

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 766 - L.D. 1895

An Act Regarding the Procurement of Energy from Offshore Wind Resources

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

Sec. 1. 23 MRSA c. 412, sub-c. 3 is enacted to read:

SUBCHAPTER 3

PORT FACILITIES RELATING TO OFFSHORE WIND POWER PROJECTS

§4441. Port facility-related requirements

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

A. "Offshore wind power project" has the same meaning as in Title 35-A, section 3405, subsection 1, paragraph C.

B. "Offshore wind terminal" has the same meaning as in Title 35-A, section 3410, subsection 1, paragraph D.

C. "Public authority" has the same meaning as in Title 26, section 1304, subsection 7.

D. "Public work" has the same meaning as in Title 26, section 1304, subsection 8.

2. Public works; offshore wind terminals; agreements. Notwithstanding Title 26, section 3601, if an offshore wind terminal that is a public work is constructed or altered for the purpose of supporting an offshore wind power project, the public authority responsible for the construction or alteration shall require agreements that comply with 29 United States Code, Section 158(f) or Title 35-A, section 3408, subsection 3 for all construction work.

3. Public-private partnership; agreements. If an offshore wind power project involves a public-private partnership that includes the lease of an offshore wind terminal owned or operated by the State, including any port facility owned or operated by the Maine Port Authority, the department, authority or other agency responsible for granting the lease shall require agreements that comply with 29 United States Code, Section 158(f) or Title

35-A, section 3408, subsection 3 as a condition of the lease for all on-site construction and fabrication of materials for the offshore wind power project.

Sec. 2. 35-A MRSA §3401-A is enacted to read:

§3401-A. Definitions

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

1. Apprentice. "Apprentice" has the same meaning as in Title 26, section 3201, subsection 1.

2. Certified business. "Certified business" means a business that has been certified by the federal Small Business Administration or another appropriate entity, as determined by the commission by rule, as a minority-owned, veteran-owned or women-owned business.

3. Community and workforce enhancement standards. "Community and workforce enhancement standards" means the standards described in section 3408, subsection 3 that contractors and subcontractors responsible for construction work and individuals performing construction work must meet.

4. Construction work. "Construction work" means the construction, alteration or remodeling of a structure and any work directly related to the construction, alteration or remodeling of a structure, including, but not limited to, landscaping and trucking, but does not include surveying or engineering or the examination or inspection of a construction site.

5. Currently available and qualified employee. "Currently available and qualified employee" means an individual, including, but not limited to, an apprentice, performing construction work who:

A. Is employed by and receives a W-2 form from a contractor or subcontractor responsible for construction work and has been employed as a permanent employee by that contractor or subcontractor for at least 90 calendar days prior to the commencement of that contractor's or subcontractor's work; and

B. Possesses the skills, credentials, certifications or specialized training necessary to complete the required tasks upon being assigned to the construction site.

6. Disadvantaged business enterprise. "Disadvantaged business enterprise" means a business that is certified by the Department of Transportation in compliance with federal regulations under 49 Code of Federal Regulations, Part 26.

7. Fishing community. "Fishing community" means a municipality where marine organisms, as defined in Title 12, section 6001, subsection 26, are landed or processed.

8. Hiring hall. "Hiring hall" means a service provided by a labor organization or an entity associated with a labor organization that places employees with an employer under a collective bargaining agreement or otherwise places employees with employers.

9. Inclusive bidding standards. "Inclusive bidding standards" means a set of guidelines to ensure comprehensive engagement and involvement of the construction industry, including requirements that:

A. The relevant agency or agencies responsible for awarding contracts related to the construction of an offshore wind power project make a demonstrated and documented

effort to ensure broad and maximum engagement and participation of all interested contractors upon the publication by the agency or agencies of requests for proposals surrounding work on or related to the offshore wind power project; and

B. All contractors, including, but not limited to, those headquartered in the State, regardless of whether their employees are covered under a collective bargaining agreement, are eligible and encouraged to bid on and participate in any work related to an offshore wind power project.

10. Labor organization. "Labor organization" has the same meaning as in section 3210-H, subsection 1, paragraph B.

11. Lobster Management Area 1. "Lobster Management Area 1" means the area defined by rule as Lobster Management Area 1 by the Department of Marine Resources.

12. Maine emerging industry compensation threshold. "Maine emerging industry compensation threshold" means an employment total compensation package that includes wages, health and welfare benefits, retirement benefits and any additional employer-paid benefits that have a monetary value equal to or greater than that established and in effect as a result of a mutual agreement between a labor organization whose local jurisdiction includes the county in the State where the work related to an offshore wind power project is being or is to be performed, based on data submitted by that labor organization to the Department of Labor, and the related and applicable contractors that are signatories to that mutual agreement.

13. Nameplate capacity. "Nameplate capacity" has the same meaning as in section 3481, subsection 11.

14. Office. "Office" means the Governor's Energy Office established in Title 2, section 9.

15. Offshore wind power project. "Offshore wind power project" has the same meaning as in section 3405, subsection 1, paragraph C and includes, but is not limited to, floating offshore wind power generation facilities.

16. Registered apprenticeship program. "Registered apprenticeship program" means a plan approved by the Department of Labor or the United States Department of Labor containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, including, but not limited to, the requirement for an apprenticeship agreement, a schedule of work experience outlining the skills to be learned on the job, a schedule of related instruction courses necessary to supplement on-the-job learning and a schedule of progressively increasing wages to be paid to an apprentice consistent with the skill proficiencies achieved and leading toward a journeyman wage rate.

17. Responsible entity. "Responsible entity" means the person undertaking to develop an offshore wind power project.

18. Small business. "Small business" means a business employing 100 or fewer employees.

Sec. 3. 35-A MRS §3404, sub-§2, as amended by PL 2009, c. 615, Pt. A, §4, is repealed and the following enacted in its place:

2. State wind energy generation goal. The State's goal for wind energy development in proximate federal waters is for at least 3,000 megawatts of installed capacity by December 31, 2040.

Beginning January 1, 2025 and every 2 years thereafter, the office may reevaluate and increase the goal established by this subsection and report that goal to the joint standing committee of the Legislature having jurisdiction over energy and utilities matters.

Sec. 4. 35-A MRSA §3406, as enacted by PL 2021, c. 407, §3, is amended to read:

§3406. Offshore Wind Research Consortium; fund established

1. Offshore Wind Research Consortium. The Offshore Wind Research Consortium is an initiative of the ~~Governor's Energy Office~~ office, in collaboration with the Department of Marine Resources and the Department of Inland Fisheries and Wildlife, to coordinate, support and arrange for the conduct of research on offshore wind power projects in the Gulf of Maine.

2. Advisory board. The ~~Governor's Energy Office~~ office, in consultation with independent scientific experts, shall establish an advisory board of the consortium to oversee the development and execution of a research strategy to better understand the local and regional impacts of floating offshore wind power projects in the Gulf of Maine. The advisory board must include, but is not limited to, the following members:

A. Two individuals from organizations that represent commercial lobster harvesting interests in the State;

B. At least one individual from an organization that represents the interest of commercial fisheries other than lobster harvesting;

C. The Commissioner of Marine Resources, or the commissioner's designee;

C-1. The Commissioner of Inland Fisheries and Wildlife, or the commissioner's designee;

D. Two individuals, not represented by an organization, that represent the interests of the commercial lobster harvesting industry and commercial fisheries in the State; ~~and~~

E. One individual from the recreational charter fishing industry;

F. At least one individual who is a member of one of the federally recognized Indian tribes in this State;

G. Two individuals with expertise in marine wildlife and habitats; and

H. At least one individual with experience in commercial offshore wind power development.

The advisory board is subject to all applicable provisions of the Freedom of Access Act. The operation of the advisory board must be informed by the work of regional and national scientific entities. The advisory board shall solicit input from stakeholders, including representatives of the fishing industry, state and federal agencies and scientific experts.

3. Research strategy. The advisory board established in subsection 2 in developing a research strategy shall at a minimum identify:

A. Opportunities and challenges caused by the deployment of floating offshore wind power projects to the existing uses of the Gulf of Maine;

- B. Methods to avoid and minimize the impact of floating offshore wind power projects on ecosystems and existing uses of the Gulf of Maine; and
- C. Ways to realize cost efficiencies in the commercialization of floating offshore wind power projects.

The advisory board shall advise the ~~Governor's Energy Office~~ office on the development of the components of the research strategy.

4. Offshore Wind Research Consortium Fund; established. The Offshore Wind Research Consortium Fund, referred to in this subsection as "the fund," is established as a nonlapsing fund administered by the ~~Governor's Energy Office~~ office and the Department of Marine Resources and in coordination with the Department of Inland Fisheries and Wildlife. The fund consists of funds that are appropriated by the Legislature, funds received from federal and state sources, payments from offshore wind power projects in accordance with section 3408, subsection 1, paragraph D, subparagraph (3) and other funds from any public or private source received for use for any of the purposes under this subsection. The source of any funds received from public or private sources must be publicly disclosed. The fund may be used to support the consortium and the work of the advisory board established in subsection 2, including for:

- A. Developing the research strategy under subsection 3;
- B. Conducting research pursuant to the strategy developed under subsection 3;
 - B-1. Supporting conservation actions and projects that support species and habitats impacted by offshore wind power development;
- C. Producing reports or other materials;
- D. Compensating independent experts, if needed to assist in the development or execution of the research strategy under subsection 3; and
- E. Making any other expenditures that are necessary to achieve the purposes of this section.

The ~~Governor's Energy Office~~ office, in consultation with the advisory board, shall provide an annual report on the use of the fund in the last quarter of each calendar year to the joint standing committee of the Legislature having jurisdiction over energy and utility matters.

Sec. 5. 35-A MRSA §3407 is enacted to read:

§3407. Maine Offshore Wind Renewable Energy and Economic Development Program

1. Program established. The Maine Offshore Wind Renewable Energy and Economic Development Program, referred to in this section as "the program," is established to further the development and use of offshore wind power projects in the Gulf of Maine. The office, in collaboration with the commission, shall administer the program in accordance with this section and shall ensure that the program is designed to advance the greenhouse gas emissions reduction obligations and climate policies of this State under Title 38, section 576-A and Title 38, section 577, the renewable energy goals established in section 3210, subsection 1-A and all applicable workforce development efforts of this State. Under the program, the office, in collaboration with the commission, shall:

A. Encourage the responsible development of offshore wind power projects to stabilize energy supply prices, reduce this State's reliance on imported fossil fuels, realize direct and near-term economic benefits for the people of this State and ensure the achievement of this State's wind energy generation goal established in section 3404, subsection 2;

B. Support offshore wind power projects that result in long-term, family-supporting careers, including for disadvantaged populations and communities;

C. Support responsibly sited and operated offshore wind power projects that avoid or minimize and compensate for impacts to wildlife, habitat, fisheries and coastal communities in the Gulf of Maine;

D. Support efforts to increase understanding of impacts of offshore wind power projects on the marine environment and to advance research to better understand how offshore wind power projects can coexist with minimal impact to existing ocean users, wildlife, fisheries and the marine environment;

E. Promote diversity, equity and inclusion in the development of offshore wind power projects with particular consideration given to the energy and economic circumstances and opportunities in coastal and socially vulnerable communities and for the federally recognized Indian tribes in this State. For the purposes of this paragraph, "socially vulnerable communities" means those communities containing populations that are disproportionately burdened by existing social inequities or lack the capacity to withstand new or worsening burdens;

F. Support the advancement of port infrastructure, local offshore wind power-related economic development and the development of a supply chain to support the development of offshore wind power projects;

G. Support the development and deployment of innovative technologies to achieve the energy policy and economic development objectives of this State, including energy storage;

H. Support the use of Maine-based technical and engineering expertise and build on this State's leadership in offshore wind power, maritime industries and research and development;

I. Support the development of transmission infrastructure necessary for this State to expeditiously meet its renewable energy and climate goals, including advancing the development of shared or regional offshore wind power transmission infrastructure;

J. Collaborate with other states or entities when appropriate on regional issues, including, but not limited to, transmission, procurement, supply chain and workforce development and research and monitoring relating to wildlife, fisheries and the Gulf of Maine ecosystem;

K. Support responsibly sited offshore wind power projects with generation facilities located in areas outside of the area of the Gulf of Maine where the majority of lobster fishing or other significant commercial fishing occurs;

L. Coordinate the activities of state agencies that are affected by the development of offshore wind power projects, including, but not limited to, the Department of Economic and Community Development, the Department of Labor, the Department of

Marine Resources, the Department of Transportation, the Department of Inland Fisheries and Wildlife and the Department of Environmental Protection; and

M. Support the development of deep-water offshore wind power projects and transmission infrastructure in the Gulf of Maine that serve the public interest by advancing the renewable energy and climate policies and economic development goals of this State and helping to reduce energy price volatility.

2. Federal lease stipulations. The office, in consultation with other state agencies, including, but not limited to, the Department of Marine Resources, shall advocate for the inclusion in any leases issued by a federal agency for offshore wind energy production in federal waters provisions that will:

- A. Support economic development, including the development of port infrastructure;
- B. Promote public communications plans about the leased activity;
- C. Ensure appropriate engagement with federally recognized Indian tribes in this State;
- D. Include adequate transmission planning;
- E. Result in access to research conducted in connection with the lease; and
- F. Maximize mitigation of and compensation for impacts to coastal communities, wildlife, fisheries and the marine environment.

Sec. 6. 35-A MRSA §3408 is enacted to read:

§3408. Offshore wind energy procurement

1. Preparation of requests for proposals; offshore wind power projects. The office shall establish a schedule for competitive solicitations for the development and construction of offshore wind power projects to meet the objectives of the program as described in section 3407. The office shall prepare, in consultation with appropriate state agencies, a request for proposals to implement each competitive solicitation. Upon developing a request for proposals for a competitive solicitation under this section, the office shall submit the request for proposals to the commission for approval.

- A. A competitive solicitation under this section must specify the date on which a subsequent solicitation must be initiated and the specified date must be within 36 months of a previous solicitation.
- B. The office shall make reasonable efforts to consult with entities within this State, including, but not limited to, the commission, the Office of the Public Advocate and entities included in section 3407, subsection 1, paragraph L, and other states or entities regarding coordinated competitive solicitations.
- C. A competitive solicitation under this section must seek proposals for offshore wind power projects with not less than approximately 600 megawatts of nameplate capacity or of sufficient size to enable cost-competitive commercial-scale development. A competitive solicitation developed in coordination with other states or entities may seek proposals for offshore wind power projects with a nameplate capacity of less than 600 megawatts if the coordinated solicitation is in an aggregate amount sufficient to enable cost-competitive commercial-scale development.
- D. A solicitation under this section must specify bidder criteria, including:

(1) Submission of plans that meet or exceed state and federal requirements or guidelines and are consistent with the recommendations in the Maine Offshore Wind Roadmap issued by the office in February 2023:

(a) To ensure stakeholder engagement, capacity building and equity with particular consideration given to the energy and economic circumstances and opportunities in coastal and socially vulnerable communities, as defined in section 3407, subsection 1, paragraph E;

(b) To achieve economic and community benefits, including, but not limited to, investments in and development of ports, supply chains and the necessary workforce;

(c) To achieve diversity, equity and inclusion in employment and contracting for the project;

(d) To provide for fisheries research, monitoring and mitigation; and

(e) To provide for environmental and wildlife research, monitoring, mitigation and conservation;

(2) A fishing communities investment plan, as described in subsection 4;

(3) An agreement by the responsible entity, if it is approved for a contract under this section, to pay an amount set in the solicitation of at least \$5,000 per megawatt of the offshore wind power project's nameplate capacity to the Offshore Wind Research Consortium Fund in accordance with section 3406, subsection 4;

(4) An agreement by the responsible entity, if it is approved for a contract under this section, to provide financial and technical assistance necessary to implement the plans listed in subparagraphs (1) and (2); and

(5) Workforce requirements, as described in subsection 3.

The office may waive any of the requirements of this paragraph if the office determines that applicable federal criteria, including, but not limited to, federal lease provisions, adequately achieve the applicable requirement.

E. A competitive solicitation under this section must be announced, prior to issuance, through a notice of intent and made available in draft form, including the criteria for the plans required pursuant to paragraph D, for public comment. The office shall:

(1) Conduct at least 2 public comment sessions on the solicitation, at least one of which must be in person, in advance of the publication of a draft solicitation to assist in the development of the contents of the draft solicitation;

(2) Respond in writing to the comments received regarding the draft solicitation;

(3) Coordinate with the Department of Economic and Community Development, the Department of Marine Resources, the Department of Transportation, the Department of Inland Fisheries and Wildlife and the Department of Environmental Protection on the development of the criteria for the plans required pursuant to paragraph D;

(4) Coordinate with the Department of Agriculture, Conservation and Forestry to ensure submerged lands leasing rates and fees, as described in Title 12, section 1862, are aligned with the goals of the program as described in section 3407 and

reflect a fair market rate considering fees set by other states in the region for the use of submerged lands in connection with an offshore wind power project;

(5) Seek public input on appropriate contracting mechanisms for inclusion in the solicitations to address market dynamics and impacts to ratepayers, including, but not limited to, indexing and price adjustments;

(6) Request comments on the draft solicitation from each federally recognized Indian tribe in this State and the Maine Indian Tribal-State Commission; and

(7) In developing the plan criteria for the plans required pursuant to paragraph D, consider all comments received under subparagraph (6).

2. Requests for proposals; offshore wind power projects. The commission shall review a solicitation developed by the office under subsection 1 and, upon finding that the solicitation is reasonably likely to attract competitive bids and further the objectives of the program as described in section 3407, shall issue a request for proposals in accordance with this subsection.

A. The office shall file with the commission the first solicitation by July 1, 2025 unless another date is established by mutual agreement between the office and the commission.

B. The commission shall issue the first request for proposals by the later of January 15, 2026 and 3 months after the first auction by the federal Department of the Interior, Bureau of Ocean Energy Management for offshore wind power leases in the Gulf of Maine.

C. If, within any 3-year period between January 15, 2026 and January 1, 2039, the commission has not found a solicitation submitted by the office to be reasonably likely to further the objectives of the program as described in section 3407, the commission shall expeditiously develop and issue a request for proposals consistent with the requirements of this section.

D. The commission shall review and make a determination regarding a solicitation submitted by the office within 6 months of the date of submission.

E. If the commission determines that a contract for an amount greater than those specified in subsection 1, paragraph C is in the public interest, it may select resources and approve contracts accordingly.

F. In conducting a solicitation and selecting offshore wind power projects under this section, the commission shall ensure that selected projects result in contracts that are cost-effective for electric ratepayers over the term of the contract, taking into consideration potential quantitative and qualitative economic, environmental and other benefits to ratepayers.

The commission shall give priority to offshore wind power projects that:

(1) Have generation facilities located outside of Lobster Management Area 1;

(2) Include agreements compliant with subsection 3 or 29 United States Code, Section 158(f) and are open to disadvantaged business enterprises and small businesses;

(3) Provide employment and contracting opportunities for:

- (a) Members of federally recognized Indian tribes in this State;
 - (b) Workers from disadvantaged communities as defined by:
 - (i) The United States Council on Environmental Quality's climate and economic justice screening tool or by an agency of this State using standards similar to those in the screening tool as determined by the commission;
 - (ii) The United States Department of Commerce, Economic Development Administration's economic distress criteria; or
 - (iii) The United States Department of Energy's disadvantaged community criteria; and
 - (c) Certified businesses;
- (4) Provide community benefits, as determined preconstruction through consultation with federally recognized Indian tribes in this State, a stakeholder engagement process that includes disadvantaged communities, as described in subparagraph (3), division (b), and investments in fishing communities;
 - (5) Provide financial contributions or technical assistance to support research, monitoring and mitigation of impacts to wildlife, fisheries and habitats and the minimization of environmental impacts from the offshore wind power project and related transmission and interconnection infrastructure;
 - (6) Provide economic benefits to the State, including using an offshore wind port located in this State;
 - (7) Maximize the hiring of residents of this State;
 - (8) Maximize economic, employment and contracting opportunities for residents of this State and all businesses in this State; and
 - (9) Provide ratepayer benefits, including, but not limited to, enhanced electric reliability, resource adequacy including contributing to reducing winter electricity price spikes and overall price impacts, avoidance of line loss and mitigation of transmission costs to the extent possible.

The commission shall allow the office to review the bids submitted pursuant to this subsection. The office may provide input to the commission upon review of the bids, which may include an assessment as to whether any bids submitted are consistent with the goals of the program as described in section 3407, subsection 1.

G. The commission may direct one or more transmission and distribution utilities to enter into long-term contracts for energy, capacity or renewable energy credits from offshore wind power projects selected by the commission in accordance with this subsection.

H. If, at the close of a competitive bidding process conducted under this section, the commission determines that the proposals submitted do not satisfy the requirements of paragraph F, the commission shall reject all proposals and shall open a new competitive bidding process under this subsection.

I. Notwithstanding Title 5, section 8071, subsection 3, the commission, after consultation with the office, may establish by rule reasonable fees that bidders must

submit with proposals for offshore wind power projects. Fees collected pursuant to this paragraph may be used for the administration of this section, section 3406 and section 3407. Upon request of the office, the commission may transfer fees collected in accordance with this paragraph to the office for the administration of this section, section 3406 and section 3407.

3. Community and workforce enhancement standards. The following community and workforce enhancement standards apply to contractors and subcontractors involved in the construction of an offshore wind power project pursuant to this section.

A. A contractor or subcontractor shall:

(1) Ensure that all construction workers earn compensation at or above the Maine emerging industry compensation threshold; and

(2) Meet the requirements outlined in Title 26, section 1317.

B. Prior to the commencement of each contractor's or subcontractor's construction work on the offshore wind power project, if that contractor or subcontractor determines that additional construction workers are necessary in excess of the contractor's or subcontractor's currently available and qualified employees to fulfill the contractor's or subcontractor's contractual obligations, the contractor or subcontractor shall:

(1) Use the services of contractors or subcontractors that use a hiring hall in order to meet their workforce needs; and

(2) Provide regular employment opportunities first to members of the affected community and residents of this State and then to individuals who reside in the New England region.

C. If a contractor or subcontractor, after an exhaustion of all efforts required by paragraph B for a period of 90 business days, while remaining in compliance with all other standards and requirements of this subsection, is unable to employ enough construction workers to fulfill the contractor's or subcontractor's contractual obligations, the contractor or subcontractor may use any means necessary to fulfill the contractor's or subcontractor's contractual obligations for a period of no more than 30 business days.

D. If, after complying with the procedures and timing required by paragraphs B and C, a contractor or subcontractor determines that additional construction workers are needed, that contractor or subcontractor may use the following means to fulfill the contractor's or subcontractor's contractual obligations.

(1) The contractor or subcontractor shall provide the opportunity to fill a minimum of 50% of all remaining construction worker hours to contractors or subcontractors that use a hiring hall in order to meet their workforce needs.

(2) If contractors and subcontractors that use a hiring hall in order to meet their construction workforce needs cannot maintain the minimum threshold of 50% of the remaining construction worker hours for a period of 10 consecutive business days, the requesting contractor or subcontractor may use any means considered necessary by that requesting contractor or subcontractor to fulfill the contractor's or subcontractor's contractual obligations, including continued engagement with

contractors and subcontractors that use a hiring hall in order to meet their construction workforce needs, in order to maintain the 50% threshold.

E. Subject to compliance with all other provisions of this subsection, a contractor or subcontractor responsible for construction work may continue to operate and implement a registered apprenticeship program and other relevant continuing education programs in order to meet an ongoing or new construction workforce demand. The registered apprenticeship program must have graduated apprentices within one year prior to the commencement of the registered apprenticeship program's sponsor's or subsponsor's construction work on the offshore wind power project.

Contractors and subcontractors responsible for construction work that operate a registered apprenticeship program pursuant to this paragraph:

(1) Shall meet or exceed the apprenticeship percentage requirements specified in Title 26, section 3502, subsection 1;

(2) Are subject to the penalties specified in Title 26, section 3502, subsection 3; and

(3) Shall provide proof within 7 calendar days of a request from the Department of Labor that all apprentices employed on the offshore wind power project are enrolled in a registered apprenticeship program.

F. If a contractor or subcontractor responsible for construction work determines the construction workforce needs to be decreased at any point throughout the completion of the offshore wind power project, reductions in the construction workforce or layoffs must be performed in the following priority:

(1) Based on the skills needed, keeping those workers whose skills are still needed for the completion of the offshore wind power project; and

(2) Based upon seniority on the offshore wind power project, with the last construction worker commencing work on the offshore wind power project being the first construction worker to receive a layoff.

G. A contractor or subcontractor responsible for performing construction work:

(1) Shall carry workers' compensation coverage and contribute to unemployment insurance for each construction worker on the site of the project;

(2) May not hire or employ the services of a temporary staffing agency or organization;

(3) Is prohibited from employing or using independent contractors as defined in Title 39-A, section 102, subsection 13-A, not including Maine-based individual owner-operators or sole proprietors in the transportation industry;

(4) Shall keep an accurate record showing the name and occupation of all construction workers employed by the contractor or subcontractor performing construction work on the offshore wind power project. The record must also show for each construction worker the hours worked, the title of the job, the hourly rate or other method of remuneration and the actual wages or other compensation, in compliance with the Maine emerging industry compensation threshold. The contractor or subcontractor shall keep a copy of the record at the construction site

and allow inspection of the record during all reasonable hours by Department of Labor, Bureau of Labor Standards and, as applicable, the public authority and its officers and agents that let the contract;

(5) Shall post a clearly legible statement of all Maine emerging industry compensation threshold wage and benefit rates to be paid to each class of construction worker employed on the offshore wind power project. This statement must be kept posted throughout the duration of the offshore wind power project and be easily accessible at the offshore wind power project construction site; and

(6) Shall retain documentation of compliance with the requirements of this subsection. The records made pursuant to this subsection must be retained for 3 years after the termination of the contract for the construction work performed.

H. If a construction worker performing construction work at the offshore wind power project site who is paid less than the Maine emerging industry compensation threshold, that construction worker may recover from the contractor or subcontractor responsible for the construction work a penalty equal to the difference between the actual wage and benefits paid and the Maine emerging industry compensation threshold and, in addition to the penalty, reasonable attorney's fees. The surety for the contractor or subcontractor responsible for the construction work is not liable for the penalty or attorney's fees.

I. A contractor or subcontractor shall guarantee against strikes, lockouts or similar disruptions.

J. A contractor or subcontractor shall demonstrate adherence to the inclusive bidding standards and document that adherence.

The Department of Labor shall adopt routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A, to implement this subsection.

Notwithstanding any provision of this subsection to the contrary, an agreement that meets the requirements of 29 United States Code, Section 158(f) for the covered work is deemed to comply with the requirements of this subsection.

4. Fishing communities investment plan requirements. A fishing communities investment plan must include a plan for ongoing investment in fishing communities with a stated annual target rate of investment.

A. The plan must be designed to:

(1) Support innovation and adaptation in response to environmental change, shifting resource economics and changes in fishing practices associated with offshore wind power development;

(2) Protect seafood-related working waterfront infrastructure;

(3) Assist persons fishing commercially at an entry level; and

(4) Assist persons fishing commercially seeking to provide the responsible entity with offshore services.

B. Investment strategies within the plan may include, but are not limited to, subsidizing commercial lending interest rates, loan guarantees and funding programs or grant programs to support persons fishing commercially and fishing-related businesses and entities established to provide support services to the fishing industry.

C. The plan must identify administration costs separately from the annual target rate of investment.

D. The plan must include a requirement that the responsible entity convene an advisory body made up of representatives, which may include, but are not limited to, representatives from the fishing industry and fishing community, the Department of Marine Resources and relevant commercial lending institutions, a person appointed by the responsible entity to serve as the liaison to the fishing community and other relevant persons or entities. The advisory body must monitor investment plan performance against the annual target, monitor effectiveness of investment strategies and identify opportunities for improving fisheries and fishing communities through plan investment.

5. Funding. Notwithstanding section 116, subsection 4, upon receiving a written request from the office, the commission may provide reasonable funding to the office for the purposes of implementing the requirements of this section.

6. Rulemaking; protective orders. The commission shall adopt rules to implement this section. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. The rules must include procedures for monitoring, measuring and enforcing ongoing compliance by responsible entities with the requirements of this section.

A. The rules must require the responsible entity to provide biannual reports to the commission regarding its compliance with the plans submitted as part of its bid under subsection 2. The rules must require a report submitted by the responsible entity to exclude personally identifying information to the greatest extent practicable. If the report includes confidential or proprietary information, trade secrets or similar matters as provided by the Maine Rules of Civil Procedure, Rule 26(c), the commission may issue appropriate protective orders in accordance with section 1311-A with respect to those portions of the report and shall make available to the public an appropriately redacted copy of the report. The commission shall provide to the office the redacted copy, which the office shall post on the office's publicly accessible website.

B. The commission shall establish by rule a process for the review, in coordination with the office, of the biannual reports provided by the responsible entity and a mechanism for public participation regarding the contents of the report.

Sec. 7. 35-A MRSA §3409 is enacted to read:

§3409. Offshore wind power transmission

The commission, in coordination with the office, shall seek to advance regional transmission solutions to interconnect offshore wind power with transmission and distribution utilities, other New England states or entities and the independent system operator of the New England bulk power system or a successor organization.

1. Transmission solicitation and procurement. The commission may conduct one or more competitive solicitations for proposals for the development and construction of offshore wind energy transmission projects or other electric infrastructure projects to facilitate offshore wind energy development and approve contracts for such projects in accordance with this section.

A. In developing a solicitation and approving a contract under this section, the commission shall:

(1) Consider the amount of transmission capacity needed to maintain or improve electric system reliability;

(2) Avoid unnecessary costs to upgrade the existing transmission grid;

(3) Seek to achieve the greenhouse gas emissions reduction obligations and climate policies of this State under Title 38, section 576-A and Title 38, section 577 and renewable energy goals under section 3210, subsection 1-A;

(4) Pursue demonstrable benefits for electric ratepayers; and

(5) Encourage projects that avoid, minimize or mitigate impacts to wildlife, the environment, fisheries, fishing activities or tribal burial and archeological sites, whether submerged or on land.

B. The commission shall coordinate with the office and may coordinate with other entities, including, but not limited to, transmission and distribution utilities, other New England states and the independent system operator of the New England bulk power system or a successor organization, in the solicitation and selection of proposals under this section.

C. The commission may host conferences with prospective bidders in advance of issuing solicitations under this section.

D. A responsible entity may submit a proposal in response to a solicitation conducted under this section as long as the transmission service proposal provides for transmission service for more than one offshore wind power project.

E. The commission may consider proposals that include, but are not limited to, upgrading the existing grid, extending the grid closer to offshore wind power projects, determining or upgrading optimal landfall approaches or interconnecting between offshore substations.

F. The commission may select one proposal, multiple proposals or no proposals.

G. The commission may select proposals that include federal funding in the form of a match, grant or loan or through ownership and operation by the Federal Government, cost sharing among states or recovery of transmission costs through federal transmission rates.

H. The commission may modify a solicitation under this section, prior to selecting any proposal, in order to satisfy federal eligibility criteria.

2. Rules. The commission may adopt rules to implement this section. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 8. 35-A MRSA §3410 is enacted to read:

§3410. Determination of effect on scenic character and related existing uses

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

A. "Associated facilities" means elements of an offshore wind terminal, other than the quay, fixed and mobile cranes, offshore wind foundations and wind turbine generators, that are necessary to the proper operation and maintenance of the offshore wind terminal, including, but not limited to, buildings, access roads and laydown areas.

B. "Best practical mitigation" means methods or technologies used during construction or operation of an offshore wind terminal that control or reduce to the lowest feasible level visual and scenic impacts. "Best practical mitigation" may include, but is not limited to, turbine and blade coloration to reduce visual impacts and aircraft detection technologies to reduce the need for aircraft hazard warning lighting.

C. "Department" means the Department of Environmental Protection.

D. "Offshore wind terminal" means a port facility used for fabricating offshore wind turbine foundations, launching floating foundations into the water, assembling wind turbine generators atop the foundations or preparing the assembled wind turbine for towing to a wet berth or installation site. "Offshore wind terminal" includes a quay with berths to accommodate the assembly of wind turbine generators and offshore wind component delivery vessels, an upland laydown area for foundation fabrication and storage of wind turbine generator components, fabrication facilities, fixed and mobile cranes, associated facilities and terminal offices and access roads.

2. Application of standard. This subsection governs the department's or the Maine Land Use Planning Commission's making findings regarding the effect of an offshore wind terminal on scenic or natural character and existing uses related to scenic character pursuant to Title 12, section 685-B, subsection 4 or Title 38, section 484, subsection 3 or Title 38, section 480-D. An offshore wind terminal project must minimize the adverse effect on scenic character and existing uses related to scenic character to the maximum extent practicable and use best practical mitigation to control and reduce visual and scenic impacts. Except as otherwise provided in subsection 3, determination that an offshore wind terminal fits harmoniously into the existing natural environment in terms of potential effects on scenic or natural character and existing uses related to scenic character is not required for approval under either Title 12, section 685-B, subsection 4, paragraph C or Title 38, section 484, subsection 3.

3. Exception to standard; certain associated facilities. The department, or in the case of certification under Title 38, chapter 3, subchapter 1, article 6 the Maine Land Use Planning Commission, shall evaluate the effect of associated facilities of an offshore wind terminal in terms of potential effects on scenic character and existing uses related to scenic character in accordance with Title 12, section 685-B, subsection 4, paragraph C or Title 38, section 484, subsection 3, in the manner provided for development other than offshore wind terminal development.

4. Limitation on number of offshore wind terminals. The department may not approve permits under Title 12, section 685-B, subsection 4 or Title 38, section 484, subsection 3 or Title 38, section 480-D for more than 4 offshore wind terminals. If a permit approved under Title 12, section 685-B, subsection 4 or Title 38, section 484, subsection 3 or Title 38, section 480-D expires, is surrendered or is revoked prior to construction of an offshore wind terminal, the department may approve a permit under those sections for another offshore wind terminal.

Sec. 9. 35-A MRSA §3451, sub-§4, as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

4. Expedited wind energy development. "Expedited wind energy development" means a grid-scale wind energy development or a port facility necessary to the proper operation and maintenance of an offshore wind power project as defined in section 3401-A, subsection 15 that is proposed for location within an expedited permitting area.

Sec. 10. 35-A MRSA §3453-A, sub-§3, ¶A, as enacted by PL 2015, c. 265, §8 and affected by §10, is amended to read:

A. Will not have an unreasonable adverse effect on the State's ability to meet the state goals goal for wind energy development in proximate federal waters in section 3404, subsection 2, paragraph C; and

Sec. 11. 38 MRSA §480-D, sub-§1, amended by PL 2009, c. 615, Pt. E, §8, is further amended by enacting at the end a new blocked paragraph to read:

In making a determination under this subsection regarding an offshore wind terminal as defined in Title 35-A, section 3410, subsection 1, paragraph D, the department shall consider the terminal's effects on scenic character and existing uses related to scenic character in accordance with Title 35-A, section 3410.

Sec. 12. 38 MRSA §482, sub-§2, ¶F, as amended by PL 2009, c. 615, Pt. E, §14, is further amended to read:

F. Is an oil terminal facility as defined in this section; ~~or~~

Sec. 13. 38 MRSA §482, sub-§2, ¶J, as enacted by PL 2009, c. 615, Pt. E, §15, is amended to read:

J. Is an offshore wind power project with an aggregate generating capacity of 3 megawatts or more; or

Sec. 14. 38 MRSA §482, sub-§2, ¶K is enacted to read:

K. Is an offshore wind terminal as defined in Title 35-A, section 3410, subsection 1, paragraph D.

Sec. 15. 38 MRSA §484, sub-§3, ¶J is enacted to read:

J. In making a determination under this subsection regarding an offshore wind terminal as defined in Title 35-A, section 3410, subsection 1, paragraph D, the department shall consider the terminal's effects on scenic character and existing uses related to scenic character in accordance with Title 35-A, section 3410.

Sec. 16. Office of Tax Policy to develop Fishing Community Protection Tax Incentive Program. The Department of Administrative and Financial Services, Bureau of Revenue Services, Office of Tax Policy, in consultation with the Department of Marine Resources and the Governor's Energy Office, shall develop the Fishing Community Protection Tax Incentive Program, referred to in this section as "the program," to provide a tax credit to applicants for qualified investments in offshore wind power projects consistent with the purposes described in the Maine Revised Statutes, Title 35-A, sections 3407 and 3408. For purposes of this section, "qualified investments" means activities that

relate to the design, permitting, construction, modification or equipment of an applicant's offshore wind power project.

1. Program requirements. The program must:

- A. Provide incentives for siting offshore wind power projects with generation facilities outside of Lobster Management Area 1, as defined by the Department of Marine Resources by rule;
- B. Protect ratepayers from any additional costs associated with the siting objectives in paragraph A;
- C. Increase the State's competitiveness in securing offshore wind power projects and its associated climate and economic benefits; and
- D. Include a tax credit not to exceed \$16,000,000 in the aggregate annually for up to 20 years.

2. Reports. No later than December 1, 2023, the Office of Tax Policy shall publish on its publicly accessible website a draft report on the development of the program and shall accept public comments on the draft report for at least 30 days. No later than February 1, 2024, the Office of Tax Policy shall submit a final report to the Joint Standing Committee on Taxation and the Joint Standing Committee on Energy, Utilities and Technology that includes its findings and recommendations about developing the program, including suggested legislation. The Joint Standing Committee on Taxation may report out a bill to the Second Regular Session of the 131st Legislature relating to the report.

Sec. 17. Appropriations and allocations. The following appropriations and allocations are made.

EXECUTIVE DEPARTMENT

**Maine Offshore Wind Renewable Energy and Economic Development Program
N471**

Initiative: Provides allocation to establish the program.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
All Other	\$500	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$500	\$500

EXECUTIVE DEPARTMENT

DEPARTMENT TOTALS

	2023-24	2024-25
OTHER SPECIAL REVENUE FUNDS	\$500	\$500
DEPARTMENT TOTAL - ALL FUNDS	\$500	\$500

PUBLIC UTILITIES COMMISSION

Public Utilities - Administrative Division 0184

Initiative: Provides allocations for expenditures related to one Staff Attorney position and associated All Other costs.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$165,705
All Other	\$0	\$15,874
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$181,579</u>
PUBLIC UTILITIES COMMISSION DEPARTMENT TOTALS	2023-24	2024-25
OTHER SPECIAL REVENUE FUNDS	\$0	\$181,579
DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$181,579</u>
SECTION TOTALS	2023-24	2024-25
OTHER SPECIAL REVENUE FUNDS	\$500	\$182,079
SECTION TOTAL - ALL FUNDS	<u>\$500</u>	<u>\$182,079</u>