

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
124<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during the First Regular Session of the 124<sup>th</sup> Maine Legislature coming from the

**JOINT SELECT COMMITTEE ON MAINE'S ENERGY  
FUTURE**

July 2009

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# STATE OF MAINE

124<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 124<sup>th</sup> Maine Legislature.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CARRIED OVER.....	Carried over to a subsequent session of the Legislature
CON RES XXX.....	Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE.....	Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....	House & Senate disagree; bill died
DIED IN CONCURRENCE.....	One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....	Action incomplete when session ended; bill died
EMERGENCY.....	Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....	Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....	Bill failed to get majority vote
FAILED MANDATE ENACTMENT.....	Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY.....	Ruled out of order by the presiding officers; bill died
INDEF PP.....	Bill Indefinitely Postponed; bill died
ONTP (or Accepted ONTP report).....	Ought Not To Pass report accepted; bill died
P&S XXX.....	Chapter # of enacted Private & Special Law
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED.....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 124<sup>th</sup> Legislature is September 12, 2009. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

## *Joint Select Committee on Maine's Energy Future*

Resolve 2009, Chapter 45 approves the plan for the use of federal weatherization stimulus funds developed by the Maine State Housing Authority and presented in the attachments to the memorandum dated April 22, 2009 from the Maine State Housing Authority to the Joint Select Committee on Maine's Energy Future.

Resolve 2009, Chapter 45 was finally passed as an emergency measure effective May 15, 2009.

**LD 1478      *Resolve, Regarding Legislative Approval of the Public Utilities  
Commission's Plan for the Use of American Recovery and Reinvestment  
Act of 2009 Funds***

**RESOLVE 46  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	S-141   PERRY J

This resolve, which is reported by the Joint Select Committee on Maine's Energy Future pursuant to Joint Order 2009, H.P. 63, approves the plan for the use of the federal American Recovery and Reinvestment Act of 2009 funds as submitted by the Public Utilities Commission on March 19, 2009 and updated on April 27, 2009.

**Senate Amendment "A" (S-141)**

This amendment was presented on behalf of the Committee on Engrossed Bills to correct a department total in the appropriations and allocations section.

**Enacted Law Summary**

Resolve 2009, Chapter 46, which was reported by the Joint Select Committee on Maine's Energy Future pursuant to Joint Order 2009, H.P. 63, approves the plan for the use of the federal American Recovery and Reinvestment Act of 2009 funds as submitted by the Public Utilities Commission on March 19, 2009 and updated on April 27, 2009.

Resolve 2009, Chapter 46 was finally passed as an emergency measure effective May 15, 2009.

**LD 1485      *An Act Regarding Maine's Energy Future***

**PUBLIC 372  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP    A OTP-AM   B ONTP    C	H-540   MARTIN J L

This bill, which is the majority report of the Joint Select Committee on Maine's Energy Future submitted pursuant to Joint Order 2009, House Paper 63, does the following.

PART A repeals on July 1, 2010 the following energy efficiency and renewable energy entities and programs and associated provisions of current law:

1. The Energy Resources Council;
2. The Energy and Carbon Savings Trust (program responsibilities transferred to the new entity in Part B);
3. The Public Utilities Commission's (PUC) electric conservation programs (program responsibilities transferred to the new entity in Part B);

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4. The PUC's solar and wind rebate program (program responsibilities transferred to the new entity in Part B);
5. The natural gas conservation program administered by Maine's largest gas utility (Unitil) (program responsibilities transferred to the new entity in Part B);
6. The PUC's responsibilities for providing public information on energy efficiency, training solar installers and energy auditors, administering certain federal energy programs, administering the small business energy conservation loan program (all these responsibilities transferred to the new entity in Part B);
7. The PUC's responsibilities for jointly administering (with the Maine State Housing Authority) the rental property energy disclosure and voluntary energy standards programs (the PUC's program responsibilities transferred to the new entity in Part B);
8. The Maine Energy Conservation Board (its planning responsibilities are transferred to the new entity in Part B).

PART B establishes the Efficiency Maine Trust (EMT) to take over on July 1, 2010 the administration of various current energy efficiency and renewable energy programs (see Part A for list of programs transferred to EMT on July 1, 2010). It also directs EMT to establish certification standards for energy auditors, installers of energy efficiency measures and other providers of services under programs administered by the trust. It establishes on July 1, 2010 a new Heating Fuels Efficiency and Weatherization Fund to be administered by EMT; bond funds, federal funds and other available funds may be deposited in the fund and used for efficiency and weatherization purposes, but no new funding source is established. EMT is required to develop a triennial plan governing all its programs, which must include measures of performance and be approved by the Public Utilities Commission. The plan is also subject to review and comment by the utilities and energy committee. EMT is required to arrange for independent evaluations of all major programs. In addition to approving EMT's triennial plan, the PUC may also, upon the recommendation of the Public Advocate or the Attorney General, investigate the practices of EMT and may assess EMT in an amount up to 1 percent of the total funds administered by EMT to defray the PUC's costs of oversight.

PART C provides for a transition from the current energy efficiency program administration structure to the new Efficiency Maine Trust; the actual transfer of programs and related rules, etc, occurs on July 1, 2010. It allows state employees hired by EMT the option of choosing to remain state employees or to work under new arrangements. It requires EMT, in consultation with stakeholders, to develop a proposal for ongoing sustainable funding to support the State's energy efficiency and alternative energy resources goals and to present recommendations to the legislative committee of jurisdiction by January 2011; the committee is authorized to report out legislation on the matter after receiving the report.

PART D provides for the issuance of revenue bonds by the Finance Authority of Maine on behalf of the Efficiency Maine Trust for energy efficiency and conservation projects.

PART E establishes within the Maine State Housing Authority the Maine Energy, Housing and Economic Recovery Program and the Maine Energy, Housing and Economic Recovery Fund to support the construction and substantial rehabilitation of multifamily affordable rental housing units as well as the replacement of manufactured housing units that do not meet the United States Department of Housing and Urban Development regulations under 24 Code of Federal Regulations, Part 3280. It directs that a portion of the revenues derived from the real estate transfer tax be deposited in a new fund to provide funds for the Maine Energy, Housing and Economic Recovery Program. Deposits begin in fiscal year 2011-12, when amounts are transferred as necessary to meet the obligations of the Maine State Housing Authority with respect to revenue bonds issued for the Maine Energy, Housing and Economic Recovery Program. It authorizes the issuance of revenue bonds by the Maine State Housing Authority for the purposes of the Maine Energy, Housing and Economic Recovery Program. The authority may have at any time an aggregate principal amount outstanding on such bonds of up to but not exceeding \$200,000,000. The authority may issue revenue bonds in an amount of at least \$30,000,000 in fiscal year 2010-11 and may issue additional amounts as

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appropriate for the purposes of the program.

PART F requires that the first \$50,000,000 of revenue derived from the use of state assets for energy transmission is transferred to the Efficiency Maine Trust to fund its programs. It also provides for a study of issues related to energy corridors and the development of plans relating to state actions relating to significant new energy facilities. It also requires that the Legislature approve plans regarding such state actions, including permitting, leasing or sale of lands or significant occupancy agreements for the installation of significant new energy facilities, before such state actions are taken. The requirement includes various exceptions and is repealed 90 days after the adjournment of the Second Regular Session of the 124th Legislature.

PART G directs the Department of Labor, the Public Utilities Commission and the Maine State Housing Authority to develop a specific green workforce development plan and to submit a report to the utilities and energy committee by January 1, 2010; the committee is authorized to submit legislation on the matter to the Second Regular Session of the 124th Legislature.

PART H modifies the responsibilities of the Governor's Office of Energy Independence and Security.

PART I establishes an executive task force to examine ways of advancing the goals of improving energy efficiency, increasing energy conservation and increasing the energy independence of the State by better management of state facilities. The task force must develop recommendations that, to the extent possible, do not require additional state positions or increased appropriations from the General Fund.

PART J adds an appropriations and allocations section.

This bill was reviewed and evaluated by the Joint Standing Committee on Judiciary pursuant to Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

### **Committee Amendment "A" (H-505)**

This amendment, which is the minority report of the Joint Select Committee on Maine's Energy Future, modifies those portions of the bill (the majority report) relating to the development by the Efficiency Maine Trust of its triennial plan and measures of performance. Under the bill, these are reviewed by the legislative committee of jurisdiction but are not subject to direct legislative approval; they are subject to approval by the Public Utilities Commission. Under this amendment, they must be developed by the trust with input from the Public Utilities Commission but must take the form of major substantive rules subject to legislative approval. In order to ensure the rules are submitted to the Legislature in time for review and approval during the Second Regular Session of the 124th Legislature and so will be in place when the trust is required to begin implementing programs on July 1, 2010, this amendment requires the major substantive rules to be provisionally adopted by March 15, 2010. This amendment also makes explicit that the various funds that will be administered by the trust may not be expended by the trust without legislative allocation of those funds.

This amendment replaces the Part J appropriations and allocations section to reflect the removal of the provision authorizing an oversight and evaluation fund.

### **House Amendment "A" (H-540)**

This amendment:

1. Specifies that the Efficiency Maine Trust (EMT) develops measures of performance not only for providers of service under its programs but for all programs it administers;
2. Requires that, if the Public Utilities Commission rejects EMT's proposed triennial plan, it state its reasons for rejecting the plan;

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3. Modifies conflict of interest provisions governing EMT;
4. Removes reference to the application of the Tort Claims Act to EMT and adds a requirement that any EMT trustee or employee authorized to disburse EMT funds be bonded or covered by fiduciary liability insurance conditioned upon faithful performance of their duties;
5. Requires appointment of the Director of EMT as soon as practicable after Senate confirmation of the board;
6. Requires the Director of EMT to prepare EMT's initial budget retroactive to the director's first day of employment and through to July 1, 2010;
7. Amends the law governing the Renewable Resource Fund to allocate responsibility to EMT for administering the fund, reporting on the fund and distributing some of the funds;
8. Corrects cross references to certain funds;
9. Modifies Part F of the bill which establishes a temporary prohibition on certain state actions relating to the development of certain significant energy facilities. It provides that the prohibitions do not apply to an energy facility that is an eligible project under the federal American Recovery and Reinvestment Act of 2009 if the energy facility has been granted a federal loan guarantee under that Act. It also provides that the prohibition on the issuance of permits for facilities exceeding 75 miles in length does not apply to facilities on submerged lands or off shore. It provides that an application for a state permit for an energy facility greater than 75 miles in length may be processed by a state authority up to but not including final decision on the application and that any applications that may require adjudicatory proceedings or permit application review may not proceed beyond creation of the evidentiary record; and
10. Adds an emergency preamble and emergency clause.

### **Enacted Law Summary**

Public Law 2009, Chapter 372 accomplishes the following.

PART A repeals on July 1, 2010 the following energy efficiency and renewable energy entities and programs and associated provisions of current law:

1. The Energy Resources Council;
2. The Energy and Carbon Savings Trust (program responsibilities transferred to the new entity in Part B);
3. The Public Utilities Commission's (PUC) electric conservation programs (program responsibilities transferred to the new entity in Part B);
4. The PUC's solar and wind rebate program (program responsibilities transferred to the new entity in Part B);
5. The natural gas conservation program administered by Maine's largest gas utility (Unitil) (program responsibilities transferred to the new entity in Part B);
6. The PUC's responsibilities for providing public information on energy efficiency, training solar installers and energy auditors, administering certain federal energy programs, administering the small business energy conservation loan program (all these responsibilities transferred to the new entity in Part B);
7. The PUC's responsibilities for jointly administering (with the Maine State Housing Authority) the rental property

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energy disclosure and voluntary energy standards programs (the PUC's program responsibilities transferred to the new entity in Part B);

8. The Maine Energy Conservation Board (its planning responsibilities are transferred to the new entity in Part B).

PART B establishes the Efficiency Maine Trust (EMT) to take over on July 1, 2010 the administration of various current energy efficiency and renewable energy programs (see Part A for list of programs transferred to EMT on July 1, 2010). It also directs EMT to establish certification standards for energy auditors, installers of energy efficiency measures and other providers of services under programs administered by the trust. It establishes on July 1, 2010 a new Heating Fuels Efficiency and Weatherization Fund to be administered by EMT; bond funds, federal funds and other available funds may be deposited in the fund and used for efficiency and weatherization purposes, but no new funding source is established. EMT is required to develop a triennial plan governing all its programs, which must include measures of performance and be approved by the Public Utilities Commission. The plan is also subject to review and comment by the utilities and energy committee. EMT is required to arrange for independent evaluations of all major programs. In addition to approving EMT's triennial plan, the PUC may also, upon the recommendation of the Public Advocate or the Attorney General, investigate the practices of EMT and may assess EMT in an amount up to 1% of the total funds administered by EMT to defray the PUC's costs of oversight.

PART C provides for a transition from the current energy efficiency program administration structure to the new Efficiency Maine Trust; the actual transfer of programs and related rules, etc, occurs on July 1, 2010. It allows state employees hired by EMT the option of choosing to remain state employees or to work under new arrangements. It requires EMT, in consultation with stakeholders, to develop a proposal for ongoing sustainable funding to support the State's energy efficiency and alternative energy resources goals and to present recommendations to the utilities and energy committee by January 2011; the committee is authorized to report out legislation on the matter after receiving the report.

PART D provides for the issuance of revenue bonds by the Finance Authority of Maine on behalf of the Efficiency Maine Trust for energy efficiency and conservation projects.

PART E establishes within the Maine State Housing Authority the Maine Energy, Housing and Economic Recovery Program and the Maine Energy, Housing and Economic Recovery Fund to support the construction and substantial rehabilitation of multifamily affordable rental housing units as well as the replacement of manufactured housing units that do not meet the United States Department of Housing and Urban Development regulations under 24 Code of Federal Regulations, Part 3280. It directs that a portion of the revenues derived from the real estate transfer tax be deposited in a new fund to provide funds for the Maine Energy, Housing and Economic Recovery Program. Deposits begin in fiscal year 2011-12, when amounts are transferred as necessary to meet the obligations of the Maine State Housing Authority with respect to revenue bonds issued for the Maine Energy, Housing and Economic Recovery Program. It authorizes the issuance of revenue bonds by the Maine State Housing Authority for the purposes of the Maine Energy, Housing and Economic Recovery Program. The authority may have at any time an aggregate principal amount outstanding on such bonds of up to but not exceeding \$200,000,000. The authority may issue revenue bonds in an amount of at least \$30,000,000 in fiscal year 2010-11 and may issue additional amounts as appropriate for the purposes of the program.

PART F requires that the first \$50,000,000 of revenue derived from the use of state assets for energy transmission is transferred to the Efficiency Maine Trust to fund its programs. It also provides for a study of issues related to energy corridors and the development of plans relating to state actions relating to significant new energy facilities. It also requires that the Legislature approve plans regarding such state actions, including permitting, leasing or sale of lands or significant occupancy agreements for the installation of significant new energy facilities, before such state actions are taken. The requirement includes various exceptions and is repealed 90 days after the adjournment of the Second Regular Session of the 124th Legislature.

PART G directs the Department of Labor, the Public Utilities Commission and the Maine State Housing Authority



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to develop a specific green workforce development plan and to submit a report to the utilities and energy committee by January 1, 2010; the committee is authorized to submit legislation on the matter to the 2nd Regular Session of the 124th Legislature.

PART H modifies the responsibilities of the Governor's Office of Energy Independence and Security.

PART I establishes an executive task force to examine ways of advancing the goals of improving energy efficiency, increasing energy conservation and increasing the energy independence of the State by better management of state facilities. The task force must develop recommendations that, to the extent possible, do not require additional state positions or increased appropriations from the General Fund.

PART J adds an appropriations and allocations section.

Part K amends the law governing the Renewable Resource Fund to allocate, beginning July 1, 2010, responsibility to EMT for administering the fund, reporting on the fund and distributing some of the fund.

Public Law 2009, Chapter 372 was enacted as an emergency measure effective June 12, 2009.