

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 1261

S.P. 407

In Senate, March 6, 2003

### **An Act To Support Clean and Efficient Energy for the Future of Maine's Economy and Environment**

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Reference to the Committee on Utilities and Energy suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator TREAT of Kennebec.  
Cosponsored by Representative BLISS of South Portland and  
Senators: BRENNAN of Cumberland, BROMLEY of Cumberland, DAMON of Hancock,  
HALL of Lincoln, STRIMLING of Cumberland, Representatives: BERRY of Belmont,  
LUNDEEN of Mars Hill, MILLS of Cornville.

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

4 **Sec. 1. 5 MRSA §12004-I, sub-§74-A-2** is enacted to read:

6 74-A-2. Clean Energy Expenses 35-A MRSA  
Public Advisory Only §3210-A,  
8 Utilities Committee sub-§6

10 **Sec. 2. 35-A MRSA §3210-A** is enacted to read:

12 **§3210-A. Development of new renewable energy resources**

14 1. Policy. In order to reduce Maine residents' dependence  
on fossil fuels, promote economic activity through the  
development of indigenous resources and minimize the  
16 environmental and public health impacts resulting from energy  
generation, it is the policy of this State to encourage the  
18 development of electricity from renewable energy resources.

20 2. New renewable energy resource. As used in this section,  
"new renewable energy resource" means an electrical generation  
22 system or facility powered by one or more of the following:

24 A. Fuel cells utilizing renewable fuels;

26 B. Tidal, ocean thermal and wave power;

28 C. Solar arrays and installations;

30 D. Wind power;

32 E. Geothermal power; and

34 F. Any other form of ecologically appropriate renewable  
energy, as defined by rule.

36 3. Generation goals. Through policy measures, economic  
assistance and other means, the State shall seek to facilitate  
38 cost-effective new renewable energy generation that would result  
in achieving the following cumulative goals of additional  
40 installed energy-generation capacity when compared to the  
42 capacity existing on January 1, 2003:

44 A. Fifty megawatts by December 31, 2006;

46 B. One hundred megawatts by December 31, 2008;

48 C. One hundred seventy-five megawatts by December 31, 2010;

50 D. Three hundred fifty megawatts by December 31, 2012; and

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E. Five hundred megawatts by December 31, 2015.

4. Clean Energy Fund; development of program. The commission by rule shall establish a dedicated fund, known as the Clean Energy Fund and referred to in this section as "the fund," to support a program of in-state development of new renewable energy resources. The commission shall administer the fund to encourage the development, construction and operation of new renewable energy resource projects at those sites in this State that have significant economic potential based on a renewable resource and that are suitable based on environmental and public health considerations. In developing the criteria for this program, the commission shall review the experiences and approaches utilized by similar clean energy funds administered in other states.

5. Funding for fund. Funding for new renewable energy projects must be funded from the fund. Financial resources available for the fund must be provided through a 0.1¢ per kilowatt-hour charge collected in the rates of transmission and distribution utilities beginning January 1, 2005.

6. Clean Energy Advisory Committee. The Clean Energy Advisory Committee, referred to in this section as "the committee," is established to serve as a review body to assess the performance of the fund and the progress of the State in promoting the development of renewable energy, including progress in meeting the new renewable energy development goals established in this section.

A. The committee consists of 11 voting members as follows.

(1) Two representatives who are owners of or consultants to new renewable energy businesses and 2 members who represent the public at large, appointed by the Governor.

(2) One member from a consumer interest organization and one member from an environmental organization, appointed by the President of the Senate.

(3) One member from a transmission and distribution utility and one member from an environmental organization, appointed by the Speaker of the House of Representatives.

(4) A representative of the commission, chosen by the commission.

2                   (5) The Commissioner of Environmental Protection or  
3                   the commissioner's designee.

4                   (6) The Maine Land Use Regulation Commission shall  
5                   appoint a designee to represent the Land Use Regulation  
6                   Commission.

8                   B. All members are appointed for staggered terms of 3  
9                   years. Members serve until their successors are chosen. A  
10                   vacancy must be filled by the same appointing authority that  
11                   made the original appointment. Appointed members may not  
12                   serve more than 2 complete terms. Terms are staggered as  
13                   follows.

14                                   (1) The following members serve for an initial term of  
15                                   one year: one of the owners or consultants of a new  
16                                   renewable energy business and one of the members who  
17                                   represent the public at large as appointed by the  
18                                   Governor; and the member appointed by the President of  
19                                   the Senate who represents a consumer interest  
20                                   organization.

21                                   (2) The following members serve for an initial term of  
22                                   2 years: the other member who is an owner or  
23                                   consultant of a new renewable energy business and one  
24                                   of the members who represent the public at large as  
25                                   appointed by the Governor and the member appointed by  
26                                   the Speaker of the House of Representatives who  
27                                   represents a transmission and distribution utility.

28                                   (3) The other members serve for 3-year terms.

29                   C. The Governor shall appoint one member who is not a  
30                   government employee to serve as chair.

31                   D. The committee shall meet at least 2 times per year and  
32                   at any time at the call of the chair or upon written request  
33                   to the chair by 4 of the voting members.

34                   E. The commission shall provide the committee with staff  
35                   support.

36                   F. Members of the committee are not entitled to  
37                   compensation but must be reimbursed for expenses incurred  
38                   due to participation in the committee.

39                   7. Rulemaking. The commission shall adopt rules to  
40                   implement the requirements of this section. Rules adopted  
41                   pursuant to this subsection are major substantive rules as  
42                   defined in Title 5, chapter 375, subchapter 2-A.  
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**Sec. 3. 35-A MRSA §3211-A, sub-§4**, as enacted by PL 2001, c. 624, §4, is repealed.

**Sec. 4. 35-A MRSA §3211-A, sub-§4-A** is enacted to read:

**4-A. Funding levels.** The commission shall assess transmission and distribution utilities to collect funds for conservation programs and administrative costs in the amount of 0.2¢ per kilowatt-hour of electricity delivered to retail customers. In the case of consumer-owned transmission and distribution utilities, the commission shall set assessment levels that are just and reasonable and comport with the transmission and distribution utility's service territory, including the needs of customers.

**Sec. 5. 35-A MRSA §3211-B** is enacted to read:

**§3211-B. Appliance and equipment energy efficiency standards**

**1. General purpose.** This section establishes minimum efficiency standards for certain products sold or installed in the State.

**2. Findings.** The Legislature finds that:

**A. Efficiency standards for certain products sold or installed in the State assure consumers and businesses that such products meet minimum efficiency performance levels, thus saving money on utility bills;**

**B. Efficiency standards save energy and thus reduce pollution and other environmental impacts associated with the production, distribution and use of electricity and natural gas;**

**C. Efficiency standards can make electricity systems more reliable by reducing the strain on the electricity grid during peak demand periods. Furthermore, improved energy efficiency can reduce or delay the need for new power plants, power transmission lines and power distribution system upgrades; and**

**D. Energy efficiency standards contribute to the economy of this State by enabling consumers and business owners to spend less on energy, leaving more for the purchase of local goods and services.**

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

5 A. "Ceiling fan" means a nonportable device that is  
6 suspended from a ceiling for circulating air via the  
7 rotation of fan blades.

8 B. "Ceiling fan light kit" means the equipment used to  
9 provide light from a ceiling fan. This equipment can be:

10 (1) Integral such that the ceiling fan light kit is  
11 hardwired to the ceiling fan; or

12 (2) Attachable such that the ceiling fan light kit is  
13 not, at the time of sale, physically attached to the  
14 fan.

15 Attachable ceiling fan light kits may be included inside the  
16 ceiling fan package at the time of sale or sold separately  
17 for subsequent attachment to the fan.

18 C. "Commercial clothes washer" means a soft-mount  
19 front-loading or soft-mount top-loading clothes washer that  
20 is designed for use in:

21 (1) Applications when the occupants of more than one  
22 household will be using it, such as in multifamily  
23 housing common areas and coin laundries; or

24 (2) Other commercial applications if the clothes  
25 container compartment is no greater than 3.5 cubic feet  
26 for horizontal-axis clothes washers or no greater than  
27 4.0 cubic feet for vertical-axis clothes washers.

28 D. "Commercial refrigerators and freezers" means reach-in  
29 cabinets, pass-through cabinets, roll-in cabinets and  
30 roll-through cabinets that have less than 85 cubic feet of  
31 capacity and that are not walk-in models or consumer  
32 products regulated under the National Appliance Energy  
33 Conservation Act of 1987.

34 E. "Digital cable television box" means a device that acts  
35 as a tuner for cable television programming and that  
36 converts digital signals received from a cable service  
37 provider to a signal usable by a television set.

38 F. "Digital television converter box" means a device that  
39 receives and decodes digital signals for display by an  
40 analog television set.

2 G. "Illuminated exit sign" means an internally-illuminated  
4 sign that is designed to be permanently fixed in place and  
used to identify an exit, the background of which sign is  
6 not transparent.

8 H. "Large packaged air-conditioning equipment" means  
10 packaged air-conditioning equipment having 240,000 British  
12 Thermal Units per hour or more of cooling capacity.

14 I. "Low-voltage dry-type distribution transformer" means a  
16 distribution transformer that:

18 (1) Has an input voltage of 600 volts or less;

20 (2) Is between 14,000 volt-amperes and 2,501,000  
22 volt-amperes in power;

24 (3) Is air-cooled; and

26 (4) Does not use oil as a coolant.

28 "Low-voltage dry-type distribution transformer" does not  
30 include those types of transformers specifically excluded  
32 from the low-voltage dry-type distribution transformer  
34 definition published in the California Code of Regulations,  
36 Title 20: Division 2, Chapter 4, Article 4: Appliance  
38 Efficiency Regulations as amended in November 2002.

40 J. "Multifunction device" means a physically integrated  
42 device that has the core function of a satellite television  
44 set-top box, digital cable television box, wireless  
46 television receiver or digital television converter box plus  
48 one or more major additional functionalities, such as an  
Internet access device or video game console.

K. "Packaged air-conditioning equipment" means  
air-conditioning equipment that is built as a package and  
shipped as a whole to end-user sites.

L. "Pass-through cabinet" means a commercial refrigerator  
or commercial freezer with hinged or sliding doors on both  
the front and rear of the refrigerator or freezer.

M. "Reach-in cabinet" means a commercial refrigerator,  
commercial refrigerator-freezer or commercial freezer with  
hinged or sliding doors or lids, but excludes roll-in  
cabinets or roll-through cabinets and pass-through cabinets.



2 N. "Roll-in cabinet" or "roll-through cabinet" means a  
4 commercial refrigerator or commercial freezer with hinged or  
sliding doors that allows wheeled racks of product to be  
rolled into or through the refrigerator or freezer.

6 O. "Set-top box" means a digital cable television box,  
8 wireless television receiver or digital television converter  
box. "Set-top box" does not include a multifunction device.

10 P. "Torchiere lighting fixture" means a portable electric  
12 lighting fixture with a reflector bowl giving light directed  
upward so as to give indirect illumination.

14 Q. "Traffic signal module" means a standard 8-inch or  
16 12-inch round traffic signal indicator. It consists of a  
18 light source, lens and all parts necessary for operation and  
communicates movement messages to drivers through red, amber  
and green colors. Arrow modules in the same colors are used  
to indicate turning movements.

20 R. "Transformer" means a device consisting essentially of 2  
22 or more coils of insulated wire that transfers alternating  
24 current by electromagnetic induction from one coil to  
another in order to change the original voltage or current  
value.

26 S. "Unit heater" means a self-contained fan-type heater  
28 that uses natural gas, propane or fuel oil and that is  
30 designed to be installed within a heated space. Unit heaters  
32 include an apparatus or appliance to supply heat and a fan  
for circulating air over a heat exchange surface, all  
34 enclosed in a common casing. Unit heaters do not include  
'warm air furnaces' as specifically defined under the  
federal Energy Policy Act of 1992, Public Law 102-486.

36 T. "Wireless television receiver" means a device used in  
38 conjunction with a dish antenna to receive satellite or  
other wireless television programming and that converts  
signals from a dish antenna for use by a television set.

40 4. Scope. The provisions of this section apply to the  
42 testing, certification and enforcement of efficiency standards  
44 for new products sold, offered for sale or installed in the State.

46 A. This section applies to:

48 (1) Ceiling fans and ceiling fan light kits;

50 (2) Commercial clothes washers;

2           (3) Commercial refrigerators and freezers;

4           (4) Illuminated exit signs;

6           (5) Large packaged air-conditioning equipment;

8           (6) Low-voltage dry-type distribution transformers;

10          (7) Set-top boxes;

12          (8) Torchiere lighting fixtures;

14          (9) Traffic signal modules;

16          (10) Unit heaters; and

18          (11) Such other products as may be designated by the  
commission.

20          B. The provisions of this section do not apply to:

22           (1) Products manufactured in the State and sold  
outside the state;

24           (2) Products manufactured outside the State and sold  
at wholesale inside the State for final retail sale and  
installation outside the State;

28           (3) Products installed in mobile manufactured homes at  
the time of construction; or

30           (4) Products designed expressly for installation and  
use in recreational vehicles.

34           5. Efficiency standards. Not later than March 15, 2004,  
the commission shall adopt rules establishing minimum efficiency  
standards for the types of new products set forth in subsection  
4, paragraph A. The rules must provide for the following minimum  
efficiency standards.

40           A. Ceiling fans and ceiling fan light kits must meet the  
Tier 1 criteria of the product specification, version 1.1,  
of the "Energy Star Program Requirements for Residential  
Ceiling Fans" developed by the United States Environmental  
Protection Agency.

46           B. Commercial clothes washers must meet the requirements  
shown in Table P-3 of section 1605.3 of the California Code  
of Regulations, Title 20: Division 2, Chapter 4, Article 4:

2 Appliance Efficiency Regulations that took effect on  
November 27, 2002.

4 C. Commercial refrigerators and freezers must meet the  
August 1, 2004 requirements shown in Table A-6 of section  
6 1605.3 of the California Code of Regulations, Title 20:  
Division 2, Chapter 4, Article 4: Appliance Efficiency  
8 Regulations that took effect on November 27, 2002.

10 D. Illuminated exit signs must meet the product  
specification, version 2.0, of the "Energy Star Program  
12 Requirements for Exit Signs" developed by the United States  
Environmental Protection Agency.

14 E. Large packaged air-conditioning equipment must meet the  
16 Tier 2 efficiency levels of the "Minimum Equipment  
Efficiencies for Unitary Commercial Air Conditioners" and  
18 "Minimum Equipment Efficiencies for Heat Pumps" developed by  
the Consortium for Energy Efficiency, Boston, Massachusetts,  
20 and that took effect on July 1, 2002.

22 F. Low-voltage dry-type distribution transformers must meet  
or exceed the energy efficiency values shown in Table 4-2 of  
24 National Electrical Manufacturers Association Standard  
TP-1-2002.

26 G. Set-top boxes must meet the Tier 1 criteria of the  
28 product specification of the United States Environmental  
Protection Agency's "Energy Star Program Requirements for  
30 Set-top Boxes" that took effect on January 1, 2001.

32 H. Torchiere lighting fixtures may not consume more than 190  
watts and may not be capable of operating with lamps that  
34 total more than 190 watts.

36 I. Traffic signal modules must meet the product  
specification of the "Energy Star Program Requirements for  
38 Traffic Signals" developed by the United States  
Environmental Protection Agency and that took effect in  
40 February 2001.

42 J. Unit heaters may not have pilot lights and must have  
either power venting or an automatic flue damper.

44 6. Implementation. Sale and installation of products that  
46 do not meet the standards established in subsection 4, paragraph  
A is prohibited as follows.

48 A. On or after January 1, 2005, no new product of a type  
50 set forth in subsection 4, paragraph A may be sold or

2 offered for sale in the State unless the efficiency of the  
3 new product meets or exceeds the efficiency standards set  
4 forth in the rules adopted pursuant to subsection 5.

6 B. On or after January 1, 2006, no new product of a type  
7 set forth in subsection 4, paragraph A may be installed in  
8 the State unless the efficiency of the new product meets or  
9 exceeds the efficiency standards set forth in the refer  
10 adopted pursuant to subsection 5.

12 7. **New and revised standards.** The commission through  
13 rulemaking may establish increased efficiency standards on the  
14 products listed in subsection 4, paragraph A. The commission  
15 also may establish standards for products not specifically listed  
16 in subsection 4, paragraph A. In considering such new or amended  
17 standards, the commission shall set efficiency standards upon a  
18 determination that increased efficiency standards would serve to  
19 promote energy conservation in the State and would be  
20 cost-effective for consumers who purchase and use such new  
21 products, provided no new or increased efficiency standards may  
22 become effective within one year following the adoption of any  
23 amended rules providing for such increased efficiency standards.  
24 The commission may apply for a waiver of federal preemption in  
25 accordance with federal procedures found in 42 United States  
26 Code, Section 6297(d) for those products regulated by the Federal  
27 Government.

28 8. **Testing, certification, labeling and enforcement.** The  
29 commission shall adopt procedures for testing the energy  
30 efficiency of the new products covered by subsection 4, paragraph  
31 A. The commission shall use United States Department of Energy  
32 approved test methods or, in the absence of those test methods,  
33 other appropriate nationally recognized test methods. The  
34 manufacturers of products covered in subsection 4, paragraph A  
35 shall cause samples of those products to be tested in accordance  
36 with the test procedures adopted pursuant to this subsection.

38 A. Manufacturers of new products covered in subsection 4,  
39 paragraph A shall certify to the commission that those  
40 products are in compliance with the provisions of this  
41 section. The commission shall adopt rules governing the  
42 certification of those products and may work in coordination  
43 with the certification program of other states with similar  
44 product standards.

46 B. Manufacturers of new products covered by subsection 4,  
47 paragraph A shall identify each product offered for sale or  
48 installed in the State as in compliance with the provisions  
49 of this section by means of a mark, label or tag on the  
50 product and packaging at the time of sale or installation.

2 The commission shall adopt rules governing the  
3 identification of such products and packaging and may work  
4 in coordination with the labeling programs of other states  
5 with similar product standards.

6 C. The commission may test products covered by subsection  
7 4, paragraph A using an accredited testing facility. If  
8 products so tested are found not to be in compliance with  
9 the minimum efficiency standards established under  
10 subsection 5, the commission shall:

11 (1) Charge the manufacturer of such product for the  
12 cost of product purchase and testing; and

13 (2) Provide information to the public on products  
14 found not to be in compliance with the standards.

15 D. The commission may cause periodic inspections to be made  
16 of distributors or retailers of new products covered by  
17 subsection 4, paragraph A in order to determine compliance  
18 with the provisions of this section.

19 E. The commission shall cause investigations to be made of  
20 complaints received concerning violations of this section  
21 and shall report the results of such investigations to the  
22 Attorney General. The Attorney General may institute  
23 proceedings to enforce the provisions of this section. Any  
24 manufacturer, distributor or retailer who violates any  
25 provision of this section must be issued a warning by the  
26 commission for the first violation. Repeat violations are  
27 subject to a civil penalty of not more than \$250. Each  
28 violation constitutes a separate offense, and each day that  
29 violation continues constitutes a separate offense.  
30 Penalties assessed under this paragraph are in addition to  
31 costs assessed under paragraph C.

32 9. **Rulemaking.** The commission shall adopt rules as  
33 necessary to ensure the proper implementation and enforcement of  
34 the provisions of this section. Rules adopted pursuant to this  
35 subsection are major substantive rules as defined in Title 5,  
36 chapter 375, subchapter 2-A.

37 **Sec. 6. Building code study.** The Energy Resources Council, in  
38 consultation with the Department of Economic and Community  
39 Development and the Public Utilities Commission, shall review  
40 building codes used in Maine and the enforcement of those  
41 building codes to assess whether these codes need to be updated  
42 to reflect improved energy efficiency and design that reduces the  
43 negative impacts on the environment of demolition, construction  
44 and operation of buildings. In assessing the codes and making

any recommendations concerning revisions, the council shall promote resource-efficient design of new buildings, including state facilities and facilities leased to the State, and seek to reduce the negative environmental impacts in a cost-effective manner. The council must review and evaluate the possibility of including the Leadership in Energy and Environmental Design standards and other high-performance building standards in state leasing and building requirements, and must coordinate its review with the standards developed pursuant to the Maine Revised Statutes, Title 38, section 343-H, subsection 3. The council shall report back to the Joint Standing Committee on Utilities and Energy with its findings and recommended legislative action by January 15, 2004. The committee may report out legislation to implement the recommendations of the study.

**Sec. 7. Funding and regulatory impact study.** The Energy Resources Council, in consultation with the Public Utilities Commission, shall assess the current business and regulatory environment as it affects the development of renewable energy resources and make recommendations for policy and regulatory changes that encourage new renewable resources business development in Maine, including new generation, fuels and businesses related to renewable resources of energy. Among other issues, the council shall investigate the viability of initiating a multimillion-dollar green energy bond or other funding mechanism for the long-term economic development of new renewable resources and related projects in Maine. In conducting the study, the council shall investigate the number and type of potential jobs created, the economic impact and benefit to Maine and the amount of pollution avoided by the operation of new renewable resources in Maine. The council shall report back to the Joint Standing Committee on Utilities and Energy and the Joint Standing Committee on Natural Resources with its findings by January 15, 2004.

## SUMMARY

This bill:

1. Establishes minimum energy efficiency standards for certain products, such as ceiling fans, illuminated exit signs, traffic signal lights and digital cable television boxes. Beginning January 1, 2005, the sale of a product that does not meet the energy efficiency standards is prohibited. Beginning January 1, 2006, the installation of a product that does not meet the energy efficiency standards is prohibited;

2           2. Increases the assessment imposed by the Public Utilities  
Commission on transmission and distribution utilities to 0.2¢ per  
kilowatt-hour to fund energy conservation programs;

4  
6           3. Imposes an additional assessment on transmission and  
distribution utilities of 0.1¢ per kilowatt-hour to fund the  
Clean Energy Fund established in the Public Utilities Commission  
8 to encourage the development, construction and operation of new  
renewable energy resources projects, defined as electrical  
10 generation powered by fuel cells using renewable fuels; tidal,  
ocean or wave power; solar arrays and installations; wind power;  
12 and geothermal power;

14           4. Establishes goals for the State to attain in increasing  
its new renewable energy generation; and

16  
18           5. Establishes the Clean Energy Advisory Committee to  
review and assess the progress of the State in promoting the  
development of new renewable energy and in meeting the goals set  
20 for increasing new renewable energy generation.