

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

Legislative Document

No. 1181

H.P. 822

House of Representatives, March 25, 2009

### An Act To Create Jobs through Investment in Green Energy

Reference to the Joint Select Committee on Maine's Energy Future suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative BERRY of Bowdoinham.

Cosponsored by Senator BARTLETT of Cumberland and

Representatives: ADAMS of Portland, BLANCHARD of Old Town, BLODGETT of Augusta, BOLAND of Sanford, BOLDUC of Auburn, BRIGGS of Mexico, BRYANT of Windham, BUTTERFIELD of Bangor, CAIN of Orono, CAMPBELL of Newfield, CAREY of Lewiston, CASAVANT of Biddeford, CLARK of Millinocket, CLEARY of Houlton, CONNOR of Kennebunk, CORNELL du HOUX of Brunswick, CROCKETT of Augusta, DILL of Cape Elizabeth, DOSTIE of Sabattus, DRISCOLL of Westbrook, DUCHESNE of Hudson, EATON of Sullivan, EBERLE of South Portland, EVES of North Berwick, FLAHERTY of Scarborough, FLEMINGS of Bar Harbor, GILBERT of Jay, GOODE of Bangor, HARLOW of Portland, HASKELL of Portland, HILL of York, HINCK of Portland, HUNT of Buxton, WALSH INNES of Yarmouth, KAENRATH of South Portland, KENT of Woolwich, KRUGER of Thomaston, LAJOIE of Lewiston, LEGG of Kennebunk, LOVEJOY of Portland, MacDONALD of Boothbay, MAGNAN of Stockton Springs, MARTIN of Orono, MARTIN of Eagle Lake, MAZUREK of Rockland, McCABE of Skowhegan, MILLER of Somerville, MITCHELL of the Penobscot Nation, MORRISON of South Portland, PENDLETON of Scarborough, PEOPLES of Westbrook, PERCY of Phippsburg, PERRY of Calais, PETERSON of Rumford, Speaker PINGREE of North Haven, PIOTTI of Unity, PRATT of Eddington, PRIEST of Brunswick, RANKIN of Hiram, ROTUNDO of Lewiston, RUSSELL of Portland, SANBORN of Gorham, SCHATZ of Blue Hill, SIROIS of Turner, SOCTOMAH of the Passamaquoddy Tribe, STEVENS of Bangor, STUCKEY of Portland, SUTHERLAND of Chapman, THERIAULT of Madawaska, TREAT of Hallowell, TRINWARD of Waterville, TUTTLE of Sanford, VALENTINO of Saco, WAGNER of Lewiston, WEBSTER of Freeport, WHEELER of Kittery, WRIGHT of Berwick, Senators: ALFOND of Cumberland, BLISS of Cumberland, BOWMAN of York, BRANNIGAN of Cumberland, BRYANT of Oxford, CRAVEN of Androscoggin, DAMON of Hancock, GERZOFKY of Cumberland, JACKSON of Aroostook, MARRACHÉ of Kennebec, MILLS of Somerset, President MITCHELL of Kennebec, NUTTING of Androscoggin, PERRY of Penobscot, SCHNEIDER of Penobscot, SIMPSON of Androscoggin, SULLIVAN of York.

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

2 PART A

3 Sec. A-1. 5 MRSA §58 is enacted to read:

4 **§58. Consolidation of energy programs**

5 Any agency of State Government administering a program or measure related to  
6 energy efficiency, energy demand reduction, peak load reduction or distributed renewable  
7 energy technology as defined in Title 35-A, section 102, subsection 4-A in buildings,  
8 facilities and appliances shall, to the extent permitted by law, contract with Efficiency  
9 Maine established under Title 35-A, chapter 97 to administer the program, service or  
10 measure, unless both the agency and Efficiency Maine determine that such a contract  
11 would be less cost-effective than a different cooperative relationship. Regardless of  
12 whether administration by Efficiency Maine is permitted or undertaken, all agencies shall  
13 coordinate with Efficiency Maine to ensure that such programs and measures are jointly  
14 marketed with Efficiency Maine, integrated with its programs and constructed to facilitate  
15 use of the program by users of Efficiency Maine's services. The Maine State Housing  
16 Authority and the Maine Municipal Bond Bank are exempted from the requirements of  
17 this section, except as otherwise provided by law.

18 Sec. A-2. 5 MRSA §1764-A, as corrected by RR 2003, c. 1, §2, is amended to  
19 read:

20 **§1764-A. Improvement of energy efficiency and usage of distributed renewable**  
21 **technology in state-funded construction**

22 **1. Definitions.** For purposes of this section, "substantially renovated" means any  
23 renovation for which the cost exceeds 50% of the building's current value prior to  
24 renovation. As used in this section, unless the context otherwise indicates, the following  
25 terms have the following meanings.

26 A. "Distributed renewable energy technology" has the same meaning as in Title  
27 35-A, section 102, subsection 4-A.

28 B. "Green design building standard" means an energy and environmental design  
29 green building rating standard adopted by rule by the board of Efficiency Maine,  
30 established in Title 35-A, chapter 97. Rules adopted under this paragraph are routine  
31 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

32 C. "Substantially renovated" means having had a renovation for which the cost  
33 exceeds 20% of the building's current value prior to renovation.

34 **2. Rules.** The Bureau of General Services, in consultation with the Energy  
35 Resources Council board of Efficiency Maine, established in Title 35-A, chapter 97, and  
36 the Public Utilities Commission, shall by rule require that all planning and design for the  
37 construction of new or substantially renovated state-owned or state-leased buildings; new  
38 or substantially renovated buildings owned or leased by the University of Maine System,  
39 the Maine Community College System or the Maine Maritime Academy; and buildings

1 built or substantially renovated with state funds, including buildings funded through  
2 through state bonds or the Maine Municipal Bond Bank:

3 A. Involve consideration of architectural designs and energy systems, including  
4 distributed renewable energy technology and load management systems, that show  
5 the greatest net benefit over the life of the building by minimizing long-term energy  
6 and operating costs;

7 B. Include an energy-use target that exceeds by at least the greater of 20% above the  
8 energy efficiency standards in effect for commercial and institutional buildings  
9 pursuant to Title 10, ~~section 1415-D~~ chapter 1103 and the green design building  
10 standard most closely related to the building and project type; and

11 C. Include a life-cycle cost analysis that explicitly considers cost and benefits over a  
12 minimum of 30 years and that explicitly includes the public health and environmental  
13 benefits associated with energy-efficient building design and construction, to the  
14 extent they can be reasonably quantified.

15 Rules adopted pursuant to this section apply to all new or substantially renovated state-  
16 owned or state-leased buildings, new or substantially renovated buildings owned or  
17 leased by the University of Maine System, the Maine Community College System or the  
18 Maine Maritime Academy and buildings built or substantially renovated with state funds,  
19 including buildings funded through state bonds or the Maine Municipal Bond Bank,  
20 regardless of whether the planning and design for construction is subject to approval by  
21 the department.

22 Rules adopted pursuant to this section may provide for exemptions, waivers or other  
23 appropriate consideration for buildings with little or no energy usage, such as unheated  
24 sheds or warehouses.

25 ~~The Bureau of General Services shall adopt rules pursuant to this section by July 1, 2004.~~  
26 Rules adopted pursuant to this section are routine technical rules as defined in Title 5,  
27 chapter 375, subchapter 2-A.

28 **3. Approval.** A state agency responsible for approving the construction of a new or  
29 substantially renovated state-owned or state-leased building, new or substantially  
30 renovated buildings owned or leased by the University of Maine System, the Maine  
31 Community College System or the Maine Maritime Academy and buildings built or  
32 substantially renovated with state funds, including buildings funded ~~through~~ through state  
33 bonds or the Maine Municipal Bond Bank, may not grant such approval unless the  
34 agency or other entity or organization proposing the construction can show that it has  
35 duly considered the most energy-efficient and environmentally efficient designs suitable  
36 in accordance with rules adopted pursuant to this section and that the proposed  
37 construction project meets the standards described in subsection 2, paragraph B.

38 **Sec. A-3. 5 MRSA §1830, sub-§3, ¶B,** as enacted by PL 2005, c. 386, Pt. H,  
39 §10, is amended to read:

40 B. Specifications for vehicles to be acquired by the State, including the highest  
41 feasible fuel economy standards, taking into account the range of projected fuel cost  
42 increases over the life of the vehicle; and

**Sec. A-4. Rules.** The board of Efficiency Maine, in adopting rules under the Maine Revised Statutes, Title 5, section 1764-A defining the green design building standard, shall use the United States Green Building Council's leadership in energy and environmental design green building rating standard, referred to as the silver standard, or an equivalent performance-based standard, as long as whatever standard it adopts provides a building energy efficiency standard that is at least 20% above the energy efficiency standards established for the relevant type of building under the Maine Uniform Building and Energy Code under Title 10, chapter 1103.

## PART B

**Sec. B-1. 10 MRSA §363, sub-§4**, as amended by PL 1999, c. 728, §3, is further amended to read:

**4. Allocation to Maine State Housing Authority.** That portion of the state ceiling allocated under this section to the category of bonds for housing or housing-related purposes other than for Efficiency Maine projects as defined in section 963-A must be allocated to the Maine State Housing Authority, which may further allocate that portion of the state ceiling to bonds for housing-related projects that require an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Maine State Housing Authority to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.

**Sec. B-2. 10 MRSA §363, sub-§6**, as amended by PL 1999, c. 728, §4, is further amended to read:

**6. Allocation to the Finance Authority of Maine.** That portion of the state ceiling allocated to the category of bonds that are limited obligations of the issuer payable solely from the revenues of the projects financed with the proceeds of the bonds, other than for housing-related projects or issues included in an issue of the Maine Municipal Bond Bank, as well as that portion of the state ceiling allocated to bonds authorized to be issued by the Finance Authority of Maine pursuant to Title 20-A, chapter 417-B and that portion of the state ceiling allocated to Efficiency Maine projects as defined in section 963-A, must be allocated to the Finance Authority of Maine, which may further allocate that portion of the state ceiling to bonds requiring an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Finance Authority of Maine to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.

**Sec. B-3. 10 MRSA c. 1105** is enacted to read:

## CHAPTER 1105

## ENERGY AUDIT

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1 years in the region served by the local adult education program, except that in fiscal years  
2 1991-92 and 1992-93 available state funding is limited to the fiscal year 1990-91 level,  
3 and in fiscal years 1995-96 and 1996-97 available state funding is limited to the fiscal  
4 year 1994-95 level.

5 A. The state reimbursement must be based on the unit's, region's or center's  
6 expenditures for the base year in accordance with the maximum allowable  
7 expenditures and the local program cost adjustment to the equivalent of the year prior  
8 to the year of the allocation, except insofar as an adjustment is needed for any  
9 increase in the use of adult education services that exceeds expectations based on  
10 population growth, to the extent such increase is attributable to workforce  
11 development programs adopted within the last 4 years in the region served by the  
12 local adult education program.

13 B. State reimbursement must be paid to each eligible unit, region or center during the  
14 2nd quarter of the State's fiscal year.

15 **Sec. C-3. 20-A MRSA §15681, sub-§6** is enacted to read:

16 **6. Targeted workforce development funds.** A school administrative unit may  
17 receive targeted workforce development funds from any source, including but not limited  
18 to the Green Energy Job Growth Fund established in Title 26, section 2041 and must  
19 expend those funds in accordance with any requirements imposed on the use of the funds.

20 **Sec. C-4. 20-A MRSA §15697** is enacted to read:

21 **§15697. Workforce development funds; outside the funding formula**

22 To receive targeted workforce development funds from any source, including but not  
23 limited to the Green Energy Job Growth Fund established under Title 26, section 2041, a  
24 school administrative unit must meet the requirements imposed on the use of the funds, as  
25 well as all other relevant requirements of this Title. Funds received by a school  
26 administrative unit from the Green Energy Job Growth Fund may not be included in any  
27 of the calculations made under this chapter and are not part of the total cost components  
28 of essential programs and services.

29 **Sec. C-5. 20-A MRSA §15903, sub-§3, ¶C**, as enacted by PL 1981, c. 693, §§5  
30 and 8 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

31 C. The Department of Health and Human Services; and

32 **Sec. C-6. 20-A MRSA §15903, sub-§3, ¶D**, as enacted by PL 1981, c. 693, §§5  
33 and 8, is amended to read:

34 D. The State Fire Marshal; and

35 **Sec. C-7. 20-A MRSA §15903, sub-§3, ¶E** is enacted to read:

36 **E. Efficiency Maine as established under Title 35-A, chapter 97.**

37 **Sec. C-8. 20-A MRSA §15908-A**, as amended by PL 2007, c. 578, §1, is further  
38 amended to read:

1       **§15908-A. School energy efficiency standards and distributed renewable energy**  
2       **technology rules**

3       **1. Definitions.** For purposes of this section, "substantially renovated" means ~~any a~~  
4       renovation for which the cost exceeds 50% 20% of the building's current value prior to  
5       renovation, "green design building standard" has the same meaning as in Title 5, section  
6       1764-A and "distributed renewable energy technology" has the same meaning as in Title  
7       35-A, section 102, subsection 4-A.

8       **2. Rules.** The state board, in consultation with the Department of Administrative  
9       and Financial Services and the Public Utilities Commission, shall by rule require as a  
10      condition for state funding for construction that, except as provided in subsection 4, all  
11      planning and design for new or substantially renovated schools or school buildings  
12      subject to state board approval:

13       A. Involve consideration of architectural designs and energy systems, including  
14       distributed renewable energy technology and load management systems, that show  
15       the greatest net benefit over the life of the building by minimizing long-term energy  
16       and operating costs;

17       B. Include an energy-use target that exceeds ~~by at least the greater of 20% above the~~  
18       energy efficiency standards in effect for commercial and institutional buildings  
19       pursuant to Title 10, ~~section 1415-D~~ chapter 1103 and the green design building  
20       standard most closely related to the building and project type; and

21       C. Include a life-cycle cost analysis that explicitly considers cost and benefits over a  
22       minimum of 30 years and that explicitly includes the public health and environmental  
23       benefits associated with energy-efficient building design and construction, to the  
24       extent they can be reasonably quantified.

25      The state board shall adopt rules pursuant to this section by July 1, 2004. Rules adopted  
26      pursuant to this section are routine technical rules as defined in Title 5, chapter 375,  
27      subchapter 2-A.

28       **3. Requirements for approval.** Except as provided in subsection 4, the state board  
29       shall withhold approval of a state-funded new or substantially renovated school or school  
30       building if the local school authority proposing the project can not show that it has duly  
31       considered the most energy-efficient and environmentally efficient designs suitable in  
32       accordance with rules adopted pursuant to this section and that the proposed construction  
33       project meets the standards described in subsection 2, paragraph B.

34       **4. Renovation of historic school buildings; waiver.** The state board may, in  
35       consultation with the Public Utilities Commission and the Executive Director of the State  
36       Historic Preservation Commission, grant a waiver from the requirements of this section  
37       on a case-by-case basis for instances of substantial renovation of a historic school  
38       building, insofar as it permits the project to meet the green design building standard for  
39       historic buildings rather than exceeding by 20% the energy efficiency standards in effect  
40       for commercial and institutional buildings pursuant to Title 10, chapter 1103. For the  
41       purposes of this subsection, "historic school building" means a school building that is on  
42       the National Register of Historic Places, eligible for nomination to the national register or  
43       designated as a historic building by a certified municipal historic preservation ordinance.

1 A. The state board shall grant a waiver request if, in the board's opinion, the local  
2 school authority proposing the renovation project has demonstrated that renovation of  
3 the historic school building would not compromise the public health and safety  
4 requirements of this chapter and that 2 or more of the following circumstances exist:

5 (1) Renovation of the historic school building is in substantial compliance with  
6 the energy efficiency standards required under this section as determined by the  
7 Public Utilities Commission;

8 (2) Renovation of the historic school building provides substantial energy  
9 efficiency as determined by the Public Utilities Commission and also provides  
10 education, social or environmental benefits as determined by the department over  
11 alternative proposals, including, but not limited to, any proposals to construct a  
12 new school on an alternative site; and

13 (3) Adherence to the energy building standards would result in irreparable  
14 damage to the historic character of a historic school building as determined by  
15 the Executive Director of the State Historic Preservation Commission.

16 B. An application for a waiver from the requirements of this section must be  
17 submitted to the state board in accordance with requirements established by the state  
18 board by rule pursuant to paragraph D. The waiver application must include  
19 documentation to substantiate the conditions of this subsection. If the request is  
20 denied, the state board shall communicate the reasons for denying the request to the  
21 applicant.

22 C. The state board shall render a decision on an application for a waiver from the  
23 requirements of this section within 60 days of the receipt by the state board of a  
24 complete application for a waiver. In rendering a decision, the state board may place  
25 conditions upon the granting of a waiver. Failure on the part of the state board to  
26 render a decision within the 60-day period constitutes approval of the request for the  
27 waiver.

28 D. The state board shall adopt or amend rules to implement the requirements of this  
29 subsection. Rules adopted under this paragraph are routine technical rules as defined  
30 in Title 5, chapter 375, subchapter 2-A.

31 **Sec. C-9. 20-A MRSA §15915**, as amended by PL 2005, c. 499, §1, is further  
32 amended to read:

33 **§15915. Energy service companies and 3rd-party financing**

34 **1. Initial agreement.** Any school administrative unit may enter into an agreement of  
35 up to ~~15~~ 20 years with a private party, such as an energy service or 3rd-party financing  
36 company, for the design, installation, operation, maintenance and financing of energy  
37 conservation, distributed renewable energy technology, effective load management or  
38 combined energy conservation and air quality improvements at existing school  
39 administrative unit facilities. For purposes of this section, "distributed renewable energy  
40 technology" has the same meaning as in Title 35-A, section 102, subsection 4-A. The  
41 school administrative unit's costs to enter into such an agreement are not applicable to the  
42 unit's school construction project costs, the debt service on which is eligible for subsidy

1 purposes under section 15907. Such an agreement is deemed to be a professional service,  
2 which is not subject to the competitive bidding requirements of Title 5, section 1743-A, if  
3 the agreement:

4 A. Provides for operation or maintenance of the improvement for at least 5 years or  
5 the entire term of the financing agreement if longer than 5 years;

6 B. Requires a guaranty by the contractor that the improvement will meet  
7 performance criteria set forth in the agreement for at least 5 years or for the entire  
8 term of the financing agreement if longer than 5 years; and

9 C. Has a total contract cost, excluding interest and operating and maintenance costs,  
10 of less than \$2,000,000 for any school building, except that this limit may be  
11 exceeded if all risk that the project's costs will exceed its benefits is borne by an  
12 entity other than the school administrative unit.

13 A school administrative unit may select contractors for these professional services on the  
14 basis of a request for qualifications or a request for proposals and it is not required to use  
15 a competitive method set forth in this chapter and Title 5, section 1743-A and Private and  
16 Special Law 1999, chapter 79. The selection process must include at a minimum a  
17 request for qualifications or a request for proposals that is advertised in a newspaper of  
18 general circulation in the school administrative unit and a newspaper of general  
19 circulation in the City of Augusta. The school administrative unit shall interview not  
20 fewer than 3 service providers unless a smaller number of service providers responds to  
21 the request for qualifications or requests for proposals. The performance criteria in the  
22 agreement is subject to approval by the Department of Administrative and Financial  
23 Services, Bureau of General Services. A request for qualifications or proposals may not  
24 contain terms that require service providers to have more than 3 years of experience in  
25 the energy conservation field or the use of equipment that is not generally available to  
26 service providers or terms that are otherwise included for the purpose of bias or  
27 favoritism toward a particular service provider. Objections to the terms of a request for  
28 qualifications or proposals under this subsection are deemed waived if not delivered in  
29 writing to the office of the superintendent of schools in that school administrative unit  
30 within 21 days of the last publication of the newspaper advertisement. The school  
31 administrative unit may seek technical and other assistance from Efficiency Maine under  
32 Title 35-A, chapter 97 in this process.

33 **2. Future operation.** Any school administrative unit, at the termination of the  
34 agreement with the private party pursuant to this section, may acquire, operate and  
35 maintain the improvement, may renew the agreement with the private party or may make  
36 an agreement with another private party to operate and maintain the improvement.

## 37 PART D

38 **Sec. D-1. 26 MRSA c. 25, sub-c. 6 is enacted to read:**

## 39 SUBCHAPTER 6

# GREEN ENERGY JOB GROWTH INITIATIVE

## §2041. Green Energy Job Growth Fund

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

A. "Career ladder" means an identified series of positions, work experiences and educational benchmarks or credentials that offer occupational and financial advancement within a specified career field or related fields over time.

B. "Department" means the Department of Labor.

C. "Fund" means the Green Energy Job Growth Fund established in subsection 2, paragraph A.

D. "Green energy economy" means the portion of the economy relating to energy efficiency, energy demand reduction, peak load reduction and renewable energy as these factors relate to building, facility, appliance and related consumption of energy, but not as they relate to transportation.

E. "Industry cluster" means a concentration of interconnected businesses, suppliers, service providers and associated institutions in a particular field that are linked by common workforce needs.

F. "Industry or sector partnership" means a green energy economy workforce collaborative as established under subsection 7.

G. "Target populations" means:

(1) Entry-level or incumbent workers in high-demand green energy economy industries as established pursuant to subsection 5 who are in, or are preparing for, high-wage occupations;

(2) Dislocated workers in declining industries who can be retrained for high-wage occupations in high-demand green energy economy industries;

(3) Dislocated agriculture, timber or energy sector workers who can be retrained for high-wage occupations in high-demand green energy economy industries;

(4) Veterans or Maine National Guard members;

(5) Disadvantaged populations as determined by the department; or

(6) Persons eligible to participate in the Competitive Skills Scholarship Program under section 2033.

H. "Workforce intermediary" means an entity that proactively addresses workforce needs in an industry and improves regional competitiveness by working with and considering the needs of employers, workers, job seekers and other stakeholders, with a focus on developing career ladders, education and training services and related support services to help low-income workers enter higher-wage and skilled jobs in the industry.

1. **2. Initiative and fund established.** The department shall establish and administer a  
2. comprehensive green energy economy industry and workforce development program  
3. called the Green Energy Job Growth Initiative, with the goal of increasing by 2019 the  
4. number of green energy economy jobs in this State to at least 20,000 more than existed in  
5. the State as of 2008, as determined by the department.

6. A. The Green Energy Job Growth Fund is established as a nonlapsing fund in the  
7. department to be used for the purposes of this section. The fund receives funds from  
8. the sale of efficiency credits pursuant to Title 35-A, section 10009 and may receive  
9. any other funds appropriated or allocated to the fund as well as any other funds  
10. accepted by the department for deposit in the fund. Unexpended balances in the fund  
11. at the end of a fiscal year may not lapse, but are carried forward to the next fiscal year  
12. to be used for the same purposes. All funds appropriated, allocated or otherwise  
13. directed to the fund must be deposited in the fund.

14. B. Except as otherwise provided by law, the department is the designated state  
15. agency to receive and administer federal funds for workforce development in green  
16. energy economy industries and any federal funds received for that purpose must be  
17. deposited in the fund.

18. **3. Development of terminology.** The department, in consultation with stakeholders,  
19. including the board of Efficiency Maine, the Department of Economic and Community  
20. Development, the Executive Department, State Planning Office, the Maine Jobs Council,  
21. leaders of the State's career and technical educational system, the Maine Community  
22. College System, the University of Maine System, the Maine Technology Institute, the  
23. Public Utilities Commission, the Maine State Housing Authority, business leaders and  
24. industry associations and organizations in green energy economy industries,  
25. representatives of labor organizations in the building trades, nonprofit organizations that  
26. focus on environmental issues and workforce development and governmental and  
27. nonprofit entities that focus on economic development issues, shall develop and maintain  
28. a list of defined terms, consistent with current workforce and economic development  
29. terms, associated with green energy economy industries and jobs.

30. **4. Labor market, workforce and industry analysis.** The department shall:

31. A. In consultation with the stakeholders listed in subsection 3, conduct ongoing labor  
32. market research to analyze the current labor market and projected job growth in the  
33. green energy economy, the current and projected recruitment and skill requirement of  
34. green energy economy industry employers, the wage and benefits ranges of jobs  
35. within green energy economy industries and the education and training requirements  
36. of entry-level and incumbent workers in those industries; and

37. B. In consultation with the stakeholders listed in subsection 3, the Department of  
38. Professional and Financial Regulation and any relevant boards established pursuant  
39. to Title 5, section 12004-A and pursuant to the analysis under paragraph A, develop  
40. findings and recommendations regarding comprehensive career ladders for the jobs  
41. identified in that analysis, and make findings and provide recommendations to  
42. appropriate agencies or entities regarding measures to support and facilitate the  
43. movement of workers up those career ladders, including but not limited to  
44. recommendations for appropriate curricula for and linkages between relevant State

1 programs, revisions to building trades curricula to integrate skills related to the green  
2 energy economy, establishment of skill certifications for incumbent workers,  
3 revisions to licensing standards, changes to the responsibilities of boards established  
4 under Title 5, section 12004-A and creation of additional boards pursuant to Title 5,  
5 section 12015.

6 (1) In developing its recommendations, the department shall include  
7 consideration of those skills related to best environmental practices beyond those  
8 directly related to the green energy economy.

9 (2) Except where it does not serve the public interest to do so, the department  
10 shall use nationally recognized standards and certifications.

11 (3) The department shall submit recommendations for regulation of professional  
12 or occupational groups to the Department of Professional and Financial  
13 Regulation pursuant to Title 32, section 60-J that give due consideration to the  
14 urgency of achieving the goal of reducing the State's energy costs and reliance on  
15 fossil fuels and the importance of high-quality work and universally recognized  
16 qualifications in maximizing progress toward this goal.

17 (4) In performing its duties under this paragraph, the department shall prioritize  
18 occupations related to the audit of energy efficiency, including but not limited to  
19 energy auditors, and occupations related to installation of distributed renewable  
20 energy technology, including but not limited to solar thermal system installers.  
21 For purposes of this paragraph, "distributed renewable energy technology" has  
22 the same meaning as in Title 35-A, section 102, subsection 4-A.

23 **5. Designation of high-demand industries.** Based on the findings under subsection  
24 4, the department, in consultation with the stakeholders listed in subsection 3 and taking  
25 into account the requirements and goals of this section and other state clean energy and  
26 energy efficiency policies, shall propose which industries will be considered high-  
27 demand green energy economy industries based on current and projected job creation and  
28 strategic importance to the development of the State's green energy economy. The  
29 department shall take into account which jobs within green energy economy industries  
30 will be considered high-wage occupations and occupations that are part of career ladders  
31 to high-wage occupations, based on family-sustaining wage and benefits ranges as  
32 determined by the department. The department shall provide its findings and proposals as  
33 well as the results of the department's broader labor market research under subsection 4 to  
34 the Maine Jobs Council, the State's career and technical educational centers, the Maine  
35 Community College System and the University of Maine System, and all these entities as  
36 well as the department shall use this information in making planning and strategic  
37 decisions.

38 **6. Identification of emerging technologies and innovations.** The Department of  
39 Economic and Community Development, in consultation with the stakeholders described  
40 in subsection 3, shall identify emerging technologies and innovations that are likely to  
41 contribute to advancements in the green energy economy and, consistent with any other  
42 requirements of law, shall:

1 A. Develop targeting criteria for existing investments and develop recommendations  
2 for comprehensive strategies to recruit, retain and expand green energy economy  
3 industries and small businesses; and

4 B. Develop recommendations for comprehensive strategies to stimulate research and  
5 development of green energy technology and innovation.

6 The Department of Economic and Community Development shall annually, by January  
7 15th, provide a report of its recommendations to the Governor and to the joint standing  
8 committee of the Legislature having jurisdiction over business and economic  
9 development matters.

10 7. Industry or sector partnerships. The Maine Jobs Council shall create and  
11 oversee industry or sector partnerships.

12 A. An industry or sector partnership:

13 (1) Organizes key stakeholders in a targeted industry cluster into a working  
14 group that focuses on the human capital needs of a targeted industry cluster and  
15 that includes, at the appropriate stage of development of the partnership:

16 (a) Representatives of multiple firms or employers, including workers, in a  
17 targeted industry cluster, including small and medium employers when  
18 practicable;

19 (b) One or more representatives of state labor organizations or central labor  
20 councils;

21 (c) One or more representatives of local workforce investment boards;

22 (d) One or more representatives of training providers, including at least one  
23 representing postsecondary educational institutions and one representing  
24 secondary educational institutions and adult educational institutions,  
25 preferably from the career and technical education system; and

26 (e) One or more representatives of state workforce agencies or other entities  
27 providing employment services; and

28 (2) May include representatives of:

29 (a) State Government or local government, including, but not limited to,  
30 state or local economic development agencies or other state or local agencies;

31 (b) Chambers of commerce;

32 (c) Nonprofit organizations;

33 (d) Industry associations; and

34 (e) Other organizations, as determined necessary by the other members  
35 comprising the industry or sector partnership.

36 B. A stakeholder within an industry or sector partnership is eligible to receive grants  
37 from the fund under this section and may serve as workforce intermediary, convene  
38 and lead the partnership and serve as the fiscal agent to administer the grant. Industry  
39 or sector partnership applicants must provide to the Maine Jobs Council labor market

1 and industry analysis that demonstrates high demand, or demand of strategic  
2 importance to the development of the State's green energy economy, for high-wage  
3 occupations, or occupations that are part of career ladders to high-wage occupations,  
4 within the relevant industry sector. An approved industry or sector partnership shall:

5 (1) Conduct labor market and industry analysis, in consultation with the  
6 department, drawing on the findings of the department's research when available;

7 (2) Plan strategies to meet the recruitment and training needs of the industry and  
8 small businesses; and

9 (3) Leverage and align other public and private funding sources.  
10 Notwithstanding section 2006, subsection 5-A, paragraph I, the department and  
11 the Maine Jobs Council shall work with the State's career and technical education  
12 centers and labor affiliates administering state-approved, joint apprenticeship  
13 programs or labor-management partnership programs that train workers to  
14 provide appropriate education and training below the associate degree level,  
15 particularly within the building trades.

16 **8. Expenditures from fund.** The department may use funds in the fund solely to  
17 carry out the purposes of this section.

18 A. Except as provided in this paragraph, the department may award no more than  
19 20% of the funds received pursuant to Title 35-A, section 10009 in the form of  
20 planning, implementation, renewal and other grants under this paragraph. The  
21 awards must be made on a competitive bid basis. The department may make awards  
22 in excess of this ceiling if the department determines that doing so will leverage  
23 substantial additional public or private funds. The department may exceed the limits  
24 established on individual grants under subparagraphs (1), (2), (3) and (6) if the  
25 department determines that doing so will leverage substantial additional public or  
26 private funds. The department may make grants under this paragraph only if the  
27 department determines that other public or private funds are insufficient or  
28 unavailable for the purpose. The department shall ensure that all grants made under  
29 this paragraph are fully expended or obligated to be expended by the last day of the  
30 grant period and that any money that is unexpended by the last day of the grant  
31 period is returned to the fund.

32 (1) The department may award a planning grant of up to \$25,000 for a grant  
33 period of up to one year to a newly formed industry or sector partnership that has  
34 not previously received a grant under this section.

35 (2) The department may award an implementation grant of up to \$500,000 for a  
36 grant period of 3 years or up to \$167,000 per year for a shorter grant period to an  
37 industry or sector partnership that has received a planning grant under this section  
38 or to an established industry or sector partnership.

39 (3) The department may award a renewal grant of up to \$225,000 for a grant  
40 period of 3 years or up to \$75,000 per year for a shorter grant period to an  
41 industry or sector partnership that has received an implementation grant under  
42 this section. The department shall prioritize renewal grants to industry or sector  
43 partnerships that can demonstrate long-term sustainability and shall, as a

1 condition of renewing the grant, require significantly increased leveraging of  
2 additional public and private funds by the partnership compared to the preceding  
3 year of the implementation grant.

4 (4) In order to qualify for a grant under this paragraph, an industry or sector  
5 partnership shall identify an industry cluster that could benefit from such a grant  
6 by:

7 (a) Working with businesses, industry associations and organizations, labor  
8 organizations, state boards, local boards, economic development agencies  
9 and other organizations that the industry or sector partnership determines  
10 necessary to identify an appropriate industry cluster based on criteria that  
11 include, at a minimum:

12 (i) Data showing the competitiveness of the industry cluster;

13 (ii) The importance of the industry cluster to the economic development  
14 of the area served by the industry or sector partnership;

15 (iii) The identification of supply and distribution chains within the  
16 industry cluster; and

17 (iv) Research studies on industry clusters; and

18 (b) Working with appropriate employment agencies, workforce investment  
19 boards, economic development agencies, community organizations and other  
20 organizations that the industry or sector partnership determines necessary to  
21 ensure that the industry cluster identified under division (a) should be  
22 targeted for investment, based primarily on the following criteria:

23 (i) Potential for job growth;

24 (ii) Competitiveness;

25 (iii) Employment base;

26 (iv) Wages and benefits;

27 (v) Demonstrated importance of the industry cluster to the local  
28 economy and to the green energy economy; and

29 (vi) Workforce development needs.

30 (5) An industry or sector partnership seeking a grant under this paragraph shall  
31 submit an application to the department at such time, in such manner and  
32 containing such information as the department may require, including, at a  
33 minimum:

34 (a) A description of the industry or sector partnership, evidence of its  
35 capacity to carry out activities in support of the strategic objectives identified  
36 in the application under division (d) and a description of the expected  
37 participation and responsibilities of each of the stakeholders in subsection 7,  
38 paragraph A, subparagraph (1);

39 (b) A description of the industry cluster for which the industry or sector  
40 partnership intends to carry out activities through a grant under this section

1 and a description of how the industry cluster was identified in accordance  
2 with subparagraph (4);

3 (c) A description of the workers who will be recruited by the industry or  
4 sector partnership, including an analysis of the existing labor market, a  
5 description of potential barriers to employment for workers and a description  
6 of strategies that will be employed to help workers overcome such barriers;

7 (d) A description of the strategic objectives that the industry or sector  
8 partnership intends to carry out for the industry cluster, which must include:

9 (i) Recruiting key stakeholders in the industry cluster, such as businesses  
10 and employers, labor organizations, industry associations, local and state  
11 workforce investment boards and education and training providers, and  
12 regularly convening the stakeholders in a collaborative structure that  
13 supports the sharing of information, ideas and challenges common to the  
14 industry cluster;

15 (ii) Identifying the training needs of multiple businesses, especially  
16 skills critical to competitiveness and innovation in the industry cluster;

17 (iii) Facilitating economies of scale by aggregating training and  
18 education for multiple employers;

19 (iv) Helping secondary, adult, vocational and postsecondary educational  
20 institutions and training institutions align curricula and programs to  
21 industry demand, particularly for higher skill, high-priority occupations  
22 identified for the industry cluster;

23 (v) Ensuring coordination with the department so that the department  
24 informs recipients of unemployment insurance and trade adjustment  
25 assistance under the federal Trade Act of 1974, 19 United States Code,  
26 Section 2101 et seq. of the job and training opportunities that may result  
27 from the implementation of this grant;

28 (vi) Informing and collaborating with organizations such as youth  
29 councils, business-education partnerships, apprenticeship programs,  
30 secondary schools and postsecondary educational institutions and with  
31 parents and career counselors for the purpose of addressing the  
32 challenges of connecting disadvantaged adults and youth to careers;

33 (vii) Helping companies to identify and work together to address  
34 common organizational and human resource challenges, such as  
35 recruiting new workers, implementing effective workplace practices,  
36 retaining dislocated and incumbent workers, implementing a high-  
37 performance work organization, recruiting and retaining women in  
38 nontraditional occupations, adopting new technologies and fostering on-  
39 the-job learning;

40 (viii) Developing and strengthening career ladders within and across  
41 companies and in cooperation with any labor organizations representing  
42 employees engaged in similar work in the industry cluster in order to

1 enable dislocated, incumbent and entry-level workers to improve skills  
2 and advance to higher-wage jobs;

3 (ix) Improving job quality through improving wages, benefits and  
4 working conditions;

5 (x) Helping companies in industry or sector partnerships to attract  
6 potential employees from a diverse base, including individuals with  
7 barriers to employment, such as economically disadvantaged individuals,  
8 youth, older workers and individuals who have completed a term of  
9 imprisonment, by identifying barriers through analysis of the existing  
10 labor market and implementing strategies to help workers overcome such  
11 barriers; and

12 (xi) Strengthening connections among businesses in the industry cluster,  
13 leading to cooperation beyond workforce issues to improve  
14 competitiveness and job quality, such as joint purchasing and market  
15 research;

16 (e) A description of the manner in which the eligible entity intends to make  
17 sustainable progress toward the strategic objectives described in division (d);

18 (f) Performance measures, with quantifiable benchmarks, for measuring  
19 progress toward the strategic objectives. Such measures must consider, at a  
20 minimum, the benefits provided by the grant activities funded under this  
21 section for:

22 (i) Workers employed in the industry cluster, disaggregated by gender  
23 and race, including the number of workers receiving portable industry-  
24 recognized credentials; the number of workers with increased wages, the  
25 percentage of workers with increased wages, and the average wage  
26 increase; and, for dislocated or nonincumbent workers, the number of  
27 workers placed in sector-related jobs; and

28 (ii) Firms and industries in the industry cluster, including the creation or  
29 updating of an industry plan to meet current and future workforce  
30 demand; the creation or updating of published industry-wide skill  
31 standards or career ladders; the creation or updating of portable, industry-  
32 recognized credentials, or where there is not such a credential, the  
33 creation or updating of a training curriculum that can lead to the  
34 development of such a credential; in the case of an eligible entity that is  
35 an industry or sector partnership, the number of firms, and the percentage  
36 of the local industry, participating in the industry or sector partnership;  
37 and the number of firms, and the percentage of the local industry,  
38 receiving workers or services through the grant funded under this section;

39 (g) A timeline for achieving progress toward the strategic objectives; and

40 (h) In the case of an industry or sector partnership desiring an  
41 implementation grant under this section, an assurance that the industry or  
42 sector partnership will leverage other funding sources to provide training or  
43 support services to workers under the grant program.

1           (6) The department may award one-time grants of up to \$10,000 to entities  
2           eligible under this paragraph for the purposes of curriculum development,  
3           development of transitional jobs strategies for dislocated workers in declining  
4           industries who may be retrained for high-wage occupations in green energy  
5           economy industries, workforce education to target populations and adult basic  
6           and remedial education linked to occupation skills training, to the extent the  
7           department determines such purposes are better achieved through making such  
8           grants than through planning, implementation and renewal grants made under  
9           subparagraph (1), (2) or (3).

10           (a) A recipient of a grant under this subparagraph may be any organization  
11           that has demonstrated expertise in:

12                   (i) Implementing effective education and training programs that meet  
13                   industry demand; and

14                   (ii) Recruiting and supporting workers from the target populations.

15           (b) In awarding grants under this paragraph, the department shall give  
16           priority to applicants that demonstrate the ability to:

17                   (i) Use labor market and industry analysis developed by the department  
18                   and by industry or sector partnerships in the design and delivery of the  
19                   relevant education and training programs and otherwise use strategies  
20                   developed by industry or sector partnerships;

21                   (ii) Leverage and align existing public programs and resources and  
22                   private resources toward the goal of recruiting, supporting, educating and  
23                   training workers from the target populations;

24                   (iii) Work collaboratively with other relevant stakeholders in the  
25                   regional economy;

26                   (iv) Link adult basic and remedial education, where necessary, with  
27                   occupation skills training;

28                   (v) Involve employers and labor unions in the determination of relevant  
29                   skills and competencies and, where relevant, the identification of career  
30                   ladders; and

31                   (vi) Ensure that support services, where necessary, are integrated with  
32                   education and training and are delivered by organizations with direct  
33                   access to and experience with the target population of workers.

34           B. In 2009, 2010 and 2011, the department may expend up to 10% of the funds  
35           received pursuant to Title 35-A, section 10009 for the administrative costs of  
36           performing duties outlined in this section and to support performance by the  
37           Department of Economic and Community Development of its duties under this  
38           section. In 2012 and thereafter, the department may expend up to 2% of the funds  
39           received pursuant to Title 35-A, section 10009 for administrative costs under this  
40           section.

41           C. The department shall expend funds received pursuant to Title 35-A, section 10009  
42           and not expended under paragraph A or B to provide direct support to individuals

1 pursuing education and training in accordance with the goals of this section. The  
2 department shall apply the funds through the Competitive Skills Scholarship Program  
3 under section 2033 and rules adopted under that section and may transfer funds to the  
4 Competitive Skills Scholarship Fund. The department shall adopt or amend rules  
5 under section 2033 to ensure the use of such funds is consistent with the purposes of  
6 this section.

7 D. The department shall apply funds in the fund received from sources other than  
8 pursuant to Title 35-A, section 10009 in accordance with any applicable requirements  
9 or limitations placed on the use of such funds. In the absence of any contrary  
10 requirements, the department shall apply the funds in the same manner as prescribed  
11 in this subsection for funds received pursuant to Title 35-A, section 10009, and may  
12 expend up to 20% on grants in accordance with paragraph A, up to 2% on  
13 administrative costs pursuant to paragraph B and the remainder on direct support to  
14 individuals pursuing education and training pursuant to paragraph C.

15 **Sec. D-2. Department of Labor recommendations.** The Department of  
16 Labor, in consultation with the stakeholders listed in the Maine Revised Statutes, Title 26,  
17 section 2041, subsection 3, shall make recommendations to the Department of  
18 Professional and Financial Regulation for the report that the Department of Professional  
19 and Financial Regulation is required to prepare pursuant to Resolves 2007, chapter 219.

## 20 PART E

21 **Sec. E-1. 30-A MRSA §703, sub-§2,** as enacted by PL 1987, c. 737, Pt. A, §2  
22 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is  
23 further amended to read:

24 **2. State.** Counties may apply for and accept and expend state grants for any purpose  
25 for which state grants are available to counties, either directly or through a state agency  
26 and may seek assistance from Efficiency Maine pursuant to Title 35-A, chapter 97.

27 **Sec. E-2. 30-A MRSA §903, sub-§1,** as enacted by PL 1987, c. 737, Pt. A, §2  
28 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is  
29 further amended to read:

30 **1. Agreement with energy service and 3rd-party financing companies.** County  
31 commissioners may enter into an agreement with a private party, such as an energy  
32 service or 3rd-party financing company, for the design, installation, operation,  
33 maintenance and financing of energy conservation, distributed renewable energy  
34 technology, effective load management or combined energy conservation and air quality  
35 improvements at county facilities. County commissioners may seek assistance from  
36 Efficiency Maine under Title 35-A, chapter 97 for the purposes of this section. For  
37 purposes of this subsection, "distributed renewable energy technology" has the same  
38 meaning as in Title 35-A, section 102, subsection 4-A.

39 **Sec. E-3. 30-A MRSA §903-B** is enacted to read:

1 **§903-B. Improvement of energy efficiency and usage of distributed renewable**  
2 **energy technology in construction of county buildings**

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

5 A. "Distributed renewable energy technology" has the same meaning as in Title  
6 35-A, section 102, subsection 4-A.

7 B. "Green design building standard" has the same meaning as in Title 5, section  
8 1764-A.

9 C. "Substantially renovated" means a renovation for which the cost exceeds 20% of  
10 the building's current value prior to renovation.

11 **2. Planning and design.** A county shall require that all planning and design for the  
12 construction of new or substantially renovated county-owned or county-leased buildings  
13 and buildings built or substantially renovated with county funds, including buildings  
14 funded through county bonds or the Maine Municipal Bond Bank:

15 A. Involve consideration of architectural designs and energy systems, including  
16 distributed renewable energy technology and load management systems, that show  
17 the greatest net benefit over the life of the building by minimizing long-term energy  
18 and operating costs;

19 B. Include an energy-use target that exceeds the greater of 20% above the energy  
20 efficiency standards in effect for commercial and institutional buildings pursuant to  
21 Title 10, chapter 1103 and the green design building standard most closely related to  
22 the building and project type. This paragraph applies only if the life-cycle cost of  
23 meeting the requirements of this paragraph does not exceed the life-cycle cost of a  
24 reasonable alternative design that is less environmentally efficient; and

25 C. Include a life-cycle cost analysis that explicitly considers cost and benefits over a  
26 minimum of 30 years and that explicitly includes the public health and environmental  
27 benefits associated with energy-efficient building design and construction, to the  
28 extent they can be reasonably quantified.

29 This subsection does not apply to buildings that the county determines will have little or  
30 no energy usage, such as unheated sheds or warehouses.

31 **3. Approval.** A county may not approve the construction of a new or substantially  
32 renovated county-owned or county-leased building or of a building built or substantially  
33 renovated with county funds, including a building funded through county bonds or the  
34 Maine Municipal Bond Bank, unless the county agency or other entity or organization  
35 proposing the construction demonstrates that it has duly considered the most energy-  
36 efficient and environmentally efficient designs suitable in accordance with this section  
37 and that the proposed construction project meets the standards described in subsection 2,  
38 paragraph B.

39 **4. State funding.** Nothing in this section requires a county to construct or renovate  
40 any building. To the extent that any provision of this section requires a county to expand  
41 or modify its activities so as to necessitate additional expenditures from local revenues,

1 the county is not required to comply with that provision unless the State provides  
2 annually at least 90% of the funding for those additional expenditures. If the State or a  
3 state agency, including but not limited to Efficiency Maine as established in Title 35-A,  
4 chapter 97, provides funding to assist a county in achieving the purposes of this section,  
5 the State or state agency may condition its funding on agreement by the county to repay  
6 that funding from a portion of the long-term energy savings resulting from meeting the  
7 requirements of this section.

## 8 PART F

9 **Sec. F-1. 30-A MRSA §4741, sub-§15**, as amended by PL 1991, c. 871, §2, is  
10 further amended to read:

11 **15. State weatherization, conservation and fuel assistance agency.** The Maine  
12 State Housing Authority is designated the weatherization, energy conservation and fuel  
13 assistance agency for the State and may apply for, receive, distribute and administer  
14 federal funds on behalf of the State for weatherization, energy conservation and fuel  
15 assistance pursuant to the Weatherization Assistance for Low-income Persons Program  
16 administered through the United States Department of Energy and the Low-income Home  
17 Energy Assistance Program administered through the United States Department of Health  
18 and Human Services in accordance with rules adopted under the Maine Administrative  
19 Procedure Act. The Maine State Housing Authority shall comply with the requirements  
20 of Title 35-A, chapter 97, subchapter 2 in carrying out its duties under this subsection;

21 **Sec. F-2. 30-A MRSA §4748** is enacted to read:

### 22 **§4748. Efficiency standards**

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

25 A. "Distributed renewable energy technology" has the same meaning as in Title  
26 35-A, section 102, subsection 4-A.

27 B. "Green design building standard" has the same meaning as in Title 5, section  
28 1764-A as applied to the relevant class of building.

29 C. "Low-income rental housing" means residential housing projects in which any of  
30 the units are subject to federal or state income eligibility restrictions and the rents  
31 within the projects are controlled, regulated or assisted by a federal or state agency  
32 pursuant to a regulatory or rental assistance agreement.

33 **2. New construction.** Low-income rental housing constructed after the effective  
34 date of this section must meet the green design building standard.

35 **3. Existing buildings.** By December 31, 2018, all low-income rental housing must  
36 meet the green design building standard for existing buildings. The Maine State Housing  
37 Authority may exempt a building from this requirement if the owner demonstrates that  
38 the Maine State Housing Authority, Efficiency Maine, as established in Title 35-A,  
39 chapter 97, or any other entity has not provided adequate assistance to allow the building  
40 to meet the standard without decreasing the building's economic viability for the owner

1 and any investors and, in the case of for-profit low-income rental housing, its  
2 profitability, and that, from the perspective of the owner and any investors, no reasonable  
3 option exists to make the project as cost-effective and, in the case of for-profit  
4 developments, as profitable as it would be if it did not meet that standard.

5 To the extent that any provision of this subsection requires a local unit of government to  
6 expand or modify its activities so as to necessitate additional expenditures from local  
7 revenues, the local unit of government is not required to comply with that provision  
8 unless the State provides annually at least 90% of the funding for those additional  
9 expenditures. If the State or a state agency, including but not limited to Efficiency  
10 Maine, provides funding to assist a local unit of government in achieving the purposes of  
11 this subsection, the State or state agency may condition its funding on agreement by the  
12 local unit of government to repay that funding from a portion of the long-term energy  
13 savings resulting from meeting the requirements of this subsection.

14 **4. Rental assistance programs.** After the effective date of this section, to the extent  
15 permitted by federal law, a housing authority shall condition a landlord's participation in  
16 the Housing Choice Voucher program administered by the United States Department of  
17 Housing and Urban Development, and the Department of Health and Human Services  
18 shall condition a landlord's participation in the bridging rental assistance program, on the  
19 landlord's:

20 A. Permitting an evaluation, conducted or approved and funded by Efficiency Maine,  
21 as established in Title 35-A, chapter 97, or the Maine State Housing Authority or, at  
22 the landlord's election, funded by other means and approved by the Maine State  
23 Housing Authority, of all energy efficiency, load reduction and distributed renewable  
24 energy technology measures that could be adopted or installed by the landlord and  
25 that have a payback period of 15 years or less; and

26 B. Adopting or installing those measures identified pursuant to paragraph A, to the  
27 extent such adoption or installation does not entail any encumbrance of the property  
28 or debt for the landlord, or otherwise undermine the building's profitability or  
29 suitability for the landlord's intended purposes.

30 **Sec. F-3. 30-A MRSA §4991, first ¶,** as enacted by PL 1991, c. 622, Pt. J, §23  
31 and affected by §25, is amended to read:

32 The Maine State Housing Authority shall administer a fuel assistance program as  
33 provided in this subchapter and, pursuant to Title 35-A, chapter 97, shall, in consultation  
34 with Efficiency Maine, apply for a waiver of the cap on federal Low-income Home  
35 Energy Assistance Program funds that can be used for heat demand reduction. As used in  
36 this subchapter, unless the context otherwise indicates, the following terms have the  
37 following meanings.

38 **Sec. F-4. 30-A MRSA §4992, sub-§4,** as enacted by PL 1991, c. 622, Pt. J, §23  
39 and affected by §25, is amended to read:

40 **4. Availability standards.** Standards requiring local program operators and  
41 administrators to be available to the general public for a minimum specified period of  
42 time each week; and

**Sec. F-5. 30-A MRSA §4992, sub-§5**, as enacted by PL 1991, c. 622, Pt. J, §23 and affected by §25, is amended to read:

**5. Expeditious provision of assistance standards.** Standards that ensure that qualified program recipients are expeditiously provided with assistance by the local program operator or administrator; and

**Sec. F-6. 30-A MRSA §4992, sub-§6 is enacted to read:**

**6. Compliance with Efficiency Maine.** Standards that ensure compliance with the provisions of Title 35-A, chapter 97.

## PART G

**Sec. G-1. 30-A MRSA c. 187, sub-c. 4-A is enacted to read:**

## SUBCHAPTER 4-A

## PUBLIC BUILDINGS

**\$4421. Improvement of energy efficiency and usage of distributed renewable energy technology in construction of municipal buildings**

**1. Limitations on home rule authority:** This subchapter provides express limitations on municipal home rule authority.

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

A. "Distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

B. "Green design building standard" has the same meaning as in Title 5, section 1764-A.

C. "Substantially renovated" means any renovation for which the cost exceeds 20% of the building's current value prior to renovation.

**3. Planning and design.** A municipality shall require that all planning and design for the construction of new or substantially renovated municipally owned or municipally leased buildings and buildings built or substantially renovated with municipal funds, including buildings funded through municipal bonds or the Maine Municipal Bond Bank:

A. Involve consideration of architectural designs and energy systems, including distributed renewable energy technology and load management systems, that show the greatest net benefit over the life of the building by minimizing long-term energy and operating costs;

B. Include an energy-use target that exceeds the greater of 20% above the energy efficiency standards in effect for commercial and institutional buildings pursuant to Title 10, chapter 1103 and the green design building standard most closely related to

1       the building and project type. This paragraph applies only if the life-cycle cost of  
2       meeting the requirements of this paragraph does not exceed the life-cycle cost of a  
3       reasonable alternative design that is less environmentally efficient; and

4       C. Include a life-cycle cost analysis that explicitly considers cost and benefits over a  
5       minimum of 30 years and that explicitly includes the public health and environmental  
6       benefits associated with energy-efficient building design and construction, to the  
7       extent they can be reasonably quantified.

8       This subsection does not apply to buildings that the municipality determines will have  
9       little or no energy usage, such as unheated sheds or warehouses.

10       **4. Approval.** A municipality may not approve the construction of a new or  
11       substantially renovated municipally owned or municipally leased building or of a  
12       building built or substantially renovated with municipal funds, including a building  
13       funded through municipal bonds or the Maine Municipal Bond Bank, unless the  
14       requirements of subsection 3 are met.

15       **5. State funding.** Nothing in this section requires a local unit of government to  
16       construct or renovate any building. To the extent that any provision of this section  
17       requires a local unit of government to expand or modify its activities so as to necessitate  
18       additional expenditures from local revenues, the local unit of government is not required  
19       to comply with that provision unless the State provides annually at least 90% of the  
20       funding for those additional expenditures. If the State or a state agency, including but not  
21       limited to Efficiency Maine, provides funding to assist a local unit of government in  
22       achieving the purposes of this section, the State or state agency may condition its funding  
23       on agreement by the local unit of government to repay that funding from a portion of the  
24       long-term energy savings resulting from meeting the requirements of this section.

25       **Sec. G-2. 30-A MRSA §5725, sub-§12,** as enacted by PL 1987, c. 737, Pt. A, §2  
26       and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is  
27       further amended to read:

28       **12. Youth commission.** Provide for a local youth commission; ~~and~~

29       **Sec. G-3. 30-A MRSA §5725, sub-§13,** as enacted by PL 1987, c. 737, Pt. A, §2  
30       and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is  
31       further amended to read:

32       **13. Anti-poverty community action program.** Assist and contribute to a  
33       community action program organized under the Federal Anti-Poverty Program; ~~and~~

34       **Sec. G-4. 30-A MRSA §5725, sub-§14** is enacted to read:

35       **14. Energy-related assistance.** Assist property owners and renters in lowering  
36       energy costs by increasing energy efficiency, adopting conservation and load  
37       management measures and installing distributed renewable energy technology. A  
38       municipality may make loans to the individual or entity making the improvements that  
39       are unsecured by any lien on the individual's or entity's property. A municipality may  
40       integrate collection of payments due with the collection of property tax on that property.

1 but any payments made under such an arrangement must first be applied to any unpaid  
2 property tax balance, and the municipality has no rights regarding the loan beyond those  
3 of an ordinary creditor. A municipality may partner with Efficiency Maine pursuant to  
4 Title 35-A, chapter 97 to administer any program pursuant to this subsection. For  
5 purposes of this subsection, "distributed renewable energy technology" has the same  
6 meaning as in Title 35-A, section 102, subsection 4-A.

## 7 **PART H**

8 **Sec. H-1. 30-A MRSA §5953-C**, as amended by PL 2007, c. 66, §1, is further  
9 amended to read:

### 10 **§5953-C. Loans for energy efficiency and distributed renewable energy technology** 11 **improvements in municipal and school buildings**

12 This section establishes a program to promote energy efficiency, increased use of  
13 distributed renewable energy technology, effective load management and indoor air  
14 quality in municipal and school buildings. As used in this section, "distributed renewable  
15 energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

16 **1. Efficiency Partners Program.** ~~The bank shall establish the Efficiency Partners~~  
17 ~~Program, referred to in this section as "the program," designed is established to reduce net~~  
18 ~~energy costs in municipal and school buildings and to create jobs by financing energy~~  
19 ~~audits and cost-effective improvements that accomplish energy efficiency, increased use~~  
20 ~~of distributed renewable energy technology and effective load management, while~~  
21 ~~maintaining healthful indoor air quality. The bank The program is administered as a~~  
22 ~~partnership between Efficiency Maine, as established in Title 35-A, chapter 97, and the~~  
23 ~~bank. The bank shall provide financial expertise and program capital and approve all~~  
24 ~~financial transactions under the program. Efficiency Maine shall administer other aspects~~  
25 ~~of the program relating to the application and use of distributed renewable energy~~  
26 ~~technology and effective load management measures. The specific division of~~  
27 ~~responsibilities and funding for administration of the program between the bank and~~  
28 ~~Efficiency Maine shall be established by written agreement between the entities on~~  
29 ~~commercially reasonable terms consistent with the requirements of this section and any~~  
30 ~~other applicable provision of law. Both entities shall ensure smooth integration of the~~  
31 ~~program with other programs and measures adopted by Efficiency Maine. Efficiency~~  
32 ~~Maine shall issue a request for proposals for energy audits of municipal and school~~  
33 ~~buildings and for energy savings that could be achieved through cost-effective usage of~~  
34 ~~distributed renewable energy technology and improvements to load management, heating~~  
35 ~~and cooling systems, windows, insulation, lighting and equipment in municipal and~~  
36 ~~school buildings. Identification of cost-effective improvements to achieve net energy~~  
37 ~~savings under the program must be based on a comprehensive energy audit that has been~~  
38 ~~performed within the previous 5 years by a professional engineer licensed in this State~~  
39 ~~who had no expectation at the time of the audit of receiving further compensation for~~  
40 ~~work related to implementing any recommendations made. An energy audit that is~~  
41 ~~financed under the program or is the basis for cost-effective energy efficiency~~  
42 ~~improvements financed under the program must address compliance with the model~~  
43 ~~building energy code Maine Uniform Building and Energy Code adopted by the Public~~

1 ~~Utilities Commission pursuant to Title 35-A, section 121~~ pursuant to Title 10, chapter  
2 1103.

3       **2. Access to the program.** Municipalities and school administrative units may have  
4 access to the program regardless of whether the municipality or school administrative unit  
5 utilizes a loan pursuant to this section to finance an energy audit or cost-effective energy  
6 efficiency improvements.

7       **3. Proposals; contracts.** ~~The bank~~ Efficiency Maine, as established in Title 35-A,  
8 chapter 97, shall solicit proposals from energy service companies and individual vendors  
9 of energy service products. Notwithstanding any provision of the law regarding bidding  
10 requirements, the bank and Efficiency Maine shall contract with an energy service  
11 company or companies or vendor or vendors to provide energy services in municipal and  
12 school buildings under the program. ~~Whenever the bid proposals received are~~  
13 ~~substantially equivalent, the bank shall in the contract process select an in-state energy~~  
14 ~~service company or vendor whose primary place of business is within this State. A~~  
15 contract must meet applicable requirements of Title 35-A, chapter 97 and may apportion  
16 forward capacity market payments administered by the regional transmission  
17 organization or other capacity payments among project partners. For public school  
18 projects, bid proposals for energy efficiency improvements must include plans and  
19 specifications that are adequate to permit review by the agencies listed under Title 20-A,  
20 section 15903, subsection 3 and that bear the stamp of a licensed professional engineer or  
21 licensed architect. The agencies listed in Title 20-A, section 15903, subsection 3 shall  
22 review the plans and specifications and approve or disapprove them within a reasonable  
23 time period.

24       **4. Loan; loan agreements.** Loans from the bank for ~~energy efficiency~~ energy-  
25 related improvements must be structured to ensure to the greatest extent possible that the  
26 cost savings achieved by the energy efficiency improvements are sufficient to cover the  
27 loan and ultimately to achieve a net positive cash flow ~~as early as practical~~. The rate of  
28 interest charged for loans made through the program for energy efficiency improvements  
29 or energy audits must be below the currently available rate of interest charged on  
30 commercial loans of equivalent term and use.

31       **5. Energy Payment Equalization Fund.** The bank shall establish a fund called the  
32 Energy Payment Equalization Fund. To the extent that the fund has assets available to it  
33 through funding by federal, state or local governments, or grants, gifts, donations or  
34 payments from any other source, money in the fund may be applied to loans made to  
35 municipalities in the program if achieved energy savings are not sufficient to offset the  
36 debt service payments on a loan made through the program. This fund may include  
37 deposits made by energy service companies or vendors to guarantee their commitment to  
38 achieve energy savings sufficient to offset debt service payments but may not include any  
39 other donations or payments from vendors or interested parties. The fund may be used to  
40 provide general interest rate reductions or principal reductions on any loan or group of  
41 loans made under the program for energy audits or for energy efficiency improvements,  
42 regardless of energy cost savings that may be achieved through the use of the proceeds of  
43 the loans or loan.

1       **6. Report to the Legislature.** Beginning in 2008, the bank shall report annually by  
2       March 1st to the joint standing committee of the Legislature having jurisdiction over  
3       utilities and energy matters regarding the program. Beginning in 2010, Efficiency Maine,  
4       as established in Title 35-A, chapter 97, shall report jointly with the bank. The report  
5       must document program activity during the prior 12 months, including, but not limited to,  
6       contracts made with energy service companies or vendors, loans made to municipalities  
7       or school administrative units, energy audits conducted and energy efficiency  
8       improvements implemented.

9       **Sec. H-2. 30-A MRSA §5954-A, sub-§1,** as amended by PL 2005, c. 190, §1, is  
10      further amended to read:

11      **1. Authority.** In addition to its other enumerated powers, but subject to the  
12      limitations imposed under subsection 2, the bank, on behalf of or in partnership with one  
13      or more governmental units or nonprofit corporations organized under the Internal  
14      Revenue Code, Section 501, may aggregate governmental units and nonprofit  
15      corporations to purchase in bulk electricity, petroleum products, fuel oil and, natural gas  
16      and the services of energy service companies and individual vendors of energy service  
17      products.

18      **Sec. H-3. 30-A MRSA §6006-A, sub-§6** is enacted to read:

19      **6. Consultation with Efficiency Maine.** The bank shall consult and coordinate with  
20      Efficiency Maine, as established in Title 35-A, chapter 97, to ensure that funds expended  
21      or used under this section maximize advancement of state policies regarding energy  
22      efficiency, load management and use of distributed renewable energy technology. As  
23      used in this subsection, "distributed renewable energy technology" has the same meaning  
24      as in Title 35-A, section 102, subsection 4-A.

25      **Sec. H-4. 30-A MRSA §6006-B, sub-§6** is enacted to read:

26      **6. Consultation with Efficiency Maine.** The bank shall consult and coordinate with  
27      Efficiency Maine, as established in Title 35-A, chapter 97, to ensure that funds expended  
28      or used under this section maximize advancement of state policies regarding energy  
29      efficiency, load management and use of distributed renewable energy technology. As  
30      used in this subsection, "distributed renewable energy technology" has the same meaning  
31      as in Title 35-A, section 102, subsection 4-A.

32      **Sec. H-5. 30-A MRSA §6006-C, sub-§6** is enacted to read:

33      **6. Consultation with Efficiency Maine.** The bank shall consult and coordinate with  
34      Efficiency Maine, as established in Title 35-A, chapter 97, to ensure that funds expended  
35      or used under this section maximize advancement of state policies regarding energy  
36      efficiency, load management and use of distributed renewable energy technology. As  
37      used in this subsection, "distributed renewable energy technology" has the same meaning  
38      as in Title 35-A, section 102, subsection 4-A.

39      **Sec. H-6. 30-A MRSA §6006-D, sub-§4** is enacted to read:

1        **4. Consultation with Efficiency Maine.** The bank shall consult and coordinate with  
2        Efficiency Maine, as established in Title 35-A, chapter 97, to ensure that funds expended  
3        or used under this section maximize advancement of state policies regarding energy  
4        efficiency, load management and use of distributed renewable energy technology. As  
5        used in this subsection, "distributed renewable energy technology" has the same meaning  
6        as in Title 35-A, section 102, subsection 4-A.

7        **Sec. H-7. 30-A MRSA §6006-E,** as amended by PL 1999, c. 81, §15, is further  
8        amended to read:

9        **§6006-E. Maine school facilities finance lease-purchase program**

10        In addition to and in furtherance of any other assistance available to a school  
11        administrative unit in this chapter, the bank, in cooperation with the Department of  
12        Education, shall establish a lease-purchase program for buildings to be used by all school  
13        administrative units whose school facility lease-purchase payments receive  
14        reimbursement, subsidy or other payment from the State. For the purposes of this  
15        section, a lease-purchase program is a system for awarding leases for a school  
16        administrative unit pursuant to a competitive bidding process. The bank shall consult and  
17        coordinate with Efficiency Maine, as established in Title 35-A, chapter 97, to ensure that  
18        funds expended or used under this section maximize advancement of state policies  
19        regarding energy efficiency, load management and use of distributed renewable energy  
20        technology. As used in this section, "distributed renewable energy technology" has the  
21        same meaning as in Title 35-A, section 102, subsection 4-A.

22        **Sec. H-8. 30-A MRSA §6006-F, sub-§9** is enacted to read:

23        **9. Consultation with Efficiency Maine.** The bank shall consult and coordinate with  
24        Efficiency Maine, as established in Title 35-A, chapter 97, to ensure that funds expended  
25        or used under this section maximize advancement of state policies regarding energy  
26        efficiency, load management and use of distributed renewable energy technology. As  
27        used in this subsection, "distributed renewable energy technology" has the same meaning  
28        as in Title 35-A, section 102, subsection 4-A.

29        **Sec. H-9. 30-A MRSA §6007, sub-§3** is enacted to read:

30        **3. Consultation with Efficiency Maine.** The bank shall consult and coordinate with  
31        Efficiency Maine, as established in Title 35-A, chapter 97, to ensure that funds expended  
32        or used under this section maximize advancement of state policies regarding energy  
33        efficiency, load management and use of distributed renewable energy technology. As  
34        used in this subsection, "distributed renewable energy technology" has the same meaning  
35        as in Title 35-A, section 102, subsection 4-A.

36        **Sec. H-10. 30-A MRSA §6008,** as enacted by PL 1987, c. 737, Pt. A, §2 and Pt.  
37        C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further  
38        amended to read:

1       **§6008. Additional reserves and funds**

2       The bank may establish any additional and further reserves or any other funds or  
3       accounts that are, in its discretion, necessary, desirable or convenient to further the  
4       accomplishment of the purposes of the bank to comply with the provisions of any  
5       agreement made by or any resolution of the bank. The bank shall consult and coordinate  
6       with Efficiency Maine, as established in Title 35-A, chapter 97, to ensure that funds  
7       expended or used under this section maximize advancement of state policies regarding  
8       energy efficiency, load management and use of distributed renewable energy technology.  
9       As used in this section, "distributed renewable energy technology" has the same meaning  
10      as in Title 35-A, section 102, subsection 4-A.

11                                   **PART I**

12      **Sec. I-1. 35-A MRSA §102, sub-§4-A** is enacted to read:

13      **4-A. Distributed renewable energy technology.** "Distributed renewable energy  
14      technology" means a product or facility or cluster of products or facilities that has a  
15      generating capacity of not more than 5 megawatts or an equivalent amount of heat energy  
16      and either generates energy in a manner that results in no carbon dioxide emissions or  
17      that relies on one or more of the following:

18           A. Fuel cells;

19           B. Tidal power;

20           C. Solar arrays and installations;

21           D. Wind power installations;

22           E. Geothermal installations;

23           F. Hydroelectric generators;

24           G. Electric thermal storage; or

25           H. Air source heat pumps.

26      **Sec. I-2. 35-A MRSA §102, sub-§4-B** is enacted to read:

27      **4-B. Efficiency Maine.** "Efficiency Maine" means the entity established in section  
28      10103 and includes the administrator of that entity.

29      **Sec. I-3. 35-A MRSA §103, sub-§2, ¶E** is enacted to read:

30           E. The chair of the commission is a member of the board of Efficiency Maine and  
31           the commission shall regulate the administrator of Efficiency Maine to the extent  
32           provided by law.

33      **Sec. I-4. 35-A MRSA §103, sub-§2, ¶F** is enacted to read:

34           F. The commission shall regulate appliances in accordance with chapter 99.

1       **Sec. I-5. 35-A MRSA §702, sub-§2**, as enacted by PL 1987, c. 141, Pt. A, §6, is  
2       amended to read:

3       **2. Distributed renewable energy technology.** No public utility providing electric  
4       or gas service may consider the use of ~~solar energy~~ distributed renewable energy  
5       technology by a customer as a basis for establishing higher rates or charges for energy or  
6       service sold to the customer.

7       **Sec. I-6. 35-A MRSA §702-A** is enacted to read:

8       **§702-A. Cooperation with Efficiency Maine and energy service providers**

9       **1. Definition; rules.** For purposes of this section, "eligible entities" means  
10       Efficiency Maine and other entities designated by rules adopted by the commission,  
11       including but not limited to energy service providers and entities providing financing for  
12       construction that meets the green design building standard as defined in Title 5, section  
13       1764-A. Rules adopted pursuant to this section are routine technical rules as defined in  
14       Title 5, chapter 375, subchapter 2-A.

15       **2. In general.** A transmission and distribution utility or a gas utility shall cooperate  
16       and coordinate with eligible entities in ensuring that ratepayers have an opportunity to  
17       benefit from increased energy efficiency or conservation, effective load management and  
18       installation of distributed renewable energy technology.

19       **3. Partnership on projects.** A transmission and distribution utility or a gas utility  
20       shall inform Efficiency Maine of any program or measure it proposes to adopt to promote  
21       energy efficiency or conservation or distributed renewable energy technology and shall  
22       propose terms on which Efficiency Maine may become a partner in the program or  
23       measure. Efficiency Maine may fund the program or measure in whole or in part, but in  
24       no instance may the cost of such a program or measure be passed through to ratepayers,  
25       except insofar as the cost of credits purchased under section 10009 is passed on to  
26       ratepayers. A transmission and distribution utility or a gas utility shall inform Efficiency  
27       Maine of any program or measure it proposes to adopt to promote effective load  
28       management and may propose terms on which Efficiency Maine may become a partner in  
29       the program or measure.

30       **4. Access to billing system.** A transmission and distribution utility or a gas utility  
31       shall permit eligible entities to make use of its billing system to collect amounts due from  
32       ratepayers for energy efficiency and conservation, load management and distributed  
33       renewable energy technology products and services. Such use of a utility's billing system  
34       must be on commercially reasonable terms, and a utility may require that any payment  
35       made by the ratepayer be applied first to its obligations to the utility.

36       **5. Distribution of information.** A transmission and distribution utility or a gas  
37       utility shall permit Efficiency Maine to distribute information of a technical nature about  
38       its programs and measures or about steps ratepayers may take to increase energy  
39       efficiency or conservation, effective load management or adoption of distributed  
40       renewable energy technology. Such use of the billing system must be on commercially  
41       reasonable terms. Information distributed may not express any viewpoint, unless the

1 utility agrees to distribute information that expresses a viewpoint, or otherwise be  
2 designed so that compelled distribution of the information would infringe on a utility's  
3 rights to free speech and association under the Fourteenth Amendment to the United  
4 States Constitution.

5 **6. Cooperation in gathering and analyzing data.** A transmission and distribution  
6 utility or a gas utility shall cooperate with Efficiency Maine and with the commission in  
7 providing information from the utility's operations and other sources to evaluate  
8 Efficiency Maine's performance and to effectuate the purposes of chapter 97. To the  
9 extent that information provided is designated confidential by statute or is otherwise  
10 exempt from the definition of "public records" under Title 1, section 402, Efficiency  
11 Maine and the commission shall treat the information as confidential, and such  
12 information does not become a public record merely by virtue of being in the possession  
13 of Efficiency Maine or the commission. Efficiency Maine and the commission shall  
14 ensure transparency by means other than public disclosure of such information when such  
15 information is considered or used by Efficiency Maine or the commission in undertaking  
16 its functions under law.

17 **Sec. I-7. 35-A MRSA §1302, sub-§3,** as enacted by PL 1987, c. 141, Pt. A, §6, is  
18 amended to read:

19 **3. Complaint by utility, Efficiency Maine or commission.** The commission may  
20 institute or Efficiency Maine or any public utility may make complaint as to any matter  
21 affecting its own product, service or charges. The complaint shall must be processed in  
22 accordance with subsection 2.

23 **Sec. I-8. 35-A MRSA §1311-B,** as enacted by PL 2001, c. 135, §1, is amended to  
24 read:

25 **§1311-B. Security of certain information**

26 **1. Designation of information as confidential.** If the commission, on its own  
27 motion or on petition of any person or entity, determines that public access to specific  
28 information about public utility or Efficiency Maine technical operations in the State  
29 could compromise the security of public utility systems to the detriment of the public  
30 interest, the commission shall issue an order designating that information as confidential.  
31 Information designated as confidential pursuant to this section may include, but is not  
32 limited to, emergency response plans and network diagrams. Information designated as  
33 confidential under this section is not a public record under Title 1, section 402, subsection  
34 3.

35 **2. Treatment of information by commission; generally.** Except as otherwise  
36 provided in this section, the commission may not release information designated as  
37 confidential under subsection 1 and shall take appropriate steps to protect such  
38 information in its possession.

39 **3. Access to information by parties in proceeding.** Designation of information as  
40 confidential under subsection 1 does not limit the right of a party in a proceeding before  
41 the commission to obtain discovery of that information. Notwithstanding section

1 1311-A, subsection 1, paragraphs A and C, the commission may issue a protective order  
2 limiting discovery of information designated as confidential pursuant to subsection 1 if  
3 the commission finds that specific limits are necessary to protect the public interest.

4 **4. Release of information to other state agencies.** The commission may release  
5 information designated as confidential pursuant to subsection 1 or require the release of  
6 that information by a public utility or Efficiency Maine to another state agency to the  
7 extent necessary to support emergency preparedness or response, law enforcement or  
8 other public health and safety activities. The commission shall consult with a public  
9 utility or Efficiency Maine before releasing or requiring the release of confidential  
10 information about that utility or Efficiency Maine, respectively, to a state agency unless  
11 the commission determines that the public health and welfare require immediate release  
12 without such consultation. The commission shall notify a public utility or Efficiency  
13 Maine within 2 business days of providing information about that utility or Efficiency  
14 Maine to a state agency pursuant to this subsection. As soon as practicable after  
15 receiving notice from a state agency pursuant to subsection 5, paragraph B of the agency's  
16 intent to release the information, the commission shall notify the public utility or  
17 Efficiency Maine of the agency's intent.

18 **5. Release by other state agencies.** A state agency that receives information about a  
19 public utility or Efficiency Maine pursuant to subsection 4:

20 A. May not use that information for any purpose other than for the support of  
21 emergency preparedness or response, law enforcement or other public health and  
22 safety activities;

23 B. May not release that information to any other person or entity without prior notice  
24 to the commission unless the agency determines that immediate release of the  
25 information to one or more persons or entities is necessary for the protection of  
26 public health and safety; and

27 C. Shall, when finished with the use of any documents received from the  
28 commission or from a public utility or from Efficiency Maine pursuant to subsection  
29 4, return the documents to the commission or, the public utility or Efficiency Maine,  
30 as appropriate.

31 **Sec. I-9. 35-A MRSA §1508-A, sub-§1, ¶E** is enacted to read:

32 E. In addition to the administrative penalties authorized by this subsection, the  
33 commission shall award reasonable costs, including reasonable attorney's fees, to  
34 Efficiency Maine if Efficiency Maine brought the complaint resulting in the  
35 imposition of such administrative penalties.

36 **Sec. I-10. 35-A MRSA §1702, sub-§1, ¶B**, as amended by PL 1999, c. 398, Pt.  
37 A, §24 and affected by §§104 and 105, is further amended to read:

38 B. The reasonableness and adequacy of the service furnished or proposed to be  
39 furnished by any public utility or, competitive service provider or the administrator of  
40 Efficiency Maine;

1       **Sec. I-11. 35-A MRSA §1702, sub-§1, ¶E**, as enacted by PL 1987, c. 141, Pt. A,  
2       §6, is amended to read:

3       E. Terms and conditions of public utilities and the administrator of Efficiency  
4       Maine;

5       **Sec. I-12. 35-A MRSA §1702, sub-§5**, as amended by PL 1999, c. 398, Pt. A,  
6       §26 and affected by §§104 and 105, is further amended to read:

7       **5. Intervention on behalf of public.** The Public Advocate may, on behalf of the  
8       using and consuming public, or any particular group of consumers, petition to initiate, or  
9       intervene and appear in, any proceedings before the commission, appeals from orders of  
10      the commission, or proceedings before state and federal agencies and courts in which the  
11      subject matter of the action affects the customers of any utility or competitive service  
12      provider doing business in this State or the entities served by Efficiency Maine, except  
13      that the Public Advocate may not intervene in any proceeding in which the commission  
14      staff is representing a position substantially similar to that of the Public Advocate, as  
15      determined by the Public Advocate.

16      **Sec. I-13. 35-A MRSA §2903, sub-§7**, as amended by PL 1999, c. 398, Pt. A,  
17      §41 and affected by §§104 and 105, is further amended to read:

18      **7. Public utility.** "Public utility" means Efficiency Maine or any transmission and  
19      distribution utility, water utility or gas utility that is subject to the jurisdiction of the  
20      commission.

21      **Sec. I-14. 35-A MRSA §3132, sub-§2-C** is enacted to read:

22      **2-C. Efficiency.** The commission shall recommend to an applicant under this  
23      section for a new transmission line minimum standards of efficiency that are technically  
24      and economically feasible and that create no conflict with any legally mandated health or  
25      safety standards. The applicant must, as a condition of obtaining a certificate of public  
26      convenience and necessity, certify that efficiency standards recommended by the  
27      commission have been considered and state the extent to which conformance with the  
28      recommended standards will be achieved. The commission may contract with the  
29      administrator of Efficiency Maine to develop recommended minimum standards of  
30      efficiency and may do so under terms that recognize the benefits resulting or likely to  
31      result from those minimum standards as discharging a portion of Efficiency Maine's  
32      obligations under section 10009, subsection 2, paragraph E and that treat such recognition  
33      as partial or full consideration for the administrator's fulfillment of its obligations under  
34      the contract.

35      **Sec. I-15. 35-A MRSA §3195, sub-§1-A** is enacted to read:

36      **1-A. Decoupling with respect to peak load.** The commission shall set for each  
37      transmission and distribution utility an annual target for peak load reduction that is not  
38      attributable to the activities of Efficiency Maine and shall establish a rate adjustment  
39      mechanism that decouples utility profits from utility sales with respect to peak load  
40      reduction.

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PART J

**Sec. J-1. 35-A MRSA §1508-A, sub-§1, ¶A**, as enacted by PL 2003, c. 505, §23, is amended to read:

A. For willful violations of this Title, a commission rule or a commission order by a public utility or a competitive electricity provider, or a willful violation of section 10009, subsection 2 by a heating fuel wholesaler, the commission may impose an administrative penalty for each violation in an amount that does not exceed \$5,000 or .25% of the annual gross revenue that the public utility ~~or~~ the competitive electricity provider or the heating fuel wholesaler received from sales in the State, whichever amount is lower. Each day a violation continues constitutes a separate offense. The maximum administrative penalty for any related series of violations may not exceed \$500,000 or 5% of the annual gross revenue that the public utility ~~or~~ the competitive electricity provider or the heating fuel wholesaler received from sales in the State, whichever amount is lower.

**Sec. J-2. 35-A MRSA §1508-A, sub-§1, ¶B**, as enacted by PL 2003, c. 505, §23, is amended to read:

B. For a violation in which a public utility or a competitive electricity provider was explicitly notified by the commission that it was not in compliance with the requirements of this Title, a commission rule or a commission order or a violation in which a heating fuel wholesaler was explicitly notified by the commission that it was not in compliance with section 10009, and that failure to comply could result in the imposition of administrative penalties, the commission may impose an administrative penalty that does not exceed \$500,000.

**Sec. J-3. 35-A MRSA §3210, sub-§3-A, ¶A**, as corrected by RR 2007, c. 2, §20, is amended to read:

A. Except as provided in paragraph B, beginning January 1, 2008, as a condition of licensing pursuant to section 3203, each competitive electricity provider in this State must demonstrate in a manner satisfactory to the commission that the percentage of its portfolio of supply sources for retail electricity sales in this State accounted for by new renewable capacity resources is as follows:

- (1) One percent for the period from January 1, 2008 to December 31, 2008;
- (2) Two percent for the period from January 1, 2009 to December 31, 2009;
- (3) Three percent for the period from January 1, 2010 to December 31, 2010;
- (4) ~~Four~~ Five percent for the period from January 1, 2011 to December 31, 2011;
- (5) ~~Five~~ Seven percent for the period from January 1, 2012 to December 31, 2012;
- (6) ~~Six~~ Nine percent for the period from January 1, 2013 to December 31, 2013;
- (7) ~~Seven~~ Twelve percent for the period from January 1, 2014 to December 31, 2014;

(8) ~~Eight~~ Fifteen percent for the period from January 1, 2015 to December 31, 2015;

(9) ~~Nine~~ Nineteen percent for the period from January 1, 2016 to December 31, 2016; and

(10) ~~Ten~~ Twenty-three percent for the period from January 1, 2017 to December 31, 2017.

New renewable capacity resources used to satisfy the requirements of this paragraph may not be used to satisfy the requirements of subsection 3.

**Sec. J-4. 35-A MRSA §3210, sub-§3-A, ¶B,** as enacted by PL 2007, c. 403, §4, is amended to read:

B. Suspensions of scheduled increases in the portfolio requirements as provided in paragraph A are governed by this paragraph.

(1) If by March 31st of the years 2010, 2012, 2014 and 2016 the commission determines that investment in new renewable capacity resources in the preceding 2 calendar years has not been sufficient for competitive electricity providers to meet the portfolio requirements under paragraph A and that the resulting use of renewable energy credits pursuant to subsection 8 or the alternative compliance payment mechanism pursuant to subsection 9, or both of these methods, has burdened electricity customers in the State without providing the benefits of new renewable capacity resources, the commission may suspend all or some of the future scheduled increases in the portfolio requirements under paragraph A.

(2) If the commission finds that alternative compliance payments are made pursuant to subsection 9 in 3 consecutive calendar years, the commission shall temporarily suspend all or some of the future scheduled increases in the portfolio requirements under paragraph A.

(3) If the commission suspends any scheduled increases in the portfolio requirements under paragraph A pursuant to subparagraph (1) or (2), the commission may resume increases, limited to no more than ~~one~~ 3 percentage ~~point~~ points per year over the previous year, in the portfolio requirements after a minimum of one year.

**Sec. J-5. 35-A MRSA §3211-A,** as amended by PL 2007, c. 317, §§3 to 13, is repealed.

**Sec. J-6. 35-A MRSA §4711,** as enacted by PL 2005, c. 110, §1, is repealed.

**Sec. J-7. 35-A MRSA §10001, sub-§1,** as enacted by PL 2003, c. 644, §9, is amended to read:

**1. General.** The commission shall provide to the public information about energy technologies and energy efficiency practices, including any state building energy standards and their implementation. The commission may contract with Efficiency Maine in discharging this duty. In providing public information, the commission shall consider:

1 A. The aspects of energy technologies, energy efficiency practices and building  
2 energy standards and their implementation about which the public needs information;

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

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

5 **Sec. J-8. 35-A MRSA §10002**, as enacted by PL 2003, c. 644, §9, is repealed.

6 **Sec. J-9. 35-A MRSA §10003**, as enacted by PL 2003, c. 644, §9, is repealed.

7 **Sec. J-10. 35-A MRSA §10004**, as enacted by PL 2003, c. 644, §9, is amended to  
8 read:

9 **§10004. Federal energy programs**

10 **1. Administration of programs.** ~~The commission~~ Efficiency Maine shall  
11 administer:.

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

13 B. ~~Other~~ Except as otherwise provided by law, other federally funded programs  
14 related to functions that ~~the commission~~ Efficiency Maine performs.

15 **Sec. J-11. 35-A MRSA §10005**, as enacted by PL 2003, c. 644, §9, is amended to  
16 read:

17 **§10005. Energy Conservation Small Business Revolving Loan Program; Energy**  
18 **Conservation Small Business Revolving Loan Fund**

19 **1. Program and fund.** ~~The commission~~ Efficiency Maine shall implement the  
20 Energy Conservation Small Business Revolving Loan Program, referred to in this  
21 subsection as "the program," and the Energy Conservation Small Business Revolving  
22 Loan Fund, referred to in this subsection as "the fund." The fund consists of federal  
23 capitalization grants and awards made to the State for the purposes for which the fund is  
24 established; any amounts deposited by ~~the commission~~ Efficiency Maine into the fund  
25 ~~from the conservation program fund established in section 3211 A, subsection 5;~~  
26 principal and interest received from the repayment of loans made from the fund and any  
27 interest earned on investment of fund balances; and any other funds from any public or  
28 private source received for use of any of the purposes for which the fund is established.  
29 The fund is a nonlapsing revolving fund account.

30 A. ~~The commission~~ Efficiency Maine shall credit all repayments of loans made to  
31 businesses, including interest, penalties and other fees and charges related to fund  
32 loans to the fund account.

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

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

1       **Sec. J-12. 35-A MRSA §10006**, as enacted by PL 2005, c. 534, §2, is amended to  
2 read:

3       **§10006. Energy efficiency of rental properties**

4       **1. Residential energy efficiency disclosure statement.** ~~The commission and the~~  
5 The Maine State Housing Authority, in consultation with Efficiency Maine, shall prepare  
6 a residential energy efficiency disclosure statement form for landlords and other lessors  
7 of residential properties to use to disclose to tenants and lessees in compliance with Title  
8 14, section 6030-C information about the energy efficiency of the property in order to  
9 comply with Title 14, section 6030-C, including a comparison with estimated residential  
10 energy efficiency for similar units in similar buildings that meet the standards of the  
11 Maine Uniform Building and Energy Code established under Title 10, chapter 1103 and,  
12 if Efficiency Maine and the Maine State Housing Authority determine appropriate, the  
13 green design building standard, as defined in Title 5, section 1764-A. ~~The commission~~  
14 ~~and the~~ The Maine State Housing Authority and Efficiency Maine shall post and maintain  
15 the statement required by this subsection on the Internet in a format that is easily  
16 accessible by the public.

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

23       **Sec. J-13. 35-A MRSA §10008, sub-§6, ¶A**, as enacted by PL 2007, c. 317,  
24 §15, is amended to read:

25       A. The trust fund must be administered and expenditures authorized by a ~~program~~  
26 Efficiency Maine's administrator selected by the trustees whose qualifications must  
27 include demonstrated expertise in the management of electricity efficiency  
28 programming and supervision of energy efficiency personnel. The administrator, who  
29 shall report to the trustees. The administrator Efficiency Maine shall hire and  
30 organize staff resources for the trustees.

31       **Sec. J-14. 35-A MRSA §10008, sub-§6, ¶H**, as enacted by PL 2007, c. 317,  
32 §15, is amended to read:

33       H. In order to minimize administrative costs and maximize program participation  
34 and effectiveness, the trustees and the commission shall, to the greatest extent  
35 feasible, coordinate the delivery of and make complementary the energy efficiency  
36 programs under this section, section 3211-A chapter 97, insofar as programs under  
37 that chapter relate to electricity, and section 3210-C.

38       **Sec. J-15. 35-A MRSA §10009** is enacted to read:

1       **§10009. Energy efficiency resource standard**

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

4       A. "Administration fund" means the conservation administration fund established by  
5       the commission pursuant to subsection 7.

6       B. "Administrative costs" means costs of the commission and of Efficiency Maine's  
7       board members that are funded pursuant to and associated with the implementation of  
8       this section and chapter 97, including, but not limited to, costs of program planning  
9       and evaluation, costs of securing necessary expertise, costs associated with contract  
10       formation and administration and costs of monitoring and enforcing contractual  
11       obligations.

12       C. "Base quantity" means:

13       (1) With respect to a transmission and distribution utility or a gas utility, the total  
14       quantity of electric energy or natural gas delivered by the utility to retail  
15       customers in the State, other than natural gas delivered to a competitive  
16       electricity provider for purposes of electricity generation, during the most recent  
17       calendar year for which information is available; or

18       (2) With respect to a heating fuel wholesaler, the total quantity of home heating  
19       oil, kerosene or liquefied petroleum gas delivered for resale in the State through  
20       retail outlets and retailers, for the purpose of cooking or heating, during the most  
21       recent calendar year for which information is available.

22       D. "Combined heat and power savings" means the increment of electric output of a  
23       new combined heat and power system, combined cooling, heating and power system  
24       or similar technology that is attributable to the higher efficiency of the combined  
25       system as compared to the efficiency of separate production of the electric, cooling  
26       and thermal outputs, as determined in accordance with rules adopted by the  
27       commission. For purposes of this paragraph, "new combined heat and power system"  
28       means a system that uses the same energy source for the generation of electrical or  
29       mechanical power and the production of cooling or steam or another form of useful  
30       thermal energy, if:

31       (1) The facility at which the system is used meets requirements relating to  
32       efficiency and other operating characteristics established by the commission by  
33       rule;

34       (2) The net wholesale sales of electricity by the facility will not exceed 50% of  
35       total annual electric generation by the facility; and

36       (3) The facility commences operation after the effective date of this section.

37       E. "Customer facility savings" means a reduction in end-use electricity, natural gas  
38       or heating fuel consumption, including recycled energy savings, at a facility of an  
39       end-use consumer of electricity or natural gas served by a transmission and  
40       distribution utility or a gas utility, or of heating fuel, as compared to:

1 (1) Consumption at that facility during a base year, as determined in accordance  
2 with rules adopted by the commission;

3 (2) In the case of new equipment, regardless of whether the new equipment  
4 replaces existing equipment at the end of the useful life of the existing  
5 equipment, consumption by new equipment of average efficiency, as determined  
6 in accordance with rules adopted by the commission; or

7 (3) In the case of a new facility, consumption at a reference facility, as  
8 determined in accordance with rules adopted by the commission.

9 F. "Electricity savings" means, as determined in accordance with rules adopted by  
10 the commission:

11 (1) Customer facility savings of electricity consumption, adjusted to reflect any  
12 associated increase in fuel consumption at the facility;

13 (2) Customer facility reductions in demand on the electricity distribution system  
14 achieved through use of distributed renewable energy technology, adjusted to  
15 reflect any associated increase in fuel consumption at the facility;

16 (3) Reductions in distribution system losses of electricity achieved by a  
17 transmission and distribution utility, as compared to losses attributable to new or  
18 replacement distribution system equipment of average efficiency; and

19 (4) Combined heat and power savings.

20 G. "Heating fuel savings" means, as determined in accordance with rules adopted by  
21 the commission, customer facility savings of heating fuel consumption, adjusted to  
22 reflect any associated increase in other fuel or electricity consumption at the facility,  
23 except to the extent that the increased consumption results from use of distributed  
24 renewable energy technology.

25 H. "Heating fuel wholesaler" means a person that sells home heating oil, kerosene or  
26 liquefied petroleum gas for resale in the State through retail outlets and retailers, for  
27 the purpose of cooking or heating.

28 I. "Natural gas savings" means, as determined in accordance with rules adopted by  
29 the commission:

30 (1) Customer facility savings of natural gas, adjusted to reflect any associated  
31 increase in electricity or fuel consumption at the facility, except to the extent that  
32 the increased consumption results from use of distributed renewable energy  
33 technology; and

34 (2) Reductions in leakage, operational losses and natural gas fuel consumption in  
35 the operation of a gas distribution system achieved by a gas utility, as compared  
36 to similar losses during a base year.

37 J. "Recycled energy savings" means a reduction in electricity, natural gas or heating  
38 fuel consumption that is attributable to electrical or mechanical power, or both, or  
39 thermal energy, produced by modifying an industrial or commercial system that was  
40 in operation before the effective date of this section in order to recapture energy that  
41 would otherwise be wasted.

1        K. "Efficiency Trust Fund" means the Efficiency Trust Fund established under  
2        subsection 5.

3        **2. Purchase of efficiency credits.** For calendar year 2008 and each calendar year  
4        thereafter up to and including 2018, a transmission and distribution utility, gas utility or  
5        heating fuel wholesaler shall purchase from Efficiency Maine, not later than September  
6        30th of the calendar year after the applicable calendar year, a number of efficiency credits  
7        as prescribed in this subsection

8        A. A transmission and distribution utility shall annually purchase credits equal to  
9        15% of its base quantity. A credit for electricity has the value of one kilowatt hour  
10       and an initial cost of \$0.06 or 60% of the average retail cost per kilowatt hour of  
11       electricity delivered by the transmission and distribution utility, whichever is less, as  
12       determined by the commission.

13       B. A gas utility shall annually purchase credits equal to 15% of its base quantity. A  
14       credit for natural gas has the value of one therm and an initial cost of \$0.88.

15       C. A heating fuel wholesaler shall annually purchase credits equal to 8.25% of its  
16       base quantity. A credit for heating fuel has the value of one therm and an initial cost  
17       of \$0.88, and the commission shall publish the equivalent cost per gallon for home  
18       heating oil, kerosene and liquefied petroleum gas respectively.

19       D. By 60 days after the effective date of this paragraph, and by March 1st of each  
20       calendar year thereafter up to and including 2018, the commission shall publish  
21       adjusted costs for efficiency credits for the applicable calendar year, which must  
22       equal the lesser of:

23           (1) Sixty percent of the average retail cost in the State of the applicable energy  
24           type, such as electricity, natural gas, home heating oil, kerosene or liquefied  
25           petroleum gas, as determined in accordance with rules adopted by the  
26           commission, rounded to the nearest one-hundredth of a cent per credit; and

27           (2) The inflation-adjusted value of the applicable efficiency credit type,  
28           calculated to the nearest one-hundredth of a cent using the Consumer Price Index  
29           for Urban Wage Earners and Clerical Workers, or a successor index, for the 12  
30           months prior to January 1st of the applicable year, as calculated by the United  
31           States Department of Labor.

32       E. By December 31, 2019, Efficiency Maine shall achieve electricity savings, natural  
33       gas savings and heating fuel savings equal to at least the amount of credits for  
34       efficiency purchased for each energy source and verified in accordance with  
35       subsection 3. Efficiency Maine shall meet annual benchmarks toward that goal. The  
36       contract with the administrator of Efficiency Maine under section 10106 must  
37       establish and require the administrator to meet the benchmarks.

38       F. Efficiency Maine may retain any forward capacity market payments administered  
39       by the regional transmission organization or other capacity payments that may be  
40       attributable to projects funded in any measure by Efficiency Maine, except to the  
41       extent that Efficiency Maine assigns some portion of such payments to another  
42       individual or entity.

1        **3. Measurement and verification of savings.** Not later than 6 months after the  
2        effective date of this section, the commission shall adopt rules regarding measurement  
3        and verification of electricity savings, natural gas savings and heating fuel savings under  
4        this section, including:

5        A. Procedures and standards for defining and measuring electricity savings, natural  
6        gas savings and heating fuel savings reported by Efficiency Maine, which must:

7            (1) Specify the types of energy efficiency and energy conservation measures that  
8            will be eligible for the credits;

9            (2) Require that energy consumption estimates for customer facilities or portions  
10           of facilities in the applicable base and current years be adjusted, as appropriate, to  
11           account for changes in weather, level of production and relevant facility area;

12           (3) Account for the useful life of electricity savings measures;

13           (4) Include deemed savings values for specific, commonly used efficiency  
14           measures; and

15           (5) Exclude savings that are not properly attributable to measures carried out by  
16           Efficiency Maine or on behalf of Efficiency Maine; and

17        B. Procedures and standards for 3rd-party verification of reported electricity savings,  
18        natural gas savings and heating fuel savings.

19        **4. Enforcement.** A transmission and distribution utility, gas utility or heating fuel  
20        wholesaler that fails to make timely purchase of all the efficiency credits it is required to  
21        purchase under this section is liable to Efficiency Maine for the cost of the unpurchased  
22        credits, for interest at a rate set by rule by the commission to reflect market rates and for  
23        any reasonable costs of collection, including costs of suit and reasonable attorney's fees,  
24        whether incurred in litigation or not.

25        **5. Funds held in trust.** The Efficiency Trust Fund is established as a nonlapsing  
26        fund to carry out the purposes of Efficiency Maine. The fund is administered by the  
27        board of Efficiency Maine. Money in the fund not currently needed to meet obligations  
28        under chapter 97 or other laws administered by Efficiency Maine must be deposited with  
29        the Treasurer of State to the credit of the fund and may be invested as provided by law.  
30        Interest on these investments must be credited to the fund. The State may not assess any  
31        indirect charges on the fund or any revenue received by the fund. All funds collected  
32        pursuant to this section, however allocated, including forward capacity market payments  
33        administered by the regional transmission organization or other capacity payments that  
34        may be attributable to projects funded in any measure by Efficiency Maine with funds  
35        collected pursuant to this section, are collected under the authority of this section and for  
36        the purposes of chapter 97 and are held in trust for the purposes of benefiting electricity,  
37        natural gas and heating fuel consumers. These funds are not available to meet the general  
38        obligations of the State and may not be taxed by the State. The State pledges to, contracts  
39        with and agrees with the purchasers of efficiency credits and their customers who are  
40        beneficiaries of funds under this chapter that neither the State nor any of its agencies,  
41        including the commission, may limit, alter, amend, reduce or impair the trust, its funds or  
42        any rights under the trust or ownership of the trust or security interest in the trust. The  
43        State acknowledges that such owners, holders and beneficiaries may and will rely on this

1 pledge, contract and agreement and that any such limitation, alteration, amendment,  
2 reduction or impairment without adequate provision will irreparably harm such owners,  
3 holders and beneficiaries.

4 **6. Ratemaking and cost recovery.** As determined by the commission, the  
5 assessments charged to transmission and distribution utilities and gas utilities under this  
6 section are just and reasonable costs for rate-making purposes and must be reflected in  
7 their rates. In making its determination, the commission shall take into account the State  
8 and federal tax treatment of the assessments.

9 **7. Conservation administration fund; report.** The commission shall establish a  
10 conservation administration fund to be used solely to defray administrative costs under  
11 this section and under chapter 97, shall assess Efficiency Maine in an amount not to  
12 exceed \$1,300,000 in any fiscal year and shall deposit funds collected pursuant to this  
13 subsection into the conservation administration fund. Any interest on funds in the  
14 conservation administration fund must be credited to the conservation administration fund  
15 and any funds unspent in any fiscal year must either remain in the conservation  
16 administration fund to be used to defray administrative costs or be transferred to the  
17 Efficiency Trust Fund.

18 The commission shall report by December 1st of each year to the joint standing  
19 committee of the Legislature having jurisdiction over utilities and energy matters an  
20 accounting of total deposits into and expenditures from the conservation administration  
21 fund during the prior 12 months and projected deposits into and expenditures from the  
22 conservation administration fund during the next 12 months.

23 **8. Support for Energy Resources Council.** Notwithstanding any other provision of  
24 this section, the Energy Resources Council established under Title 5, section 3327 may  
25 apply to the commission for funding from the conservation administration fund under  
26 subsection 7 to support projects and activities of the council related to energy  
27 conservation. The commission may provide up to \$200,000 in any fiscal year to the  
28 council from the conservation administration fund if the funds are needed for particular  
29 projects or activities directed by the Legislature to be undertaken by the council or the  
30 commission finds the projects or activities are generally consistent with the overall  
31 purposes of this section.

32 **9. Support for Maine Energy Conservation Board.** Notwithstanding any other  
33 provision of this section, the Maine Energy Conservation Board established under section  
34 10007 may apply to the commission for funding from the conservation administration  
35 fund under subsection 7 for staff support for the board.

36 **10. Rules.** The commission shall adopt rules necessary to implement this section.  
37 Rules adopted under this section are routine technical rules as defined in Title 5, chapter  
38 375, subchapter 2-A.

## 39 PART K

40 **Sec. K-1. 5 MRSA §12004-G, sub-§10-C is enacted to read:**

41 **10-C.**

1           **Sec. K-2. 10 MRSA §963-A, sub-§10, ¶R**, as corrected by RR 1999, c. 1, §8, is  
2 amended to read:

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

4           **Sec. K-3. 10 MRSA §963-A, sub-§10, ¶S**, as reallocated by RR 1999, c. 1, §9,  
5 is amended to read:

6           S. Any transmission facilities project; and

7           **Sec. K-4. 10 MRSA §963-A, sub-§10, ¶T** is enacted to read:

8           T. An Efficiency Maine project.

9           **Sec. K-5. 10 MRSA §963-A, sub-§10-A** is enacted to read:

10           **10-A. Efficiency Maine project.** "Efficiency Maine project" means a project  
11 approved by the board of Efficiency Maine, as established in Title 35-A, section 10105,  
12 to carry out the purposes of Title 35-A, chapter 97 relating to increasing gas, heat or  
13 electric energy efficiency or conservation, distributed renewable energy technology as  
14 defined in Title 35-A, section 102, subsection 4-A or effective load management.  
15

16           **Sec. K-6. 10 MRSA §1043, sub-§2, ¶K**, as amended by PL 2003, c. 506, §3, is  
17 further amended to read:

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

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

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

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

36           (4) Whether the applicant's creditworthiness is demonstrated by such factors as  
37 historical financial performance, management ability and the applicant's plan for  
38 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. K-7. 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;

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

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

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

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

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

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

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

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

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

38 **Sec. K-8. 10 MRSA §1043, sub-§2, ¶M** is enacted to read:

39 M. In the case of Efficiency Maine projects, there is a reasonable likelihood that the  
40 income, proceeds, revenues and funds of Efficiency Maine derived from or held for  
41 activities under Title 35-A, chapter 97 or otherwise pledged to payment of the bonds  
42 will be sufficient to pay the principal, the interest and all other amounts that may at

1       any time become due and payable under the bonds. In making this determination, the  
2       authority shall consider Efficiency Maine's analysis of the proposed bond issue and  
3       the revenues to make payments on the bonds and may require such information,  
4       projections, studies and independent analyses as it considers necessary or desirable  
5       and may charge Efficiency Maine reasonable fees and expenses. The authority may  
6       require that it be indemnified, defended and held harmless by Efficiency Maine for  
7       any liability or cause of action arising out of or with respect to the bonds. The  
8       principal and interest of bonds must be made payable solely from the income,  
9       proceeds, revenues and funds of Efficiency Maine derived from or held for activities  
10      under Title 35-A, chapter 97. Payment of the principal and interest of bonds may be  
11      further secured by a pledge of a loan, grant or contribution from the Federal  
12      Government or other source in aid of activities of Efficiency Maine under Title 35-A,  
13      chapter 97.

14      **Sec. K-9. 35-A MRSA c. 97** is enacted to read:

15                                   **CHAPTER 97**

16                                   **EFFICIENCY MAINE ACT**

17                                   **SUBCHAPTER 1**

18                                   **EFFICIENCY MAINE**

19      **§10101. Short title**

20              This chapter may be known and cited as "the Efficiency Maine Act."

21      **§10102. Definitions**

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

24              **1. Administrator.** "Administrator" means the nonprofit entity appointed pursuant to  
25      section 10106 to administer Efficiency Maine.

26              **2. Board.** "Board" means the board of Efficiency Maine established pursuant to  
27      section 10104.

28              **3. Forward capacity market.** "Forward capacity market" means the program  
29      established by the regional transmission organization and compensates providers of  
30      electrical capacity with payments for the availability or reduction of capacity as  
31      determined by the regional transmission organization.

32              **4. Low-income resident.** "Low-income resident" means a resident of the State  
33      whose household has family income equal to or below 200% of the nonfarm income  
34      official poverty line as defined by the federal Office of Management and Budget.  
35      Participation in any public assistance program with an income eligibility ceiling at or  
36      below that level constitutes conclusive proof of low-income status.

37              **5. Member.** "Member" means a member of the board.

1       **6. Regional transmission organization.** "Regional transmission organization"  
2       means the independent systems operator that administers and oversees the wholesale  
3       electricity markets in which the State participates.

4       **§10103. Organization and responsibility**

5       **1. Efficiency Maine established.** Efficiency Maine, as established in Title 5,  
6       section 12004-G, subsection 10-C, is a body corporate and politic and a public  
7       instrumentality of the State, and is a franchise to develop, implement and monitor  
8       programs and measures to increase gas, heat and electric energy efficiency and  
9       conservation, usage of distributed renewable energy technology and effective load  
10      management, including programs and measures delivered in multiple service territories.  
11      The exercise of the powers conferred by this chapter constitutes the performance of  
12      essential governmental functions.

13      **2. Responsibilities.** Efficiency Maine, through the administrator, is responsible for  
14      the administration of:

15          A. Programs that increase gas, heat and electric energy efficiency and conservation,  
16          distributed renewable energy technology and effective load management in buildings,  
17          including but not limited to those in the residential, commercial, public, university,  
18          hospital, nonprofit and industrial sectors;

19          B. Programs that increase gas, heat and electric energy efficiency and conservation,  
20          distributed renewable energy technology and effective load management in industrial  
21          facilities;

22          C. Programs that fund workforce development in the energy efficiency and  
23          renewable energy sectors;

24          D. Programs that fund research and development in the energy efficiency and  
25          renewable energy sectors;

26          E. Programs that provide the public with information about energy technologies and  
27          energy efficiency practices;

28          F. Federal programs related to energy efficiency and distributed renewable energy  
29          technology, except as otherwise provided by law or when federal law would preclude  
30          administration by Efficiency Maine; and

31          G. Other programs related to energy efficiency and conservation, distributed  
32          renewable energy technology and effective load management, as provided for in the  
33          administrator's contract.

34      **§10104. Efficiency Maine board**

35      Efficiency Maine is governed by the board.

36      **1. Voting members.** The board of Efficiency Maine is composed of 10 voting  
37      members:

38          A. Eight members representing the State;

1           (1) The director of the Executive Department, State Planning Office or the  
2           director's designee;

3           (2) The Public Advocate or the Public Advocate's designee to represent the  
4           interests of residential and small business energy consumers;

5           (3) The director of the Governor's Office of Energy Independence and Security  
6           within the Executive Department, or the director's designee;

7           (4) The director of the Maine State Housing Authority, or the director's designee;

8           (5) The chair of the commission or the chair's designee;

9           (6) The Commissioner of Environmental Protection or the commissioner's  
10          designee;

11          (7) The Commissioner of Labor or the commissioner's designee; and

12          (8) One trustee of the Energy and Carbon Savings Trust, designated by the  
13          Governor; and

14          B. Two members of the public, appointed by the Governor, subject to review by the  
15          joint standing committee of the Legislature having jurisdiction over utilities and  
16          energy matters and to confirmation by the Legislature;

17               (1) One member representing commercial energy consumers; and

18               (2) One member representing industrial energy consumers.

19           2. Terms of office. Public members serve 3-year terms and may serve a maximum  
20           of 2 consecutive terms. If a public member is unable to complete the term, the Governor  
21           shall appoint a replacement for the remainder of the unexpired term.

22           3. Participation by Maine Energy Conservation Board. Members of the Maine  
23           Energy Conservation Board established in section 10007 may participate in all meetings  
24           of the board, but are not members of the board and may not vote.

25           4. Chair and officers. The Governor shall appoint the chair of the board of  
26           Efficiency Maine, as well as a vice-chair, secretary and treasurer.

27           5. Quorum; emergency meetings. Five members constitute a quorum. The  
28           affirmative vote of a majority of those members present and voting is necessary for any  
29           action. A vacancy in the board may not impair the right of the quorum to exercise all  
30           powers and perform all duties of the board.

31           Notwithstanding any other provision of law, in a situation determined by the  
32           administrator to be an emergency requiring action of the board on not more than 3 days'  
33           notice, which may be provided orally to the chair of the board, an emergency meeting of  
34           the members may be called by the chair of the board and conducted by conference call,  
35           placed by ordinary commercial means, at an appointed time. The board shall arrange for  
36           recording of the call where appropriate and shall prepare minutes of the emergency  
37           meeting. Public notice of the emergency meeting must be given in accordance with Title  
38           1, section 406 and must include the time of the meeting and the location of a telephone  
39           with a speakerphone attachment that enables all persons participating in the telephone

1 meeting to be heard and understood and that is available for members of the public to  
2 hear the business conducted at the telephone meeting.

3 **6. Compensation.** Members may be reimbursed from the conservation  
4 administration fund established under section 10009 for actual and necessary expenses  
5 incurred by them as members but may not otherwise be compensated for their services as  
6 members.

7 **7. Duties.** The board shall appoint the administrator, develop a contract with the  
8 administrator and oversee the performance of the administrator in accordance with this  
9 chapter. The board shall carry out other duties and may exercise other authority as may  
10 be expressly provided under this chapter or other law. In contracting with and overseeing  
11 the administrator, the board shall ensure that the board has no more involvement in the  
12 administrator's operations and internal affairs than is necessary to carry out the board's  
13 responsibilities.

14 **8. Powers.** In addition to other powers provided under this chapter, the board may,  
15 to the extent necessary to fulfill its duties under this chapter:

16 A. Adopt an official seal and alter it at pleasure;

17 B. Adopt rules. Except as otherwise expressly provided, rules of the board are  
18 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;

19 C. Conduct hearings, receive testimony under oath and administer oaths;

20 D. Issue subpoenas requiring the attendance of witnesses or the production of  
21 records or other things. Whenever a person refuses to obey a subpoena duly issued  
22 by the board, the Superior Court for Kennebec County or any court of this State  
23 within the jurisdiction of which the person resides or transacts business has  
24 jurisdiction to issue to that person an order requiring that person to comply with the  
25 subpoena, and any failure to obey that order may be punished by the court as  
26 contempt; and

27 E. In consultation with and with the assistance of the administrator, propose, develop  
28 and approve revenue bond projects as Efficiency Maine projects under Title 10,  
29 section 963-A, subsection 10-A .

30 **9. Staffing; employees.** The commission shall provide staffing resources for the  
31 board. The board may employ persons, including private legal counsel and financial  
32 experts, on either a temporary or permanent basis, in order to carry out any of its powers  
33 and duties. The board may by rule delegate any powers and duties of Efficiency Maine to  
34 its employees and each employee is fully authorized to act in the name and on behalf of  
35 Efficiency Maine pursuant to any such delegation.

36 **§10105. Limitation of liability**

37 Efficiency Maine may be sued in accordance with Title 1, section 409; Title 5,  
38 chapter 375; or Title 14, chapter 741 except that the members of the board, the  
39 administrator and employees of the board or the administrator are not subject to any  
40 personal liability for having acted within the course and scope of that person's  
41 membership, appointment or employment to carry out any power or duty under this

chapter. Efficiency Maine shall indemnify a member, administrator or an employee of the board or administrator against expenses actually and necessarily incurred by that person in connection with the defense of any action or proceeding in which that person is made a party by reason of past or present association with Efficiency Maine. Efficiency Maine's liability is limited to its assets.

**§10106. Appointment of administrator; contract**

**1. Appointment of administrator.** The board shall appoint a nonprofit legal entity to serve as administrator of Efficiency Maine. The board may create and establish an independent nonprofit legal entity to fill the appointment if it determines that such action is in the public interest.

**2. Contract with administrator.** The board shall contract with the administrator appointed pursuant to subsection 1 for a period of 5 years. At least one year prior to the expiration of each contract period, the board shall invite proposals from other nonprofit legal entities to serve as administrator for the succeeding contract period, which may be up to 5 years. The appointment of the administrator for the succeeding period must be made at least 6 months prior to the expiration of the then current contract period.

**3. Duties of the board.** In establishing a contract with the administrator, the board shall:

A. Establish performance measures in areas including but not limited to:

- (1) Electric efficiency, natural gas efficiency and heating efficiency targets;
- (2) Renewable resource development targets, chiefly in the area of distributed renewable energy technology;
- (3) Energy and heat conservation targets;
- (4) Financial integrity;
- (5) Program delivery efficiency, including an expectation that administrative and program support costs remain under 11% of annual revenues;
- (6) Customer satisfaction;
- (7) Benefit-cost ratios for conservation acquisition programs based on both utility system and societal perspectives;
- (8) Coordination with related local, state and regional programs;
- (9) Reasonable distribution of program benefits among customer classes and geographic areas, and high participation rates among low-income residents and small businesses;
- (10) Internal program performance monitoring and ability to make effective program adjustments;
- (11) Transparency; and
- (12) Review and adoption of best practices;

1 B. Establish methodologies and procedures for independent evaluation of the  
2 administrator's performance, including comprehensive data collection, facilitated by  
3 required use of information technology by the administrator's contractors and  
4 effective and coordinated use by the board and the administrator of software and  
5 other information technology. Methodologies adopted must maximize the eligibility  
6 of projects for forward capacity market payments administered by the regional  
7 transmission organization or other capacity payments that may be attributable to  
8 projects funded in any measure by Efficiency Maine;

9 C. Review and comment on the administrator's strategic plans, action plans and  
10 annual budgets;

11 D. Require the administrator to report at least semiannually in public meetings called  
12 by the board on program activity and finances; and

13 E. Require a management audit of the administrator at least once every 5 years.

14 **4. Plan of operation; rules.** The administrator shall adopt a plan of operation in  
15 accordance with the requirements of this chapter and submit its articles, bylaws and  
16 operating rules to the board.

17 **§10107. Duties and powers**

18 **1. Duties.** The administrator, subject to the terms of its contract, shall:

19 A. Establish administrative and accounting procedures for Efficiency Maine's  
20 operation;

21 B. Obtain or develop a publicly accessible computer program to enable contractors,  
22 builders, architects, engineers and government officials to estimate the energy  
23 consumed by residential and nonresidential buildings. The administrator may charge  
24 a fee approved by the board for use of the program, based upon the actual costs of the  
25 program, including any computer costs. The administrator shall require that any  
26 work performed pursuant to Efficiency Maine's programs make use of such  
27 information technology as is necessary to facilitate evaluation of Efficiency Maine's  
28 performance, ensure maximum eligibility of projects for forward capacity market  
29 payments administered by the regional transmission organization or other capacity  
30 payments that may be attributable to projects funded in any measure by Efficiency  
31 Maine;

32 C. Prescribe qualifications for contractors performing work pursuant to Efficiency  
33 Maine's programs, taking due account of the recommendations and results of the  
34 analysis performed pursuant to Title 26, section 2041, subsection 4. Contractors and  
35 subcontractors must be equal opportunity employers and, for contracts in excess of  
36 \$250,000, shall pursue in good faith affirmative action programs as defined in Title 5,  
37 section 782. The administrator shall be the final arbiter of whether a contractor has  
38 the required qualifications or whether a training program is adequate to meet that  
39 qualification level;

40 D. Deliver energy conservation programs in all regions of the State on an equitable  
41 basis and to citizens at all income levels and businesses and organizations of all  
42 types;

1 E. Abstain from developing, acquiring, funding, coordinating or otherwise  
2 undertaking any project or making any grant, direct investment or loan under this  
3 chapter unless the administrator determines that action is reasonably necessary;

4 F. Avoid unnecessarily duplicating products and services that are reasonably  
5 available from other sources, including but not limited to private market sources;

6 G. Structure its activities to maximize investment from sources other than Efficiency  
7 Maine in furthering Efficiency Maine's purposes;

8 H. When the administrator determines it effective and appropriate, contract with  
9 governmental entities, public utilities or other entities to administer programs that  
10 further Efficiency Maine's purposes;

11 I. Whenever reasonably possible, structure Efficiency Maine's activities as projects  
12 eligible for forward capacity market payments administered by the regional  
13 transmission organization or other capacity payments that may be attributable to  
14 projects funded in any measure by Efficiency Maine. The administrator shall seek to  
15 structure such projects as partnerships with public utilities, wherever it determines  
16 that such partnerships are appropriate;

17 J. Structure programs to avoid giving a business an advantage over competitors in  
18 the State. The administrator may achieve this end by providing assistance outside of  
19 its usual project parameters to businesses that have already engaged in activities that  
20 advance Efficiency Maine's purposes;

21 K. Require work that it oversees to be governed by project labor agreements and  
22 community benefit agreements;

23 L. Ensure that projects that are directly or indirectly subsidized by Efficiency Maine  
24 meet the standards in Title 26, sections 1301 and 1304 to 1313;

25 M. Ensure that contractors, whose work is directly or indirectly subsidized by  
26 Efficiency Maine, in filling labor requirements make best efforts to coordinate with  
27 local workforce development programs, including but not limited to apprenticeship  
28 programs and programs that primarily serve low-income residents or people with  
29 disabilities, with a target of filling at least 20% of jobs created with individuals who  
30 have been unemployed for longer than 6 months, are clients of the Department of  
31 Labor's career center or have family income equal to or below 200% of the federal  
32 nonfarm income official poverty line;

33 N. To the extent practicable, encourage the development of resources, infrastructure  
34 and skills within the State by giving preference to in-state service providers;

35 O. Utilize competitive bidding processes and performance-based contracts, except:

36 (1) For the delivery of programs to low-income residents, in which case the  
37 administrator, without employing a competitive bidding process, may utilize the  
38 delivery system for the Weatherization Assistance for Low-income Persons  
39 Program administered through the United States Department of Energy, the  
40 network of for-profit and not-for-profit entities who have held contracts with  
41 transmission and distribution utilities to deliver energy conservation services to  
42 low-income residents and the delivery system for the Low-income Home Energy

1 Assistance Program administered through the United States Department of  
2 Health and Human Services; and

3 (2) In other instances where the administrator determines that the selection of a  
4 particular service provider will promote the efficient and effective delivery of  
5 Efficiency Maine's programs and is consistent with the objectives and overall  
6 strategy of those programs, including but not limited to instances in which a  
7 partnership with a governmental unit or agency, a transmission and distribution  
8 utility or a gas utility is appropriate; and

9 P. Charge and collect reasonable fees and charges established by the board for the  
10 use of Efficiency Maine's services or facilities.

11 **2. General powers.** Efficiency Maine, through its board and, to the extent  
12 authorized under and in accordance with its contract, the administrator may; consistent  
13 with the purposes of Efficiency Maine and subject to any limitations in this chapter or in  
14 other provisions of state and federal law:

15 A. Acquire, hold, use and dispose of its income, revenue, funds and money;

16 B. Acquire, rent, lease, hold, use and dispose of other personal and real property for  
17 its purposes;

18 C. Provide grants;

19 D. Obtain, develop or disseminate any information useful or convenient for carrying  
20 out any purpose or power of Efficiency Maine, including any information pertaining  
21 to:

22 (1) Management or financing of any enterprise or project eligible for assistance  
23 from Efficiency Maine;

24 (2) Land use;

25 (3) Other regulatory or assistance programs, resources or services;

26 (4) Design and construction techniques; and

27 (5) A project receiving financial assistance from or through Efficiency Maine,  
28 including, without limitation, by means of examination of books or records  
29 pertaining to the project;

30 E. Procure insurance in aid of any of Efficiency Maine's corporate purposes;

31 F. Obtain any certification, warranty, affidavit or other representation necessary or  
32 useful for carrying out any of its powers or duties;

33 G. Place reasonable conditions on contractors and subcontractors working pursuant  
34 to or individuals or entities receiving benefits directly or indirectly from funds  
35 expended directly or indirectly by Efficiency Maine, to advance public policies of the  
36 State;

37 H. Sue or initiate or appear on behalf of Efficiency Maine in any proceeding;

38 I. Maintain an office or offices at a place or places designated by it within the State;

1 J. Receive and accept from any source allocations, appropriations, loans, grants and  
2 contributions of money or other things of value to be held, used or applied to carry  
3 out this chapter, subject to the conditions upon which the loans, grants and  
4 contributions may be made, including, but not limited to, appropriations, allocations,  
5 loans, grants or gifts from any federal agency or governmental subdivision or the  
6 State or its agencies;

7 K. Support and participate in markets that reward energy conservation and use any  
8 proceeds from this participation to support programs under this chapter;

9 L. Invest funds received from any source for carrying out this chapter in the same  
10 manner as permitted for the investment of funds belonging to the State or held in the  
11 State Treasury, except as otherwise permitted or provided by this chapter, and expend  
12 interest earnings on those funds as appropriate to implement this chapter, including  
13 use for program and administrative costs;

14 M. Make, modify and carry out any contract or agreement necessary or useful for  
15 carrying out any of its powers, duties or purposes, including without limitation any  
16 construction agreement, purchase or acquisition agreement, loan or lease agreement,  
17 agreement conditioned upon the subleasing of demised premises, partnership  
18 agreement, limited partnership agreement, joint venture agreement, participation  
19 agreement, agreement with leasing corporations or other financial intermediaries or  
20 agreement pertaining to any loan to a governmental unit or any purchase or sale of  
21 municipal securities or other investments;

22 N. On behalf of or in partnership with one or more governmental units, small  
23 businesses or nonprofit corporations organized under the United States Internal  
24 Revenue Code, Section 501, aggregate governmental units, small businesses and  
25 nonprofit corporations to purchase in bulk appliances, energy efficiency services,  
26 distributed renewable technology services and related financial products;

27 O. Make recommendations to the Governor, the Legislature, and other public  
28 officials regarding energy policy; and

29 P. Do any act or thing necessary or useful for carrying out any of its powers, duties  
30 or purposes.

31 **§10108. State services**

32 **1. State assistance authorized.** State officers, departments, boards, agencies,  
33 divisions and commissions may provide any service to Efficiency Maine that is:

34 A. Requested by the board; and

35 B. Within the area of their governmental functions as established by law.

36 **2. Study or review requests.** State officers, departments, boards, agencies,  
37 divisions and commissions shall promptly comply with any reasonable request made by  
38 Efficiency Maine under subsection 1 for making any study or review concerning:

39 A. The desirability, need, cost or expense with respect to a public project;

40 B. The financial feasibility of a public project; or

1        C. The financial or fiscal responsibility or ability in connection with a public project.

2        **3. Cost of services.** At the request of the officer, department, board, agency,  
3 division or commission providing the service, Efficiency Maine shall pay the cost of a  
4 service requested by Efficiency Maine under this section.

5        **§10109. Conflicts of interest; financial disclosure statements**

6        Notwithstanding Title 5, section 18, subsection 1, paragraph B, each member of the  
7 board of Efficiency Maine and each employee, contractor, agent or other representative of  
8 Efficiency Maine or the administrator is deemed an "executive employee" solely for  
9 purposes of Title 5, section 18 and for no other purpose, except that the administrator's  
10 senior managers, whom the board shall designate in the administrator's contract, in  
11 addition are deemed "executive employees" for purposes of Title 5, section 19. Title 17,  
12 section 3104 does not apply to any of those representatives.

13        **§10110. Annual report; audit**

14        **1. Report.** The board shall submit to the Governor, the President of the Senate, the  
15 Speaker of the House of Representatives and the joint standing committees of the  
16 Legislature having jurisdiction over utilities matters and business, research and economic  
17 development matters, not later than 120 days after the close of its fiscal year, a complete  
18 report on the activities of Efficiency Maine and shall make the report available on  
19 Efficiency Maine's publicly accessible website. The report must include:

20        A. A description of Efficiency Maine's operations, financial status and administrative  
21 expenses, including a description of projects assisted under this chapter;

22        B. An accounting of Efficiency Maine's receipts and expenditures, assets and  
23 liabilities at the end of its fiscal year;

24        C. A statement of Efficiency Maine's proposed and projected activities for the  
25 ensuing year and the relationship of these activities to the State's energy policies;

26        D. Recommendations as to further actions that may be suitable for achieving the  
27 purposes of this chapter; and

28        E. Any other matters relating to Efficiency Maine's activities and accomplishments.

29        **2. Treasurer of State; annual financial report.** Efficiency Maine shall provide the  
30 Treasurer of State, within 120 days after the close of its fiscal year, its annual financial  
31 report certified by an independent certified public accountant, who may be the accountant  
32 or a member of the firm of accountants who regularly audits the books and accounts of  
33 Efficiency Maine, selected by Efficiency Maine. Efficiency Maine is also subject to the  
34 provisions of Title 5, chapter 11. Efficiency Maine may combine for accounting  
35 purposes any or all funds established for its programs and activities.

36        **§10111. Disclosure and confidentiality of records**

37        Except as provided in this section, all records in the possession or custody of  
38 Efficiency Maine or its administrator are public records under Title 1, section 402,  
39 subsection 3.

1 **1. Confidential information.** Except as provided in subsection 2, the following  
2 records are designated as confidential for purposes of Title 1, section 402, subsection 3,  
3 paragraph A:

4 A. A record obtained or developed by Efficiency Maine prior to receipt of a written  
5 application or proposal, in form specified by or acceptable to Efficiency Maine, for  
6 financial assistance to be provided by or with the assistance of Efficiency Maine or in  
7 connection with a transfer of property to or from Efficiency Maine. After receipt by  
8 Efficiency Maine of the application or proposal, a record pertaining to the application  
9 or proposal is not confidential under this subsection unless it meets the requirements  
10 of other paragraphs of this subsection;

11 B. A record obtained or developed by Efficiency Maine that:

12 (1) A person, including Efficiency Maine, to whom the record belongs or  
13 pertains has requested be designated confidential; and

14 (2) The board has determined contains information that gives the owner or a user  
15 an opportunity to obtain business or competitive advantage over another person  
16 who does not have access to the information, except through Efficiency Maine  
17 records, or access to which by others would result in a business or competitive  
18 disadvantage, loss of business or other significant detriment, other than loss or  
19 denial of financial assistance from Efficiency Maine, to any person to whom the  
20 record belongs or pertains;

21 C. A financial statement or tax return of an individual or any other record obtained or  
22 developed by Efficiency Maine the disclosure of which would constitute an invasion  
23 of personal privacy, as determined by the board;

24 D. A record including any financial statement or tax return obtained or developed by  
25 Efficiency Maine in connection with any monitoring or servicing activity by  
26 Efficiency Maine pertaining to any financial assistance provided or to be provided by  
27 or with the assistance of Efficiency Maine; and

28 E. A record obtained or developed by Efficiency Maine that contains an assessment  
29 by a person who is not employed by the board or the administrator of the  
30 creditworthiness or financial condition of any person or project.

31 Efficiency Maine shall provide to a legislative committee, on written request signed by  
32 the chairs of that committee, any information or records, including information  
33 designated confidential under this subsection, specified in the written request. The  
34 information or records may be used only for the lawful purposes of the committee and in  
35 any action arising out of any investigation conducted by it.

36 **2. Disclosure required.** Notwithstanding subsections 1 and 3 and except as  
37 provided in this subsection, the following are not designated confidential and are public  
38 records:

39 A. After filing of a written application or proposal for financial assistance or  
40 property transfer, in a form specified by or acceptable to Efficiency Maine:

41 (1) Names of recipients of or applicants for financial assistance, including  
42 principals, where applicable;

1           (2) Amounts, types and general terms of financial assistance provided to those  
2           recipients or requested by those applicants;

3           (3) Descriptions of projects and businesses benefiting or to benefit from the  
4           financial assistance;

5           (4) Names of transferors or transferees, including principals, of property  
6           transferred to or from Efficiency Maine, the general terms of transfer and the  
7           purposes for which transferred property will be used;

8           (5) Energy-related benefits projected or resulting in connection with a project;  
9           and

10           (6) Names of financial institutions participating in providing financial assistance  
11           and the general terms of that financial assistance;

12           B. Any otherwise confidential information the confidentiality of which the board  
13           determines to have been satisfactorily and effectively waived;

14           C. Any otherwise confidential information that has already lawfully been made  
15           available to the public; and

16           D. The annual report of Efficiency Maine required pursuant to section 10110.

17           Notwithstanding Title 1, chapter 13, the board may refuse to provide information  
18           described in this subsection in response to a request for such information if the board  
19           reasonably determines that the request for information has been made for an improper  
20           purpose or is unduly burdensome.

21           3. Wrongful disclosure prohibited. A member, officer, administrator, employee,  
22           agent, other representative of Efficiency Maine or other person may not knowingly  
23           divulge or disclose records designated confidential by this section, except that the board  
24           may, in its discretion, make or authorize any disclosure of information of the following  
25           types or under the following circumstances:

26           A. Impersonal, statistical or general information;

27           B. If necessary in connection with processing any application for, obtaining or  
28           maintaining financial assistance for any person or in connection with acquiring,  
29           maintaining or disposing of property;

30           C. To a financing institution or credit reporting service;

31           D. Information necessary to comply with any federal or state law or rule or with any  
32           agreement pertaining to financial assistance;

33           E. Information to the extent the board determines the disclosure necessary to the sale  
34           or transfer of revenue obligation securities or to the sale or transfer of bonds of the  
35           State;

36           F. If necessary to ensure collection of any obligation in which it has or may have an  
37           interest;

38           G. In any litigation or proceeding in which Efficiency Maine has appeared,  
39           introduction for the record of any information obtained from records designated  
40           confidential by this section; and

1       H. Pursuant to a subpoena, request for production of documents, warrant or other  
2       order by competent authority, provided that any such order appears to have first been  
3       served on the person to whom the confidential information sought pertains or belongs  
4       and provided that any such order appears on its face or otherwise to have been issued  
5       or made upon lawful authority.

6       **§10112. Liberal construction**

7       This chapter, being necessary for the welfare of the State and its inhabitants, must be  
8       liberally construed. In the event of any conflict between this chapter and any other law,  
9       this chapter prevails, barring a clear legislative intent to the contrary, but the power and  
10       authority granted is in addition to and not in derogation of power and authority granted by  
11       any other law.

12       **§10113. Taxation and fees**

13       Notwithstanding any other provision of law, for the purposes of this chapter,  
14       transactions and property of Efficiency Maine must be treated according to this section.

15       **1. Conveyances, leases, mortgages, deeds of trust; indentures; exemptions from**  
16       **taxation.** Conveyances by or to Efficiency Maine and leases, mortgages and deeds of  
17       trust or trust indentures by or to Efficiency Maine are exempt from all taxation by the  
18       State or any of its political subdivisions, including, but not limited to, any applicable  
19       license, excise or other taxes imposed in respect of the privilege of engaging in any of the  
20       activities in which Efficiency Maine may engage.

21       **2. Property exemption from taxation and other assessments.** Property acquired,  
22       held or transferred by Efficiency Maine is exempt from all taxes and from betterments  
23       and special assessments of a city, town, county, state or political subdivision. Efficiency  
24       Maine may agree to make payments in lieu of taxes to an applicable political subdivision.

25       **§10114. Service provider selection**

26       Except as otherwise provided in this chapter, Efficiency Maine is not subject to rules  
27       adopted by the State Purchasing Agent in selecting service providers pursuant to this  
28       chapter. The board shall by rule establish procedures governing the selection of service  
29       providers under this section and shall consult with the State Purchasing Agent in  
30       developing the rules.

31       **§10115. Lending and borrowing powers generally**

32       **1. Powers.** For the purposes authorized by this chapter, the administrator may  
33       pursuant to the terms of its contract:

34       A. Lend money to governmental units through purchase on behalf of Efficiency  
35       Maine, exclusively or in partnership with other individuals or entities, including but  
36       not limited to the Maine Municipal Bond Bank, of municipal securities of  
37       governmental units in fully marketable form;

1 B. Lend money to nongovernmental individuals and entities through purchase on  
2 behalf of Efficiency Maine, exclusively or in partnership with other individuals or  
3 entities, of notes or securities in fully marketable form;

4 C. Borrow money and make the borrowing proceeds available to a governmental unit  
5 or nongovernmental individual or entity at terms agreed upon by the board and the  
6 recipient of the proceeds;

7 D. Provide interest rate subsidies on commercial loans to businesses, farms,  
8 nonprofit organizations, governmental entities and other individuals and entities and  
9 provide or participate in interest rate cap agreements and other agreements providing  
10 businesses with protection against interest rate fluctuations;

11 E. With respect to loans to any person or entity, consider the need, desirability or  
12 eligibility of the loan and the availability and cost of alternative financing;

13 F. Impose and collect charges for its costs and services, in review, consideration or  
14 servicing of any proposed or outstanding loan or loan agreement to borrow on behalf  
15 of a person or entity; and

16 G. Consent to any modification with respect to rates of interest, time and payment of  
17 any installment of principal or interest, security or any other term of any contract or  
18 agreement of any kind to which Efficiency Maine is a party.

19 2. Expenses. All expenses incurred in carrying out the purposes of this chapter are  
20 payable solely from revenues or funds provided under this chapter. Nothing in this  
21 chapter may be construed to authorize Efficiency Maine to incur any indebtedness or  
22 liability on behalf of or payable by the State.

### 23 §10116. Allocation of resources

24 Efficiency Maine shall spend funds in accordance with this section.

25 1. Efficiency credit funds. Except as otherwise expressly provided in subchapters 2  
26 to 10, Efficiency Maine shall expend funds procured from the sale of efficiency credits  
27 for electricity, natural gas and heating fuel under section 10009, and from forward  
28 capacity market payments administered by the regional transmission organization or other  
29 capacity payments that are attributable to projects funded in any measure by Efficiency  
30 Maine, on programs related to the energy source, whether electricity, natural gas or  
31 heating fuel, and sector, whether governmental, residential, commercial or industrial,  
32 from which the funds are derived. The commission shall determine what proportion of  
33 the funds are derived from each energy source and sector and Efficiency Maine shall  
34 expend such funds in accordance with that determination.

35 2. Federal funds. Except as otherwise provided by law, Efficiency Maine is the  
36 agency designated to receive and administer federal funding to promote gas, heat and  
37 electric energy efficiency and conservation, distributed renewable energy technology and  
38 effective load management in residential, commercial and industrial buildings and  
39 facilities and shall expend such funds in accordance with applicable law.

**3. Appropriated funds.** Efficiency Maine shall expend any funds derived from state appropriations or allocations in accordance with any requirements attached to receipt of those funds.

**4. Energy and Carbon Savings Trust.** Funds within the Energy and Carbon Savings Trust must be expended in accordance with section 10008.

**5. Administration, workforce development and research and development.**  
Funds for administration, workforce development and research and development must be drawn proportionally from funds dedicated to the residential, industrial and commercial sectors, excluding funds within the Energy and Carbon Savings Trust, which must be expended in accordance with section 10008.

## SUBCHAPTER 2

## RESIDENTIAL PROGRAMS

**§10151. Establishment of residential programs**

Efficiency Maine shall develop, implement and monitor programs and measures to increase electric, gas and heat energy efficiency and conservation, distributed renewable energy technology and effective load management in residential buildings, including programs and measures delivered in multiple service territories, consistent with this chapter.

### **§10152. Program guidelines**

**1. Low-income residents.** Serving low-income residents is the first priority for Efficiency Maine's residential sector programs and Efficiency Maine shall provide services to each low-income resident within the State by December 31, 2018. Efficiency Maine shall expend at least 60% of funds determined by the commission pursuant to section 10116, subsection 1 to be derived from the residential sector on programs benefiting low-income units and at least 20% of funds procured from the sale of efficiency credits for electricity under section 10009 on programs benefiting low-income homeowners and renters.

A. Efficiency Maine shall design programs for low-income residents to subsidize most or all services provided and shall provide sufficient technical assistance or direct oversight of work done to overcome the economic and social barriers that prevent low-income residents from taking advantage of energy cost and demand reduction opportunities.

B. Efficiency Maine shall ensure that, through all its programs and revenue streams benefiting low-income residents, each low-income resident receives the equivalent of at least \$4,200 in direct subsidy from Efficiency Maine, adjusted annually beginning in 2010 using the Consumer Price Index for Urban Wage Earners and Clerical Workers or a successor index for the 12 months prior to January 1st of the applicable year, as calculated by the United States Department of Labor, rounded to the nearest \$10. The subsidy may be less to the extent that the residential unit's owner refuses to permit a recommended product or service.

1 C. If, after the expense of a home evaluation and of all measures with a payback  
2 period of 20 years, there is unused subsidy for a residential unit and if installation of  
3 distributed renewable energy technology with a longer payback period is not  
4 technically feasible, Efficiency Maine may pool that subsidy with other individual  
5 subsidies for energy efficiency, conservation and demand reduction measures that  
6 benefit a neighborhood or community or may subsidize cost-effective fuel switching  
7 measures. Efficiency Maine's demand reduction obligations under section 10009  
8 must be reduced to the extent that fuel switching measures are paid for by funds  
9 procured from the sale of efficiency credits.

10 D. The commission shall determine annually the average cost per low-income  
11 resident household resulting from the portion of the cost of efficiency credits for  
12 heating fuel under section 10009 that is effectively passed on to consumers, taking  
13 account of any state or federal tax treatment of the purchase of the credits for heating  
14 fuel wholesalers and any other relevant considerations, and Efficiency Maine shall  
15 ensure distribution of that amount to any household that is eligible for benefits under  
16 the Low-income Home Energy Assistance Program administered by the United States  
17 Department of Health and Human Services, has not received benefits under one or  
18 more of Efficiency Maine's programs since the effective date of this chapter and is  
19 not living in housing or participating in a program in which the passed-on cost is  
20 inapplicable to the household.

21 **2. Middle-income residents.** Serving middle-income residents is the second priority  
22 in Efficiency Maine's residential sector programs, and it is a goal of Efficiency Maine to  
23 provide services to each middle-income residential unit within the State by December 31,  
24 2018. Efficiency Maine shall design programs that will directly subsidize half of all  
25 services provided, after accounting for tax credits, direct government subsidies and  
26 similar sources of funding, and shall provide sufficient technical assistance or direct  
27 oversight of work done to overcome the economic and social barriers that prevent  
28 homeowners and renters from taking advantage of energy cost and demand reduction  
29 opportunities. Efficiency Maine may use any reasonable criteria to define "middle-  
30 income resident" and the commission may adopt by rule a definition of the term for  
31 purposes of Efficiency Maine's activities, but any definition must be designed to  
32 minimize the need for income verification or other activities that might deter use of  
33 Efficiency Maine's services.

34 **3. Other residential units.** Efficiency Maine may adopt any reasonable program  
35 design to serve upper-income residents, residential units that do not constitute an  
36 individual's primary residence and other residential units not addressed under subsections  
37 1 and 2. It is a goal of Efficiency Maine to ensure that cost-effective energy efficiency,  
38 conservation and demand reduction measures are adopted in as many such units as  
39 possible.

40 **4. Leveraging other funds.** In leveraging other funds for residential programs,  
41 Efficiency Maine shall minimize the extent to which such funding comes from forms of  
42 indebtedness with recourse against the individual receiving services. Efficiency Maine  
43 shall, between direct subsidy, leveraged funds and any other sources, promote adoption of  
44 all energy efficiency, conservation and demand reduction measures that have a payback  
45 period of 15 years or less.

1       **5. Residential unit evaluation.** To the maximum reasonable extent, Efficiency  
2 Maine shall ensure that each residential unit for which residential program services are  
3 sought is evaluated for the full range of programs and measures to increase energy  
4 efficiency and energy conservation, distributed renewable energy technology and  
5 effective load management, so that the largest possible range of such programs and  
6 measures can be adopted at one time. In multifamily dwellings, Efficiency Maine shall  
7 maximize the extent to which whole building evaluations are used and whole building  
8 measures adopted.

9       **6. Split incentives.** In providing services and developing programs and measures for  
10 rental housing, Efficiency Maine shall take account of the fact that tenant payment of  
11 utility bills often limits landlord incentives to lower energy costs and shall strike a  
12 reasonable balance between ensuring that benefits flow to the individuals who are paying  
13 energy costs directly and making programs and measures attractive for landlords.

14       **§10153. Relationship with Maine State Housing Authority**

15       **1. Cooperative relationship.** Efficiency Maine and the Maine State Housing  
16 Authority shall maximize cooperation in programs and measures that seek to increase  
17 gas, heat and electric energy efficiency and conservation, distributed renewable energy  
18 technology and effective load management in buildings in order to integrate planning,  
19 eliminate duplication and more effectively serve beneficiaries of the programs and  
20 measures. Each party shall include information about the other party's relevant programs  
21 and measures in information distributed to the public. The parties shall coordinate to  
22 ensure that beneficiaries need work with only one agency to obtain the full range of  
23 products and services available from both agencies, and in any instance where the parties  
24 disagree, that one agency must be Efficiency Maine.

25       **2. Services to low-income residents.** The administrator shall contract with the  
26 Maine State Housing Authority to deliver residential programs to low-income residents,  
27 and shall prescribe how services outside of the Weatherization Assistance for Low-  
28 income Persons Program administered through the United States Department of Energy,  
29 the Low-income Home Energy Assistance Program administered through the United  
30 States Department of Health and Human Services and the Maine State Housing  
31 Authority's central heating improvement program or any successor program are provided.

32       A. The Maine State Housing Authority shall administer the 2 federal programs under  
33 this subsection in consultation with the administrator, in a manner that maximizes the  
34 extent to which Efficiency Maine receives any forward capacity market payments  
35 administered by the regional transmission organization or other capacity payments  
36 and in a manner consistent with Efficiency Maine's programs and goals, and with the  
37 provisions of this subchapter.

38       B. The Maine State Housing Authority and the administrator shall develop  
39 accounting systems, energy efficiency and demand reduction measurement systems  
40 and other systems to ensure efficient program administration, transparency,  
41 accountability and compliance with state and federal law. The board shall prescribe  
42 standards for qualifications of individuals performing all work pursuant to this  
43 section.

**3. Efficiency in low-income rental housing.** The administrator and the Maine State Housing Authority shall jointly develop and coordinate the implementation of programs to effectuate Title 30-A, section 4748.

**4. Contracting for other programs.** The administrator may contract with the Maine State Housing Authority to deliver residential programs other than those described in subsections 2 and 3 and shall ensure that such a contract is consistent with the requirements of this chapter.

**5. Consultation.** The administrator shall review the Maine State Housing Authority's programs and measures to increase gas, heat and electric energy efficiency and conservation, distributed renewable energy technology and effective load management in buildings, and the Maine State Housing Authority shall consider any modifications recommended by the administrator that would improve integration with Efficiency Maine's programs and measures. The Maine State Housing Authority shall consult with the administrator before developing new programs or measures in these areas.

### SUBCHAPTER 3

## COMMERCIAL PROGRAMS

**§10161. Establishment of commercial programs**

Efficiency Maine shall develop, implement and monitor programs and measures to increase electric, gas and heat energy efficiency and conservation, distributed renewable energy technology and effective load management in commercial buildings, including programs and measures delivered in multiple service territories, consistent with this chapter.

## §10162. Program guidelines

**1. Small businesses.** Serving small businesses is the first priority for Efficiency Maine's commercial sector programs, and it is a goal of Efficiency Maine to provide services to each small business within the State by December 31, 2018. Efficiency Maine shall expend at least 40% of funds determined by the commission pursuant to section 10116, subsection 1 to be derived from the commercial sector on programs for small businesses. Efficiency Maine shall design programs and measures that provide sufficient technical assistance or direct oversight of work done to overcome the unique economic barriers that prevent small businesses from taking advantage of energy cost and demand reduction opportunities, including but not limited to small staff size, limited access to capital and frequent need for direct subsidy. Efficiency Maine shall conduct outreach to small businesses and shall avoid complexity in program design and registration, paperwork and other aspects of its programs and measures in order to maximize small business participation.

**2. Evaluation and technical assistance.** Commercial sector programs shall at a minimum provide for free evaluation by persons meeting qualifications established by Efficiency Maine under section 10107, subsection 1, paragraph C, and for such technical

1 assistance as businesses need to conduct effective request-for-proposal processes. To the  
2 maximum reasonable extent, Efficiency Maine shall ensure that each building for which  
3 commercial program services are sought is evaluated for the full range of programs and  
4 measures to increase energy efficiency and conservation, distributed renewable energy  
5 technology and effective load management, so that the largest possible range of such  
6 programs and measures can be adopted at one time.

7 **3. Leveraging other funds.** Efficiency Maine may not substitute its services for  
8 those reasonably available in the market and shall design commercial sector programs to  
9 maximize facilitation of performance-based contracts with energy service companies. In  
10 leveraging funds from other entities for commercial sector programs, Efficiency Maine  
11 shall minimize the extent to which such funding comes from forms of indebtedness with  
12 recourse against the business receiving services. Efficiency Maine shall, between direct  
13 subsidy, leveraged funds and any other sources, promote adoption of all efficiency,  
14 conservation and demand reduction measures that have a payback period of 15 years or  
15 less and shall especially seek to leverage funds for heat energy efficiency and demand  
16 reduction.

17 **4. Split incentives.** In providing services and developing programs and measures for  
18 commercial buildings with rented space, Efficiency Maine shall take account of the fact  
19 that the entity paying energy costs is often not the entity with authority to adopt energy  
20 cost reduction measures and shall strike a reasonable balance between ensuring that  
21 benefits flow to the entities who are paying energy costs directly and making programs  
22 and measures attractive for both landlord and tenant. Efficiency Maine shall work with  
23 landlords, tenants and subtenants to implement whole building measures, with benefits  
24 flowing chiefly to the entity paying for energy, and with due account taken of the effect  
25 that lease terms may have on the long-term cost-effectiveness of a given measure.

26 **§10163. Relationship to other agencies**

27 **1. Cooperative relationship.** Efficiency Maine shall establish cooperative  
28 relationships with governmental units and agencies with responsibility for business  
29 assistance and development, including but not limited to the Finance Authority of Maine  
30 and the Department of Economic and Community Development, to enhance the ability of  
31 those entities to advance Efficiency Maine's goals and to integrate their activities into  
32 Efficiency Maine's operational and long-term plans.

33 **2. Contracting for program administration.** Efficiency Maine may contract with  
34 any governmental unit or agency to administer any aspect of its commercial sector  
35 programs and shall ensure that such a contract is consistent with the requirements of this  
36 chapter.

37 **SUBCHAPTER 4**

38 **PUBLIC SECTOR PROGRAMS**

1       **§10171. Establishment of public sector programs**

2       Efficiency Maine shall develop, implement and monitor programs and measures to  
3 increase electric, gas and heat energy efficiency and conservation, distributed renewable  
4 energy technology and effective load management in governmental buildings, including  
5 programs and measures delivered in multiple service territories, consistent with this  
6 chapter.

7       **§10172. Program guidelines**

8       **1. Municipal and county governments.** Serving municipalities and county  
9 governments, particularly those with limited resources and serving small populations, is  
10 the first priority for Efficiency Maine's public sector programs, and it is the goal of  
11 Efficiency Maine to provide services to each municipal and county government within  
12 the State by December 31, 2018.

13       **2. Evaluation and technical assistance.** Public sector programs financed through  
14 the sale of efficiency credits for electricity and natural gas under section 10009, through  
15 forward capacity market payments administered by the regional transmission  
16 organization or other capacity payments that are attributable to those funds and through  
17 the Energy and Carbon Savings Trust shall at a minimum provide for free evaluation by  
18 persons meeting qualifications established by Efficiency Maine under section 10107,  
19 subsection 1, paragraph C, and for such technical assistance as governmental units and  
20 agencies need to conduct effective request-for-proposal processes. To the maximum  
21 reasonable extent, Efficiency Maine shall ensure that each building for which commercial  
22 program services are sought is evaluated for the full range of programs and measures to  
23 increase energy efficiency and conservation, distributed renewable energy technology and  
24 effective load management, so that the largest possible range of such programs and  
25 measures can be adopted at one time.

26       **3. Leveraging other funds.** Efficiency Maine may not substitute its services for  
27 those reasonably available in the market and in designing public sector programs shall  
28 maximize facilitation of performance-based contracts with energy service companies. In  
29 leveraging funds from other entities for public sector programs, Efficiency Maine shall  
30 minimize the extent to which such funding comes from forms of indebtedness with  
31 recourse against the governmental unit or agency receiving services. Efficiency Maine  
32 shall, between direct subsidy, leveraged funds and any other sources, promote adoption of  
33 all efficiency, conservation and demand reduction measures that have a payback period of  
34 15 years or less and shall especially seek to leverage funds for heat energy efficiency and  
35 demand reduction.

36       **4. Split incentives.** In providing services and developing programs and measures for  
37 government buildings with rented space, Efficiency Maine shall take account of the fact  
38 that the entity paying energy costs is often not the entity with authority to adopt energy  
39 cost reduction measures and shall strike a reasonable balance between ensuring that  
40 benefits flow to the entities who are paying energy costs directly and making programs  
41 and measures attractive for both landlord and tenant. Efficiency Maine shall work with  
42 landlords, tenants and subtenants to implement whole building measures, with benefits

1 flowing chiefly to the entity paying for energy, and with due account taken of the effect  
2 that lease terms may have on the long-term cost-effectiveness of a given measure.

3 **§10173. Administration of Efficiency Partners Program**

4 Efficiency Maine shall administer the Efficiency Partners Program established under  
5 Title 30-A, section 5953-C in accordance with that section.

6 **§10174. Relationship to other agencies**

7 **1. Cooperative relationship.** Efficiency Maine shall establish cooperative  
8 relationships with governmental units and agencies to enhance the ability of those entities  
9 to advance Efficiency Maine's goals and to integrate their activities into Efficiency  
10 Maine's operational and long-term plans.

11 **2. Contracting for program administration.** Efficiency Maine may contract with  
12 any governmental unit or agency to administer any aspect of its public sector programs  
13 and shall ensure that such a contract is consistent with the requirements of this chapter.

14 **SUBCHAPTER 5**

15 **HIGHER EDUCATION, HOSPITAL AND NONPROFIT PROGRAMS**

16 **§10181. Establishment of higher education, hospital and nonprofit programs**

17 Efficiency Maine shall develop, implement and monitor programs and measures to  
18 increase electric, gas and heat energy efficiency and conservation, distributed renewable  
19 energy technology and effective load management in buildings owned or occupied by  
20 higher education, hospital and nonprofit entities, including programs and measures  
21 delivered in multiple service territories, consistent with this chapter.

22 **§10182. Program guidelines**

23 **1. Nonprofit entities.** Efficiency Maine shall design programs and measures that  
24 provide sufficient technical assistance or direct oversight of work done to overcome the  
25 unique economic barriers that prevent the entities served under this chapter, and  
26 particularly nonprofit entities, from taking advantage of energy cost and demand  
27 reduction opportunities, including but not limited to lack of access to capital, lack of  
28 relevant expertise and inability to take advantage of tax incentives. Efficiency Maine  
29 shall avoid complexity in program design and registration, paperwork and other aspects  
30 of its programs and measures in order to maximize participation.

31 **2. Evaluation and technical assistance.** Programs under this subchapter shall at a  
32 minimum provide for free evaluation by persons meeting qualifications established by  
33 Efficiency Maine under section 10107, subsection 1, paragraph C and for such technical  
34 assistance as entities need to conduct effective request-for-proposal processes. To the  
35 maximum reasonable extent, Efficiency Maine shall ensure that each building served is  
36 evaluated for the full range of programs and measures to increase energy efficiency and  
37 conservation, distributed renewable energy technology and effective load management,  
38 so that the largest possible range of such measures can be adopted at one time.

1       **3. Leveraging other funds.** Efficiency Maine may not substitute its services for  
2       those reasonably available in the market and shall maximize facilitation of performance-  
3       based contracts with energy service companies. In leveraging funds from other entities  
4       for higher education, hospital and nonprofit programs, Efficiency Maine shall minimize  
5       the extent to which such funding comes from forms of indebtedness with recourse against  
6       the entity receiving services. Efficiency Maine shall, between direct subsidy, leveraged  
7       funds and any other sources, promote adoption of all efficiency, conservation and demand  
8       reduction measures that have a payback period of 15 years or less and shall especially  
9       seek to leverage funds for heat energy efficiency and demand reduction.

10       **4. Equity.** Efficiency Maine may assist entities under this subchapter that have  
11       already achieved substantial efficiency, demand reduction and load management savings  
12       in achieving similar savings that have payback periods longer than 15 years.

13       **§10183. Relationship to other agencies**

14       **1. Cooperative relationship.** Efficiency Maine shall establish cooperative  
15       relationships with governmental units and agencies with responsibility for assistance to  
16       entities served under this subchapter, to enhance the ability of those entities to advance  
17       Efficiency Maine's goals and to integrate their activities into Efficiency Maine's  
18       operational and long-term plans.

19       **2. Contracting for program administration.** Efficiency Maine may contract with  
20       any governmental unit or agency to administer any aspect of the programs under this  
21       subchapter and shall ensure that such a contract is consistent with the requirements of this  
22       chapter.

23                               **SUBCHAPTER 6**

24                               **INDUSTRIAL PROGRAMS**

25       **§10191. Establishment of industrial programs**

26       Efficiency Maine shall develop, implement and monitor programs and measures to  
27       increase electric, gas and heat energy efficiency and conservation, distributed renewable  
28       energy technology and effective load management in industrial facilities and processes,  
29       including programs and measures delivered in multiple service territories, consistent with  
30       this chapter.

31       **§10192. Program guidelines**

32       **1. Small businesses.** Serving small businesses is the first priority for Efficiency  
33       Maine's industrial sector programs, and it is a goal of Efficiency Maine to provide  
34       services to each small business within the State by December 31, 2018. Efficiency Maine  
35       shall design programs and measures that provide sufficient technical assistance or direct  
36       oversight of work done to overcome the unique economic barriers that prevent small  
37       industrial businesses from taking advantage of energy cost and demand reduction  
38       opportunities, including but not limited to small staff size, limited access to capital and  
39       frequent need for direct subsidy. Efficiency Maine shall conduct outreach to small  
40       industrial businesses and shall avoid complexity in program design and registration,

1 paperwork and other aspects of its programs and measures in order to maximize small  
2 industrial business participation.

3 **2. Evaluation and technical assistance.** Industrial sector programs shall provide  
4 for free evaluation by persons meeting qualifications established by Efficiency Maine  
5 under section 10107, subsection 1, paragraph C and for such technical assistance as  
6 businesses need to conduct effective request-for-proposal processes. To the maximum  
7 reasonable extent, Efficiency Maine shall ensure that each building or process for which  
8 industrial program services are sought is evaluated for the full range of programs and  
9 measures to increase energy efficiency and conservation, distributed renewable energy  
10 technology and effective load management, so that the largest possible range of such  
11 programs and measures can be adopted at one time.

12 **3. Leveraging other funds.** Efficiency Maine may not substitute its services for  
13 those reasonably available in the market and shall maximize facilitation of performance-  
14 based contracts with energy service companies. In leveraging funds from other entities  
15 for industrial programs, Efficiency Maine shall minimize the extent to which such  
16 funding comes from forms of indebtedness with recourse against the business receiving  
17 services. Efficiency Maine shall, between direct subsidy, leveraged funds and any other  
18 sources, promote adoption of all efficiency, conservation and demand reduction measures  
19 that have a payback period of 15 years or less and shall especially seek to leverage funds  
20 for heat energy efficiency and demand reduction.

21 An industrial energy consumer to whom the cost of purchase of efficiency credits under  
22 section 10009 is passed on by a transmission and distribution utility, a natural gas utility  
23 or a heating fuel wholesaler is entitled to receive from Efficiency Maine services of value  
24 equal to at least the amount of the cost passed on. The commission shall determine the  
25 amount of the cost passed on, taking account of any state or federal tax treatment of the  
26 purchase of the credits and any other relevant considerations.

27 **4. Equity.** Efficiency Maine may offer individualized services to businesses, but  
28 shall seek to avoid giving one business a competitive advantage over its competitors with  
29 respect to services for facilities in the State, except insofar as benefits for small  
30 businesses in an industry must be proportionally more generous than benefits for large  
31 businesses. To achieve this end, Efficiency Maine may assist businesses under this  
32 subchapter that have already achieved substantial efficiency, demand reduction and load  
33 management savings in achieving similar savings that have payback periods longer than  
34 15 years.

35 **5. Split incentives.** In providing services and developing programs and measures for  
36 industrial facilities with rented space or equipment, Efficiency Maine shall take account  
37 of the fact that the entity paying energy costs is often not the entity with authority to  
38 adopt energy cost reduction measures and shall strike a reasonable balance between  
39 ensuring that benefits flow to the entities who are paying energy costs directly and  
40 making programs and measures attractive for both landlord and tenant. Efficiency Maine  
41 shall work with landlords, tenants and subtenants to implement comprehensive building  
42 and process efficiency and demand reduction measures, with benefits flowing chiefly to  
43 the entity paying for energy, and with due account taken of the effect that lease terms  
44 may have on the long-term cost-effectiveness of a given measure.

1       **§10193. Relationship to other agencies**

2           **1. Cooperative relationship.** Efficiency Maine shall establish cooperative  
3       relationships with governmental units and agencies with responsibility for business  
4       assistance and development, including but not limited to the Finance Authority of Maine  
5       and the Department of Economic and Community Development, to enhance the ability of  
6       those entities to advance Efficiency Maine's goals and to integrate their activities into  
7       Efficiency Maine's operational and long-term plans.

8           **2. Contracting for program administration.** Efficiency Maine may contract with  
9       any governmental unit or agency to administer any aspect of its industrial sector  
10      programs and shall ensure that such a contract is consistent with the requirements of this  
11      chapter.

12                               **SUBCHAPTER 7**

13                               **WORKFORCE DEVELOPMENT**

14       **§10201. Green Energy Job Growth Fund**

15           Five percent of the funds procured from the sale of efficiency credits for electricity,  
16       natural gas and heating fuel under section 10009 and from forward capacity market  
17       payments administered by the regional transmission organization or other capacity  
18       payments that are attributable to projects funded in any measure by Efficiency Maine  
19       must be transferred to the Green Energy Job Growth Fund established under Title 26,  
20       section 2041.

21       **§10202. Training for installers of solar equipment**

22           **1. Installation training.** Efficiency Maine may establish training programs for  
23       installers of solar equipment that most effectively meet the needs of the public, to the  
24       extent the programs are integrated with workforce development systems pursuant to Title  
25       26, section 2041. If it does establish such programs, Efficiency Maine:

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

29           B. Shall confer with the Plumbers' Examining Board as established in Title 5, section  
30           12004-A, subsection 2 and the Electricians' Examining Board as established in Title  
31           5, section 12004-A, subsection 13 when it develops the course content and  
32           requirements;

33           C. Shall determine the content of the training, the hours required for course  
34           completion and the manner in which applicants for certification under this section  
35           must demonstrate proficiency in solar equipment installation;

36           D. Shall issue a certificate of completion to individuals who meet the requirements  
37           Efficiency Maine has established;

38           E. May establish reasonable course fees. All fees must be paid to Efficiency Maine  
39           for the purposes of this subsection;

1 F. Shall determine terms for the expiration and renewal of a certificate of  
2 completion; and

3 G. Shall determine an appropriate means of maintaining recognition of the training  
4 received by persons holding certificates issued pursuant to former Title 32, chapter  
5 87.

6 **2. Qualifications for installing solar equipment.** A certificate of completion  
7 issued by Efficiency Maine pursuant to subsection 1 does not exempt the holder from any  
8 applicable licensing requirements for activities involved in installing solar equipment,  
9 including but not limited to licensing requirements established in Title 32, chapter 17 or  
10 49.

11 **§10203. Training for energy auditors**

12 **1. Auditor training.** Efficiency Maine may establish training programs for energy  
13 auditors that most effectively meet the needs of the public, to the extent the programs are  
14 integrated with workforce development systems pursuant to Title 26, section 2041. For  
15 the purpose of this subsection, an energy auditor is a person who is trained to prepare a  
16 report that delineates the energy consumption characteristics of a building, identifies  
17 appropriate energy efficiency operations and maintenance procedures and recommends  
18 appropriate energy efficiency measures. If it does establish such programs, Efficiency  
19 Maine:

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

23 B. Shall determine the content of the training, the hours required for course  
24 completion and the manner in which applicants for certification under this subsection  
25 must demonstrate proficiency in energy auditing;

26 C. Shall issue a certificate of completion to individuals who meet the requirements  
27 Efficiency Maine has established;

28 D. May establish reasonable course fees. All fees must be paid to Efficiency Maine  
29 to be used for the purposes of this subsection;

30 E. Shall determine terms for the expiration and renewal of a certificate of  
31 completion; and

32 F. Shall determine an appropriate means of maintaining recognition of the training  
33 received by persons holding a certificate issued pursuant to former Title 32, chapter  
34 88.

35 Efficiency Maine shall in its sole discretion determine whether individuals are qualified  
36 to perform work that is partly subsidized by Efficiency Maine, including contractors in  
37 programs administered by or jointly with the Maine State Housing Authority.

1       **§10204. Other certification programs**

2       Efficiency Maine may establish a training or certification program for persons who  
3       install, maintain or use energy technologies or who must comply with energy-related  
4       standards or practices required by statute.

5                               **SUBCHAPTER 8**

6                               **RESEARCH AND DEVELOPMENT**

7       **§10221. Research and development funding**

8       One percent of funds procured from the sale of efficiency credits for electricity,  
9       natural gas and heating fuel under section 10009, and from forward capacity market  
10       payments administered by the regional transmission organization or other capacity  
11       payments that are attributable to projects funded in any measure by Efficiency Maine  
12       must be transferred to the Maine Technology Capacity Fund, established under Title 5,  
13       section 15303-A, to be used solely to promote research, development, commercialization  
14       and extension of environmental technology related to energy efficiency and conservation,  
15       effective electricity load management and renewable energy. Efficiency Maine may  
16       retain these funds for its activities if the board determines, in its sole discretion, that the  
17       Maine Technology Institute has decreased investment for these purposes from other funds  
18       it manages as a result of receiving efficiency credit funds.

19                              **SUBCHAPTER 9**

20                              **EDUCATIONAL PROGRAMS**

21       **§10241. Provision of public information**

22       1. General. At least 0.1% of funds procured from the sale of efficiency credits for  
23       electricity, natural gas and heating fuel under section 10009, and from forward capacity  
24       market payments administered by the regional transmission organization or other capacity  
25       payments that are attributable to projects funded in any measure by Efficiency Maine,  
26       must be expended for public information programs. Efficiency Maine in coordination  
27       with the commission under section 10001, subsection 1 shall provide to the public  
28       information about energy technologies and energy efficiency practices, in accordance  
29       with the administrator's contract, including any state building energy standards and their  
30       implementation. In providing public information, Efficiency Maine shall consider:

31       A. The aspects of energy technologies, energy efficiency and load management  
32       practices, building energy standards and their implementation about which the public  
33       needs information;

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

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

36       2. Specific programs. Efficiency Maine shall examine and consider developing:

1       A. Instructional or informational manuals, including but not limited to a manual of  
2       accepted practices to assist builders of residential buildings to comply with any state  
3       building energy standards;

4       B. Fact sheets, including but not limited to fact sheets on insulation materials and the  
5       positive and negative effects that may result from their installation; and

6       C. Any other means of providing information that will accomplish the purposes of  
7       this section.

8       **3. Funding.** Efficiency Maine may seek or may coordinate with other agencies,  
9       individuals or entities to seek federal funding for the purposes of this section and, to the  
10      extent permitted in the administrator's contract, the administrator may charge reasonable  
11      fees approved by the board to cover the costs of services provided pursuant to this  
12      section. All fees must be paid to the Treasurer of State and used to reimburse Efficiency  
13      Maine for its expenses in providing the service for which the fee is charged.

14      **4. Coordination.** To the extent practicable, Efficiency Maine shall coordinate with  
15      other agencies, individuals or entities, within and outside the State, for the purposes of  
16      this section.

## 17                                   **SUBCHAPTER 10**

### 18                                   **LOAD MANAGEMENT PROGRAMS**

#### 19                   **§10261. Establishment of load management programs**

20           Efficiency Maine shall develop, implement and monitor programs and measures to  
21           increase effective load management, consistent with the administrator's contract, and may  
22           accept forward capacity market payments administered by the regional transmission  
23           organization or other capacity payments to fund load management projects. Efficiency  
24           Maine shall partner with public utilities and other entities as appropriate to carry out the  
25           purposes of this section.

## 26                                   **PART L**

27           **Sec. L-1. 35-A MRSA c. 99** is enacted to read:

### 28                                   **CHAPTER 99**

#### 29                   **ENERGY AND WATER EFFICIENCY STANDARDS FOR APPLIANCES**

##### 30                   **§10301. Short title**

31           This chapter may be known and cited as "the Maine Energy and Water Efficiency  
32           Standards for Appliances Act."

##### 33                   **§10302. Scope**

34           **1. Authority.** The commission shall prescribe by rule standards for minimum levels  
35           of operating efficiency, based on a reasonable use pattern, and may prescribe other cost-  
36           effective measures, including incentive programs, fleet averaging, energy and water

1 consumption labeling not preempted by federal labeling law and consumer education  
2 programs, to promote the use of energy-efficient and water-efficient appliances whose  
3 use, as determined by the commission, requires a significant amount of energy or water  
4 on a statewide basis. The minimum levels of operating efficiency must be based on  
5 feasible and attainable efficiencies or feasible improved efficiencies that will reduce the  
6 growth rate of energy or water consumption in the State. The standards must become  
7 effective no sooner than one year after the date of adoption or revision. A new appliance  
8 manufactured on or after the effective date of the standards may not be sold or offered for  
9 sale in the State unless it is certified by the manufacturer to be in compliance with the  
10 standards. The standards adopted or revised pursuant to this chapter may not result in any  
11 added total costs for consumers over the designed life of the appliances concerned. When  
12 determining cost-effectiveness, the commission shall consider the value of the water or  
13 energy saved, the effect on product efficacy for the consumer and the life-cycle cost to  
14 the consumer of complying with the standard. The commission shall consider other  
15 relevant factors, including, but not limited to, the effect on housing costs, the total  
16 statewide costs and benefits of the standard over its lifetime, economic impact on  
17 businesses in the State, alternative approaches and their associated costs and the value of  
18 harmonization with standards adopted by other states.

19 A. Within 3 months of the effective date of this chapter, the commission shall adopt  
20 rules that contain the energy and water efficiency standards in California Code of  
21 Regulations, title 20, division 2, chapter 4, sections 1601-1608 (2008), and contain  
22 such other provisions of said regulations as the commission determines appropriate.  
23 The rules must provide that the standards apply with the same effective dates as  
24 under the said California Code of Regulations, except that in no case may the  
25 standard have an effective date sooner than one year after the date of adoption by the  
26 commission of the rules. Rules initially adopted under this paragraph are routine  
27 technical rules pursuant to Title 5, chapter 375, subchapter 2-A. Subsequently  
28 adopted rules or amendments to rules under this paragraph are major substantive  
29 rules, pursuant to Title 5, chapter 375, subchapter 2-A, except that the following  
30 types of rules are routine technical rules pursuant to Title 5, chapter 375, subchapter  
31 2-A:

32 (1) Rules that increase the minimum level of operating efficiency for an existing  
33 standard up to the level of the applicable national voluntary consensus standard  
34 adopted by the American Society of Heating, Refrigerating, and Air Conditioning  
35 Engineers, Inc. or, for appliances not covered by those standards, up to the level  
36 established in a similar nationwide consensus standard;

37 (2) Rules that change the measure or rating of any standard, if the minimum  
38 level of operating efficiency remains substantially the same;

39 (3) Rules that adjust the minimum level of operating efficiency in an existing  
40 standard to reflect changes in test procedures that the standards require  
41 manufacturers to use in certifying compliance, if the minimum level of operating  
42 efficiency remains substantially the same; and

43 (4) Rules that readopt a standard preempted, enjoined or otherwise found legally  
44 defective by an administrative agency or a court, if final legal action determines  
45 that the standard is valid or later changes to state or federal law remove the

1        source of any invalidity and the standard that is readopted is not more stringent  
2        than the standard that was found to be defective or preempted.

3        B. To the extent the rules the commission adopts pursuant to paragraph A are  
4        preempted by federal law, the commission shall seek a waiver of preemption. If the  
5        commission determines that further rulemaking in areas subject to federal preemption  
6        is in the public interest, it may seek a waiver of preemption for such rulemaking.

7        **2. Application.** This chapter and standards adopted by the commission by rule  
8        pursuant to this chapter apply to new appliances sold or offered for sale in the State,  
9        except those sold wholesale in the State for final retail sale outside the State and those  
10       designed and sold exclusively for use in recreational vehicles or other mobile equipment.  
11       This chapter and rules adopted pursuant to this chapter apply only to units manufactured  
12       on or after its effective date. The appliances regulated under this chapter include but are  
13       not limited to:

14       A. Refrigerators, refrigerator-freezers and freezers that are operated by alternating  
15       current electricity, including but not limited to refrigerated bottled or canned  
16       beverage vending machines, automatic commercial ice-makers, refrigerators with or  
17       without doors, freezers with or without doors, walk-in refrigerators, walk-in freezers  
18       and water dispensers, but excluding the following types:

19       (1) Consumer products with total refrigerated volume exceeding 39 cubic feet;

20       (2) Commercial refrigerators, commercial refrigerator-freezers and commercial  
21       freezers with total refrigerated volume exceeding 85 cubic feet, except that walk-  
22       in refrigerators and walk-in freezers are not excluded;

23       (3) Blast chillers; and

24       (4) Automatic commercial ice makers with a harvest rate of less than 50 pounds  
25       per 24 hours and automatic commercial ice makers with a harvest rate greater  
26       than 2,500 pounds per 24 hours;

27       B. Room air conditioners, room air conditioning heat pumps, packaged terminal air  
28       conditioners and packaged terminal heat pumps;

29       C. Central air conditioners that are electrically powered unitary air conditioners and  
30       electrically powered unitary heat pumps, except those designed to operate without a  
31       fan;

32       D. Gas-fired air conditioners and gas-fired heat pumps;

33       E. Spot air conditioners, evaporative coolers, ceiling fans, whole house fans and  
34       residential exhaust fans;

35       F. Vented gas space heaters and vented oil space heaters, vented and unvented  
36       infrared gas heaters and gas-fired combination space heating and water heating  
37       appliances;

38       G. Water heaters, including but not limited to hot water supply boilers;

39       H. Gas pool heaters, oil pool heaters, electric resistance pool heaters, heat pump pool  
40       heaters, residential pool pumps and portable electric spas;

1 I. Plumbing fittings, including showerheads, lavatory faucets, kitchen faucets,  
2 metering faucets, replacement aerators, wash fountains, tub spout diverters and  
3 commercial pre-rinse spray valves;

4 J. Plumbing fixtures, including toilets and urinals;

5 K. Lighting devices:

6 (1) Fluorescent lamp ballasts that are designed to operate at nominal input  
7 voltages of 120 or 277 volts, operate with an input current frequency of 60 hertz  
8 and whose lamp diameters equal 5/8 inch, one inch or 1 1/2 inches, commonly  
9 referred to as T5, T8 and T12 lamps;

10 (2) Federally regulated general service fluorescent lamps, federally regulated  
11 incandescent reflector lamps and state-regulated general service incandescent  
12 lamps;

13 (3) Emergency lighting, including illuminated exit signs;

14 (4) Traffic signal modules and traffic signal lamps;

15 (5) Luminaires that are torchieres, metal halide luminaires and under-cabinet  
16 luminaires;

17 (6) Light fixtures, lighting control, ballast or any component of those devices;

18 (7) New and replacement lighting devices and interior and exterior lighting  
19 devices; and

20 (8) Indoor and outdoor lighting devices, including but not limited to street lights  
21 and parking lot lighting;

22 L. Dishwashers that are federally regulated consumer products;

23 M. Clothes washers that are federally regulated consumer products and commercial  
24 clothes washers;

25 N. Clothes dryers that are federally regulated consumer products;

26 O. Cooking products that are federally regulated consumer products and food service  
27 equipment;

28 P. Electric motors, excluding definite purpose motors, special purpose motors and  
29 motors exempted by the United States Department of Energy under 42 United States  
30 Code, Section 6313(b);

31 Q. Low voltage dry-type distribution transformers that are designed to operate at a  
32 frequency of 60 hertz and that have a rated power output of not less than 15 kVa;

33 R. Single voltage external AC to DC and AC to AC power supplies included with  
34 other retail products or sold separately, excluding power supplies that are classified as  
35 devices for human use under the Federal Food, Drug, and Cosmetic Act, 21 United  
36 States Code, Chapter 9 and that require United States Food and Drug Administration  
37 listing and approval as a medical device; and

38 S. Consumer audio and video equipment, including televisions, compact audio  
39 devices, digital video disc players and digital video disc recorders.

**3. Display of date of manufacture.** An appliance regulated pursuant to this chapter, except for plumbing fittings, that is manufactured on or after January 1, 2010, may not be sold or offered for sale in the State unless the date of the manufacture is displayed in an accessible place on that appliance.

**4. Predictability of regulation.** During the period of 5 years after the commission has adopted a standard for a particular appliance pursuant to this chapter, an increase or decrease in the minimum level of operating efficiency required by the standard for that appliance may not become effective unless the commission adopts other cost-effective measures for that appliance.

**5. Confidentiality of sales information.** In the rule-making process, the commission shall designate and treat nonpublic sales information of an individual manufacturer that is obtained by the commission as confidential, and such information designated by the commission is not a public record under Title 1, section 402, subsection 3. The commission shall ensure transparency by means other than public disclosure when such information is considered.

**6. Reasonableness of information requests.** The commission may not request any information from a manufacturer that cannot be reasonably produced in the exercise of due diligence by a manufacturer.

**7. Lighting standards affecting transportation safety.** The commission shall consult with the Department of Transportation to ensure that outdoor lighting standards are compatible with the department's policies and standards for transit-related safety and illumination levels.

## PART M

**Sec. M-1. State Purchasing Agent; report on fuel economy of state-purchased vehicles.** By January 1, 2010, the State Purchasing Agent shall report to the Joint Standing Committee on Natural Resources regarding compliance with the Maine Revised Statutes, Title 5, section 1812-E.

**Sec. M-2. Green energy industry partnership proposal.** By January 1, 2010, the Department of Labor and the Department of Economic and Community Development shall, in consultation and coordination with local and statewide stakeholders, develop a proposal to the Northern Border Regional Commission created pursuant to the Federal Food, Conservation, and Energy Act of 2008, Public Law 110-246 regarding a green energy industry partnership for the downeast and coastal regions of the State, unless it appears that the commission will not have funding or is otherwise unlikely to award funds for the proposal. The proposal, and any other green energy industry proposals developed by the 2 departments, shall meet the requirements of the Maine Revised Statutes, Title 26, section 2041, and funds from the Maine Green Energy Job Growth Fund may be used to develop the proposals, within the constraints of that section.

**Sec. M-3. Department of Economic and Community Development report.** The Department of Economic and Community Development shall analyze the current opportunities for and participation in the green energy economy by business enterprises

1 owned by women, minorities and members of other target populations in the State,  
2 identify existing barriers to their successful participation in the green energy economy  
3 and develop strategies with specific policy recommendations to improve their successful  
4 participation in the green energy economy. The Department of Economic and  
5 Community Development shall report on its research, analysis and recommendations to  
6 the Joint Standing Committee on Business, Research and Economic Development by  
7 March 1, 2010. The committee may submit a bill regarding the subject matter of the  
8 report to the Second Regular Session of the 124th Legislature.

9 **Sec. M-4. Guidelines for implementation.** In carrying out their respective  
10 duties under the Maine Revised Statutes, Title 26, section 2041, the Department of Labor  
11 and the Department of Economic and Community Development shall consider the  
12 approaches to green energy industry partnerships and workforce development taken in  
13 Oregon, Washington and other states with effective models.

14 **Sec. M-5. Application.** The Maine Revised Statutes, Title 30-A, section 903-B  
15 and the amendments to Title 5, section 1764-A made by this Act do not apply to any  
16 construction projects that have received design approval prior to the effective date of  
17 rules adopted pursuant to those provisions. Amendments to Title 20-A, section 15908-A  
18 made by this Act do not apply to any school construction project that receives voter  
19 approval at a public referendum pursuant to Title 20-A, section 15904 prior to the  
20 effective date of rules adopted pursuant to Title 20-A, section 15908-A.

21 **Sec. M-6. Guidelines for implementation.** The programs that the Legislature  
22 intends to be administered by Efficiency Maine or coordinated with its efforts under the  
23 Maine Revised Statutes, Title 5, section 58 and Title 35-A, section 10152 include but are  
24 not limited to: the Finance Authority of Maine's Energy Conservation Loan Program,  
25 Economic Recovery Loan Program and Energy Audit Equipment Loan Program; the  
26 Maine State Housing Authority's program to clean, tune and evaluate home heating  
27 systems, Central Heating Improvement Program, weatherization programs, Home Energy  
28 Loan Program, Multifamily Home Energy Loan Program, energy efficiency mortgage  
29 options, Appliance Replacement Program and Carbon Market Project as well as any  
30 distributed renewable energy technology programs and green building standard programs;  
31 the Maine Community Action Association's Keep ME Warm fund; the Department of  
32 Conservation's survey of heating systems in public buildings, fuels to schools, wood  
33 pellet, wood-to-energy and wood pricing programs; the Department of Environmental  
34 Protection's Governor's Carbon Challenge, Green Certification and Environmental  
35 Leaders of Maine: Smart Growth through Smart Production programs; and all relevant  
36 programs of the Public Utilities Commission and the Office of the Public Advocate, the  
37 Department of Economic and Community Development and the University of Maine  
38 Cooperative Extension.

39 **Sec. M-7. Transition; Efficiency Maine successor to Public Utilities**  
40 **Commission's conservation program; transfer of funds.** The Public Utilities  
41 Commission shall transfer to Efficiency Maine as established under the Maine Revised  
42 Statutes, Title 35-A, chapter 97 all funds administered by the commission pursuant to  
43 Title 35-A, section 3211-A and all existing contracts, agreements and compacts of the  
44 Public Utilities Commission entered into pursuant to Title 35-A, section 3211-A and

1 currently in effect. Efficiency Maine shall administer the funds and all contracts,  
2 agreements and compacts in accordance with all relevant existing rules and procedures in  
3 operation or adopted by the Public Utilities Commission and such rules and procedures  
4 remain in effect and continue in effect with respect to those contracts, agreements and  
5 compacts until revised, rescinded or amended by the Public Utilities Commission with  
6 the agreement of Efficiency Maine. All funds transferred to Efficiency Maine under this  
7 section and not required to fund existing contracts, agreements or compacts must be  
8 applied in the same manner as funds collected pursuant to Title 35-A, section 10009.

9 **PART N**

10 **Sec. N-1. 5 MRSA §3327, sub-§3, ¶C**, as enacted by PL 2003, c. 487, §1, is  
11 amended to read:

12 C. The council may seek, and the Public Utilities Commission may provide, funds to  
13 the council pursuant to Title 35-A, section ~~3211-A~~ 10009, subsection ~~5-A~~ 8.

14 **Sec. N-2. 30-A MRSA §4722, sub-§1, ¶CC**, as enacted by PL 2007, c. 645, §3,  
15 is amended to read:

16 CC. Encourage and provide incentives to individuals and entities that conserve  
17 energy; support and participate, ~~with resources derived from sources except the~~  
18 ~~conservation program fund under Title 35-A, section 3211-A, subsection 5, in~~  
19 markets that reward energy conservation and use the proceeds from this participation  
20 to support affordable housing programs under its jurisdiction; and create and  
21 administer programs that encourage individuals and entities to conserve energy.

22 **Sec. N-3. 35-A MRSA §117, sub-§3, ¶B**, as enacted by PL 2005, c. 432, §1, is  
23 amended to read:

24 B. After deducting any amount used pursuant to paragraph A, the commission may,  
25 to the extent practicable and in as equitable and fair a manner as possible, apply  
26 administrative penalties, along with any accrued interest, in accordance with this  
27 paragraph. The commission shall seek to apply the amount in a manner that benefits  
28 those customers affected or potentially affected by the violation, if they can  
29 reasonably be identified or, if the commission determines this application of the  
30 amount to be impractical or unreasonable, in a manner that benefits the class or group  
31 of customers affected or potentially affected by the violation. In order to achieve the  
32 purposes of this paragraph, the commission may apply the funds:

33 (1) In the form of a direct payment or credit to the customers or group or class of  
34 customers affected or potentially affected by the violation resulting in the  
35 administrative penalty;

36 (2) To supplement a low-income assistance or outreach program that the  
37 commission determines would benefit customers affected or potentially affected  
38 by the violation resulting in the administrative penalty;

39 (3) To supplement the ~~conservation program fund~~ Efficiency Trust Fund  
40 established pursuant to section ~~3211-A~~ 10009, subsection 5;

(4) To supplement the telecommunications education access fund established pursuant to section 7104-B; or

(5) To supplement any other program or fund that the commission determines would benefit customers affected or potentially affected by the violation.

Amounts applied pursuant to this paragraph to supplement an existing program or fund may not result in a reduction in other funding provided for the program or fund unless the reduction is outside the commission's control and the commission finds that application of the penalty amount to the fund or program is the most appropriate use of the penalty and the net effect will be an increase in total funding available to the program or fund.

**Sec. N-4. 35-A MRSA §3153-A, sub-§1, ¶E**, as amended by PL 2001, c. 624, §2, is further amended to read:

E. Transmission and distribution utility financing or subsidization of capital improvements undertaken by ratepayers to conserve electricity used by the ratepayers in the future. This paragraph applies to future programs for utility financing of energy conservation or load management as long as the goal of such programs is to economically defer or eliminate the need for transmission and distribution plant upgrades. In addition to programs undertaken pursuant to this paragraph, programs may be undertaken pursuant to section 3211-A chapter 97 to achieve goals other than that identified in this paragraph;

**Sec. N-5. 35-A MRSA §3210, sub-§7**, as amended by PL 2007, c. 403, §5, is further amended to read:

**7. Information.** The commission shall inform electricity consumers in this State of the benefits of electricity generated in this State using renewable resources and of the opportunities available in this State to purchase electricity that is generated using those resources, including, but not limited to, green power supply products and renewable energy credit products certified under section 3212-A. The commission may not promote any renewable resources over others. The commission may apply for, receive and expend grant money from the United States Department of Energy and other government agencies for this purpose. Notwithstanding section ~~3211-A 10009~~, subsection 5, the commission also may use up to \$100,000 per year from the ~~conservation program fund~~ Efficiency Trust Fund established under section ~~3211-A 10009~~, subsection 5 to support the purposes of this subsection. The commission may create or cause to be created a brand or logo to identify Maine renewable resources, including green power supply products and renewable energy credit products certified under section 3212-A, to consumers. The commission shall register any mark or logo created pursuant to this subsection with the United States Patent and Trademark Office or in accordance with Title 10, chapter 301-A, or both. Any brand or logo created pursuant to this subsection may only be used in accordance with the purposes of this subsection as approved by the commission.

**Sec. N-6. 35-A MRSA §3210-B, sub-§3**, as enacted by PL 2003, c. 610, §2, is amended to read:

1       **3. Conservation programs.** In designing and implementing conservation programs  
2 pursuant to ~~section 3211-A~~ chapter 97, ~~the commission~~ Efficiency Maine may make  
3 available to qualified Pine Tree Development Zone businesses established under Title 30-  
4 A special programs of enhanced value to aid state efforts to promote economic  
5 development within Pine Tree Development Zones. A program made available pursuant  
6 to this subsection must be cost-effective as defined by ~~the commission~~ Efficiency Maine  
7 by rule ~~or order~~ pursuant to ~~section 3211-A~~ chapter 97.

8       **Sec. N-7. 35-A MRSA §3211-C, sub-§3**, as amended by PL 2007, c. 661, Pt. D,  
9 §1, is further amended to read:

10       **3. Funding level; fund.** The commission shall assess transmission and distribution  
11 utilities to collect funds for the solar and wind energy rebate program in accordance with  
12 this subsection. The amount of all assessments by the commission under this subsection  
13 must result in total program expenditures by each transmission and distribution utility that  
14 do not exceed 0.005 cent per kilowatt-hour. To the extent practicable, the commission  
15 shall establish and collect the assessment in a manner that is consistent with the  
16 assessment made under ~~section 3211-A~~ 10009. The commission shall establish a solar  
17 and wind energy rebate program fund to be used solely for the purposes of this section.  
18 All assessments made under this subsection are deposited in the fund. Any interest on  
19 funds in the fund must be credited to the fund. Funds not spent in any fiscal year remain  
20 in the fund to be used for the purposes of this section. The commission shall determine  
21 the allotment of the fund in each fiscal year between solar photovoltaic system rebates,  
22 solar thermal system rebates and qualified wind energy system rebates, with a minimum  
23 of 20% of the fund provided to each of the 3 types of rebates.

24       **Sec. N-8. 35-A MRSA §10007, sub-§5**, as enacted by PL 2007, c. 317, §14, is  
25 repealed and the following enacted in its place:

26       **5. Staff.** Efficiency Maine, as established under chapter 97, shall hire and organize  
27 staff resources for the board.

28       **Sec. N-9. 35-A MRSA §10007, sub-§6**, as enacted by PL 2007, c. 317, §14, is  
29 amended to read:

30       **6. Triennial energy efficiency and conservation plan.** The board shall vote on a  
31 detailed triennial energy efficiency and conservation plan developed jointly by the  
32 commission and the trustees of the Energy and Carbon Savings Trust pursuant to ~~section~~  
33 ~~3211-A, subsection 2, paragraph K and section 10008, subsection 7~~, referred to in this  
34 subsection as "the plan," and make a full report of the vote to the commission and the  
35 trustees of the Energy and Carbon Savings Trust in accordance with this subsection.

36       A. In developing the plan, the commission and the trustees of the Energy and Carbon  
37 Savings Trust shall consult the board and provide the opportunity for the board to  
38 provide input on drafts of the plan.

39       B. The board may review efficiency and conservation program budget allocations of  
40 the commission and the Energy and Carbon Savings Trust and provide general

1 guidance to the commission and the trustees of the Energy and Carbon Savings Trust  
2 on program implementation.

3 C. The board may present any recommended changes to the plan to the commission  
4 and the trustees of the Energy and Carbon Savings Trust for review and final  
5 approval. The commission and the trustees may adopt, modify or reject any  
6 recommended changes presented by the board.

7 D. With respect to efficiency and conservation programs administered by the  
8 commission, the first plan must be developed and adopted to address all programs  
9 implemented on or after July 1, 2010.

## 10 SUMMARY

11 This bill provides funding for cost-effective efficiency and renewable energy  
12 technology. It creates an energy efficiency entity called Efficiency Maine to administer a  
13 wide range of efficiency and related programs and to leverage private and federal funds.  
14 It ensures the provision of training for the jobs that these measures will create.  
15 Specifically, the bill accomplishes the following.

16 Part A requires all agencies of State Government that administer a program related to  
17 energy efficiency, load management and distributed renewable energy to contract with  
18 Efficiency Maine to administer the program, unless a different cooperative arrangement is  
19 more cost-effective.

20 Part A also raises efficiency standards for state-funded construction and state-  
21 purchased vehicles.

22 Part B adds Efficiency Maine project bonds issued by the Finance Authority of Maine  
23 to the portion of the State ceiling for private activity bonds allocated to the Finance  
24 Authority of Maine.

25 Part B also requires every building and industrial facility in the State, with certain  
26 limited exceptions, to get a thorough energy audit within the next 10 years. If the  
27 evaluation is done in coordination with Efficiency Maine, the audit must be paid for by  
28 Efficiency Maine.

29 Part C adjusts school funding provisions to make state funding for adult education  
30 more responsive to increases in enrollment attributable to new workforce development  
31 programs and to permit career and technical education centers to receive targeted  
32 workforce development program funds.

33 Part C also raises efficiency standards for school construction, involves Efficiency  
34 Maine in the construction project approval process, gives school administrative units  
35 increased flexibility in contracting with energy service companies for energy efficiency,  
36 load management and distributed renewable energy improvements and makes school  
37 administrative units eligible for technical and other assistance from Efficiency Maine in  
38 pursuing energy-related improvements.

1 Part D establishes a Green Energy Job Growth Initiative to ensure that workforce  
2 development efforts keep pace with jobs created by the bill. It requires the Department of  
3 Labor, in consultation with a broad range of stakeholders, to analyze current and future  
4 workforce needs in energy-related fields and to develop career ladders and  
5 recommendations for certifications, standards and licensing.

6 Part D also requires the Department of Labor, as part of the Green Energy Job  
7 Growth Initiative, to administer a competitive grant program to support development of  
8 industry partnerships to meet workforce needs in energy-related fields and to leverage  
9 private and federal workforce development funds to that end. Funding is provided from  
10 the new revenues generated by the energy efficiency resources standard established in  
11 Part J of the bill.

12 Part D also requires the Department of Labor, as part of the Green Energy Job  
13 Growth Initiative, to provide direct support to workers seeking training in energy-related  
14 fields, in a manner modeled on the Competitive Skills Scholarship Program.

15 Part E raises efficiency standards for county buildings, expands counties' ability to  
16 contract with energy service companies to achieve energy savings and makes counties  
17 eligible for technical and other assistance from Efficiency Maine.

18 Part F raises efficiency standards for low-income rental housing, requires landlords  
19 who participate in housing subsidy voucher programs to adopt efficiency measures that  
20 do not increase the indebtedness of the landlord and establishes a collaborative  
21 relationship between the Maine State Housing Authority and Efficiency Maine in  
22 delivering efficiency programs to the residential sector.

23 Part G expands the capacity of municipalities to use the property tax billing system to  
24 administer energy efficiency assistance programs and applies higher efficiency standards  
25 to municipal buildings to the extent that the State or another entity provides funding to  
26 cover the additional up-front cost of meeting those standards.

27 Part H establishes a partnership between the Maine Municipal Bond Bank and  
28 Efficiency Maine to administer the bank's Efficiency Partners program that provides  
29 loans for efficiency upgrades to municipal and public school buildings, requires the bank  
30 to consult with Efficiency Maine in administering its other programs and applies the  
31 bank's aggregation powers to the purchase of energy efficiency-related products and  
32 services.

33 Part I provides a definition of "distributed renewable energy technology," changes  
34 certain public utility laws to account for the creation of Efficiency Maine and requires  
35 transmission and distribution utilities and gas utilities to coordinate with Efficiency  
36 Maine in administering efficiency and distributed renewable energy technology programs  
37 and requires those utilities' cooperation in distributing information and allowing financing  
38 of efficiency-related projects to use the utilities' billing systems.

39 Part I also requires the Public Utilities Commission to recommend efficiency  
40 standards for new electricity transmission lines and to establish a decoupling rate

1 structure to encourage transmission and distribution utilities to reduce energy costs by  
2 reducing peak load.

3 Part J raises the renewable portfolio standard and establishes an energy efficiency  
4 resource standard that requires transmission and distribution utilities, gas utilities and  
5 heating fuel wholesalers to purchase energy efficiency credits to meet established  
6 efficiency targets and requires Efficiency Maine to deliver programs and services that  
7 meet those targets. It also provides jurisdiction to the Public Utilities Commission to  
8 impose administrative penalties on heating fuel wholesalers who fail to purchase the  
9 credits.

10 Part J also gives responsibility for administering the Energy and Carbon Savings  
11 Trust to Efficiency Maine's administrator.

12 Parts J and K transfer most responsibility for energy efficiency and distributed  
13 renewable energy technology programs now administered by the Public Utilities  
14 Commission to Efficiency Maine.

15 Part K establishes Efficiency Maine as a public instrumentality of the State governed  
16 by a board that is directed to contract with a nonprofit entity to administer all of  
17 Efficiency Maine's programs and activities. The contract is required to include strict  
18 benchmarks for a broad range of quality measures.

19 Part K requires Efficiency Maine to implement a broad range of programs to increase  
20 energy efficiency for all of the State's residential, commercial and industrial energy  
21 consumers by using revenues from the sale of energy efficiency credits to fund cost-  
22 effective energy efficiency and distributed renewable energy technology products and  
23 services, workforce development activities to meet the demand for those programs and  
24 services and research, development and commercialization of products and services that  
25 reduce energy costs.

26 Part K creates various legal immunities for Efficiency Maine and establishes certain  
27 exemptions for its records from Maine's freedom of access laws.

28 Part K also requires Efficiency Maine to design its programs to maximize leveraging  
29 of other funding sources, including private financing, federal funds and payments from  
30 other New England states through the forward capacity market.

31 Part K also authorizes the Finance Authority of Maine to issue revenue bonds for  
32 Efficiency Maine projects approved by Efficiency Maine.

33 Part L requires the Public Utilities Commission to adopt minimum appliance  
34 efficiency standards.

35 Part M requires the State Purchasing Agent to report to the Legislature on compliance  
36 with fuel economy mandates for state-purchased vehicles.

37 Part M also requires the Department of Labor and the Department of Economic and  
38 Community Development to submit a proposal for an energy industry partnership for the

1 downeast and coastal regions for funding by the Northern Border Regional Commission  
2 and to explore other possible energy industry partnership proposals.

3 Part M also directs the Department of Economic and Community Development to  
4 analyze and report to the Legislature on barriers to participation in the green energy  
5 economy by businesses owned by women, minorities and other target populations.

6 Part M directs the Department of Labor and the Department of Economic and  
7 Community Development in carrying out their duties under the Green Energy Job Growth  
8 Initiative and Part D of the bill to consider approaches taken in Oregon and Washington.

9 Part M also includes an application provision grandfathering certain already-  
10 approved construction projects of the State, counties, municipalities and schools from the  
11 new efficiency standards established under the bill.

12 Part M provides that it is the Legislature's intent that various specific programs now  
13 administered by various agencies be administered by Efficiency Maine or coordinated  
14 with its efforts.

15 Part M provides for the transfer of all of the Public Utilities Commission's Efficiency  
16 Maine program assets, fund and contracts to the new Efficiency Maine entity established  
17 under the bill.

18 Part N corrects cross-references.