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STATE OF MAINE

AS PASSED BY THE

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TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
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the alternative system is not one of the systems identified as a priority for funding from available grant funds by the department.

(4) If a technologically proven alternative system for an overboard discharge from a residence is identified and is not eligible for grant funding according to the cost-share schedule under section 411-A, subsection 2-A and the overboard discharge is subject to a license that expires on or after July 2, 2010 and prior to July 2, 2012, the department may not require the alternative to be installed earlier than July 2, 2012.

(5) If a technologically proven alternative system for an overboard discharge from a commercial establishment is identified and is not eligible for grant funding according to the cost-share schedule under section 411-A, subsection 2-A and the overboard discharge is subject to a license that expires on or after July 2, 2010 and prior to July 2, 2012, the department may not require the alternative to be installed earlier than July 2, 2012.

B. For the purposes of this subsection, the department may not require the installation or use of wastewater holding tanks as a "technologically proven alternative method of wastewater disposal" except in the following cases:

(1) Seasonal residential overboard discharges that are located on the mainland or on any island connected to the mainland by vehicle bridge or by scheduled car ferry service, when the elimination of the discharge alone or in conjunction with the elimination of other discharges will result in the opening of a shellfish harvesting area or the removal of a public nuisance condition;

(2) All overboard discharges located within the boundaries of a sanitary or sewer district when the district has agreed to service and maintain the holding tank at an annual fee that does not exceed those fees charged to other similar users of the district's services who are physically connected to the sewers of the district; and

(3) All overboard discharges located within the municipality when the municipality has agreed to service and maintain the holding tank at an annual fee that does not exceed those fees charged to other similar users of the municipality's services who are physically connected to the sewers of the municipality.

E. At the time of each relicensing of an overboard discharge, the department shall impose all conditions necessary to meet the requirements of this section and all other relevant laws.

F. For the purposes of this subsection, the department may not require the installation or use of an identified technologically proven alternative system unless the department finds that the identified alternative constitutes best practicable treatment under subsection 1, paragraph D.

Sec. 6. 38 MRSA §423-B, sub-§2, as enacted by PL 1999, c. 655, Pt. B, §1, is amended to read:

2. Pump-out facilities required. A marina serving coastal or inland waters shall provide a pump-out facility or provide through a written contractual agreement approved by the commissioner a facility to remove sanitary waste from the holding tanks of watercraft. The pump-out facility must be easily accessible and functional during normal working hours and at all stages of the tide. If a marina serves vessels year-round, the provisions of this subsection apply to the marina year-round. The fee charged by the marina is limited to 200% of the fee limit set pursuant to the federal Clean Vessel Act of 1992, 50 Code of Federal Regulations, Section 85.11 (2008) regardless of the pump-out facility funding source.

Sec. 7. 38 MRSA §465-B, sub-§1, ¶C, as amended by PL 2007, c. 291, §6, is further amended to read:

C. There may be no direct discharge of pollutants to Class SA waters, except for the following:

(1) Storm water discharges that are in compliance with state and local requirements; ~~and~~

(2) Discharges of aquatic pesticides approved by the department for the control of mosquito-borne diseases in the interest of public health and safety using materials and methods that provide for protection of non-target species. When the department issues a license for the discharge of aquatic pesticides authorized under this subparagraph, the department shall notify the municipality in which the application is licensed to occur and post the notice on the department's publicly accessible website~~.~~; and

(3) An overboard discharge licensed prior to January 1, 1986 if no practicable alternative exists.

See title page for effective date.

CHAPTER 655

H.P. 1274 - L.D. 1786

An Act Regarding Energy Infrastructure Development

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 5 MRSA §12004-G, sub-§30-D is enacted to read:

30-D.

Public Utilities	Interagency Review Panel	Expenses Only	35-A MRSA §122, sub-§1-B

Sec. A-2. 35-A MRSA §122, as enacted by PL 2007, c. 656, Pt. A, §3, is amended to read:

§122. Energy infrastructure corridors

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

A. "Department" means the Department of Environmental Protection.

B. "Energy infrastructure" includes electric transmission and distribution facilities, natural gas transmission lines, carbon dioxide pipelines and other energy transport pipelines or conduits. "Energy infrastructure" does not include ~~generation interconnection transmission facilities or energy generation facilities.~~:

(1) Generation interconnection transmission facilities;

(2) Energy generation facilities; or

(3) Electric transmission and distribution facilities or energy transport pipelines that cross an energy infrastructure corridor or are within an energy infrastructure corridor for a distance of less than 5 miles.

C. "Energy infrastructure corridor" ~~or "corridor"~~ means a geographic area within the State designated ~~by the commission~~ in accordance with this section for the purposes of siting energy infrastructure. "Energy infrastructure corridor" includes statutory corridors and petitioned corridors.

D. "Generation interconnection transmission facility" has the same meaning as in section 3132, subsection 1-B.

D-1. "Petitioned corridor" means an energy infrastructure corridor designated by the commission in accordance with subsection 2.

E. "~~Interested person~~ Potential developer" means a person that can demonstrate to the commission the financial and technical capability to engage in the development and construction of energy infrastructure.

F. "Project" means the development or construction of energy infrastructure within an energy infrastructure corridor.

F-1. "Proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the person who submitted the information and would make available information not otherwise publicly available.

F-2. "Searsport-Loring corridor" means the real estate, real property rights and easements and infrastructure associated with the pipeline existing on the effective date of this paragraph and associated easement corridor extending from Searsport to the former Loring Air Force Base in Limestone, Maine, as granted and conveyed by the United States Air Force to the Loring Development Authority of Maine in 2005, together with such additional rights, property, easement scope and physical rights of way as may have been or may be acquired, as are necessary to effectuate the intent of the parties to the leases, easements and agreements existing on the effective date of this paragraph and as may be reasonably necessary or desirable to further develop the Searsport-Loring corridor as a statutory corridor for use pursuant to subsection 1-B.

F-3. "State-owned" means owned by the State or by a state agency or state authority.

F-4. "Statutory corridor" means an energy infrastructure corridor designated under subsection 1-A.

G. "Tribe" includes the Penobscot Nation, as defined in Title 30, section 6203, subsection 10; the Passamaquoddy Tribe, as defined in Title 30, section 6203, subsection 7; the Houlton Band of Maliseet Indians, as defined in Title 30, section 6203, subsection 2 and the Aroostook Band of Micmacs, as defined in Title 30, section 7202, subsection 1.

1-A. Statutory corridors designated. The following areas are designated as statutory corridors:

A. The Interstate 95 corridor, including that portion of Interstate 95 designated as the Maine Turnpike, in accordance with the provisions of subsection 1-C;

B. The Interstate 295 corridor; and

C. The Searsport-Loring corridor, subject to the following provisions.

(1) The Searsport-Loring corridor may be used, developed and expanded for energy infrastructure consistent with any leases, easements or other agreements in effect on the effective date of this subsection. It is not a statutory corridor until the expiration or termination of such leases, easements or other agreements.

(2) The executive director of the Loring Development Authority of Maine shall notify the Interagency Review Panel under subsection 1-B when any leases, easements or other agreements in effect on the effective date of this subsection affecting or otherwise pertaining to the Searsport-Loring corridor have expired or otherwise terminated.

1-B. Use of statutory corridors; Interagency Review Panel. The Interagency Review Panel, as established in Title 5, section 12004-G, subsection 30-D and referred to in this subsection as "the panel," shall oversee the use of statutory corridors in accordance with this section.

A. The panel includes the following members:

(1) The Director of the Governor's Office of Energy Independence and Security within the Executive Department or the director's designee;

(2) The Commissioner of Administrative and Financial Services or the commissioner's designee;

(3) The commissioner of each department or the director of any other state agency or authority that owns or controls land or assets within the statutory corridor under consideration or that commissioner's or director's designee; and

(4) Four members of the public appointed by the Governor in accordance with this subparagraph, subject to review by the joint standing committee of the Legislature having jurisdiction over utilities and energy matters and to confirmation by the Senate:

(a) One member with expertise in energy and utilities selected from candidates nominated by the President of the Senate;

(b) One member with expertise in real estate or finance selected from candidates nominated by the President of the Senate;

(c) One member representing industrial or commercial energy consumers selected from candidates nominated by the Speaker of the House; and

(d) One member representing residential energy consumers selected from candidates nominated by the Speaker of the House.

Public members serve 3-year terms, except that a vacancy must be filled for the unexpired portion of the term. A public member serves until a successor is appointed. A public member may serve a maximum of 2 consecutive terms. Compensation of public members is as provided in Title 5, section 12004-G, subsection 30-D.

B. The panel shall identify an initial range of value for the use of state-owned land or assets within a statutory corridor. The initial range of value must be determined by a professional appraiser who meets the qualifications of paragraph F.

C. The panel shall establish and implement a regular process for soliciting, accepting and evaluating energy infrastructure proposals for use of a statutory corridor. As part of this process, the panel shall provide public notice of the availability of the statutory corridor for energy infrastructure development, a description of the type of development anticipated in the statutory corridor and the opportunity for potential developers to submit proposals for use of the statutory corridor.

D. The panel shall evaluate and render a decision on an energy infrastructure proposal for use of a statutory corridor in accordance with subsection 1-D.

E. If a proposal is accepted pursuant to subsection 1-D, the panel may enter into negotiations with the potential developer who submitted the proposal regarding a long-term occupancy agreement with the State for the use of the statutory corridor, in accordance with this paragraph.

(1) The panel shall negotiate the terms of the occupancy agreement, including but not limited to the length of the agreement and compensation to the State for use of the statutory corridor and any conditions of use. In negotiating the occupancy agreement, the panel shall take into account existing legal commitments, contractual obligations, reasonable investment-backed expectations and relevant prior state investments, when applicable.

(2) Compensation to the State may be in the form of payments made on an annual basis or the functional or financial equivalent, discounted prices for energy products or services, partial ownership by the State of the energy infrastructure on the basis of the value of the statutory corridor in proportion to the energy infrastructure as a whole, or other appropriate form. The terms of compensation may include provisions for periodic adjustment of the compensation to the State over time and reimbursement of costs to any state agency or authority that owns or controls land or assets within the statutory corridor.

(3) Negotiation of compensation to the State must be based on at least one independent

appraisal performed by a professional appraiser in accordance with paragraph F. An independent appraisal performed under this subparagraph must, at a minimum, consider the costs that will be avoided by the potential developer, including but not limited to the costs of acquisition, lease or rental of private land, the costs of property taxes on private land, the costs of surveying, appraisal, environmental, engineering and other work necessary for use of private land, the costs of time and potential conflict regarding the use of private land, the unique and limited nature of the state-owned land or asset, the revenues estimated to be generated by the use of the state-owned land or asset and other relevant factors.

(4) Any occupancy agreement entered into under this section for the use of any portion of the Interstate 95 corridor that is designated as the Maine Turnpike must comply with the memorandum of agreement between the Department of Transportation and the Maine Turnpike Authority pursuant to subsection 1-C.

F. The panel shall contract for the services of a professional appraiser or appraisers to assist the panel in its duties under this subsection. The professional appraiser contracted under this paragraph must:

(1) Have demonstrated experience in the valuation and evaluation of utility corridors or transportation corridors;

(2) Hold a professional designation from a nationally recognized organization of appraisers; and

(3) Be licensed by this State as a certified general real property appraiser in accordance with Title 32, section 14035 or hold a comparable license from another state.

The cost of the services of a professional appraiser who provides services in accordance with this paragraph must be paid by potential developers submitting proposals for use of the corridor under this subsection in proportion to the amount of time spent by the appraiser on each potential developer's proposal.

G. The following proprietary information, as it pertains to the sale, lease or use of state-owned land or assets under the provisions of this subsection or activities in preparation for such sale, lease or use, is confidential within the meaning of Title 1, section 402, subsection 3, paragraph A and may not be released by the panel or the state agency or authority involved:

(1) Proprietary information in the possession of the state agency or authority; and

(2) Proprietary information in the possession of the panel or a professional appraiser assisting the panel.

H. No later than February 1st of each year, the panel shall provide a written report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters that documents the activities of and actions taken by the panel under this subsection during the previous calendar year.

I. The panel may adopt rules to implement this subsection. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

1-C. Maine Turnpike Authority; memorandum of agreement; approval of occupancy agreements. The Maine Turnpike Authority shall negotiate the terms of and enter into a memorandum of agreement with the Department of Transportation, consistent with paragraph A, to govern the conditions under which the Maine Turnpike Authority will grant an occupancy agreement for use of Maine Turnpike Authority property as part of the Interstate 95 statutory corridor. The Maine Turnpike Authority shall approve the terms of any occupancy agreement for use of Maine Turnpike Authority property within the Interstate 95 corridor that is consistent with the memorandum of agreement.

A. The terms of the memorandum of agreement must provide for:

(1) Application of reasonable engineering standards of the Maine Turnpike Authority to the location and design of energy infrastructure on Maine Turnpike Authority property within the Interstate 95 statutory corridor;

(2) The right of the Maine Turnpike Authority to review and approve all construction, reconstruction, expansion, improvement, maintenance or operation of energy infrastructure on Maine Turnpike Authority property as part of the Interstate 95 statutory corridor in accordance with reasonable engineering standards of the Maine Turnpike Authority. The Maine Turnpike Authority may not unreasonably withhold approval under this subparagraph;

(3) The right of the Maine Turnpike Authority to require relocation or reconfiguration of any portion of energy infrastructure and all related installations on Maine Turnpike Authority property within the Interstate 95 statutory corridor at the sole cost of the owner of the energy infrastructure so affected when

and to the extent that such relocation or reconfiguration is reasonably necessary for the construction, reconstruction, expansion, improvement, maintenance or operation of the Maine Turnpike;

(4) The right of the Maine Turnpike Authority to regulate access to Maine Turnpike Authority property within the Interstate 95 statutory corridor in a reasonable manner that is consistent with the safe and proper administration of the Maine Turnpike as a limited access highway; and

(5) Reimbursement to the Maine Turnpike Authority of any reasonable costs it may incur in relation to use of the Maine Turnpike as part of the Interstate 95 statutory corridor, including, but not limited to, reasonable costs of review and inspection of design, construction, maintenance or repair of energy infrastructure and related operational costs, including, but not limited to, those for traffic control and other measures that are required to accommodate construction, maintenance or repair of energy infrastructure.

B. The Maine Turnpike Authority shall take all reasonable precautions, without forgoing or redesigning projects that it considers necessary or convenient for operation of the Maine Turnpike, to avoid material interference with the development of energy infrastructure on Maine Turnpike Authority property as part of the Interstate 95 statutory corridor.

1-D. Energy infrastructure proposal; decision criteria. The deciding authority shall evaluate and render a decision on an energy infrastructure proposal in accordance with this subsection. For the purposes of this subsection, "deciding authority" means the Interagency Review Panel acting under subsection 1-B, paragraph D or the Public Utilities Commission acting under subsection 5-A or section 3132, subsection 6-A.

A. The deciding authority may approve an energy infrastructure proposal only if the deciding authority finds that the proposal:

(1) Materially enhances or does not harm transmission opportunities for energy generation within the State;

(2) Is reasonably likely to reduce electric rates or other relevant energy prices or costs for residents and businesses within the State relative to the value of those rates, prices or costs but for the proposed energy infrastructure development or, if the deciding authority is unable to determine to its satisfaction the impact of the proposal on rates, prices or costs, the owner or operator of the proposed energy infrastructure agrees to pay annually an amount of money, determined by the deciding authority, to reduce rates, prices or costs over the life of the proposed energy infrastructure; and

(3) Is in the long-term public interest of the State, based on a determination made in accordance with paragraph B.

B. The deciding authority shall determine whether an energy infrastructure proposal is in the long-term public interest of the State. In making that determination, the deciding authority shall, at a minimum, consider the extent to which the proposal:

(1) Materially enhances or does not harm transmission opportunities for energy generation within the State;

(2) Is reasonably likely to reduce electric rates or other relevant energy prices or costs for residents and businesses within the State relative to the expected value of those electric rates or other energy prices or costs but for the proposed energy infrastructure development;

(3) Increases long-term economic benefits for the State, including but not limited to direct financial benefits, employment opportunities and economic development;

(4) Ensures efficient use of the statutory corridor through collocation of energy infrastructure, collaboration between energy infrastructure developers and the preservation of options for future uses;

(5) Minimizes conflict with the public purposes for which the state-owned land or asset is owned and any management plans for the land or asset within the statutory corridor and, when necessary, mitigates unavoidable impacts;

(6) Limits and mitigates the effects of energy infrastructure on the landscape, including but not limited to using underground installation when economically and technically feasible;

(7) Increases the energy reliability, security and independence of the State; and

(8) Reduces the release of greenhouse gases.

2. Designation of petitioned corridors. The commission may, upon petition, designate ~~energy infrastructure~~ petitioned corridors in accordance with this subsection.

A. The commission may designate ~~an energy infrastructure~~ a petitioned corridor only by rule. Rules adopted pursuant to this subsection are ma-

jor substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

(1) The rulemaking to designate ~~an energy infrastructure~~ a petitioned corridor must include a public hearing in which any member of the public may submit oral or written testimony or comments, which must be incorporated into the rule-making record in accordance with Title 5, section 8052, subsection 1. The commission shall provide an opportunity for examination of the petitioner at a rule-making hearing. The commission shall allow for written comments by any member of the public up to 7 days prior to the hearing. The commission shall allow a second round of written comments to be filed within 10 days of the hearing or within such longer time as the commission may direct.

(2) In any rulemaking regarding the designation of ~~an energy infrastructure~~ a petitioned corridor, the commission shall address all written comments, including those submitted pursuant to subsection 3, and state its rationale for adopting or rejecting any proposals or recommendations contained in those written comments.

(3) A designation of ~~an energy infrastructure~~ a petitioned corridor must be based on substantial evidence in the record of the rulemaking hearing.

B. The commission may commence a proceeding to designate ~~an energy infrastructure~~ a petitioned corridor only upon the filing of a petition for the designation of a petitioned corridor by the Office of the Public Advocate, the Executive Department, Governor's Office of Energy Independence and Security or ~~an interested person~~ a potential developer.

C. The commission shall dismiss a petition for the designation of ~~an energy infrastructure~~ a petitioned corridor filed under this subsection if, ~~after~~ on the basis of a preliminary review, the commission determines that the petition:

(1) Does not contain sufficient information to support the designation of ~~an energy infrastructure~~ a petitioned corridor; or

(2) Was filed by a person other than ~~the Office of the Public Advocate, Executive Department, Governor's Office of Energy Independence and Security or an interested person as defined by subsection 1, paragraph E~~ a person listed in paragraph B.

D. The commission may designate ~~an energy infrastructure~~ a petitioned corridor only if the commission finds, after consultation with state agencies and other entities as required under subsection 3, that a statutory corridor, a previously designated petitioned corridor or an abandoned railroad corridor owned or controlled by the Department of Transportation cannot meet the needs of the proposed energy infrastructure and that the future development of energy infrastructure within the petitioned corridor is reasonably likely to be:

(1) In the public interest, including, but not limited to, consideration of:

(a) Encouraging ~~colocation~~ collocation of energy infrastructure;

(b) Enhancing the efficient utilization of existing energy infrastructure; and

(c) Limiting impacts on the landscape; and

(2) Consistent with environmental and land use laws and rules of the State. A finding that the future development of energy infrastructure within the petitioned corridor is reasonably likely to be consistent with environmental and land use laws and rules of the State under this paragraph has no evidentiary value in a subsequent consolidated environmental permit proceeding undertaken by the department pursuant to subsection 6.

E. In designating a ~~geographic area as an energy infrastructure~~ petitioned corridor, the commission shall limit the geographic area of the petitioned corridor to an area no greater in breadth and scope than is necessary to achieve the purposes of this section.

F. The commission may not designate ~~an energy infrastructure~~ a petitioned corridor ~~that is located on~~ in any of the following lands:

(1) Houlton Band Trust Land, as defined in Title 30, section 6203, subsection 2-A;

(2) Passamaquoddy Indian territory, as defined in Title 30, section 6203, subsection 6;

(3) Penobscot Indian territory, as defined in Title 30, section 6203, subsection 9;

(4) Aroostook Band Trust Land, as defined in Title 30, section 7202, subsection 2;

(5) Lands that constitute a park as defined in Title 12, section 1801, subsection 7 and Baxter State Park; ~~and~~

(6) Federally owned land.~~;~~ and

(7) The Maine Turnpike, as described in Title 23, section 1964, subsection 9.

3. Petitioned corridors; notification and consultation prior to designation. Prior to designating ~~an energy infrastructure~~ a petitioned corridor under

subsection 2, the commission shall, at a minimum, notify, consult with and accept comments from:

A. The department;

A-1. A state agency that owns or controls land or assets within the proposed corridor, within a statutory corridor or within a previously designated petitioned corridor;

A-2. The Department of Transportation regarding potential use of abandoned railroad corridors owned or controlled by the department;

B. Appropriate state and federal energy and natural resources protection agencies, as specified by rules adopted pursuant to subsection 9;

C. The municipalities in which the petitioned corridor would be located;

D. The Maine Land Use Regulation Commission and the counties in which the petitioned corridor would be located, if the ~~proposed energy infrastructure~~ petitioned corridor, or any portion of the petitioned corridor, ~~is~~ would be located within unorganized or deorganized territories of the State; and

E. A tribe, if the ~~proposed energy infrastructure~~ petitioned corridor, or any portion of the petitioned corridor, ~~is~~ would be located on land of a tribe other than those lands specified in subsection 2, paragraph F.

~~**4. Use of corridors; certificate and permit required.** Development or construction of energy infrastructure within an energy infrastructure corridor is governed by this subsection.~~

~~A. A transmission and distribution utility may not engage in development or construction of a transmission line covered by section 3132 within an energy infrastructure corridor, unless:~~

~~(1) The commission has issued a certificate of public convenience and necessity approving the transmission line in accordance with section 3132; and~~

~~(2) The department has issued a consolidated environmental permit approving the project in accordance with subsection 6.~~

~~B. A transmission and distribution utility may not engage in development or construction of energy infrastructure other than a transmission line covered by section 3132 within an energy infrastructure corridor, unless:~~

~~(1) The commission has issued a corridor use certificate approving the project in accordance with subsection 5; and~~

~~(2) The department has issued a consolidated environmental permit approving the project in accordance with subsection 6.~~

~~C. A person that is not a transmission and distribution utility may not engage in development or construction of energy infrastructure within an energy infrastructure corridor, unless:~~

~~(1) The commission has issued a corridor use certificate approving the project in accordance with subsection 5; and~~

~~(2) The department has issued a consolidated environmental permit approving the project in accordance with subsection 6.~~

4-A. Use of energy infrastructure corridors; requirements. Development or construction of energy infrastructure within an energy infrastructure corridor is governed by this subsection.

A. A person may not engage in development or construction of energy infrastructure within a statutory corridor, unless:

(1) The person has entered into an occupancy agreement with the Interagency Review Panel in accordance with subsection 1-B and, if applicable, with the Maine Turnpike Authority in accordance with subsection 1-C, and in compliance with applicable state and federal rules, regulations and laws;

(2) The department has issued a consolidated environmental permit for the project in accordance with subsection 6; and

(3) If the project is a transmission line that requires a certificate of public convenience and necessity under section 3132, the commission has issued a certificate of public convenience and necessity for the transmission line.

B. A person may not engage in development or construction of energy infrastructure within a petitioned corridor, unless:

(1) The department has issued a consolidated environmental permit for the project in accordance with subsection 6;

(2) The commission has issued a corridor use certificate for the project in accordance with subsection 5-A; and

(3) If the project is a transmission line that requires a certificate of public convenience and necessity under section 3132, the commission has issued a certificate of public convenience and necessity approving the transmission line.

~~**5. Corridor use certificate.** Whenever a person proposes to develop or construct energy infrastructure~~

~~within an energy infrastructure corridor, except for a transmission and distribution utility that proposes a transmission line subject to the requirements of section 3132, that person shall file with the commission a petition for a corridor use certificate. The petition for the corridor use certificate must contain such information as the commission by rule requires. The commission shall process a petition for a corridor use certificate in an adjudicatory proceeding. The commission shall issue a corridor use certificate upon a finding that the project is:~~

~~A. In the public interest; and~~

~~B. Reasonably likely to:~~

~~(1) Minimize utility rates or increase the reliability of utility service;~~

~~(2) Have the net effect of reducing the release of greenhouse gases; or~~

~~(3) Enhance economic development within the State.~~

5-A. Corridor use certificate. Whenever a person proposes to develop or construct energy infrastructure within a petitioned corridor, that person shall file with the commission a petition for a corridor use certificate. The petition for the corridor use certificate must contain such information as the commission by rule requires. The commission shall process a petition for a corridor use certificate in an adjudicatory proceeding. The commission shall evaluate and render a decision on any petition for a corridor use certificate in accordance with subsection 1-D. A certificate issued under this subsection must specify the terms and conditions of use of the petitioned corridor. The commission shall establish by rule procedures to minimize duplicative filing and review requirements for the corridor use certificate for any transmission line that requires a certificate of public convenience and necessity under section 3132. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

6. Environmental review; consolidated environmental permit. Whenever a person proposes to develop or construct energy infrastructure within an energy infrastructure corridor, that person shall file with the department an application for a consolidated environmental permit. ~~The department shall adopt by rule pursuant to subsection 9 a process for the review of applications and the issuance of the consolidated environmental permit in accordance with this subsection. The department may request comments from and consult with other agencies and programs that are required by law to issue separate approvals for some or all projects.~~ The department 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.

A. A consolidated environmental permit issued by the department takes the place of any other permits or licenses that the department would otherwise require for the proposed project.

B. The application for a consolidated environmental permit must contain such information as the department requires, including, but not limited to, all studies and documentation necessary to determine whether the proposed project is in compliance with the environmental laws of the State administered by the department.

C. The applicant for a consolidated environmental permit shall pay a fee ~~specified by rule~~ no greater than the total amount of fees that would be required if individual permits were obtained by the applicant rather than the consolidated environmental permit and reimburse the department for any additional costs of regulatory review, including expenses for outside peer review or other consultants or experts assisting the department in its review. Outside review of applications under this subsection is governed by Title 38, section 344-A, except that the Commissioner of Environmental Protection is not required to obtain the consent of the applicant to enter into an agreement with an outside reviewer or require that the costs of the outside review be reimbursed by the applicant.

D. The department shall issue its decision on an application for a consolidated environmental permit within a timeframe specified by department ~~rule or~~ guideline. The decision may specify approval, denial or approval in part and denial in part. A proposed project may not be undertaken if it is denied in whole or in part by the department.

E. Upon issuance of a consolidated environmental permit, the department shall certify to the commission that the permit has been issued and whether the proposed project complies, in part or in whole, with the environmental laws of the State administered by the department and whether other agencies and programs that are required by law to issue separate approvals for some or all aspects of the project have taken final agency action on those matters requiring their separate approval.

F. The department shall enforce the terms of the consolidated environmental permit.

G. The terms of the consolidated environmental permit may require additional submissions by the permit holder, studies and approvals with conditions.

~~If the department receives an application for a permit to develop or construct energy infrastructure within an energy infrastructure corridor prior to adopting a rule to implement this subsection, the department shall~~

~~process the application in accordance with the department's existing review and permitting procedures.~~

6-A. Revenues. Except as otherwise provided by subsection 1-C or any other law, including the Constitution of Maine, revenues generated from the use of state-owned land and assets within energy infrastructure corridors must be deposited in the energy infrastructure benefits fund established in Title 5, section 282, subsection 9.

7. Eminent domain. This subsection grants and limits certain rights of eminent domain with respect to energy infrastructure corridors.

A. The eminent domain authority of a transmission and distribution utility within an energy infrastructure corridor is governed by section 3136.

B. Subject to approval by the commission, a person that is not a transmission and distribution utility that receives a certificate of public convenience and necessity under section 3132 or a corridor use certificate under subsection ~~5~~ 5-A to develop energy infrastructure within an energy infrastructure corridor may take and hold by right of eminent domain lands and easements within that corridor necessary for the proper location of the energy infrastructure covered by the certificate of public convenience and necessity or the corridor use certificate in the same manner and under the same conditions as set forth in chapter 65. The right of eminent domain granted in this paragraph does not apply to:

(1) Lands or easements located within 300 feet of an inhabited dwelling;

(2) Lands or easements on or adjacent to any developed or undeveloped water power;

(3) Lands or easements so closely paralleling existing wire lines of other utilities or existing energy transport pipelines that the proposed energy infrastructure would substantially interfere with service rendered over the existing lines or pipelines, except with the consent of the owners;

(4) Lands or easements owned or used by railroad corporations, except as authorized pursuant to section 2311;

(5) Lands or easements owned by the State or an agency or authority of the State; and

(6) Transmission and distribution plant that is owned, controlled, operated or managed by a transmission and distribution utility on the effective date of this section.

C. The commission may take and hold by right of eminent domain lands and easements within an energy infrastructure corridor in accordance with this paragraph, notwithstanding any transmission and distribution utility ownership of the lands or easements.

(1) The commission may exercise the authority under this paragraph only in an adjudicatory proceeding upon a petition by the Office of the Public Advocate or the Executive Department, Governor's Office of Energy Independence and Security demonstrating that such action is urgently needed to avoid substantial harm to electricity consumers regarding anticipated activity associated with an energy infrastructure corridor. A determination by the commission that the exercise of eminent domain under this paragraph is urgently needed to avoid substantial harm to electricity consumers regarding anticipated activity associated with an energy infrastructure corridor constitutes reviewable final agency action.

(2) The amount of any lands or easements taken by the commission pursuant to this subsection may be no greater than is required to avoid the harm to electricity consumers identified under subparagraph (1).

(3) The right of eminent domain granted in this paragraph does not apply to personal property, fixtures or improvements that constitute transmission and distribution plant or an energy transport pipeline.

(4) The commission may exercise the right of eminent domain for the purposes of this paragraph in the same manner and under the same conditions as set forth in chapter 65. For the purposes of the exercise of eminent domain authorized by this paragraph, the commission is both a person and the State.

(5) The commission is authorized to assess transmission and distribution utilities to the extent necessary to obtain sufficient funds to pay for lands and easements taken pursuant to this subsection.

(6) The commission, in an adjudicatory proceeding upon petition by the Office of the Public Advocate or the Executive Department, Governor's Office of Energy Independence and Security, may transfer or convey to any person or state agency or authority lands and easements once acquired, except that a transmission and distribution utility or the owner of an energy transport pipeline whose lands or easements were taken pursuant to this paragraph must be given the first opportunity to acquire the lands or easements to the extent necessary or useful in the performance of its duties as a transmission and distribution

utility or an owner of an energy transport pipeline.

(7) The commission shall report on the circumstances of any taking by eminent domain to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters during the next regular session of the Legislature following the acquisition of lands or easements by eminent domain.

8. Utility service territory. Nothing in this section modifies existing restrictions on entities providing service within a public utility's service territory provided under chapter 21.

~~**9. Rules.** The commission shall adopt by rule standards and procedures to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted by the commission for the designation of an energy infrastructure corridor, pursuant to subsection 2, paragraph A, are major substantive rules.~~

10. Repeal. This section is repealed July 30, ~~2011~~ 2015.

Sec. A-3. 35-A MRSA §3131, sub-§4-A is enacted to read:

4-A. High-impact electric transmission line. "High-impact electric transmission line" means a transmission line greater than 50 miles in length that is not located in a statutory corridor, as defined in section 122, subsection 1, paragraph F-4, or a petitioned corridor, as defined in section 122, subsection 1, paragraph D-1, and that is:

A. Constructed to transmit direct current electricity; or

B. Capable of operating at 345 kilovolts or more and:

(1) Is not a generator interconnection transmission facility as defined in section 3132, subsection 1-B; and

(2) Is not constructed primarily to provide electric reliability, as determined by the commission.

Sec. A-4. 35-A MRSA §3132, sub-§6, as amended by PL 2009, c. 309, §3, is further amended to read:

6. Commission order; certificate of public convenience and necessity. In its order, the commission shall make specific findings with regard to the public need for the proposed transmission line. ~~If~~ Except as provided in subsection 6-A for a high-impact electric transmission line, if the commission finds that a public need exists, it shall issue a certificate of public convenience and necessity for the transmission line. In determining public need, the commission shall, at a minimum, take into account economics, reliability, public health and safety, scenic, historic and recreational values, the proximity of the proposed transmission line to inhabited dwellings and alternatives to construction of the transmission line, including energy conservation, distributed generation or load management. If the commission orders or allows the erection of the transmission line, the order is subject to all other provisions of law and the right of any other agency to approve the transmission line. The commission shall, as necessary and in accordance with subsections 7 and 8, consider the findings of the Department of Environmental Protection under Title 38, chapter 3, subchapter 1, article 6, with respect to the proposed transmission line and any modifications ordered by the Department of Environmental Protection to lessen the impact of the proposed transmission line on the environment. A person may submit a petition for and obtain approval of a proposed transmission line under this section before applying for approval under municipal ordinances adopted pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A and, except as provided in subsection 4, before identifying a specific route or route options for the proposed transmission line. Except as provided in subsection 4, the commission may not consider the petition insufficient for failure to provide identification of a route or route options for the proposed transmission line. The issuance of a certificate of public convenience and necessity establishes that, as of the date of issuance of the certificate, the decision by the person to erect or construct was prudent. At the time of its issuance of a certificate of public convenience and necessity, the commission shall send to each municipality through which a proposed corridor or corridors for a transmission line extends a separate notice that the issuance of the certificate does not override, supersede or otherwise affect municipal authority to regulate the siting of the proposed transmission line. The commission may deny a certificate of public convenience and necessity for a transmission line upon a finding that the transmission line is reasonably likely to adversely affect any transmission and distribution utility or its customers.

Sec. A-5. 35-A MRSA §3132, sub-§6-A is enacted to read:

6-A. High-impact electric transmission line; certificate of public convenience and necessity. The commission shall evaluate and render a decision on any petition for a certificate of public convenience and necessity for a high-impact transmission line in accordance with section 122, subsection 1-D.

Sec. A-6. PL 2009, c. 372, Pt. F, §5, as amended by PL 2009, c. 415, Pt. E, §1, is repealed.

Sec. A-7. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 35-A, section 122, subsection 1-B, paragraph A, subparagraph (4), the Governor shall appoint the initial public members of the Interagency Review Panel to serve staggered terms. Of the initial appointees, one member serves an initial term of one year, one member serves an initial term of 2 years and 2 members serve initial terms of 3 years. An initial term of one or 2 years may not be considered a full term for purposes of limiting the number of terms for which a member may serve.

Sec. A-8. Report. Within existing resources, the Executive Department, Governor's Office of Energy Independence and Security, in consultation with agencies with relevant expertise, including but not limited to the Department of Environmental Protection, the Public Utilities Commission, the Department of Transportation and the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency, and with interested parties, shall prepare a report on issues affecting the collocation of electric transmission and distribution facilities, natural gas transmission lines, carbon dioxide pipelines and other energy infrastructure. The report must include an analysis of the safety, health, engineering, environmental, geotechnical, land use and other factors that restrict or otherwise affect collocation of such facilities. The office shall review and include in the report its findings with respect to practices in other jurisdictions as well as any industry or governmental recommendations regarding collocation of such facilities. The office shall include in the report a description of how its analysis and findings apply to energy infrastructure corridors as defined in the Maine Revised Statutes, Title 35-A, section 122. By February 1, 2011, the office shall submit its report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters and the Interagency Review Panel established under Title 35-A, section 122 and to all state agencies with permitting authority over energy infrastructure, including but not limited to the Department of Environmental Protection, the Maine Land Use Regulation Commission, the Public Utilities Commission and the Department of Transportation.

PART B

Sec. B-1. 5 MRSA §282, sub-§9, as enacted by PL 2009, c. 372, Pt. F, §3, is repealed and the following enacted in its place:

9. Energy infrastructure benefits fund. To establish an energy infrastructure benefits fund. Except as otherwise provided by Title 35-A, section 122, subsection 1-C or any other law, including the Constitution of Maine, the fund consists of any revenues derived from the use of state-owned land and assets for energy infrastructure development pursuant to Title 35-A, section 122. Each fiscal year, the Treasurer of State shall transfer 80% of revenues collected in the fund to the Efficiency Maine Trust for deposit by the Efficiency Maine Trust Board in program funds pursuant to Title 35-A, section 10103, subsection 4 and use by the trust in accordance with Title 35-A, section 10103, subsection 4-A and 20% of revenues collected in the fund to the Department of Transportation for deposit in the Transportation Efficiency Fund established in Title 23, section 4210-E and use by the department in accordance with Title 23, section 4210-E, subsection 2. For the purposes of this subsection, "energy infrastructure" and "state-owned" have the same meanings as in Title 35-A, section 122, subsection 1.

Sec. B-2. 23 MRSA §4210-E is enacted to read:

§4210-E. Transportation Efficiency Fund

1. Establishment; sources of funds. The Transportation Efficiency Fund, referred to in this section as "the fund," is established as a nonlapsing fund administered by the Department of Transportation. The fund consists of revenues transferred from the energy infrastructure benefits fund pursuant to Title 5, section 282, subsection 9. Any interest on money in the fund must be credited to the fund. Money in the fund not spent in any fiscal year remains in the fund to be used for the purposes of this section.

2. Uses. The fund must be used by the department to increase the energy efficiency of or reduce reliance on fossil fuels within the transportation system within the State. Uses of the fund may include, but are not limited to, rail, public transit, car and van pooling, zero-emission vehicles, biofuel and other alternative fuel vehicles, congestion mitigation and air quality initiatives that increase the energy efficiency of or reduce reliance on fossil fuels within the transportation system. The department must consider the transfer of funds to the Maine Turnpike Authority for uses consistent with this subsection. Any transfer to the Maine Turnpike Authority under this subsection in any calendar year may not exceed 10% of debt service payable by the Maine Turnpike Authority on its bonds in that calendar year.

Sec. B-3. 35-A MRSA §10103, sub-§4, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

4. 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 by those projects funded ~~those~~ by those funds. The board shall

deposit into appropriate program funds revenue transferred to the trust from the energy infrastructure benefits fund pursuant to Title 5, section 282, subsection 9 for use in accordance with subsection 4-A. 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.

Sec. B-4. 35-A MRSA §10103, sub-§4-A is enacted to read:

4-A. Use of revenues from the energy infrastructure benefits fund. The trust shall use revenues transferred to the trust from the energy infrastructure benefits fund pursuant to Title 5, section 282, subsection 9:

A. To ensure the steady transition to energy independence and security for the people, communities, economy and environment of the State in accordance with the triennial plan. In the expenditure of funds pursuant to this paragraph, the trust may provide grants, loans, programs and incentives on a competitive basis. The trust shall apportion the expenditures of funds pursuant to this paragraph in any fiscal year as follows:

(1) Seventy-five percent for energy efficiency initiatives; and

(2) Twenty-five percent for alternative energy resources initiatives; and

B. To compensate public members of the Interagency Review Panel pursuant to Title 5, section 12004-G, subsection 30-D.

As part of the annual report required under section 10104, subsection 5, the director shall report on the use of revenues from the energy infrastructure benefits fund. The report must document the revenues transferred from the energy infrastructure benefits fund to the trust during the most recently completed fiscal year and the current fiscal year and amounts and uses of money expended by the trust in accordance with this subsection during the most recently completed and the current fiscal year.

Sec. B-5. Transition; funding for public members of the Interagency Review Panel. Notwithstanding any other provision of law, until sufficient revenues from the energy infrastructure benefits fund are transferred to the Efficiency Maine Trust pursuant to the Maine Revised Statutes, Title 5, section 282, subsection 9 to compensate public members of the Interagency Review Panel pursuant to Title 5, section 12004-G, subsection 30-D, program funds of the Efficiency Maine Trust from other sources may be used for that purpose.

Sec. B-6. Transportation efficiency and alternative energy resources initiatives; working groups. The Executive Department, Governor's Office of Energy Independence and Security, referred to in this section as "the office," shall convene 2 working groups in accordance with this section to examine and make recommendations regarding transportation efficiency initiatives and alternative energy resources initiatives funded by the revenues collected in the energy infrastructure benefits fund established in the Maine Revised Statutes, Title 5, section 282, subsection 9.

1. The office shall convene a working group on transportation efficiency initiatives. The group must include, but is not limited to, a representative of the Department of Transportation, a representative of the Department of Environmental Protection and a representative of the Efficiency Maine Trust. The working group shall examine and make recommendations regarding the allocation of revenues from the energy infrastructure benefits fund for transportation-related purposes and the uses of the Transportation Efficiency Fund established in Title 23, section 4210-E. The working group shall submit its findings and recommendations no later than March 1, 2011 to the joint standing committees of the Legislature having jurisdiction over transportation matters and over utilities and energy matters.

2. The office shall convene a working group on alternative energy resources initiatives. The group must include, but is not limited to, a representative of the Efficiency Maine Trust, a representative of a statewide environmental advocacy organization and a representative of renewable energy consultants. The working group shall examine and make recommendations regarding the allocation of revenues from the energy infrastructure benefits fund pursuant to Title 5, section 282, subsection 9 to the Efficiency Maine Trust and the uses of those revenues according to Title 35-A, section 10103, subsection 4-A for alternative energy resources initiatives. The working group shall submit its findings and recommendations no later than March 1, 2011 to the joint standing committees of the Legislature having jurisdiction over transportation matters and over utilities and energy matters.

Sec. B-7. Appropriations and allocations. The following appropriations and allocations are made.

TRANSPORTATION, DEPARTMENT OF

Transportation Efficiency Fund N106

Initiative: Establishes the Transportation Efficiency Fund.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$0	$500
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$500

PART C

Sec. C-1. 2 MRSA §9, sub-§3, ¶C, as amended by PL 2009, c. 372, Pt. H, §2, is further amended to read:

C. In consultation with the Efficiency Maine Trust Board, established in Title 5, section 12004-G, subsection 10-C, prepare and submit a comprehensive state energy plan to the Governor and the Legislature by January 15, 2009 and submit an updated plan every 2 years thereafter. Within the comprehensive state energy plan, the director shall identify transmission capacity and infrastructure needs and recommend appropriate actions to facilitate the development and integration of new renewable energy generation within the State and support the State's renewable resource portfolio requirements specified in Title 35-A, section 3210 and wind energy development goals specified in Title 35-A, section 3404;

Sec. C-2. 2 MRSA §9, sub-§4 is enacted to read:

4. Advice to state agencies. The director shall advise state agencies regarding energy-related principles for agencies to consider, along with the laws and policies governing those agencies, in conjunction with the sale, lease or other allowance for use of state-owned land or assets for the purpose of development of energy infrastructure. For the purposes of this subsection, "state-owned" and "energy infrastructure corridor" have the same meanings as in Title 35-A, section 122, subsection 1. At a minimum, the director shall consider the following principles in advising state agencies under this subsection:

A. The principles for the determination of the long-term public interest of the State as specified in Title 35-A, section 122, subsection 1-D, paragraph B;

B. Avoiding wherever possible the use of lands subject to the provisions of the Constitution of Maine, Article IX, Section 23;

C. Maximizing the benefit realized from the State's strategic location within New England and the northeastern region; and

D. Complying with the provisions of the memorandum of agreement between the Maine Turnpike Authority and the Department of Transportation under Title 35-A, section 122, subsection 1-C, when applicable.

Nothing in this subsection alters any of the responsibilities or limits any of the authority of the Department of Administrative and Financial Services, Bureau of General Services pursuant to Title 5. Nothing in this subsection alters or limits the ability of departments or agencies of the State, along with the Bureau of General Services pursuant to Title 5, to generate or cogenerate energy at state facilities for use on site and elsewhere.

Sec. C-3. 35-A MRSA §3132, sub-§13, as amended by PL 2009, c. 123, §6, is further amended to read:

13. Public lands. The State, any agency or authority of the State or any political subdivision of the State may not sell, lease or otherwise convey any interest in public land, other than a future interest or option to purchase an interest in land that is conditioned on satisfaction of the terms of this subsection, to any person for the purpose of constructing a transmission line subject to this section, unless the person has received a certificate of public convenience and necessity from the commission pursuant to this section.

A person who has bought, leased or otherwise been conveyed any interest in public land for the purpose of constructing a transmission line may not undertake construction of that line except under the terms of the certificate of public convenience and necessity as originally issued for that transmission line by the commission or as modified by order of the Department of Environmental Protection under subsection 7 or under the terms of an amended certificate of public convenience and necessity issued by the commission or deemed to have been issued by the commission under subsection 11-A.

As used in this subsection, "public land" means land that is owned or controlled by the State, by an instrumentality of the State or by a political subdivision of the State.

As used in this subsection, "future interest or option to purchase an interest in land" includes an option, purchase and sale agreement or other equivalent legal instrument that conveys the intent to pursue a future sale, lease or other conveyance of land.

Sec. C-4. Legislative review; implementation. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters shall review the implementation of this Act during the First Regular Session of the 125th Legislature. Based on its review, the joint standing committee may submit a bill relating to this Act to the First Regular Session of the 125th Legislature.

Sec. C-5. Department of Transportation report. By January 15, 2011, the Department of Transportation shall report to the joint standing committees of the Legislature having jurisdiction over transportation matters and utilities and energy matters regarding current and potential uses of abandoned railroad corridors owned or controlled by the department for energy infrastructure development.

See title page for effective date.