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Legislative Document

No. 1559

H.P. 1128

House of Representatives, June 5, 2013

**An Act To Reduce Energy Costs, Increase Energy Efficiency,
Promote Electric System Reliability and Protect the Environment**

Under suspension of the rules Reported by Representative HOBBS of Saco,
Representative FREDETTE of Newport and Senator CLEVELAND of Androscoggin for the
Joint Standing Committee on Energy, Utilities and Technology pursuant to Joint Order H.P.
1125.

Millicent M. MacFarland
MILLCENT M. MacFARLAND
Clerk

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

2 **PART A**

3 **Sec. A-1. 35-A MRSA §122, sub-§6-B**, as enacted by PL 2011, c. 652, §13 and
4 affected by §14, is amended to read:

5 **6-B. Revenue from energy infrastructure corridors.** Notwithstanding subsection
6 6-A, ~~90%~~ 20% of the revenues generated from the use of statutory corridors designated
7 under subsection 1-A, paragraphs A and B owned by the Department of Transportation
8 within energy infrastructure corridors must be deposited into the Secondary Road
9 Program Fund established in Title 23, section 1803-C and ~~40%~~ 80% of the revenues must
10 be deposited into the energy infrastructure benefits fund established in Title 5, section
11 282, subsection 9.

12 **Sec. A-2. 35-A MRSA §3210-C, sub-§12**, as enacted by PL 2011, c. 413, §3, is
13 repealed.

14 **Sec. A-3. 35-A MRSA §10103, sub-§1, ¶B**, as enacted by PL 2009, c. 372, Pt.
15 B, §3, is repealed and the following enacted in its place:

16 B. Reduce energy costs and improve security of the state and local economies. The
17 trust shall administer cost-effective energy and energy efficiency programs consistent
18 with applicable requirements of this chapter and other law to help individuals and
19 businesses meet their energy needs at the lowest cost and generally to improve the
20 economic security of the State by:

21 (1) Reducing the cost of energy to residents of the State;

22 (2) Maximizing the use of cost-effective weatherization and energy efficiency
23 measures, including measures that improve the energy efficiency of energy-using
24 systems, such as heating and cooling systems and system upgrades to energy
25 efficient systems that rely on affordable energy resources;

26 (3) Reducing economic insecurity from the inefficient use of fossil fuels;

27 (4) Increasing new jobs and business development to deliver affordable energy
28 and energy efficiency products and services;

29 (5) Enhancing heating improvements for households of all income levels through
30 implementation of cost-effective efficiency programs, including weatherization
31 programs and affordable heating systems, that will produce comfort, improve
32 indoor air quality, reduce energy costs for those households and reduce the need
33 for future fuel assistance;

34 (6) Simplifying and enhancing consumer access to technical assistance and
35 financial incentives relating to energy efficiency and the use of alternative energy
36 resources by merging or coordinating dispersed programs under a single
37 administrative unit possessing independent management and expertise; and

38 (7) Using cost-effective energy and energy efficiency investments to reduce
39 greenhouse gas emissions;

1 **Sec. A-4. 35-A MRSA §10103, sub-§1, ¶D**, as enacted by PL 2009, c. 372, Pt.
2 B, §3, is amended to read:

3 D. Actively promote investment in cost-effective energy and energy efficiency
4 measures and systems that use ~~alternative~~ energy resources that reduce overall energy
5 costs for consumers in the State.

6 **Sec. A-5. 35-A MRSA §10103, sub-§4**, as amended by PL 2009, c. 655, Pt. B,
7 §3, is further amended to read:

8 **4. Program funding.** The board may apply for and receive grants from state,
9 federal and private sources for deposit into appropriate program funds, including funds
10 for both residential and business programs. The board may deposit in appropriate
11 program funds the proceeds of any bonds issued for the purposes of programs
12 administered by the trust. The board may receive and shall deposit in appropriate
13 program funds revenue resulting from any forward capacity market or other capacity
14 payments from the regional transmission organization that may be attributable to ~~by~~ those
15 projects funded by those funds. The board shall deposit into appropriate program funds
16 revenue transferred to the trust from the energy infrastructure benefits fund pursuant to
17 Title 5, section 282, subsection 9 for use in accordance with subsection 4-A. The board
18 may also deposit any grants or other funds received by or from any entity with which the
19 trust has an agreement or contract pursuant to this chapter if the board determines that
20 receipt of those funds is consistent with the purposes of this chapter.

21 **Sec. A-6. 35-A MRSA §10103, sub-§4-A, ¶A**, as enacted by PL 2009, c. 655,
22 Pt. B, §4, is repealed and the following enacted in its place:

23 A. To improve the State's economy by pursuing lower energy costs for people,
24 communities and businesses in a manner that will enhance the environment of the
25 State in accordance with the triennial plan. In the expenditure of funds pursuant to
26 this paragraph, the trust may provide grants, loans, programs and incentives; and

27 **Sec. A-7. 35-A MRSA §10104, sub-§1**, as enacted by PL 2009, c. 372, Pt. B, §3,
28 is amended to read:

29 **1. Generally.** In accordance with this section and other applicable law, the trust
30 administers and disburses funds and coordinates programs to promote reduced energy
31 costs, energy efficiency and increased use of alternative energy resources in the State.
32 The trust is responsible for accounting for, evaluating and monitoring all activities of the
33 trust and all programs funded in whole or in part by the trust.

34 **Sec. A-8. 35-A MRSA §10104, sub-§2, ¶B**, as enacted by PL 2009, c. 372, Pt.
35 B, §3, is amended to read:

36 B. The effectiveness of programs is maximized by building up and centralizing
37 expertise, addressing conflicts of interest, mitigating the influence of politics,
38 promoting flexible, timely program management and providing a champion for
39 funding cost-effective energy and energy efficiency programs;

1 **Sec. A-9. 35-A MRSA §10104, sub-§3**, as enacted by PL 2009, c. 372, Pt. B, §3,
2 is amended to read:

3 **3. Measures of performance.** The trust shall develop quantifiable measures of
4 performance for all programs it administers and to which it will hold accountable all
5 recipients of funding from the trust and recipients of funds used to deliver energy and
6 energy efficiency and weatherization programs administered or funded by the trust. Such
7 measures may include, but are not limited to, reduced energy consumption, increased use
8 of alternative energy resources, reduced heating costs, reduced capacity demand for
9 natural gas, electricity and fossil fuels, reduced carbon dioxide emissions, program and
10 overhead costs and cost-effectiveness, the number of new jobs created by the award of
11 trust funds, the number of energy efficiency trainings or certification courses completed
12 and the amount of sales generated.

13 **Sec. A-10. 35-A MRSA §10104, sub-§4, ¶A**, as enacted by PL 2009, c. 372, Pt.
14 B, §3, is amended to read:

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

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

32 **Sec. A-11. 35-A MRSA §10104, sub-§4, ¶C**, as enacted by PL 2009, c. 372, Pt.
33 B, §3, is amended to read:

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

42 **Sec. A-12. 35-A MRSA §10104, sub-§4, ¶D**, as amended by PL 2009, c. 518,
43 §8, is further amended to read:

1 D. Prior to submission of the triennial plan to the commission, the trust shall offer to
2 provide a detailed briefing on the draft plan to the joint standing committee of the
3 Legislature having jurisdiction over energy matters and, at the request of the
4 committee, shall provide such a briefing and opportunity for input from the
5 committee. After providing such opportunity for input and making any changes as a
6 result of any input received, the board shall deliver the plan to the commission for its
7 review and approval. The commission shall open ~~a~~ an adjudicatory proceeding and
8 issue an order either approving the plan and issuing the appropriate orders to
9 transmission and distribution utilities and gas utilities or rejecting the plan and stating
10 the reasons for the rejection. The commission shall reject elements of the plan that
11 propose to use funds generated pursuant to sections 3210-C, 10110, 10111 or 10119
12 if the plan fails to reasonably explain how these elements of the program would
13 achieve the objectives and implementation requirements of the programs established
14 under those sections or the measures of performance under subsection 3. Funds
15 generated under these statutory authorities may not be used pursuant to the triennial
16 plan unless those elements of the plan proposing to use the funds have been approved
17 by the commission. The commission shall approve ~~or reject any~~ all elements of the
18 triennial plan it determines to be cost-effective, reliable and achievable and shall
19 incorporate into gas utility and transmission and distribution rates sufficient revenue
20 to provide for the procurement of energy efficiency resources identified within the
21 plan pursuant to section 10110, subsection 4-A and section 10111, subsection 2. The
22 commission shall approve or reject the entire plan or elements of the plan within 60
23 120 days of its delivery to the commission. The board, within 45 30 days of final
24 commission approval of its plan, shall submit the plan to the joint standing committee
25 of the Legislature having jurisdiction over energy matters together with any
26 explanatory or other supporting material as the committee may request and, at the
27 request of the committee, shall provide a detailed briefing on the final plan. After
28 receipt of the plan, the joint standing committee of the Legislature having jurisdiction
29 over energy matters may submit legislation relating to the plan.

30 **Sec. A-13. 35-A MRS §10104, sub-§4, ¶F**, as amended by PL 2009, c. 518,
31 §8, is repealed and the following enacted in its place:

32 F. It is an objective of the triennial plan to design, coordinate and integrate sustained
33 energy efficiency and weatherization programs that are available to all energy
34 consumers in the State and to users of all fuel types. The plan must set forth the costs
35 and benefits of energy efficiency programs that advance the following goals, and
36 funding necessary to meet those goals:

37 (1) Reducing energy costs, including residential heating costs;

38 (2) Weatherizing substantially all homes whose owners or occupants are willing
39 to participate in and share the costs of cost-effective home weatherization to a
40 minimum standard of weatherization, as defined by the trust, by 2030;

41 (3) Reducing peak-load demand for electricity through trust programs by 300
42 megawatts by 2020;

43 (4) By 2020, achieving electricity and natural gas program savings of at least
44 20% and heating fuel savings of at least 20%, as defined in and determined

1 pursuant to the measures of performance approved by the commission under
2 section 10120;

3 (5) Creating stable private sector jobs providing alternative energy and energy
4 efficiency products and services in the State by 2020; and

5 (6) Reducing greenhouse gas emissions from the heating and cooling of buildings
6 in the State by amounts consistent with the State's goals established in Title 38,
7 section 576.

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

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

17 As used in this paragraph, "heating fuel" means liquefied petroleum gas, kerosene or
18 #2 heating oil, but does not include fuels when used for industrial or manufacturing
19 processes.

20 **Sec. A-14. 35-A MRS §10109, sub-§3,** as enacted by PL 2009, c. 372, Pt. B,
21 §3, is repealed.

22 **Sec. A-15. 35-A MRS §10109, sub-§4, ¶A,** as enacted by PL 2009, c. 372, Pt.
23 B, §3, is amended to read:

24 A. During ~~the years 2009, 2010 and 2011~~ fiscal years 2013-14, 2014-15 and 2015-
25 16, not less than ~~85%~~ 50% of the trust fund funds received during those years must be
26 allocated for measures, investments and arrangements that reduce electricity
27 consumption or reduce greenhouse gas emissions and lower energy costs at
28 commercial or industrial facilities, and ~~not more than 15%~~ 35% of the funds received
29 by the trust fund during those years must be allocated for fossil fuel conservation
30 measures, investments and arrangements used for investment in measures that lower
31 residential heating energy demand and reduce greenhouse gas emissions. The
32 measures that lower residential heating demand must be fuel-neutral and may
33 include, but are not limited to, energy efficiency improvements to residential
34 buildings and upgrades to efficient heating systems that will reduce residential energy
35 costs and greenhouse gas emissions, as determined by the board. The trust shall
36 transfer to the commission 15% of funds received by the trust fund during fiscal years
37 2013-14, 2014-15 and 2015-16, which the commission shall direct transmission and
38 distribution utilities to disburse to ratepayers in a manner that provides maximum
39 benefit to the Maine economy. Subject to the apportionment ~~between fossil fuel and~~
40 electricity conservation pursuant to this subsection, the trust shall fund conservation
41 programs that give priority to measures with the highest benefit-to-cost ratio, as long
42 as cost-effective collateral efficiency opportunities are not lost, and that:

1 (1) Reliably reduce greenhouse gas production and heating energy costs by fossil
2 fuel combustion in the State at the lowest cost in funds from the trust fund per
3 unit of emissions; or

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

6 **Sec. A-16. 35-A MRSA §10109, sub-§4, ¶D**, as amended by PL 2009, c. 565,
7 §6 and affected by §9, is further amended to read:

8 ~~D. Nonelectric savings programs must be used to maximize fossil fuel energy~~
9 ~~efficiency and conservation and associated greenhouse gas reductions, subject to the~~
10 ~~apportionment between fossil fuel and electricity conservation set forth in paragraph~~
11 ~~A.~~ Community-based renewable energy projects, as defined in section 3602,
12 subsection 1, may apply for funding from the trust ~~as nonelectric savings programs to~~
13 ~~the extent they are eligible under paragraph A.~~

14 **Sec. A-17. 35-A MRSA §10109, sub-§4, ¶J**, as enacted by PL 2009, c. 372, Pt.
15 B, §3, is amended to read:

16 J. Trust fund receipts ~~may~~ must, upon request by the Department of Environmental
17 Protection, fund research approved by the Department of Environmental Protection in
18 an amount of up to \$100,000 per year to develop new categories for carbon dioxide
19 emissions offset projects, as defined in Title 38, section 580-A, subsection 6, that are
20 located in the State. Expenditures on research pursuant to this paragraph are not
21 considered administrative costs under paragraph F, subparagraph (1).

22 **Sec. A-18. 35-A MRSA §10110, sub-§2, ¶B**, as enacted by PL 2009, c. 372, Pt.
23 B, §3, is amended to read:

24 B. The trust, with regard to ~~the assessment imposed under subsection 4~~ funds
25 available to the trust under this section, shall:

26 (1) Target at least ~~20%~~ 10% of funds for electricity conservation collected under
27 subsection 4 or 4-A or \$2,600,000, whichever is greater, to programs for low-
28 income residential consumers, as defined by the board by rule;

29 (2) Target at least ~~20%~~ 10% of funds for electricity conservation collected under
30 subsection 4 or 4-A or \$2,600,000, whichever is greater, to programs for small
31 business consumers, as defined by the board by rule; and

32 (3) To the greatest extent practicable, apportion remaining funds among
33 customer groups and geographic areas in a manner that allows all other customers
34 to have a reasonable opportunity to participate in one or more conservation
35 programs.

36 **Sec. A-19. 35-A MRSA §10110, sub-§4**, as enacted by PL 2009, c. 372, Pt. B,
37 §3, is repealed.

38 **Sec. A-20. 35-A MRSA §10110, sub-§4-A** is enacted to read:

1 **4-A. Procurement of cost-effective energy efficiency resources.** The commission
2 shall ensure that transmission and distribution utilities on behalf of their ratepayers
3 procure all electric energy efficiency resources found by the commission to be cost-
4 effective, reliable and achievable pursuant to section 10104, subsection 4, except that the
5 commission may not require the inclusion in rates under this subsection of a total amount
6 that exceeds 4% of total retail electricity transmission and distribution sales in the State as
7 determined by the commission by rule. The cost of procurement of cost-effective electric
8 energy efficiency resources is a just and reasonable element of rates. The commission
9 may issue any appropriate orders to transmission and distribution utilities necessary to
10 achieve the goals of this subsection. When determining the amount of cost-effective
11 electric energy efficiency resources to be procured under this subsection, the commission
12 shall:

13 A. Consider electric energy efficiency resources that are reasonably foreseeable to be
14 acquired by the trust using all other sources of revenue, including, but not limited to,
15 the Regional Greenhouse Gas Initiative Trust Fund under section 10109;

16 B. Ensure that calculations of avoided energy costs and the budget identified by the
17 trust in its triennial plan as needed to capture all cost-effective electric energy
18 efficiency resources are reasonable, based on sound evidence and make use of best
19 practices across the region; and

20 C. Maximize total electricity savings for all ratepayers.

21 The commission shall consider gross efficiency savings for the purpose of determining
22 savings that are cost-effective, reliable and achievable and shall consider both net and
23 gross efficiency savings for the purpose of determining the appropriateness of the amount
24 identified by the trust in its triennial plan as needed to capture all cost-effective electric
25 energy efficiency resources.

26 Rules adopted under this subsection are routine technical rules under Title 5, chapter 375,
27 subchapter 2-A.

28 **Sec. A-21. 35-A MRS §10110, sub-§5,** as amended by PL 2009, c. 518, §10, is
29 repealed.

30 **Sec. A-22. 35-A MRS §10110, sub-§6,** as enacted by PL 2009, c. 372, Pt. B,
31 §3, is amended to read:

32 **6. Transmission and subtransmission voltage level.** After July 1, 2007, electricity
33 customers receiving service at transmission and subtransmission voltage levels are not
34 eligible for ~~new~~ conservation programs undertaken under this section, and those
35 customers are not required to pay in rates any amount associated with the assessment
36 imposed on transmission and distribution utilities under subsection 4 ~~or subsection 5~~ , or
37 any amount associated with any procurement of energy efficiency resources by
38 transmission and distribution utilities ordered under subsection 4-A. To remove the
39 amount of the assessment under subsection 4, the commission shall reduce the rates of
40 such customers by 0.145 cent per kilowatt-hour. For the purposes of this section,
41 "transmission voltage levels" means 44 kilovolts or more, and "subtransmission voltage
42 levels" means 34.5 kilovolts.

1 **Sec. A-23. 35-A MRSA §10110, sub-§8**, as enacted by PL 2009, c. 372, Pt. B,
2 §3, is amended to read:

3 **8. Administration fund.** The trust ~~shall establish a conservation~~ may transfer up to
4 9% of funds collected pursuant to this section to its administration fund to be used solely
5 to defray administrative costs. The commission, at the direction of the trust, may
6 annually deposit funds collected pursuant to this section into the administration fund up
7 to a maximum in any fiscal year of up to 9% of total funds received pursuant to
8 subsections 4 and 5. Any interest on funds in the administration fund must be credited to
9 the administration fund and any funds unspent in any fiscal year must either remain in the
10 administration fund to be used to defray administrative costs or be transferred to the
11 program fund.

12 **Sec. A-24. 35-A MRSA §10110, sub-§10**, as enacted by PL 2009, c. 372, Pt. B,
13 §3, is amended to read:

14 **10. Funds held in trust.** All funds collected from electricity consumers pursuant to
15 this section are collected under the authority and for the purposes of this section and are
16 deemed to be held in trust for the purposes of benefiting electricity consumers. In the
17 event funds are not expended or contracted for expenditure within 2 years of being
18 collected from consumers, the commission shall ~~return~~ ensure that the value of those
19 funds is returned to consumers ~~by appropriate reductions in the assessment collected~~
20 ~~pursuant to subsection 4.~~

21 **Sec. A-25. 35-A MRSA §10111, sub-§2**, as amended by PL 2011, c. 637, §7, is
22 further amended to read:

23 **2. Funding level.** The natural gas conservation fund, which is a nonlapsing fund, is
24 established to carry out the purposes of this section. The commission shall assess each
25 gas utility ~~that serves at least 5,000 residential customers an amount that is no less than~~
26 ~~3% of the gas utility's delivery revenues as defined by commission rule. In, in~~
27 accordance with the triennial plan, the commission may assess a higher an amount
28 necessary to capture all cost-effective energy efficiency that is achievable and reliable.
29 All amounts collected under this subsection must be transferred to the natural gas
30 conservation fund. Any interest on funds in the fund must be credited to the fund. Funds
31 not spent in any fiscal year remain in the fund to be used for the purposes of this section.

32 The assessments charged to gas utilities under this section are just and reasonable costs
33 for rate-making purposes and must be reflected in the rates of gas utilities.

34 All funds collected pursuant to this section are collected under the authority and for the
35 purposes of this section and are deemed to be held in trust for the purposes of benefiting
36 natural gas consumers served by the gas utilities assessed under this subsection. In the
37 event funds are not expended or contracted for expenditure within 2 years of being
38 collected from consumers, the commission shall ~~return~~ ensure that the value of those
39 funds is returned to consumers ~~by appropriate reductions in the assessment collected~~
40 ~~pursuant to this subsection.~~

41 Rules adopted by the commission under this subsection are routine technical rules as
42 defined in Title 5, chapter 375, subchapter 2-A.

1 **Sec. A-26. 35-A MRSA §10120, sub-§3**, as enacted by PL 2009, c. 372, Pt. B,
2 §3, is amended to read:

3 **3. Oversight and evaluation fund.** The commission ~~may~~ shall establish an
4 oversight and evaluation fund to be used solely to defray the commission's projected costs
5 of ~~overseeing ongoing oversight of the trust~~ trust's programs and results, including but not
6 limited to reviewing the trust's calculation of program costs and benefits, measurement
7 and verification procedures and program evaluations and reviewing and approving the
8 triennial plan ~~and contracting~~. The commission may use funds to contract with expert
9 3rd-party resources to provide technical assistance or impartial evaluation of the
10 performance of energy efficiency programs administered by the trust. The commission
11 may assess the trust an amount not to exceed 1% of the total funds administered by the
12 trust, and the trust shall transfer that amount to the commission to be deposited into the
13 oversight and evaluation fund. Any interest on funds in the oversight and evaluation fund
14 must be credited to the oversight and evaluation fund and any funds unspent in any fiscal
15 year must either remain in the oversight and evaluation fund to be used for the purposes
16 specified in this subsection or be transferred to the trust for deposit in appropriate
17 program funds.

18 **Sec. A-27. Maine Yankee settlement funds.** The Public Utilities Commission
19 shall direct any transmission and distribution utility in this State that is the recipient of
20 funds pursuant to a damage award received pursuant to litigation with the United States
21 Department of Energy concerning decommissioning costs related to Maine Yankee
22 Atomic Power Company, referred to in this section as "settlement funds," to disburse
23 those settlement funds according to this section.

24 **1. Fiscal years 2013-14 and 2014-15.** In fiscal years 2013-14 and 2014-15, the
25 Public Utilities Commission shall require the payment of 55% of any settlement funds
26 received by a transmission and distribution utility to the Efficiency Maine Trust to be
27 used by the trust for electric efficiency and conservation programs pursuant to the Maine
28 Revised Statutes, Title 35-A, section 10110 in accordance with the trust's triennial plan,
29 except that if a utility's proportional share of the settlement funds paid to the trust by all
30 transmission and distribution utilities exceeds that utility's proportional share of retail
31 kilowatt hours delivered in this State by those transmission and distribution utilities, the
32 commission shall allocate the excess to that transmission and distribution utility to reduce
33 stranded costs.

34 The commission shall require the remaining 45% of the settlement funds to be used to
35 reduce the transmission and distribution utility's rates in a manner that provides
36 maximum benefit to the economy of the State.

37 **2. In fiscal year 2015-16.** In fiscal year 2015-16, the Public Utilities Commission
38 shall require the payment of a total of \$2,000,000 of the settlement funds received by
39 transmission and distribution utilities to the Efficiency Maine Trust to be used by the trust
40 for electric efficiency and conservation programs pursuant to Title 35-A, section 10110 in
41 accordance with the trust's triennial plan. The proportional share of the \$2,000,000
42 provided from each transmission and distribution utility's settlement funds must be the
43 same as that transmission and distribution utility's proportional share of the total retail

1 kilowatt hours delivered in this State by all the transmission and distribution utilities
2 receiving settlement funds.

3 The commission shall require the remaining funds to be used to reduce the transmission
4 and distribution utility's rates in a manner that provides maximum benefit to the economy
5 of the State.

6 **3. After fiscal year 2015-16.** After fiscal year 2015-16, the Public Utilities
7 Commission shall ensure that all settlement funds are allocated in a manner that provides
8 maximum benefit to the economy of the State.

9 **Sec. A-28. Efficiency Maine Trust contract for capacity resources.** The
10 Public Utilities Commission shall direct investor-owned transmission and distribution
11 utilities to enter into long-term contracts as described in the order issued by the
12 commission on February 13, 2013 under Docket No. 2012-00408.

13 **Sec. A-29. Other long-term contracts.** The Public Utilities Commission shall
14 convene a stakeholder group to examine, and make policy recommendations to the
15 Legislature regarding, financing and implementing energy efficiency and combined heat
16 and power projects for transmission and subtransmission-level customers in an effective
17 and fair manner. Except for the long-term contracts described in the order issued by the
18 commission on February 13, 2013 under Docket No. 2012-00408, the commission may
19 not approve long-term contracts under the Maine Revised Statutes, Title 35-A, section
20 3210-C for energy efficiency and demand capacity resources affecting transmission and
21 subtransmission customers prior to the commission's providing a report to the Legislature
22 on the stakeholder group findings.

23 **Sec. A-30. Effective date.** That section of this Part that repeals the Maine
24 Revised Statutes, Title 35-A, section 10110, subsection 4 takes effect July 1, 2015. That
25 section of this Part that enacts Title 35-A, section 10110, subsection 4-A takes effect
26 January 1, 2015.

27 **PART B**

28 **Sec. B-1. 35-A MRSA c. 19** is enacted to read:

29 **CHAPTER 19**

30 **THE MAINE ENERGY COST REDUCTION ACT**

31 **§1901. Short title**

32 This chapter may be known and cited as "the Maine Energy Cost Reduction Act."

33 **§1902. Definitions**

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

1 **1. Basis differential.** "Basis differential" means the difference between the so-called
2 Henry Hub spot price for natural gas and the corresponding cash spot price for natural gas
3 in New England.

4 **2. Energy cost reduction contract.** "Energy cost reduction contract" or "contract"
5 means a contract executed in accordance with this chapter to procure capacity on a
6 natural gas transmission pipeline, including, when applicable, compression capacity.

7 **3. ISO-NE region.** "ISO-NE region" means the region in which the New England
8 bulk power system operated by the independent system operator of the New England bulk
9 power system or a successor organization is located.

10 **4. Pipeline capacity holder.** "Pipeline capacity holder" means any person owning
11 rights to natural gas pipeline capacity.

12 **5. Trust fund.** "Trust fund" means the Energy Cost Reduction Trust Fund
13 established under section 1907, subsection 1.

14 **§1903. Legislative findings**

15 The Legislature finds that:

16 **1. Electricity prices.** It is in the public interest to decrease prices of electricity and
17 natural gas for consumers in this State; and

18 **2. Natural gas expansion.** The expansion of natural gas transmission capacity into
19 this State and other states in the ISO-NE region could result in lower natural gas prices
20 and, by extension, lower electricity prices for consumers in this State.

21 **§1904. Energy cost reduction contracts**

22 The commission in consultation with the Public Advocate and Governor's Energy
23 Office may execute an energy cost reduction contract in accordance with this section. In
24 no event may the commission execute energy cost reduction contracts for the
25 transmission of greater than a cumulative total of 200,000,000 cubic feet of natural gas
26 per day or for a total amount that exceeds \$75,000,000 annually.

27 **1. Prior to executing an energy cost reduction contract.** Before executing an
28 energy cost reduction contract, the commission shall:

29 A. Pursue, in appropriate regional and federal forums, market and rule changes that
30 will reduce the basis differential for gas coming into New England and increase the
31 efficiency with which gas brought into New England and Maine is transmitted,
32 distributed and used. If the commission concludes that those market or rule changes
33 will, within the same time frame, achieve substantially the same cost reduction
34 effects for Maine electricity and gas customers as the execution of an energy cost
35 reduction contact, the commission may not execute an energy cost reduction contract;

36 B. Explore all reasonable opportunities for private participation in securing
37 additional gas pipeline capacity that would achieve the objectives in subsection 2. If
38 the commission concludes that private transactions, within the same time frame,

1 achieve substantially the same cost reduction effects for Maine electricity and gas
2 customers as the execution of an energy cost reduction contract, the commission may
3 not execute an energy cost reduction contract; and

4 C. In consultation with the Public Advocate and the Governor's Energy Office, hire a
5 consultant with expertise in natural gas markets to make recommendations regarding
6 the execution of an energy cost reduction contract. The commission shall consider
7 those recommendations as part of an adjudicatory proceeding under subsection 2.

8 **2. Commission determination of benefits.** After satisfying the requirements of
9 subsection 1, the commission may execute or direct one or more transmission and
10 distribution utilities, gas utilities or natural gas pipeline utilities to execute an energy cost
11 reduction contract if the commission has determined, in an adjudicatory proceeding, that
12 the agreement is commercially reasonable and in the public interest and that the contract
13 is reasonably likely to:

14 A. Materially enhance natural gas transmission capacity into the State or into the
15 ISO-NE region and that additional capacity will be economically beneficial to electric
16 consumers, natural gas consumers or both in the State and that the overall costs of the
17 contract are outweighed by its benefits to electric consumers, natural gas consumers
18 or both in the State; and

19 B. Enhance electrical and natural gas reliability in the State.

20 **3. Parties to an energy cost reduction contract.** The commission may execute, or
21 direct to be executed, an energy cost reduction contract that contains the following
22 provisions.

23 A. The commission may direct one or more transmission and distribution utilities,
24 gas utilities or natural gas pipeline utilities to be a counterparty to an energy cost
25 reduction contract. In determining whether and to what extent to direct a utility to be
26 a counterparty to a contract under this subsection, the commission shall consider the
27 anticipated reduction in the price of gas or electricity, as applicable, accruing to the
28 customers of the utility as a result of the contract as determined by the commission in
29 an adjudicatory proceeding.

30 Any economic loss, including but not limited to any effects on the cost of capital
31 resulting from an energy cost reduction contract for a transmission and distribution
32 utility, a gas utility or a natural gas pipeline utility, is deemed to be prudent and the
33 commission shall allow full recovery through the utility's rates.

34 B. If the commission concludes that an energy cost reduction contract can be
35 achieved with the participation of other entities, the commission may contract jointly
36 with other entities, including other state agencies and instrumentalities, governments
37 in other states and nations, utilities and generators.

38 C. The commission may execute an energy cost reduction contract as a principal and
39 counterparty.

40 **4. Approval by the Governor.** The commission may not execute or direct the
41 execution of an energy cost reduction contract unless the Governor has in writing
42 approved the execution of the energy cost reduction contract.

1 **§1905. Funding of an energy cost reduction contract**

2 An energy cost reduction contract may be funded in accordance with this section.

3 **1. Assessments on ratepayers.** The commission may direct one or more
4 transmission and distribution utilities, gas utilities or natural gas pipeline utilities to
5 collect an assessment from ratepayers for the following purposes:

6 A. To finance the participation of a transmission and distribution utility, a gas utility
7 or a natural gas pipeline utility in an energy cost reduction contract; and

8 B. To pay the costs of energy cost reduction contract evaluation and administration
9 under section 1906, subsection 2.

10 All assessments must be just and reasonable as determined by the commission and must
11 be identified as an energy cost reduction contract charge on a ratepayer's utility bill.
12 When determining just and reasonable assessments, the commission shall consider the
13 anticipated reduction in the price of gas or electricity, as applicable, accruing to different
14 categories of ratepayers as a result of the contract.

15 **2. Assessments on utilities.** If the commission is the principal and counterparty on
16 the contract, the commission may:

17 A. Assess one or more transmission and distribution utilities, gas utilities and
18 natural gas pipeline utilities in proportion to the anticipated reduction in the price of
19 gas or electricity, as applicable, accruing as a result of the contract to the customers
20 of the utility for any and all net costs to the commission of the commission's
21 performance of the contract as determined by the commission in an adjudicatory
22 proceeding. The cost to the utility of the assessment may be recovered by the utility
23 in rates in the same manner as any other prudently incurred cost.

24 **3. Volumetric fee.** The commission may establish and direct the payment to the
25 trust fund of a volumetric fee on the use of gas by a consumer of natural gas obtained
26 from a source other than a gas utility or a natural gas pipeline utility of this State in
27 proportion to the anticipated reduction in the price of gas accruing to that consumer as a
28 result of the contract as determined by the commission in an adjudicatory proceeding.

29 **§1906. Contract resale and administration**

30 The following provisions govern the resale and evaluation and administration of an
31 energy cost reduction contract.

32 **1. Resale of natural gas pipeline capacity.** The commission may negotiate and
33 enter into contracts for the resale of all or a portion of the reserved natural gas
34 transmission pipeline capacity acquired through an energy cost reduction contract. All of
35 the revenue received as a result of the resale must be deposited into the trust fund.

36 **2. Contract evaluation and administration.** The commission is responsible for
37 assessing, analyzing, negotiating, implementing and monitoring compliance with energy
38 cost reduction contracts. The commission may use funds for this purpose from the trust
39 fund or may collect funds for this purpose through just and reasonable assessments placed

1 on a transmission and distribution utility, a gas utility or a natural gas pipeline utility
2 pursuant to section 1905, subsection 1, paragraph B.

3 **§1907. Revenues from energy cost reduction contracts**

4 Revenues received from the resale of natural gas pipeline capacity acquired through
5 an energy cost reduction contract must be used in accordance with this section.

6 **1. Establishment of Energy Cost Reduction Trust Fund.** The Energy Cost
7 Reduction Trust Fund is established as a nonlapsing fund administered by the
8 commission for the purposes of this chapter. The commission is authorized to receive and
9 shall deposit in the trust fund and expend in accordance with this section revenues
10 received from an energy cost reduction contract and revenues received from the resale of
11 natural gas pipeline capacity acquired through an energy cost reduction contract.

12 The funds in the trust fund are held in trust for the purpose of reducing the energy costs of
13 consumers in the State and may not be used for any other purpose, except as described in
14 subsection 2.

15 **2. Distribution of funds.** The commission shall distribute funds in the trust fund in
16 the following order of priority:

17 A. As a first priority, to the costs of monitoring and administering a contract
18 pursuant to section 1906, subsection 2; and

19 B. As a 2nd priority, to utilities and other entities to reduce energy costs for
20 electricity and natural gas ratepayers and consumers subject to a volumetric fee under
21 section 1905, subsection 3. The commission may distribute funds to benefit
22 ratepayers of one or more transmission and distribution utilities, gas utilities or
23 natural gas pipeline utilities or consumers subject to a volumetric fee under section
24 1905, subsection 3 in a manner that the commission finds is equitable, just and
25 reasonable.

26 **§1908. Exemption from State Purchasing Agent rules**

27 Notwithstanding any other provision of law, agreements and contracts entered into
28 pursuant to this chapter are not subject to the competitive bid requirements of the State
29 Purchasing Agent.

30 **§1909. Market power investigation**

31 The commission may on its own motion, with or without notice, summarily
32 investigate the exercise of market power by a gas utility, natural gas pipeline utility or
33 pipeline capacity holder. If, after the summary investigation, the commission determines
34 it to be necessary, it may hold a public hearing in accordance with section 1304.
35 Notwithstanding section 1304 and Title 5, section 9052, the commission shall notify the
36 utility under investigation in writing of the matter under investigation and 7 days after the
37 commission has given notice the commission may set the time and place for the public
38 hearing.

1 **Sec. C-2. 35-A MRSA §3132, sub-§2-C, ¶¶B and C**, as enacted by PL 2009,
2 c. 309, §2, are amended to read:

3 B. Justification for adoption of the route selected, including comparison with
4 alternative routes that are environmentally, technically and economically practical;
5 ~~and~~

6 C. Results of an investigation by an independent 3rd party, which may be the
7 commission or a contractor selected by the commission, of nontransmission
8 alternatives to construction of the proposed transmission line ~~including energy~~
9 conservation, distributed generation or load management. The investigation must set
10 forth the total projected costs of the transmission line as well as the total projected
11 costs of the alternatives over the effective life of the proposed transmission line; and

12 **Sec. C-3. 35-A MRSA §3132, sub-§2-C, ¶D** is enacted to read:

13 D. A description of the need for the proposed transmission line.

14 **Sec. C-4. 35-A MRSA §3132, sub-§5**, as enacted by PL 1987, c. 141, Pt. A, §6,
15 is amended to read:

16 **5. Commission approval of a proposed line.** The commission may approve or
17 disapprove all or portions of a proposed transmission line and shall make such orders
18 regarding its character, size, installation and maintenance as are necessary, having regard
19 for any increased costs caused by the orders. The commission shall give preference to the
20 nontransmission alternatives that have been identified as able to address the identified
21 need for the proposed transmission line at lower total cost to ratepayers in this State.
22 When the costs to ratepayers in this State of the identified nontransmission alternatives
23 are reasonably equal, the commission shall give preference to the alternatives that
24 produce the lowest amount of local air emissions, including greenhouse gas emissions.

25 **Sec. C-5. 35-A MRSA §3132, sub-§6**, as repealed and replaced by PL 2011, c.
26 281, §1, is amended to read:

27 **6. Commission order; certificate of public convenience and necessity.** In its
28 order, the commission shall make specific findings with regard to the public need for the
29 proposed transmission line. The commission shall make specific findings with regard to
30 the likelihood that nontransmission alternatives can sufficiently address the identified
31 public need over the effective life of the transmission line at lower total cost. Except as
32 provided in subsection 6-A for a high-impact electric transmission line and in accordance
33 with subsection 6-B regarding nontransmission alternatives, if the commission finds that
34 a public need exists, after considering whether the need can be economically and reliably
35 met using nontransmission alternatives, it shall issue a certificate of public convenience
36 and necessity for the transmission line. In determining public need, the commission shall,
37 at a minimum, take into account economics, reliability, public health and safety, scenic,
38 historic and recreational values, state renewable energy generation goals, the proximity of
39 the proposed transmission line to inhabited dwellings and alternatives to construction of
40 the transmission line, including energy conservation, distributed generation or load
41 management. If the commission orders or allows the erection of the transmission line, the
42 order is subject to all other provisions of law and the right of any other agency to approve

1 the transmission line. The commission shall, as necessary and in accordance with
2 subsections 7 and 8, consider the findings of the Department of Environmental Protection
3 under Title 38, chapter 3, subchapter 1, article 6, with respect to the proposed
4 transmission line and any modifications ordered by the Department of Environmental
5 Protection to lessen the impact of the proposed transmission line on the environment. A
6 person may submit a petition for and obtain approval of a proposed transmission line
7 under this section before applying for approval under municipal ordinances adopted
8 pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A and, except as
9 provided in subsection 4, before identifying a specific route or route options for the
10 proposed transmission line. Except as provided in subsection 4, the commission may not
11 consider the petition insufficient for failure to provide identification of a route or route
12 options for the proposed transmission line. The issuance of a certificate of public
13 convenience and necessity establishes that, as of the date of issuance of the certificate, the
14 decision by the person to erect or construct was prudent. At the time of its issuance of a
15 certificate of public convenience and necessity, the commission shall send to each
16 municipality through which a proposed corridor or corridors for a transmission line
17 extends a separate notice that the issuance of the certificate does not override, supersede
18 or otherwise affect municipal authority to regulate the siting of the proposed transmission
19 line. The commission may deny a certificate of public convenience and necessity for a
20 transmission line upon a finding that the transmission line is reasonably likely to
21 adversely affect any transmission and distribution utility or its customers.

22 **Sec. C-6. 35-A MRSA §3132, sub-§6-B** is enacted to read:

23 **6-B. Reasonable consideration of nontransmission alternatives.** If the
24 commission determines that nontransmission alternatives can sufficiently address the
25 transmission need under subsection 6 at lower total cost, but at a higher cost to ratepayers
26 in this State than the proposed transmission line, the commission shall make reasonable
27 efforts to achieve within 180 days an agreement among the states within the ISO-NE
28 region to allocate the cost of the nontransmission alternatives among the ratepayers of the
29 region using the allocation method used for transmission lines or a different allocation
30 method that results in lower costs than the proposed transmission line to the ratepayers of
31 this State.

32 For the purposes of this section, "ISO-NE region" has the same meaning as in section
33 1902, subsection 3.

34 The subsection is repealed December 31, 2015.

35 **Sec. C-7. 35-A MRSA §3132, sub-§15** is enacted to read:

36 **15. Advancement of nontransmission alternatives policies.** The commission shall
37 advocate in all relevant venues for the pursuit of least-cost solutions to bulk power system
38 needs on a total cost basis and for all available resources, including nontransmission
39 alternatives, to be treated comparably in transmission analysis, planning and access to
40 funding.

41 **Sec. C-8. 35-A MRSA §3132-A** is enacted to read:

1 **§3132-A. Construction of transmission projects prohibited without approval of the**
2 **commission**

3 A person may not construct any transmission project without approval from the
4 commission. For the purposes of this section, "transmission project" means any proposed
5 transmission line and its associated infrastructure capable of operating at less than 69
6 kilovolts and projected to cost in excess of \$20,000,000.

7 **1. Submission requirement.** A person that proposes to undertake in the State a
8 transmission project must provide the commission with the following information:

9 A. Results of an investigation by an independent 3rd party, which may be the
10 commission or a contractor selected by the commission, of nontransmission
11 alternatives to construction of the proposed transmission project. The investigation
12 must set forth the total projected costs of the transmission project as well as the total
13 projected costs of the nontransmission alternatives over the effective life of the
14 proposed transmission project; and

15 B. A description of the need for the proposed transmission project.

16 **2. Approval; consideration of nontransmission alternatives.** In order for a
17 transmission project to be approved, the commission must consider whether the identified
18 need over the effective life of the proposed transmission project can be economically and
19 reliably met using nontransmission alternatives at a lower total cost. During its review the
20 commission shall give preference to nontransmission alternatives that are identified as
21 able to address the identified need for the proposed transmission project at lower total
22 cost to ratepayers. Of the identified nontransmission alternatives, the commission shall
23 give preference to the lowest-cost nontransmission alternatives. When the costs to
24 ratepayers of the identified nontransmission alternatives are reasonably equal, the
25 commission shall give preference to the alternatives that produce the lowest amount of
26 local air emissions, including greenhouse gas emissions.

27 **3. Exception.** A transmission project that is constructed, owned and operated by a
28 generator of electricity solely for the purpose of electrically and physically
29 interconnecting the generator to the transmission system of a transmission and
30 distribution utility is not subject to this section.

31 **PART D**

32 **Sec. D-1. 38 MRSA §579, first ¶**, as amended by PL 2007, c. 608, §3, is further
33 amended to read:

34 The department may participate in the regional greenhouse gas initiative as described
35 in the climate action plan required in section 577. The commissioner or the
36 commissioner's designee and the members of the Public Utilities Commission are
37 authorized to act as representatives for the State in the regional organization as defined in
38 section 580-A, subsection 20, may contract with organizations and entities when such
39 arrangements are necessary to efficiently carry out the purposes of this section and may
40 coordinate the State's efforts with other states and jurisdictions participating in that
41 initiative, with respect to:

1 **Sec. D-2. 38 MRSA §580-A, sub-§6**, as enacted by PL 2007, c. 317, §17, is
2 amended to read:

3 **6. Carbon dioxide emissions offset project.** "Carbon dioxide emissions offset
4 project" means a project that reduces or avoids loading of carbon dioxide and other
5 greenhouse gases in the atmosphere and is demonstrated to qualify as real, additional,
6 verifiable, enforceable and permanent as those terms are defined in rules adopted by the
7 department. "Carbon dioxide emissions offset project" includes, but is not limited to,
8 landfill and agricultural methane capture and destruction, reduction in emissions of sulfur
9 hexafluoride, sequestration of carbon due to ~~afforestation~~ forestry practices and reduction
10 or avoidance of carbon dioxide emissions from natural gas, oil or propane end-use
11 combustion due to end-use energy efficiency and other categories established by the
12 department by rule.

13 **Sec. D-3. 38 MRSA §580-A, sub-§17-A** is enacted to read:

14 **17-A. Model rule.** "Model rule" means the model rule, as amended, referenced in
15 the memorandum of understanding.

16 **Sec. D-4. 38 MRSA §580-B, sub-§3**, as enacted by PL 2007, c. 317, §17, is
17 amended to read:

18 **3. Base annual budget.** ~~The~~ Until January 1, 2014, the base annual carbon dioxide
19 emissions budget is established at 5,948,902 tons of carbon dioxide. ~~Beginning with the~~
20 ~~year 2015, the annual carbon dioxide emissions budget must decline by 148,722 tons per~~
21 ~~year until 2018 so that the annual carbon dioxide emissions budget for 2018 is 10%~~
22 ~~below the base annual carbon dioxide emissions budget.~~ For the year 2014, the base
23 annual carbon dioxide emissions budget is established at 3,277,250 tons of carbon
24 dioxide. Beginning with the year 2015, the annual carbon dioxide emissions budget must
25 decline by 2.5% each year through the year 2020.

26 **Sec. D-5. 38 MRSA §580-B, sub-§3-A** is enacted to read:

27 **3-A. Interim adjustments for banked allowances.** The 2014 base annual carbon
28 dioxide emissions budget of 3,277,250 tons of carbon dioxide and base annual budgets
29 for 2015 to 2020 must be reduced by an amount equivalent to the quantity of banked
30 allowances in excess of the quantity of allowances required for compliance at the end of
31 2013. The State's interim adjustments for banked allowances must be made in proportion
32 to the State's share of the total annual carbon dioxide emissions budget for all states
33 participating in the regional greenhouse gas initiative.

34 **Sec. D-6. 38 MRSA §580-B, sub-§4**, as enacted by PL 2007, c. 317, §17, is
35 amended to read:

36 **4. Rules implementing program.** The department shall adopt rules to implement
37 the program. ~~The rules must contain~~ Rules must be consistent with the model rule. The
38 rules must include, but are not limited to:

- 1 A. Provisions for the establishment of a system for the annual assignment, sale and
2 distribution of carbon dioxide emissions allowances consistent with the carbon
3 dioxide emissions budget;
- 4 B. Provisions for the establishment of carbon dioxide budget unit compliance
5 obligation accounts;
- 6 C. Provisions for the establishment of carbon dioxide offset project allowance
7 categories and requirements;
- 8 D. Provisions for the implementation of a licensing process for carbon dioxide
9 budget units;
- 10 E. Provisions for the establishment of a carbon dioxide emissions and carbon dioxide
11 allowance tracking program; and
- 12 F. Provisions to manage the carbon dioxide allowance auction developed in
13 coordination with other states and jurisdictions in the regional greenhouse gas
14 initiative and in a manner that is consistent with provisions adopted by those states
15 and jurisdictions and, to the extent feasible, that:
- 16 (1) Ensure close monitoring of allowance transactions in a manner that guards
17 against collusion and market manipulation;
- 18 (2) Ensure ongoing authentic price discovery and minimize price volatility;
- 19 (3) Facilitate open participation for bidding to all individuals or entities that meet
20 the financial requirements jointly adopted by the participating states;
- 21 (4) Minimize administration and transaction costs and provide for an open and
22 transparent user-friendly system;
- 23 (5) Provide that ongoing monitoring of market activity is undertaken by entities
24 that have complete financial independence from any market participant;
- 25 (6) For purposes of civil and criminal enforcement authority under section 349,
26 establish a contract term at the time an allowance is purchased at the regional
27 auction for violations of market rules jointly adopted by the participating states
28 and jurisdictions or through another method of ensuring state jurisdiction; and
- 29 (7) Guarantee that the Attorney General, the Public Utilities Commission and the
30 commissioner have access to all auction information and information concerning
31 allowance trading activity, including reports provided to the regional organization
32 by a market monitor.

33 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
34 chapter 375, subchapter 2-A.

35 **Sec. D-7. 38 MRSA §580-B, sub-§10**, as repealed and replaced by PL 2009, c.
36 652, Pt. A, §61, is amended to read:

37 **10. Annual report.** The department, the Public Utilities Commission and the
38 trustees of the Efficiency Maine Trust established pursuant to Title 35-A, section 10103
39 shall submit a joint report to the joint standing committees of the Legislature having

1 jurisdiction over natural resources matters and utilities and energy matters by March 15,
2 2009 and each year thereafter 15th annually. The report must assess and address:

3 A. The reductions of greenhouse gas emissions from carbon dioxide budget units,
4 conservation programs funded by the Regional Greenhouse Gas Initiative Trust Fund
5 pursuant to Title 35-A, section 10109 and carbon dioxide emissions offset projects;

6 B. The improvements in overall carbon dioxide emissions and energy efficiency
7 from sources that emit greenhouse gases including electrical generation and fossil
8 fuel fired units;

9 C. The maximization of savings through systemic energy improvements statewide;

10 D. Research and support of new carbon dioxide offset allowance categories for
11 development in the State;

12 E. Management and cost-effectiveness of the State's energy conservation and carbon
13 reduction programs and efforts funded by the Regional Greenhouse Gas Initiative
14 Trust Fund, established pursuant to Title 35-A, section 10109;

15 F. The extent to which funds from the Regional Greenhouse Gas Initiative Trust
16 Fund, established pursuant to Title 35-A, section 10109, serve customers from all
17 classes of the State's transmission and distribution utilities; and

18 G. The revenues and expenditures of the Regional Greenhouse Gas Initiative Trust
19 Fund, established pursuant to Title 35-A, section 10109.

20 The department, the Public Utilities Commission and the trustees of the Efficiency Maine
21 Trust may include in the report any proposed changes to the program established under
22 this chapter.

23 The joint standing committee of the Legislature having jurisdiction over natural resources
24 matters may submit legislation relating to areas within the committee's jurisdiction in
25 connection with the program. The joint standing committee of the Legislature having
26 jurisdiction over utilities and energy matters may submit legislation relating to areas
27 within the committee's jurisdiction in connection with the program.

28 **Sec. D-8. Fuel switching offset category.** The Department of Environmental
29 Protection and the Public Utilities Commission shall work together to develop and
30 promote for recognition by the other states participating in the regional greenhouse gas
31 initiative a modification of the existing end-use energy efficiency offset category in the
32 Regional Greenhouse Gas Initiative Act of 2007 to provide incentives for industrial and
33 residential consumers to switch from the use of oil and coal as fuel to fuels with lower
34 greenhouse gas emissions. In developing the modification to the existing offset category,
35 the department shall work toward including the following factors:

36 1. Eligibility of fuel switching to alternative fuels such as natural gas, biomass or
37 other renewable fuels;

38 2. Calculation of the offset amounts on the basis of the net reduction in carbon
39 dioxide equivalents from the prior fuel used;

1 3. Offsets for greenhouse gas emission reductions that are real, additional, verifiable,
2 enforceable and permanent; and

3 4. Allowing for the transfer of offset credits to a 3rd party to provide financial
4 consideration to enable the fuel switching to occur.

5 The department and the commission shall include a progress report on the
6 development of this offset category as part of the annual report under the Maine Revised
7 Statutes, Title 38, section 580-B, subsection 10.

8 **PART E**

9 **Sec. E-1. 35-A MRSA §2523** is enacted to read:

10 **§2523. Street lights; use of poles**

11 This section governs street lights that are attached to utility poles in the public way.

12 **1. Ownership and maintenance options.** On or after October 1, 2014, a
13 transmission and distribution utility shall provide the following options to municipalities
14 for street and area lighting provided by light fixtures attached to poles owned by the
15 transmission and distribution utility or on shared-use poles in the electrical space under
16 the contractual management of the transmission and distribution utility located in the
17 public way:

18 A. The transmission and distribution utility provides all of the components of the
19 street lighting system, including installation on the utility poles and maintenance, and
20 provides electricity delivery to the street lighting system from a power vendor
21 selected by the municipality. The transmission and distribution utility shall apply a
22 monthly charge for these services as approved by the commission that reflects the
23 total cost to provide street lighting equipment for each light and a separate charge for
24 power delivery consistent with subsection 3;

25 B. The transmission and distribution utility installs all of the components of the street
26 lighting hardware as selected, purchased and owned by the municipality on utility
27 poles owned by the transmission and distribution utility or in the electrical space
28 under contractual management of the transmission and distribution utility on shared-
29 use poles and connects the light to the power source on the pole. The transmission
30 and distribution utility may apply a one-time charge per light fixture for installation
31 as established by the commission.

32 Any repairs made by the transmission and distribution utility to the mounting
33 hardware or the power supply wire connection following installation must be billed at
34 a rate established by the commission. Maintenance of all components of the light
35 fixture is the responsibility of the municipality or its contractor. Any person
36 performing maintenance work on behalf of the municipality pursuant to this provision
37 must be qualified pursuant to applicable federal or state standards or any standards
38 established by the commission for such work and must have liability insurance in an
39 amount and with terms determined by the commission. Light locations, the street

1 lighting hardware installed and delivery charges are governed by subsections 2 and 3;
2 and

3 C. The transmission and distribution utility connects to the power lines a light fixture
4 either owned by or owned and installed by the municipality or its contractor on a pole
5 owned by the transmission and distribution utility or on a shared-use pole in the
6 electrical space under the contractual management of the transmission and
7 distribution utility. Light locations, the street lighting hardware installed and delivery
8 charges are governed by subsections 2 and 3. Maintenance of the light fixture and
9 mounting hardware is the responsibility of the municipality or its contractor. Any
10 person installing or working on municipally owned street lighting equipment
11 pursuant to this paragraph on behalf of the municipality must be qualified pursuant to
12 applicable federal and state standards or any standards established by the commission
13 for such work and must have liability insurance in an amount and with terms
14 determined by the commission. The transmission and distribution utility may apply a
15 one-time power connection charge per light fixture as established by the commission.

16 **2. Lighting location and installation.** For municipally owned street lighting
17 hardware located on poles owned by the transmission and distribution utility or in the
18 electrical space under the contractual management of the transmission and distribution
19 utility on shared-use poles in the public way, the location on the pole and the street
20 lighting hardware installed, as well as any associated charges, are governed by the
21 following provisions.

22 A. The commission shall establish criteria, based on standard utility industry
23 practice, for determining possible locations on the utility pole for the street lighting
24 hardware, determining any changes that may be needed, including, but not limited to,
25 relocating equipment already on the pole, installing a taller pole or bracing an
26 existing pole, as well as determining any one-time fees the transmission and
27 distribution utility may charge the municipality for making the determinations and
28 undertaking the work necessitated by the determinations. The criteria must also
29 specify the conditions under which a request from a municipality to locate a light
30 fixture on a pole may reasonably be denied by the transmission and distribution
31 utility.

32 B. The commission shall establish basic criteria, consistent with standard utility
33 industry practice, for municipally owned street lighting hardware installed on utility
34 poles that address any reasonable safety and compatibility issues with other
35 equipment on or uses of the pole. The criteria must provide a basis for determining
36 when no additional assessment work, and related fees pursuant to paragraph A, would
37 be warranted for a replacement light fixture because the new light fixture places
38 comparable or lower demands on the utility pole and related utility equipment than
39 the light fixture being replaced.

40 **3. Delivery rates and associated charges.** The commission shall establish through
41 appropriate proceedings the charges for the transmission and distribution utility to deliver
42 electricity to the municipal street lighting systems as provided in subsection 1. For
43 municipal street lighting system options described in subsection 1, paragraphs B and C,
44 the commission shall determine what, if any, ongoing fees beyond the power-only
45 delivery charge may be assessed, including a pole attachment fee. In making this

1 determination, the commission shall weigh, among other factors, the municipal interest to
2 serve the general public and the location of the poles in municipal rights-of-way.

3 **4. Transfer of ownership.** A transmission and distribution utility shall allow a
4 municipality to transfer utility-owned street and area lighting for which the municipality
5 is billed to either form of municipal ownership in subsection 1, paragraphs B and C in a
6 time frame and under terms established by the commission. The commission shall also
7 determine a fair and equitable cost for all aspects of the transfer and establish guidelines
8 to best enable the contiguous ownership of lighting fixtures.

9 **PART F**

10 **Sec. F-1. 35-A MRSA §101**, as amended by PL 2011, c. 623, Pt. D, §2, is further
11 amended to read:

12 **§101. Statement of purpose**

13 The purpose of this Title is to ensure that there is a regulatory system for public
14 utilities in the State and for other entities subject to this Title that is consistent with the
15 public interest and with other requirements of law and to provide for reasonable licensing
16 requirements for competitive electricity providers. The basic purpose of this regulatory
17 system as it applies to public utilities subject to service regulation under this Title is to
18 ensure safe, reasonable and adequate service, to assist in minimizing the cost of energy
19 available to the State's consumers and to ensure that the rates of public utilities subject to
20 rate regulation are just and reasonable to customers and public utilities.

21 **Sec. F-2. 35-A MRSA §3152, sub-§1, ¶A**, as amended by PL 1999, c. 398, Pt.
22 A, §57 and affected by §§104 and 105, is further amended to read:

23 A. Require the commission to relate transmission and distribution rates more closely
24 to the costs of providing transmission and distribution service; ~~and~~

25 **Sec. F-3. 35-A MRSA §3152, sub-§1, ¶C**, as amended by PL 1999, c. 398, Pt.
26 A, §57 and affected by §§104 and 105, is further amended to read:

27 C. Require the commission to consider the ability of low-income residential
28 customers to pay in full for electric services as transmission and distribution rates are
29 redesigned consistent with these policies; ~~and~~

30 **Sec. F-4. 35-A MRSA §3152, sub-§1, ¶D** is enacted to read:

31 D. Require the commission to set rates to the extent practicable to achieve economic
32 efficiency.

33 **Sec. F-5. 35-A MRSA §3153-A, sub-§4** is enacted to read:

34 **4. Economic efficiency.** In designing rates for transmission and distribution utilities,
35 the commission shall set rates to the extent practicable to achieve economic efficiency.

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PART G

Sec. G-1. PL 2011, c. 637, §11, sub-§2, ¶¶A, D and E are amended to read:

A. May provide efficient electric heat pumps or electric thermal storage units to up to 500 residential or small business customers within its service territory. The number of efficient electric heat pumps provided to customers may exceed 500 if proposed by the utility and approved by the Public Utilities Commission;

D. May offer ~~rebates~~ incentives to participating customers to be applied to the total installation cost of the efficient electric heat pumps or electric thermal storage units; and

E. ~~May~~ With respect to electric thermal storage units, may enroll customers in the pilot program only until December 31, 2013 and with respect to efficient electric heat pumps, may enroll customers in the pilot program until December 31, 2014, except that the deadline may be extended if proposed by the utility and approved by the Public Utilities Commission.

Sec. G-2. PL 2011, c. 637, §11, sub-§2 is amended by adding at the end a new blocked paragraph to read:

Nothing in this subsection is intended to limit the authority of the commission to establish special rates for customers purchasing electricity through the pilot program. Those rates may include the recovery of costs associated with incentives or loans authorized under the pilot program. Any recovery of those costs must be through customers participating in the program and may not be passed through to customers not participating in the pilot program.

PART H

Sec. H-1. PL 2009, c. 615, Pt. A, §6, 3rd ¶ from the end is amended to read:

The commission may not approve any long-term contract under this section that would result in an increase in electric rates in any customer class that is greater than ~~the amount of the assessment charged under Title 35-A, section 10110, subsection 4 at the time that the contract is entered~~ \$1.45 per megawatt hour.

Sec. H-2. PL 2009, c. 615, Pt. A, §6 is amended by adding at the end a new paragraph to read:

If a supplier under a deep-water offshore wind energy pilot project elects not to go forward or does not proceed to construction under the terms of a contract or other terms approved by the commission by order for any reason, including that the supplier does not receive necessary federal funding or financing, the commission may consider additional proposals for a deep-water offshore energy pilot project that can be funded within funding limitations under this section. To consider additional proposals, the commission shall conduct a 2nd round of solicitation of competitive proposals. The commission may approve additional projects that are contingent on previously approved projects not

1 proceeding to construction within the approved time frames or deadlines. The University
2 of Maine's deep-water offshore wind energy pilot project must be considered a deep-
3 water offshore wind energy pilot project under this section. The commission shall make
4 all reasonable efforts to complete its review and make decisions on additional proposals
5 under this section by December 31, 2013.

6 **PART I**

7 **Sec. I-1. Appropriations and allocations.** The following appropriations and
8 allocations are made.

9 **PUBLIC UTILITIES COMMISSION**

10 **Public Utilities - Administrative Division 0184**

11 Initiative: Allocates the projected revenue from the transfers from the Regional
12 Greenhouse Gas Initiative Trust Fund of the Efficiency Maine Trust to be distributed to
13 utility ratepayers at the direction of the Public Utilities Commission to provide the
14 maximum benefit to the Maine economy.

15	OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
16	All Other	\$1,500,000	\$1,500,000
17			
18	OTHER SPECIAL REVENUE FUNDS TOTAL	\$1,500,000	\$1,500,000

19 **SUMMARY**

20 This bill is reported by the Joint Standing Committee on Energy, Utilities and
21 Technology pursuant to Joint Order 2013, H.P. 1125.

22 The committee has developed this legislation to reduce energy costs, promote electric
23 efficiency and electric grid reliability, protect the environment and improve security of
24 the state and local economies, helping individuals and businesses meet their energy needs
25 at the lowest cost.

26 The purposes of this bill are to:

- 27 1. Reduce the cost of energy to residents of the State;
- 28 2. Maximize the use of cost-effective weatherization and energy efficiency measures,
29 including improvements to energy-using systems, such as heating and cooling systems,
30 and upgrades to energy efficient systems that rely on affordable energy resources;
- 31 3. Reduce economic insecurity from the inefficient use of expensive fossil fuels;
- 32 4. Increase new jobs and support businesses that deliver affordable energy and
33 energy efficiency products and services;

1 Commission to be disbursed to transmission and distribution utilities for the maximum
2 benefit to the State's economy.

3 This Part approves a pending long-term contract for energy efficiency resources as
4 recommended by the Public Utilities Commission.

5 **PART B**

6 This Part gives the Public Utilities Commission the authority until December 31,
7 2018 to execute an energy cost reduction contract to procure natural gas pipeline capacity
8 for the purpose of increasing the flow of natural gas into New England by 2,000,000,000
9 cubic feet per day.

10 This Part establishes the standards for the Public Utilities Commission to execute an
11 energy cost reduction contract. This Part requires consultation with the Office of the
12 Public Advocate and the Governor's Energy Office when the Public Utilities Commission
13 hires a consultant to assist in developing the terms of an energy cost reduction contract.
14 An energy cost reduction contract may not be executed without approval from the
15 Governor. The cost of the contract may not exceed \$75,000,000 annually. The Public
16 Utilities Commission may direct a transmission and distribution utility, a natural gas
17 utility and a natural gas pipeline utility to assess ratepayers for the cost of an energy cost
18 reduction contract and the cost of the administration of an energy cost reduction contract.

19 This Part authorizes the Public Utilities Commission to establish and collect a
20 volumetric fee for use of natural gas by Maine consumers for natural gas not provided to
21 the consumers by a natural gas utility or natural gas pipeline utility.

22 This Part establishes the Energy Cost Reduction Trust Fund, to be administered by
23 the Public Utilities Commission, to receive the revenue from the resale of natural gas
24 pipeline capacity and to direct those fund toward initiatives to reduce energy costs for
25 ratepayers.

26 This Part exempts energy cost reduction contracts and the resale of natural gas
27 pipeline capacity from the competitive bid requirements of the State Purchasing Agent.

28 This Part gives the Public Utilities Commission authority to investigate the exercise
29 of market power by a gas utility, natural gas pipeline utility and any person who owns
30 rights to natural gas pipeline capacity.

31 This Part authorizes the Public Utilities Commission to adopt rules to implement the
32 provisions of the Part.

33 **PART C**

34 This Part prohibits the Public Utilities Commission from issuing a certificate of
35 public convenience and necessity for the construction of a transmission line unless a
36 description of the need for the proposed transmission line is provided, an analysis of
37 nontransmission alternatives is conducted by an independent 3rd party selected by the
38 Public Utilities Commission and the projected cost of the proposed transmission line is
39 compared to the projected cost of feasible nontransmission alternatives based on total

1 projected costs. Preference must be given to lower-cost alternatives with fewer
2 greenhouse gas emissions. The Public Utilities Commission must make specific findings
3 as to whether nontransmission alternatives can address the identified transmission need at
4 a lower total cost than the proposed transmission line. This Part requires that, until
5 December 31, 2015, when the commission determines that nontransmission alternatives
6 can address the need at a lower total cost but represent a larger increased cost to
7 ratepayers of the State than the proposed transmission line, the commission must make
8 reasonable efforts to achieve an agreement among the states within the New England
9 independent system operator region to allocate the cost of the nontransmission
10 alternatives among the ratepayers of the region using the allocation method used for
11 transmission lines or another allocation method that results in lower increased cost to
12 ratepayers of the State.

13 This Part also requires that lower-voltage projects that are capable of operating at less
14 than 69 kilovolts and projected to cost in excess of \$20,000,000 must be reviewed and
15 approved by the Public Utilities Commission before construction of the transmission
16 project and establishes the standards for approval.

17 **PART D**

18 This Part amends the Regional Greenhouse Gas Initiative Act of 2007 to provide
19 consistency with regional targets, directs the Department of Environmental Protection
20 and the Public Utilities Commission to work together to modify a current regional
21 greenhouse gas initiative offset category to allow for fuel switching and further directs
22 the Department of Environmental Protection and the Public Utilities Commission to
23 promote this modification with other regional greenhouse gas initiative states.

24 **PART E**

25 This Part requires electricity transmission and distribution utilities to provide new
26 options for municipal street lighting programs and provides for how a municipality may
27 be charged for the utility infrastructure services provided, how the location of street and
28 area lighting will be provided, at what rates or by what methods the electricity delivery
29 charges may be assessed and how a municipality may transition from one option to
30 another during the course of any year.

31 **PART F**

32 This Part directs the Public Utilities Commission to consider economic efficiency
33 when designing rates.

34 **PART G**

35 This Part authorizes the Public Utilities Commission to extend the number of
36 customers who may participate in the pilot program for efficient electric heat pumps and
37 extend the length of the pilot period, allows more flexibility in the manner in which
38 incentives are provided to customers and clarifies that nothing in the legislation related to
39 the pilot program is intended to limit any currently existing authority of the Public
40 Utilities Commission to establish special rates with respect to customers participating in

1 the pilot program, as long as the costs of the pilot program are recovered only from
2 customers participating in the program.

3 **PART H**

4 This Part authorizes the Public Utilities Commission to issue a 2nd solicitation for
5 deep-water offshore wind projects under the provisions of Public Law 2009, chapter 615
6 if the original recipient of the contract does not move forward in development for any
7 reason.

8 **FISCAL NOTE REQUIRED**

9 **(See attached)**