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UTILITIES AND ENERGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1274, L.D. 1786, Bill, "An Act Regarding Energy Infrastructure Development"

Amend the bill in Part A by striking out all of section 1 and inserting the following:

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

30-D.

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

Amend the bill in Part A in section 2 in §122 in subsection 1 by striking out all of paragraph B (page 1, lines 13 to 17 in L.D.) and inserting the following:

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

(1) Generation interconnection transmission facilities;

(2) Energy generation facilities; or

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

Amend the bill in Part A in section 2 in §122 in subsection 1 in paragraph F-2 in the 2nd line (page 1, line 36 in L.D.) by striking out the following: "existing pipeline" and inserting the following: 'pipeline existing on the effective date of this paragraph'

Amend the bill in Part A in section 2 in §122 in subsection 1 by striking out all of paragraph F-3 (page 2, lines 8 and 9 in L.D.) and inserting the following:

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

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

3 Amend the bill in Part A in section 2 in §122 in subsection 1-B by striking out all of
4 paragraph A (page 2, lines 34 to 40 and page 3, lines 1 to 3 in L.D.) and inserting the
5 following:

6 'A. The panel includes the following members:

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

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

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

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

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

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

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

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

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

31 Amend the bill in Part A in section 2 in §122 in subsection 1-B by striking out all of
32 paragraph D (page 3, lines 13 to 41 and page 4, line 1 in L.D.) and inserting the
33 following:

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

36 Amend the bill in Part A in section 2 in §122 in subsection 1-B in paragraph E in the
37 first line (page 4, line 2 in L.D.) by striking out the following: "paragraph D" and
38 inserting the following: 'subsection 1-D'

1 Amend the bill in Part A in section 2 in §122 in subsection 1-B in paragraph E in
2 subparagraph (1) in the 3rd line (page 4, line 8 in L.D.) by inserting after the following:
3 "corridor" the following: 'and any conditions of use'

4 Amend the bill in Part A in section 2 in §122 in subsection 1-B in paragraph E in
5 subparagraph (2) in the last 2 lines (page 4, lines 18 and 19 in L.D.) by striking out the
6 following: "the state agency or agencies that own or control" and inserting the following:
7 'any state agency or authority that owns or controls land or assets within'

8 Amend the bill in Part A in section 2 in §122 in subsection 1-B in paragraph E by
9 inserting at the end the following:

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

14 Amend the bill in Part A in section 2 in §122 in subsection 1-B in paragraph G in the
15 5th line (page 5, line 5 in L.D.) by inserting after the following: "agency" the following:
16 'or authority'

17 Amend the bill in Part A in section 2 in §122 in subsection 1-B in paragraph G in
18 subparagraph (1) in the first line (page 5, line 6 in L.D.) by inserting after the following:
19 "agency" the following: 'or authority'

20 Amend the bill in Part A in section 2 in §122 in subsection 1-B by inserting after
21 paragraph H the following:

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

25 Amend the bill in Part A in section 2 in §122 by striking out all of subsection 1-C and
26 inserting the following:

27 **'1-C. Maine Turnpike Authority; memorandum of agreement; approval of**
28 **occupancy agreements.** The Maine Turnpike Authority shall negotiate the terms of and
29 enter into a memorandum of agreement with the Department of Transportation, consistent
30 with paragraph A, to govern the conditions under which the Maine Turnpike Authority
31 will grant an occupancy agreement for use of Maine Turnpike Authority property as part
32 of the Interstate 95 statutory corridor. The Maine Turnpike Authority shall approve the
33 terms of any occupancy agreement for use of Maine Turnpike Authority property within
34 the Interstate 95 corridor that is consistent with the memorandum of agreement.

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

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

39 (2) The right of the Maine Turnpike Authority to review and approve all
40 construction, reconstruction, expansion, improvement, maintenance or operation
41 of energy infrastructure on Maine Turnpike Authority property as part of the
42 Interstate 95 statutory corridor in accordance with reasonable engineering

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1 standards of the Maine Turnpike Authority. The Maine Turnpike Authority may
2 not unreasonably withhold approval under this subparagraph;

3 (3) The right of the Maine Turnpike Authority to require relocation or
4 reconfiguration of any portion of energy infrastructure and all related installations
5 on Maine Turnpike Authority property within the Interstate 95 statutory corridor
6 at the sole cost of the owner of the energy infrastructure so affected when and to
7 the extent that such relocation or reconfiguration is reasonably necessary for the
8 construction, reconstruction, expansion, improvement, maintenance or operation
9 of the Maine Turnpike;

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

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

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

26 Amend the bill in Part A in section 2 in §122 by inserting after subsection 1-C the
27 following:

28 '**1-D. Energy infrastructure proposal; decision criteria.** The deciding authority
29 shall evaluate and render a decision on an energy infrastructure proposal in accordance
30 with this subsection. For the purposes of this subsection, "deciding authority" means the
31 Interagency Review Panel acting under subsection 1-B, paragraph D or the Public
32 Utilities Commission acting under subsection 5-A or section 3132, subsection 6-A.

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

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

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

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1 deciding authority, to reduce rates, prices or costs over the life of the proposed
2 energy infrastructure; and

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

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

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

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

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

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

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

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

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

27 (8) Reduces the release of greenhouse gases.'

28 Amend the bill in Part A in section 2 in §122 in subsection 2 by striking out all of
29 paragraph C (page 6, lines 8 to 17 in L.D.) and inserting the following:

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

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

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

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COMMITTEE AMENDMENT "A" to H.P. 1274, L.D. 1786

1 Amend the bill in Part A in section 2 in §122 in subsection 2 by striking out all of
2 paragraph F (page 6, lines 38 to 41 and page 7, lines 1 to 8 in L.D.) and inserting the
3 following:

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

- 6 (1) Houlton Band Trust Land, as defined in Title 30, section 6203, subsection
7 2-A;
- 8 (2) Passamaquoddy Indian territory, as defined in Title 30, section 6203,
9 subsection 6;
- 10 (3) Penobscot Indian territory, as defined in Title 30, section 6203, subsection 9;
- 11 (4) Aroostook Band Trust Land, as defined in Title 30, section 7202, subsection
12 2;
- 13 (5) Lands that constitute a park as defined in Title 12, section 1801, subsection 7
14 and Baxter State Park; and
- 15 (6) Federally owned land; and
- 16 (7) The Maine Turnpike, as described in Title 23, section 1964, subsection 9.'

17 Amend the bill in Part A in section 2 in §122 in subsection 4-A in paragraph A by
18 striking out all of subparagraph (1) (page 8, lines 17 to 19 in L.D.) and inserting the
19 following:

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

24 Amend the bill in Part A in section 2 in §122 by striking out all of subsection 5-A and
25 inserting the following:

26 '5-A. Corridor use certificate. Whenever a person proposes to develop or construct
27 energy infrastructure within a petitioned corridor, that person shall file with the
28 commission a petition for a corridor use certificate. The petition for the corridor use
29 certificate must contain such information as the commission by rule requires. The
30 commission shall process a petition for a corridor use certificate in an adjudicatory
31 proceeding. The commission shall evaluate and render a decision on any petition for a
32 corridor use certificate in accordance with subsection 1-D. A certificate issued under this
33 subsection must specify the terms and conditions of use of the petitioned corridor. The
34 commission shall establish by rule procedures to minimize duplicative filing and review
35 requirements for the corridor use certificate for any transmission line that requires a
36 certificate of public convenience and necessity under section 3132. Rules adopted
37 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
38 subchapter 2-A.'

39 Amend the bill in Part A in section 2 in §122 by striking out all of subsection 6 and
40 inserting the following:

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1 **6. Environmental review; consolidated environmental permit.** Whenever a
2 person proposes to develop or construct energy infrastructure within an energy
3 infrastructure corridor, that person shall file with the department an application for a
4 consolidated environmental permit. ~~The department shall adopt by rule pursuant to~~
5 ~~subsection 9 a process for the review of applications and the issuance of the consolidated~~
6 ~~environmental permit in accordance with this subsection. The department may request~~
7 ~~comments from and consult with other agencies and programs that are required by law to~~
8 ~~issue separate approvals for some or all projects. The department may adopt rules to~~
9 ~~implement this subsection. Rules adopted pursuant to this subsection are routine~~
10 ~~technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

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

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

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

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

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

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

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

42 ~~If the department receives an application for a permit to develop or construct energy~~
43 ~~infrastructure within an energy infrastructure corridor prior to adopting a rule to~~

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COMMITTEE AMENDMENT "A" to H.P. 1274, L.D. 1786

1 ~~implement this subsection, the department shall process the application in accordance~~
2 ~~with the department's existing review and permitting procedures.'~~

3 Amend the bill in Part A in section 2 in §122 in subsection 6-A in the first line (page
4 11, line 7 in L.D.) by inserting after the following: "provided by" the following:
5 'subsection 1-C or any other'

6 Amend the bill in Part A in section 2 in §122 in subsection 7 by striking out all of
7 paragraph B (page 11, lines 15 to 36 in L.D.) and inserting the following:

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

- 17 (1) Lands or easements located within 300 feet of an inhabited dwelling;
- 18 (2) Lands or easements on or adjacent to any developed or undeveloped water
19 power;
- 20 (3) Lands or easements so closely paralleling existing wire lines of other utilities
21 or existing energy transport pipelines that the proposed energy infrastructure
22 would substantially interfere with service rendered over the existing lines or
23 pipelines, except with the consent of the owners;
- 24 (4) Lands or easements owned or used by railroad corporations, except as
25 authorized pursuant to section 2311;
- 26 (5) Lands or easements owned by the State or an agency or authority of the State;
27 and
- 28 (6) Transmission and distribution plant that is owned, controlled, operated or
29 managed by a transmission and distribution utility on the effective date of this
30 section.'

31 Amend the bill in Part A in section 2 in §122 in subsection 7 in paragraph C in
32 subparagraph (3) in the last line (page 12, line 15 in L.D.) and inserting after the
33 following: "plant" the following: 'or an energy transport pipeline'

34 Amend the bill in Part A in section 2 in §122 in subsection 7 in paragraph C by
35 striking out all of subparagraph (6) (page 12, lines 23 to 30 in L.D.) and inserting the
36 following:

37 '(6) The commission, in an adjudicatory proceeding upon petition by the Office
38 of the Public Advocate or the Executive Department, Governor's Office of
39 Energy Independence and Security, may transfer or convey to any person or state
40 agency or authority lands and easements once acquired, except that a
41 transmission and distribution utility or the owner of an energy transport pipeline

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1 whose lands or easements were taken pursuant to this paragraph must be given
2 the first opportunity to acquire the lands or easements to the extent necessary or
3 useful in the performance of its duties as a transmission and distribution utility or
4 an owner of an energy transport pipeline.'

5 Amend the bill in Part A in section 2 in §122 by striking out all of subsection 9 and
6 inserting the following:

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

12 Amend the bill in Part A by inserting after section 2 the following:

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

14 **4-A. High-impact electric transmission line.** "High-impact electric transmission
15 line" means a transmission line greater than 50 miles in length that is not located in a
16 statutory corridor, as defined in section 122, subsection 1, paragraph F-4, or a petitioned
17 corridor, as defined in section 122, subsection 1, paragraph D-1, and that is:

18 A. Constructed to transmit direct current electricity; or

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

20 (1) Is not a generator interconnection transmission facility as defined in section
21 3132, subsection 1-B; and

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

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

26 **6. Commission order; certificate of public convenience and necessity.** In its
27 order, the commission shall make specific findings with regard to the public need for the
28 proposed transmission line. If Except as provided in subsection 6-A for a high-impact
29 electric transmission line, if the commission finds that a public need exists, it shall issue a
30 certificate of public convenience and necessity for the transmission line. In determining
31 public need, the commission shall, at a minimum, take into account economics,
32 reliability, public health and safety, scenic, historic and recreational values, the proximity
33 of the proposed transmission line to inhabited dwellings and alternatives to construction
34 of the transmission line, including energy conservation, distributed generation or load
35 management. If the commission orders or allows the erection of the transmission line, the
36 order is subject to all other provisions of law and the right of any other agency to approve
37 the transmission line. The commission shall, as necessary and in accordance with
38 subsections 7 and 8, consider the findings of the Department of Environmental Protection
39 under Title 38, chapter 3, subchapter 1, article 6, with respect to the proposed
40 transmission line and any modifications ordered by the Department of Environmental
41 Protection to lessen the impact of the proposed transmission line on the environment. A
42 person may submit a petition for and obtain approval of a proposed transmission line

1 under this section before applying for approval under municipal ordinances adopted
2 pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A and, except as
3 provided in subsection 4, before identifying a specific route or route options for the
4 proposed transmission line. Except as provided in subsection 4, the commission may not
5 consider the petition insufficient for failure to provide identification of a route or route
6 options for the proposed transmission line. The issuance of a certificate of public
7 convenience and necessity establishes that, as of the date of issuance of the certificate, the
8 decision by the person to erect or construct was prudent. At the time of its issuance of a
9 certificate of public convenience and necessity, the commission shall send to each
10 municipality through which a proposed corridor or corridors for a transmission line
11 extends a separate notice that the issuance of the certificate does not override, supersede
12 or otherwise affect municipal authority to regulate the siting of the proposed transmission
13 line. The commission may deny a certificate of public convenience and necessity for a
14 transmission line upon a finding that the transmission line is reasonably likely to
15 adversely affect any transmission and distribution utility or its customers.

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

17 **6-A. High-impact electric transmission line; certificate of public convenience**
18 **and necessity.** The commission shall evaluate and render a decision on any petition for a
19 **certificate of public convenience and necessity for a high-impact transmission line in**
20 **accordance with section 122, subsection 1-D.**

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

23 **Sec. A-7. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title
24 35-A, section 122, subsection 1-B, paragraph A, subparagraph (4), the Governor shall
25 appoint the initial public members of the Interagency Review Panel to serve staggered
26 terms. Of the initial appointees, one member serves an initial term of one year, one
27 member serves an initial term of 2 years and 2 members serve initial terms of 3 years. An
28 initial term of one or 2 years may not be considered a full term for purposes of limiting
29 the number of terms for which a member may serve.

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

1 and energy matters and the Interagency Review Panel established under Title 35-A,
2 section 122 and to all state agencies with permitting authority over energy infrastructure,
3 including but not limited to the Department of Environmental Protection, the Maine Land
4 Use Regulation Commission, the Public Utilities Commission and the Department of
5 Transportation.'

6 Amend the bill in Part B in section 1 by striking out all of subsection 9 (page 13, lines
7 5 to 14 in L.D.) and inserting the following:

8 **9. Energy infrastructure benefits fund.** To establish an energy infrastructure
9 benefits fund. Except as otherwise provided by Title 35-A, section 122, subsection 1-C or
10 any other law, including the Constitution of Maine, the fund consists of any revenues
11 derived from the use of state-owned land and assets for energy infrastructure
12 development pursuant to Title 35-A, section 122. Each fiscal year, the Treasurer of State
13 shall transfer 80% of revenues collected in the fund to the Efficiency Maine Trust for
14 deposit by the Efficiency Maine Trust Board in program funds pursuant to Title 35-A,
15 section 10103, subsection 4 and use by the trust in accordance with Title 35-A, section
16 10103, subsection 4-A and 20% of revenues collected in the fund to the Department of
17 Transportation for deposit in the Transportation Efficiency Fund established in Title 23,
18 section 4210-E and use by the department in accordance with Title 23, section 4210-E,
19 subsection 2. For the purposes of this subsection, "energy infrastructure" and "state-
20 owned" have the same meanings as in Title 35-A, section 122, subsection 1.'

21 Amend the bill in Part B by inserting after section 1 the following:

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

23 **§4210-E. Transportation Efficiency Fund**

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

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

40 Amend the bill in Part B by striking out all of section 3 and inserting the following:

41 '**Sec. B-3. 35-A MRSA §10103, sub-§4-A** is enacted to read:

1 4-A. Use of revenues from the energy infrastructure benefits fund. The trust
2 shall use revenues transferred to the trust from the energy infrastructure benefits fund
3 pursuant to Title 5, section 282, subsection 9:

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

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

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

12 B. To compensate public members of the Interagency Review Panel pursuant to Title
13 5, section 12004-G, subsection 30-D.

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

20 **Sec. B-4. Transition; funding for public members of the Interagency**
21 **Review Panel.** Notwithstanding any other provision of law, until sufficient revenues
22 from the energy infrastructure benefits fund are transferred to the Efficiency Maine Trust
23 pursuant to the Maine Revised Statutes, Title 5, section 282, subsection 9 to compensate
24 public members of the Interagency Review Panel pursuant to Title 5, section 12004-G,
25 subsection 30-D, program funds of the Efficiency Maine Trust from other sources may be
26 used for that purpose.

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

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

1 2. The office shall convene a working group on alternative energy resources
 2 initiatives. The group must include, but is not limited to, a representative of the
 3 Efficiency Maine Trust, a representative of a statewide environmental advocacy
 4 organization and a representative of renewable energy consultants. The working group
 5 shall examine and make recommendations regarding the allocation of revenues from the
 6 energy infrastructure benefits fund pursuant to Title 5, section 282, subsection 9 to the
 7 Efficiency Maine Trust and the uses of those revenues according to Title 35-A, section
 8 10103, subsection 4-A for alternative energy resources initiatives. The working group
 9 shall submit its findings and recommendations no later than March 1, 2011 to the joint
 10 standing committees of the Legislature having jurisdiction over transportation matters and
 11 over utilities and energy matters.

12 **Sec. B-6. Appropriations and allocations.** The following appropriations and
 13 allocations are made.

14 **TRANSPORTATION, DEPARTMENT OF**

15 **Transportation Efficiency Fund N106**

16 Initiative: Establishes the Transportation Efficiency Fund.

17	OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
18	All Other	\$0	\$500
19			
20	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$500</u>
21			

22 Amend the bill in Part C by striking out all of section 2 and inserting the following:

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

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

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

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

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

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

11.013

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

6 Amend the bill in Part C in section 3 in subsection 13 in the first line (page 15, line
7 12 in L.D.) by inserting after the following: "agency" the following: 'or authority'

8 Amend the bill in Part C by striking out all of section 5 and inserting the following:

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

14 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
15 section number to read consecutively.

16 **SUMMARY**

17 This amendment makes the following changes to Part A of the bill.

18 1. It clarifies the definition of "energy infrastructure." It preserves the exclusion of
19 generation interconnection transmission facilities and energy generation facilities from
20 the definition, as in current law, and adds an exclusion for electric transmission and
21 distribution facilities and energy transport pipelines that cross an energy infrastructure
22 corridor or are within a corridor for less than 5 miles.

23 2. It modifies the composition of the Interagency Review Panel to incorporate 4
24 members of the public: one with expertise in energy and utilities, one with expertise in
25 real estate or finance, one representing industrial or commercial energy consumers and
26 one representing residential energy consumers.

27 3. It modifies the provision in the bill regarding the participation of the Maine
28 Turnpike Authority in the Interstate 95 statutory corridor. The amendment requires the
29 Maine Turnpike Authority to negotiate and enter into a memorandum of agreement with
30 the Department of Transportation to govern the conditions under which the authority will
31 grant an occupancy agreement for use of the authority's property as part of the corridor
32 and it specifies requirements regarding the terms of that memorandum of agreement.

33 4. It clarifies and consolidates in one section of law the decision criteria to be used by
34 the Interagency Review Panel and the Public Utilities Commission in evaluating and
35 making decisions on energy infrastructure proposals.

36 5. It adds language to prohibit the commission from designating a petitioned corridor
37 in the Maine Turnpike.

38 6. It clarifies the provisions governing the consolidated environmental permit issued
39 by the Department of Environmental Protection for development within an energy
40 infrastructure corridor.

1 7. It adds language in the eminent domain provisions to treat energy transport
2 pipelines consistently with transmission and distribution utilities.

3 8. It adds a provision to designate certain transmission lines as "high-impact electric
4 transmission lines" and to require the Public Utilities Commission to review petitions for
5 those lines using the same decision criteria that govern approval of energy infrastructure
6 proposals in statutory corridors and petitioned corridors.

7 9. It adds a provision to explicitly repeal the provisions regarding legislative review
8 of corridor plans under Public Law 2009, chapter 372, Part F, section 5.

9 It makes the following changes to Part B of the bill.

10 1. It amends the provisions regarding the disposition of revenues in the energy
11 infrastructure benefits fund. In the bill, all such revenues are directed to the Efficiency
12 Maine Trust. Under the amendment, 20% of the revenues are directed to a new
13 Transportation Efficiency Fund to be administered by the Department of Transportation
14 and used by the department to increase the energy efficiency of or reduce reliance on
15 fossil fuels within the transportation system. The other 80% of the revenues is directed to
16 the Efficiency Maine Trust for expenditure on energy efficiency initiatives and alternative
17 energy resources initiatives.

18 2. It adds a new provision that directs the Executive Department, Governor's Office
19 of Energy Independence and Security to convene 2 working groups to examine and make
20 recommendations regarding the use of revenues generated by energy infrastructure
21 development in energy infrastructure corridors. One working group is designed to focus
22 on the use of these funds for transportation efficiency initiatives and the other is designed
23 to focus on the use of these funds for alternative energy resources initiatives. Each group
24 is required to submit a report by March 1, 2011.

25 3. It adds an appropriations and allocations section.

26 It makes the following changes to Part C of the bill.

27 1. It amends the provision regarding advice to be provided to state agencies by the
28 Director of the Governor's Office of Energy Independence and Security to ensure
29 consistency with the amendments to Part A of the bill regarding the decision criteria for
30 energy infrastructure development and the Maine Turnpike Authority.

31 2. It clarifies that the required report from the Department of Transportation
32 regarding current and potential uses of abandoned railroad corridors owned or controlled
33 by the department for energy infrastructure development must be submitted to the joint
34 standing committee of the Legislature having jurisdiction over transportation matters in
35 addition to the joint standing committee of the Legislature having jurisdiction over
36 utilities and energy matters.

37 **FISCAL NOTE REQUIRED**

38 (See attached)



124th MAINE LEGISLATURE

LD 1786

LR 2578(02)

An Act Regarding Energy Infrastructure Development

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Utilities and Energy

Fiscal Note Required: Yes

Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
Appropriations/Allocations				
Other Special Revenue Funds	\$0	\$500	\$500	\$500

Fiscal Detail and Notes

The Energy Independence Fund will now be referred to as the Energy Infrastructure Benefits Fund, which will receive revenue from the use of state-owned land and assets for energy infrastructure development. Under current law all such revenue stayed with the Efficiency Maine Trust. This bill moves 20% of the revenues collected to the Transportation Efficiency Fund within the Department of Transportation. The bill includes a base allocation of \$500 beginning in fiscal year 2010-11 to establish the Transportation Efficiency Fund, which will be used for projects that increase the efficiency of the state transportation system. Personnel at the Efficiency Maine Trust do not anticipate that diverting 20% of these revenues away from the Trust will have a major impact on its budget.

Any additional costs associated with serving on interagency review panels, participating in the formulation of energy infrastructure proposals or other matters can be absorbed by the Department of Transportation, the Public Utilities Commission, the Department of Environmental Protection, the Efficiency Maine Trust, the Maine Turnpike Authority and the Governor's Office of Energy Independence.