

An Act To Create Jobs Through Investment in Green Energy

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

PART A

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

§ 58. Consolidation of energy programs

Any agency of state government, administering a program or measure related to energy efficiency, energy demand reduction, peak load reduction or distributed renewable energy technology in buildings, facilities and appliances shall contract with Efficiency Maine to administer the program, service or measure, to the extent permitted by law, unless both the agency and Efficiency Maine determine that such a contract would be less cost-effective than a different cooperative relationship. Regardless of whether administration by Efficiency Maine is permitted or undertaken, all agencies shall coordinate with Efficiency Maine to ensure that such programs and measures are jointly marketed with Efficiency Maine, integrated with its programs, and constructed to facilitate use of the program by users of Efficiency Maine's services. The Maine State Housing Authority is exempted from the requirements of this section, except as otherwise provided by law.

Sec. A-2. 5 MRSA §1741, as amended by PL 2005, c.313, §1, is further amended to read:

§ 1741. Definitions

Whenever the words “public improvement” or “public improvements” appear in chapters 141 to 155, those words mean and include the construction, major alteration or repair of buildings or public works now owned or leased or constructed, acquired or leased by the State or any department, officer, board, commission or agency of the State, or constructed, acquired or leased, in whole or in part with state funds, and including the construction, major alteration or repair of school buildings, in excess of \$25,000, by any school administrative unit and for which state school construction aid is to be paid, except that sections 1743 and 1745 are not applicable to construction, major alteration or repair of school buildings. This subchapter does not apply to contracts for transportation-related services and contracts for construction and maintenance that, by law, are under the supervision of the Department of Transportation.

The word “LEED silver standard,” as used in chapters 141 to 155, means the United States green building council leadership in energy and environmental design green building rating standard, referred to as silver standard.

The word “person” as used in this section and sections 1745 to 1749 means and includes any individual, copartnership, association, corporation or joint stock company and their lessees, trustees or receivers appointed by any court whatsoever.

Sec. A-3. 5 MRSA §1764-A, §2, ¶B as enacted by PL 2003, c. 497, §1 and affected by PL 2003, c. 497, §5, is amended to read:

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

1. Definition. For purposes of this section, “substantially renovated” means any renovation for which the cost exceeds ~~50%~~ 20% of the building’s current value prior to renovation.

2. Rules. The Bureau of General Services, in consultation with the Energy Resources Council and the Public Utilities Commission, shall by rule require that all planning and design for the construction of: new or substantially renovated state-owned or state-leased buildings; new or substantially renovated buildings owned or leased by the University of Maine System, the Maine Community College System or the Maine Maritime Academy; and buildings built or substantially renovated with state funds, including buildings funded through state bonds or the Maine Municipal Bond Bank:

- A. Involve consideration of architectural designs and energy systems, including distributed renewable energy systems and load management systems, that show the greatest net benefit over the life of the building by minimizing long-term energy and operating costs;
- B. Include an energy-use target that ~~exceeds by the greater of:~~ at least 20% above the energy efficiency standards in effect for commercial and institutional buildings pursuant to Title 10, section 1415-D chapter 1103; or the LEED silver standard most closely related to the building and project type; and
- C. Include a life-cycle cost analysis that explicitly considers cost and benefits over a minimum of 30 years and that explicitly includes the public health and environmental benefits associated with energy-efficient building design and construction, to the extent they can be reasonably quantified.

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

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

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

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

Sec. A-4. 5 MRSA §1830, sub-§ 3, as enacted by PL 2005, c.386, Pt. H, §10, is amended to read:

3. Standards; specifications. The Bureau of General Services shall establish the following:

A. Standards for vehicle operation;

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

C. Standards for the exemption or waiver of state agencies from the requirements of this section. The Director of the Bureau of General Services may provide a waiver to an agency or an employee requiring the services of the Central Fleet Management Division or the standards and criteria established under this section if the director concludes that such a waiver is in the best economic interest of the State or critical agency mission.

PART B

Sec. B-1. 10 MRSA § 363, as amended by PL 2007, c. 520, §2 and affected by PL 2007, c. 695, Pt. A, §47, is further amended to read:

§363. Allocation of the state ceiling

1. Formula and procedure.

1-A. Procedure. For each calendar year, the Legislature may establish a procedure for allocation of the entire amount of the state ceiling by allocating an amount of the state ceiling to the specific issuers designated in this section for further allocation by each specific issuer to itself or to other issuers for specific bond issues requiring an allocation of the state ceiling or for carryforward. This procedure supersedes the federal formula to the full extent that the United States Code, Title 26, authorizes the Legislature to vary the federal formula. Allocations may be reviewed by the Legislature periodically and unused allocations may be reallocated to other issuers; however, notwithstanding the existence of legislation allocating or reallocating all or any portion of the state ceiling, at any time during the period from September 1st to and including December 31st of any calendar year, and at any other time that the Legislature is not in session, a group consisting of a representative of each of the

issuers specifically identified in subsections 4, ~~4-A~~, 5, 6, 7, 8 and 8-A; and a representative of the Governor designated each year by the Governor may, by written agreement executed by no fewer than 5 of the ~~6~~ 7 voting representatives, allocate amounts not previously allocated and reallocate unused allocations from one of the specific issuers designated in this section to another specific issuer for further allocation or carryforward, with respect to the state ceiling for that calendar year only. In no event may any issuer have more than one vote. If an issuer is allocated a portion of the state ceiling in more than one category, the written agreement must be executed by no fewer than ~~4 of the 6~~ 5 of the 7 voting representatives. Except for records containing specific and identifiable personal information acquired from applicants for or recipients of financial assistance, the records of the group of representatives described in this subsection are public records and the meetings of the group of representatives described in this subsection are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.

2. Allocations by the Governor and the Legislature.

2-A. Recommendation of Governor and issuers. At any time action of the Legislature under subsection 1-A is necessary or desirable, the Governor shall recommend to the appropriate committee of the Legislature a proposed allocation or reallocation of all or part of the state ceiling. To assist the Governor in making a recommendation of proposed allocations of the state ceiling on private activity bonds, the group of ~~7~~ 8 representatives described in subsection 1-A shall make a recommendation regarding allocation or reallocation of the state ceiling. In order to assist the group in making its recommendation and to assist the Governor and the Legislature, the State Planning Office shall prepare an annual analysis of the State's economic outlook, prevailing interest rate forecasts related to tax-exempt financing by the issuers specifically identified in subsections 4 to 8, the availability to those issuers of alternative financing from sources that do not require an allocation of the state ceiling and the relationship of these factors and various public policy considerations to the allocation or reallocation of the state ceiling. In recommending any allocation or reallocation of the state ceiling to the Legislature, the Governor shall consider the requests and recommendations of those issuers of bonds within the State designated in this section, the recommendations of the group of representatives described in subsection 1-A and the annual analysis of the State Planning Office.

3. Emergency allocation.

4. Allocation to Maine State Housing Authority. That portion of the state ceiling allocated under this section to the category of bonds for housing or housing-related purposes must be allocated to the Maine State Housing Authority, except to the extent that the Governor or the Legislature allocates part of that portion of the state ceiling to Efficiency Maine for purposes also related to energy efficiency, energy demand reduction, peak load reduction and distributed renewable energy technology in buildings, which and the Maine State Housing Authority may further allocate that portion of the state ceiling to bonds for housing-related projects that require an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Maine State Housing Authority to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.

4-A. Allocation to Efficiency Maine. That portion of the state ceiling allocated under this section to the category of bonds for housing or housing-related purposes, and which has purposes also

related to energy efficiency, energy demand reduction, peak load reduction and distributed renewable energy technology in buildings, and that portion of the state ceiling allocated to the category of bonds that are limited obligations of the issuer payable solely from the revenues of the projects financed with the proceeds of the bonds, other than for housing-related projects or issues included in an issue of the Maine Municipal Bond Bank, and which have purposes also related to energy efficiency, energy demand reduction, peak load reduction and distributed renewable energy technology in buildings, facilities and appliances, may be allocated to Efficiency Maine at the direction of the Governor or the Legislature, and Efficiency Maine may further allocate that portion of the state ceiling requiring an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from Efficiency Maine to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.

5. Allocation to the Treasurer of State. That portion of the state ceiling allocated under this section to the category of general obligation bonds of the State must be allocated to the Treasurer of State, who may further allocate that portion of the state ceiling to bonds of the State requiring an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Treasurer of State to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.

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

7. Allocation to the Maine Municipal Bond Bank. That portion of the state ceiling allocated to the category of bonds that are general obligations of issuers within the State, other than the State; that are included in bond issues of the Maine Municipal Bond Bank; that are included in bond issues of the Maine Public Utility Financing Bank; or that are qualified redevelopment bonds as defined in the United States Code, Title 26, must be allocated to the Maine Municipal Bond Bank, which may further allocate that portion of the state ceiling to bonds requiring an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Maine Municipal Bond Bank to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.

8. Allocations to the Maine Educational Loan Authority. That portion of the state ceiling allocated to the issuance of bonds by the Maine Educational Loan Authority pursuant to Title 20-A, chapter 417-A must be allocated to the Maine Educational Loan Authority.

A. Prior to issuing loans funded through an allocation of the state ceiling for the issuance of education loans, an issuer or lender must provide to the appropriate agency within the Department of

Professional and Financial Regulation examples of the disclosures to be made to loan recipients or obligors. The information must be provided to the Bureau of Financial Institutions if the issuer or lender is a financial institution or credit union established pursuant to state or federal law or to the Bureau of Consumer Credit Protection for all other issuers or lenders. This information must be provided to the appropriate agency within the Department of Professional and Financial Regulation upon request, or in the course of an examination of the issuer or lender by the agency, and must include a description of any interest rate or other discounts offered that clearly identifies all of the terms and conditions of obtaining any discount, a projection of the approximate number or percentage of loan obligors who are likely to benefit from the discounts and any other disclosures pursuant to guidelines established by the Bureau of Financial Institutions and the Bureau of Consumer Credit Protection for the issuance of education loans that would benefit from an allocation of the state ceiling. The Bureau of Financial Institutions and the Bureau of Consumer Credit Protection shall jointly adopt, to the extent allowed by law, rules to carry out the provisions of this paragraph by establishing uniform disclosure requirements and sanctions for noncompliance. Rules adopted pursuant to this paragraph are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A. All information provided to the appropriate agencies within the Department of Professional and Financial Regulation must include the source of the information and the basis for any projections.

B-1. All education loans made under the federal Higher Education Act of 1965, 20 United States Code, Chapter 28 that are purchased or originated with proceeds of tax-exempt bonds using a portion of the state ceiling on private activity bonds must be guaranteed by the state agency designated as administrator of federal guaranteed student loan programs pursuant to Title 20-A, chapter 417, subchapter 1, provided that this requirement does not apply to serial loans of a borrower that are guaranteed by a different guarantee agency and acquired or financed with tax-exempt bond proceeds prior to the effective date of this paragraph. The state agency designated as administrator of federal guaranteed student loan programs pursuant to Title 20-A, chapter 417, subchapter 1 shall use its best efforts to provide competitive rates for the guarantee function.

8-A. Allocations to issuer of bonds for purchase of education loans. That portion of the state ceiling allocated to the categories of bonds providing funds for the purposes of an entity designated pursuant to Title 20-A, section 11407, must be allocated to the entity designated pursuant to Title 20-A, section 11407.

A. Prior to issuing loans funded through an allocation of the state ceiling for the issuance of education loans, an issuer or lender must provide to the appropriate agency within the Department of Professional and Financial Regulation examples of the disclosures to be made to loan recipients or obligors. The information must be provided to the Bureau of Financial Institutions, Department of Professional and Financial Regulation if the issuer or lender is a financial institution or credit union established pursuant to state or federal law or to the Bureau of Consumer Credit Protection, Department of Professional and Financial Regulation for all other issuers or lenders. This information must be provided to the appropriate agency within the Department of Professional and Financial Regulation upon request, or in the course of an examination of the issuer or lender by the agency, and must include a description of any interest rate or other discounts offered that clearly identifies all of the terms and conditions of obtaining any discount, a projection of the approximate number or percentage of loan obligors who are likely to benefit from the discounts and any other disclosures pursuant to guidelines established by the Bureau of Financial Institutions and the

Bureau of Consumer Credit Protection for the issuance of education loans that would benefit from an allocation of the state ceiling. The Bureau of Financial Institutions and the Bureau of Consumer Credit Protection shall jointly adopt, to the extent allowed by law, rules to carry out the provisions of this paragraph by establishing uniform disclosure requirements and sanctions for noncompliance. Rules adopted pursuant to this paragraph are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A. All information provided to the appropriate agencies within the Department of Professional and Financial Regulation must include the source of the information and the basis for any projections.

9. Use of carryforward. In the event that any issuer has made a carryforward election under the United States Code, Title 26, Section 146(f), as amended, the issuer shall use, to the extent possible and consistent with the purpose for which the carryforward was elected, the carryforward for issues subject to the state ceiling prior to allocating any portion of the state ceiling for the applicable calendar year to the issue. To the extent permitted by federal law, a group consisting of a representative of each of the issuers specifically identified in subsections 4 to 7; a representative of a corporation created pursuant to former Title 20, section 2237 and Title 20-A, section 11407; and a representative of the Governor designated each year by the Governor may reallocate, by written agreement executed by no fewer than 4 of the 5 voting representatives, carryforward amounts from one of the specific issuers designated in this section to another specific issuer.

10. Allocation for benefit of State. All of the allocation of the state ceiling must be used for a purpose that benefits individuals, communities or businesses in this State. For purposes of this subsection, a bond issuance is presumed to benefit individuals, communities or businesses in this State if it benefits business operations located in this State, residents of this State, students attending institutions of higher education in this State, residents of this State attending institutions of higher education outside this State, municipalities in this State or programs predominantly for the provision of benefits for residents of this State. A student eligible to receive the benefit of a portion of the state ceiling remains eligible for student loans notwithstanding any changes in residency or institution attended.

11. Annual review. By March 15th of each year, each issuer identified in subsections 4 to 8 shall deliver a report to the Governor, the group of representatives described in subsection 1-A and the joint standing committee of the Legislature having jurisdiction over business and economic development matters. Each report must include, without limitation, a review of what bonds have been issued in the most recent year, how the state ceiling was allocated or carried forward, a demonstration of the benefits to the State of the allocation of the state ceiling to such issuer for the most recent year and a demonstration that allocation of the state ceiling is necessary to fulfill an unmet need for financing by the private sector. In addition, each report must be accompanied by the most recent annual audited financial statements of the issuer and by a letter from an independent accountant addressing the savings attributable to the use of tax-exempt financing and how that savings was passed on to the entities or individuals benefiting from the bond proceeds.

Sec. B-2. 10 MRSA c. 955 is enacted to read:

CHAPTER 1105
ENERGY AUDIT

§ 9750. Energy audit

1. Audit required. Between the effective date of this chapter and December 31, 2018, every building and industrial facility in the State must have a thorough evaluation or series of evaluations by professionals meeting standards prescribed by Efficiency Maine to identify gas, heat and electric energy efficiency and conservation, distributed renewable energy production and effective load management measures that have a payback period of up to 15 years, unless the building or facility:

- A. Is scheduled for demolition before December 31, 2018;
- B. Meets or exceeds the LEED silver standard, as defined in section 1741 of title 5; or
- C. Is otherwise exempted pursuant to rules promulgated by the Public Utilities Commission;

2. Entitlement to compensation. If the evaluation is done in coordination with Efficiency Maine and in a manner consistent with any standards that Efficiency Maine may impose, Efficiency Maine shall pay for the reasonable cost of the evaluation, and may contract directly with the evaluator or evaluators.

PART C

Sec. C-1. 20-A MRSA §8606-A, as amended by PL 2007, c. 131, §5, is further amended to read:

§8606-A. Reimbursement procedures

1. Definitions.

2. Budget recommendation. Prior to December 15th of each year, the commissioner shall certify to the Governor and to the Bureau of the Budget the funding levels for the various program categories in adult education for payment in the next fiscal year. The commissioner shall include these funding levels in the department's request to the Legislature for appropriations from the General Fund to carry out the purposes of this chapter.

A. The recommended funding level must include funds in an amount that is sufficient to provide for state administration of adult education programs including funds for the cost of general educational development tests and administration; supporting a statewide volunteer program of literacy outreach; state-sponsored professional development; state-level data collection, including the required software for units, regions or centers providing adult education programs; and reimbursement of the costs listed in section 8607-A at the rates established in that section . The

recommended funding level may not exceed the maximum allowable expenditures in the base year, adjusted pursuant to paragraph C.

B. A unit, region or center shall provide the commissioner with information requested by the commissioner to carry out the purpose of this chapter. The commissioner may withhold state subsidy payment or a portion of the state subsidy payment from a unit, region or center if the unit, region or center does not provide requested information to the commissioner in compliance with the specified format, content and time schedule established by the commissioner.

C. The recommendation in the commissioner's funding level certification must include local adult education program cost adjustment to the equivalent of the year prior to the year of allocation. This adjustment is calculated according to the same guidelines established, for purposes of chapter 606-B, by section 15689-C, subsection 3. The commissioner shall further adjust the education program cost in accordance with any increase in utilization of adult education services that exceeds expectations based on population growth, to the extent such increase is attributable to workforce development programs adopted within the last four years in the region served by the local adult education program.

3. State reimbursement. State reimbursement for expenditures on adult education programs must be based on each unit's, region's or center's actual adult education program costs in the base year, with an adjustment for any increase in utilization of adult education services that exceeds expectations based on population growth, to the extent such increase is attributable to workforce development programs adopted within the last four years in the region served by the local adult education program, except that in fiscal years 1991-92 and 1992-93 available state funding is limited to the fiscal year 1990-91 level, and in fiscal years 1995-96 and 1996-97 available state funding is limited to the fiscal year 1994-95 level.

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

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

Sec. C-2. 20-A MRSA §15671, sub-§6, as amended by PL 2005, c. 519, Pt. LL, §1, is further amended to read:

6. Targeted funds. Funds for technology, implementation of a standards-based system, ~~and~~ the costs of additional investments in educating children in kindergarten to grade 2 and the costs of additional investments in workforce development as described in section 15681 must be provided as targeted allocations. School administrative units shall submit a plan for the use of these funds and receive funding based on approval of the plan by the commissioner.

Sec. C-3. 20-A MRSA §15681, sub-§1, ¶D is enacted to read:

D. To receive targeted workforce development funds from a dedicated source, a school administrative unit must meet any requirements imposed by the source, as well as all other relevant requirements of this title.

Sec. C-4. 20-A MRSA §15681, sub-§4-A is enacted to read:

4-A. Targeted workforce development funds. A school administrative unit may receive targeted workforce development funds from a dedicated source, including but not limited to the Green Energy Job Creation Fund established under section 2035 of title 26, and must expend those funds in accordance with any requirements attached thereto.

Sec. C-5. 20-A MRSA §15903, sub-§3, as amended by PL 1985, c. 785, Pt. A, §93, is further amended to read:

3. Approval. Before acceptance by a school board, the plans and specifications shall be approved by the following.

- A. The Bureau of Public Improvements, Department of Administration;
- B. The department;
- C. The Department of Health and Human Services; ~~and~~
- D. The State Fire Marshal; and
- E. Efficiency Maine.

Sec. C-6. 20-A MRSA §15908-A, as amended by PL 2007, c. 578, §1, is further amended to read:

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

1. Definition Definitions. For purposes of this section, “substantially renovated” means any renovation for which the cost exceeds ~~50%~~ 20% of the building’s current value prior to renovation.

The word “LEED silver standard,” as used in this chapter, means the United States green building council leadership in energy and environmental design green building rating standard, referred to as silver standard.

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

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

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

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

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

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

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

Sec. C-7. 20-A MRSA §15915, as amended by PL 2005, c. 499, §1, is further amended to read:

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

1. Initial agreement. Any school administrative unit may enter into an agreement of up to ~~15~~ 20 years with a private party, such as an energy service or 3rd-party financing company, for the design, installation, operation, maintenance and financing of energy conservation, distributed renewable energy

technology, effective load management or combined energy conservation and air quality improvements at existing school administrative unit facilities. The school administrative unit's costs to enter into such an agreement are not applicable to the unit's school construction project costs, the debt service on which is eligible for subsidy purposes under section 15907. Such an agreement is deemed to be a professional service, which is not subject to the competitive bidding requirements of Title 5, section 1743-A, if the agreement:

- A. Provides for operation or maintenance of the improvement for at least 5 years or the entire term of the financing agreement if longer than 5 years;
- B. Requires a guaranty by the contractor that the improvement will meet performance criteria set forth in the agreement for at least 5 years or for the entire term of the financing agreement if longer than 5 years; and
- C. Has a total contract cost, excluding interest and operating and maintenance costs, of less than \$2,000,000 for any school building, though costs may exceed that amount to the extent that all risk that the project's costs will exceed its benefits are borne by an entity other than the school administrative unit.

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

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

PART D

Sec. D-1. 26 MRSA sub-c. 6 is enacted to read:

Subchapter 6: Green Energy Job Growth Initiative

§ 2035. Green Energy Job Growth Fund

1. Initiative and fund established. The department shall establish and administer a comprehensive green energy economy industry and workforce development program called the Green Energy Job Growth Initiative, based on the goal of, by 2019, increasing the number of green energy economy jobs to at least 20,000 more than the state had as of 2008, as determined by the department.

A. The Green Energy Job Growth Fund is established as a nonlapsing fund in the department to be used for the purposes of this section. Unexpended balances in the fund at the end of a fiscal year may not lapse, but are carried forward to the next fiscal year to be used for the same purposes. All receipts from appropriations directed to the fund must be deposited therein.

B. The department is the designated state agency to receive and administer federal funds for workforce development in green industries, except as otherwise provided in law, and any federal funds received for that purpose shall be deposited in the fund.

2. Definitions. For purposes of this section, the following terms have the following meanings.

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

B. 'Fund' means the Green Energy Job Growth Fund.

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

D. 'High road employer' means an employer interested in advancing workers through processes and investments in education, training, and research and development, and by providing competitive wages, benefits and employment terms and practices.

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

F. 'Industry or sector partnership' means a workforce collaborative that:

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

(a) representatives of multiple firms or employers, including workers, in a targeted industry cluster, including small- and medium-sized employers when practicable;

(b) 1 or more representatives of State labor organizations or central labor councils;

(c) 1 or more representatives of local workforce investment boards;

(d) 2 or more representatives of training providers, including at least one representing postsecondary educational institutions and one representing secondary educational institutions and adult educational institutions, typically from the career and technical education system; and

(e) 1 or more representatives of State workforce agencies or other entities providing employment services; and

(2) may include representatives of:

(a) State or local government;

(b) State or local economic development agencies;

(c) other State or local agencies;

(d) chambers of commerce;

(e) nonprofit organizations;

(f) industry associations; and

(g) other organizations, as determined necessary by the members comprising the industry or sector partnership.

G. “Target populations” means

(1) entry-level or incumbent workers in high-demand green industries who are in, or are preparing for, high-wage occupations;

(2) dislocated workers in declining industries who may be retrained for high-wage occupations in high-demand green industries;

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

(4) eligible veterans or national guard members;

(5) disadvantaged populations; or

(6) anyone eligible to participate in the Competitive Skill Scholarship Program under section 2033.

3. Development of terminology. The department, in consultation with the Energy Resources Council, Department of Economic and Community Development, the state planning office, the Maine Jobs Council, leaders of Maine’s career and technical educational system, the Maine Community College System, the University of Maine System, the Maine Technology Institute, Efficiency Maine, the public utility commission, the Maine State Housing Authority, business leaders and industry associations and organizations in green economy industries, representatives of labor organizations in

the building trades, nonprofit organizations that focus on environmental issues and workforce development and governmental and nonprofit entities that focus on economic development issues, shall develop a defined list of terms, consistent with current workforce and economic development terms, associated with green energy economy industries and jobs.

4. Labor market, workforce and industry analysis.

A. The department, in consultation with the stakeholders listed in subsection 3, shall conduct labor market research to analyze the current labor market and projected job growth in the green energy economy, the current and projected recruitment and skill requirement of green energy economy industry employers, the wage and benefits ranges of jobs within green energy economy industries, and the education and training requirements of entry-level and incumbent workers in those industries. As part of this research, the department may make appropriate adjustments in occupational classifications and other elements of labor market data.

B. The department, in consultation with the stakeholders listed in subsection 3, with the Department of Professional and Financial Regulation and with any relevant boards established pursuant to section 12004-A of title 5, and pursuant to the analysis in paragraph A of this subsection, shall develop comprehensive career ladders for the jobs identified therein, which include any appropriate curricula for and linkages between relevant programs, revisions to building trades curricula to integrate green economy-related skills, skill certifications for incumbent workers, revisions to licensing standards, changes to the responsibilities of boards established under section 12004-A of title 5, creation of additional boards pursuant to section 12015 of title 5, and other appropriate measures.

(1) Skills reflected in these measures shall include those skills related to best environmental practices beyond those directly related to the green energy economy.

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

(3) Where the law so requires, the department shall submit recommendations for regulation of professional or occupational groups to the Department of Professional and Financial Regulation, pursuant to section 60-J of title 32, who shall give due consideration to the urgency of reducing the state's energy costs and reliance on fossil fuels, and to the importance of quality work and universally recognized qualifications in maximizing progress on those goals.

(4) In performing its duties under this paragraph, the department shall prioritize occupations related to evaluation of energy efficiency and distributed renewable technology opportunities, including but not limited to energy auditors, and to installation of distributed renewable energy technology, including but not limited to solar thermal installers.

(5) The department, in consultation with the stakeholders listed in subsection 3, shall make recommendations to the Department of Professional and Financial Regulation for the report that that department prepares pursuant to chapter 219 of the Resolves of the 123rd legislature.

C. The Department of Economic and Community Development shall: analyze the current opportunities for and participation in the green energy economy by business enterprises owned by women, minorities and members of other target populations in the state; identify existing barriers to their successful participation in the green energy economy; and develop strategies with specific policy recommendations to improve their successful participation in the green energy economy. The Department of Economic and Community Development shall report on its research, analysis and recommendations to the joint standing committee of the legislature having responsibility for business, research and economic development by March 1, 2010.

5. Standards and credentials. The department, in consultation with the stakeholders listed in subsection 3, shall evaluate the skills needed for work in the green energy economy section 12004-A of title 5. DPFR study under R. 2007, c. 219, §1.

6. Designation of high-demand industries. Based on the findings from subsection 4, the department, in consultation with the stakeholders listed in subsection 3 and taking into account the requirements and goals of this section and other state clean energy and energy efficiency policies, shall propose which industries will be considered high-demand green industries, based on current and projected job creation and their strategic importance to the development of the state's green energy economy. The department shall take into account which jobs within green energy economy industries will be considered high-wage occupations and occupations that are part of career pathways to the same, based on family-sustaining wage and benefits ranges. These designations, and the results of the department's broader labor market research, shall inform the planning and strategic direction of the department, the Maine Jobs Council, the state's career and technical educational centers, the Standing Committee on Apprenticeship, the Maine Community College System and the University of Maine System.

7. Identification of emerging technologies and innovations. The Department of Economic and Community Development, in consultation with the stakeholders described in subsection 3, shall identify emerging technologies and innovations that are likely to contribute to advancements in the green energy economy and, consistent with existing priorities, shall:

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

B. Make recommendations for comprehensive strategies to stimulate research and development of green technology and innovation.

8. Industry or sector partnerships. The Maine Jobs Council shall create and pilot green energy economy industry or sector partnerships. Any of the stakeholder organizations within a partnership is eligible to receive grants under this section and serve as the intermediary that convenes and leads the panel and the fiscal agent that administers the grant. Panel applicants must provide labor market and industry analysis that demonstrates high demand, or demand of strategic importance to the development of the state's green energy economy, for high-wage occupations, or occupations that are part of career pathways to the same, within the relevant industry sector. The partnerships shall:

A. Conduct labor market and industry analyses, in consultation with the department, and drawing on the findings of its research when available;

B. Plan strategies to meet the recruitment and training needs of the industry and small businesses; and

C. Leverage and align other public and private funding sources. To this end, and notwithstanding paragraph I of subsection 5-A of section 2006, it is the expectation of the legislature that the state's career and technical education centers and labor affiliates administering state-approved, joint apprenticeship programs or labor-management partnership programs that train workers shall generally play a central role in providing education and training below the associate degree level, particularly within the building trades.

9. Expenditures from the fund. Moneys from the fund shall be utilized solely to carry out the purposes of this section.

A. Up to 20% of the funds received pursuant to section 10200 of title 35-A may be used to award planning, implementation, renewal and other grants on a competitive basis. The department may exceed that ceiling where reasonably necessary to leverage substantial additional public or private funds. The department may also exceed caps on individual grants under this section, to the extent reasonable necessary to leverage substantial additional public or private funds. Grant moneys should be used only when other public or private funds are insufficient or unavailable, and must be fully expended or obligated to be expended by the last day of the grant period, with any remaining moneys being returned to the fund.

(1) A planning grant of up to \$25,000 and of duration up to one year may be awarded to a newly formed industry or sector partnership that has not received a grant under this section.

(2) An implementation grant of up to \$500,000 for a 3-year period or up to \$167,000 per year for a shorter period may be awarded to an industry or sector partnership that has received a planning grant under this section, or to an established industry or sector partnership.

(3) A renewal grant of up to \$225,000 for a 3-year period or up to \$75,000 per year for a shorter period may be awarded to an industry or sector partnership that has received an implementation grant under this section. The department shall prioritize renewals to partnerships that can demonstrate their long-term sustainability, and shall as a condition of renewing the grant, require significantly increased leveraging of additional public and private funds by the partnership, compared to the preceding year of the implementation grant.

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

(a) working with businesses, industry associations and organizations, labor organizations, State boards, local boards, economic development agencies, and other organizations that the eligible entity determines necessary, to identify an appropriate targeted industry cluster based on criteria that include, at a minimum:

(i) data showing the competitiveness of the industry cluster;

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

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

(iv) research studies on industry clusters; and

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

(i) Demonstrated demand for job growth potential.

(ii) Competitiveness.

(iii) Employment base.

(iv) Wages and benefits.

(v) Demonstrated importance of the targeted industry cluster to the area's economy and for the green energy economy.

(vi) Workforce development needs.

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

(a) A description of the industry or sector partnership, evidence of its capacity to carry out activities in support of the strategic objectives identified in the application under subparagraph (d), and a description of the expected participation and responsibilities of each of the mandatory partners described in paragraph F(1) of subsection 2.

(b) A description of the targeted industry cluster for which the industry or sector partnership intends to carry out activities through a grant under this section, and a description of how such targeted industry cluster was identified in accordance with subparagraph (4).

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

(d) A description of the strategic objectives that the eligible entity intends to carry out for the targeted industry cluster, which objectives shall include:

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

(ii) identifying the training needs of multiple businesses, especially skill gaps critical to competitiveness and innovation to the targeted industry cluster;

(iii) facilitating economies of scale by aggregating training and education needs of multiple employers;

(iv) helping secondary, adult education, vocational and postsecondary educational institutions and training institutions align curricula and programs to industry demand, particularly for higher skill, high-priority occupations validated by the industry;

(v) ensuring that the department shall inform recipients of unemployment insurance and trade adjustment assistance under chapter 2 or 6 of title II of the federal Trade Act of 1974 (19 U.S.C. 2271 et seq., 2401 et seq.) of the job and training opportunities that may result from the implementation of this grant;

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

(vii) helping companies identify, and work together to address, common organizational and human resource challenges, such as--

(I) recruiting new workers;

(II) implementing effective workplace practices;

(III) retaining dislocated and incumbent workers;

(IV) implementing a high-performance work organization;

(V) recruiting and retaining women in nontraditional occupations;

(VI) adopting new technologies; and

(VII) fostering experiential and contextualized on-the-job learning;

(viii) developing and strengthening career ladders within and across companies (in cooperation with labor organizations if the labor organizations represent employees engaged in similar work in the industry cluster), in order to enable dislocated, incumbent and entry-level workers to improve skills and advance to higher-wage jobs;

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

(x) helping partner companies in industry or sector partnerships to attract potential employees from a diverse job seeker base, including individuals with barriers to employment (such as job seekers who are economically disadvantaged, youth, older workers and individuals who have completed a term of imprisonment), by identifying such barriers through analysis of the existing labor market and implementing strategies to help such workers overcome such barriers; and

(xi) strengthening connections among businesses in the targeted industry cluster, leading to cooperation beyond workforce issues that will improve competitiveness and job quality, such as joint purchasing, market research, or centers for technology and innovation.

(e) A description of the manner in which the eligible entity intends to make sustainable progress toward the strategic objectives described in subparagraph (d).

(f) Performance measures, with quantifiable benchmarks, for measuring progress toward the strategic objectives. Such measures shall consider, at a minimum, the benefits provided by the grant activities funded under this section for--

(i) workers employed in the targeted industry cluster, disaggregated by gender and race, including:

(I) the number of workers receiving portable industry-recognized credentials;

(II) the number of workers with increased wages, the percentage of workers with increased wages, and the average wage increase; and

(III) for dislocated or nonincumbent workers, the number of workers placed in sector-related jobs; and

(ii) firms and industries in the targeted industry cluster, including--

(I) the creation or updating of an industry plan to meet current and future workforce demand;

(II) the creation or updating of published industry-wide skill standards or career pathways;

(III) the creation or updating of portable, industry-recognized credentials, or where there is not such a credential, the creation or updating of a training curriculum that can lead to the development of such a credential;

(IV) in the case of an eligible entity that is an industry or sector partnership, the number of firms, and the percentage of the local industry, participating in the industry or sector partnership; and

(V) the number of firms, and the percentage of the local industry, receiving workers or services through the grant funded under this section.

(g) A timeline for achieving progress toward the strategic objectives.

(h) In the case of an eligible entity desiring an implementation grant under this section, an assurance that the eligible entity will leverage other funding sources, in addition to the amount required for the non-Federal share under subsection (d), to provide training or supportive services to workers under the grant program.

(6) The department may award one-time grants of up to \$10,000 for the purposes of curriculum development, development of transitional jobs strategies for dislocated workers in declining industries who may be retrained for high-wage occupations in green industries, workforce education to target populations, and adult basic and remedial education as necessary linked to occupation skills training, to the extent such purposes are not better served by the planning, implementation and renewal grant programs.

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

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

(ii) Recruiting and supporting, to successful completion of those training programs carried out under these grants, the target populations of workers.

(b) In awarding grants from the fund, the department shall give priority to applicants that demonstrate the ability to:

(i) Use labor market and industry analysis developed by the department and by green energy industry or sector partnerships in the design and delivery of the relevant education and training programs, and otherwise utilize strategies developed by green industry or sector partnerships;

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

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

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

(v) Involve employers and labor unions in the determination of relevant skills and competencies and, where relevant, the validation of career pathways; and

(vi) Ensure that supportive services, where necessary, are integrated with education and training and are delivered by organizations with direct access to and experience with the targeted population of workers.

B. In 2009, 2010 and 2011, 10% of the funds received pursuant to section 10200 of title 35-A may be expended to perform duties outlined in this section and to support performance by the Department of Economic and Community Development of its duties under this section. In future years, up to 2% of the funds received pursuant to section 10200 of title 35-A may be expended by the department for administrative purposes under this section.

C. The remainder of the funds received pursuant to section 10200 of title 35-A shall be expended for direct support to individuals pursuing education and training in areas identified in this section. Funds shall be expended in the manner prescribed for the Competitive Skills Scholarship Fund under section 2033 and under rules promulgated pursuant to that section, and may be transferred to that fund under conditions that ensure their use for the purposes of this section.

D. Funds received from other sources shall be expended in any required manner, but in the absence of contrary requirements shall be expended in the manner prescribed for funds received pursuant to section 10200 of title 35-A, with up to 20% expended on grants under this section, up to 2% expended on administration under this section, and the remainder expended on direct support to individuals pursuing education and training under this section.

PART E

Sec. E-1. 30-A MRSA §703, as amended by PL 1989, c. 104, §§C8,10, is further amended to read:

§703. Acceptance of state and federal grants

A county may accept and expend grants.

1. Federal. Counties may apply for and accept and expend Federal Government grants for any purpose for which Federal Government grants are available to counties, either directly or through the State.

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

3. Application. This section is not intended to increase, expand or broaden the powers of the counties or to apply to the general revenue sharing funds of the counties.

Sec. E-2. 30-A MRSA §903, as amended by PL 1989, c. 104, §§C8,10, is further amended to read:

§903. Authority to contract for energy conservation improvements

1. Agreement with energy service and 3rd-party financing companies. County commissioners may enter into an agreement with a private party, such as an energy service or 3rd-party financing company, for the design, installation, operation, maintenance and financing of energy conservation, distributed renewable energy technology, effective load management or combined energy conservation and air quality improvements at county facilities. County commissioners may seek assistance from Efficiency Maine for the purposes of this section.

2. Future operation. The county commissioners, at the termination of the agreement with the private party under this section, may acquire, operate and maintain the improvement, renew the agreement with the private party or make an agreement with another private party to operate and maintain the improvement.

3. Budgetary approval required. Expenditures by the county commissioners under this section are subject to the county budgetary approval process.

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

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

1. Definitions. For purposes of this section, “substantially renovated” means any renovation for which the cost exceeds 20% of the building’s current value prior to renovation, and “LEED silver standard,” means the United States green building council leadership in energy and environmental design green building rating standard, referred to as silver standard.

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

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

B. Include an energy-use target that exceeds the greater of: at least 20% above the energy efficiency standards in effect for commercial and institutional buildings pursuant to Title 10, chapter 1103; or the LEED silver standard most closely related to the building and project type;
and

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

A county may provide for exemptions, waivers or other appropriate consideration for buildings with little or no energy usage, such as unheated sheds or warehouses.

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

PART F

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

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

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

§ 4748. Efficiency standards

1. Definitions. For purposes of this section, the following terms have the following meanings.

A. “LEED silver standard” means the United States green building council leadership in energy and environmental design green building rating standard, referred to as silver standard, for the relevant class of building.

B. “Low-income rental housing” means residential housing projects in which any of the units are subject to federal or state income eligibility restrictions and the rents within the projects are

controlled, regulated or assisted by a federal or state agency pursuant to a regulatory or rental assistance agreement.

2. New construction. Any newly constructed low-income rental housing project for which an initial proposal is submitted after the effective date of this section must meet the LEED silver standard. The Maine State Housing Authority shall exempt a developer of such a housing project from this requirement if the developer demonstrates that neither the Maine State Housing Authority, Efficiency Maine nor any other entity has provided adequate assistance, typically the equivalent of 4% of project costs, to make the project economically viable, and that from the perspective of the developer and any investors, no reasonable option exists to make the project as cost-effective and, in the case of for-profit developments, profitable as it would have been in the absence of the efficiency standard. The exemption shall not apply to development of public housing.

3. Existing buildings. By December 31, 2018, all low-income rental housing must meet the LEED silver standard for existing buildings. The Maine State Housing Authority shall exempt a building from this requirement if the owner or owners demonstrate that neither the Maine State Housing Authority, Efficiency Maine nor any other entity has provided adequate assistance to allow the building to meet the standard without decreasing its economic viability for the owner or owners and any investors (and without decreasing its profitability in the case of for-profit developments), and that from the perspective of the owner or owners and any investors, no reasonable option exists to make the project as cost-effective and, in the case of for-profit developments, profitable as it would have been in the absence of the efficiency standard.

4. Rental assistance programs. Upon the effective date of this chapter, to the extent permitted by federal law, a housing authority shall condition a landlord's participation in the Housing Choice Voucher program administered by the United States Department of Housing and Urban Development, and the Department of Health and Human Services shall condition a landlord's participation in the bridging rental assistance program, on the landlord permitting an evaluation, funded by Efficiency Maine or the Maine State Housing Authority or, at the landlord's election, obtained by other means approved by the Maine State Housing Authority, of all energy efficiency, load reduction and distributed renewable technology measures with a payback period of 15 years or less, and on the landlord's adoption of any such measures, to the extent adoption does not entail any encumbrance of the property or debt for the landlord, or otherwise undermine the building's profitability or suitability for the landlord's intended purposes.

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

§ 4991. Fuel assistance program

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

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

§4992. Administration

The authority may select local program operators as long as they comply with the program operating standards established by the authority by rule in accordance with the Maine Administrative Procedure Act. The authority, by rule, shall provide, at a minimum, the following standards that apply to local program operators and administrators:

1. Accounting and bookkeeping standards. Standards that require generally accepted accounting and bookkeeping procedures that meet the requirements of the Federal Government and the authority;

2. Conflict of interest standards. Standards that prohibit conflicts of interest by local program operators and administrators. These standards must, at a minimum, meet the standards that apply to Legislators as defined in Title 1, section 1014;

3. Confidentiality standards. Standards requiring the adherence of the local program operators to confidentiality with respect to program recipients;

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

6. Compliance with Efficiency Maine standards. Standards that ensure compliance with the provisions of chapter 97 of title 35-A.

PART G

Sec. G-1. 30-A MRSA §5725, as amended by PL 1999, c.570, §4 is further amended to read:

§5725. Health and welfare

A municipality may raise or appropriate money to:

1. Poor. Support the poor;

2. Hospital. Construct, maintain, operate and support a hospital serving its residents;

3. Community health facility. Construct, maintain, operate and support a community health facility which may be used in any manner that will improve health services in the community, including the leasing of space at fair market rates to physicians and other medical personnel;

- 4. Public health.** Employ a public health nurse and conduct a public health program;
- 5. Blood service.** Support a blood service program;
- 6. Dental hygienist.** Employ a dental hygienist;
- 7. Physician.** Subsidize physicians to induce them to settle in the municipality;
- 8. Pest control.** Provide for the extermination and control of insect pests;
- 9. Ambulance.** Provide for public ambulances and garages for them, or support an ambulance service serving its residents;
- 10. Veteran rehabilitation.** Provide for a local program with or without state coordination for rehabilitating veterans honorably discharged from the Armed Forces of the United States;
- 11. Dutch elm disease.** Determine the presence of the Dutch elm disease and carry out measures for the prevention or control of that disease on public or private grounds;
- 12. Youth commission.** Provide for a local youth commission; ~~and~~
- 13. Anti-poverty community action program.** Assist and contribute to a community action program organized under the Federal Anti-Poverty Program-; and
- 14. Energy-related assistance.** Assist property owners and renters in lowering energy costs by increasing energy efficiency, adopting conservation and load management measures and installing distributed renewable energy technology. A municipality may make loans personal to the individual or entity making the improvements or that run with the property benefitted, and may integrate collection of payments due with property tax collection, but any payments made in such circumstances shall be first applied to any unpaid property tax balance, and the municipality shall have no rights regarding the loan beyond those of an ordinary creditor. A municipality may partner with Efficiency Maine to administer any program pursuant to this subsection.

Sec. G-2. 30-A MRSA c. 187, sub-c. 7, is enacted to read:

Subchapter 7: Public buildings

§4458. Improvement of energy efficiency and usage of distributed renewable technology in construction of municipal buildings

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

2. Definitions. For purposes of this section, “substantially renovated” means any renovation for which the cost exceeds 20% of the building’s current value prior to renovation, and “LEED silver standard,” means the United States green building council leadership in energy and environmental design green building rating standard, referred to as silver standard.

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

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

B. Include an energy-use target that exceeds the greater of: at least 20% above the energy efficiency standards in effect for commercial and institutional buildings pursuant to Title 10, chapter 1103; or the LEED silver standard most closely related to the building and project type, provided that the State or an agency thereof, or another entity including but not limited to Efficiency Maine, assists the municipality in defraying at least 4% of the upfront cost of the project to the municipality, and that the life-cycle cost of the project, including any recoupment of said assistance, does not exceed the life-cycle cost of a reasonable alternative design that is less environmentally efficient; and

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

A municipality may provide for exemptions, waivers or other appropriate consideration for buildings with little or no energy usage, such as unheated sheds or warehouses.

4. Approval. A municipality may not approve the construction of a new or substantially renovated municipally-owned or municipally-leased building or of a building built or substantially renovated with municipal funds, including a building funded through municipal bonds or the Maine Municipal Bond Bank, unless the agency or other entity or organization proposing the construction can show that it has duly considered the most energy-efficient and environmentally efficient designs suitable in accordance with this section, and that the proposed construction project meets the standards described in paragraph B of section 3.

PART H

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

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

This section establishes a program to promote energy efficiency, increased use of distributed renewable energy technology, effective load management and indoor air quality in municipal and school buildings.

1. Efficiency Partners Program. ~~The bank shall establish the~~ The Efficiency Partners Program, referred to in this section as “the program,” ~~designed is established~~ to reduce net energy costs in municipal and school buildings and to create jobs by financing energy audits and cost-effective improvements that accomplish energy efficiency, increased use of distributed renewable energy technology and effective load management, while maintaining healthful indoor air quality. The program shall be administered as a partnership between Efficiency Maine and the bank, with the bank providing financial expertise and capital for the program, and ultimately approving any transactions thereunder, and Efficiency Maine administering the energy- and contract-related aspects of the program. Division of responsibilities and of funds for administration of the program shall be divided between the bank and Efficiency Maine pursuant to a written agreement on commercially reasonable terms. Both entities shall ensure smooth integration of the program with other programs and measures adopted by Efficiency Maine.

~~The bank~~ Efficiency Maine shall issue a request for proposals for energy audits of municipal and school buildings and for energy savings that could be achieved through cost-effective usage of distributed renewable energy technologies and improvements to load management, heating and cooling systems, windows, insulation, lighting and equipment in municipal and school buildings. Identification of cost-effective improvements to achieve net energy savings under the program must be based on a comprehensive energy audit that has been performed within the previous 5 years by a professional engineer licensed in this State, and who had no expectation at the time of the audit of receiving further compensation for work related to implementing any recommendations made. An energy audit that is financed under the program or is the basis for cost-effective energy efficiency improvements financed under the program must address compliance with the model building energy code adopted ~~by the Public Utilities Commission pursuant to Title 35-A, section 121 pursuant to chapter 1103 of title 10.~~

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

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

20-A, section 15903, subsection 3 shall review the plans and specifications and approve or disapprove them within a reasonable time period.

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

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

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

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

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

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

6. Consultation with Efficiency Maine. The bank shall consult and coordinate with Efficiency Maine to ensure that funds expended or utilized under this section maximize advancement of state policies regarding energy efficiency, load management and utilization of distributed renewable energy technology.

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

6. Consultation with Efficiency Maine. The bank shall consult and coordinate with Efficiency Maine to ensure that funds expended or utilized under this section maximize advancement of state policies regarding energy efficiency, load management and utilization of distributed renewable energy technology.

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

6. Consultation with Efficiency Maine. The bank shall consult and coordinate with Efficiency Maine to ensure that funds expended or utilized under this section maximize advancement of state policies regarding energy efficiency, load management and utilization of distributed renewable energy technology.

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

4. Consultation with Efficiency Maine. The bank shall consult and coordinate with Efficiency Maine to ensure that funds expended or utilized under this section maximize advancement of state policies regarding energy efficiency, load management and utilization of distributed renewable energy technology.

Sec. H-7. 30-A MRSA §6006-E, sub-§4, as amended by PL 1999, c. 81, §15, is further amended to read:

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

In addition to and in furtherance of any other assistance available to a school administrative unit in this chapter, the bank, in cooperation with the Department of Education, shall establish a lease-purchase program for buildings to be used by all school administrative units whose school facility lease-purchase payments receive reimbursement, subsidy or other payment from the State. For the purposes of this section, a lease-purchase program is a system for awarding leases for a school administrative unit pursuant to a competitive bidding process. The bank shall consult and coordinate with Efficiency Maine to ensure that funds expended or utilized under this section maximize advancement of state policies regarding energy efficiency, load management and utilization of distributed renewable energy technology.

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

9. Consultation with Efficiency Maine. The bank shall consult and coordinate with Efficiency Maine to ensure that funds expended or utilized under this section maximize advancement of state policies regarding energy efficiency, load management and utilization of distributed renewable energy technology.

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

3. Consultation with Efficiency Maine. The bank shall consult and coordinate with Efficiency Maine to ensure that funds expended or utilized under this section maximize advancement of state policies regarding energy efficiency, load management and utilization of distributed renewable energy technology.

Sec. H-10. 30-A MRSA §6008, as amended by PL 1989, c. 104, §§8, 10, is further amended to read:

§6008. Additional reserves and funds

The bank may establish any additional and further reserves or any other funds or accounts that are, in its discretion, necessary, desirable or convenient to further the accomplishment of the purposes of the bank to comply with the provisions of any agreement made by or any resolution of the bank. The bank shall consult and coordinate with Efficiency Maine to ensure that funds expended or utilized under this section maximize advancement of state policies regarding energy efficiency, load management and utilization of distributed renewable energy technology.

PART I

Sec. I-1. 35-A MRSA §103, sub-§4-A, is enacted to read:

4-A. Distributed renewable energy technology. “Distributed renewable technology” means a product or facility or cluster of products or facilities that has a generating capacity of not more than 5 megawatts, or an equivalent amount of heat energy, and either generates energy in a manner that results in no carbon dioxide emissions, or that falls into one of the following categories:

- A. Fuel cells;
- B. Tidal power;
- C. Solar arrays and installations;
- D. Wind power installations;
- E. Geothermal installations; or
- F. Hydroelectric generators.

Sec. I-2. 35-A MRSA §103, sub-§4-B, is enacted to read:

4-B. Efficiency Maine. “Efficiency Maine” means the entity established in section 10104, and includes the administrator of that entity.

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

E. The Commission members shall be members of Efficiency Maine, and shall regulate Efficiency Maine’s activities where required by statute.

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

F. The Commission shall regulate appliances in accordance with chapter 99.

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

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

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

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

1. In general. Transmission and distribution and gas utilities shall cooperate and coordinate with Efficiency Maine and with energy service providers, individuals or entities providing financing for construction that meets the LEED silver standard, and other similar parties as designated in rules promulgated by the commission in ensuring that ratepayers have an opportunity to benefit from increased energy efficiency or conservation, effective load management and installation of distributed renewable energy technology.

2. Partnership on projects. A transmission and distribution or gas utility shall inform Efficiency Maine of any program or measure it may seek to adopt to promote energy efficiency or conservation or adoption of distributed renewable energy technology, and shall propose terms on which Efficiency Maine may partner in the program or measure. Efficiency Maine may fund the program or measure in whole or in part, but in no instance may the cost of such a program or measure be passed through to ratepayers, except insofar as the cost of credits purchased under section 10020 is passed on to ratepayers. A transmission and distribution or gas utility shall inform Efficiency Maine of any program or measure it may seek to adopt to promote effective load management, and may propose terms on which Efficiency Maine may partner in the program or measure.

2. Access to billing system. A transmission and distribution or gas utility shall permit Efficiency Maine and energy service providers, individuals or entities providing financing for construction that meets the LEED silver standard, and other similar parties as designated in rules promulgated by the commission to make use of its billing system to collect amounts due from ratepayers for energy efficiency and conservation, load management and distributed renewable energy technology products and services. Such use of the billing system shall be on commercially reasonable terms, and a transmission and distribution or gas utility may require that any payment made be applied first to obligations to the utility.

3. Distribution of information. A transmission and distribution or gas utility shall permit Efficiency Maine to distribute information of a technical nature about its programs and measures or about steps ratepayers may take to increase energy efficiency or conservation, effective load management or adoption of distributed renewable energy technology. Such use of the billing system shall be on commercially reasonable terms. Information distributed must not express any viewpoint (unless the utility agrees to distribute information that expresses a viewpoint), or otherwise be designed such that compelled distribution of the information would infringe on a utility's rights to free speech and association under the Fourteenth Amendment to the United States Constitution.

4. Cooperation in gathering and analyzing data. A transmission and distribution or gas utility shall cooperate with Efficiency Maine and with the commission in providing information from the utility's operations and other sources to evaluate Efficiency Maine's performance and to effectuate the purposes of Chapter 97. To the extent that information provided is not otherwise a public record, Efficiency Maine and the commission shall treat the information as confidential, and such information shall not be a public record, but Efficiency Maine and the commission shall strive to ensure transparency by means other than public disclosure when such information is considered.

Sec. I-7. 35-A MRSA §3132, sub-§2-C is enacted to read:

2-C. Efficiency. The commission shall recommend minimum standards of efficiency for any new transmission line that are technically and economically feasible, and that create no conflict with any legally mandated health or safety standards. The applicant must, as a condition of obtaining a certificate of public convenience and necessity, certify that efficiency standards recommended by the commission have been considered, which certification shall include a statement specifying the extent to which conformance with the recommended standards will be achieved. The commission may contract with Efficiency Maine to develop a recommendation for minimum standards of efficiency, and may do so under terms that partially or fully substitute discharge of Efficiency Maine's demand reduction obligations for direct payment.

Sec. I-8. 35-A MRSA §1302, sub-§3, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

3. Complaint by utility, Efficiency Maine or commission. The commission may institute or Efficiency Maine or any public utility may make complaint as to any matter affecting its

own product, service or charges. The complaint shall be processed in accordance with subsection 2.

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

E. In addition to the administrative penalties authorized by this subsection, the commission shall award reasonable costs to Efficiency Maine of pursuing a successful complaint, including reasonable attorney fees.

Sec. I-10. 35-A MRSA §1311-B, as enacted by PL 2001, c. 135, §1, is amended to read:

§1311-B. Security of certain utility information

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

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

3. Access to information by parties in proceeding. Designation of information as confidential under subsection 1 does not limit the right of a party in a proceeding before the commission to obtain discovery of that information. Notwithstanding section 1311-A, subsection 1, paragraphs A and C, the commission may issue a protective order limiting discovery of information designated as confidential pursuant to subsection 1 if the commission finds that specific limits are necessary to protect the public interest.

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

5. Release by other state agencies. A state agency that receives information about a public utility pursuant to subsection 4:

- A. May not use that information for any purpose other than for the support of emergency preparedness or response, law enforcement or other public health and safety activities;
- B. May not release that information to any other person or entity without prior notice to the commission unless the agency determines that immediate release of the information to one or more persons or entities is necessary for the protection of public health and safety; and
- C. Shall, when finished with the use of any documents received from the commission or from a public utility or from Efficiency Maine pursuant to subsection 4, return the documents to the commission, ~~or~~ the public utility or Efficiency Maine, as appropriate.

Sec. I-11. 35-A MRSA §1702, as amended by PL 1999, c. 398, Pt. A, §24 and affected by PL 1999, c. 398, Pt. A, §§104, 105, is further amended to read:

§1702. Duties

The duties and responsibilities of the Public Advocate are to represent the using and consuming public in matters within the jurisdiction of the commission, including, but not limited, to the following:

1. Review and recommendations. The Public Advocate may review, investigate and make appropriate recommendations to the commission with respect to:

- A. The reasonableness of rates charged or proposed to be charged by any public utility;
- B. The reasonableness and adequacy of the service furnished or proposed to be furnished by any public utility, ~~or~~ competitive service provider or Efficiency Maine;
- C. Any proposal by a public utility to reduce or abandon service to the public;
- D. The issuance of certificates of public convenience and necessity. Recommendations may include alternative analyses and plans as necessary;
- E. Terms and conditions of public utilities and Efficiency Maine;
- F. Mergers and consolidations of public utilities;
- G. Contracts of public utilities with affiliates or subsidiaries; and
- H. Securities, regulations and transactions of public utilities.

2. Intervention. The Public Advocate may intervene in any proceeding before the commission related to the activities under subsection 1, when determined necessary by the Public Advocate.

3. Petition to initiate proceedings. The Public Advocate may petition the commission to initiate proceedings to review, investigate and take appropriate action with respect to the rates or service of any public utility or competitive service provider when determined necessary by the Public Advocate.

4. Public complaints. The Public Advocate may investigate complaints affecting the using and consuming public generally, or particular groups, of consumers and, where appropriate, make recommendations to the commission with respect to these complaints.

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

6. Annual report. The Public Advocate shall prepare and submit an annual report of activities of the Public Advocate to the Governor and to the joint standing committee of the Legislature having jurisdiction over public utilities by August 1st of each year, with copies available to all legislators on request.

7. Assist customers of consumer-owned transmission and distribution utilities. The Public Advocate shall assist customers of consumer-owned transmission and distribution utilities in reviewing proposed rate increases and preparing questions and testimony for public hearings and, on request of a customer and when determined necessary by the Public Advocate, intervene in the proceedings conducted in accordance with chapter 35.

8. Represent interests of retail customers on regional bodies. The Public Advocate, when the Public Advocate determines it necessary, may serve as a voting member of any regional body whose decisions directly affect the prices or quality of utility services in the State, as long as that service is limited to a seat that is designated for the representation of consumer interests. Service as a voting member of a regional body in accordance with this subsection does not create or constitute a conflict of interest pursuant to section 1709.

Sec. I-12. 35-A MRSA §2903, sub-§7, as amended by PL 1999, c. 398, §41 and affected by PL 1999, c. 398, §§104, 105, is further amended to read:

7. Public utility. For purposes of this chapter, “Public public utility” means Efficiency Maine or any transmission and distribution utility, water utility or gas utility that is subject to the jurisdiction of the commission.

Sec. I-13. 35-A MRSA §3195, sub-§1-A is enacted to read:

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

PART J

Sec. J-1. 35-A MRSA §3210, sub-§3-A, ¶A, as corrected by RR 2007, c. 2, §20, is amended to read:

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

- (1) One percent for the period from January 1, 2008 to December 31, 2008;
- (2) Two percent for the period from January 1, 2009 to December 31, 2009;
- (3) Three percent for the period from January 1, 2010 to December 31, 2010;
- (4) ~~Four~~ Five percent for the period from January 1, 2011 to December 31, 2011;
- (5) ~~Five~~ Seven percent for the period from January 1, 2012 to December 31, 2012;
- (6) ~~Six~~ Nine percent for the period from January 1, 2013 to December 31, 2013;
- (7) ~~Seven~~ Twelve percent for the period from January 1, 2014 to December 31, 2014;
- (8) ~~Eight~~ Fifteen percent for the period from January 1, 2015 to December 31, 2015;
- (9) ~~Nine~~ Nineteen percent for the period from January 1, 2016 to December 31, 2016; and
- (10) ~~Ten~~ Twenty-three percent for the period from January 1, 2017 to December 31, 2017.

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

Sec. J-2. 35-A MRSA §3210, sub-§3-A, ¶B, as enacted by PL 2007, c. 403, §4, is amended to read:

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

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

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

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

Sec. J-3. 35-A MRSA §3211-A, as amended by PL 2007, c.317, §12 is repealed.

Sec. J-4. 35-A MRSA §4711, as enacted by PL 2005, c. 110, §1, is repealed.

Sec. J-5. 35-A MRSA §10001, sub-§1 as enacted by PL 2003, c. 644, §9, is amended to read:

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

Sec. J-6. 35-A MRSA §10002, as enacted by PL 2003, c. 644, §9, is repealed.

Sec. J-7. 35-A MRSA §10003, as enacted by PL 2003, c. 644, §9, is repealed.

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

§10004. Federal energy programs

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

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

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

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

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

1. Program and fund. ~~The commission~~ Efficiency Maine shall implement the Energy Conservation Small Business Revolving Loan Program, referred to in this subsection as “the program,” and the Energy Conservation Small Business Revolving Loan Fund, referred to in this subsection as “the fund.” The fund consists of federal capitalization grants and awards made to the State for the purposes for which the fund is established; any amounts deposited by ~~the commission~~ Efficiency Maine into the fund; principal and interest received from the repayment of loans made from the fund and any interest earned on investment of fund balances; and any other funds from any public or private source received for use of any of the purposes for which the fund is established. The fund is a nonlapsing revolving fund account.

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

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

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

Sec. J-10. 35-A MRSA §10005, as enacted by PL 2003, c. 534, §2, is amended to read:

§10006. Energy efficiency of rental properties

1. Residential energy efficiency disclosure statement. The commission and the Maine State Housing Authority, in consultation with Efficiency Maine, shall prepare a residential energy efficiency disclosure statement form for landlords and other lessors of residential properties to use to disclose to tenants and lessees information about the energy efficiency of the property, including a comparison with estimated residential energy efficiency for similar units in similar buildings under the Maine uniform building and energy code established under chapter 1103 of title 10 and, if Efficiency

Maine and the Maine State Housing Authority deem it appropriate, under LEED standards, in order to comply with Title 14, section 6030-C. The commission, and the Maine State Housing Authority and Efficiency Maine shall post and maintain the statement required by this subsection on the Internet in a format that is easily accessible by the public.

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

Sec. J-11. 35-A MRSA § 10008, sub-§2, ¶B, as enacted by PL 2007 c. 317, §15, is amended to read:

B. The trustees may meet periodically and may participate in all meetings of the Maine Energy Conservation Board, as established in section 10007. A trustee is also a member of Efficiency Maine. If a trustee is absent from more than one meeting of the trustees or of Efficiency Maine without notice, the commission may appoint a replacement. An affirmative vote of two-thirds of the trustees is required for any action.

Sec. J-12. 35-A MRSA § 10008, sub-§6, as amended by PL 2007 c. 608, §2, is amended to read:

6. Administration of trust fund; expenditures; projects. The trust fund must be administered in accordance with this subsection.

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

B. During the years 2009, 2010 and 2011, not less than 85% of the trust fund must be allocated for measures, investments and arrangements that reduce electricity consumption, and not more than 15% must be allocated for fossil fuel conservation measures, investments and arrangements. Subject to the apportionment between fossil fuel and electricity conservation pursuant to this subsection, the trust shall fund conservation programs that give priority to measures with the highest benefit-to-cost ratio, as long as cost-effective collateral efficiency opportunities are not lost, and that:

(1) Reliably reduce greenhouse gas production by fossil fuel combustion in the State at the lowest cost in trust funds per unit of emissions; or

(2) Reliably reduce the consumption of electricity in the State at the lowest cost in trust funds per kilowatt-hour saved.

C. Expenditures from the trust fund relating to conservation of electricity and mitigation or reduction of greenhouse gases must be made predominantly on the basis of a competitive bid process for long-term contracts, subject to rules adopted by the trust. Rules adopted to implement the competitive bid process under this paragraph may not include an avoided cost methodology for compensating successful bidders. Bidders may propose contracts designed to produce greenhouse gas savings or electricity conservation savings, or both, on a unit cost basis. Contracts must be commercially reasonable and may require liquidated damages to ensure performance. Contracts must provide sufficient certainty of payment to enable commercial financing of the conservation measure purchased and its installation.

D. The trustees may target bid competitions in areas or to participants as they consider necessary, as long as the requirements of paragraph B are satisfied.

E. Nonelectric savings programs must be used to maximize fossil-fueled energy efficiency and conservation and associated greenhouse gas reductions, subject to the apportionment between fossil fuel and electricity conservation set forth in paragraph B.

F. The size of a project funded by the trust is not limited as long as funds are awarded to maximize energy efficiency and support greenhouse gas reductions and to fully implement the triennial energy efficiency and conservation plan developed by the commission and the trustees pursuant to section 10007, subsection 6.

G. No more than 5% of trust fund receipts in any one year may be used for the total administrative costs:

(1) Of the trust related to this section;

(2) Of the Department of Environmental Protection for participating in the regional organization as defined in Title 38, section 580-A, subsection 20 and for administering the allowance auction under Title 38, chapter 3-B; and

(3) Of the Attorney General, including activities pertaining to the tracking and monitoring of allowance trading activity and managing and evaluating the trust's funding of conservation programs.

Of the trust fund receipts used for administrative costs under this paragraph, no more than 40% in any one year may be used for the administration of the trust.

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

I. Notwithstanding Title 5, section 1831, the trustees are not subject to rules adopted by the State Purchasing Agent in selecting service providers pursuant to this section. The trustees shall consider delivery of efficiency programs by means of contracts with service providers that

participate in competitive bid processes for reducing energy consumption within individual market segments or for particular end uses.

J. A trade association aggregator is eligible to participate in competitive bid processes under this subsection.

K. Notwithstanding any other provision of this section, the Maine Energy Conservation Board established under section 10007 may apply to the trust for funding from the trust fund for staff support for the board, and upon application of the board the trust may provide up to 1% of the total amount in the trust fund in any fiscal year to the board for that purpose.

L. Trust fund receipts may fund research approved by the Department of Environmental Protection in an amount of up to \$100,000 per year to develop new categories for carbon dioxide emissions offset projects, as defined in Title 38, section 580-A, subsection 6, that are located in the State. Expenditures on research pursuant to this paragraph are not considered administrative costs under paragraph G.

Sec. J-13. 35-A MRSA §10020 is enacted to read:

§ 10020. Energy Efficiency Resource Standard

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

A. “Administrative costs” means costs of the commission and of Efficiency Maine’s members that are funded pursuant to and associated with the implementation of this section and chapter 97, including, but not limited to, costs of program planning and evaluation, costs of securing necessary expertise, costs associated with contract formation and administration and costs of monitoring and enforcing contractual obligations.

B. “Administration fund” means the conservation administration fund established by the commission pursuant to subsection 6.

C. “Base quantity,” means:

(1) with respect to a transmission and distribution utility or a gas utility, the total quantity of electric energy or natural gas delivered by the utility to retail customers in the state (other than to an electricity distributor for purposes of electric generation) during the most recent calendar year for which information is available; or

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

D. “CHP savings” means the increment of electric output of a new combined heat and power system that is attributable to the higher efficiency of the combined system (as compared to the

efficiency of separate production of the electric and thermal outputs), as determined in accordance with such rules as the commission may promulgate. For purposes of this paragraph, the term ‘new combined heat and power system’ means a system that uses the same energy source for the generation of electrical or mechanical power and the production of steam or another form of useful thermal energy, if

(1) the facility at which the system is used meets such requirements relating to efficiency and other operating characteristics as the commission may promulgate by rule;

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

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

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

(1) consumption at that facility during a base year;

(2) in the case of new equipment, regardless of whether the new equipment replaces existing equipment at the end of the useful life of the existing equipment, consumption by the new equipment of average efficiency; or

(3) in the case of a new facility, consumption at a reference facility.

F. “Electricity savings” means, as determined in accordance with such rules as the commission may promulgate:

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

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

(3) reductions in distribution system losses of electricity achieved by a retail electricity distributor, as compared to losses attributable to new or replacement distribution system equipment of average efficiency (as defined in rules promulgated by the commission);

(4) CHP savings.

G. “Heating fuel savings” means, as determined in accordance with such rules as the commission may promulgate, customer facility savings of heating fuel consumption, adjusted to reflect any associated increase in fuel or electricity consumption at the facility, except to the extent that the increased consumption results from use of distributed renewable energy technology;

H. “Heating fuel wholesaler” means a person that sells home heating oil, kerosene or liquefied petroleum gas for resale in the state through retail outlets and retailers, for the purpose of cooking

or heating.

I. “Natural gas savings” means, as determined in accordance with such regulations as the commission may promulgate:

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

(B) reductions in leakage, operational losses, and gas fuel consumption in the operation of a gas distribution system achieved by a retail gas distributor, as compared to similar losses during a base year.

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

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

A. Each transmission and distribution utility shall annually purchase credits equal to 15% of its base quantity. A credit for electricity shall have the value of one kilowatt hour and an initial cost of \$0.06.

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

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

D. By March 1st of calendar year 2009, and by March 1st of each calendar year thereafter up to and including 2018, the commission shall publish adjusted costs for efficiency credits for the applicable calendar year, which shall equal the lesser of:

(1) 60% of the average retail cost in the state of the applicable energy type (electricity, natural gas, home heating oil, kerosene or liquefied petroleum gas), rounded to the nearest one-hundredth of a cent per credit; or

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

E. By December 31, 2019, Efficiency Maine shall, through its activities, achieve electricity, natural gas and heating fuel savings equal to at least the amount of credits for efficiency purchased for each energy source (electricity, natural gas and heating fuel) and verified in accordance with subsection 3, and shall meet annual benchmarks prescribed toward that goal. Said benchmarks shall be reflected in the Efficiency Maine administrator's contract.

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

3. Measurement and verification of savings. Not later than six months after the effective date of this section, the commission shall promulgate rules regarding measurement and verification of electricity, natural gas and heating fuel savings under this section, including:

(A) procedures and standards for defining and measuring electricity, natural gas and heating fuel savings reported by Efficiency Maine, which shall

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

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

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

(4) include deemed savings values for specific, commonly-used efficiency measures;

(5) exclude savings that are not properly attributable to measures carried out by Efficiency Maine (or a designated agent or partner of Efficiency Maine); and

(B) procedures and standards for third-party verification of reported electricity, natural gas or heating fuel savings.

4. Enforcement. If a transmission and distribution utility, gas utility or heating fuel wholesaler fails to make timely purchase of all the efficiency credits it is obligated to purchase under this section, it shall be liable to Efficiency Maine for the cost of the unpurchased credits, for interest at a rate set by the commission to reflect market rates, and for any reasonable costs of collection, including costs of suit and reasonable attorney's fees, whether incurred in litigation or not. In addition, the commission shall assess a civil penalty for such failure, equal to 5% of the delinquent amount.

5. Funds held in trust. All funds collected pursuant to this section, however allocated, including forward capacity market payments administered by the regional transmission organization or other capacity payments that may be attributable to projects funded in any measure by Efficiency Maine with funds collected pursuant to this section, are collected under the authority of this section and for the purposes of chapter 97 and are deemed to be held in trust for the purposes of benefiting electricity, natural gas and heating fuel consumers. These funds shall not be funds of this state, shall not be available to meet the general obligations of the government, shall not be included in the financial

reports of this state, and shall not be subject to taxation on receipts that are held in trust. The State pledges to, contracts with, and agrees with the purchasers of efficiency credits and their customers (who are beneficiaries of funds under this chapter) that neither the State nor any of its agencies, including the commission, may limit, alter, amend, reduce or impair the trust, its funds or any rights under the trust or ownership of the trust or security interest in the trust. The State acknowledges that such owners, holders and beneficiaries may and will rely on this pledge, contract and agreement and that any such limitation, alteration, amendment, reduction or impairment without adequate provision will irreparably harm such owners, holders and beneficiaries.

5. Ratemaking and cost recovery. The assessments charged to utilities under this section are just and reasonable costs for rate-making purposes and must be reflected in the rates of transmission and distribution utilities.

6. Conservation administration fund. The commission shall establish a conservation administration fund to be used solely to defray administrative costs under this section and under chapter 97, and shall assess Efficiency Maine in an amount not to exceed \$1,300,000 in any fiscal year, and shall deposit funds collected pursuant to this sub-section into the administration fund. Any interest on funds in the administration fund must be credited to the administration fund and any funds unspent in any fiscal year must either remain in the administration fund to be used to defray administrative costs or be transferred to the program fund.

7. Support for Energy Resources Council. Notwithstanding any other provision of this section:

A. The Energy Resources Council established under Title 5, section 3327 may apply to the commission for funding from the conservation administration fund to support projects and activities of the council related to energy conservation; and

B. The commission may provide up to \$200,000 in any fiscal year to the Energy Resources Council established under Title 5, section 3327 from the conservation administration fund if the funds are needed for particular projects or activities directed by the Legislature to be undertaken by the council, or the commission finds the projects or activities are generally consistent with the overall purposes of this section.

8. Support for Maine Energy Conservation Board. Notwithstanding any other provision of this section, the Maine Energy Conservation Board established under section 10007 may apply to the commission for funding from the ~~program~~ conservation administration fund for staff support for the board.

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

11. Rules. The commission shall adopt rules necessary to implement this section. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

PART K

Sec. K-1. 35-A MRSA c. 97 is enacted to read:

CHAPTER 97 **EFFICIENCY MAINE**

Subchapter 1: Efficiency Maine

§ 10101. Short title

This chapter may be known and cited as “the Efficiency Maine Act.”

§ 10102. Purpose

The legislature finds that:

1. Economic importance of energy security. The level and volatility of energy costs is undermining the ability of Maine’s families to secure a decent standard of living, of Maine’s businesses and economy to compete nationally and globally and of Maine’s government and nonprofit sectors to provide quality services in a cost-effective manner;

2. Energy demand reduction a crucial strategy. Gas, heat and electric energy efficiency and conservation, distributed renewable energy production, effective load management and other demand reduction strategies are a cost-effective means of lowering the level and volatility of energy costs;

3. Market barriers. Public intervention is needed to overcome market barriers to adoption of cost-effective demand reduction strategies, including financial, educational and institutional barriers; and

4. Workforce challenges and opportunities. A statewide effort to achieve cost-effective energy demand reduction will create thousands of good-paying jobs, but the state’s workforce cannot meet current demands in this sector, and the State must make substantial education and training investments and develop effective industry partnerships to meet the challenges and realize the opportunities that this effort creates;

§ 10103. Definitions

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

1. Administrator. “Administrator” means the nonprofit entity appointed to administer Efficiency Maine.

2. Low-income resident. “Low-income resident” means any individual whose household

has family income equal to or below 200% of the nonfarm income official poverty line. Participation in any public assistance program with an income eligibility ceiling at or below that level shall constitute conclusive proof of low-income status.

3. Members. “Members” means the members of Efficiency Maine.

§ 10104. Organization and responsibility

1. Efficiency Maine established. Efficiency Maine is established as a body corporate and politic and a public instrumentality of the State, and as a franchise to develop, implement and monitor programs and measures to increase gas, heat and electric energy efficiency and conservation, distributed renewable energy production and effective load management, including programs and measures delivered in multiple service territories. The exercise of the powers conferred by this chapter shall be deemed and held to be the performance of essential governmental functions.

2. Responsibilities. Subject to the terms of the administrator’s contract, Efficiency Maine shall be responsible for the administration of:

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

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

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

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

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

F. Federal programs related to energy efficiency and distributed renewable energy production, except where statute assigns responsibility to another entity or where federal law would preclude administration by Efficiency Maine;

G. Other programs related to energy efficiency and conservation, distributed renewable energy production and effective load management, as provided for in the administrator’s contract.

3. Plan of operation; rules. The administrator shall adopt a plan of operation in accordance with the requirements of this chapter and submit its articles, bylaws and operating rules to the members.

4. Immunity. A member is not liable and is immune from suit at law or equity for any conduct performed in good faith that is within the subject matter over which the board has been given jurisdiction.

§ 10105. Membership

There shall be nine voting members of Efficiency Maine as follows:

1. State members. Six members shall represent the State and shall consist of:

A. The members of the commission;

B. A representative of the Office of the Public Advocate;

C. The director of the Governor's Office of Energy Independence and Security within the Executive Department or the director's designee;

D. The director of the Maine State Housing Authority or the director's designee;

2. Appointed members. The trustees of the Energy and Carbon Savings Trust shall also serve as voting members.

3. Maine Energy Conservation Board. Members of the Maine Energy Conservation Board may participate in all meetings of Efficiency Maine, but are not members of Efficiency Maine.

4. Staffing. Staffing resources shall be provided by the commission.

§ 10106. Terms of office

Appointed members shall only serve for as long as they serve as trustees of the Energy and Carbon Savings Trust.

§ 10107. Limitation of liability

No member of Efficiency Maine, no administrator and no employee of the administrator may be subject to any personal liability for having acted within the course and scope of his membership or employment to carry out any power or duty under this chapter. Efficiency Maine shall indemnify any member, any administrator and any employee of the administrator against expenses actually and necessarily incurred by him in connection with the defense of any action or proceeding in which he is made a party by reason of past or present association with Efficiency Maine. Efficiency Maine's liability is limited to its assets.

§ 10108. Administration

The chair of the commission shall serve as chair of Efficiency Maine, and the director of the Governor's Office of Energy Independence and Security within the Executive Department or the director's designee shall serve as vice-chair and secretary. Efficiency Maine shall elect one of its members as treasurer.

§ 10109. Selection of administrator

1. Selection of administrator. Efficiency Maine shall appoint a nonprofit legal entity to administer Efficiency Maine, and may establish an independent nonprofit legal entity to fill the appointment, if it determines that such action is in the public interest.

2. Contract with administrator. The administrator selected pursuant to subsection 1 is contracted for a period of 5 years. At least one year prior to the expiration of each 5-year period of service by an administrator, the board shall invite other nonprofit legal entities to serve as administrator for the succeeding 3-year period. The selection of the plan administrator for the succeeding period must be made at least 6 months prior to the expiration of the 5-year period.

3. Duties of the members. In establishing a contract with the administrator, Efficiency Maine shall do the following.

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

(1) Electric efficiency, natural gas efficiency and heating efficiency targets;

(2) Renewable resource development targets, chiefly in the area of distributed renewable generation;

(3) Energy and heat conservation targets;

(4) Financial integrity;

(5) Program delivery efficiency, including an expectation that administrative and program support costs remain under eleven percent of annual revenues;

(6) Customer satisfaction;

(7) Benefit/cost ratios for conservation acquisition programs based on both utility system and societal perspectives;

(8) Coordination with related local, state and regional programs;

(9) Reasonable distribution of program benefits among customer classes and geographic areas, and high participation rates among low-income individuals and small businesses;

(10) Internal program performance monitoring and ability to make effective program adjustments;

(11) Transparency; and

(12) Review and adoption of best practices.

B. Establish methodologies and procedures for independent evaluation of performance, including comprehensive data collection, facilitated by required use of information technology by contractors and effective use of software and other information technology by Efficiency Maine. Methodologies adopted must maximize the eligibility of projects for forward capacity market

payments administered by the regional transmission organization or other capacity payments that may be attributable to projects funded in any measure by Efficiency Maine.

C. Review and comment on Efficiency Maine's strategic plans, action plans and annual budgets.

D. Require Efficiency Maine to report at least semiannually, in public meetings of the commission, on program activity and finances

E. Require a management audit of Efficiency Maine at least once every five years.

F. Board members may be reimbursed from funds of the association for actual and necessary expenses incurred by them as members but may not otherwise be compensated by the association for their services.

The responsibilities of the members include appointment of the administrator, development of a contract with the administrator, and oversight of performance thereunder, as well as any other responsibilities expressly provided by law, but it is the expectation of the legislature that the members shall have limited or no direct involvement in Efficiency Maine's operations or with the administrator's internal affairs.

3. Plan of operation; rules. The administrator shall adopt a plan of operation in accordance with the requirements of this chapter and submit its articles, bylaws and operating rules to Efficiency Maine.

§ 10110. Duties and powers of Efficiency Maine

1. Duties. The administrator shall:

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

B. Obtain or develop a public domain computer program which will enable contractors, builders, architects, engineers and government officials to estimate the energy consumed by residential and nonresidential buildings. Efficiency Maine may charge a fee for use of the program, based upon the actual costs of the program, including any computer costs. Efficiency Maine shall require that any work performed pursuant to its programs make use of such information technology as is necessary to facilitate evaluation of Efficiency Maine's performance, ensure maximum eligibility of projects for forward capacity market payments administered by the regional transmission organization or other capacity payments that may be attributable to projects funded in any measure by Efficiency Maine;

C. Prescribe qualifications for contractors performing work pursuant to Efficiency Maine's programs, taking due account of the recommendations and results of the analysis performed pursuant to subsection 4 of section 2035 of title 26. Efficiency Maine shall be the final arbiter of whether a contractor has the required qualifications or whether a training program is adequate to meet that qualification level.

D. Deliver conservation programs in all regions of the State on an equitable basis and to citizens

at all income levels and businesses and organizations of all types.

E. Abstain from developing, acquiring, funding, coordinating or otherwise undertaking any project or making any grant, direct investment or loan under this chapter unless Efficiency Maine determines that Efficiency Maine's action is reasonably necessary to ensure that the relevant activity would not occur;

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

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

H. When Efficiency Maine deems it effective and appropriate, contract with governmental entities, public utilities or other entities to administer programs that further Efficiency Maine's purposes;

I. Whenever reasonably possible, structure Efficiency Maine's activities as projects eligible for forward capacity market payments administered by the regional transmission organization or other capacity payments that may be attributable to projects funded in any measure by Efficiency Maine. Efficiency Maine shall seek to structure such projects as partnerships with public utilities, wherever it deems such a partnership appropriate;

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

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

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

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

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

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

(1) for the delivery of programs to low-income residential consumers, where Efficiency Maine, without employing a competitive bidding process, may utilize the delivery system for the Weatherization Assistance for Low-income Persons Program administered through the United

States Department of Energy, the network of for-profit and not-for-profit entities who have held contracts with transmission and distribution utilities to deliver conservation services to low-income and residential customers, and the delivery system for the Low Income Home Energy Assistance Program administered through the United States Department of Health and Human Services; and

(2) in other instances where Efficiency Maine determines that the selection of a particular service provider will promote the efficient and effective delivery of Efficiency Maine's programs and is consistent with the objectives and overall strategy of those programs, including but not limited to instances where a partnership with a governmental unit or agency, a transmission and distribution utility or a gas utility is appropriate, Efficiency Maine may do so without employing a competitive bidding process;

2. General powers. Efficiency Maine may, subject to any limitations in this chapter or in other provisions of state and federal law:

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

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

C. Borrow money and issue its negotiable bonds or notes, provide for and secure the payment of its bonds or notes, provide for the rights of the holders of those bonds and notes and purchase, hold and dispose of any of its bonds or notes, and otherwise obtain credit in its own name;

D. Fix and revise from time to time and charge and collect fees and charges for the use of its services or facilities;

E. Lend money or otherwise extend credit to any person and exercise all powers of a lender or creditor;

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

G. Insure or guarantee performance of any loan agreement or other obligation;

H. Purchase, sell, service, pledge, invest in, hold, trade, accept as collateral or otherwise deal in, acquire or transfer, on such terms and conditions as the authority may specify, any loan, pass-through certificate, pledge including any pledge of revenue participation certificate, revenue obligation security or other mortgage-backed or mortgage-related security. Any such transaction may be conducted by public or private offering, with or without public bidding. In connection with the purchase or sale of a loan or of a beneficial interest or participation in a loan, Efficiency Maine may enter into one or more agreements providing for the custody, control and administration of the loan. Any such agreement may provide that Efficiency Maine, a financial institution or other person shall act as trustor, trustee or custodian under the agreement. Any such agreement may provide that, with respect to loans governed by the agreement, title to a loan, or to a beneficial interest or participation in a loan, is deemed to have been transferred on terms and to

the extent specified in that agreement and that the effect of a sale of a beneficial interest or participation in a loan is the same as a sale of a loan.

Efficiency Maine may issue or cause to be issued certificates or other instruments evidencing the holder's fractional interest in a pool of loans, which interest may be undivided or limited to one or more specific loans. Whether or not the certificates or instruments are of such form or character as to be negotiable instruments under Title 11, article 3-A, the certificates or instruments are negotiable instruments within the meaning of and for all the purposes of Title 11, article 3-A, subject only to such registration requirements as the authority may establish.

In connection with the exercise of the powers authorized in this subsection and those powers otherwise granted to Efficiency Maine, Efficiency Maine may create and operate a secondary market and warehousing facility or facilities for loans or the insured portion of loans that provide liquidity to lenders making loans;

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

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

(2) Land use;

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

(4) Design and construction techniques; and

(5) Any project receiving financial assistance from or through Efficiency Maine, including, without limitation, by means of examination of books or records pertaining to the project.

Efficiency Maine may conduct hearings, hear testimony under oath, administer oaths, issue subpoenas requiring the attendance of witnesses or the production of records or other things and may issue commissions for the examination of witnesses who are outside of the State or unable to attend or are excused from attendance;

J. Procure insurance in aid of any of its corporate purposes;

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

L. Employ persons, including private legal counsel and financial experts, on either a temporary or permanent basis, in order to carry out any of its powers and duties. Employees of Efficiency Maine and its administrator shall not be subject to Title 5, chapters 71 and 372, or to any rules promulgated thereunder. The members of Efficiency Maine may by rulemaking pursuant to Title 5, chapter 375, subchapter II, delegate their powers and duties to employees of Efficiency Maine and each employee is fully authorized to act in the name and on behalf of Efficiency Maine pursuant to any delegation;

M. Place reasonable conditions on contractors and subcontractors working pursuant to or individuals or entities receiving benefits directly or indirectly from funds expended directly or

indirectly by Efficiency Maine, to advance public policies of the State. Said contractors and subcontractors must be equal opportunity employers and, for contracts in excess of \$250,000, shall pursue in good faith affirmative action programs as defined in section 782 of title 5

N. Sue or initiate or appear in any proceeding. Efficiency Maine may be sued in accordance with Title 1, section 409; Title 5, chapter 375; or Title 14, chapter 741;

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

P. Adopt an official seal and alter it at pleasure;

Q. Pursuant to Title 5, chapter 375, adopt any rule, including its bylaws, necessary or useful for carrying out any of its powers or duties;

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

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

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

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

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

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

X. Consent to any modification with respect to rates of interests, time and payment of any installment of principal or interest, security or any other term of bond or note, contract or agreement of any kind to which Efficiency Maine is a party, to the extent permitted under its contracts with the holders of bonds or notes of Efficiency Maine;

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

Z. On behalf of or in partnership with one or more governmental units or nonprofit corporations organized under the Internal Revenue Code, Section 501, aggregate governmental units and nonprofit corporations to purchase in bulk materials, appliances or the services of energy service companies and individual vendors of energy-related products and services, including but not limited to distributed renewable energy systems; and

AA. Do any act or thing necessary or useful for carrying out any of its powers, duties or purposes;

3. Additional duties and powers. The commission may, by rule, establish additional powers and duties of Efficiency Maine and may adopt such rules as are necessary and proper to implement this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§ 10112. Actions of the members

Four members of Efficiency Maine constitute a quorum of the members. The affirmative vote of the greater of three members, present and voting, or a majority of those members present and voting is necessary for any action taken by the members. No vacancy in the membership of Efficiency Maine may impair the right of the quorum to exercise all powers and perform all duties of the members.

Notwithstanding any other provision of law, in a situation determined by the administrator to be an emergency requiring action of the members on not more than 3 days' oral notice, an emergency meeting of the members may be conducted by conference call, placed by ordinary commercial means, at an appointed time. Efficiency Maine shall arrange for recordation of the call where appropriate, and shall prepare minutes of the emergency meeting. Public notice of the emergency meeting must be given in accordance with Title 1, section 406 and that public notice must include the time of the meeting and the location of a telephone with a speakerphone attachment that enables all persons participating in the telephone meeting to be heard and understood and that is available for members of the public to hear the business conducted at the telephone meeting.

§ 10113. State services

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

A. Requested by Efficiency Maine; and

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

2. Study or review requests. All state officers, departments, boards, agencies, divisions and commissions shall promptly comply with any reasonable request made by Efficiency Maine under subsection 1, as to the making of any study or review as to:

A. The desirability, need, cost or expense with respect to any such public project, purpose or improvement;

B. The financial feasibility of the project; or

C. The financial or fiscal responsibility or ability in connection with the project of any governmental unit applying to Efficiency Maine for assistance.

3. Cost of services. At the request of the officer, department, board, agency, division or commission providing the service, Efficiency Maine shall pay the cost and expense of any services requested by Efficiency Maine.

10114. Conflicts of interest

Notwithstanding Title 5, section 18, subsection 1, paragraph B, each member of Efficiency Maine and each employee, contractor, agent or other representative of Efficiency Maine or the administrator is deemed an “executive employee” solely for purposes of Title 5, section 18, and for no other purpose, except that the administrator’s senior managers in addition are deemed “executive employees” for purposes of Title 5, section 19. Title 17, section 3104 does not apply to any of those representatives.

§ 10115. Annual report; audit

1. Report. Efficiency Maine shall submit to the Governor, the Speaker of the House of Representatives, the President of the Senate and the joint standing committees of the Legislature having jurisdiction over utilities and business, research and economic development, not later than 120 days after the close of its fiscal year, a complete report on the activities of Efficiency Maine. The report may also be provided to any other member of the Legislature and to any other person. The report must include all of the following:

A. A description of its operations, financial status and administrative expenses, including a description of projects assisted under this chapter;

B. An accounting of its receipts and expenditures, assets and liabilities at the end of its fiscal year;

C. A schedule of the bonds and notes outstanding at the end of its fiscal year and a statement of the amounts redeemed and issued during its fiscal year, including a report on its reserve funds;

D. A statement of its proposed and projected activities for the ensuing year and the relationship of these activities to the State’s energy policies;

E. Recommendations as to further actions which may be suitable for achieving the purposes of this chapter;

K. A description of the operations of the authority pursuant to section 10122 for the most recent calendar year and of its plans, if any, for revising any allocation system established pursuant to section 10122; and

L. Any other matters relating to Efficiency Maine’s activities and accomplishments.

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

§ 10116. Disclosure and confidentiality of records

1. Disclosure required. Notwithstanding subsections 2 and 3 and except as provided in paragraph F, the following shall be made available to any person upon request reasonably describing the records to which access is sought or, if no request is made, in any manner and at any time which Efficiency Maine may determine:

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

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

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

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

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

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

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

B. Any information pursuant to waiver deemed satisfactory by Efficiency Maine;

C. Information which, as determined by Efficiency Maine, has already been made available to the public;

D. Information or records specified in a written request signed by the chairmen of a legislative committee shall be provided to the legislative committee. The information or records may be used only for the lawful purposes of the committee and in any action arising out of any investigation conducted by it; and

E. The annual report of Efficiency Maine required pursuant to section 10114.

F. Efficiency Maine may exempt itself from the requirements of this section where Efficiency Maine reasonably determines that an informational request has been made for an improper purpose or is unduly burdensome.

2. Confidential information. The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. Any record obtained or developed by Efficiency Maine prior to receipt of a written application or proposal, in form specified by or acceptable to Efficiency Maine, for financial assistance to be provided by or with the assistance of Efficiency Maine or in connection with a transfer of property to or from Efficiency Maine. After receipt by Efficiency Maine of the application or proposal, a record pertaining to the application or proposal shall not be considered confidential unless it meets the requirements of other paragraphs of this subsection;

B. Any record obtained or developed by Efficiency Maine which fulfills the following requirements:

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

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

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

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

E. Any record obtained or developed by Efficiency Maine which contains an assessment by a person who is not employed by Efficiency Maine of the credit worthiness or financial condition of any person or project;

F. Any record, including any financial statement, business plan or tax return obtained or developed by Efficiency Maine in connection with the matching of potential investors with Maine businesses by Efficiency Maine through its maintenance of any data base or other record keeping system. For purposes of this section, an application by a potential investor shall not be deemed to be an application for financial assistance.

3. Wrongful disclosure prohibited. No member, officer, administrator, employee, agent, other representative of Efficiency Maine or other person may knowingly divulge or disclose records declared confidential by this section, except that Efficiency Maine may, in its discretion, make or authorize any disclosure of information of the following types or under the following circumstances:

A. Impersonal, statistical or general information;

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

C. To a financing institution or credit reporting service;

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

E. Information to the extent Efficiency Maine deems the disclosure necessary to the sale or transfer of revenue obligation securities or to the sale or transfer of bonds of the State;

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

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

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

§ 10117. Liberal construction

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

§ 10118. Taxation and fees

Notwithstanding any other provision of law, for the purposes of this chapter, transactions and property of Efficiency Maine shall be treated as follows.

1. Revenue obligation securities; exemption from taxation. Revenue obligation securities of Efficiency Maine are declared to be issued for an essential public and governmental purpose and to be public instruments and, together with interest and income, including the profit made from their transfer or sale, shall be exempt from taxation within the State.

2. Conveyances, leases, mortgages, deeds of trust; indentures; exemptions from taxation. Conveyances by or to Efficiency Maine and leases, mortgages and deeds of trust or trust indentures by or to Efficiency Maine shall be exempt from all taxation by the State or any of its political subdivisions, including, but not limited to, any applicable license, excise or other taxes imposed in respect of the privilege of engaging in any of the activities in which Efficiency Maine may engage.

3. Property exemption from taxation and other assessments. Property acquired, held or transferred by Efficiency Maine shall be exempt from all taxes and from betterments and special assessments of the city, town, county, State or any political subdivision thereof. Efficiency Maine may agree to make payments in lieu of taxes to the applicable political subdivisions.

§ 10119. Limited application of the Administrative Procedure Act; service provider selection

Except as otherwise provided in this chapter, Efficiency Maine is not subject to the requirements of chapter 375 of title 5, or to rules adopted by the State Purchasing Agent in selecting service providers pursuant to this chapter. Efficiency Maine shall develop procedures governing the selection of service providers under this subsection, and shall consult with the State Purchasing Agent in developing the rule

§ 10120. Lending and borrowing powers generally

1. Powers. For the purposes authorized by this chapter, Efficiency Maine may:

A. Lend money to governmental units through Efficiency Maine's purchase, be it exclusive or in partnership with other individuals or entities, including but not limited to the Maine Municipal Bond Bank, of municipal securities of governmental units in fully marketable form;

B. Lend money to non-governmental individuals and entities through Efficiency Maine's purchase, be it exclusive or in partnership with other individuals or entities, of notes or securities in fully marketable form;

C. Authorize and issue its bonds and notes payable solely from the revenues or funds available to Efficiency Maine for that purpose; and

D. Borrow money and make the borrowing proceeds available to a governmental unit or nongovernmental individual or entity at terms agreed upon by Efficiency Maine and the recipient of the proceeds.

2. Payment; state not liable. Bonds and notes of Efficiency Maine issued under this chapter are not in any way a debt or liability of the State and do not constitute a loan of the credit of the State or create any debt or debts, liability or liabilities on behalf of the State or constitute a pledge of the faith and credit of the State. All bonds and notes of Efficiency Maine issued under this chapter, unless funded or refunded by bonds or notes of Efficiency Maine, are payable solely from revenues or funds pledged or available for their payment as authorized in this chapter. Each bond and note shall contain on its face a statement to the effect that Efficiency Maine is obligated to pay the principal or interest and redemption premium, if any, and that neither the faith and credit nor the taxing power of the State is pledged to the payment of the principal of or the interest on the bonds or notes.

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

§ 10121. Issuance of bonds.

1. Hearing required. Efficiency Maine may issue bonds, including revenue obligation securities, to finance its activities only after giving notice of the proposed issuance and its terms at least twice in a newspaper of general circulation and holding a duly advertised public hearing on the issuance.

2. Authority. Efficiency Maine may issue bonds from time to time in its discretion to finance the undertaking of an authorized activity under this chapter and may issue refunding bonds for the payment or retirement of bonds previously issued.

A. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of Efficiency Maine derived from or held for activities under this chapter. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of Efficiency Maine under this chapter.

B. Bonds issued under this section do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Bonds issued under this chapter are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes.

C. Bonds may not be issued by Efficiency Maine until it has received a certificate of approval from the Finance Authority of Maine authorizing issuance of the bonds. Before issuing a certificate of approval under this section, the Finance Authority of Maine must determine that there is a reasonable likelihood that the income, proceeds, revenues and funds of Efficiency Maine derived from or held for activities under this article or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the Finance Authority of Maine shall consider Efficiency Maine's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge Efficiency Maine reasonable fees and expenses. The issuance by the Finance Authority of Maine of a certificate of approval under this section does not constitute an endorsement of the bonds or the projects or purposes for which those bonds are issued and neither Efficiency Maine nor any other person or entity, including, without limitation, any holders of bonds of Efficiency Maine, have any cause of action against the Finance Authority of Maine with respect to any such certificate of approval. The Finance Authority of Maine may require that it be indemnified, defended and held harmless by Efficiency Maine for any liability or cause of action arising out of or with respect to the bonds.

3. General characteristics. Bonds authorized under this section may be issued in one or more series. The resolution, trust indenture or mortgage under which the bonds are issued may include the following:

A. The date or dates borne by the bonds;

B. Whether the bonds are payable upon demand or mature at a certain time or times;

C. The interest rate or rates of the bonds;

D. The denomination or denominations of the bonds;

E. The form of the bonds, whether coupon or registered;

F. The conversion or registration privileges carried by the bonds;

G. The rank or priority of the bonds;

H. The manner of execution of the bonds;

I. The medium and place or places of payment;

J. The terms of redemption of the bonds, with or without premium;

K. The manner secured; and

L. Any other characteristics of the bonds.

4. Price sold. The bonds may be:

A. Sold at not less than par at public sales held after notice has been published in a newspaper of general circulation and in any other medium of publication that Efficiency Maine designates;

B. Exchanged for other bonds on the basis of par; or

C. Sold to the Federal Government at private sale at not less than par.

5. Signatures of outgoing officers; negotiability. If an official or agent of Efficiency Maine or its administrator whose signature appears on a bond or coupon issued under this article ceases to be an official or agent before the bond is delivered, the signature is nevertheless valid for all purposes as if the official or agent had remained in office or an agency relationship until the delivery. Notwithstanding contrary provisions of law, bonds issued under this chapter are fully negotiable.

6. Bond recitation; conclusive presumptions. In actions or proceedings involving the validity or enforceability of a bond issued under this chapter or the security for that bond, a bond reciting in substance that it has been issued by Efficiency Maine in connection with an activity is conclusively deemed to have been issued for that purpose and the activity is conclusively deemed to have been planned, located and carried out in accordance with this article.

7. No personal liability; not debt of State or municipality. Neither the members of Efficiency Maine, the administrator, its agents nor the person executing the bonds is liable personally on the bonds by reason of the issuance of the bonds. The bonds and other obligations of Efficiency Maine must have stated on their face that they are not a debt of the State and that the State is not liable on the bonds. The bonds or obligations may not be payable out of funds or properties other than those of Efficiency Maine acquired for the purposes of this chapter.

8. Bonds as legal investments. Public officers, municipal corporations, political subdivisions and public bodies; banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; insurance companies, insurance associations and other persons carrying on an insurance business; and executors, administrators, curators, trustees and other fiduciaries may legally invest sinking funds, money or other funds belonging to them or within their control in bonds or other obligations issued by Efficiency Maine under this article. These bonds or other obligations are authorized security for all public deposits. It is the purpose of this section to authorize persons, political subdivisions and officers, public or private, to use funds owned or controlled by them for the purchase of these bonds or other obligations. This section does not relieve a person of any duty or of exercising reasonable care in selecting securities.

9. Investment of funds; redemption of bonds. Efficiency Maine may:

A. Invest, in property or securities in which savings banks may legally invest funds subject to their control, funds held in reserves, sinking funds or funds not required for immediate disbursement; and

B. Cancel its bonds by redeeming them at the redemption price established in the bonds or by purchasing them at less than redemption price.

§ 10122. Bonds; use of proceeds

Efficiency Maine may, by rulemaking pursuant to Title 5, chapter 375, subchapter II, establish a process that is different from the federal formula for allocating that portion of the ceiling established by the United States Code, Title 26, Section 146, as amended, allocated to Efficiency Maine pursuant to section 363. For purposes of this section, Efficiency Maine may also limit the types of projects which are eligible to receive allocations of the ceiling and establish other requirements and limitations for assuring effective and efficient use of the ceiling. The authority shall include in its report pursuant to section 974 a description of its operations pursuant to this section for the most recent calendar year and of its plans, if any, to revise any allocation system established pursuant to this section. The chair of Efficiency Maine is designated as the state official authorized to issue the certification under the United States Code, Title 26, Section 149(e)(2)(F), as amended, for allocations of the state ceiling allocated to Efficiency Maine pursuant to section 363.

§ 10126. Allocation of resources.

Efficiency Maine shall spend funds in accordance with this section.

1. Efficiency credit funds. Efficiency Maine shall expend funds procured from sale of efficiency credits for electricity and natural gas under section 10020, and from forward capacity market payments administered by the regional transmission organization or other capacity payments that are attributable to projects funded in any measure by Efficiency Maine, in accordance with the energy source (electricity or natural gas) and sector (residential, commercial or industrial) from which they are derived. Funds procured from sale of efficiency credits for heating fuel shall be spent in the residential sector to promote heating efficiency and conservation, and reduction in heating fuel demand through

distributed renewable energy technology. The commission shall determine what proportion of funds procured from the sale of efficiency credits for electricity and natural gas is attributable to governmental units, and Efficiency Maine shall expend such funds in accordance with that determination.

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

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

4. Energy and carbon savings trust. Funds within the energy and carbon savings trust shall be expended in accordance with section 10008.

5. Administration, workforce development and research and development. Funds for administration, workforce development and research and development shall be drawn proportionally from funds dedicated to the residential, industrial and commercial sectors, excluding funds within the energy and carbon savings trust, which shall be expended in accordance with section 10008.

Subchapter 2: Residential programs

§ 10150. Establishment of residential programs.

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

§ 10151. Program guidelines.

1. Low income residents. Serving low-income residents shall be the top priority in Efficiency Maine's residential sector programs, and Efficiency Maine shall provide services to each low-income residential unit within the State by December 31, 2018. Efficiency Maine shall expend at least 60% of funds devoted to programs benefiting residential units on low-income households, and at least 20% of funds procured from sale of efficiency credits for electricity under section 10020.

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

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

C. If, after the expense of a home evaluation and of all measures with a payback period of twenty years, there is unused subsidy for a residential unit, and if installation of distributed renewable energy technology with a longer payback period is not technically feasible, Efficiency Maine may pool that subsidy with other individual subsidies for efficiency, conservation and demand reduction measures that benefit a neighborhood or community, or may subsidize cost-effective fuel switching measures. Efficiency Maine's demand reduction obligations under section 10020 shall be reduced to the extent that fuel switching measures are paid for by funds procured from sale of efficiency credits.

D. The commission shall determine annually the average cost per low-income household resulting from the portion of the cost of efficiency credits for heating fuel under section 10020 that is effectively passed on to consumers, taking account of any state or federal tax treatment of the purchase of said credits for heating fuel wholesalers and any other relevant considerations, and Efficiency Maine shall ensure distribution of that amount to any household that is eligible for benefits under the Low Income Home Energy Assistance Program administered by the United States Department of Health and Human Services, has not received benefits under one or more of Efficiency Maine's programs since the effective date of this chapter and is not living in housing or participating in a program where the passed-on cost is inapplicable to the household.

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

3. Other residential units. Efficiency Maine may adopt any reasonable program design to serve upper-income residents, residential units that do not constitute an individual's primary residence, and other residential units not addressed under subsections 1 and 2. Efficiency Maine shall strive to ensure that cost-effective efficiency, conservation and demand reduction measures are adopted in as many such units as possible. provide services to each middle-income residential unit within the State by December 31, 2018.

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

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

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

§ 10152. Relationship with Maine State Housing Authority

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

2. Services to low-income residents. Efficiency Maine shall contract with the Maine State Housing Authority to deliver residential programs to low-income residents, and shall prescribe how services outside of the Weatherization Assistance for Low-income Persons Program administered through the United States Department of Energy, the Low-income Home Energy Assistance Program administered through the United States Department of Health and Human Services and the Central Heating Improvement Program or any successor program are provided.

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

B. The two entities shall develop accounting systems, energy efficiency and demand reduction measurement systems and other systems to ensure efficient program administration, transparency, accountability and compliance with state and federal law. Efficiency Maine shall prescribe standards for qualifications of individuals performing all work pursuant to this section.

3. Efficiency in low-income rental housing. Efficiency Maine and the Maine State Housing Authority shall jointly develop and coordinate in implementing programs to effectuate section 4748 of title 30-A.

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

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

§ 10153. Changes to program parameters

Upon petition from Efficiency Maine, the commission may make alterations to Efficiency Maine's obligations under this subchapter that are consistent with the spirit of the provisions therein.

Subchapter 3: Commercial programs

§ 10160. Establishment of commercial programs.

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

§ 10161. Program guidelines.

1. Small businesses. Serving small businesses shall be the top priority in Efficiency Maine's commercial sector programs, and Efficiency Maine shall strive to provide services to each small business within the State by December 31, 2018. Efficiency Maine shall expend at least 20% of funds procured from sale of efficiency credits for electricity under section 10020. Efficiency Maine shall design programs and measures that provide sufficient technical assistance or direct oversight of work done to overcome the unique economic barriers that prevent small businesses from taking advantage of energy cost and demand reduction opportunities, including but not limited to small staff size, limited access to capital and frequent need for direct subsidy. Efficiency Maine shall conduct outreach to

small businesses, and shall strive to avoid complexity in program design and registration, paperwork and other aspects of its programs and measures in order to maximize small business participation.

2. Evaluation and technical assistance. Commercial sector programs shall at a minimum provide for free evaluation by licensed professionals, and for such technical assistance as businesses need to conduct effective request for proposal processes. To the maximum reasonable extent, Efficiency Maine shall ensure that each building for which commercial program services are sought is evaluated for the full range of programs and measures to increase energy efficiency and conservation, distributed renewable energy production and effective load management, so that the largest possible range of such programs and measures can be adopted at one time.

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

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

§ 10162. Relationship to other agencies

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

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

§ 10163. Changes to program parameters

Upon petition from Efficiency Maine, the commission may make alterations to Efficiency Maine's obligations under this subchapter that are consistent with the spirit of the provisions therein.

Subchapter 4: Public sector programs

§ 10170. Establishment of public sector programs.

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

§ 10171. Program guidelines.

1. Municipal and county governments. Serving municipalities and county governments, particularly those with limited resources and serving small populations, shall be the top priority in Efficiency Maine's public sector programs, and Efficiency Maine shall strive to provide services to each municipal and county government within the State by December 31, 2018.

2. Evaluation and technical assistance. Public sector programs financed through sale of efficiency credits for electricity and natural gas under section 10020, through forward capacity market payments administered by the regional transmission organization or other capacity payments that are attributable to those funds and through the energy and carbon savings trust shall at a minimum provide for free evaluation by licensed professionals, and for such technical assistance as governmental units and agencies need to conduct effective request for proposal processes. To the maximum reasonable extent, Efficiency Maine shall ensure that each building for which commercial program services are sought is evaluated for the full range of programs and measures to increase energy efficiency and conservation, distributed renewable energy production and effective load management, so that the largest possible range of such programs and measures can be adopted at one time.

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

4. Split incentives. In providing services and developing programs and measures surrounding commercial buildings with rented space, Efficiency Maine shall take account of the fact that the entity paying energy costs is often not the entity with authority to adopt energy cost reduction measures, and

shall strike a reasonable balance between ensuring that benefits flow to the entities who are paying energy costs directly and making programs and measures attractive for both landlord and tenant. Efficiency Maine shall work with landlords, tenants and subtenants to implement whole building measures, with benefits flowing chiefly to the entity paying for energy, and with due account taken of the impact that lease terms may have on the long-term cost-effectiveness of a given measure.

§ 10172. Administration of Efficiency Partners Program

Efficiency Maine shall administer the Efficiency Partners Program established under section 5953-C of title 30-A, in accordance with the provisions therein.

§ 10173. Relationship to other agencies

1. Cooperative relationship. Efficiency Maine shall establish cooperative relationships with governmental units and agencies with responsibility for assistance to governmental units and agencies, to enhance the ability of those entities to advance Efficiency Maine's goals and to integrate their activities into Efficiency Maine's operational and long-term plans.

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

§ 10174. Changes to program parameters

Upon petition from Efficiency Maine, the commission may make alterations to Efficiency Maine's obligations under this subchapter that are consistent with the spirit of the provisions therein.

Subchapter 5: Higher education, hospital and nonprofit programs

§ 10180. Establishment of higher education, hospital and nonprofit programs.

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

§ 10181. Program guidelines.

1. Nonprofit entities. Efficiency Maine shall design programs and measures that provide sufficient technical assistance or direct oversight of work done to overcome the unique economic barriers that prevent the entities served under this chapter, and particularly nonprofit entities, from taking advantage of energy cost and demand reduction opportunities, including but not limited to lack of access to capital, lack of relevant expertise and, frequently, inability to take advantage of tax

incentives. Efficiency Maine shall strive to avoid complexity in program design and registration, paperwork and other aspects of its programs and measures in order to maximize participation.

2. Evaluation and technical assistance. Programs under this subchapter shall at a minimum provide for free evaluation by licensed professionals, and for such technical assistance as entities served need to conduct effective request for proposal processes. To the maximum reasonable extent, Efficiency Maine shall ensure that each building served is evaluated for the full range of programs and measures to increase energy efficiency and conservation, distributed renewable energy production and effective load management, so that the largest possible range of such measures can be adopted at one time.

3. Leveraging other funds. Efficiency Maine shall not substitute its services for those reasonably available in the market, and commercial sector programs shall strive to maximize facilitation of performance-based contracts with energy service companies. In leveraging funds from other entities for commercial sector programs, Efficiency Maine shall minimize the extent to which such funding comes from forms of indebtedness with recourse against the entity receiving services. Efficiency Maine shall, between direct subsidy, leveraged funds and any other sources, strive to promote adoption of all efficiency, conservation and demand reduction measures that have a payback period of 15 years or less, and shall especially strive to leverage funds for heat energy efficiency and demand reduction, to the extent that Efficiency Maine's revenues provide limited funding for such measures.

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

§ 10182. Relationship to other agencies

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

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

§ 10183. Changes to program parameters

Upon petition from Efficiency Maine, the commission may make alterations to Efficiency Maine's obligations under this subchapter that are consistent with the spirit of the provisions therein.

Subchapter 6: Industrial programs

§ 10190. Establishment of industrial programs.

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

§ 10191. Program guidelines.

1. Small businesses. Serving small businesses shall be the top priority in Efficiency Maine's industrial sector programs, and Efficiency Maine shall strive to provide services to each small business within the State by December 31, 2018. Efficiency Maine shall expend at least 20% of funds procured from sale of efficiency credits for electricity under section 10020 on serving small businesses in the commercial and industrial sectors. Efficiency Maine shall design programs and measures that provide sufficient technical assistance or direct oversight of work done to overcome the unique economic barriers that prevent small businesses from taking advantage of energy cost and demand reduction opportunities, including but not limited to small staff size, limited access to capital and frequent need for direct subsidy. Efficiency Maine shall conduct outreach to small businesses, and shall strive to avoid complexity in program design and registration, paperwork and other aspects of its programs and measures in order to maximize small business participation.

2. Evaluation and technical assistance. Industrial sector programs shall provide for free evaluation by licensed professionals, and for such technical assistance as businesses need to conduct effective request for proposal processes. To the maximum reasonable extent, Efficiency Maine shall ensure that each building or process for which industrial program services are sought is evaluated for the full range of programs and measures to increase energy efficiency and conservation, distributed renewable energy production and effective load management, so that the largest possible range of such programs and measures can be adopted at one time.

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

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

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

§ 10192. Relationship to other agencies

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

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

§ 10193. Changes to program parameters

Upon petition from Efficiency Maine, the commission may make alterations to Efficiency Maine's obligations under this subchapter that are consistent with the spirit of the provisions therein.

Subchapter 7: Workforce development

§ 10200. Green Energy Job Growth Fund

5% of funds procured from sale of efficiency credits for electricity, natural gas and heating fuel under section 10020, and from forward capacity market payments administered by the regional transmission organization or other capacity payments that are attributable to projects funded in any measure by Efficiency Maine, shall be transferred to the Green Energy Job Growth Fund established under section 2035 of title 26.

§ 10201. Training for installers of solar equipment

1. Installation training. Efficiency Maine may establish training programs for installers of solar equipment that most effectively meet the needs of the public, to the extent they are integrated with workforce development systems pursuant to section 2035 of title 26. Efficiency Maine:

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

B. Shall confer with the Plumbers' Examining Board and the Electricians' Examining Board when it develops the course content and requirements;

C. Shall determine the content of the training, the hours required for course completion and the manner in which applicants must demonstrate proficiency in solar equipment installation;

D. Shall issue a certificate of completion to individuals who meet the requirements the commission has established;

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

F. Shall determine terms for the expiration and renewal of an applicant's certificate of completion; and

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

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

§10202. Training for energy auditors

1. Auditor training. Efficiency Maine may establish training programs for energy auditors that most effectively meet the needs of the public, to the extent they are integrated with workforce development systems pursuant to section 2035 of title 26. For the purpose of this subsection, an energy auditor is a person who is trained to prepare a report that delineates the energy consumption characteristics of a building, identifies appropriate energy efficiency operations and maintenance procedures and recommends appropriate energy efficiency measures. Efficiency Maine:

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

B. Shall determine the content of the training, the hours required for course completion and the manner in which applicants must demonstrate proficiency in energy auditing;

C. Shall issue a certificate of completion to individuals who meet the requirements the commission has established;

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

E. Shall determine terms for the expiration and renewal of an applicant's certificate of completion; and

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

G. Shall in its sole discretion determine whether individuals or programs in which they were trained are qualified to perform work that is partly subsidized by Efficiency Maine, including contractors in programs administered by or jointly with the Maine State Housing Authority.

§ 10203. Other certification programs

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

Subchapter 8: Research and development

§ 10220. Research and development funding

1% of funds procured from sale of efficiency credits for electricity, natural gas and heating fuel under section 10020, and from forward capacity market payments administered by the regional transmission organization or other capacity payments that are attributable to projects funded in any measure by Efficiency Maine, shall be transferred to the Maine Technology Capacity Fund, established under section 15303-A of title 5, to be used solely to promote research, development, commercialization and extension of environmental technology related to energy efficiency and conservation, effective electricity load management and renewable energy. Efficiency Maine may retain these funds for its activities if it determines, in its sole discretion, that the Maine Technology Institute has decreased investment for these purposes from other funds it manages as a result of receiving efficiency credit funds.

Subchapter 9: Educational programs

§ 10240. Provision of public information

1. General. Efficiency Maine shall provide to the public information about energy technologies and energy efficiency practices, in accordance with the administrator's contract, including any state building energy standards and their implementation. In providing public information, Efficiency Maine shall consider:

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

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

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

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

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

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

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

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

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

Subchapter 10: Load management programs

§ 10260. Establishment of load management programs

Efficiency Maine shall develop, implement and monitor programs and measures to increase effective load management, consistent with the administrator’s contract, and may accept forward capacity market payments administered by the regional transmission organization or other capacity payments to fund load management projects. Efficiency Maine shall partner with public utilities and other entities as appropriate.

PART L

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

CHAPTER 99

ENERGY AND WATER EFFICIENCY STANDARDS FOR APPLIANCES

§ 10300. Short title

This chapter may be known and cited as “the Maine Energy and Water Efficiency Standards for Appliances Act.”

§ 10301. Scope

1. Authority. The commission shall prescribe, by regulation, standards for minimum levels of operating efficiency, based on a reasonable use pattern, and may prescribe other cost-effective measures, including incentive programs, fleet averaging, energy and water consumption labeling not preempted by federal labeling law, and consumer education programs, to promote the use of energy and water efficient appliances whose use, as determined by the commission, requires a significant amount of energy or water on a statewide basis. The minimum levels of operating efficiency shall be based on feasible and attainable efficiencies or feasible improved efficiencies that will reduce the energy or water consumption growth rates. The standards shall become effective no sooner than one year after the date of adoption or revision. No new appliance manufactured on or after the effective date of the standards may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with the standards. The standards shall be drawn so that they do not result in any added total costs for consumers over the designed life of the appliances concerned.

A. The standards adopted or revised pursuant to this subdivision shall not result in any added total costs for consumers over the designed life of the appliances concerned. When determining cost-effectiveness, the commission shall consider the value of the water or energy saved, impact on product efficacy for the consumer, and the life cycle cost to the consumer of complying with the standard. The commission shall consider other relevant factors, including, but not limited to, the impact on housing costs, the total statewide costs and benefits of the standard over its lifetime, economic impact on Maine businesses, alternative approaches and their associated costs, and the value of harmonization with standards promulgated by other states.

B. Within three months of the effective date of this chapter, the commission shall adopt rules that contain the energy and water efficiency standards in California Code of Regulations, title 20, division 2, chapter 4, sections 1601-1608 (2008), and contain such other provisions of said regulations as the commission deems appropriate. Said rules shall be routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. Subsequently adopted rules shall be major substantive rules, pursuant to Title 5, chapter 375, subchapter 2-A, except that the following types of rules shall be routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A:

(1) Rules that increase the minimum level of operating efficiency for an existing standard up to the level of the National Voluntary Consensus Standards 90, adopted by the American Society of Heating, Refrigeration, and Air Conditioning Engineers or, for appliances not covered by those standards, up to the level established in a similar nationwide consensus standard

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

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

(4) Rules that readopt a standard preempted, enjoined, or otherwise found legally defective by an administrative agency or a court, if: final legal action determines that the standard is valid or later changes to state or federal law remove the source of any invalidity, and; the standard that is readopted is not more stringent than the standard that was found to be defective or preempted.

C. To the extent the rules the commission adopts pursuant to paragraph B are pre-empted by federal law, the commission shall seek a waiver of preemption. If the commission determines that further rulemaking in areas subject to federal preemption is in the public interest, it may seek a waiver of preemption for such rulemaking.

2. Application. This chapter applies to new appliances sold or offered for sale in the state, except those sold wholesale in the state for final retail sale outside the state and those designed and sold exclusively for use in recreational vehicles or other mobile equipment. Each provision of this chapter and regulation promulgated pursuant thereto applies only to units manufactured on or after its effective date. The appliances regulated under this chapter shall include but not be limited to:

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

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

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

(3) blast chillers; and

(4) automatic commercial ice makers with a harvest rate less than 50 pounds per 24 hours and automatic commercial ice makers with a harvest rate greater than 2500 pounds per 24 hours.

B. Room air conditioners, room air-conditioning heat pumps, packaged terminal air conditioners, and packaged terminal heat pumps.

C. Central air conditioners, which are electrically-powered unitary air conditioners and electrically-powered unitary heat pumps, except those designed to operate without a fan; and gas-fired air conditioners and gas-fired heat pumps.

D. Spot air conditioners, evaporative coolers, ceiling fans, whole house fans, and residential exhaust fans.

E. Vented gas space heaters and vented oil space heaters, vented and unvented infrared gas heaters, and gas-fired combination space-heating and water-heating appliances.

F. Water heaters, including but not limited to hot water supply boilers.

G. Gas pool heaters, oil pool heaters, electric resistance pool heaters, heat pump pool heaters, residential pool pumps, and portable electric spas.

H. Plumbing fittings, which are showerheads, lavatory faucets, kitchen faucets, metering faucets, replacement aerators, wash fountains, tub spout diverters, and commercial pre-rinse spray valves.

I. Plumbing fixtures, which are water closets and urinals.

J. Fluorescent lamp ballasts that are designed to operate at nominal input voltages of 120 or 277 volts, operate with an input current frequency of 60 Hertz, and be used with T5, T8, or T12 lamps.

K. Lamps, which are federally-regulated general service fluorescent lamps, federally-regulated incandescent reflector lamps, and state-regulated general service incandescent lamps.

L. Emergency lighting, including illuminated exit signs.

M. Traffic signal modules and traffic signal lamps.

N. Luminaires, which are torchieres, metal halide luminaires, and under-cabinet luminaires.

O. All other lighting devices, including but not limited to: light fixtures, lighting control, ballast, or any component of those devices; new and replacement lighting devices; interior and exterior lighting devices; indoor and outdoor lighting devices, including but not limited to street lights and parking lot lighting.

P. Dishwashers that are federally-regulated consumer products.

Q. Clothes washers that are federally-regulated consumer products; and commercial clothes washers.

R. Clothes dryers that are federally-regulated consumer products.

S. Cooking products that are federally-regulated consumer products; and food service equipment.

T. Electric motors, excluding definite purpose motors, special purpose motors, and motors exempted by the U.S. Department of Energy under 42 U.S.C. Section 6313(b).

U. Low voltage dry-type distribution transformers that are designed to operate at a frequency of 60 Hertz, and that have a rated power output of not less than 15 kVa.

V. Power supplies, which are single voltage external AC to DC and AC to AC power supplies included with other retail products, and single voltage external AC to DC or AC to AC power supplies sold separately, excluding power supplies that are classified as devices for human use under the Federal Food, Drug, and Cosmetic Act and require U.S. Food and Drug Administration listing and approval as a medical device; and consumer audio and video equipment, which are televisions, compact audio products, digital versatile disc players, and digital versatile disc recorders.

3. Display of date of manufacture. No new appliance, except for any plumbing fitting,

regulated pursuant to this chapter, that is manufactured on or after January 1, 2010, may be sold or offered for sale in the state unless the date of the manufacture is displayed in an accessible place on that appliance.

4. Predictability of regulation. During the period of five years after the commission has adopted a standard for a particular appliance pursuant to this chapter, no increase or decrease in the minimum level of operating efficiency required by the standard for that appliance shall become effective, unless the commission adopts other cost-effective measures for that appliance.

5. Confidentiality of sales information. In the rulemaking process, the commission shall treat nonpublic sales information of an individual manufacturer as confidential, and such information shall not be a public record, but the commission shall strive to ensure transparency by means other than public disclosure when such information is considered.

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

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

PART M

Sec. M-1. State Purchasing Agent; report on fuel economy of state-purchased vehicles. By January 1, 2010, the State Purchasing Agent shall report to the joint standing committee of the legislature having jurisdiction on Natural Resources matters regarding compliance with section 1812-E of title 5.

Sec. M-2. Green energy industry partnership proposal. By January 1, 2010, the Department of Labor, and the Department of Economic and Community Development shall, in consultation and coordination with local and statewide stakeholders, develop a proposal to the Northern Border Regional Commission regarding a green energy industry partnership for the downeast and coastal regions of the state, unless it appears that that Commission will not have funding or is otherwise unlikely to award funds for the proposal. The proposal, and any other green energy industry proposals developed by the two departments, shall meet the requirements of section 2035 of title 26, and funds from the Maine Green Energy Job Growth fund may be used to develop the proposals, within the constraints of that section.

Sec. M-3. Guidelines for implementation. In carrying out their respective duties under section 2035 of title 26, the Department of Labor and the Department of Economic and Community Development shall consider the approaches to green energy industry partnerships and workforce development taken in Oregon and Washington, and other states with effective models.

Sec. M-4. Application. The Maine Revised Statutes, Title 30-A, §903-B and amendments to Title 5, section 1764-A, contained within this legislative document, do not apply to any construction projects that have received design approval prior to the effective date of rules adopted pursuant to amendments to that section. Amendments to Title 20-A, section 15908-A, contained within this legislative document, do not apply to any school construction project that receives voter approval at a public referendum pursuant to Title 20-A, section 15904 prior to the effective date of rules adopted pursuant to Title 20-A, section 15908-A.

Sec. M-5. Guidelines for implementation. The programs expected to be administered by or Efficiency Maine or coordinated with its efforts under 5 MRSA §58 and 35-A MRSA § 10152 include but are not limited to: the Finance Authority of Maine’s Energy Conservation Loan Program, Economic Recovery Loan, and Energy Audit Equipment Loan programs; the Maine State Housing Authority’s Clean, Tune and Evaluate, Central Heating Improvement, Governor’s Weatherization, Home Energy Loan, Multifamily Energy Loan, Energy Efficiency Mortgage, Low Income Assistance Appliance Replacement, Keep ME Warm and Carbon Market programs, as well as any distributed renewable energy technology programs and Green Building Standard programs; the Department of Conservation’s survey of heating systems in public buildings, fuels to schools, wood-pellet, wood-to-energy and wood pricing programs; the Department of Environmental Protection’s Governor’s Carbon Challenge, Green Certification/Hospitality Sector and Environmental Leader/Smart Growth through Smart Production programs; all relevant programs of the Public Utilities Commission and the Office of the Public Advocate, the Department of Economic and Community Development and the University of Maine Cooperative Extension.

SUMMARY

This bill _____

Part A _____