authority delegated to the state by federal law.

4. Repeal. This section is repealed 90 days after the adjournment of the Second Regular Session of the 124th Legislature

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~~ [***from MSHA***] Perform an assessment of the energy efficiency and green industry workforce development needs in this State;

2. Plan. Develop, in consultation with the Department of Education, the Maine Jobs Council [***from Opportunity Maine***], University of Maine 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. The plan must specify specific long-term funding requirements to meet the identified needs, available and proposed funding sources and a specific plan for the use of the funding to meet the identified needs. [***from Opportunity Maine***]

3. Report; legislation. Submit to the Joint Standing Committee on Utilities and Energy by ~~September 30, 2009~~, January 1, 2010 [***from Governor's Office***] 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.

PART H
OEIS

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, 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;

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;

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;

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 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 I

[*ENF May 11*]]

Sec. I-1. Task force established. The Commissioner of Administrative and Financial Services shall establish a task force to advance energy efficiency, conservation and independence at state facilities. The members of the task force include:

1. The Commissioner of Administrative and Financial Services, who serves as chair;

2. The Director of the Governor's Office of Energy Independence and Security within the Executive Department or the director's designee;

3. The Commissioner of Environmental Protection or the commissioner's designee;

4. The director of the property management division within the Department of Administrative and Financial Services;

5. The chair of the Public Utilities Commission or the chair's designee;

6. The Director of the State Planning Office within the Executive Department or the director's designee; and

7. Other individuals appointed by the Commissioner of Administrative and Financial Services to serve on the task force who have a demonstrated interest in the energy issues of the State from the private, public or nonprofit sector.

Sec. I-2. Chair to convene task force. The task force shall meet at times and places called by the chair. The task force may accept staffing, financial and other administrative or program support from the agencies of State Government or outside sources as it determines appropriate to its duties. Members serve without compensation.

Sec. I-3. Task force responsibilities. The task force shall 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.

Sec. I-4. Reporting date established. The task force shall report its findings and recommendations to the Governor and to the joint standing committee of the Legislature having jurisdiction over state and local government matters and to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters no later than December 1, 2009.

Sec. I-5. Authority to report out legislation. The task force is authorized to submit legislation to the Second Regular Session of the 124th Legislature.

SUMMARY

This bill, which is submitted by the Joint Select Committee on Maine's Energy Future pursuant to Joint Order, H.P 63, does the following.

1. Part A repeals various energy efficiency and renewable energy programs in current law which are transferred to a new entity established in Part B.
2. Part B establishes Efficiency Maine Trust to operate an integrated suite of energy efficiency and renewable energy programs including the Carbon Savings Trust programs, electric energy conservation programs, natural gas energy conservation programs, federal energy programs other than low-income weatherization and fuel assistance programs, and efficiency and weatherization programs. This part requires the development of a triennial plan governing the programs as well as measures of performance and independent evaluation of all major programs.
3. Part C provides for a transition from the current energy efficiency program administration structure to the new Efficiency Maine Trust.
4. Part D provides for the issuance of revenue bonds by the Finance Authority of Maine on behalf of the Efficiency Maine Trust for energy efficiency and conservation projects.
5. Part E establishes within the Maine State Housing Authority the Maine Energy, Housing and Economic Recovery Program to support the construction and substantial rehabilitation of multifamily affordable rental housing units as well as the replacement of manufactured housing units that do not meet the United States Department of Housing and Urban Development regulations, 24 Code of Federal Regulations, Part 3280. It directs that a portion of the revenues derived from the real estate transfer tax be deposited in a new fund to provide funds for the Maine Energy, Housing and Economic Recovery Program. Deposits begin in fiscal year 2011-12, when amounts are transferred as necessary to meet the obligations of the Maine State Housing Authority with respect to revenue bonds issued for the Maine Energy, Housing and Economic Recovery Program. It also authorizes the issuance of revenue bonds by the Maine State Housing Authority

for the purposes of the Maine Energy, Housing and Economic Recovery Program. The authority may have at any time an aggregate principal amount outstanding on such bonds of up to but not exceeding $200,000,000. The authority may issue revenue bonds in an amount of at least $30,000,000 in fiscal year 2010-11 and may issue additional amounts as appropriate for the purposes of the program.

6. Part F requires that the first $50 million of revenue derived from utilization of state assets for energy transmission be transferred to Efficiency Maine Trust to fund its programs. It also provides for a study of energy corridor-related issues and the development of plans relating to state actions relating to significant new energy facilities. It also requires that the Legislature approve plans regarding such state actions, including permitting, leasing or sale of lands or significant occupancy agreements for the installation of significant new energy facilities, before such state actions are taken. The requirement includes various exceptions and is repealed 90 days after the adjournment of the 2nd regular session of the 124th Legislature.

7. Part G directs the Department of Labor, the Public Utilities Commission and the Maine State Housing Authority develop a specific green workforce development plan.

8. Part H modifies the responsibilities of the Office of Energy Independence and Security.

9. Part I establishes an executive task force to 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.

SEN. BARTLETT

PART F

....

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, including members from each of the 2 parties holding the largest number of seats in the Legislature;

B. Five members of the House of Representatives appointed by the Speaker of the House including members from each of the 2 parties holding the largest number of seats in the Legislature; and

C. Five 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.

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.

The commission shall also examine the policy issues relating to the construction or installation in this State of energy facilities greater than 75 miles in length ~~and shall develop a plan regarding such facilities~~ ***Sen. Bartlett proposed modification***. The commission ~~in developing the plan~~ shall evaluate the need for changes in methods of taxation to ensure protection of the public health, safety and welfare.

In developing the plan, the commission shall review and analyze relevant reports and information, including but not limited to 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.~~ The commission may also consider ways in which Maine's electric transmission systems, including new lines, system upgrades or the development of a smart-grid, or the development of natural gas systems, including pipelines and liquefied natural gas terminals can help Maine achieve its energy goals.

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 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 reimbursement account 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 greater than 75 miles in length; 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, 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 installation of energy facilities in state transportation corridors until a law approving a plan governing such agreements is enacted. No state authority may issue a permit for an energy facility greater than 75 miles in length until ~~a law approving a plan governing the permitting of such facilities is enacted~~ this section is repealed. ***Sen. Bartlett proposed modification*** No state authority may sell or lease state lands for the installation of an energy facility greater than 75 miles in length until a law approving a plan governing the sale or lease of state lands for such installations is enacted. Notwithstanding any other statutory provision or exemption, any person proposing to construct a transmission line greater than 75 miles and operating at greater than 69 kilovolts, must obtain a Certificate of Public Convenience and Necessity as required by Title 35-A §3132. ***Sen. Bartlett proposed modification***

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 regarding a significant occupancy agreement after enactment of

law approving a plan governing such agreements, 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 that 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. Nothing in this section prohibits a state authority from issuing permits for 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. Nothing in this section is intended to apply to the operation, maintenance or alteration of licensed or permitted operating pipeline facilities or their appurtenances, including but not limited to tanks, piers, pumps and valves, that were installed prior to the effective date of this act, even if such operation, maintenance or alteration activity requires a permit from a state authority. Nothing in this section prohibits any state authority from entering into a submerged lands lease for any pier and appurtenances related to a licensed marine oil terminal facility, provided the application for such lease was pending prior to the effective date of this act. Nothing in this section amends or alters the jurisdiction of any state authority or agency, including but not limited to the public utilities commission and the board of environmental protection, regarding the siting or determination of need for any energy facilities that may be the subject of a significant occupancy agreement or exempts any energy facilities from obtaining approvals required by applicable law. Nothing in this section prohibits a state authority from issuing a permit or license pursuant to authority delegated to the state by federal law.

4. Repeal. This section is repealed upon the effective date of law approving plans in accordance with subsection 2 that specifically indicates Legislative intent to repeal this section or 90 days after the adjournment of the Second Regular Session of the 124th Legislature, whichever is earlier. ***Sen. Bartlett proposed modification***