

STATE OF MAINE
124TH LEGISLATURE
FIRST REGULAR SESSION



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

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

July 2009

MEMBERS:

SEN. PHILIP L. BARTLETT II, CHAIR
SEN. JOSEPH C. PERRY
SEN. DEBORAH L. SIMPSON
SEN. DOUGLAS M. SMITH
SEN. CHRISTOPHER W. RECTOR

REP. JOHN L. MARTIN, CHAIR
REP. SHARON ANGLIN TREAT
REP. HERBERT C. ADAMS
REP. NANCY E. SMITH
REP. JANE E. EBERLE
REP. JON HINCK
REP. MICHAEL E. CAREY
REP. KENNETH C. FLETCHER
REP. STACEY ALLEN FITTS
REP. JAYNE CROSBY GILES
REP. MICHAEL CELLI
REP. DIANNE TILTON

STAFF:

JON CLARK, DEPUTY DIRECTOR
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670

Joint Select Committee on Maine's Energy Future

LD 501 An Act To Ensure Maine's Energy Security and Reduce Dependence on Oil

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERRY J	ONTP	

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to increase the State's energy security while reducing the State's reliance on oil by:

1. Setting aside 85 percent of revenues derived from the Regional Greenhouse Gas Initiative to: immediately establish an insulation and energy auditing training program at every community college in the State; provide a tax exemption for purchases of building insulation; establish a low-interest loan program for homeowners and businesses to purchase insulation; establish a low-interest marginal risk loan program for equipment and costs to start up insulation companies; provide a progressive tax credit to companies interested in maximizing the insulation value of their buildings, with a higher insulation value receiving a larger tax credit; and insulate homes of low-income residents;
2. Redirecting the focus of the Public Utilities Commission's Efficiency Maine program from electricity use reduction to energy use reduction by: aggressively promoting the reduction of oil use; requiring that preference be given to an energy-saving project based on the return of investment of the project, regardless of the energy source; promoting the use of heat pump technology, giving top economic incentives to exceptionally high coefficients of performance; and aggressively pursuing Internet-based demand-side management programs; and
3. Establish a tax on oil equal to the BTU tax on electricity, the proceeds to fund Efficiency Maine.

LD 556 Resolve, Relating to Federal Stimulus Funds for Energy Programs

**RESOLVE 1
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>

This resolve, reported by the Joint Select Committee on Maine's Energy Future pursuant to Joint Order 2009, H.P. 63, provides for legislative review and approval of state spending of expected federal economic stimulus funds designated for energy purposes.

Enacted Law Summary

Resolve 2009, Chapter 1, which was reported by the Joint Select Committee on Maine's Energy Future pursuant to Joint Order 2009, H.P. 63, provides for legislative review and approval of state spending of expected federal economic stimulus funds designated for energy purposes.

Resolve 2009, Chapter 1, was finally passed as an emergency measure effective February 27, 2009.

Joint Select Committee on Maine's Energy Future

LD 755 An Act To Help the State Achieve Energy Independence and Security

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FLETCHER SMITH D	ONTP	

This bill enacts an income tax credit for persons eligible for a benefit under the Circuitbreaker Program for 10 percent of the cost of the installation of energy efficiency equipment, qualifying nonfossil fuel energy systems and weatherization materials on a structure in the State. The credit is limited to \$250 per tax return per structure. Funding for the credit of up to \$750,000 must be transferred to the General Fund from the Energy and Carbon Savings Trust Fund.

LD 774 An Act To Create Jobs and Improve Energy Efficiency through the Transformation of Maine's Housing Stock

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL E	ONTP	

This bill establishes within the Maine State Housing Authority the Maine Energy, Housing and Economic Recovery Program to support the following: the construction of multifamily affordable housing units; renovation of affordable housing units; weatherization of owner-occupied residences; and replacement of manufactured housing units that do not meet the United States Department of Housing and Urban Development regulations, 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. 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 is required to issue revenue bonds in an amount of at least \$30,000,000 in fiscal year 2009-10 and an additional \$30,000,000 in fiscal year 2010-11 and may issue additional amounts as appropriate for the purposes of the program up to a maximum at any time of up to \$200,000,000;.

See also LD 1485.

LD 885 An Act To Provide a Tax Deduction for Landlords Who Complete Energy Audits on Rental Units

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ALFOND	ONTP	

This bill provides an income tax income reduction (sponsor's intent was to provide a tax credit) for a landlord or other lessor of residential property who has demonstrated to the satisfaction of the Public Utilities Commission that an energy audit on that landlord's or lessor's property has been completed. Each income reduction (credit) is capped at the cost of the audit, or \$750, whichever is less: for a building with 1 to 4 units, a maximum of one reduction (credit) for that building; for a building with 5 to 25 units, a maximum of 3 reductions (credits) for that building; for

Joint Select Committee on Maine's Energy Future

a building with 26 or more units, a maximum of 5 reductions (credits) for that building.

LD 886 An Act To Secure Maine's Energy Future

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PINGREE BARTLETT	ONTP	

This bill establishes a new entity, the Efficiency Maine Trust (EMT) responsible for planning, designing and administering energy efficiency programs. The EMT is designated as a nonprofit, 501(c)(3) charitable organization. The EMT is governed by a 16 member board, 12 of whom are voting members. The board appoints a director, who serves at the pleasure of the board, who manages the EMT programs. The bill provides for certain oversight of the EMT by the PUC: EMT programs must be in accordance with a triennial plan created by EMT and approved by the PUC; the PUC "negotiates" and approves performance measures governing the EMT; the PUC arranges for an independent evaluation of major programs (over \$500,000/year) at least once every three years; each year the EMT is required report to the PUC and the UTE committee an accounting of its activities, funding and expenditures; the PUC is directed to establish a fund to defray its costs in overseeing the EMT.

Under the bill, the oversight or administration of the following programs is given to Efficiency Maine Trust: electric conservation and efficiency programs currently under the jurisdiction of the Public Utilities Commission (PUC) under Title 35-A, section 3211-A (certain aspects of the law governing these programs changed); natural gas conservation and efficiency programs currently administered by the largest gas utility, Unitil, under the direction of the PUC under Title 35-A, section 4711; federal funds and programs for energy efficiency and weatherization (low-income federal programs would remain with the Maine State Housing Authority with approval of spending plans by the EMT); a new Regional Greenhouse Gas Initiative Trust Fund, which replaces the Energy and Carbon Savings Trust and the Maine Energy Conservation Board; a new heating fuels efficiency and weatherization fee and fund program funded by a new and annually increasing heating fuel charge assessed by PUC.

See also LD 1485.

LD 955 An Act To Transform the Maine Economy and Create Jobs

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL E	ONTP	

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to create the Energy Trust Authority under the Governor's Office of Energy Independence and Security. The purpose of the authority is to actively pursue and negotiate opportunities to transform the State into the greenest and healthiest state and to create jobs through: actively pursuing opportunities to lease portions of the State's highways and rights-of-way, including Interstate 95 and the Maine Turnpike, for the transmission of energy, including electricity, natural gas or other fossil fuel; ensuring the interconnection between the State's major transit systems of rail, ports and highways to maximize the State's connection to the national and international economy; and developing and implementing specific programs that ensure the State's reduction of its carbon footprint and greatly expanding healthy opportunities for the people and businesses of this State.

Joint Select Committee on Maine's Energy Future

This bill proposes to use the funds generated through the lease of state assets to support a revenue bond to fund:

1. Interest-free revolving loan programs to fund weatherization and conversion of heating systems for both commercial and residential sectors, with the goal of moving the State's energy use from fossil fuel to green energy, specifically green electricity. This conversion will include greatly expanded use of technologies like geothermal and cold-weather heat exchangers. The revolving loan fund will be managed by transmission and distribution utility companies, who have administrative mechanisms for claims and billing already established with each household and building owner;
2. Expanding research and development into wind power, specifically offshore wind. The funds will be used to vertically integrate the wind industry in the State, including development and production of turbines, blades, stanchions and offshore platforms. Funds will be provided to the University of Maine System, the Maine Community College System and the Maine Technology Institute to expand research capacity, develop an educated and skilled workforce, expand business opportunities and create partnerships with local, national and international companies with expertise and capacity in offshore wind development;
3. Development of the Maine Expansion Fund to provide flexible funding for companies seeking to expand, start or locate in the State. The Maine Expansion Fund will be used to assist companies involved with targeted technologies, as defined in the Maine Revised Statutes, Title 5, section 15301, subsection 2, with grants or loans for infrastructure, training support and other financing. Eligible companies receiving funds must create net new jobs that pay at least the average labor market weekly wage and provide at least a 50 percent employer-paid health care benefit, paid sick leave and access to an approved retirement plan. Eligible companies receiving funds must build or renovate their facilities to meet the highest energy efficiency standard to minimize their carbon footprint;
4. Expanding research and development into food production to make the State the food basket of the Northeast. Funds will be provided to the University of Maine System, the Maine Community College System and the Maine Technology Institute to expand research capacity, develop an educated and skilled workforce, expand business opportunities and create partnerships with local, national and international companies with expertise and capacity in food production and the promotion of the Maine brand;
5. Creation of a virtual medical school in the State. Funds will be used to expand opportunities for medical education and graduate school opportunities, as well as research capacity, that develop the State as a laboratory for health and wellness while establishing a relationship with the United States Department of Health and Human Services, National Institutes of Health to fund the research and development of the State as a laboratory for improving health and wellness for the country. The creation of a virtual medical school will be furthered by using partnerships within the State, through hospitals, educational institutions and research facilities, and medical schools outside of the State;
6. Expanding the State's transportation system, including mass transit, to ensure the flow of goods and services and decrease the State's transportation carbon footprint by expanded utilization of ports, rails and other transit opportunities; and
7. Development of the privately funded East-West Highway and utility corridor to improve connectivity of the Northeast to the heartland of the United States and the international marketplace.

The Energy Trust Authority will consist of the following voting members: the Public Advocate; the Director of the Governor's Office of Energy Independence and Security; the Chief Executive Officer of the Finance Authority of Maine; a commissioner of the Public Utilities Commission; a representative from the University of Maine System; a representative from the Maine Community College System; the Commissioner of Economic and Community Development or the commissioner's designee; the Commissioner of Transportation or the commissioner's designee; four public members representing industry, labor, environmental groups, the health care industry and agriculture,

Joint Select Committee on Maine's Energy Future

appointed by the Governor and confirmed by the Legislature; and four Legislators, two Senators appointed by the President of the Senate and two House members appointed by the Speaker of the House. The Energy Trust Authority will be a quasi-state entity, with the broad powers to accomplish its purpose, including the power to develop and implement programs, enter into contracts with public and private entities to accomplish the purpose of the authority, issue revenue bonds through the Maine Municipal Bond Bank, contract with the Finance Authority of Maine or other entities to provide loans or grant funds, develop and adopt rules, set standards for energy efficiency and weatherization funded by the authority, retain certain confidential information under provisions similar to the Finance Authority of Maine's confidentiality exemptions and exercise other responsibilities possessed by and enjoy protections provided to other authorities under state law.

See also LD 1485.

LD 980 An Act To Provide a Tax Credit for Heating and Cooling System Alternatives and Improvements That Benefit the Environment and Address Climate Change

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH D	ONTP	

This bill provides an income tax credit of up to \$5,000 for the costs of an alternative fuel heating or cooling system, energy efficiency equipment components and voltage regulation technology. The credit may be claimed for installations in tax years beginning in 2009 or 2010 and may be carried over up to five years. The General Fund costs of the credit are reimbursed from the Energy and Carbon Savings Trust Fund.

LD 1181 An Act To Create Jobs through Investment in Green Energy

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BERRY BARTLETT	ONTP	

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

Part A requires all agencies of State Government that administer a program related to energy efficiency, load management and distributed renewable energy to contract with Efficiency Maine to administer the program, unless a different cooperative arrangement is more cost-effective. Part A also raises efficiency standards for state-funded construction and state-purchased vehicles.

Part B adds Efficiency Maine project bonds issued by the Finance Authority of Maine to the portion of the State ceiling for private activity bonds allocated to the Finance Authority of Maine. Part B also requires every building and industrial facility in the State, with certain limited exceptions, to get a thorough energy audit within the next 10 years. If the evaluation is done in coordination with Efficiency Maine, the audit must be paid for by Efficiency Maine.

Joint Select Committee on Maine's Energy Future

Part C adjusts school funding provisions to make state funding for adult education more responsive to increases in enrollment attributable to new workforce development programs and to permit career and technical education centers to receive targeted workforce development program funds. Part C also raises efficiency standards for school construction, involves Efficiency Maine in the construction project approval process, gives school administrative units increased flexibility in contracting with energy service companies for energy efficiency, load management and distributed renewable energy improvements and makes school administrative units eligible for technical and other assistance from Efficiency Maine in pursuing energy-related improvements.

Part D establishes a Green Energy Job Growth Initiative to ensure that workforce development efforts keep pace with jobs created by the bill. It requires the Department of Labor, in consultation with a broad range of stakeholders, to analyze current and future workforce needs in energy-related fields and to develop career ladders and recommendations for certifications, standards and licensing. Part D also requires the Department of Labor, as part of the Green Energy Job Growth Initiative, to administer a competitive grant program to support development of industry partnerships to meet workforce needs in energy-related fields and to leverage private and federal workforce development funds to that end. Funding is provided from the new revenues generated by the energy efficiency resources standard established in Part J of the bill. Part D also requires the Department of Labor, as part of the Green Energy Job Growth Initiative, to provide direct support to workers seeking training in energy-related fields, in a manner modeled on the Competitive Skills Scholarship Program.

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

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

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

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

Part I provides a definition of "distributed renewable energy technology," changes certain public utility laws to account for the creation of Efficiency Maine and requires transmission and distribution utilities and gas utilities to coordinate with Efficiency Maine in administering efficiency and distributed renewable energy technology programs and requires those utilities' cooperation in distributing information and allowing financing of efficiency-related projects to use the utilities' billing systems. Part I also requires the Public Utilities Commission to recommend efficiency standards for new electricity transmission lines and to establish a decoupling rate structure to encourage transmission and distribution utilities to reduce energy costs by reducing peak load.

Part J raises the renewable portfolio standard and establishes an energy efficiency resource standard that requires transmission and distribution utilities, gas utilities and heating fuel wholesalers to purchase energy efficiency credits to meet established efficiency targets and requires Efficiency Maine to deliver programs and services that meet those targets. It also provides jurisdiction to the Public Utilities Commission to impose administrative penalties on heating fuel wholesalers who fail to purchase the credits. Part J also gives responsibility for administering the Energy and Carbon Savings Trust to Efficiency Maine's administrator.

Joint Select Committee on Maine's Energy Future

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

Part K establishes Efficiency Maine as a public instrumentality of the State governed by a board that is directed to contract with a nonprofit entity to administer all of Efficiency Maine's programs and activities. The contract is required to include strict benchmarks for a broad range of quality measures. Part K requires Efficiency Maine to implement a broad range of programs to increase energy efficiency for all of the State's residential, commercial and industrial energy consumers by using revenues from the sale of energy efficiency credits to fund cost-effective energy efficiency and distributed renewable energy technology products and services, workforce development activities to meet the demand for those programs and services and research, development and commercialization of products and services that reduce energy costs. Part K creates various legal immunities for Efficiency Maine and establishes certain exemptions for its records from Maine's freedom of access laws. Part K also requires Efficiency Maine to design its programs to maximize leveraging of other funding sources, including private financing, federal funds and payments from other New England states through the forward capacity market. Part K also authorizes the Finance Authority of Maine to issue revenue bonds for Efficiency Maine projects approved by Efficiency Maine.

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

Part M requires the State Purchasing Agent to report to the Legislature on compliance with fuel economy mandates for state-purchased vehicles. Part M also requires the Department of Labor and the Department of Economic and Community Development to submit a proposal for an energy industry partnership for the downeast and coastal regions for funding by the Northern Border Regional Commission and to explore other possible energy industry partnership proposals. Part M also directs the Department of Economic and Community Development to analyze and report to the Legislature on barriers to participation in the green energy economy by businesses owned by women, minorities and other target populations. Part M directs the Department of Labor and the Department of Economic and Community Development in carrying out their duties under the Green Energy Job Growth Initiative and Part D of the bill to consider approaches taken in Oregon and Washington. Part M also includes an application provision grandfathering certain already-approved construction projects of the State, counties, municipalities and schools from the new efficiency standards established under the bill. Part M provides that it is the Legislature's intent that various specific programs now administered by various agencies be administered by Efficiency Maine or coordinated with its efforts. Part M provides for the transfer of all of the Public Utilities Commission's Efficiency Maine program assets, fund and contracts to the new Efficiency Maine entity established under the bill.

Part N corrects cross-references.

See also LD 1485.

LD 1201 An Act Regarding Energy Independence

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN J L MITCHELL E	ONTP	

This bill:

1. Establishes Efficiency Maine Plus (EM+) as an independent authority and public body corporate and politic and instrumentality of the state to plan, develop and implement energy conservation, carbon reduction and renewable energy programs to meet certain specified goals. The director is appointed by the Governor, subject to legislative confirmation, to serve a 4-year term;

Joint Select Committee on Maine's Energy Future

2. Creates the EM+ Council to develop, plan, coordinate and evaluate all EM+ programs. The council consists of 9 voting members appointed by Gov. and subject to confirmation by legislature who serve 3-year staggered terms. The duties of the council include establishing and revising programs in accordance with a quadrennial plan; developing quantifiable measures of performance to which it will be held accountable and to which it will hold recipients of program funds; adopting rules regarding expenditure of funds and providing for independent evaluation of program expenditures. It is also required to establish standards for training and certification of energy auditors, weatherization technicians, and solar and wind energy system installers. It is required to consult with the Maine State Housing Authority on energy programs and report annually to the Governor and Legislature;

3. Beginning 1 July 2010, provides that EM+ administers these programs: electric conservation programs now administered by the Public Utilities Commission (PUC) (with some changes); Carbon savings program (RGGI) now administered by the Trust; Natural gas conservation program now administered by the gas utility Unitil under the direction of the PUC; Solar and wind rebate program now administered by PUC; Training for installers of solar equipment now administered by PUC; Training for energy auditors now administered by the PUC; Federal energy programs; Energy Conservation Small Business Revolving Loan Program now administered by the PUC; suggested energy efficiency standards and disclosure statement for rental property currently administered by the Maine State Housing Authority and PUC; public information and outreach program now administered by PUC. It also authorizes EM+ to establish and administer a new building weatherization program to provide weatherization for middle and upper-income homeowners.

4. On July 1, 2010, abolishes the Carbon Savings Trust, Maine Energy Conservation Board and the Energy Resources Council and the Efficiency Maine program at PUC and transfers their responsibilities to EM+;

5. Establishes a task force to look at and report recommendations for improving efficiency at state facilities;

6. Modifies duties of OEIS to among other things promote interagency coordination with EM+; and

7. Creates within the Department of Administrative and Financial Services a new Energy Independence Fund. The fund receives revenues from the use of state waters and state-owned islands for generation of energy, transmission of energy or communications systems and compensation for leasing highways as energy corridors.

See also LD 1485.

LD 1236 *Resolve, Regarding Legislative Review of the Proposed Plan Dated March 19, 2009 Submitted by the Maine State Housing Authority for the Use of Federal Energy Stimulus Funds*

**RESOLVE 45
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-197

This resolve provides for legislative review of the proposed plan for the use of federal energy stimulus funds submitted by the Maine State Housing Authority on March 19, 2009.

Committee Amendment "A" (H-197)

This amendment modifies the resolve to approve 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.

Enacted Law Summary

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);

Joint Select Committee on Maine's Energy Future

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

Joint Select Committee on Maine's Energy Future

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;

Joint Select Committee on Maine's Energy Future

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

Joint Select Committee on Maine's Energy Future

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

Joint Select Committee on Maine's Energy Future

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.

Joint Standing Committee on Maine's Energy Future

SUBJECT INDEX

Federal stimulus funds

Enacted

LD 556	Resolve, Relating to Federal Stimulus Funds for Energy Programs	RESOLVE 1 EMERGENCY
LD 1236	Resolve, Regarding Legislative Review of the Proposed Plan Dated March 19, 2009 Submitted by the Maine State Housing Authority for the Use of Federal Energy Stimulus Funds	RESOLVE 45 EMERGENCY
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

New entity

Enacted

LD 1485	An Act Regarding Maine's Energy Future	PUBLIC 372 EMERGENCY
---------	--	-------------------------

Not Enacted

LD 886	An Act To Secure Maine's Energy Future	ONTP
LD 1181	An Act To Create Jobs through Investment in Green Energy	ONTP
LD 1201	An Act Regarding Energy Independence	ONTP

Other

Not Enacted

LD 774	An Act To Create Jobs and Improve Energy Efficiency through the Transformation of Maine's Housing Stock	ONTP
LD 955	An Act To Transform the Maine Economy and Create Jobs	ONTP

Tax incentives

Not Enacted

LD 501	An Act To Ensure Maine's Energy Security and Reduce Dependence on Oil	ONTP
--------	---	------

LD 755	An Act To Help the State Achieve Energy Independence and Security	ONTP
LD 885	An Act To Provide a Tax Deduction for Landlords Who Complete Energy Audits on Rental Units	ONTP
LD 980	An Act To Provide a Tax Credit for Heating and Cooling System Alternatives and Improvements That Benefit the Environment and Address Climate Change	ONTP

LD INDEX

LD #		Page #
LD 501	-----	Page 1
LD 556	-----	Page 1
LD 755	-----	Page 2
LD 774	-----	Page 2
LD 885	-----	Page 2
LD 886	-----	Page 3
LD 955	-----	Page 3
LD 980	-----	Page 5
LD 1181	-----	Page 5
LD 1201	-----	Page 7
LD 1236	-----	Page 8
LD 1478	-----	Page 9
LD 1485	-----	Page 9