

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 260

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H.P. 193

House of Representatives, January 31, 2017

### An Act To Create the Maine Energy Office

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

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative FREDETTE of Newport.  
Cosponsored by Representatives: GROHMAN of Biddeford, HARVELL of Farmington,  
O'CONNOR of Berwick, WADSWORTH of Hiram.

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

2 **Sec. 1. 2 MRSA §9**, as amended by PL 2013, c. 415, §§1 to 4 and c. 541, §1, is  
3 repealed.

4 **Sec. 2. 35-A MRSA §10104, sub-§4**, as amended by PL 2013, c. 369, Pt. A,  
5 §§10 to 13, is further amended to read:

6 **4. Triennial plan.** The board shall vote on a detailed, triennial, energy efficiency,  
7 alternative energy resources and conservation plan that includes the quantifiable measures  
8 of performance developed under subsection 3 and make a full report of the vote to the  
9 commission in accordance with this subsection. The triennial plan must provide  
10 integrated planning, program design and implementation strategies for all energy  
11 efficiency, alternative energy resources and conservation programs administered by the  
12 trust, including but not limited to the electric efficiency and conservation programs under  
13 section 10110, the natural gas efficiency and conservation programs under section 10111,  
14 the Regional Greenhouse Gas Initiative Trust Fund under section 10109, the Heating  
15 Fuels Efficiency and Weatherization Fund under section 10119 and any state or federal  
16 funds or publicly directed funds accepted by or allocated to the trust for the purposes of  
17 this chapter. The triennial plan must include provisions for the application of appropriate  
18 program funds to support workforce development efforts that are consistent with and  
19 promote the purposes of the trust. Beginning January 1, 2011, the triennial plan must  
20 specify the appropriate participation of the State in national and regional carbon markets.  
21 The plan must be consistent with the comprehensive state energy plan pursuant to ~~Title 2,~~  
22 section ~~9~~ 10205, subsection ~~3~~, ~~paragraph C~~ 2.

23 A. The triennial plan must be developed by the trust, in consultation with entities and  
24 agencies engaged in delivering efficiency programs in the State, to authorize and  
25 govern or coordinate implementation of energy efficiency and weatherization  
26 programs in the State. The triennial plan must identify all achievable cost-effective  
27 energy efficiency savings and related programs that could be implemented pursuant  
28 to sections 10110 and 10111, the costs and benefits of such programs and the basis  
29 and support for such identified costs and benefits. The trust shall conduct an  
30 evaluation of all cost-effective potential for electrical and natural gas energy  
31 efficiency savings in the State at least once every 5 years.

32 (1) Transmission and distribution utilities and natural gas utilities shall furnish  
33 data to the trust that the trust requests under this subsection to develop and  
34 implement the triennial plan or conduct the evaluation of all cost-effective  
35 potential for electrical and natural gas energy efficiency savings subject to such  
36 confidential treatment as a utility may request and the board determines  
37 appropriate pursuant to section 10106. The costs of providing the data are  
38 deemed reasonable and prudent expenses of the utilities and are recoverable in  
39 rates.

40 B. In developing the triennial plan, the staff of the trust shall consult the board and  
41 provide the opportunity for the board to provide input on drafts of the plan.

42 B-1. In developing the triennial plan, the trust shall provide the joint standing  
43 committee of the Legislature having jurisdiction over energy matters an opportunity

1 to provide input on the plan, which may occur at the same time the trust consults with  
2 other entities in the development of the plan.

3 C. The board shall review and approve the triennial plan by affirmative vote of 2/3 of  
4 the trustees upon a finding that the plan is consistent with the statutory authority for  
5 each source of funds that will be used to implement the plan, advances the state  
6 energy efficiency targets in paragraph F and reflects the best practices of program  
7 administration under subsection 2. The plan must include, but is not limited to,  
8 efficiency and conservation program budget allocations, objectives, targets, measures  
9 of performance, program designs, program implementation strategies, timelines and  
10 other relevant information.

11 D. Prior to submission of the triennial plan to the commission, the trust shall offer to  
12 provide a detailed briefing on the draft plan to the joint standing committee of the  
13 Legislature having jurisdiction over energy matters and, at the request of the  
14 committee, shall provide such a briefing and opportunity for input from the  
15 committee. After providing such opportunity for input and making any changes as a  
16 result of any input received, the board shall deliver the plan to the commission for its  
17 review and approval. The commission shall open an adjudicatory proceeding and  
18 issue an order either approving the plan and issuing the appropriate orders to  
19 transmission and distribution utilities and gas utilities or rejecting the plan and stating  
20 the reasons for the rejection. The commission shall reject elements of the plan that  
21 propose to use funds generated pursuant to sections 3210-C, 10110, 10111 or 10119  
22 if the plan fails to reasonably explain how these elements of the program would  
23 achieve the objectives and implementation requirements of the programs established  
24 under those sections or the measures of performance under subsection 3. Funds  
25 generated under these statutory authorities may not be used pursuant to the triennial  
26 plan unless those elements of the plan proposing to use the funds have been approved  
27 by the commission. The commission shall approve all elements of the triennial plan  
28 it determines to be cost-effective, reliable and achievable and shall incorporate into  
29 gas utility and transmission and distribution rates sufficient revenue to provide for the  
30 procurement of energy efficiency resources identified within the plan pursuant to  
31 section 10110, subsection 4-A and section 10111, subsection 2. The commission  
32 shall approve or reject the entire plan or elements of the plan within 120 days of its  
33 delivery to the commission. The board, within 30 days of final commission approval  
34 of its plan, shall submit the plan to the joint standing committee of the Legislature  
35 having jurisdiction over energy matters together with any explanatory or other  
36 supporting material as the committee may request and, at the request of the  
37 committee, shall provide a detailed briefing on the final plan. After receipt of the  
38 plan, the joint standing committee of the Legislature having jurisdiction over energy  
39 matters may submit legislation relating to the plan.

40 E. The trust shall determine the period to be covered by the triennial plan except that  
41 the period of the plan may not interfere with the delivery of any existing contracts to  
42 provide energy efficiency services that were previously procured pursuant to  
43 efficiency and conservation programs administered by the commission.

44 F. It is an objective of the triennial plan to design, coordinate and integrate sustained  
45 energy efficiency and weatherization programs that are available to all energy  
46 consumers in the State and to users of all fuel types. The plan must set forth the costs

1 and benefits of energy efficiency programs that advance the following goals, and  
2 funding necessary to meet those goals:

- 3 (1) Reducing energy costs, including residential heating costs;
- 4 (2) Weatherizing substantially all homes whose owners or occupants are willing  
5 to participate in and share the costs of cost-effective home weatherization to a  
6 minimum standard of weatherization, as defined by the trust, by 2030;
- 7 (3) Reducing peak-load demand for electricity through trust programs by 300  
8 megawatts by 2020;
- 9 (4) By 2020, achieving electricity and natural gas program savings of at least  
10 20% and heating fuel savings of at least 20%, as defined in and determined  
11 pursuant to the measures of performance approved by the commission under  
12 section 10120;
- 13 (5) Creating stable private sector jobs providing alternative energy and energy  
14 efficiency products and services in the State by 2020; and
- 15 (6) Reducing greenhouse gas emissions from the heating and cooling of buildings  
16 in the State by amounts consistent with the State's goals established in Title 38,  
17 section 576.

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

23 Except when specifically provided in the individual goals under this paragraph, the  
24 trust may consider expected savings from market effects not attributable to the trust  
25 as well as efforts by other organizations, including but not limited to federally funded  
26 low-income weatherization programs.

27 As used in this paragraph, "heating fuel" means liquefied petroleum gas, kerosene or  
28 #2 heating oil, but does not include fuels when used for industrial or manufacturing  
29 processes.

30 **Sec. 3. 35-A MRSA Pt. 9** is enacted to read:

31 **PART 9**

32 **MAINE ENERGY OFFICE**

33 **CHAPTER 101**

34 **MAINE ENERGY OFFICE**

35 **§10201. Definitions**

36 As used in this Part, unless the context otherwise indicates, the following terms have  
37 the following meanings.

1           **1. Board.** "Board" means the Efficiency Maine Trust Board, established in Title 5,  
2 section 12004-G, subsection 10-C.

3           **2. Commissioner.** "Commissioner" means the Commissioner of the Maine Energy  
4 Office.

5           **3. Office.** "Office" means the Maine Energy Office.

6           **4. Trust.** "Trust" means the Efficiency Maine Trust established in section 10103.

7           **§10202. Office established**

8           **1. Establishment.** The Maine Energy Office is established in the Executive  
9 Department to carry out responsibilities of the State relating to energy resources, planning  
10 and development. The office is directly responsible to the Governor.

11           **§10203. Commissioner; deputy commissioner; staff**

12           The office is under the control and supervision of the Commissioner of the Maine  
13 Energy Office, who reports directly to the Governor.

14           **1. Commissioner.** The commissioner is appointed by the Governor, subject to  
15 review by the joint standing committee of the Legislature having jurisdiction over energy  
16 matters and to confirmation by the Senate. The commissioner serves at the pleasure of  
17 the Governor.

18           **2. Deputy commissioner.** The deputy commissioner is appointed by the Governor,  
19 subject to review by the joint standing committee of the Legislature having jurisdiction  
20 over energy matters and to confirmation by the Senate. The deputy commissioner serves  
21 at the pleasure of the Governor.

22           **3. Staff.** The commissioner may employ personnel as necessary to carry out the  
23 work of the office.

24           **§10204. Funding**

25           The office is funded in accordance with this section.

26           **1. Federal funds.** The office is funded by federal funds that are available to and  
27 received by the office. Those federal funds may be applied to support the personal  
28 services and all other costs of the office.

29           **2. Efficiency Maine Trust funds.** An amount equal to \$300,000 from the trust must  
30 be transferred annually to the office.

31           **3. Additional funds.** Any additional funding of the office must be provided from  
32 the General Fund or other available resources.

1           **§10205. Powers and duties of commissioner**

2           The commissioner is responsible for the execution of the duties of the office. The  
3 commissioner shall:

4           1. Energy policy. In collaboration with the relevant state agencies, coordinate state  
5 energy policy and actively foster cooperation with the trust;

6           2. Comprehensive state energy plan. In consultation with the board, prepare and  
7 submit an updated comprehensive state energy plan to the Governor and the Legislature  
8 by January 15th of every odd-numbered year. Within the comprehensive state energy  
9 plan, the commissioner shall identify opportunities to lower the total cost of energy to  
10 consumers in this State and shall identify transmission capacity and infrastructure needs.  
11 The commissioner shall also recommend appropriate actions to lower the total cost of  
12 energy to consumers in this State, facilitate the development and integration of new  
13 renewable energy generation within the State and support the State's renewable resource  
14 portfolio requirements specified in section 3210 and wind energy development goals  
15 specified in section 3404. The comprehensive state energy plan must include a section  
16 that specifies the State's progress in meeting the oil dependence reduction targets in  
17 section 10207. The office shall make recommendations, if needed, for additional  
18 legislative and administrative actions to ensure that the State can meet the reduction  
19 targets in section 10207. The recommendations must include a cost and resource estimate  
20 for technology development needed to meet the reduction targets.

21           A. Beginning in 2019, the update to the plan must:

22           (1) Be submitted to the joint standing committee of the Legislature having  
23 jurisdiction over utilities and energy matters and the joint standing committee of  
24 the Legislature having jurisdiction over natural resources matters;

25           (2) Address the association between energy planning and meeting the  
26 greenhouse gas reduction goals in the state climate action plan pursuant to Title  
27 38, section 577. The commissioner shall consult with the Department of  
28 Environmental Protection in developing this portion of the plan;

29           (3) Include a section devoted to wind energy development, including:

30           (a) The State's progress toward meeting the wind energy development goals  
31 established in section 3404, subsection 2, including an assessment of the  
32 likelihood of achieving the goals and any recommended changes to the goals;

33           (b) Examination of the permitting process and any recommended changes to  
34 the permitting process;

35           (c) Identified successes in implementing the recommendations contained in  
36 the February 2008 final report of the Governor's Task Force on Wind Power  
37 Development created by executive order issued May 8, 2007;

38           (d) A summary of tangible benefits provided by expedited wind energy  
39 developments, including, but not limited to, documentation of community  
40 benefits packages and community benefit agreement payments provided;

1 (e) A review of the community benefits package requirement under section  
2 3454, subsection 2, the actual amount of negotiated community benefits  
3 packages relative to the statutorily required minimum amount and any  
4 recommended changes to community benefits package policies;

5 (f) Projections of wind energy developers' plans, as well as technology  
6 trends and their state policy implications;

7 (g) Recommendations, including, but not limited to, identification of places  
8 within the State's unorganized and deorganized areas for inclusion in the  
9 expedited permitting area established pursuant to chapter 34-A and the  
10 creation of an independent siting authority to consider wind energy  
11 development applications;

12 (4) Include a description of activities undertaken pursuant to subsection 8; and

13 (5) Include a description of the State's activities relating to the expansion of  
14 natural gas service, any actions taken by the office to expand access to natural  
15 gas in the State and any recommendations for actions by the Legislature to  
16 expand access to natural gas in the State.

17 The joint standing committee of the Legislature having jurisdiction over utilities and  
18 energy matters may report out legislation by February 1st of each odd-numbered year  
19 relating to the content of the plan. The joint standing committee of the Legislature having  
20 jurisdiction over natural resources matters may make recommendations regarding that  
21 legislation to the joint standing committee of the Legislature having jurisdiction over  
22 energy matters.

23 **3. Annual report.** By January 15th of each year, prepare and submit to the joint  
24 standing committee of the Legislature having jurisdiction over utilities and energy  
25 matters an annual report that describes the activities of the office during the previous  
26 calendar year in carrying out its duties under this section and describes the State's  
27 progress in implementation of the comprehensive state energy plan prepared pursuant to  
28 subsection 2. After receipt and review of the annual report required under this  
29 subsection, the joint standing committee of the Legislature having jurisdiction over  
30 utilities and energy matters may submit legislation relating to energy policy;

31 **4. Collect and analyze data.** In collaboration with other relevant state agencies,  
32 private industry and nonprofit organizations, collect and analyze energy data, including,  
33 but not limited to, data on energy supply, demand and costs in this State with  
34 consideration of all available energy sources;

35 **5. Information to public.** Coordinate the dissemination of energy information to  
36 the public and the media;

37 **6. Information to Governor, Legislature.** Provide technical assistance and  
38 information to the Governor and the Legislature regarding the State's short-range and  
39 long-range energy needs and the resources to meet those needs;

40 **7. Funds.** Seek, accept and administer funds from public and private sources and  
41 develop partnerships with public and private entities to support the goals of the office.



1 including, but not limited to, promoting energy efficiency, demand-side management and  
2 distributed generation;

3 **8. Agreements.** Work with transmission and distribution utilities, state agencies  
4 involved in the permitting of energy generation facilities and other relevant entities to  
5 negotiate agreements that create value for electricity consumers with developers of  
6 renewable generation that are interested in building energy generation facilities or  
7 developing or using energy transmission infrastructure in this State. This subsection does  
8 not authorize the commissioner to be a signatory to any such agreement unless that  
9 authority is otherwise granted by law;

10 **9. Make recommendations.** Monitor energy transmission capacity planning and  
11 policy affecting this State and the regulatory approval process for the development of  
12 energy infrastructure and make recommendations to the Governor and the Legislature as  
13 necessary for changes to the relevant laws and rules to facilitate energy infrastructure  
14 planning and development; and

15 **10. Additional action.** Take action as necessary to carry out the goals and  
16 objectives of the state energy plan prepared pursuant to subsection 2, including lowering  
17 the total cost of energy to consumers in this State.

18 **§10206. Advice to state agencies**

19 The commissioner shall advise state agencies regarding energy-related principles for  
20 agencies to consider, along with the laws and policies governing those agencies, in  
21 conjunction with the sale, lease or other allowance for use of state-owned land or assets  
22 for the purpose of development of energy infrastructure. For the purposes of this section,  
23 "state-owned" and "energy infrastructure corridor" have the same meanings as in section  
24 122, subsection 1. At a minimum, the commissioner shall consider the following  
25 principles in advising state agencies under this subsection:

26 **1. Public interest.** Determining the long-term public interest of the State;

27 **2. Constitution of Maine.** Avoiding wherever possible the use of lands subject to  
28 the provisions of the Constitution of Maine, Article IX, Section 23;

29 **3. Strategic location.** Maximizing the benefit realized from the State's strategic  
30 location within New England and the northeastern region; and

31 **4. Memorandum of agreement.** Complying with the provisions of the  
32 memorandum of agreement negotiated between the Maine Turnpike Authority and the  
33 Department of Transportation under former section 122, subsection 1-C, when applicable.

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

1           **§10207. Oil dependence reduction plan**

2           The office, with input from stakeholders and in consultation with the trust, shall  
3 develop a plan to reduce the use of oil in all sectors of the economy in this State. The  
4 plan must:

5           **1. Targets for reducing oil consumption.** Be designed to achieve the targets of  
6 reducing the State's consumption of oil by at least 30% from 2007 levels by 2030 and by  
7 at least 50% from 2007 levels by 2050;

8           **2. Policies; infrastructure.** Focus on near-term policies and infrastructure changes  
9 that set the State on a reasonable trajectory to meet the 2030 and 2050 targets in  
10 subsection 1;

11           **3. Alternative energy sources.** Prioritize the improvement of energy efficiency and  
12 the transition to the use of alternative energy sources for heating and transportation; and

13           **4. Existing data.** Draw on existing state data and studies rather than new analyses,  
14 including, but not limited to, analyses and data from the State's climate action plan  
15 pursuant to Title 38, section 577 and the progress updates to the climate action plan under  
16 Title 38, section 578; the comprehensive state energy plan pursuant to section 10205,  
17 subsection 2; the trust's triennial plan pursuant to section 10104, subsection 4; and  
18 analyses completed by the Federal Government, nonprofit organizations and other  
19 stakeholders.

20           **§10208. Maine Energy Resources Development Program**

21           The Maine Energy Resources Development Program, referred to in this section as  
22 "the program," is established to promote energy research and demonstration activities  
23 related to both the use of indigenous, renewable resources and more efficient use of  
24 energy. The office, as funding allows, shall administer the program. The commissioner  
25 may accept private funds for the purpose of funding the program.

26           **1. Report.** The commissioner shall include, in the comprehensive state energy plan  
27 under section 10205, subsection 2, a report that specifies, in regard to the program, the  
28 expenditure of program funds, the purposes for which the funds were used and the  
29 amount of the funds and the sources from which the funds were derived.

30           **2. Approval.** For all proposed program expenditures of \$10,000 or more, the  
31 commissioner shall seek approval for those expenditures from the Governor. If the  
32 Governor approves, the commissioner shall seek approval for those expenditures from the  
33 Legislature under the procedures authorizing the transfer of funds set forth in Title 5,  
34 section 1585.

35           **§10209. Reporting of petroleum inventories and deliveries**

36           The following provisions govern the reporting of petroleum inventories and  
37 deliveries.

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

3           A. "Petroleum product" means propane; gasoline; unleaded gasoline; gasohol;  
4 kerosene; #2 heating oil; diesel fuel; kerosene-based jet fuel; aviation gasoline; #4, #5  
5 and #6 residual oil for utility and nonutility uses; and Bunker C oil;

6           B. "Primary storage facility" means a facility that receives petroleum products into  
7 the State by pipeline or by ship; and

8           C. "Primary supplier" means a refiner, marketer, distributor, firm or person that  
9 makes the first sale of any petroleum product to resellers or consumers in this State.

10           **2. Primary storage facility; report.** Each owner or lessee of a primary storage  
11 facility in the State shall make an accurate report of petroleum inventories and deliveries  
12 on the first and 3rd Monday of each month to the office on a form provided by the  
13 commissioner. The form must contain a conspicuous statement of the penalties provided  
14 in subsection 4 and must require, with regard to the owner's or lessee's primary storage  
15 facility, the following information:

16           A. The total inventory of each petroleum product stored in the State, as measured  
17 within not more than 3 working days prior to the reporting date; and

18           B. The quantities of each petroleum product delivery expected into the State within  
19 15 days of the reporting date or within any longer period established by the  
20 commissioner.

21           **3. Primary supplier; report.** Each primary supplier of petroleum products shall  
22 make an accurate report of actual and anticipated deliveries on the 3rd Monday of each  
23 month to the office on a form provided by the commissioner, unless the report is already  
24 being submitted in accordance with federal regulations. The form must contain a  
25 conspicuous statement of the penalties provided in subsection 4 and must require the  
26 following information:

27           A. Actual deliveries of all petroleum products in this State during the preceding  
28 calendar month;

29           B. Anticipated deliveries of all petroleum products in this State during the following  
30 calendar month or during any longer period established by the commissioner; and

31           C. Allocation fractions for all petroleum products for the following month or for any  
32 longer period established by the commissioner.

33           **4. Violation.** A person who violates this section is subject to the following penalties.

34           A. An owner or lessee of a primary storage facility or a primary supplier that fails to  
35 provide the information required by this section commits a Class D crime. Violation  
36 of this paragraph is a strict liability crime as defined in Title 17-A, section 34,  
37 subsection 4-A.

38           B. An owner or lessee of a primary storage facility or a primary supplier that  
39 knowingly or recklessly supplies false or misleading information is guilty of a  
40 violation of Title 17-A, section 453. An owner or lessee of a primary storage facility

1 that supplies false or misleading information commits a civil violation for which a  
2 fine of \$2,500 may be adjudged.

3 **5. Report to Legislature.** The office shall provide reports to the joint standing  
4 committee of the Legislature having jurisdiction over utilities and energy matters as  
5 follows:

6 A. If the office determines, based on available information, that there is or may be a  
7 significant shortfall in supply inventories or anticipated deliveries into the State of  
8 home heating oil or kerosene, the office shall provide a report including:

9 (1) The information that suggests a supply shortfall;

10 (2) Current and anticipated inventories of home heating oil and kerosene storage  
11 supplies; and

12 (3) Any recommendations of the office for actions by the State in response to the  
13 anticipated supply shortfall; and

14 B. A report on inventories, deliveries, curtailments, shortfalls or other matters  
15 relating to the availability of petroleum products in this State, at the request of the  
16 joint standing committee of the Legislature having jurisdiction over utilities and  
17 energy matters.

18 **Sec. 4. Maine Revised Statutes headnote amended; revision clause.** In the  
19 Maine Revised Statutes, Title 35-A, in the title headnote, the words "public utilities" are  
20 amended to read "public utilities and energy" and the Revisor of Statutes shall implement  
21 this revision when updating, publishing or republishing the statutes.

22 **Sec. 5. Maine Revised Statutes amended; revision clause.** Wherever in the  
23 Maine Revised Statutes the words "governor's energy office" appear or reference is made  
24 to that entity or those words, those words are amended to read or mean, as appropriate,  
25 "maine energy office" and the Revisor of Statutes shall implement this revision when  
26 updating, publishing or republishing the statutes.

27 **SUMMARY**

28 This bill:

29 1. Renames the Governor's Energy Office the Maine Energy Office. It repeals the  
30 language in the Maine Revised Statutes, Title 2 that establishes the office and establishes  
31 it instead in Title 35-A, expands the headnote for Title 35-A and places the office under  
32 the control and supervision of a commissioner, rather than a director;

33 2. Establishes in the Maine Energy Office a position of deputy commissioner, to be  
34 appointed by the Governor, subject to confirmation by the Senate; and

35 3. Specifies that an amount equal to \$300,000 from the Efficiency Maine Trust must  
36 be transferred annually to the Maine Energy Office.