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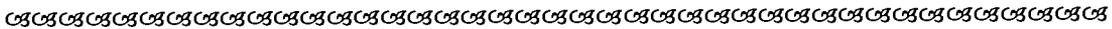
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ACTIVITY SHEET

COMMITTEE: Business, Research and Economic Development

L.D. #: 2257

TITLE: An Act to Establish a Uniform Building and Energy Code



HEARING DATE: 3/25/08

WORK SESSION DATES: 3/28/08
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COMMITTEE REPORT: OTRPA / OTRPA



123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 2257

H.P. 1619

House of Representatives, March 13, 2008

An Act To Establish a Uniform Building and Energy Code

Reported by Representative SMITH of Monmouth for the Joint Standing Committee on Business, Research and Economic Development pursuant to Resolve 2007, chapter 46.

Reference to the Committee on Business, Research and Economic Development suggested and ordered printed under Joint Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

2 **Sec. 1. 5 MRSA §12004-G, sub-§5-A** is enacted to read:

3 **5-A.**

4 <u>Building Codes</u>	<u>Technical</u>	<u>Expenses Only</u>	<u>10 MRSA c. 1103</u>
5 <u>and Standards</u>	<u>Building Codes</u>		
6	<u>and Standards</u>		
7	<u>Board</u>		

8 **Sec. 2. 10 MRSA §9707** is enacted to read:

9 **§9707. Repeal**

10 This chapter is repealed January 1, 2010.

11 **Sec. 3. 10 MRSA c. 1103** is enacted to read:

12 **CHAPTER 1103**

13 **MAINE UNIFORM BUILDING AND ENERGY CODE**

14 **§9721. Definitions**

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

17 **1. Board.** "Board" means the Technical Building Codes and Standards Board
18 established in Title 5, section 12004-G, subsection 5-A.

19 **2. Maine Uniform Building and Energy Code.** "Maine Uniform Building and
20 Energy Code" means the uniform statewide building and energy code adopted by the
21 board pursuant to this chapter.

22 **§9722. Technical Building Codes and Standards Board**

23 **1. Establishment.** The Technical Building Codes and Standards Board, established
24 in Title 5, section 12004-G, subsection 5-A and located within the Department of Public
25 Safety, is established to adopt, amend and maintain the Maine Uniform Building and
26 Energy Code, to resolve conflicts between the Maine Uniform Building and Energy Code
27 and other building-related codes and to provide for training for municipal building
28 inspectors.

29 **2. Membership.** The board consists of 11 voting members, appointed by the
30 Governor:

31 **A. The State Fire Marshal or a designee;**

- 1 B. A fire chief, recommended by the Maine Fire Chiefs' Association or its successor
2 organization;
- 3 C. A municipal code enforcement officer employed by a municipality that is not a
4 service center community under Title 30-A, chapter 187, recommended by the
5 Maine Municipal Association or its successor organization;
- 6 D. A municipal code enforcement officer employed by a service center community
7 under Title 30-A, chapter 187, recommended by the Maine Service Centers Coalition
8 or its successor organization;
- 9 E. A residential builder recommended by a statewide regional association of home
10 builders and remodelers;
- 11 F. A commercial builder recommended by a statewide association of general
12 contractors;
- 13 G. An architect licensed in the State who is accredited by a nationally recognized
14 organization that administers credentialing programs related to environmentally
15 sound building practices and standards, recommended by a statewide chapter of a
16 national institute of architects;
- 17 H. A structural engineer licensed in the State, recommended by a statewide
18 association of structural engineers;
- 19 I. A historic preservation representative, recommended by the Maine Historic
20 Preservation Commission, with experience implementing the standards for the
21 treatment of historic properties set forth in 36 Code of Federal Regulations, Part 68
22 (2007), who is:
- 23 (1) An architect licensed in the State;
24 (2) A structural engineer licensed in the State; or
25 (3) A builder;
- 26 J. An energy efficiency representative, recommended by the director of the
27 Governor's Office of Energy Independence and Security, who is:
- 28 (1) An architect licensed in the State;
29 (2) A structural engineer licensed in the State; or
30 (3) A builder; and
- 31 K. A professional building access specialist experienced with state and federal
32 accessibility regulations, recommended by the Maine Human Rights Commission.
- 33 A member appointed under this subsection must have at least 5 years' experience in the
34 field that member is nominated to represent and must be employed in that field.
- 35 3. Ex officio member; chair. The Commissioner of Public Safety, or the
36 commissioner's designee, serves as a nonvoting ex officio member and as the chair of the
37 board. The chair is responsible for ensuring that the board maintains the purpose of its
38 charge when executing its assigned duties, that any adoption and amendment

1 requirements for the Maine Uniform Building and Energy Code are met and that training
2 and technical assistance is provided to municipal building inspectors.

3 4. Terms; removal. Appointments to the board are made for a 4-year term, and
4 members are eligible for reappointment. If there is a vacancy for any cause, the Governor
5 shall make an appointment immediately effective for the unexpired term. A member of
6 the board may be removed from the board for cause by the Governor.

7 5. Meetings; quorum. The board shall meet quarterly and at such other times as the
8 board determines necessary. Five voting members of the board constitute a quorum for
9 the transaction of business under this chapter.

10 6. Duties and powers. In addition to other duties set forth in this chapter, the board
11 shall:

12 A. Adopt rules necessary to carry out its duties. Rules adopted pursuant to this
13 chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;

14 B. Adopt, amend and maintain the Maine Uniform Building and Energy Code;

15 C. Adopt rules for the review and adoption of amendments to the Maine Uniform
16 Building and Energy Code, including:

17 (1) A process for consideration of amendment proposals submitted by
18 municipalities, county, regional or state governmental units, professional trade
19 organizations and the public;

20 (2) A requirement that amendments that are more restrictive than the national
21 minimum standard be accompanied by an economic impact statement that
22 includes:

23 (a) An identification of the types and an estimate of the number of the small
24 businesses subject to the proposed amendment;

25 (b) The projected reporting, record-keeping and other administrative costs
26 required for compliance with the proposed amendment, including the type of
27 professional skills necessary for preparation of the report or record;

28 (c) A brief statement of the probable impact on affected small businesses;
29 and

30 (d) A description of any less intrusive or less costly, reasonable alternative
31 methods of achieving the purposes of the proposed amendment;

32 (3) A process for reviewing and evaluating criteria to identify whether an
33 amendment is needed to:

34 (a) Address a critical life or safety need, a specific state policy or statute or a
35 unique character of the State;

36 (b) Ensure consistency with state rules or federal regulations; or

37 (c) Correct errors and omissions;

1 (4) Timelines governing the filing of amendments, which must require board
2 action within 90 days of filing; and

3 (5) A process for publication of adopted amendments within 30 days of adoption;

4 D. Identify and resolve conflicts between the Maine Uniform Building and Energy
5 Code and the codes and standards referenced in section 9725. The board shall
6 develop rules designed to resolve these conflicts, which must include:

7 (1) Notification to the authority or authorities having jurisdiction over the code or
8 standard that is in conflict with the Maine Uniform Building and Energy Code
9 and a request for submission of proposed solutions for such conflicts;

10 (2) Procedures for consideration of proposed solutions submitted by the authority
11 or authorities having jurisdiction over the code or standard that is in conflict with
12 the Maine Uniform Building and Energy Code and consideration of new
13 approaches to resolving the conflict; and

14 (3) Publication of resolution of the conflict within 30 days of adoption;

15 E. Develop technical advisory groups of experts and interest group representatives as
16 necessary to provide the board with detailed information and recommendations on
17 amendments to the Maine Uniform Building and Energy Code, national model codes
18 revisions and conflict resolution with other building-related codes and standards
19 adopted in the State. The board may direct the technical advisory groups to identify
20 economic impacts on small businesses, housing affordability, construction costs, life-
21 cycle costs or code enforcement costs of proposed changes to the code;

22 F. In accordance with section 9723, ensure that training and certification regarding
23 the Maine Uniform Building and Energy Code is readily available, affordable and
24 accessible to municipal building inspectors; and

25 G. Make historic preservation a policy priority in the adoption and amendment of the
26 Maine Uniform Building and Energy Code.

27 (1) Provisions of model codes and standards intended to facilitate the continued
28 use or adaptive reuse of historic buildings must be maintained in the adopted
29 versions of the Maine Uniform Building and Energy Code.

30 (2) The board shall proactively identify additional or alternative compliance
31 means and methods for historic buildings in the adoption and amendment of the
32 Maine Uniform Building and Energy Code.

33 **§9723. Training and certification**

34 **1. Appoint committee; establish requirements.** The board shall appoint a 5-
35 member training and certification committee, referred to in this section as "the
36 committee," to establish the training and certification requirements for municipal building
37 inspectors.

38 **2. Training program.** The committee shall direct the training coordinator of the
39 Division of Building Codes and Standards, established in Title 25, section 2372, to
40 develop a training program for municipal building inspectors.

1 **3. Annual review.** The committee shall annually review the training program
2 developed pursuant to subsection 2 to confirm that training courses are regularly offered
3 in geographically diverse locations and that training for municipal building inspectors is
4 fully funded by the State.

5 **§9724. Application**

6 **1. Limitations on home rule authority.** This chapter provides express limitations
7 on municipal home rule authority.

8 **2. Prior statewide codes and standards.** Effective January 1, 2010, the Maine
9 Uniform Building and Energy Code adopted pursuant to this chapter replaces, and is
10 intended to be the successor to, the Model Energy Code established in Title 35-A, section
11 121 and the Maine model radon standard for new residential construction set forth in Title
12 25, section 2466.

13 **3. Ordinances.** Effective January 1, 2010, except as provided in subsection 4 and
14 section 9725, any ordinance regarding a building code of any political subdivision of the
15 State that is inconsistent with the Maine Uniform Building and Energy Code is void.

16 **4. Exception.** This section does not prohibit the adoption or enforcement of an
17 ordinance of any political subdivision regarding a building code that conforms
18 substantially with any applicable provision of state law or that sets forth provisions for
19 local enforcement of building codes.

20 **§9725. Fire and building-related codes and standards remain**

21 The codes and standards listed in this section remain in force in their entirety unless
22 the board adopts and publishes a conflict resolution between them and the Maine
23 Uniform Building and Energy Code. Conflict resolutions adopted pursuant to this chapter
24 must also be incorporated into these codes by the appropriate authorities:

25 **1. Fire safety codes and standards.** Fire safety codes and standards adopted
26 pursuant to Title 25, sections 2452 and 2465;

27 **2. Electrical standards.** Electrical standards adopted pursuant to Title 32, section
28 1153-A;

29 **3. Plumbing code.** The plumbing code adopted pursuant to Title 32, section 3403-B;

30 **4. Oil and solid fuel burning equipment standards.** Oil and solid fuel burning
31 equipment standards adopted pursuant to Title 32, section 2353;

32 **5. Propane and natural gas equipment standards.** Propane and natural gas
33 equipment standards adopted pursuant to Title 32, section 14804;

34 **6. Boiler and pressure vessel standards.** Boiler and pressure vessel standards
35 adopted pursuant to Title 32, section 15104-A; and

1 7. Elevator standards. Elevator standards adopted pursuant to Title 32, section
2 15206.

3 **Sec. 4. 25 MRSA §2351**, as corrected by RR 1995, c. 2, §56, is amended to read:

4 **§2351. Inspector; compensation; deputy**

5 In every town and city of more than 2,000 inhabitants, and in every town of 2,000
6 inhabitants or less, if such a town so votes at a town meeting, and in each village
7 corporation, if such a corporation so votes at the annual meeting thereof, the municipal
8 officers shall annually in the month of April appoint an inspector of buildings, who must
9 be a person ~~skilled in the construction of buildings~~ certified in building standards
10 pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E, and shall determine
11 the inspector's compensation. ~~The municipal officers shall define the limits within which~~
12 ~~the inspector of buildings has jurisdiction, which includes the thickly settled portion of~~
13 ~~each such city or of each village in each such city or town.~~ Whenever the inspector of
14 buildings becomes incapacitated, the municipal officers may appoint or authorize the
15 inspector of buildings to appoint a deputy inspector of buildings who shall serve until
16 removed by the municipal officers, but in no event beyond the term for which the
17 inspector of buildings was appointed. The deputy inspector shall perform such duties as
18 may be required of the deputy inspector by the inspector. The compensation of the
19 deputy inspector is determined by the municipal officers.

20 **Sec. 5. 25 MRSA §2353** is amended to read:

21 **§2353. Duty to inspect buildings under construction**

22 The inspector of buildings shall inspect each ~~new~~ building during the process of
23 construction; ~~for compliance with the Maine Uniform Building and Energy Code adopted~~
24 pursuant to Title 10, chapter 1103 and so far as may be necessary; to see that all proper
25 safeguards against the catching or spreading of fire are used, that the chimneys and flues
26 are made safe and that proper cutoffs are placed between the timbers in the walls and
27 floorings where fire would be likely to spread, and may give such directions in writing to
28 the owner or contractor; ~~as he deems~~ the inspector considers necessary; concerning the
29 construction of ~~such~~ the building so as to render the ~~same~~ building safe from the catching
30 and spreading of fire.

31 **Sec. 6. 25 MRSA §2361**, as enacted by PL 1985, c. 101, is amended to read:

32 **§2361. Proceedings by municipality**

33 **1. Municipal enforcement.** Duly appointed fire chiefs or their designees, municipal
34 building inspectors and code enforcement officers may bring a civil action in the name of
35 the municipality to enforce any of the state laws, ~~duly promulgated~~ adopted state rules or
36 local ordinances enacted pursuant to ~~chapters 313 to 321~~ this Part and Title 10, chapter
37 1103; and

38 **2. Notice.** In any proceeding brought by or against the State ~~which~~ that involves the
39 validity of a municipal ordinance, the municipality shall must be given notice of the

1 proceeding and ~~shall be~~ is entitled to be made a party to the proceeding and to be heard.
2 In any proceeding brought by or against the municipality ~~which that~~ involves the validity
3 of statute, ordinance or regulation, the Attorney General ~~shall~~ must be served and ~~shall be~~
4 made a party to the proceeding and ~~be~~ is entitled to be heard. This section ~~shall apply~~
5 applies to enforcement of statutes, rules or ordinances enacted pursuant to chapters 313 to
6 324 this Part and Title 10, chapter 1103.

7 **Sec. 7. 25 MRSA c. 314 is enacted to read:**

8 **CHAPTER 314**

9 **BUILDING CODES AND STANDARDS**

10 **§2371. Definitions**

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

13 **1. Board.** "Board" means the Technical Building Codes and Standards Board
14 established in Title 5, section 12004-G, subsection 5-A.

15 **2. Code.** "Code" means the Maine Uniform Building and Energy Code adopted
16 pursuant to Title 10, chapter 1103.

17 **3. Commissioner.** "Commissioner" means the Commissioner of Public Safety.

18 **4. Inspector of buildings.** "Inspector of buildings" means an inspector of buildings
19 appointed pursuant to section 2351.

20 **§2372. Division of Building Codes and Standards**

21 **1. Established.** The Division of Building Codes and Standards is established within
22 the Department of Public Safety, Office of the State Fire Marshal to provide
23 administrative support and technical assistance to the board in executing its duties
24 pursuant to Title 10, section 9722, subsection 6.

25 **2. Staff.** The commissioner may appoint or remove for cause staff of the Division of
26 Building Codes and Standards established under subsection 1, including:

27 **A.** A technical codes coordinator who serves as the principal administrative and
28 supervisory employee of the board. The technical codes coordinator shall attend
29 meetings of the board, keep records of the proceedings of the board and direct and
30 supervise the personnel employed to carry out the duties of the board, including but
31 not limited to providing technical support and public outreach for the adoption of the
32 code, amendments, conflict resolutions and interpretations. Technical support and
33 public outreach must include, but may not be limited to:

34 **(1) Providing interpretation of the code for professionals and the general public;**
35 **and**

1 (2) Establishing and maintaining a publicly accessible website to publish general
2 technical assistance, code updates and interpretations and post-training course
3 schedules;

4 B. A training coordinator, whose duties include the establishment of a program,
5 through cooperative agreements with national, regional and state organizations, to
6 provide the building inspector training required by the training and certification
7 committee appointed by the board pursuant to Title 10, section 9723; and

8 C. An office specialist to provide administrative support to the technical codes
9 coordinator, the training coordinator and the board.

10 **§2373. Enforcement**

11 1. Code enforcement. A municipality that is required to have an inspector of
12 buildings pursuant to chapter 313 shall enforce the code. Enforcement may be provided
13 through interlocal agreements with other municipalities or by contractual agreements
14 between municipal, county or regional authorities. Contracts with 3rd-party-certified
15 inspectors may be used in place of local code enforcement officers to enforce this
16 chapter.

17 2. Building inspectors. An inspector of buildings shall review applications, review
18 construction documents and issue permits for the erection, alteration, demolition and
19 moving of buildings and structures, inspect the premises for which such permits have
20 been issued, enforce compliance with the code and issue certificates of occupancy.

21 3. Reports of inspections. An inspector of buildings may accept reports of
22 inspection by agencies or individuals approved by the board. Reports of such inspections
23 must be in writing and be certified by a responsible officer of an approved agency or by
24 the responsible individual. The inspector of buildings is authorized to engage such expert
25 opinion as necessary to report upon unusual technical issues that arise.

26 4. Fees. A municipality that is required to have an inspector of buildings pursuant to
27 chapter 313 shall establish a schedule of building inspection permit fees sufficient to
28 cover the cost of employing an inspector of buildings.

29 **§2374. Uniform Building Codes and Standards Fund**

30 The Uniform Building Codes and Standards Fund is established within the
31 Department of Public Safety to fund the activities of the Division of Building Codes and
32 Standards under this chapter and the activities of the board under Title 10, chapter 1103.
33 Revenue for this fund is provided by the surcharge established by section 2450-A.

34 Sec. 8. 25 MRSA §2450, as amended by PL 2003, c. 358, §1, is further amended
35 to read:

36 **§2450. Examinations by Department of Public Safety**

37 The Commissioner of Public Safety shall adopt, in accordance with requirements of
38 the Maine Administrative Procedure Act, a schedule of fees for the examination of all
39 plans for construction, reconstruction or repairs submitted to the Department of Public

1 Safety. The fee schedule for new construction or new use is 5¢ per square foot for
2 occupied spaces and 2¢ per square foot for bulk storage occupancies, except that a fee for
3 review of a plan for new construction by a public school may not exceed \$450. The fee
4 schedule for reconstruction, repairs or renovations is based on the cost of the project and
5 may not exceed \$450, except as provided in section 2450-A. The fees must be credited to
6 a special revenue account to defray expenses in carrying out this section. Any balance of
7 the fees may not lapse, but must be carried forward as a continuing account to be
8 expended for the same purpose in the following fiscal years.

9 **Sec. 9. 25 MRSA §2450-A** is enacted to read:

10 **§2450-A. Surcharge on plan review fee for Uniform Building Codes and Standards**
11 **Fund**

12 In addition to the fees established in section 2450, a surcharge of 4¢ per square foot
13 of occupied space must be levied on the existing fee schedule for new construction,
14 reconstruction, repairs, renovations or new use for the sole purpose of funding the
15 activities of the Technical Building Codes and Standards Board with respect to the Maine
16 Uniform Building and Energy Code, established pursuant to the Title 10, chapter 1103
17 and the activities of the Division of Building Codes and Standards under chapter 314,
18 except that the fee for review of a plan for the renovation of a public school, including the
19 fee established under section 2450, may not exceed \$450. Revenue collected from this
20 surcharge must be deposited into the Uniform Building Codes and Standards Fund
21 established by section 2374.

22 **Sec. 10. 25 MRSA §2466, sub-§5** is enacted to read:

23 **5. Repeal.** This section is repealed January 1, 2010.

24 **Sec. 11. 30-A MRSA §4451, sub-§2-A, ¶E,** as enacted by PL 1991, c. 163, is
25 amended to read:

26 E. Building standards under chapter 141; chapter 185, subchapter 1 1; beginning
27 January 1, 2010, Title 10, chapter 1103; and Title 25, chapters 313 and 331.

28 **Sec. 12. 30-A MRSA §4451, sub-§3,** as amended by PL 1997, c. 296, §7 and PL
29 2003, c. 20, Pt. OO, §2 and affected by §4 and amended by c. 689, Pt. B, §6, is further
30 amended to read:

31 **3. Training and certification of code enforcement officers.** In cooperation with
32 the Maine Community College System, the Department of Environmental Protection ~~and,~~
33 the Department of Health and Human Services and the Department of Public Safety, the
34 office shall establish a continuing education program for individuals engaged in code
35 enforcement. This program must provide basic and advanced training in the technical
36 and legal aspects of code enforcement necessary for certification.

37 **Sec. 13. 30-A MRSA §4452, sub-§5,** as amended by PL 2007, c. 112, §§4 to 6,
38 is further amended to read:

1 **5. Application.** This section applies to the enforcement of land use laws and
2 ordinances or rules ~~which~~ that are administered and enforced primarily at the local level,
3 including:

4 A. The plumbing and subsurface waste water disposal rules adopted by the
5 Department of Health and Human Services under Title 22, section 42, including the
6 land area of the State ~~which~~ that is subject to the jurisdiction of the Maine Land Use
7 Regulation Commission;

8 B. Laws pertaining to public water supplies, Title 22, sections 2642, 2647 and
9 2648;

10 C. Local ordinances adopted pursuant to Title 22, section 2642;

11 D. Laws administered by local health officers pursuant to Title 22, chapters 153 and
12 263;

13 E. Laws pertaining to fire prevention and protection, which require enforcement by
14 local officers pursuant to Title 25, chapter 313;

15 F. Laws pertaining to the construction of public buildings for the physically
16 disabled pursuant to Title 25, chapter 331;

17 G. Local land use ordinances adopted pursuant to section 3001;

18 ~~H. Local building codes adopted pursuant to sections 3001 and 3007;~~

19 ~~I. Local housing codes adopted pursuant to sections 3001 and 3007;~~

20 J. Laws pertaining to junkyards, automobile graveyards and automobile recycling
21 businesses and local ordinances regarding junkyards, automobile graveyards and
22 automobile recycling businesses, pursuant to chapter 183, subchapter 1 and Title 38,
23 section 1665-A, subsection 3-;

24 K. Local ordinances regarding electrical installations pursuant to chapter 185,
25 subchapter ~~H~~ 2;

26 L. Local ordinances regarding regulation and inspection of plumbing pursuant to
27 chapter 185, subchapter ~~HH~~ 3;

28 M. Local ordinances regarding malfunctioning subsurface waste water disposal
29 systems pursuant to section 3428;

30 N. The subdivision law and local subdivision ordinances adopted pursuant to
31 section 3001 and subdivision regulations adopted pursuant to section 4403;

32 O. Local zoning ordinances adopted pursuant to section 3001 and in accordance
33 with section 4352;

34 P. Wastewater discharge licenses issued pursuant to Title 38, section 353-B;

35 Q. Shoreland zoning ordinances adopted pursuant to Title 38, sections 435 to 447,
36 including those that were state-imposed;

37 R. The laws pertaining to harbors in Title 38, chapter 1, subchapter 1, local harbor
38 ordinances adopted in accordance with Title 38, section 7 and regulations adopted by
39 municipal officers pursuant to Title 38, section 2;

1 S. Local ordinances and ordinance provisions regarding storm water, including, but
2 not limited to, ordinances and ordinance provisions regulating nonstorm water
3 discharges, construction site runoff and postconstruction storm water management,
4 enacted as required by the federal Clean Water Act and federal regulations and by
5 state permits and rules; and

6 T. Laws pertaining to limitations on construction and excavation near burial sites and
7 established cemeteries in Title 13, section 1371-A and local ordinances and
8 regulations adopted by municipalities in accordance with this section and section
9 3001 regarding those limitations; and

10 U. The Maine Uniform Building and Energy Code, adopted pursuant to Title 10,
11 chapter 1103.

12 **Sec. 14. 35-A MRSA §121, sub-§3** is enacted to read:

13 **3. Repeal.** This section is repealed January 1, 2010.

14 **Sec. 15. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 10,
15 section 9722, subsection 4, initial appointments made to the Technical Building Codes
16 and Standards Board are as set out in this section.

17 1. The appointments made under Title 10, section 9722, subsection 2, paragraphs B,
18 E, H and K are for a term of 2 years.

19 2. The appointments made under Title 10, section 9722, subsection 2, paragraphs C,
20 F and I are for a term of 3 years.

21 **Sec. 16. Adoption of Maine Uniform Building and Energy Code.** The
22 Technical Building Codes and Standards Board established by the Maine Revised
23 Statutes, Title 5, section 12004-G, subsection 5-A, referred to in this section as "the
24 board," shall adopt the Maine Uniform Building and Energy Code pursuant to Title 10,
25 section 9722, in accordance with this section.

26 1. The Maine Uniform Building and Energy Code adopted in accordance with Title
27 10, section 9722, subsection 6 must be composed of the substance of the following, with
28 administrative and other minor changes to customize the codes for Maine:

29 A. The 2009 version of the International Building Code;

30 B. The 2009 version of the International Existing Building Code;

31 C. The 2009 version of the International Residential Code;

32 D. The 2009 version of the International Energy Conservation Code;

33 E. The model building energy code adopted pursuant to Title 35-A, section 121 and
34 set forth in Title 10, sections 1415-C and 1415-D and associated rules; and

35 F. The Maine model radon standard for new residential construction set forth in Title
36 25, section 2466 and associated rules.

1 2. Existing state codes and standards, where applicable, must be referenced in chapter
2 one of the Maine Uniform Building and Energy Code.

3 3. The board shall adopt the Maine Uniform Building and Energy Code no later than
4 June 1, 2009.

5 A. Between June 1, 2009 and December 31, 2009, building construction and
6 renovation projects may utilize either the Maine Uniform Building and Energy Code
7 or existing building and energy codes adopted by any political subdivision of the
8 State.

9 B. The board shall maintain an adoption cycle for future versions of the Maine
10 Uniform Building and Energy Code that is coordinated with the State Fire Marshal's
11 adoption cycle and that does not lapse more than 5 years or one national model code
12 version cycle.

13 **Sec. 17. Appointments; convening of Technical Building Codes and**
14 **Standards Board.** The Governor shall make the appointments pursuant to the Maine
15 Revised Statutes, Title 10, section 9722 subsection 2 in sufficient time for the Governor
16 to convene the first meeting of the Technical Building Codes and Standards Board by
17 November 1, 2008.

18 **Sec. 18. Staggered effective date for enforcement of Maine Uniform**
19 **Building and Energy Code.** A municipality that has more than 2,000 residents that
20 has adopted any building code by August 1, 2008 shall begin enforcement of the Maine
21 Uniform Building and Energy Code adopted pursuant to the Maine Revised Statutes,
22 Title 10, chapter 1103 by June 1, 2010. Any municipality with more than 2,000 residents
23 that has not adopted any building code by August 1, 2008 shall begin enforcement of
24 Maine Uniform Building and Energy Code by January 1, 2012.

25 **SUMMARY**

26 This bill defines a uniform statewide building and energy code, known as the Maine
27 Uniform Building and Energy Code, that will replace all building and energy codes
28 adopted by state agencies and municipalities.

29 It establishes the Technical Building Codes and Standards Board in the Department
30 of Public Safety, which will amend, update and adopt the code. The board will also
31 identify and resolve conflicts between the code and other building-related codes, publish
32 conflict resolutions on the Internet within 30 days, establish a process for considering
33 amendments suggested by municipalities and citizens and ensure that training and
34 certification for municipal building inspectors is readily available, affordable and
35 accessible. The board may appoint technical advisory groups to make recommendations
36 on specific code issues.

37 It establishes the Division of Building Codes and Standards in the Department of
38 Public Safety in the Office of the State Fire Marshal to provide administrative and
39 technical support. The division will include a technical codes coordinator to provide
40 technical support to the board, a training coordinator to establish a training program for

1 building inspectors and an office specialist to provide administrative support for the board
2 and division staff.

3 Enforcement of the code will be carried out by local building inspectors in
4 municipalities of more than 2,000 residents, and these municipalities are considered the
5 authority having jurisdiction over matters of local code enforcement. Enforcement of the
6 code in municipalities with fewer than 2,000 residents is optional.

7 Funding for the board, the division and training expenses for building inspectors will
8 be provided from a surcharge on fire and life safety code plan review fees through the
9 Office of State Fire Marshal and standards plan reviews for commercial and public
10 buildings. All funding is to be deposited into a Department of Public Safety dedicated
11 revenue fund called the Uniform Building Codes and Standards Fund.

STATE OF MAINE
123RD LEGISLATURE

LEGISLATIVE NOTICES

JOINT STANDING COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT

Sen. Lynn Bromley, Senate Chair
Rep. Nancy E. Smith, House Chair

PUBLIC HEARING: Tuesday, March 25, 2008, 1:00 pm, Room 208 Cross Office Building
(L.D. 2257) Bill "An Act To Establish a Uniform Building and Energy Code" (H.P.1619)

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100 State House Station
Augusta, ME 04333-0100
287-1331

TESTIMONY SIGN IN SHEET

Joint Standing Committee on Business, Research and Economic Development

L.D. # 2257 An Act to Establish a Uniform Building and Energy Code *and 2179*

Date:

Name	Town/Affiliation	Proponent	Opponent	Neither
Sue Jones	SPO			
Jeff Doughton	NMA		X	
Don Thayer, P.E.	Auburn	✓		
Bruce Gerring	MCBA/MAAPC/IF AIG/Domestics		X	
Paul Beckus	Portland Team	✓		
Richard Lambert	MBOIA	✓		
Shiloh Ring	Jay		X	
Christy Crocker	MAAC	✓		
CHRIS O'NEIL	MAAC			
CHRISTOPHER GASS	GARDEN/MAINE PRESERVATION	✓		
Allison Hepler	Woolwich (Planning Bd)		X	
Jim Pelsor	AIA-Maine	✓		
John Butts	AAC Maine	✓		
Richard Kang	Topsham	✓		
Kristen Cadby	Maine Downtown Center			✓
Roxanne Eflin	Maine Preservation	✓		

~~MICK JOHNSON MAINE WEST. PRES. COMM. ✓~~

~~DENIS BERGERON MAINE PUC X~~

~~MI. DRUMMOND GROW SMART ME ✓~~



MAINE CHAPTER

U.S. Green Building Council

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Senator Lynn Bromley
Representative Nancy Smith
Committee on Business, Research & Economic Development
100 State House Station
Augusta, ME 04330
c/o Rhonda.Miller@legislature.maine.gov

Re: Testimony in support of LD 2257

U.S. Green Building Council Maine Chapter (USGBC-ME) endorses LD 2257 An Act To Establish A Uniform Building and Energy Code.

The USGBC, based in Washington, DC with more than 11,500 member organizations, is the largest nonprofit organization in America promoting green building standards and educating builders, architects, developers and others about the importance of incorporating environmental design into new and existing buildings. The USGBC is perhaps best known for creating and promoting the Leadership in Energy and Environment Design, or LEED, building standards, for which numerous Maine buildings have been certified, including the Abromson Building at the University of Southern Maine, the East End School in Portland, and many other educational, commercial and residential buildings.

The Maine Chapter of the USGBC has 277 members, representing over 150 businesses, including builders, architects, engineers, developers, consultants, and many others. We represent a broad cross section of members of the building and design industries who are concerned with creating environmentally sustainable buildings. The public policy committee and board of directors of the chapter have voted unanimously in favor of strongly and enthusiastically supporting LD 2257 and the creation of minimum energy and building code standards for Maine homes. We believe that creating a mandatory building and energy code will benefit both business and consumers, as well as the natural environment. It will ensure buildings are constructed to minimum safety standards, protecting Maine homeowners by enforcing and verifying quality building practices. The bill will further save Maine homeowners money by reducing their energy costs.

The Maine Chapter of the USGBC believes that establishing a compliance and reporting mechanism using certified inspectors is an effective means of ensuring that consumers are able to purchase homes that meet basic building and energy standards. This bill will also benefit builders and architects by creating a level playing field that ensures a consistent, minimum standard. We encourage inclusion of requirements from LD2179 for energy code certification to be done by inspectors specifically trained and qualified in energy code inspection into LD 2257.

We further encourage amendment to LD 2257 for the establishment of disclosure requirements of the building's energy performance, adapted from the provisions of LD2179.



MAINE CHAPTER U.S. Green Building Council

This provides critical consumer information to verify the actual energy consumption of buildings, both for those building and renovating and for future buyers. Recent studies show 84% of recently built homes in Maine would fail to meet minimum energy codes. These homes will be a drain on Mainers' family budgets for years to come. As oil prices continue to rise, closing recently at over \$100 a barrel, and as heating oil costs continue to take an ever greater portion of homeowners' expenses, it is becoming increasingly important for the State of Maine to offer public policy solutions that ensure that new construction is energy efficient. This bill will go a long way toward reducing the financial burden of energy costs on Maine families and creating a more energy efficient building industry in the state.

Sincerely,

Naomi Mermin
Chair, Public Policy Committee
Member Board of Directors
USGBC-Maine

INSTITUTE FOR
Business &
Home Safety®

March 24, 2008

The Honorable Senator Lynn Bromley, Chair
Committee on Business, Research and Economic Development
100 State House Station
Augusta, ME 04333-0100

Dear Chairwoman Bromley and Committee Members,

I am writing to you on behalf of the Institute for Business & Home Safety, to lend our support to pending legislation that would lead to adoption of a statewide mandatory building code. The Institute for Business and Home Safety is a non-profit organization whose mission is to reduce the social and economic effects of natural disasters and other property losses by conducting research and advocating improved construction, maintenance and preparation practices.

The purpose of the buildings code is to set **minimum** standards for construction to protect the safety of the people who occupy the buildings. For example, building codes work to provide safe environments for workers in industry as well as in office buildings, residents in single family dwellings as well as high rise condos, patients in hospitals as well as nursing homes and mental health facilities. Experts including architects, engineers, code enforcement officials, manufacturers, and academia from across the country contribute their knowledge, research and experience to develop the standards found in the building codes.

Building codes promote a level and predictable playing field for everyone involved in the development process – from designers, builders and suppliers to buyers, who are entitled to rely on construction of a safe, sound building. •One uniform code allows builders and designers to work throughout the State of Maine utilizing one code, which will result in savings to the building owners. This uniformity permits building and materials manufacturers to do business on a larger scale and pass cost savings on to the consumer.

Building codes specify design snow loads on buildings, insulation on pipes to prevent freezing, proper roof and roof covering construction to prevent ice and snow dams. The codes address energy efficient design methods as well as wind resistance.

Building codes are the minimal standards to which buildings are constructed throughout the country, and they are instituted to ensure the safety and health of building occupants. Stronger codes are more cost-effective in the long run, and must be enforced to be

effective, by qualified personnel who are properly trained to ensure that the approved standard is met for the minimal safety and performance of a building.

We urge your support for this important legislation.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Edwards". The signature is written in black ink and is positioned above the typed name and contact information.

Wanda D. Edwards, PE
Director, Building Code Development
Institute for Business & Home Safety
wedwards@ibhs.org
919-761-8863



Bruce E. Johnson
Regional Manager
Fire Service Activities
bejohnson@iccsafe.org

International Code Council
P.O. Box 655
Jamesport, NY 11947
tel: 888.icc.safe (422.7233), ext. 7276
cell: 631.220.8135 | fax: 631.722.5656



International Code Council
500 New Jersey Avenue, NW
Sixth Floor
Washington, DC 20001
tel: 888.icc.safe (422.7233)
fax: 202.783.2348
www.iccsafe.org

March 25, 2008

Chairman and Honorable Members of the Business Research and Economic Development Committee:

The following comments to the 2-20-08 draft Act to Establish a Uniform Building and Energy Code for the state of Maine are submitted on behalf of the International Code Council® (Code Council).

The International Code Council, a membership association dedicated to building safety and fire prevention, develops the codes used to construct residential and commercial buildings, including homes and schools. The mission of the Code Council is to provide the highest quality codes, standards, products, and services for all concerned with the safety and performance of the built environment.

The Code Council commends the Maine State Legislature for creating the Resolve 46 Committee to develop an implementation plan for a Maine statewide construction and existing building code based on the Code Council's *International Building Code*®, *International Residential Code*®, *International Energy Conservation Code*®, and *International Existing Building Code*®. The draft legislation before the Business Research and Economic Development Committee will create a statewide code based on the Code Council's model codes (I-Codes®) and thereby allows for consistency in code application and enforcement throughout the state, will promote economic development and ensure the safety of the public and emergency responders in the built environment.

The I-Codes set out minimum standards for building construction, energy conservation and fire-safety systems in all types of buildings. The I-Codes are regularly revised and updated by a national consensus process that strikes a balance between the latest technology, economics and cost while providing for an acceptable level of public and first responder safety. The I-Codes are correlated to work together without conflicts so as to eliminate confusion in building design or inconsistent code enforcement among different jurisdictions.

The Code Council recognizes the commitment to safety and building code administration by the Business Research and Economic Development Committee members of the Maine State Legislature. We support the draft legislation before this committee to move Maine to a statewide code based on the Code Council's model codes that will offer many benefits in public safety and economic development.

The Code Council pledges our support to the state of Maine and the Business Research and Economic Development Committee with any technical assistance needed to complete the adoption of this proposed legislation. We thank you for the opportunity to provide these comments.

Contact for further information:

Mark Tebbets, Regional Manager MTebbetts@iccsafe.org 888-422-7233 ext. 7703
Bruce Johnson, Regional Manager BEJohnson@iccsafe.org 888-422-7233 ext. 7276



Maine Building Officials and Inspectors Association, Inc.
60 Community Drive
Augusta, Maine 04333

**TESTIMONY IN SUPPORT OF A MANDATORY STATEWIDE
BUILDING AND ENERGY CODE LD 2257
OFFERED BY RICHARD LAMBERT, VICE PRESIDENT OF
THE MAINE BUILDING OFFICIALS AND INSPECTORS ASSOCIATION**

Senator Bromley, Representative Smith, ladies and gentlemen of the Business, Research and Economic Development Committee, thank you for allowing us to testify on this very important piece of legislation here today. My name is Richard Lambert and I am the Vice-President of the Maine Building Officials and Inspectors Association, a professional association formed in 1972 and made up of over 200 municipal code officials and related trades people. We have been at the forefront of promoting the use of model construction codes within the State of Maine to achieve our stated purpose of advancing the health, safety and welfare of the citizens of our communities. We are the only statewide municipal inspectors association holding a chapter designation from the International Code Council. We are members of the ICC Northeast Regional Coalition, the Eastern States Building Officials Federation and the North East Building Officials Committee.

We believe that this bill offers a great opportunity for Maine as it should not be voluntary to protect its citizens through adequate building codes and promote the use of energy saving methods and materials in order to conserve the diminishing energy resources we have left.

We would like to offer some suggestions on ways we feel could improve this bill. The proposed bill contains language that refers to CEO's and Inspector of Buildings somewhat interchangeably. In some of the larger municipalities, the Code Enforcement Officer and the Building Inspector are two different people. More recently, the term Building Inspector is more commonly associated with private home inspectors who have nothing to do with municipal governments. We would like to see the term "Inspector of Buildings" changed to "Building Official" since that is how the model codes define the administrative authority.

We support the concept of having the Technical Building Codes and Standards Board under the auspices of the Department of Public Safety but we would suggest that it become a division unto itself rather than it be under the jurisdiction of the State Fire Marshall's Office. Justification for this suggestion will be offered a little later in my testimony.

We believe the make-up of the board is tilted too far in the direction of design professionals which include architects and engineers. We find the language that dictates who gets to recommend the membership to this board is unnecessary and should be removed. Certainly these groups, including our own, would be free to suggest a nomination to the Governor however we believe that it should be the decision of the Governor with confirmation by the Legislature as to the make-up of this board. In

addition to the 5 year experience pre-qualifier, we suggest that the two Building Officials who are to serve on this board must also hold a current certification in Building Standards by the State Planning Office.

We do not believe that the Commissioner of Public Safety or his/her designee should hold the position of Chair by default. We believe that the Board should have the ability to select a chair from its own membership.

We feel that a quorum should be at least a majority of the total membership instead of the mere 5 out of 11 stated in the bill. As for the duties of this board, we agree with the Maine Municipal Association that the Board and not the technical codes coordinator should have the final say in issuing binding code interpretations. It is not clear in the bill whether the board or the Codes Coordinator is responsible for rendering these opinions. We do not want to rehash the old NFPA vs. ICC fight so we feel the best way to avoid this is to have a consensus of the technical board membership making these determinations.

The amount of time given to this Board to come up with a model code is not workable. These are very technical codes that need a lot of thought and analysis. I suspect the writer of this bill may not have realized that the final product Maine will end up with will be based on the 2009 edition of the ICC Codes which have not been written yet and are not due for publication until February of 2009. This will give the Board only 4 months to develop the first model building and energy code. Perhaps a progressive adoption of the various codes (residential, commercial, energy and existing buildings) may be more workable. Whatever the date of the final product, an effective date should be included and we should all abide by it with the provision that any previously permitted projects reviewed under a prior legally adopted building code may be constructed under the terms of that code. The adoption cycle (coordinating the Fire Marshall's rules with the building code adoption) outlined in Section 16 3 B may not be workable in the future if either model code writing agency alters their current code adoption cycle. We would suggest that this section be removed altogether.

Under the amendments section, the process outlined in 9722 6 C (4) and (5) is not workable. We do believe anyone should be able to suggest changes to the codes; however these changes cannot be considered and adopted on an on-going basis. If this were to be allowed, no building official would know what rules to follow since the code would be a constantly changing document. The amendment process needs to be similar to the process followed by the model code writing agencies where amendments are published and effective once a year.

We believe the technical advisory groups outlined in 9722 6 E should be made up of members of the main Technical Building Codes and Standards Board acting as a subcommittee. If this board requires assistance, they should be able to hire outside consultants to evaluate and recommend changes. The proposal calls for these subcommittees to be made up of "experts and interest group representatives." We have no problem with the employment of experts; however you need to be careful when placing interest group representatives on these boards since they sometimes do not have the public's best interest as an overriding factor.

MBOIA believes in well trained building officials and, in fact, one of our main functions is to provide training to our membership. We do want to be cautious however, in the manner in which we set up the training part of this bill. Currently, Code Enforcement Officers are required to obtain 12 hours of continuing education every five years for each area of job responsibility. These hours are usually offered in 6 hour increments that require a code officer to be away from his work for one day. There are

currently up to seven areas of recertification (14 days) of required training. Under this training proposal, there could be up to 10 more days added to this schedule; 12 hours in general administration, 12 hours in the residential code, 12 hours in the commercial code, 12 hours in the energy code, 12 hours in radon mitigation. We agree that all this training would be helpful and should be offered, however we must aware that there are only so many days available to actually apply the training in the work environment. The bill needs to be specific as to how many hours of training a building official must receive in order to achieve certification and to be recertified. We also want to make clear our position that any code officer who is currently certified in building standards will not have to sit for a test in order to continue working as a building official.

We believe section 9722 6 G (1) and (2) relating to making historical preservation of old buildings a priority are redundant and do not need to be in the bill. The language is too broad and could cover any multitude of code requirements.

Section 2372 needs to be reworked so that a separate division within the DPS is created with the head of that division holding the title of State Building Official. A Technical Codes Coordinator, a Training Coordinator (possibly a shared position with SPO) and an Office Specialist should comprise the balance of the minimum staffing level. Our position on this is based on the same reasoning we spoke of earlier about the code wars. By having a separate unit within DPS, you avoid the accusation of bias toward one code or another.

In section 9724 subsection 4, it allows municipalities to adopt a code that "conforms substantially" to state law. It is unclear who will make that determination.

In Section 9725, it is unclear if the board will have the authority to require other agencies to agree with its decision when resolving conflicts with other codes. For example, if a provision in the new Maine Uniform Building and Energy Code conflicts with a provision in the adopted Life Safety Code and the board decides the provisions in the building code should prevail; will it compel the State Fire Marshall to accept that ruling and amend their adopted code?

Section 2373 (3) is very loosely worded and is not necessary as the International Building Code already provides for special inspections. This whole section could be eliminated.

In Section 5.25 MRSA 2353, the whole section after "1103" can be eliminated as this wording is ancient and provides no legal guidance for building officials.

MBOIA wishes to thank Sue Inches, Amy Cole-Ives and all of the members of the Resolve 46 Committee for their hard work in crafting this bill. They have put in countless hours and many meetings with stakeholders to come up with this proposal. We think that, with the incorporation of the changes suggested by this testimony and perhaps others, we can come up with an outstanding building code program that will bring the needed security the public wants and deserves.

I will take any questions you may have at this time.



Maine Fire Chiefs ASSOCIATION

Local Government Center 60 Community Drive Augusta, Maine 04330-9486

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March 18, 2008

Chairman and Honorable members of The Business Research and Economic Development Committee:

Maine Fire Chiefs Association generally supports the proposed legislation an "Act to Establish a Uniform Building and Energy Code". We feel the need for such Legislation is there and the time is right.

We would like to offer two suggestions that we feel would help in the support of this legislation and in the decision making by the Legislature.

- The Maine Fire Chiefs Association would like to see the review and adoption process go at a slower pace to be sure that everyone has a chance to be heard. We feel that this would provide for more support and a smoother transition when the legislation is enacted.
- Maine Fire Chiefs Association is extremely concerned with the make-up of the technical committee. When you review the purpose of the technical committee "to create a uniform statewide building and energy code that will maintain a baseline standard for building construction, renovation and energy efficiency so as to ensure public safety and welfare....." it would lead you to believe that as well as being housed within the Department of Public Safety that the structure of the committee would have a strong public safety presence. The technical committee does not have that presence. Maine Fire Chiefs Association feels there should be a stronger presence of public safety, especially if the intent is to view all aspects from a service center, non-service center perspective. We would recommend the addition of at least one more if not two more Fire Chiefs to the technical committee.

We would like to thank you for your time and wish you well with your endeavor!

Established 1912

Contact Joan Kiszely at: 1-800-452-8786-207-623-8428-Fax 207-626-5947-email: jkiszely@memun.org

Website: mainefirechiefs.com



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**TESTIMONY OF CHRISTOPHER GLASS,
PRESIDENT, BOARD OF TRUSTEES**

FOR L.D. 2257

**RESOLVE, DIRECTING THE DEVELOPMENT OF A BUILDING CODE AND BUILDING
REHABILITATION CODE IMPLEMENTATION PLAN**

**BEFORE THE COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC
DEVELOPMENT**

Senator Bromley, Representative Smith, and Members of the Committee, I am Christopher Glass, President of the Board of Trustees of Maine Preservation. We are the statewide nonprofit advocacy organization for historic preservation with over one thousand member households in Maine. I am also an architect who has been involved in preservation projects throughout Maine for more than 30 years. I am here to testify in favor of L.D. 2257.

We testified last year in favor of establishing this process, and we have followed the development of the current text of the bill. The work that Sue Inches and Amy Cole Ives have put into this effort is remarkable and admirable, and Maine preservation strongly endorses the results.

You know the problems that this bill addresses from the summaries and descriptions you have of it. I am the one who first used the example of conflicting stair nosing rules in my previous testimony, and I have been gratified to hear that example used as a kind of "poster child" for the importance of this bill.

With the recent action of the Appropriations Committee in approving the addition of the historic Tax Credit (LD 262) to the proposed budget for enactment this week, we are very close to having a newly effective tool for increasing the number of rehabilitation projects in Maine's mill districts and downtowns throughout the state. Your action here on 2257 will make those projects more effective, more efficient and more economical to the developers and the taxpayers of the state.

For too long many of Maine's impressive historic business blocks, which are key to the character and quality of place of the built environment of our state, have languished because of the difficulty of bringing building up to current codes with the hope of an economic return on the investment necessary for the work. Abandoned mills, unused upper floors, demolitions and decay have blighted our towns. The work done in this legislative session on 262 and 2577 can be the beginning of a turnaround for our towns, a new source of jobs for our craftspeople, and newly habitable spaces for our citizens.

I urge you to proceed with the adoption of this bill.



KURT ADAMS
CHAIRMAN

STATE OF MAINE
PUBLIC UTILITIES COMMISSION
242 STATE STREET
18 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0018

SHARON M. REISHUS
VENDEAN V. VAFIADES
COMMISSIONERS

March 25, 2008

Honorable Lynn Bromley, Senate Chair
Honorable Nancy E. Smith, House Chair
Joint Standing Committee on Business, Research and Economic Development
Augusta, Maine 04333

Re: LD 2257, An Act to Establish a Uniform Building and Energy Code

Dear Senator Bromley and Representative Smith:

The Maine Public Utilities Commission (Commission) takes a position neither for nor against LD 2257, An Act to Establish a Uniform Building and Energy Code. LD 2257 would establish a uniform statewide building and energy code that would replace the patchwork of building and energy codes that are currently in place throughout Maine.

As we noted in our testimony on LD 2179, the Commission has been the default agency for building energy code issues since that responsibility was transferred from the Department of Economic and Community Development to the Commission in 2003 pursuant to P.L. 2003, Chapter 644. In 2005, the Commission adopted Chapter 920 of its rules which establishes the Maine Model Building Energy Code. In addition, the Commission has conducted various studies and reports regarding building energy codes.

As we also noted in our testimony on LD 2179, building energy codes and building ventilation codes are critically important. Building energy codes are one of the lowest cost sources of energy efficiency and provide positive net benefits to the consumer. Building energy codes are important because they provide a level playing field for building contractors. Without a minimum standard, contractors are more likely to focus their attention on more conspicuous design and construction features than on less visible features that relate to energy efficiency. Building ventilation codes are important because they protect consumers by helping ensure that tightly constructed homes have adequate ventilation.

In spite of its importance, the Maine Model Building Energy Code is not currently being enforced in a uniform way. The Commission occasionally receives calls from builders and contractors seeking guidance on the requirements of the Model Building Energy Code. These calls lead us to believe that there is considerable inconsistency in the way the Model Building Energy Code is being applied today.

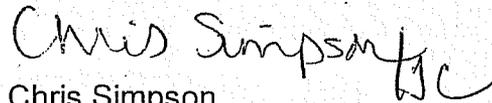


PRINTED ON RECYCLED PAPER

LD 2257 would create the Technical Building Codes and Standards Board. Among other things, the Board would be charged with establishing a uniform statewide code. As part of its review and consolidation of existing codes, the Board would update the Model Building Energy Code and incorporate the updated building energy code into a uniform statewide code.¹ LD 2257 would require Towns of more than 2,000 residents to enforce the uniform statewide code. LD 2257 would also provide for training in the energy code to local code officers at no cost. The Commission believes that the framework that would be created by LD 2257 would represent a significant improvement over the status quo.

The Commission will be present at the work session on LD 2257 and will be happy to assist the Committee in its consideration of the bill.

Sincerely,



Chris Simpson
Legislative Liaison

cc: Members of the Business, Research and Economic Development
Members of the Utilities and Energy Committee
Natalie Haynes, Legislative Analyst
Lucia Nixon, Legislative Analyst

¹ The Commission's authority to establish the Model Building Energy Code is codified at Title 35-A, section 121. Section 14 of LD 2257 would repeal section 121 on January 1, 2010.

Senator Bromley, Representative Smith, and members of the committee:

I am Rick Karg, owner of R.J. Karg Associates, an energy management consulting firm operating in Maine since 1984. I am currently the Senior Technical Advisor for Maine Home Performance with ENERGY STAR[®], an Efficiency Maine program. I am a member the ASHRAE¹ 62.2 Residential Indoor Air Quality Committee, the committee responsible for the ASHRAE 62.2 Standard² that is included in the current *Maine Model Building Energy Code* and referenced in LD 2179. My work on energy standards and codes for the Office of Energy Resources, the State Planning Office, and the Public Utilities Commission spans the years of 1985 through 2006.

I support the passage of LD 2257, but I have a suggestion for an important addition. My comments relate only to residential construction and its energy use. My comments are my own; I do not represent any organization, including Efficiency Maine.

For over a decade, the federal government has strongly urged states to adopt enforced energy codes. Maine has resisted. This unfortunate resistance has caused unnecessary damage to the climate, higher energy bills for those living in new homes, a confusing and costly business environment for builders, and a greater dependence of foreign oil.

The recent release of the Efficiency Maine baseline findings demonstrate that voluntary energy standards do not work for Maine. Efficiency Maine reported that 84 percent of newly built Maine homes do not comply with the 2005 *Maine Model Building Energy Code*. The 40 states with enforced energy codes show significantly better performance than Maine. This is substantial evidence that Maine needs an **enforced** energy code. To continue to expect that voluntary energy standards will be followed in Maine is irresponsible, not only to the people of Maine, but to the others in this world of changing climate. It is time for our great State to become a more responsible world citizen.

This bill not only brings an enforced and responsible energy code to Maine, it also brings a uniform building code to the patchwork or nonexistent system we now have. The ten years I spent as a builder in the Brunswick area certainly would have been easier if all the towns in which I built would have had the same building code.

¹ American Society of Heating, Refrigerating, and Air-Conditioning Engineers.

² Standard 62.2 title: *Ventilation and Acceptable Indoor Air Quality in Low-Rise Residential Buildings*

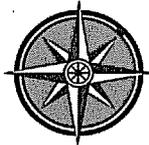
Testimony to the Business, Research and Economic Development Committee regarding LD 2257
"An ACT to Establish a Uniform Building and Energy Code"
Richard Karg, R.J. Karg Associates, Topsham, Maine, March 25, 2008

Regarding an important addition to LD 2257: As a member of the ASHRAE 62.2 Residential Indoor Air Quality Committee and as a member of the Maine Indoor Air Quality Council, I am concerned that this bill does not **specifically** include a reference to ASHRAE 62.2 for residential buildings. Historically the IECC (and the IRC) has been weak on guidance for ensuring acceptable indoor air quality. Adoption of the IECC and the International Residential Code (IRC) in Maine will not automatically include ASHRAE 62.2. The current *Maine Model Building Energy Code* and LD 2179 references this important ASHRAE 62.2 Standard. LD 2257 should do the same.

Thank you for the opportunity to testify before you today.

Rick Karg
R.J. Karg Associates
220 Meadow Road
Topsham, ME 04086
207-725-6723
rjkarg@karg.com





**Environment
Northeast**

142 High Street, Suite 422
Portland, ME 04101
(207) 761-4566
www.env-ne.org

Testimony in Support of
LD 2257 -- An Act To Establish
a Uniform Building and Energy Code

Rockport, ME
Boston, MA
Providence, RI
Hartford, CT
Charlottetown, PEI

before the
Business, Research and Economic Development Committee

March 25, 2008
by Michael D. Stoddard, Attorney

Environment Northeast (ENE) is a nonprofit, nonpartisan organization incorporated in Maine that provides research, analysis and advocacy on environmental policies for the Northeast United States and Eastern Canada. ENE has been a principal advocate for major energy policy reforms in Maine in the recent years, including the establishment of the Regional Greenhouse Gas Initiative, authorizing major increases in utility-based funding of energy efficiency programs, and minimum energy standards for appliances. ENE is a member of the Maine Energy Conservation Board.

Recently before this committee, ENE strongly encouraged you to vote for LD 2179, a bill seeking to establish minimum, uniform, enforceable energy codes for all new construction in the state. Today, ENE comes before you to ask that you support LD 2257.

This bill, like its companion LD 2179, shares the same fundamental purpose of helping builders and buyers by creating a level playing field throughout the state, and establishing a more robust system of inspections that will ensure all buildings meet minimum quality standards. While others can speak more persuasively about the business and safety reasons for supporting these two bills, ENE wishes to focus your attention on the benefits of incorporating the two best elements of LD 2179 into LD 2257.

First, the bill should require inspection of the energy codes by certified inspectors. Energy codes have rarely been mandatory and have never been widely enforced in Maine. As reported by the Maine Public Utilities Commission in February, 84% of newly constructed homes surveyed in Maine would have failed to meet the minimum energy code standards.

While this statistic highlights the need for Maine to do better, it is worth noting that other states are experiencing a similar problem. Studies throughout the region have shown that roughly half of all new construction fails to meet the minimum energy code standards. This tells us that the existing enforcement mechanisms in all states are not working well. Consumers need a better mechanism for their protection.

We therefore urge the committee to approve this bill with the addition of a new certification category for special inspectors to perform energy code inspections. This approach is the same as the special inspections that are currently provided for in Maine statute for local plumbing inspectors, electrical inspectors, and elevator inspectors. While it is perfectly acceptable for an inspector or code enforcement officer to “wear many hats,” including the hat of an energy code inspector, we ask that you at least ensure Maine’s current and future purchasers of commercial and residential buildings that these buildings will be inspected by a person specifically certified in the energy section of the building codes.

The second critical element of Senator Bartlett’s LD 2179 that we ask you to incorporate into LD 2557 is the establishment of a requirement to disclose to the buyer the energy performance rating of a building at the time it is offered for sale.

The U.S. and other industrial nations using disclosure labels to help consumers understand the energy performance of competing product models. (See samples, Appendix 1). Twenty years ago, the U.S. Federal Trade Commission established the EnergyGuide labels that are common to all consumers shopping for appliances, including: clothes washers, refrigerators, freezers, water heaters, dishwashers, window air conditioners, central air conditioners, furnaces, boilers, heat pumps and pool heaters. Similarly, the EPA established energy efficiency labels on automobiles in the now familiar city and highway fuel economy ratings. In the United Kingdom, the sale of any new house must be accompanied by a simple bar chart disclosing the building’s energy performance. It is time for Maine consumers to have the same fundamental information when they buy a house or a business property – often the most important purchase of their lives.

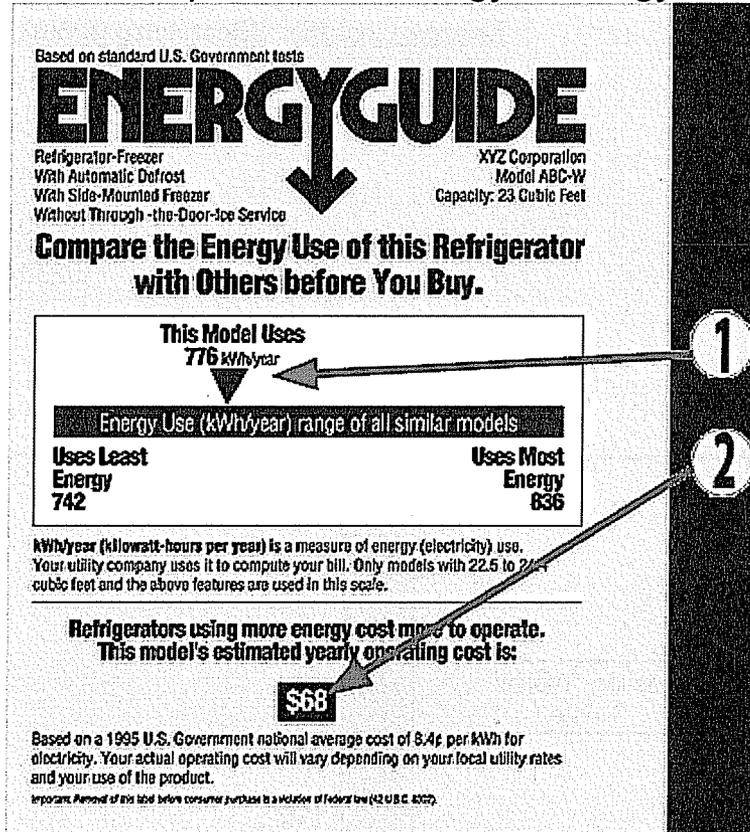
The Technical Codes and Standards Board should be tasked with developing one or more very simple and inexpensive methods to calculate or estimate the energy performance of a building. Beginning in 2010, these estimates should be required for any new building at the time the energy code inspection is performed (which will lower costs of the service) or on the occasion of an existing buildings second sale.

The average Mainer will spend more than \$3,500 this year on home heating oil and about a third of that on electricity. The cost of this energy in today’s dollars would be over \$31,000 during the average 7 years that an American holds a home, and more than \$225,000 over the life of that home if it lasted only 50 years. Given that a well built, highly efficient building might use half as much energy, or that a poorly built building could use twice as much energy, we feel that basic consumer protection demands the first buyer and all subsequent buyers be provided with an energy performance rating of the product before they buy it. Our economy, and our climate, are depending on it.

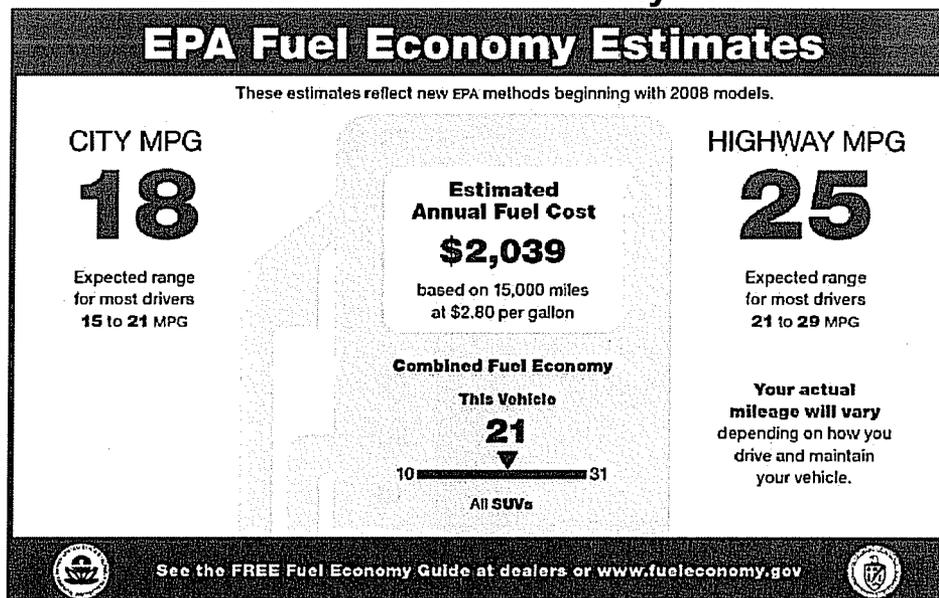
Thank you for considering these comments.

Appendix 1 – Sample Energy Performance Labels

1. U.S. Department of Energy -- EnergyGuide



2. U.S. EPA Fuel Economy Label

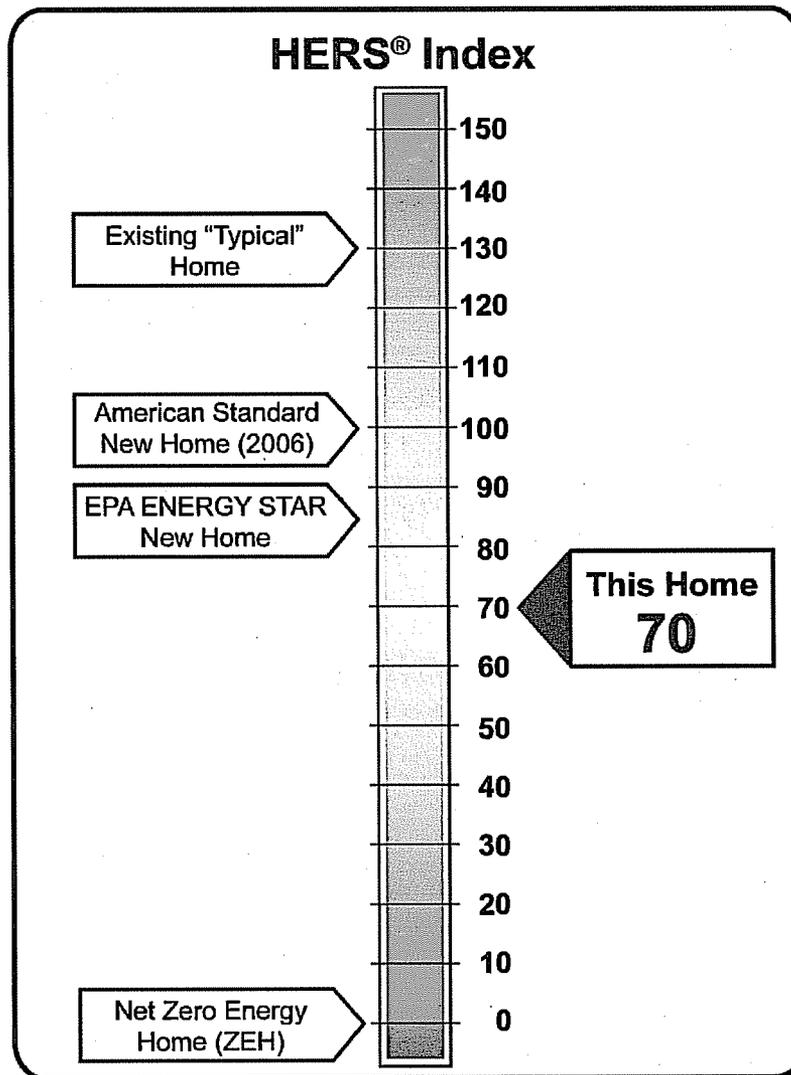


3. US. DOE Home Energy Rating System (HERS)

Sample HERS Scores and Estimates

	Score	Annual Energy Use		
		Estimated Annual Energy Cost (\$)	Electricity (kWh)	Gas (kBtu)
OVERALL	76	1162	6489	63807
Heating	87	219	131	37519
Cooling	97	16	124	0
Hot Water	64	119	0	220170
All Other Energy Uses:		809	6233	4191

4. Sample HERS Index



TESTIMONY
OF
Sue Inches, Deputy Director
MAINE STATE PLANNING OFFICE

**Testifying in Support of LD 2257
An Act Establish a Uniform Building and Energy Code**

Before the
Business, Research and Economic Development Committee

DATE OF HEARING: March 25, 2008

Senator Bromley, Representative Smith and members of the Business, Research and Economic Development Committee, my name is Sue Inches and I am representing the State Planning Office and the Administration. I'm speaking today in support of LD 2257. In my testimony, I'll walk you through the key components of the bill and give you our rationale for structuring the bill the way that we have.

Before I do that, I want to say that this bill is based on extensive research and public outreach over the past eight months. So, although you will hear a lot of different views on the bill, please know that the bill as presented is intended to balance all of the views we heard. Attached to your copy of this testimony, you will find a summary of the public outreach and comments received.

I want to thank the people who took the time to participate in public meetings held in Presque Isle, Bangor and Portland; I want to thank those who attended our focus group sessions in South Portland and I want to thank the 80 people who took the time to send us written comments. This bill is based on the ideas and feedback of all of you.

I want to recognize all the members of the Resolve 46 Steering Committee for their input on this bill. Anne Head, Department of Professional and Financial Regulation; Mike Johnson, Historic Preservation Commission; Paul Brunetti, Department of Economic and Community Development; and Rich McCarthy, State Fire Marshal's Office. I also want to give a special thanks to Amy Cole Ives who did a great deal of the background work on this plan and Natalie Haynes who did a lot of work to get this bill ready for the hearing today. I am speaking for the Steering Committee and staff in my testimony today.

LD 2257 puts a framework in place that establishes statewide uniform building and energy codes. Under this framework, national building and energy codes would be customized, regularly updated and adopted by a state Board of professionals, called the Technical Building Codes and Standards Board. Once this Board has adopted a statewide building and energy code, municipalities would no longer amend and adopt these codes locally, but instead would enforce the state uniform code.

The Technical Building Codes and Standards Board is comprised of eleven professionals representing the building trades, fire safety, historic preservation and energy. In crafting the bill, we tried to balance the membership of the Board and also keep it to a workable number. Many groups have requested representation, but our intent has been to limit the Board to those with expertise that directly relates to the codes over which the Board has jurisdiction. As a way to accommodate other interests, on the Board is authorized to consult with experts in plumbing and electricity and other areas, when needed.

LD 2257 supports local code enforcement. In this bill, towns remain the authority having jurisdiction for enforcement of the building and energy codes. Towns with more than 2000 residents would be required enforce the uniform statewide codes, but code enforcement would remain optional in towns with less than 2000 residents. The reason we structured the bill this way is because towns with more than 2000 residents are required by law to have an inspector. If this bill passes, those inspectors would simply be required to inspect to the state uniform code. While state staff may provide interpretations of the code, the final interpretation of the codes for enforcement purposes will remain the jurisdiction of the local code officer. As further support for local code officials, this bill provides technical assistance in answering code questions.

We drafted this bill with a requirement for code enforcement because voluntary code enforcement has not worked very well. Under the current voluntary system, less than half of the towns with more than 2000 residents have a building code. To put this in numbers, about 75 towns now enforce a building code and 90 do not. We think this puts the public at risk of having substandard or unsafe construction. On the energy side, the data is more discouraging. Fewer than 10 towns in Maine enforce an energy code, leaving consumers with homes that are costly to heat and cool. To sum up this issue, we believe that the public is better served if towns are required to enforce these codes.

At the same time, we understand the difficulties towns might face in administering and paying for code enforcement. LD 2257 contains a number of measures that address this concern. As I mentioned earlier, towns with fewer than 2000 residents are not required to enforce the codes. In towns with more than 2000 residents enforcement will be phased in. Towns with more than 2000 residents but no existing code enforcement program will have two years lead time to comply with the enforcement requirement. Towns that have a code enforcement program now will have six months to switch to the state uniform code after it is adopted.

Towns have a variety of enforcement options. They can have an in-house enforcement program. Or they may form interlocal agreements with other towns or contract with regional agencies for code enforcement services. Or towns may contract with certified third party professionals for plan review and inspection services. To pay for code enforcement, towns can set building permit fees. Towns in Maine and elsewhere have found that they are able to charge reasonable permit fees to cover the costs of code enforcement.

There are additional benefits and incentives for towns built into this bill. A summary of those is attached to this testimony.

LD 2257 puts a framework in place that can resolve conflicts between codes. The state Board will be authorized to resolve conflicts involving building codes and other codes such as fire, electric and plumbing. We view this as a breakthrough. There have been disputes between building and fire codes for years. We heard a lot about this conflict in the research we did for this bill. It is time to end the code wars. In our view, the way to end the conflict is to get the building and fire code people to work together and to resolve code conflicts together. This bill ensures that they will do this, since fire and building officials will both be appointed to the state Board and the Board will have the authority to resolve code conflicts.

To illustrate how this would work, I'll use the often cited example of the stair nosing. If the building code says the stair nosing should be built one way and the fire code says it should be built another way, the state Board can make a determination on how stair nosings will be built for Maine. They will do this through rulemaking and be required to publish their decisions on the web. In this way, some of these issues that come up again and again, can finally be resolved.

LD 2257 improves code enforcement through training. A key component of this bill is the additional training that will be required for code officers and made available to builders, contractors, architects and designers. One of the most stunning findings of our research is that without a uniform code, we have been unable to train code officials in specific building and energy codes. Once LD 2257 is enacted and a uniform code is in place, training in building and energy codes can be offered statewide, for the first time in Maine's history. The state Board will determine what the certification requirements are and will ensure that training is available and affordable. Training will be provided to code officers at no charge.

The business model that will be used for training is the same one that the State Planning Office uses now, with state staff coordinating and administering the program, but with courses taught by local, regional and national experts on codes.

LD 2257 facilitates historic preservation. Another surprising finding in our research is that few are aware that Maine has a model code for historic rehabilitation. Some of you may recall that this Committee put the model rehab code—called the International Existing Building Code (IEBC)—into statute in 2004. In the four years since you adopted the rehab code, very few towns have adopted it and no training has been offered. We have been unable to use this tool to renovate and redevelop historic properties.

LD 2257 will solve this problem. The state Board will adopt the rehab code as part of the uniform statewide code and training will be offered to code officers, architects, designers and builders. The rehab code is an important and useful tool for historic preservation. If LD 2257 passes, we will finally have a chance to use the rehab code to rebuild and renovate our historic buildings and downtowns.

LD 2257 improves energy conservation in new construction and renovation. LD 2257 provides a framework for amending, updating and adopting the energy code—which is called the International Energy and Conservation Code (IECC). Like the building and rehab codes, the state Board will amend and adopt the energy code as part of the uniform statewide code and local governments will enforce it. Towns with more than 2000 residents will be required to enforce it; and enforcement will be optional in towns with less than 2000 residents. Training in the energy code would be provided at no cost to local code officers.

LD 2257 improves the business climate and enhances economic development. When queried, builders told us that our patchwork quilt of codes creates a competitive disadvantage for firms that don't know the local codes where they want to build. Out of state developers concur with this finding, saying it is difficult for them to bid competitively due the variety of codes in Maine. Architects told us that they must hire extra staff to study the codes and navigate projects through Maine's complex permitting system. Studies have shown that states that have uniform codes have reduced the risk of investment and attracted additional investment. Put simply, uniform building and energy codes will improve the business climate by streamlining the permitting process and facilitating new investment.

LD 2257 is funded by a surcharge on fees paid by developers to the state. I'd like to note here that the Administration has not taken a position on funding, but that the funding mechanism in the bill was put in the bill at the request of the Committee. A budget for the program outlined in the bill is attached to this testimony.

The costs are modest, especially if you consider the benefits of an improved business climate, and improved public safety and improved consumer protection. The state Technical Codes and Standards Board will be staffed by a full time professional who is an expert in codes. The training in building and energy codes will be coordinated by a training coordinator, with courses taught by local and regional experts. A support staff person will assist the office and help handle a large volume of daily phone calls that we expect as a result of offering this program. The cost of this program is estimated to be \$300,000.

Funding will be provided by a surcharge of \$.04 per square foot on fees that are now paid to the fire marshal's office. These fees will go into a separate dedicated account that will pay for building and energy codes administration. Commercial and public buildings over 3000 square feet in size will pay these fees. As an example, the fee for a 3000 square foot building would increase from \$150 to \$270. The fee for a 50,000 square foot building would increase from \$2500 to \$4500.

I want to note here that we have put the building and energy codes administration in the fire marshal's office. There are two compelling reasons for doing so. The first is funding. Not only are the fees going to be collected there, but the Department of Public Safety is offering rent-free office and training rooms. The second reason, which I alluded to

earlier, is that we need to end the code wars and get building and fire code people to work together. By housing them in the same office, we will be able to break down the silos and get them together. Some worry that housing this program at the fire marshal's office will allow fire interests to skew or unduly influence Board decisions. With two fire and nine other building-related officials on the Board, we don't believe this will happen.

Conclusion

The Resolve passed by this Committee asked us for a plan to implement the building codes. We believe we have succeeded in doing that. The plan laid out in LD 2257 to implement the building, rehabilitation and energy codes is workable. If implemented, this plan will:

- improve Maine's business climate
- make Maine more attractive to outside investment
- help rehabilitate our downtowns and historic buildings
- provide consumers with the assurance that homes and businesses in Maine are well built and energy efficient.

While we know there are small things that can be tweaked in this bill and have attached some suggested amendments, we believe that the plan we have outlined in LD 2257 is the right way to go. We urge the members of this Committee to work with your colleagues in both houses of the legislature to pass LD 2257 in this session.

Thank-you. I am happy to answer any questions you may have.

123rd Legislature

*Senate of
Maine*

Senate District 16

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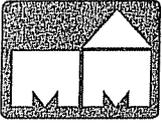
Testimony of Senator Rotundo in Favor of LD 2257, "An Act To Establish a Uniform Building and Energy Code", March 25, 2008

Good afternoon Senator Bromley, Representative Smith, and members of the Business Research and Economic Development Committee. I am glad to be here before you to speak in favor of LD 2257. It is way past time for Maine to adopt a universal building code. For the people who have had to deal with buildings in more than one municipality, our current patchwork is difficult to work with at best. The implementation of a uniform code will greatly simplify matters, and is a strong move in the right direction.

I do have some concerns in the area of rehabilitating and remodeling older buildings, however. Lewiston is home to some beautiful buildings and historic properties which are either being renovated or are under consideration for such work. I must disclose that my employer, Bates College, owns some of these older buildings. As the rules for these uniform standards are being developed, I hope you will keep in mind those issues that can greatly raise costs and make projects potentially unworkable.

These potentially problematic areas include the Life Safety Code and the Americans with Disabilities Act. I am certainly not proposing that rehabbed buildings be given a free ride in these very important areas, just that the special problems involved in bringing older buildings into full compliance be taken into consideration.

Thank you very much for your consideration on this issue. I will be glad to answer any questions.



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Testimony of the Maine Municipal Association

LD 2257, An Act To Establish a Uniform Building and Energy Code

March 25, 2008

Senator Bromley, Representative Smith, members of the Business Research and Economic Development Committee, my name is Jeffrey Austin and I am testifying in opposition to LD 2257 as printed and in support of the attached amended version which accomplishes the same central goal of the bill – a uniform statewide building code. With the amended version, the Legislature will have a very good opportunity to effectuate a change it has been working toward for many sessions.

MMA's Position

MMA's policy committee had long opposed the state adoption of a building code. Municipalities believed that authority should be coupled with responsibility; whomever has the responsibility to enforce the code should have the authority to choose it.

This year, MMA's policy committee decided to support a state-adopted building code. They did so for essentially the same reason that many others have done so in the past – to ease the regulatory burden on the development community. While the local adoption of codes makes sense, much more than the current critics would allow, this system has led to an unnecessarily cumbersome regulatory environment for builders, developers, architects, inspectors and consumers. There are municipal benefits to a state code which I will not take up your time explaining. Suffice it to say, municipalities are not merely being munificent in their support for a statewide building code, they will benefit from this as well.

Printed Bill

However, municipal officials could not support the bill as printed because of the proposed implementation plan. Accordingly, they **conditioned their support of the statewide code on two changes to the bill**: (1) that the state not mandate municipal enforcement of the code, and, (2) that the code be located in a more logical place within state government than the fire marshal's office.

In place of these two provisions in the printed bill, we propose (1) optional local enforcement by municipalities and a program of certified third-party inspectors, and, (2) a two-step implementation plan of: (i) adoption of the code by the proposed Technical Building Code Board, housed within the State Planning Office, and then (ii) a residential contractor licensing board, housed within the Department of Professional and Financial Regulation, to administer the code once adopted.

Working Group

As a draft version of the bill was circulated last month it became apparent that MMA was not alone in seeking changes. MMA expressed its concerns to the State Planning Office weeks ago in the hopes that the bill would be printed in a form that municipalities could support. When timing issues did not allow that to happen, MMA and a group of interested parties created an informal working group in order to craft an amendment that would accomplish the central mission of a uniform statewide code in a way that we could support.

The Working group included:

- Maine Municipal Association
- Maine Contractors and Builders Alliance
- Maine Service Center Coalition
- Home Builders and Remodelers Association of Maine
- Maine Real Estate & Development Association
- Associated Builders and Contractors of Maine.

I am pleased to say that we were able to craft an amendment that our associations can strongly support.

While we were in the process of drafting the amendment (up to and including last night), we reached out to other interested parties to let them know of our efforts in general terms. The other parties included: GrowSmart Maine, the Maine Realtors Association, Associated General Contractors, the Natural Resources Council of Maine and others. While none has seen our amendment before today, we have let them know of our concerns with the bill as drafted and a general sense of the solutions proposed in the amendment.

To summarize, MMA is supporting the targeted reduction of local control for the public policy purpose of easing the regulatory burden on developers and we hope you can support the amended version offered by our working group.

The Working Group Proposal

I. Enforcement

A. The Working Group eliminates the municipal mandate to enforce the building code.

Many of the printed bill's provisions deal with establishing a mandate on municipalities above 2,000 in population to (i) enforce the building code, (ii) to establish fees to cover the cost of enforcing the code, and, (iii) to require local code enforcement officers to be trained and certified in the code. MMA's policy committee was willing to support a significant reduction of local control regarding adoption of a code, however, it was adamantly opposed to a state mandate of any kind concerning municipal enforcement. I will not relay all of the policy reasons against such a mandate, for expediency let me list three.

First, enforcement is not the central goal of the bill. A uniform regulatory environment is the central goal. Let me quote from the State Planning Office testimony in support of LD 677 (Resolve 46) last April:

“The Brookings report points out that lack of uniform codes and uneven enforcement of them is holding back Maine’s economy. They suggest that the risk and uncertainty of development, particularly in rehabilitation of older buildings, may deter developers from taking on these projects. According to Brookings, Maine’s downtowns could absorb all of the expected growth in Maine for the next twenty years, if they were redeveloped. LD 677 proposes a solution to our codes dilemmas. The bill proposes developing a plan for administering codes at the state level in a way that will support towns as they adopt and enforce codes at the local level.”

As this testimony illustrates, the issue isn’t lack of enforcement – Maine’s “downtown” municipalities already have adopted codes and they enforce them today. The problem is “uncertainty.” To put the issue more bluntly: buildings in Maine are not falling down. That is not the impetus behind uniformity. The groups seeking a uniform code don’t represent injured citizens but design professionals and builders and developers. This is primarily an economic issue.

(Note: This quote also demonstrates that SPO’s testimony last year at least implied that that adoption of the code would remain a local decision.)

Second, while we have not surveyed municipalities on this point, it seems pretty clear that most municipalities that currently enforce codes will continue to do so if the state adopts a uniform code. The citizens in these communities have come to rely on an active code enforcement office and it is just not realistic to think they will drop code enforcement if this bill passes. This is especially true in the 30 or so communities that have themselves adopted the ICC code (including Bangor, Augusta, Lewiston, Portland, South Portland and Biddeford) which will be the basis of the state code. By contrast, most municipalities that have discussed and debated the issue and previously decided against enforcement of a local code should have their voices and positions respected by the state.

Third, as printed the bill is a municipal mandate under Maine’s Constitution and would therefore require a 2/3 vote of the legislature (or state-funding of 90% of the costs associated with the mandate).

Accordingly, the Working Group proposal eliminates the municipal mandate provisions throughout the printed bill and establishes a system of optional local enforcement and optional training. (See primarily - Section 3: §9726 on p. 5; and, Sections 4, 6 and 7 on p. 6)

To be clear, optional local enforcement refers to the decision to enforce the code, *or any part thereof*. We support allowing a town to enforce every provision of every chapter of the code or only the chapters or provisions it chooses. This does not mean that only a portion of the code would apply in these towns. The entire code would apply statewide regardless of local enforcement.

B. The Working Group proposes a third-party inspection system.

When public testimony was taken on Senator Bartlett’s energy code bill (LD 2179) the Committee seemed to be interested if not supportive of that bill’s proposal to establish a system for certifying third-party inspectors who will be capable of determining compliance with the residential code. The concept of state certification of non-governmental inspectors does exist in

current law and the Working Group selected language from utility law (Title 35-A) when developing our proposal (Section 3: §9723 on p. 4). The Working Group has no special attachment to this language regarding third-party inspectors and would be open to alternative language that supports a similar goal. The benefit of this kind of regime is that it empowers the consumer to take charge of protecting his/her investment.

II. Locating the Code within State Government

A. The Working Group proposes to relocate the code to a licensing board at the Department of Professional and Financial Regulation -- a more logical part of state government for the building code than the Fire Marshal's Office.

As drafted, the bill creates an 11-member board and three full-time positions and locates them in the Department of Public Safety. It then funds the board and its positions with a surcharge on plan reviews currently conducted by the Fire Marshal.

While there is a rational explanation for this choice, it is inconsistent with the manner that similarly situated codes have historically been handled in Maine law. The Department of Professional and Financial Regulation (DPFR) is the location for the oversight boards for virtually all building-related codes:

- Electrical
- Plumbing
- Boiler and Pressure Vessel
- Oil and Solid Fuel
- Architects

The only notable exception is the "life-safety" code housed at the Department of Public Safety. So, it seems more logical to place the proposed state building/energy/radon code where most other codes in Maine are housed – the Department of Professional and Financial Regulation.

This raises two issues, but we believe we have answers to both.

First, the other boards at DPFR are professional licensing boards. Thus, if the code is going to be located at DPFR a licensing board is needed. The board in the printed bill is not a licensing board.

The Working Group, including several contractor and builder associations that have opposed previous licensing legislation efforts (primarily for lack of a uniform code!), calls for a group of builders to craft a licensing board proposal and present recommendations to the Legislature in time sufficient for the establishment of a licensing board in late 2009 early 2010 (Section 12: page 9).

To be clear, this would be a residential contractors licensing board. We do not propose the licensing of commercial contracting. (Obviously, any contractor who chooses to do residential construction would need a license). Licensing boards are typically self-sufficient in terms of funding and so our proposal would eliminate the need for an additional surcharge on plan reviews.

The second issue our proposal raises concerns the interim period of actual code adoption. In that respect, the Working Group essentially retains the printed bill's "Technical Building Codes and Standards Board" and assigns to it the task of adopting the code.

This function would precede the existence of the licensing board. As such, we propose to house the code adoption board in the State Planning Office. The work of adopting the code over the next 12 months is not dissimilar to the work of the past 12 months regarding Resolve 46. The bulk of the work will be done by the board members themselves. They only need the administrative support to do their work – a website, meeting space, etc. We believe SPO did a very admirable job with Resolve 46 and we hope they are committed enough to extend their efforts another year. The Resolve 46 effort did not carry a fiscal note and this effort should not require one either.

B. The Working Group scales-back the duties of the Code Board and proposes to eliminate the three positions created in the printed bill.

The printed bill creates three new government positions: (1) a Technical Codes Coordinator, (2) a Training Coordinator, and, (3) Office Specialist. The Working Group proposal prioritizes code adoption, and we feel these three new positions are not needed for that task over the next 12-months. Our proposal to house the code, once adopted, at a licensing board will transfer much of the future work (such as updates and amendments) to that licensing board.

The primary work that will remain in the future is coordinating training and certification for CEOs and third-party inspectors. The board's role will be useful, but quite limited. SPO already has a well-respected and quite intensive code enforcement officer training program and the training and certification called for in our bill could easily mesh with existing SPO programs. It is our belief that the actual code training would be provided by the ICC, whose representative has repeatedly expressed a willingness to the Legislature to provide training opportunities in Maine should we adopt their code. The work for SPO will be in scheduling that training and tracking attendees.

We propose that two other issues, the resolution of code conflicts and reviews of state codes should also be done by this board if funding allows. (More on these two issues below.)

To summarize, we support an implementation two-step where the existing bill calls for only one. We believe the Code Board should be created within the State Planning Office. Its short-term duty will be the adoption of the code by March 1, 2009. Its long-term duty will be in overseeing the training for the code. Other important tasks can be assigned to it if funding allows. Simultaneously, a working group of contractors and other interested parties will craft a licensing board proposal. This licensing board will essentially takeover stewardship of the code once the code is adopted. It will be self-funded.

III. Other Changes

In addition to the changes we propose above, we have several other suggestions we would like you to consider.

Code Board Issues (p.1-4)

1. Composition of the Code Board (§9722(2)(A))

In addition to substituting the Director of SPO for the Commissioner of DPS (since we're moving the board out of DPS and into SPO) we made another change to the composition of the board. We removed the Fire Marshal appointment and put in a "public" member. We don't see the need for the Fire Marshal to be on the Board. As the keeper of an existing code, the Fire Marshal is certainly interested in the work of the board, but so are electricians and the plumbers and they weren't given seats on the board. State employees/board members with an interest in this topic should be invited and encouraged to participate in the code adoption process but they probably don't belong on the code board.

2. Terms of Board Members (§9722(4))

We changed the term from 4-years to 3-years.

3. Quorum (§9722(5))

We changed the quorum from 5 (a minority of the 11-member board) to 7.

4. Duties - Code Conflicts (§9722(6)(C))

One of the duties given to the original board was the task of resolving conflicts between the state building code and other codes. This is an important issue. However, the bill does not really explain how conflicts will be resolved. It simply speaks to providing notice of a meeting and notice that a conflict had been resolved. The actual resolution process is left to rulemaking. This is a very sensitive issue where other code boards would be subject to the decisions of this board. We believe this was not developed fully enough to go forward at this point.

Instead, we think this board should facilitate conflict resolution and propose solutions for consideration by the legislature. Ours is a more cautious approach. In the future, this board may be reconstituted in a fashion that would allow it to actually resolve conflicts.

5. Duties – State Codes (§9722(6)(F))

We also propose giving the board the opportunity to review state codes such as the elevator code and make recommendations for changes. The Resolve 46 report and the Marketing Decisions report discuss problems with existing state codes at some length. Yet, the bill as printed makes no recommendations for reform of state codes or state code administration. The very modest proposal of the working group is have this state code board look at these other codes if funding allows.

Application (p.5)

1. Local Ordinances (§9724(2))

The bill as drafted limits home rule for local building codes. We believe the printed bill is a little vague on this issue. So, we specifically identify the local codes to be preempted as: building; energy; radon, and fire codes. The fire code issue may provide controversial. The Working Group felt that the intent of the bill (to streamlining the regulatory environment by

eliminating local building codes that are inconsistent from town to town) would be significantly frustrated if municipalities were allowed to continue adopting their own fire codes at the local level. So, the Working Group proposed to clarify that no local regulation of construction standards, including fire codes, would be allowed.

2. Exception (§9724(4))

The bill as drafted includes an unclear allowance for municipalities to continue to adopt building codes that “*conform substantially*” to the state code. We discussed this at great length and the members of the working group view this as an invitation to trouble. We clarified that a municipality may only adopt the state code (or a portion thereof) by reference in order to facilitate local enforcement. Thus, towns will not be authorized to amend the code locally or to exempt construction from certain provisions of the code locally. Municipalities will be able to adopt the state code by reference in order to outline the authority of the local code enforcement officer.

The Working Group does not feel as strongly about these minor changes we have proposed as we do about the two major issues of enforcement and location of the code. That said, we made these suggestions after much thought and discussion and we believe they address legitimate issues. For that reason we would ask your serious consideration of them.

Code Adopted and Timing

1. Code Adopted (Section 10 of the Amendment)

The Working Group proposes no changes to the energy and radon codes proposed to be adopted. The Legislature has already invested a great deal of research and effort into these codes and they should be the ones to go to the board for review. The bill as printed proposes to use the 2009 version of the ICC code as the basis for the building codes. We propose to use the 2006 version for two reasons. First, it is in existence and will allow the building code to be adopted in the Spring of 2009. We believe a July 1, 2009 adoption date for a code based upon the 2009 ICC code is unrealistic. Second, the 2006 code has been used in Maine and this “real world experience” will be important when crafting the statewide code.

2. Timing

As indicated above, we would like both the uniform code and the licensing board to become effective on January 1, 2010. We believe that is possible if the code is adopted by March 2009 and the licensing proposal is given to the Legislature by April 2009.

Conclusion

The Business Research and Economic Development Committee and the State Planning Office are to be commended for their persistence in this issue. The interested parties are all on the same side this year – in support of a uniform state code. The only issue is whether the implementation of this goal can be done in a more sensitive way to the builders and municipalities that are most impacted by the bill. We believe the working group proposal accomplishes a great deal of what you’ve been working toward. The amendments to the bill that we seek are very modest compared to the changes to the status quo that we are prepared to support. We urge you to support the Working Group version of this bill. Thank you.

HOWE, CAHILL

& COMPANY

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Governmental Relations and Association Management
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March 25, 2008

Senator Lynn Bromley
Representative Nancy Smith
Committee on Business, Research & Economic Development
State House
Augusta ME 04333

Re: LD 2257, An Act To Establish a Uniform Building and Energy Code

Dear Senator Bromley and Representative Smith:

I am writing on behalf of the Modular Home Builders Association of Maine in support of LD 2257.

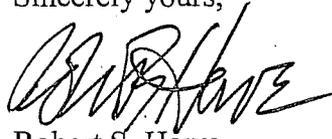
Under current Maine law (10 MRSA §9042), all modular homes built or sold in the State of Maine must be constructed according to the building code adopted by the State of Maine Manufactured Housing Board. That board has adopted as the modular code the 2003 International Residential Code for One- and Two-Family Dwellings published by the International Code Council, Inc., known as the IRC, with modifications. The IRC governs the construction in the factory of modular homes, and their assembly at the ultimate building site.

However, the state modular code does *not* apply to as much as one third of the work performed by modular housing contractors. The foundation on which the home sits, and any garage or additional rooms constructed on site, fall outside the scope of the Manufactured Housing Board. From what I have observed, the complaints about modular homes brought before this committee in recent years have usually dealt with these unregulated aspects of modular housing. For this reason and others, the association supports the adoption of a mandatory, statewide building code, while leaving in place the existing statewide building code and inspection process for modular homes. For the same reasons, the association supports licensing of all home construction contractors.

We believe it would appropriate to locate the new Technical Building Codes and Standards Board within the Department of Professional and Financial Regulation, especially if contractor licensing is being contemplated as a next step, as we hope it is. The existing building trades licensing boards are all housed within that department, and each have the authority to adopt the codes which their licensees are required to follow.

We believe it is not necessary to have both a municipal fire chief and the State Fire Marshall as voting members of the board, and we ask that the State Fire Marshall be designated an ex-officio, non-voting member.

Sincerely yours,

A handwritten signature in black ink, appearing to read "R. S. Howe", written in a cursive style.

Robert S. Howe

RSH/se



March 25, 3008

Senator Lynn Bromley
Representative Nancy Smith
Members of the Business, Research & Economic Development Committee
Room 208 Cross State Office Building
Augusta, Maine 04330

RE: LD 2257, an Act to Establish a Uniform Building and Energy Code

Dear Senator Bromley, Representative Smith and Committee Members,

The Maine Interior Design Association MIDA supports LD 2257, An Act To Establish a Uniform Building and Energy Code. We believe that by creating one statewide code, this legislation finally increases the ability of everyone in the building and design industry to work together.

MIDA does recommend that one seat on the board created by this act go to a Certified Interior Designer who is licensed in Maine.

Interior Designers are regulated and licensed under Title 32, Chapter 3A, Architects, Landscape Architects and Interior Designers.

The following are the qualifications necessary to be licensed in Maine as an interior designer.

- Applicants must provide proof of passage of the examination administered by the National Council for Interior Design Qualification
- A Graduate of a 5-year interior design program from an accredited institution and has completed at least one year of diversified and appropriate interior design experience; or
- A Graduate of a 4-year interior design program from an accredited institution and has completed at least 2 years of diversified and appropriate interior design experience

We encourage the committee to support this legislation.

Sincerely,

Roxanne Simpson

Roxanne Simpson
President, MIDA

**Testimony of Phil Nadeau
Deputy City Administrator, City of Lewiston**

LD 2257

"An Act To Establish a Uniform Building and Energy Code"

March 25, 2008

Business, Research and Economic Development Committee

**Senator Bromley, Representative Smith and
Members of the Business, Research and Economic Development Committee.**

My name is Phil Nadeau and I serve as the Chair of the Maine Service Center Coalition and the Deputy Administrator for the City of Lewiston.

On behalf of the Maine Service Center Coalition, I would like to express our opposition to LD 2257 as written in favor of our support for the alternative Resolve 46 bill---a collaborative process that included a broad base of contractor, municipal, home builder and real estate organizations throughout the state.

You will hear testimony as to why the MSCC and others in the coalition believed it necessary to support this alternative bill. I do not believe it is necessary to restate those reasons.

I will add, however, that we applaud the efforts invested by Sue Inches and the State Planning Office to bring us to this moment. The goal of unifying our state building codes and the process of developing uniform enforcement processes is long overdue and goes a long way in encouraging the kind of development activity that many service centers embrace.

We believe that this bill is only the first step in moving Maine service center communities towards the kind of building and energy code review process that will both enhance public safety and provide developers with the kind of efficiencies that need to keep investing in Maine's larger communities.

The MSCC looks forward to working with the BRED committee on this very important public safety and economic development legislative initiative.



Town Of Jay

99 Main Street, Jay, Maine 04239-1697

Tel. 897-6785

Fax 897-9420

office of

SELECTMEN
ASSESSORS
TOWN MANAGER
TREASURER
TOWN CLERK
PLANNING BOARD
CODE ADMINISTRATOR

March 25, 2008

L.D. 2257 – An Act to Establish a Uniform Building and Energy Code

Committee Chair Bromley, Chair Smith and Members of the Business, Research and Economic Development Committee:

My name is Shiloh Ring and I am the Code Officer for the Town of Jay. I am testifying today in opposition of L.D. 2257.

The Town of Jay has a population of approximately 5,000 people. When building codes have been proposed in the past, they have been overwhelmingly voted down. Anyone familiar with small town politics can appreciate the passion with which citizens can argue to protect their rights. When last proposed, there were some very volatile meetings which ended with an overwhelming "No" vote at the Town Meeting. Along with the vote on the building codes, the citizens voted down the entire code budget. This action sent a very strong message to the Board of Selectmen and Town policy makers.

The Town of Jay currently does not have a building permit system or even a building notification requirement. If L.D. 2257 is passed as proposed, we will be mandated to enforce a daunting array of requirements. We will be obligated to hire new personnel to fill the position of inspector of buildings. The inspector will be required to review applications, review construction documents, issue permits for erection, alteration, demolition and moving of buildings and structures, conduct inspections, issue certificates of occupancy and take enforcement actions.

In order to provide funding for such a position the Town will have to establish a building inspection permit fee. In a Town with little growth, the fees necessary to cover this position and employee a certified, competent building inspector will be extravagant. The inspector will have to be certified in building standards, attend trainings and have in depth knowledge of the proposed codes. This will be a highly technical position which will require significant funding. There will be considerable costs incurred for the ever changing code manuals alone.

The consensus of the citizens of the Town of Jay has always been that they do not want building codes. L.D. 2257 takes away the home rule right of our citizens to make this choice. Our Town will be mandated by the State to enforce a set of building codes that they do not want. Decisions on amendments will be made at the State level. Our citizens will be required to fund a position to enforce these codes and will have no say as to whether or not the codes work in our Town.

On top of our citizens paying for a code they do not want, new businesses will be paying to support positions at the State level that will oversee and dictate the provisions of the code. The new program, new Board, new coordinator positions and the costs of administration and training will be significant. In a State already viewed as being unfriendly to business this will not help. It is exceedingly difficult in our rural community to attract new businesses.

To summarize, L.D. 2257 is an unfunded mandate by the State that takes away the home rule rights of the Town. The proposed Code would be a shock to our community both in the amount of regulations that it would encompass as well as the cost to the Town to establish a permitting system, conduct plan reviews and inspections, issue notices of violations, etc. For a Town that currently does not have or want this, the expense will be huge.

We are not opposed to the State adopting a revised Model code, if it is just that, a model. The Town of Jay greatly values its home rule authority and its citizen's rights to make decisions that will directly effect them. On behalf of the Town of Jay, I ask that you oppose the passage of L.D. 2257 and leave these rights to our citizens.

Respectfully Submitted,

Shiloh A. Ring

Shiloh A. Ring
Code Officer



**Testimony in support of
LD 2257 – An Act to Establish a Uniform Building & Energy Code
Submitted On Behalf the Maine Indoor Air Quality Council and the
American Lung Association of Maine**

The Maine Indoor Air Quality Council and the American Lung Association of Maine support the overall intent of LD 2257 – An Act to Promote a Uniform Building & Energy Code. Consistent application of minimum codes and standards can be an extremely valuable tool to insure that building occupants have reduced risk of personal injury and adverse health effects from building related events and/or exposure to indoor pollutants.

However, the Council and ALA-ME strongly encourage the Joint Standing Committee of Business, Research and Economic Development to address the following serious concerns:

1) Include a Mechanical Engineer on the Building Codes Technical Standards Board.

- Large, commercial buildings require the installation of large, complex mechanical systems to provide fresh air and thermal comfort to building occupants. On average, these systems comprise 20% of the overall construction costs. None of the proposed Technical Codes Board members have the expertise needed to address the codes and standards that govern these systems.

2) Specifically Reference the ASHRAE Standards for Ventilation and Energy in the Adopting Legislation

- Current statutes require application of the ASHRAE 62 standards (ventilation) and the ASHRAE 90.1 standards (energy) in Maine buildings. Since the intent of the bill is to eliminate the “patchwork” quilt of codes and standards, and because the ASHRAE 62 standards in particular are critical to the health and safety of building occupants, inclusion of direct references to these standards in the initial code adoption language is imperative.

3) Use Enforcement Mechanisms That Protect the Quality of HVAC Systems

- Enforcement of the codes and standards is a critical piece of this legislation. However, neither codes enforcement officers nor independent “energy code inspectors” have the expertise necessary to be able to adequately conduct plan review to insure that these large systems are properly designed, nor will they have sufficient knowledge to determine if the systems as installed are functioning to either their design or intent. **The Maine Indoor Air Quality Council and the American Lung Association of Maine therefore recommend that the enforcement structure specifically require verification that plans and post-construction documentation have been stamped by licensed professional engineers and architects. The role of the municipal codes officer or independent inspector will then be to insure that the appropriate stamps have been obtained. This process will eliminate the time and energy needed by the enforcement official to do an independent review or audit of these systems, and provide**

additional support to existing statutory provisions (Title 32, ch. 19) that require a PE stamp on plans for all types of construction (excluding minor construction.)

4) **Include specific reference to the standard that comprises the Model Radon Standard for New Residential Construction.**

- The bill should reference each of the codes and standards contained in the current mix of Maine Model Building Codes. In addition to the references to the ASHRAE standards (per #2 above) specific reference to the ASTM Standard that comprises the Model Radon Standard should be made. (ASTM 1465: Guide for Radon Control Options for the Design and Construction of New Low Rise Residential Buildings)

The Maine Indoor Air Quality Council and the American Lung Association of Maine welcome the opportunity to provide additional resources to the Committee as it deliberates these issues.

Respectfully Submitted,



Christine G. Crocker, Executive Director
Maine Indoor Air Quality Council
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christy@maineindoorair.org
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MAINE SCHOOL MANAGEMENT ASSOCIATION

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Website: www.msmaweb.com

TESTIMONY NEITHER FOR NOR AGAINST LD #2257

“AN ACT TO ESTABLISH A UNIFORM BUILDING AND ENERGY CODE”

MARCH 25, 2008

**SENATOR BROMLEY, REPRESENTATIVE SMITH, AND MEMBERS
OF THE JOINT STANDING COMMITTEE ON BUSINESS, RESEARCH, AND
ECONOMIC DEVELOPMENT, MY NAME IS BOB LYMAN AND I AM
DIRECTOR OF ADMINISTRATIVE AND PERSONNEL SERVICES FOR
MAINE SCHOOL MANAGEMENT ASSOCIATION. I APPEAR BEFORE YOU
TODAY REPRESENTING BOTH THE MAINE SCHOOL SUPERINTENDENTS
ASSOCIATION AND THE MAINE SCHOOL BOARDS ASSOCIATION.**

**AS THE TRUSTEES OF PUBLIC BUILDINGS, SCHOOL
SUPERINTENDENTS AND SCHOOL BOARDS LOOK AT THIS PROPOSED
LAW FROM A SLIGHTLY DIFFERENT PERSPECTIVE THAN THAT**

REFLECTED IN THIS BILL. FROM THIS PERSPECTIVE THE FOLLOWING QUESTIONS HAVE BEEN RAISED:

- 1) WITH SCHOOL BUILDING PROJECTS ALREADY PAYING FOR ARCHITECTS, ENGINEERS, CLERKS OF THE WORK, OWNERS REPRESENTATIVES, AND COMMISSIONING AGENTS, ALONG WITH THE LOCAL BUILDING COMMITTEE, IS MORE OVERSIGHT REASONABLE OR NEEDED?**

- 2) WILL THIS ELIMINATE LOCAL OPTIONS SUCH AS HEIGHT, SIZE, MATERIALS AND COLORS?**

- 3) IF ONE STATE-WIDE BUILDING CODE IS BETTER, WHY NOT INCLUDE THE RELATED CODES: FIRE SAFETY, ELECTRICAL, PLUMBING, ETC?**

- 4) WHY SHOULD THERE BE ENFORCEMENT FOR SOME (MUNICIPALITIES OVER 2000) AND NOT FOR OTHERS?**

- 5) WHY IS THE COST BURDEN TOTALLY ON THE OWNERS?**

- 6) WHY ARE TWO OF THE ELEVEN MEMBERS OF THE PROPOSED BOARD FIRE RELATED IF FIRE SAFETY CODES ARE NOT INCLUDED?**

**7) WHY ARE THERE NO BUILDING OWNERS REPRESENTATIVES ON
THE PROPOSED BOARD?**

**SCHOOL BOARDS AND SUPERINTENDENTS HOPE THESE
QUESTIONS CAN BE ANSWERED IN YOUR WORK SESSION, AND WE WILL
BE PRESENT TO HELP IN ANY WAY POSSIBLE.**

Holt & Lachman Architects + Planners
Architecture | Community Design | Preservation

March 24, 2008

To: Members of the Maine Business Research and Economic Development Committee
RE: Support for LD 2257, the Uniform Building Codes
FM: Denis Lachman, Principal

Honorable Committee Members,

There are many very good reasons to approve LD 2257 however I will address only two, as I am sure my colleagues will address others.

Who We Are

Revitalization, preservation and redevelopment of community cultural and commercial institutions form one cornerstone of our practice. Since 2002 we have provided state-wide design services to the Maine Downtown Center and Maine's CDBG Facade Improvement Program. In those capacities, we have worked with many town managers, councils, planning boards and historic preservation commissions as well as with property owners, neighborhood organizations, community stakeholders and contractors.

Coordination between Fire and Building Officials

We spend considerable time, effort and client resources coordinating between conflicting codes, especially Fire and Building. The authorized State Board would resolve these conflicts, saving everyone much time and effort. In particular, Fire and Building officials would work together on the new Board, which will be housed at the Department of Public Safety, to enhance coordination and cooperation between the building and fire code interests.

Historic Preservation

As the Brookings Institute correctly identifies, revitalization of Maine's historic downtowns is essential for future prosperity. Statewide adoption of the IEBC (rehab code) by the state Board will enable local code officers, architects, designers and builders to use this code thereby opening previously closed doors for practical and cost effective revitalization. In addition building professionals will be trained in the IEBC and the Technical Building Codes Board can resolve conflicts between the IEBC and other codes, increasing the effectiveness of the rehab code.

For the reason described above, as well as many others not mentioned, we urge you to approve LD 2257 as a critical piece in improving Maine's built environment and economic future.

Thank you for attention to this matter,



Denis Lachman



RETAIL LUMBER DEALERS ASSOCIATION OF MAINE

March 24, 2008

Senator Lynn Bromley
Representative Nancy Smith
Members of the Joint Standing Committee on Business, Research and Economic
Development
100 State House Station
Augusta, ME 04333-0100

Re: **Testimony In Support of LD 2257**
“An Act to Establish A Uniform Building and Energy Code”

Sen. Bromley, Rep. Smith and members of the committee;

The Retail Lumber Dealers Association of Maine (RLDAM) appears before you today to offer our *support* of LD 2257 “An Act to Establish a Uniform Building and Energy Code.” RLDAM is an association that promotes independent building material dealers throughout the state. We have 35 main yard members and 30 more branch operations. As an organization representing material suppliers, RLDAM’s members are intimately familiar with the inconsistencies and problems created by not having a mandatory state-wide building code.

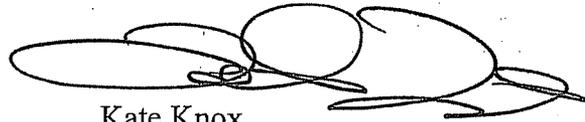
RLDAM is proud to provide its support for a statewide building code and believes that such a code would offer needed consistency and predictability to construction professionals (and consumers) in Maine. As building material suppliers to Maine contractors and consumers, RLDAM members have a unique perspective on the need for a statewide code. Currently, our members are often the de-facto experts for contractors and consumers on a variety of construction issues – from who does quality work to what town requires conformance to what code. Our members work closely with contractors to assure codes and being met and proper materials are used for the job at hand. That being said – RLDAM understands that the current system does not provide consistency or predictability. For that reason, Maine must adopt – and *enforce* – a statewide code.

While we believe the code proposal is strong, we respectfully request that a building material supplier be added to the membership of the proposed Technical Building Codes and Standards Board. Building material suppliers would add a unique perspective to the Board, as they deal with both contractors and consumers – and have the

most expertise about products in the current and future construction markets. Material suppliers are intimately familiar with all the current disparate codes, and understand all the practical, on-the-ground challenges of harmonization and compliance. Several states, including New York, Wisconsin, Florida and California, recognize the importance of building material supplier presence on the Board by designating positions for such members.

We appreciate your consideration of our recommended change – and wish to reiterate our strong support for LD 2257.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kate Knox', with several loops and flourishes.

Kate Knox
Counsel for the Retail Lumber
Dealers Association of Maine

March 25, 2008

GREATER PORTLAND LANDMARKS SUPPORTS RESOLVE 46

Greater Portland Landmarks encourages you to support Resolve 46, to put a framework in place that establishes statewide uniform building and energy codes, provides training for code enforcement officers, and implements a structure to resolve conflicts between codes.

For more than 40 years, GPL has educated, researched, and advocated historic preservation and architectural excellence for the greater Portland area, with over 900 active members and supporters, and thousands of constituents who take part in our educational outreach, publications, and programs.

The provisions of Resolve 46 would be especially beneficial to historic preservation projects throughout the state. The state has already specified a rehabilitation code – the International Existing Buildings Code (IEBC) – in statute. However, many design professionals and code enforcement officers need training to use it most effectively.

- Statewide adoption of the IEBC by the new Technical Building Codes Board will enable local code enforcement officers, architects, designers and builders to use this code.
- Required training in the IEBC will familiarize building professionals with this code.
- The Technical Building Codes Board can resolve conflicts between the IEBC and other codes, increasing the effectiveness of the rehabilitation code.

Uniform rehabilitation codes make code requirements for rehabilitation projects more consistent, predictable, and less expensive to accomplish, without compromising safety.

We believe that Maine should adopt strategies that encourage sensitive rehabilitation and reuse of the historic structures that give us our identity, thereby stimulating economic growth. Enacting the provisions of Resolve 46 is an important step in achieving this goal.

Thank you for your consideration.

Hilary Bassett
Executive Director



Maine Real Estate &
Development Association

Supporting Responsible Development

**TESTIMONY REGARDING
LD 2257, "An Act to Establish a Uniform Building and Energy Code"**

March 25, 2008

Senator Bromley, Representative Smith and members of the Business, Research, & Economic Development Committee, I am Pattie Aho, an attorney with Pierce Atwood Consulting speaking on behalf of the Maine Real Estate & Development Association.

The Maine Real Estate & Development Association (MEREDA) is a state-wide organization with over 220 members who work to ensure the success of fair and responsible land use and development here in Maine. Our members include investors, developers, bankers, and many others who are associated and involved with the real estate industry.

MEREDA members are actively engaged in a variety of commercial real estate developments – whether it is office buildings, multi-use buildings, affordable housing projects, or rehabilitation of historic buildings – all require the involvement of a variety of current building codes and standards. The efforts to review the various codes and standards and work toward harmonization of the diverse offerings into one uniform building and energy code that is used throughout Maine is supported by MEREDA. We believe it will benefit all involved in building and development to replace the various separate codes, and to create a framework that will be available for the resolution of differences between the codes, and the ultimate adoption of a Maine code.

MEREDA also supports the necessary training for code officers, and others involved with building codes, because, as we all know, the built environment has a significant impact on our natural environment, economy, health and productivity. It is to everyone's best interest that we ensure our building construction and design is done so in a manner that provides both positive economic and environmental performance.

As currently drafted, LD 2257 presents concerns to MEREDA. The bill would create a uniform building and energy code framework financially supported by only the commercial sector. Also

it does not take advantage of current on-going efforts to train local code enforcement officers by the State Planning Office, nor does it take advantage of the availability to use the private-sector in a comparable role. For these reasons, MEREDA is supporting the amended version of LD 2257 along with the Maine Municipal Association, Associated Builders and Contractors and others.

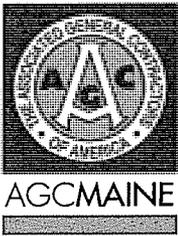
The amended version of LD 2257 creates a mandatory uniform building and energy code, and ensures the adoption of a Technical Codes and Standards Board. The Board is required to adopt the uniform building and energy code by July 1, 2009.

Secondly, the Board is required to establish an inspector training and certification program available to anyone who wishes to participate. The program will establish third-party residential building and energy code inspectors who are available to ensure residential building construction has met the standards of the uniform code.

These are the first two necessary steps as Maine pursues a harmonized building and energy code. Following these two first critical steps, will be the determination of pursuing residential contractor licensing, an issue that has been long discussed but not yet undertaken in Maine. Also, will be discussions and a determination of an equitable funding formula for the building and energy code program. Rather than look to only one segment to fund such a program, as currently proposed in the printed version of LD 2257, we believe that a funding formula balancing the needs of both the residential and commercial building sectors needs to be further explored and ultimately adopted.

We appreciate all the efforts that have gone into these discussions in the past few years, by the Community Preservation Advisory Committee, by the State Planning Office, and all those involved in the Legislature and the private sector. We believe that the amended version of LD 2257 should be adopted by the BRED Committee, and start the process for Maine to establish a uniform building and energy code.

I thank you for the opportunity to share our thoughts on this proposal, and appreciate your consideration this afternoon.



TESTIMONY

L.D. 2257, An Act To Establish a Uniform Building and Energy Code
Joint Committee on Business, Research, and Economic Development
March 25, 2008

Senator Bromley, Representative Smith, my name is John Butts. I am the Executive Director of the Associated General Contractors of Maine (AGC Maine) and I am pleased to stand before you in support of L.D. 2257, An Act to Establish a Uniform Building and Energy Code.

AGC supports the framework of this bill, notably the creation of the Maine Uniform Building and Energy Code, based on the family of International Codes, and the establishment of the Technical Building Codes and Standards Board to oversee the code's effectiveness.

AGC believes this will lead to the replacement of our current patchwork system of codes that we have now in the State of Maine to one of consistency and uniformity that will allow contractors to work from town to town, city to city knowing that they will be building to one code. Although we cannot put a quantifiable value to it, we believe it will save all parties in the construction process – owners, designers, and contractors – time, effort, and money.

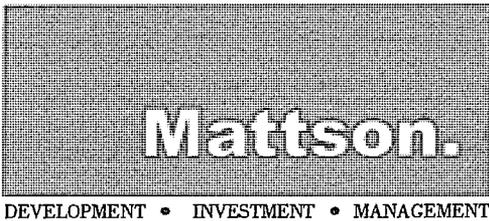
We understand there is concern about placing the Board in the State Fire Marshall's Office. Frankly, we were opposed to this provision when we read the initial drafts because we were under the impression that the Board would be reviewing plans and specifications. However, since meeting with the State Planning Office, we are reassured. AGC believes housing the Board in the Department of Public Safety is acceptable as long as the function of the Board remains as it is in the bill, and not one of reviewing and approving building plans which, as we understand, will be appropriately performed by municipalities.

While our members do not generally favor increases in fees on the industry, we believe the proposed 4 cents per square foot of occupied space is not unreasonable given that we have a high degree of confidence that the new system, adding consistency and uniformity, will ultimately provide a payback in time and money saved.

We support the provision that enforcement of the uniform code will be carried out by local building inspectors in municipalities over 2000 residents. Under the proposed system, we believe code enforcement officials, trained under the same standards of enforcement, will have a better chance of providing professional, uniform and fair code administration of the code throughout the state than the scattershot system we have now.

In earlier versions of this proposal, various implications were made to marry the issues of a uniform statewide building code and state contractor licensure in one proposal. We believe this bill should focus solely on the creation of a statewide uniform building and energy code, and the issue of contractor licensure remain separate and distinct, most likely to be considered by future legislatures once a uniform building code has had a chance to succeed, or not, on its own.

Thank you very much for the opportunity to present our views.



**LD 2257, "An Act to Establish a Uniform Building and Energy Code"
Public Hearing, March 25, 2008**

**Testimony of Kevin Mattson, President, Mattson
Presented by Lock Kiermaier, Director of Research, Mattson**

Senator Bromley, Representative Smith and Members of the Joint Standing Committee on Business, Research and Economic Development,

My name is Lock Kiermaier and I am Director of Research for Mattson, a prominent developer in the State of Maine specializing in significant redevelopment projects across the state such as Saco Island, the Central Maine Commerce Center in Augusta and the Hallowell House. The President of Mattson, Kevin Mattson, regrets that he cannot be here to testify in person in support of LD 2257 and has asked that I present his testimony on this important bill.

Mattson strongly supports the basic goals and tenants of LD 2257. As a developer involved in many high-profile development projects throughout Maine, we recognize the important value of having a state-wide uniform building and energy code that be evenly applied by trained professionals at a relatively minimal cost. In particular, we wish to emphasize the following points:

- **Mandatory enforcement of a uniform building and energy code is essential.** From our perspective, the current voluntary enforcement of existing codes by municipalities simply has not worked. We note that of the approximately 165 municipalities with populations of more than 2,000 that only about 75 of these towns administer building codes on a voluntary basis and less than 10 have voluntarily implemented energy codes. We believe that developers could accomplish their many projects more efficiently and at a lower cost under the premise of an evenly applied uniform building and energy code.
- **It is crucial to have required professional training for the administration of a uniform building and energy code.** We endorse the requirement in LD 2257 that code enforcement officers must undergo training to properly administer the uniform code in a manner which is consistent regardless of what municipality the development project is taking place in. Further, our experience in working on development projects in a wide variety of municipalities suggests that well-meaning code enforcement officers sometimes administer existing codes in an inconsistent and arbitrary manner.
- **It is appropriate to locate the Technical Building Codes and Standards Board and associated staff in the Department of Public Safety.** We believe that the complicated issues surrounding the establishment of a uniform code are integral to public safety and organizational placement of the board in the Department of Public Safety makes good sense.

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Fax (207) 377-8988

We also note that the department can offer training and office space at little or no additional cost. While we support the sensible idea of unifying the administration of building and fire codes under one organizational roof, we would favor an amendment to the bill which would establish the board and its staff as an organizational entity that has equal status to other parts of the department such as the Fire Marshal's Office and the State Police.

- **The increased fees that will be necessary to administer the uniform code and to fund the costs of the board and required training are not unreasonable and can be afforded by many, if not most, developers.** The proposed surcharge on plan reviews will be borne by developers and in relative terms will not significantly add to the cost of most development projects. For us, the tangible benefits of a uniform code that is consistently employed on a statewide basis far outweigh the minimal additional costs proposed in this bill. We contend that many developers would gladly pay the additional surcharge in exchange for a level and consistent playing field.

We would be pleased to answer any questions that committee members may have about our support of LD 2257 and are grateful for the opportunity to present this testimony.

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Testimony for LD 2257
An Act To Establish a Uniform Building and Energy Code
Presented by Kristen Cady on behalf of the Maine Downtown Center

March 25, 2008

Good afternoon Madam Chairs Bromley and Smith and distinguished members of the Business Research and Economic Development Committee. Thank you very much for the opportunity to speak with you. My name is Kristen Cady and I am the new director of the Maine Downtown Center, a program that has been part of the Maine Development Foundation since 1999.

As we all know, our historic downtowns are an imperative asset to our great state. When downtowns thrive and prosper, so too do the communities they are in, creating economic vitality that is so crucial. However, there are several factors that prohibit many downtowns from flourishing. Barriers such as non-conducive tax credits and the current non-uniform building codes truly impact the rehabilitation of downtown properties. We would be remiss as a state if we didn't do everything we could to make it easier for those willing to come into our decaying downtowns and restore these once beautiful buildings back into viable properties. Investing in our downtowns helps communities in so many ways and perhaps most importantly provides jobs that are so desperately needed. We know from our work around the state, that for every \$1 invested, \$12 is returned into the economy. With a return on investment like that, you simply can't lose! Especially now, when the state and nation face uncertain economic times, why not invest in proven economic initiatives?

The opportunity to help our downtowns is tremendous and anything you can do to take positive steps towards making this happen would be very welcomed. The time is now and the downtowns are ready and waiting.

Very truly,

Kristen M. Cady
Director, Maine Downtown Center
Maine Development Foundation

Senator Bromley, Representative Smith and Members of the Business, Research & Economic Development Committee,

Thank you for giving me a chance to testify in support of LD 2257, 'An Act to Establish a Uniform Building and Energy Code'.

My Name is Rachael Weyand and I am the executive director of the Heart of Biddeford, Biddeford's Main Street Program. We are devoted to the revitalization of downtown Biddeford through a variety of different programs including focusing on economic development and preservation of old buildings.

This bill will make building rehabilitation projects in this state significantly more clear-cut and we feel will drive development of our aging downtown building stock.

The state has already specified a rehabilitation code – the International Existing Buildings Code (IEBC) – in statute. However, many design professionals and code enforcement officers need training to use it most effectively.

- Statewide adoption of the IEBC by the new Technical Building Codes Board will enable local code enforcement officers, architects, designers and builders to use this code.
- Required training in the IEBC will familiarize building professionals with this code.
- The Technical Building Codes Board can resolve conflicts between the IEBC and other codes, increasing the effectiveness of the rehabilitation code.

In recent years Biddeford has started to see a significant amount of investment and development in our downtown. Vacant storefronts are filling up and over a million square feet of previously abandoned mill buildings are slated for redevelopment. These projects are critical for our downtown to experience revitalization and drive economic development but they are expensive and complex and cannot be done when being held up to IBC new building standards. Uniform rehabilitation codes make code requirements for rehabilitation projects more consistent, predictable, and less expensive to accomplish, without compromising safety.

We believe that Maine should adopt strategies that encourage sensitive rehabilitation and reuse of the historic structures that give us our identity, thereby stimulating economic growth. Enacting the provisions of Resolve 46 is an important step in achieving this goal.

Thank you for your consideration.

Rachael Weyand
Executive Director
Heart of Biddeford



Natural Resources
Council of Maine

March 25, 2008

Senator Lynn Bromley
Representative Nancy Smith
Committee on Business, Research & Economic Development
100 State House Station
Augusta, ME 04330

Re: Testimony in support of LD 2257, *An Act to Establish a Uniform Building and Energy Code*

Thank you for this opportunity to testify in support of LD 2179. This bill should be one of the legislature's top priorities this year as it seeks to reduce energy costs in Maine, and protect home buyers and the environment at the same time. Maine is one of the last states that has not taken the step of establishing a statewide minimum energy standard in codes, and we're seeing the results: most new homes in Maine aren't built to even this basic standard. This bill is an opportunity to solve a significant problem in a careful and sensible way.

We support LD 2257 because it does the following things:

- Establishes a statewide uniform energy code, and provides for periodic updates;
- Mandates enforcement of energy codes in towns over 2000, where most building activity occurs, using code inspectors certified specifically in the code.
- Provides quality training for code inspectors (and others), so that

While a statewide, uniform energy code is a step forward, the really important component of this bill is a means of enforcing the codes. **The code is only as good as compliance with the code**—and our experience from across the country is that compliance rarely reaches high levels without enforcement.

The analysis by the Public Utilities Commission, which you heard about before, suggests two important facts. First, new Maine homes are far less energy efficiency that they can or should be, given the current heating cost crisis. They are less efficient than new homes in Vermont or New Hampshire. Bringing these buildings into compliance will save several thousand dollars over the life of the building. (And if efficiency isn't built into the building, the extra cost of heating will last a generation.) **Given that we build more than 6000 homes each year, each year that slips by without an enforceable code will ultimately costs Maine homeowners millions of dollars.**

Second, the brief cost-benefit analysis they've done shows that **bringing buildings into compliance with codes will save homeowners money from day one.** There are no lengthy paybacks because any additional cost is part of the mortgage. Savings from

complying with the code, measured as annual energy costs are greater than any mortgage increases.

We also strongly support the amendment proposed by Senator Bartlett as a way to bring the most important language from LD 2179 into this more comprehensive bill. As you know, **LD 2179 was selected as one of the five environmental priority bills by a standing coalition representing over 100,000 members across Maine.**

We strongly support this amendment because it does the following:

- Clarifies how home/building owners will receive certification that the building meets the energy code;
- Provides a modest but very important mechanism to give *future* buyers of buildings information about energy performance;
- Adds more flexibility to the manner of code inspection—in towns that choose not to use energy code inspectors, builders go direct to independent, 3rd party inspectors who are certified by SPO in codes.

Enforcing codes is real work, there is no doubt about it. There is also little doubt that it benefits consumers when we add up the costs and the benefits. But ensuring compliance with the code does not need to be the sole provision of local government. Given the efficiency of local government, and their existing relationships with builders and homeowners, it makes sense for local government to play a role. **In fact, everyone must play a role—state government, local government, private sector builders.** But the supporters of this bill and mandatory enforcement are not insensitive to the needs of municipalities.

This amendment adds new flexibility that should be particularly appealing to small towns and builders and contractors in small towns. The main work of enforcement is actually inspecting the buildings. **This amendment would remove the obligation on towns to do inspection.** It would foster growth of a group of independent inspectors, trained and certified, who can work for the builder or homeowner in those towns without code inspectors on staff. It will take time to achieve this, but the bill allows generous time to phase in all requirements. We think this is a solid idea that you should give serious consideration to as you weight the challenges with enforcement—the desire to make it easier for towns and the desire to pass a bill with meaningful benefits to homeowners.

I'd like to add a few thoughts about the other parts of the amendment.

Codes are about protecting consumers and helping achieve a societal benefit that would otherwise get lost in market failures. Market forces can also help achieve compliance with the codes—if people who buy buildings know whether or not the building performs to the minimum energy standard, that can help a lot. Especially as you think about the next person to buy the building down the road. Thus the requirement that the record of inspection go on file and into real estate disclosure documents. A small task, but worthwhile.

There is no real reason to limit this to new buildings—in fact, the dominance of older buildings in the market makes this a big potential gap. This amendment does not mandate energy standards in existing buildings, obviously. But one of the important provisions in LD 2179 was to shine some light on the energy performance of older buildings at the time of sale to give everybody full knowledge of where they stand and what the opportunities are. Time after time we hear that the market will address the problem, or that lack of information is the barrier to investments in energy efficiency. Maine must take simple steps to remedy this lack of information or the market simply cannot work.

The disclosure requirement for existing buildings in the amendment has been significantly simplified and the phase-in period greatly extended. The requirement would only apply to the seller of a building who bought the building after this law takes effect in 2010. (With average turnover rates of about 7 years, this means for most buildings we are 9-16 years away from an obligatory energy performance review.) Furthermore, the new code board will determine the type and scope of an energy performance rating, whether it uses an existing rating system or a very simple system (e.g. five stars). This is slow, incremental progress, not a fast or radical notion.

In conclusion, we are very pleased that 2008 looks like the year when progress on building and energy codes will be made. The bill before you is excellent. Senator Bartlett's amendment makes it better and carries the support of the large environmental coalition. We hope you can work to keep the bill more or less intact so that you can preserve the good work of the SPO and others, and ensure meaningful benefits for Maine homeowners.

Thank you,

Dylan Voorhees
Clean Energy Director

Supporters of LD 2179:

Allied Engineering, Inc.
American Lung Association of Maine
Atlantic Salmon Federation
Avesta Housing
Barcebal Electric
Charles Lazore, Electrical Contractor
Chewonki Foundation
Clean Air-Cool Planet
Conservation Law Foundation
Cool Falmouth, A Cool Community
Cranberry Isles Sustainability Initiative
Emerald Builders
Environmental Defense
Environmental Health Strategy Center
Environment Maine
Environment Northeast
E.S. Boulos Co.
Evergreen Enterprises, LLC
Fore Solutions
Friends of Casco Bay
Friends of Merrymeeting Bay
F.W. Horch Sustainable Goods & Supplies
G.A. Lachance Carpentry
Gary Friedmann & Associates
Great Works Architecture
Green Campus Consortium
GrowSmart Maine
Heliotropic Technologies
Highlands, Topsham
Home Builders and Remodelers Association of Maine
Holland and Foley Architecture LLC
Horizon Residential Energy Services LLC
Hydrogen Energy Center
Independent Electric Supply
Integrated Energy Systems, PLLC
JBR Consulting Hydrogeology
Jim Godbout P & H Inc.
John's Electric & Solar Services
Kennebec County Soil & Water Conservation District
Kennebec Valley Community College – Greg Fletcher
Madison Electric
Maine Audubon
Maine Center for Economic Policy
Maine Clean Communities

Maine Climate Campaign
Maine Council of Churches' Environmental Justice Program
Maine Energy Investment Corporation
Maine Green Building Supply
Maine Interfaith Power and Light
Maine League of Conservation Voters
Maine Organic Farmers and Gardeners Association
Maine Physicians for Social Responsibility
Maine Public Health Association
Maine Rivers
Marsh River Electrical LLC
Midcoast Green Collaborative
Myles Maiority, Electrical Contractor
Nadeau's Refrigeration, HVAC & Plumbing
Naomi Mermin Consulting
National Environmental Trust
National Wildlife Federation
Natural Resources Council of Maine
Northern Forest Alliance
Patagonia Freeport
Power Reduction Services
RESTORE: The North Woods
Richard P. Waltz Plumbing & Heating Co., Inc.
Richards & Company
Sheepscot Valley Conservation Association
Sierra Club: Maine Chapter
Smith Reuter Lull Architects
Stahnke & Kitagawa Architects
Taggart Construction
The Nature Conservancy
The Ocean Conservancy
The Wilderness Society
Tilson Technology Management
Toxics Action Center
University of Maine – Dr. Scott Dunning, P.E.
U.S. Green Building Council– Maine Chapter
U.S.M. Sustainability Office
Waterless Co. No-Flush Urinals, LLC
Waterman Housing
WBRC Architects & Engineers
Gregory Young Sr., Electrical Contractor

March 25, 2008

To: Chairpersons and Members
Business, Research & Economic Development Committee, Maine State Legislature

Re: LD 2257: An Act To Establish a Uniform Building and Energy Code

To Whom It May Concern:

I'm David Foley, Partner in Holland and Foley Architecture, L.L.C., an architecture firm in Northport, Maine. I grew up in Bangor and have worked to make Maine buildings more energy efficient since 1980, as a designer, builder, researcher and teacher. I worked from 1980 to 1983 in Maine's Office of Energy Resources. I support LD 2257, especially those provisions to enact and enforce minimum energy-performance standards.

Such standards are easily met and long overdue. They will contribute to the health and economic well-being of Maine families. They will lead to buildings that are healthier, more durable, easier to maintain, and less expensive to heat, cool and operate.

I know this from 28 years of experience. Our firm earns its pay by designing buildings that routinely use less than half as much energy as typical new buildings built in Maine. We often do this for little or no additional first cost, and always at lower life-cycle cost compared to typical Maine buildings. What we do to save energy also benefits the health of our clients, and saves them money for maintenance and upkeep. Homes that leak energy also leak water. Water soaks buildings and feeds mold. Water peels paint and rots wood. This is bad. This is unnecessary.

Construction practices are slow to change and often governed by prejudice. Building science has not informed Maine construction practices as much as it should. This is tragic, because Maine households are wasting money, energy and resources on buildings that are often so badly constructed that they'd be illegal in 40 other states. A great deal of that wasted money leaves Maine, because the last time we all checked, there were no oil wells here. Some of that wasted money ends up in hands that we'd all prefer not have the money. Perhaps it would be good for Maine people to stop funding BOTH sides in the War on Terror.

It's tempting to think that Maine's position as a mostly rural, not affluent, Northern New England state makes comparisons to other states difficult. But that's not so. There's another mostly rural, less-than-affluent Northern New England state called Vermont. In Vermont, there are enforced energy codes, but many builders go far beyond them. In fact, 36% of new home construction in Vermont meets or exceeds the Department of Energy's "Energy Star" standard. In Vermont in the past 5 years, energy consumption from all residential and commercial growth has been more than offset by efficiency gains. That means, unlike any other New England state, Vermont's overall energy demand has leveled and is actually starting to decline.

This may make you think that Vermonters pay more for houses. Actually, the median sales price of a Vermont home is slightly lower than in Maine. You may think that Vermonters are wealthier than Mainers. Actually, median income in Vermont is only slightly higher than in Maine - but Vermonters have more discretionary income, because they don't waste so much of it heating and cooling buildings.

There is one difference between Vermont and Maine: leadership. Vermont has actively funded efficiency programs and has enacted and enforced sensible energy codes. With your support of this bill, Maine can do the same.

The key to this legislation is its enforcement. I think it would be ludicrous to pass legislation that has no realistic chance of being enforced. Why bother? But enforcement need not be an onerous burden. There are a growing number of Energy Inspectors in Maine. There's also a provision to use simple, free software called RESCHECK or COMCHECK that enables someone to check a proposed building design for energy-code compliance. The small effort required to check designs returns itself a hundred-fold in buildings that are more efficient, healthy and durable.

A decision not to pass this legislation is a decision to condemn Maine families and businesses to buildings that are wasteful, unhealthy and sub-par. From a strictly selfish point of view, perhaps I shouldn't care - my firm is doing a brisk business, during an economic downturn, with clients who are eager to stop wasting energy and money. But I couldn't sleep well knowing that we have this opportunity to do so much good with so little effort, and that we might let it slip by. I strongly urge you to pass LD 2257, with genuine mechanisms for enforcement. Thank you.

...

David Foley
Holland and Foley Architecture, LLC
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Northport, ME 04849
207.338.9869
contact@hollandandfoley.com

**TESTIMONY OF EARLE G. SHETTLEWORTH, JR., DIRECTOR
MAINE HISTORIC PRESERVATION COMMISSION**

FOR L.D. 2257

AN ACT TO ESTABLISH A UNIFORM BUILDING AND ENERGY CODE

Date of Hearing: March 25, 2008

Senator (Lynn) BROMLEY, Representative (Nancy) SMITH, and Members of the Committee, I am Earle Shettleworth, Director of the Maine Historic Preservation Commission. I am here to testify in favor of L.D. 2257.

Revitalization of downtowns, preservation of Maine's quality of place, and prevention of sprawl are all heavily contingent upon cost effective rehabilitation and reuse of Maine's existing and historic building stock. Establishment of a statewide uniform building and energy code that effectively addresses existing buildings, as well as increased communication and clarification of the review process will greatly assist these efforts.

The International Existing Building Code (IEBC), which is integral to the Uniform Building and Energy Code proposed under LD 2257, specifically addresses the rehabilitation of existing and historic buildings. This code was put into statute in 2004 as the model rehab code, but has been adopted by few towns and no training has been provided. Additionally, while there is flexibility in many of the codes to deal with existing buildings, application of these codes to rehabilitation projects is complex and is typically non-uniform and unpredictable due to both the variety of codes and lack of training. LD 2257 resolves these issues by ensuring the IEBC will be utilized statewide for rehabilitation projects.

Establishment of a uniform statewide building code will also mean code enforcement officers, architects, designers and builders can all train to the same standards. This will enable the development of a statewide training program to assist all building professionals in the appropriate application of the IEBC to existing and historic buildings. Such training should result in a more uniform and predictable decision-making process for rehabilitation projects.

Finally, the establishment of the Technical Building Codes Board will facilitate better coordination among state agencies with review oversight related to building codes issues, and provide a means to resolve conflicts between codes. This will in turn enable more practical and efficient decision-making in the application of codes to rehabilitation projects.

Effective code interpretation by code enforcement officers, architects, designers and builders, and coordinated efforts by state agencies are integral to successful, cost-efficient building rehabilitation projects. By establishing a uniform building code, training program, and state oversight board, LD 2257 will help to ensure that existing and historic buildings throughout Maine can be more efficiently rehabilitated and re-used without compromising their architectural integrity.



Testimony in Support of LD 2179, "An Act to Promote Residential and Commercial Energy Conservation" and LD 2257, "An Act to Establish a Uniform Building and Energy Code"
March 25, 2008

Dear Senator Lynn Bromley, Representative Nancy Smith, and BRED Committee Members,

The organizations of the Maine Global Warming Action Coalition, representing diverse perspectives listed below, have joined together to support a strong and effective global warming action plan for the state of Maine. We are committed to advocating for the implementation of solutions to global warming here in Maine on behalf of our constituencies, and the people of Maine as a whole. We have played a role in the development of Maine's Climate Action Plan and legislation, adoption of clean car standards, and passage of the Regional Greenhouse Gas Initiative (RGGI). LD 2179, "An Act to Promote Residential and Commercial Energy Conservation," was identified as one of the top-ten most cost-effective pollution reduction strategies in Maine's *Climate Action Plan*.

By now we are all aware that global warming is real and if we don't take action is expected to have negative impacts on Maine including, but not limited to:

- Sea-level rise may endanger economic activities, coastal communities, tourism, ecosystems and endangered species;
- Losses to spruce-fir forests, and losses to alpine and sub-alpine zones, driven by new climate and new parasites, and the associated economic and wildlife impacts;
- Public health consequences: increasing incidence of insect-borne diseases and a rising number of poor air quality days, coupled with Maine's already high asthma rates; and
- Potentially serious effects on winter recreation.

Maine needs a comprehensive policy to curb its global warming pollution. In 2001, the Governor set a target of returning to 1990 levels of atmospheric CO₂ by 2010, yet despite taking some important steps Maine's emissions in many sectors, including the residential, commercial and transportation sectors, have continued to increase. Residential emissions have increased 20 percent. If we further delay taking action to reduce emissions we risk not being able to stop the most serious effects of global warming.

A recent study by the Public Utilities Commission (PUC) found that 84 percent of new homes would not meet the Maine Model Building Energy Code. Not only is this poor global warming policy, but it is poor energy and economic policy. As energy costs continue to rise, Maine's citizens and businesses are suffering, sending hard-earned dollars out of the state and country, dollars that are much needed and could be better spent here.

Home ownership is many Mainers' largest investment; the energy efficiency code offers protection against substandard home construction and expensive retrofits. **It is imperative that these standards are enforced.** LD 2179, and LD 2257 as amended by Senator Bartlett, provide a flexible mechanism to guarantee that homes are actually built to these standards, while at the same time providing the incentive for new energy efficiency jobs. It is unfair to ask Maine's citizens to ensure that new homes (and rental units) meet this standard. They do not have the information necessary, nor the resources, to do this. It is not enough to have these standards "on the books" to receive the maximum benefits to our economy, our health, and our environment that the codes provide – they need to be enforced by municipalities.

A mandatory and enforceable energy efficiency code is a needed first step in reducing the global warming pollution from our buildings. We need to move away from all fossil-fuel heating, cooling, and electricity sources in our buildings through the design of highly energy efficient buildings that take advantage of natural and renewable heating, cooling, and lighting such as passive solar, geothermal, and wind. With rising energy prices and the threat of global warming, the time to act is now.

Thank you for the opportunity to present testimony on this important legislation.

Sincerely,

The Maine Global Warming Action Coalition

*American Lung Association of Maine * Conservation Law Foundation * Chewonki Foundation * Clean Air-Cool Planet * Environmental Defense * Environment Maine * Environment Northeast * Green Campus Consortium * Hydrogen Energy Center * Maine Audubon Society * Maine Center for Economic Policy * Maine Clean Communities * Maine Climate Campaign * Maine Council of Churches' Environmental Justice Program * Maine Energy Investment Corp. * Maine Interfaith Power and Light * Maine Organic Farmers and Gardeners' Association * Maine Physicians for Social Responsibility * Maine Public Health Association * Midcoast Green Collaborative * Natural Resources Council of Maine * The Nature Conservancy * U.S. Green Buildings – ME Chapter * U.S.M. Sustainability Office*

March 26, 2008

Senator Lynn Bromley
Representative Nancy Smith
Committee on Business, Research & Economic Development
100 State House Station
Augusta, ME 04330

Re: Opposition to proposed alternative to LD 2257

Senator Bromley & Representative Smith,

On behalf of the twenty-five Maine organizations who participate in the Environmental Priorities Coalition, we are writing to oppose the alternative legislation presented to your committee on Tuesday by MMA. We oppose the whole-sale, last-minute rewriting of a bill which has been months in the making—and which eviscerates the effectiveness of the bill by nullifying energy code enforcement, while burdening it with the additional issue of contractor liscensing.

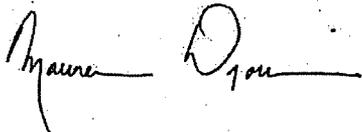
Excessive energy consumption in Maine buildings remains harmful to the environment and detrimental to our economy, especially in this time of high energy costs. **While we may have a “patchwork quilt” of building codes, we have no quilt at all for energy codes.** As a result, 85% of *new* homes require excessive energy to heat. The cost of this failure is about \$3-\$5 million dollars per year to Maine homeowners.

Despite the rhetoric, this alternative legislation is effectively a status quo proposal, which should be completely unacceptable.

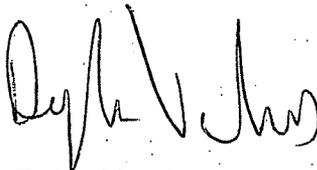
This proposal says that towns may voluntarily enforce the new uniform code *and* they can choose which portions of the code to enforce. We already know that would accomplish little because Maine *already* has a model energy code in statute which municipalities can choose to adopt and enforce. Only about 2% of towns have chosen to adopt and enforce an energy code.

We must take the challenging but highly beneficial step of requiring enforcement at the local level, while making all efforts to make this as feasible as it can be for towns. The Environmental Priorities Coalition urges you to work with the printed bill, LD 2257, and only those amendments which will *strengthen* our effort to increase energy efficiency of buildings in Maine.

Sincerely,



Maureen Drouin
Maine League of Conservation Voters



Dylan Voorhees
Natural Resources Council of Maine



Michael Stoddard
Environment Northeast

MIDCOAST CODE ENFORCEMENT OFFICERS ASSOCIATION

c/o David Studer, Secretary
93 Sprague Road
Washington, ME 04574
dstuder@cityofbelfast.org

3-20-08

Honorable Rep. Smith and Senator Bromley
Business, Research, & Economic Development
100 State House Station
Augusta, ME 04333-0100

Dear Sirs,

The Midcoast Code Enforcement Officers Association (MCEOA) is a group of about 25 Code Officers in midcoast Maine from towns mostly in Knox, Lincoln, Waldo counties. At a recent meeting we voted to support the concept of a uniform building code for Maine. Further we believe the current proposal, LD2257 represents a reasonable collaborative effort to achieve that goal. We believe the bill will do the following:

- Establish a statewide uniform building and energy code.
- Support and improve local code enforcement
- Resolve code conflicts
- Foster safe, healthy, and energy efficient construction.

Sincerely,

David Studer
David Studer, Secretary
MCEOA

Senator Lynn Bromley, Chair
Representative Nancy Smith, Chair
Committee on Business, Research and Economic Development
100 State House Station
Augusta, ME 04333

Dear Senator Bromley and Representative Smith,

I am writing to urge you to support passage of LD 2257. This bill is important both because it creates a uniform building code and because it updates the Maine energy standards. The current hodge-podge of building codes across the state is a mess and the current energy standards are totally outdated. I know there is some sentiment that this will take away local control, but this is an area where a consistent state-wide policy is critical.

Thank you,

Jim Hatch
Executive Director
Freeport Housing Trust
PO Box 625
Freeport, ME 04032
207-865-1652
jimhatch@wildblue.net

**American Lung Association
of Maine**

122 State Street
Augusta, ME 04330

Tel: 207-622-6394
Fax: 207-626-2919

lungme.org

1-800-LUNG USA
(within Maine)

Memorandum

Date: March 28, 2008

To: Senator Lynn Bromley, Chair
Representative Nancy Smith, Chair
Joint Committee on Business Research and
Economic Development

From: Edward F. Miller, Executive Director
441-1203

Senator Bromley and Representative Smith, the American Lung Association and our partner the Maine Indoor Air Quality Council would like to re-emphasize the following key points as you work **LD 2257 "An Act to Establish a Uniform Building & Energy Code."**

1) Include a Mechanical Engineer on the Building Codes Technical Standards Board.

2) Specifically Reference the ASHRAE Standards for Ventilation and Energy in the Adopting Legislation to assure best practice is uniformly applied.

For more than 100 years, the American Lung Association and Lung Association affiliates throughout the United States have worked together in the fight against lung disease.

CURES
CLEAN AIR
SMOKEFREE KIDS

***Improving Life,
One Breath at a Time***

**Testimony before the Committee on
Business, Research and Economic Development**

- 1 PM in room 208 of the Cross State Office Building (just behind the State House), before the Committee on Business, Research and Economic Development. The chairs are Senator Lynn Bromley (D—South Portland) and Rep. Nancy Smith (D-York County).
1. Thank you for the opportunity to speak before you committee today in support on a uniform energy efficiency code of residential homes in Maine.
 2. My name is Matt Teare and I am the Director of Development for John Wasileski and Sea Coast Management Company. We are developers and operators of large senior housing communities in Maine including OceanView at Falmouth, the Highlands of Topsham and Highland Green.
 3. Over the last 15 years we have constructed over 400 cottage style homes and we have another 400 currently planned for our communities. We also have approximately 250 residential apartments in our communities.
 4. Our communities are large, master-planned communities. As concerns with sprawl grow, we believe that our communities are a positive example of real estate development. The communities are attractive, clustered housing developments located in the center of town. The cottages are modest in size – ranging from 1200 to 2000 square feet – and do not overwhelm their landscape. Our communities are built on public water and generally include major, interconnected roadways. Under some criteria, they might be considered green or smart growth communities.
 5. Our communities are also a major source of economic development. We are the number 1 taxpayer in our communities and we put little pressure on local school or other state or municipal resources. We also employ hundreds of Mainers in both construction and operations positions.
 6. Our owner, John Wasileski, has been committed to building greener, more sustainable communities for the last several years. We have taken several steps in that direction.
 - We have set aside over 250 acres of conservation land along the Cathance River in Topsham;
 - We created an environmental education nonprofit in partnership with the Brunswick-Topsham Land Trust and Topsham's Future that includes a solar powered environmental center;
 - We offer solar systems on all of our cottage homes;
 - We recently added a \$100,000 solar hot water system to one of our lodge buildings in Falmouth and we are about to add a similar system in Topsham;
 - We converted our Topsham campuses to cleaner burning natural gas;

- We have just started to offer Energy Star Certification for all our new cottage homes. This will be offered as an option for the immediate future but we hope to make it the standard for each home shortly. We have estimated the cost of making a home Energy Star certified at approximately \$10,000.
7. We are investing in energy efficiency and green building because it is good business. For our lodge buildings and our operations in general, energy efficiency saves tens of thousands of dollars. For our cottage homes, it is highly valued by our customers. For example, at our Highland Green community, instead of building an 18-hole golf course -- we created a 9-hole course and set aside a 250-acre conservation area. We believe that the conservation area has helped sell 10 times more homes than the golf course -- and it didn't cost anything to build.
 8. For all of the reasons we are investing in energy efficient development, we believe that a uniform code is a good idea for Maine. It will be valued by our prospective customers as a reason to buy and it will be valued by our residents for the cost savings over the next several years.
 9. However, I would add a word of caution about new regulations. Through laws, regulations, local ordinances, conservation efforts and nimbism -- we have created a system where large, well-planned construction and development is very challenging and expensive. The current system actually encourages developers and builders to build smaller, sprawling developments in green fields rather than tackling larger developments in existing communities. We must change this dynamic. The value of a more energy efficient home is quickly offset by the environmental impact of commuting in a car.

*Matthew D. Teare
Development Manager
Sea Coast Management Company, Inc.
30 Governors Way
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April 2, 2008

Senator Lynn Bromley
Representative Nancy Smith
Members of the Joint Standing Committee on Business, Research and Economic Development
100 State House Station
Augusta, ME 04333-0100

RE: LD 2257 “An Act to Establish a Uniform Building and Energy Code”

Sen. Bromley, Rep. Smith and Members of the Committee:

I understand that the Committee is nearing the end of its deliberations on LD 2257. As the President of Hancock Lumber, and a member of the Retail Lumber Dealers Association of Maine, I want to clarify that I strongly support LD 2257 as originally drafted, with *mandatory* enforcement. While I have had the opportunity to speak with a few individual Committee members, I understand that there has been some discussion about my position on the bill, and I want to be sure I have accurately communicated that position to all of you.

To be clear - it is my belief that in order for a uniform statewide building code to be effective, there must be *mandatory* enforcement. As you have heard throughout your process, the lack of a statewide building code creates inconsistent standards and higher costs for both builders and consumers. These are serious issues in these difficult economic times. Builders, and material suppliers, are struggling with the increased costs of materials and a decreased demand for their services – and it appears this situation is not going to get better anytime soon.

Adoption of a uniform statewide building code, with mandatory enforcement, sends a strong signal to business that Maine is serious about addressing some of the longstanding complications of building and developing in Maine.

I thank you for the opportunity to clarify my position and strongly urge you to support LD 2257 with mandatory enforcement.

Sincerely,

Kevin Hancock
President, Hancock Lumber

Northeast Energy Efficiency Partnerships, Inc.



Written Testimony of Isaac Elnecave, Project Manager for the Building Energy Codes Project

Northeast Energy Efficiency Partnerships (NEEP) To the Business, Research and Economic Development Committee On LD 2257, An Act to Establish a Uniform Building and Energy Code

March 25, 2008

Chairwoman Bromley and members of the Committee, thank you for the opportunity to provide testimony on LD 2257, An Act to Establish a Uniform Building and Energy Code. On behalf of Northeast Energy Efficiency Partnerships (NEEP)¹, we commend Chairwoman Bromley and the other sponsors for their efforts to address through legislation the issue of building energy codes.

Based in Lexington, Mass., NEEP is a nonprofit organization founded in 1996 whose mission is to promote efficient energy use in homes, buildings and industry in New England, New York, and the Mid-Atlantic states through regionally coordinated programs and policies that increase the use of energy efficient products, services and practices, and that help achieve a cleaner environment and a more reliable and affordable energy system. NEEP supports government policies and coordinates regional initiatives that promote and build market adoption of quality, energy efficient products and services. NEEP serves as a strategist, planner, facilitator, information and training resource, and project manager, working in partnership with environmental and consumer groups, state and federal agencies, businesses, utilities and other non-profits. In Maine, we have worked with the Public Utilities Commission, the distribution utilities and others to help guide and develop comprehensive energy efficiency policies and programs.

NEEP believes that LD2257 is a prudent and cost-effective way to improve energy efficiency in the state and supports it based on the following reasons:

1. Strong energy conservation codes reduce the energy consumption of electricity, natural gas and heating oil.
2. By reducing energy consumption, energy efficient buildings help Maine residents manage high electricity and fuel costs.
3. By instituting a statewide energy code, LD 2257 helps maximize the potential energy savings from a strong code.
4. By requiring enforcement of building codes, the number of homes that comply with the energy code will rise, leading to the realization of the energy savings promised by building energy codes.

These comments will cover the following points

Reasons to Support LD 2257

1. Residents and businesses in Maine suffer from high energy costs;
2. LD 2257 will ensure that Maine always has the most up-to-date energy code;
3. LD 2257 will ensure that all Maine residents achieve the benefits of a strong energy code.

¹ These comments are offered by NEEP staff and do not necessarily represent the view of the NEEP Board of Directors, sponsors or partners.

4. LD 2257 includes important provisions that will help raise the number of homes complying with the energy code.

Suggested Amendments to LD 2257

1. Suggested technical changes to LD 2257;
2. The energy code should include an "Informative Appendix";
3. Incorporate time-of-sale disclosure requirements.

Reasons to Support LD 2257

1. Maine Residents Suffer From High Energy Costs

Maine residents will particularly profit from lower energy use as the state has some of the highest energy costs in the nation.

According to the Energy Information Agency, Maine residents pay the 5th highest retail price of electricity in the country, 42% above the national average.

Heating oil prices have risen sharply over the last few years. At this time in 2005, a gallon of heating oil retailed for \$1.99. Over the next two years, the price rose to about \$2.30. As of last week, the average statewide price was \$3.35.

For natural gas, Maine residents pay 24% above the natural average.

2. LD 2257 will ensure that all Maine residents achieve the benefits of a strong energy code

NEEP commends the effort by Maine lawmakers to join the other Northeast states in adopting a statewide energy code.

By adopting a statewide minimum energy code, energy savings in the state will be maximized; the benefits of lower energy costs will accrue to more Maine residents; and the state will have a powerful tool in its effort to meet climate change goals.

Having one statewide code will help building professionals by eliminating the multiplicity of codes they have to identify and, in many cases, learn upon starting work in a new municipality.

Having one statewide code means that there will be uniformity across the state ensuring that no area of the state has an unfair advantage.

3. LD 2257 ensures that Maine will always have the most up to date code

By ensuring that Maine will always have the most energy efficient code possible, LD 2257 will help Maine residents manage these high energy costs.

Five states in the Northeast, Maryland, Pennsylvania, New Jersey, Rhode Island and New Hampshire have already upgraded to the most recent version of the International Energy Conservation Code (IECC). Of these five, Pennsylvania already automatically updates its energy code every three years and Massachusetts is about to enact legislation doing the same thing.

By upgrading to the most recent version of the IECC, homeowners in Maine could realize significant savings in their energy costs. For example, a house built under the most recent model code would save the average homeowner of an average 2,000 square foot home in Portland about \$650/year in energy costs over a home built in the 1990's.

4. By requiring inspections, LD 2257 will help raise the number of homes complying with the energy code

The low level of compliance, roughly 16% of the homes built in the state meet code, undercuts the ability of the building energy code to realize the large potential energy savings.

LD 2257 includes a requirement for a proper and comprehensive program to train and certify energy code inspectors. This is an effective means to improve compliance.

As an example of the potential energy savings: If the state, raised the building code to the widely adopted current version (2006 edition of the IECC) and improved compliance to 50%, the state would generate one year electricity savings of almost 3,500 megawatt-hour. This is equivalent to the annual electricity use of 500 households.

Suggested Amendments to LD 2257

1. Suggested technical changes to LD 2257²

We would recommend the Committee consider the following revisions to the proposed bill:

A. § 9722 Certain additions to the Technical Building Codes & Standards Board

Since conflict resolution is an important function of the Board, and diplomacy is a key feature of conflict resolution, and diplomacy works best when all interested parties are brought together for the discussions, NEEP strongly recommends addition of representatives from Health and Human Services, the plumbing, electrical, boiler and elevator boards are designated as voting members of the Board. We also strongly recommend that a local fire marshal represent the interests of the Life Safety Code on the Board, independent of the local fire chief representative. Without the active participation of these key interests in the process, any attempts at conflict resolutions will be difficult at best to achieve. We also suggest modifications for qualifications of certain members to achieve the best knowledge and background of individuals nominated to the Board.

Recommended Changes

§ 9722 (2) (B): A fire chief, *and a local fire marshal*, recommended by the Maine Fire Chiefs' Association or its successor organization.

§ 9722(2)(I): A historic preservation representative, recommended by the Maine Historic Preservation Commission, with experience implementing the standards for the treatment of historic properties set forth in 36 Code of Federal Regulations, Part 68 (2007), who is

- (1) An architect licensed by the state
- ~~(2) A structural engineer licensed in the State; or~~
- ~~(3)~~(2) *A builder with experience in historic preservation.*

² Changes to the text will be shown in italics. Strike outs will refer to words or phrases that should be deleted.

§ 9722(2) (J): An energy efficiency representative, recommended by the director of the Governor's Office of Energy Independence and Security, who is:

- (1) An individual ~~architect licensed in the State~~ *having experience or expertise in the design or implementation of energy codes or in the application of energy efficiency measures in residential or commercial construction, or*
- (2) A ~~structural~~ *mechanical* engineer licensed in the State; or
- (3) ~~A builder; and~~

§ 9722(2) (L): *A public health officer recommended by Health and Human Services.*

§ 9722(2)(M): *A member each from a) Electrical Board; b) Plumbing Board; c) Elevator Board; d) Boiler/Pressure Vessel Board, recommended by their respective chairs.*

B. §2372 Qualifications of the Technical Codes Coordinator.

Without certification as a Building Official and some amount of practical experience in building codes administration, this staff position will not have the proven knowledge, skills and abilities to administer this most important position. We have also recommended that the Coordinator be given some basic modification responsibility in order to relieve the Board of those issues that do not require a formal change in code provisions. The Board would still act as the appeal authority for these decisions.

Recommended Changes

§2372 (2) (A): A technical codes coordinator, *certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A*, paragraph E, who serves as the principal administrative and supervisory employee of the board. The technical codes coordinator shall attend meetings of the board, keep records of the proceedings of the board and direct and supervise the personnel employed to carry out the duties of the board, including but not limited to providing technical support and public outreach for the adoption of the code, amendments, conflict resolutions, modifications and interpretations. Technical support and public outreach ~~must~~ *shall* include, but may not be limited to:

C. §2373 Enforcement

We strongly recommend that each municipality become a member of the model building code organization (International Code Council) to take advantage of the member benefits that will enhance their code administration operations, and reduce the workload for state administration:

- a. an entire library of codes, standards, administrative materials and forms available at reduced costs to members;
- b. Telephone access (12 hours a day) to national staff for questions on codes, materials, products, inspection practices; as well as opinions on dealing with applying code provisions to issues with plan reviews or on job site inspections;
- c. National certification exams and practice exams on all ICC model codes.

Recommended Changes:

§2373 (1): **Code Enforcement** A municipality that is required to have an inspector of buildings pursuant to Chapter 313 shall enforce the code. Enforcement may be provided through inter-local agreements with other municipalities or by contractual agreements between municipal, county or regional authorities. Contracts with 3rd-party-certified inspectors may be used in place of local code enforcement officers to enforce this chapter. *Each such municipality shall become an active member of the International Code Council, Inc. on or before the start of its fiscal year following January 10, 2010.*

D. §2373 Fees

Suggested clarification to existing statutory language to positively require that any municipal building permits and inspections system is funded for all administrative, staffing and associated costs, as these need to be included within the scope of services for this local function.

Recommended Changes

§2373 (4): Fees. A municipality that is required to have an inspector of buildings pursuant to Chapter 313 shall establish a schedule of building inspection permit fees sufficient to cover the cost of ~~employing an inspector of buildings~~ *administering the costs of a building permits program.*

E. §2450-A Surcharge on Plan Review Fee for Uniform Building Codes and Standards Fund

The suggested language change would provide a pool of budgetary funding to administer the certification, training and Board functions while not building an inordinate amount of dedicated funds. Allowing excess amounts from this surcharge to be utilized for General Fund purposes leaves the Public Safety Commissioner with adequate resources for the activities and removes a potential target for fixing temporary shortfalls in the state budget that rarely, once utilized, ever gets restored.

Recommended Changes

§2450-A Surcharge on plan review fee for Uniform Building Codes and Standards Fund. In addition to the fees established in section 2450, a surcharge of 4¢ per square foot of occupied space ~~must~~ *shall* be levied on the existing fee schedule for new construction, reconstruction, repairs, renovations or new use for the sole purpose of funding the activities of the Technical Building Codes and Standards Board with respect to the Maine Uniform Building and Energy Code, established pursuant to the Title 10, chapter 1103 and the activities of the Division of Building Codes and Standards under chapter 314, except that the fee for review of a plan for the renovation of a public school, including the fee established under section 2450, may not exceed \$450. Revenue collected from this surcharge must be deposited into the Uniform Building Codes and Standards Fund established by section 2374 *and dedicated for this purpose. Any fund surplus in excess of \$1,000,000 at the conclusion of any year shall be available for General Fund Purposes.*

F. §4451, sub.3 Training and certification of code enforcement officers

This suggested language change would clearly make the Department of Public Safety Commissioner responsible for the programs, with the advice and counsel of the other agencies, and establish definitely the use of the fund for continuing education and training purposes. NEEP recommends the Committee consider expanding the extent of this training to the design and trades communities where space is available, as this has been shown to increase mutual understanding and identification of issues within the process that aid in effective codes compliance.

Recommended Changes

§4451, sub.3. Training and certification of code enforcement officers. In cooperation with the Maine Community College System, the Department of Environmental Protection and the Department of Health and Human Services, ~~and the Department of Public Safety, the office~~ shall establish a continuing education program for individuals engaged in code enforcement. This program must provide basic and advanced training in the technical and legal aspects of code *administration and* enforcement necessary for certification *and re-certification requirements.* *All licensed or certified design professionals and trades shall have access to such training on a space available basis.*

G. Section 16. Adoption of Maine Uniform Building & Energy Code

NEEP suggests a language change to the model codes adoptions that eliminates any confusion as to whether this text is inconsistent with the duties and powers for codes adoptions as set forth in 9722, Section 6, as the current text could be interpreted to apply strictly to the listed 2009 editions. NEEP also recommends additional language to clarify lapses in regular adoptions. Since the publication cycles of most model codes/standards organizations are three (3) years (ICC, NFPA, ASHRAE, ANSI), the suggested additional language would resolve any questions.

In Section 16 (1) (D) there resides a potential conflict. Both Chapter 4 of the IECC and Chapter 11 of the IRC contain provisions relating to energy use in residential buildings. Unfortunately, over the last two code cycles, the contents in these two codes have diverged opening up the potential for having one code (MUBEC) contain conflicting provisions. Therefore, we suggest that Chapter 11 of the IRC be deleted. The IECC is an integrated code that focuses solely on energy savings while energy is only one of the sections included in the IRC. In addition, the IECC is recognized as the energy code by the Department of Energy and is used by the DOE as the basis for determining progress

Recommended Changes

Section 16 (1): The Maine Uniform Building and Energy Code adopted in accordance with Title 10, section 9722, subsection 6 must be composed of the substance of the following, with administrative and other minor changes to *resolve conflicts and* customize the codes for Maine:

Section 16 (1) (A): The ~~2009 version of the~~ International Building Code, *commencing with the 2009 edition;*

Section 16 (1) (B): The ~~2009 version of the~~ International Existing Building Code, *commencing with the 2009 edition;*

Section 16 (1) (C): The ~~2009 version of the~~ International Residential Code, *excluding Chapter 11, commencing with the 2009 edition;*

Section 16 (1) (D): The ~~2009 version of the~~ International Energy Conservation Code, *commencing with the 2009 edition;*

2. Include an “Informative Appendix” to the energy code

An informative appendix would be a non-enforceable addition to the main code that provides a roadmap to achieving energy savings of as much as 30% more than the current IECC.

Having this type of roadmap would support many important policies aimed at improving energy efficiency in buildings such as:

2. Provide building professionals a roadmap for building energy efficient buildings.
3. Provide guidance for energy efficiency programs.
4. Provide guidance for municipalities seeking to adopt efficient energy building codes;
5. Provide guidance to state officials in developing requirements for energy efficient state buildings.
6. Provide a baseline from which to set incentives for the construction of energy efficient buildings.

There are currently several different existing building standards that would meet the energy efficiency goals of an informative appendix including:

1. Core Performance Guide put out by the New Buildings Institute;
2. Standard 189-P published by the ASHRAE;
3. Advanced Energy Design Guides published by the Department of Energy.

3. Incorporate Time of Sale Disclosure Requirements

NEEP strongly recommends including time-of-sale disclosure requirements. The majority of homes in the market are not newly built but existing buildings. Since building energy codes address new construction or extensive renovation projects, time-of-sale requirements provide information about the energy use of a home that is typically unavailable. This gives both the buyer and seller, important new information on energy use which will help with the transaction. Additionally, it will give both parties the information needed to perform the appropriate retrofits.

**Town of Milbridge
Po Box 66
Milbridge Maine 04658
Phone: 546-2422
Fax: 546-2967
E-Mail: milbridgetown@verizon.net**

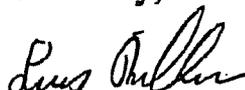
February 25, 2008

**Sara Vanderwood
Legislative Aide
Senate Republican Office
3 State House Station
Augusta Maine 04333**

Re: Resolve 46

It should be also noted that the Bookings Report recommended not only Local Government combining services to reduce the cost of proving serves but State Government should do the same. Who will pay for the added cost of inspections and who will do them? If the State Fire Marshals Office increases in size to do the added work how is this reducing the size or cost of State Government? Maybe the Maine State Police and Maine State Wardens Service can help with inspection to combine State services. Or is the plan for the locals CEO to do the inspections and turn the fees into the State? Thank you.

Sincerely,


Lewis Pinkham

Town Manager/Police Chief/CEO

Building and Energy Codes Stakeholder Outreach

Public Meetings

Bangor, January 2nd (25 attended)
Portland, January 3rd (80 attended)
Presque Isle, January 9th (17 attended)

Presentations to Organizations and Groups

Downtown Center Advisory Council
Maine Building Officials and Inspectors Association
Mid-Coast Regional Planning Commission
Governor's Quality of Place Council
Juice Conference
Building Energy Efficiency Advocates
Downtown Coalition
Service Centers Coalition
Invest in Historic Maine Coalition
Mid-Maine Code Enforcement Officers Association
Associated General Contractors of Maine
Bureau of General Services
Associated Builders and Contractors of Maine
Community Preservation Advisory Committee
Greater Portland Landmarks
Maine Code Enforcement Officers Association

Conversations to Explain & Discuss the Plan

Alpha-One
Maine Fire Chiefs Association
Structural Engineers Association of Maine (SEAM)
ME ASHRAE
AIA Maine
Mid-Coast Builders Alliance
Maine Home Builders and Remodelers Association
Public Utilities Commission
Governor's Council on Competitiveness
Maine Real Estate Developers Association
Maine Municipal Association
Northeast Energy Efficiency Partnerships
Natural Resources Council of Maine
Environment Northeast
Maine State Housing Authority
Maine Municipal Association
Maine Preservation
Maine Indoor Air Quality Council

Building and Energy Codes
Stakeholder Outreach

American Institute of Architects Maine Chapter
GrowSmart Maine
Maine ASHRAE
Mid Maine Code Enforcement Officers Association

Written Comments Received:

Total written comments received: 77

Stakeholders commenting were architects, developers, builders/contractors, code and fire officials, engineers, interior decorators, planners, state representatives, local officials and environmental organizations.

LD 2257
An Act to Establish a Uniform Building and Energy Code
Benefits and Incentives for Municipalities

LD 2257 recognizes the difficulties towns might face in administering and paying for code enforcement. A number of measures have been built into the bill to address this concern:

No mandatory enforcement in towns with less than 2000 people—exempts 330 towns.

State funded training for municipal inspectors in building and energy codes is provided.

Uniform codes save towns time and expense of adopting and amending codes themselves (about \$3500 each time). The Code Board will handle the hard work of reconciling any code conflicts.

Code enforcement is phased-in, allowing six months lead time for towns that previously had a building code and two years for towns that do not.

For larger towns, uniform codes removes the “handicap” of having and enforcing codes, compared to small towns. For smaller towns, it means access to codes and training that was previously beyond reach.

Towns may choose from a number of options to enforce the state code: They may:

- Employ a code official or officials
- Share a code official with another town through an inter-local agreement
- Contract for code enforcement services through a regional agency
- Contract with certified providers for plan review and inspection services

Technical assistance is provided: State staff will be available to answer code questions from municipalities during regular business hours.

A free codebook containing Maine’s Uniform Building and Energy Code will be provided to every town with more than 2000 residents. The cost of this benefit is \$32,000 every three years.

Towns may charge building permit fees to cover the cost of code enforcement. The International Code Council provides formulas for setting local fees.

LD 2257-Working Group Proposal
Submitted By:
Maine Municipal Association
Maine Contractors and Builders Alliance
Maine Service Center Coalition
Home Builders and Remodelers Association of Maine
Maine Real Estate & Development Association
Associated Builders and Contractors of Maine

An Act To Establish a Uniform Building and Energy Code

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

Sec. 1. 5 MRSA §12004-G, sub-§5-A is enacted to read:

5-A.
Building Technical Expenses 10 MRSA c.
Codes and Building Codes and Only 1103
Standards Standards Board

Sec. 2. 10 MRSA §9707 is enacted to read:

§ 9707. Repeal

This chapter is repealed January 1, 2010.

Sec. 3. 10 MRSA c. 1103 is enacted to read:

CHAPTER 1103
Maine uniform building and energy code

§ 9721. Definitions

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

1. Board. “Board” means the Technical Building Codes and Standards Board established in Title 5, section 12004-G, subsection 5-A.

2. Maine Uniform Building and Energy Code. “Maine Uniform Building and Energy Code” means the uniform statewide building and energy code adopted by the board pursuant to this chapter.

§ 9722. Technical Building Codes and Standards Board

1. Establishment. The Technical Building Codes and Standards Board, established in Title 5, section 12004-G, subsection 5-A and located within the State Planning Office, is established to adopt the Maine Uniform Building and Energy Code no later than July 1, 2009 and if funds are available thereafter to identify conflicts between the Maine Uniform Building and Energy Code and other building-related codes, to provide for training for third-party residential building and energy code inspectors and to review existing state codes and propose efficiencies.

2. Membership. The board consists of 11 voting members, appointed by the Governor:

A. A public member;

B. A fire chief, recommended by the Maine Fire Chiefs' Association or its successor organization;

C. A municipal code enforcement officer employed by a municipality, which has voted to locally enforce the code pursuant to section 9726, that is not a service center community under Title 30-A, chapter 187, recommended by the Maine Municipal Association or its successor organization;

D. A municipal code enforcement officer employed by a municipality which has voted to locally enforce the code pursuant to section 9726, that is a service center community under Title 30-A, chapter 187, recommended by the Maine Service Centers Coalition or its successor organization;

E. A residential builder recommended by a statewide association of home builders;

F. A commercial builder recommended by a statewide association of commercial contractors;

G. An architect licensed in the State who is accredited by a nationally recognized organization that administers credentialing programs related to environmentally sound building practices and standards, recommended by a statewide chapter of a national institute of architects;

H. A structural engineer licensed in the State, recommended by a statewide association of structural engineers;

I. A historic preservation representative, recommended by the Maine Historic Preservation Commission, with experience implementing the standards for the treatment of historic properties set forth in 36 Code of Federal Regulations, Part 68 (2007), who is:

(1) An architect licensed in the State;

(2) A structural engineer licensed in the State; or

(3) A builder;

J. An energy efficiency representative, recommended by the director of the Governor's Office of Energy Independence and Security, who is:

(1) An architect licensed in the State;

(2) A structural engineer licensed in the State; or

(3) A builder; and

K. A professional building access specialist experienced with state and federal accessibility regulations, recommended by the Maine Human Rights Commission.

A member appointed under this subsection must have at least 5 years' experience in the field that member is nominated to represent and must be employed in that field.

3. Ex officio member; chair. The Director of the State Planning Office, or the director's designee, serves as a nonvoting ex officio member and as the chair of the board. The chair is responsible for ensuring that the board maintains the purpose of its charge when executing its assigned duties, that any adoption requirements for the Maine Uniform Building and Energy Code are met.

4. Terms; removal. Appointments to the board are made for a 3-year term, and members are eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment immediately effective for the unexpired term. A member of the board may be removed from the board for cause by the Governor.

5. Meetings; quorum. The board shall meet quarterly and at such other times as the board determines necessary. Seven voting members of the board constitute a quorum for the transaction of business under this chapter.

6. Duties and powers. In addition to other duties set forth in this chapter, the board shall:

A. Adopt the Maine Uniform Building and Energy Code and report to the Business Research and Economic Development Committee its actions no later than March 1, 2009;

B. Make historic preservation a policy priority in the adoption of the Maine Uniform Building and Energy Code.

(1) Provisions of model codes and standards intended to facilitate the continued use or adaptive reuse of historic buildings must be maintained in the adopted versions of the Maine Uniform Building and Energy Code.

(2) The board shall proactively identify additional or alternative compliance means and methods for historic buildings in the adoption and amendment of the Maine Uniform Building and Energy Code.

C. If funding is available thereafter, the Board shall identify conflicts between the Maine Uniform Building and Energy Code and the codes and standards referenced in section 9725. The board shall develop rules designed to facilitate resolution of these conflicts, which must include:

(1) Notification to the authority or authorities having jurisdiction over the code or standard that is in conflict with the Maine Uniform Building and Energy Code and a request for submission of proposed solutions for such conflicts;

(2) Procedures for development of proposed solutions submitted by the authority or authorities having jurisdiction over the code or standard that is in conflict with the Maine Uniform Building and Energy Code and consideration of new approaches to resolving the conflict; and

(3) Report to the Legislature by January 1 of each odd-number year beginning in 2011 on conflicts identified by the board and recommendations for resolution;

D. Develop technical advisory groups of experts and interest group representatives as necessary to provide the board with detailed information and recommendations on conflict resolution with other building-related codes and standards adopted in the State. The board may direct the technical advisory groups to identify economic impacts on small businesses, housing affordability, construction costs, life-cycle costs or code enforcement costs of proposed changes to the code;

E. If funding is available, establish voluntary training and certification regarding the Maine Uniform Building and Energy Code for third-party inspectors in accordance with section 9723.;
and

F. If funding is available, review existing state codes listed in section 9725 and make recommendations to the legislature for changes that would enhance the efficiency and effectiveness of those codes.

7. Funding and Support. The Board shall be located within the State Planning Office which shall be responsible for providing staff and support services within its existing resources until January 1, 2010. Thereafter, the Board shall explore equitable funding for the continuation of its other duties.

§ 9723. Training and certification

1. **Inspector training and certification.** To the extent that funds and resources allow, the board shall establish voluntary training programs for third-party, residential building and energy code inspectors that most effectively meet the needs of the public. For the purposes of this section, a building and energy code inspector is a person who is qualified to determine if the residential property has been constructed consistently with the Maine Uniform Building and Energy Code. The board:

A. May develop separate programs for inspections of different building types and for different codes within the MUBEC should the board determine that the skills or training needed to perform these inspections merit the distinction;

B. Shall determine the content of the training, the hours required for course completion and the manner in which applicants must demonstrate proficiency in inspecting, including programs offered by other entities which provide equivalent courses and training;

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

D. May establish reasonable course fees. All fees must be paid to the Treasurer of State to be used by the board for the purposes of this section;

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

F. Shall determine a process for the suspension or removal of an individual holding an unexpired certificate.

§ 9724. Application

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

2. Prior statewide codes and standards. Effective January 1, 2010, the Maine Uniform Building and Energy Code adopted pursuant to this chapter replaces, and is intended to be the successor to, the Model Energy Code established in Title 35-A, section 121 and the Maine model radon standard for new residential construction set forth in Title 25, section 2466.

3. Ordinances. Effective January 1, 2010, except as provided in subsection 4 and section 9725, any ordinance regarding a building code, energy code, radon code or fire code/life-safety code of any political subdivision of the State is void except as provided by subsection 4.

4. Exception. For purposes of municipal enforcement pursuant to section 9726, this section does not prohibit the adoption by reference pursuant to Title 30-A, section 3003 of the Maine Uniform Building and Energy Code or any portion thereof, without amendment, by any political subdivision of the state.

§ 9725. Fire and building-related codes and standards remain

The codes and standards listed in this section remain in force in their entirety:

1. Fire safety codes and standards. Fire safety codes and standards adopted pursuant to Title 25, sections 2452 and 2465;

2. Electrical standards. Electrical standards adopted pursuant to Title 32, section 1153-A;

3. Plumbing code. The plumbing code adopted pursuant to Title 32, section 3403-B;

4. Oil and solid fuel burning equipment standards. Oil and solid fuel burning equipment standards adopted pursuant to Title 32, section 2353;

5. Propane and natural gas equipment standards. Propane and natural gas equipment standards adopted pursuant to Title 32, section 14804;

6. Boiler and pressure vessel standards. Boiler and pressure vessel standards adopted pursuant to Title 32, section 15104-A; and

7. Elevator standards. Elevator standards adopted pursuant to Title 32, section 15206.

§9726. Enforcement.

1. Voluntary Municipal Enforcement. By vote of its legislative body, a municipality may choose to enforce the provisions of the Maine Uniform Building and Energy Code, or any portion thereof.

2. Board Notification. Any municipality which chooses to enforce the Maine Uniform Building and Energy Code shall notify the Board of its decision to enforce within 60 days of the action of its legislative body.

3. Public List. The board shall maintain and make publicly available a list of all municipalities for which the Board has received notification pursuant to this section.

Sec. 4. 25 MRSA §2361, as enacted by PL 1985, c. 101, is amended to read:

§ 2361. Proceedings by municipality

1. Municipal enforcement. Duly appointed fire chiefs or their designees, municipal building inspectors and code enforcement officers may bring a civil action in the name of the municipality to enforce any of the state laws, duly promulgated-adopted state rules or local ordinances enacted pursuant to chapters 313 to 321 this Part and Title 10, chapter 1103; and

2. Notice. In any proceeding brought by or against the State ~~which~~ that involves the validity of a municipal ordinance, the municipality shall ~~must~~ be given notice of the proceeding and ~~shall be is~~ entitled to be made a party to the proceeding and to be heard. In any proceeding brought by or against the municipality ~~which~~ that involves the validity of statute, ordinance or regulation, the Attorney General shall ~~must~~ be served and ~~shall be~~ made a party to the proceeding and ~~be is~~ entitled to be heard. This section shall ~~apply~~ applies to enforcement of statutes, rules or ordinances enacted pursuant to chapters 313 to 321 this Part and Title 10, chapter 1103.

Sec. 5. 25 MRSA §2466, sub-§5 is enacted to read:

5. Repeal. This section is repealed January 1, 2010.

Sec. 6. 30-A MRSA §4451, sub-§3, as amended by PL 1997, c. 296, §7 and PL 2003, c. 20, Pt. OO, §2 and affected by §4 and amended by c. 689, Pt. B, §6, is further amended to read:

3. Training and certification of code enforcement officers. In cooperation with the Maine Community College System, the Department of Environmental Protection ~~and~~, the Department of Health and Human Services and the Technical Building Codes and Standards Board, the office shall establish a continuing education program for individuals engaged in code enforcement. This program must provide basic and advanced training in the technical and legal aspects of code enforcement necessary for certification.

Sec. 7. 30-A MRSA §4452, sub-§5, as amended by PL 2007, c. 112, §§4 to 6, is further amended to read:

5. Application. This section applies to the enforcement of land use laws and ordinances or rules ~~which~~that are administered and enforced primarily at the local level, including:

- A. The plumbing and subsurface waste water disposal rules adopted by the Department of Health and Human Services under Title 22, section 42, including the land area of the State ~~which~~that is subject to the jurisdiction of the Maine Land Use Regulation Commission;
- B. Laws pertaining to public water supplies, Title 22, sections 2642, 2647 and 2648;
- C. Local ordinances adopted pursuant to Title 22, section 2642;
- D. Laws administered by local health officers pursuant to Title 22, chapters 153 and 263;
- E. Laws pertaining to fire prevention and protection, which require enforcement by local officers pursuant to Title 25, chapter 313;
- F. Laws pertaining to the construction of public buildings for the physically disabled pursuant to Title 25, chapter 331;
- G. Local land use ordinances adopted pursuant to section 3001;
- H. ~~Local building codes adopted pursuant to sections 3001 and 3007;~~
- I. ~~Local housing codes adopted pursuant to sections 3001 and 3007;~~
- J. Laws pertaining to junkyards, automobile graveyards and automobile recycling businesses and local ordinances regarding junkyards, automobile graveyards and automobile recycling businesses, pursuant to chapter 183, subchapter 1 and Title 38, section 1665-A, subsection 3;
- K. Local ordinances regarding electrical installations pursuant to chapter 185, subchapter ~~H~~2;
- L. Local ordinances regarding regulation and inspection of plumbing pursuant to chapter 185, subchapter ~~III~~3;
- M. Local ordinances regarding malfunctioning subsurface waste water disposal systems pursuant to section 3428;
- N. The subdivision law and local subdivision ordinances adopted pursuant to section 3001 and subdivision regulations adopted pursuant to section 4403;
- O. Local zoning ordinances adopted pursuant to section 3001 and in accordance with section 4352;
- P. Wastewater discharge licenses issued pursuant to Title 38, section 353-B;
- Q. Shoreland zoning ordinances adopted pursuant to Title 38, sections 435 to 447, including those that were state-imposed;

R. The laws pertaining to harbors in Title 38, chapter 1, subchapter 1, local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2;

S. Local ordinances and ordinance provisions regarding storm water, including, but not limited to, ordinances and ordinance provisions regulating nonstorm water discharges, construction site runoff and postconstruction storm water management, enacted as required by the federal Clean Water Act and federal regulations and by state permits and rules; and

T. Laws pertaining to limitations on construction and excavation near burial sites and established cemeteries in Title 13, section 1371-A and local ordinances and regulations adopted by municipalities in accordance with this section and section 3001 regarding those limitations; and

U. The Maine Uniform Building and Energy Code, locally enforced pursuant to Title 10, section 9726 and Title 30-A, section 3003.

Sec. 8. 35-A MRSA §121, sub-§3 is enacted to read:

3. Repeal. This section is repealed January 1, 2010.

Sec. 9. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 10, section 9722, subsection 4, initial appointments made to the Technical Building Codes and Standards Board are as set out in this section.

1. The initial appointments made under Title 10, section 9722, subsection 2, paragraphs A, B, E, H and K are for a term of 2 years.

2. The initial appointments made under Title 10, section 9722, subsection 2, paragraphs C, F and I are for a term of 3 years.

3. Thereafter, all terms shall be governed by section 9722.

Sec. 10. Adoption of Maine Uniform Building and Energy Code. The Technical Building Codes and Standards Board established by the Maine Revised Statutes, Title 5, section 12004-G, subsection 5-A, referred to in this section as “the board,” shall adopt the Maine Uniform Building and Energy Code pursuant to Title 10, section 9722, in accordance with this section.

1. The Maine Uniform Building and Energy Code adopted in accordance with Title 10, section 9722, subsection 6 must be composed of the substance of the following, with administrative and other minor changes to customize the codes for Maine:

A. The 2006 version of the International Building Code;

B. The 2006 version of the International Existing Building Code;

C. The 2006 version of the International Residential Code;

D. The 2006 version of the International Energy Conservation Code;

E. The model building energy code adopted pursuant to Title 35-A, section 121 and set forth in Title 10, sections 1415-C and 1415-D and associated rules; and

F. The Maine model radon standard for new residential construction set forth in Title 25, section 2466 and associated rules.

2. Existing state codes and standards, where applicable, must be referenced in chapter one of the Maine Uniform Building and Energy Code.

3. The board shall adopt the Maine Uniform Building and Energy Code no later than March 1, 2009.

A. Between June 1, 2009 and December 31, 2009, building construction and renovation projects may utilize either the Maine Uniform Building and Energy Code or existing building and energy codes adopted by any political subdivision of the State.

Sec. 11. Appointments; convening of Technical Building Codes and Standards Board. The Governor shall make the appointments pursuant to the Maine Revised Statutes, Title 10, section 9722 subsection 2 in sufficient time for the first meeting of the Technical Building Codes and Standards Board to be held by November 1, 2008.

Sec. 12. Contractor Licensing. That a study committee of contractor stakeholders be formed to review the issues involved with residential home construction contractor licensing and report back to the Business Research and Economic Development Committee no later than April 1, 2009, with recommendations for a licensing Board to commence operations by January 1, 2010, but in no event until after the effective date of the state building code. The study group shall be comprised of nine members. The Maine Contractors and Builders Alliance shall nominate two contractors. The Maine Municipal Association shall nominate one local building inspector. Associated General Contractors of Maine shall nominate one member, whose primary expertise shall be in commercial construction, but which does do residential construction work as well. Associated Builders and Contractors shall nominate one individual, who shall be a subcontractor. The nominees collectively must have expertise in foundations, roofing, framing, siding, insulation and grading. The Governor shall also appoint one member who shall be a public member. The Director of the Office of Licensing and Registration of the Department of Professional and Financial Regulation or her designee shall act as chairperson.

SUMMARY

This bill defines a uniform statewide building and energy code, known as the Maine Uniform Building and Energy Code, that will replace all building and energy codes adopted by state agencies and municipalities.

It establishes the Technical Building Codes and Standards Board in the State Planning Office that will adopt the code by March 1, 2009 with an effective date of January 1, 2010. If future resources are available the board will also identify conflicts between the code and other building-related codes and recommend resolutions to the Legislature. It will coordinate training of inspectors in conjunction with the existing State Planning Office code enforcement officer training program. The board will also review state codes for efficiencies. The board may appoint technical advisory groups to make recommendations on specific code issues.

Enforcement of the code will be voluntary at the municipal level. A program to certify private, third-party inspectors modeled on current law is proposed.

Funding for the initial, code-adoption work of the board will be provided within existing resources of the State Planning Office.

A stakeholder group of residential contractors will be convened to propose by April 1, 2009 a residential contractor licensing board, similar to the Electricians and Plumbers boards, to begin operations on January 1, 2010, but in no event earlier than the effective date of the building code. Future amendments and administration of the code will be handled by this future licensing board in a fashion similar to how the electricians and plumbers boards administer their respective state-level codes.

Amendment with **voluntary enforcement** for Committee consideration 3.28.2008

An Act To Establish a Uniform Building and Energy Code

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

Sec. 1. 5 MRSA §12004-G, sub-§5-A is enacted to read:

5-A.

<u>Building</u>	<u>Technical</u>	<u>Expenses</u>	<u>10 MRSA c.</u>
<u>Codes and</u>	<u>Building Codes and</u>	<u>Only</u>	<u>1103</u>
<u>Standards</u>	<u>Standards Board</u>		

Sec. 2. 10 MRSA §9707 is enacted to read:

§ 9707. Repeal

This chapter is repealed ~~January~~ *July* 1, 2010.

Sec. 3. 10 MRSA c. 1103 is enacted to read:

CHAPTER 1103
Maine uniform building and energy code

§ 9721. Definitions

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

1. Board. “Board” means the Technical Building Codes and Standards Board established in Title 5, section 12004-G, subsection 5-A.

2. Maine Uniform Building and Energy Code. “Maine Uniform Building and Energy Code” means the uniform statewide building and energy code adopted by the board pursuant to this chapter.

§ 9722. Technical Building Codes and Standards Board

1. Establishment. The Technical Building Codes and Standards Board, established in Title 5, section 12004-G, subsection 5-A and located within the Department of Public Safety, is established to adopt, amend and maintain the Maine Uniform Building and Energy Code, to resolve conflicts between the Maine Uniform Building and Energy Code and other building-related codes and to provide for training for municipal building inspectors.

2. Membership. The board consists of ~~11~~ 12 voting members, appointed by the Governor:

A. The State Fire Marshal or a designee;

B. A fire chief or local fire marshal, recommended by the Maine Fire Chiefs’ Association or its

successor organization;

C. A municipal code enforcement officer employed by a municipality *which has voted to locally enforce the code pursuant to section 9726*, that is not a service center community under Title 30-A, chapter 187, recommended by the Maine Municipal Association or its successor organization;

D. A municipal code enforcement officer employed by a ~~service center community~~ *municipality which has voted to locally enforce the code pursuant to section 9726*, that is a service center community under Title 30-A, chapter 187, recommended by the Maine Service Centers Coalition or its successor organization;

E. A residential builder recommended by a statewide regional association of home builders and remodelers;

F. A commercial builder recommended by a statewide association of general contractors;

G. An architect licensed in the State who is accredited by a nationally recognized organization that administers credentialing programs related to environmentally sound building practices and standards, recommended by a statewide chapter of a national institute of architects;

H. A structural engineer licensed in the State, recommended by a statewide association of structural engineers;

I. A historic preservation representative, recommended by the Maine Historic Preservation Commission, with experience implementing the standards for the treatment of historic properties set forth in 36 Code of Federal Regulations, Part 68 (2007), who is:

(1) An architect licensed in the State;

(2) A structural engineer licensed in the State; or

(3) A builder;

J. An energy efficiency representative, recommended by the director of the Governor's Office of Energy Independence and Security, who is *an individual having experience or expertise in the design or implementation of energy codes or in the application of energy efficiency measures in residential or commercial construction*;

(1) An architect licensed in the State;

(2) A structural engineer licensed in the State; or

(3) A builder; and

K. A professional building access specialist experienced with state and federal accessibility regulations, recommended by the Maine Human Rights Commission;

L. A mechanical engineer licensed in the State, recommended by a statewide association of

mechanical engineers.

A member appointed under this subsection must have at least 5 years' experience in the field that member is nominated to represent and must be employed in that field.

3. Ex officio member; chair. The Commissioner of Public Safety, or the commissioner's designee, serves as a nonvoting ex officio member and as the chair of the board. The chair is responsible for ensuring that the board maintains the purpose of its charge when executing its assigned duties, that any adoption and amendment requirements for the Maine Uniform Building and Energy Code are met and that training and technical assistance is provided to municipal building inspectors.

4. Terms; removal. Appointments to the board are made for a 4-year term, and members are eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment immediately effective for the unexpired term. A member of the board may be removed from the board for cause by the Governor.

5. Meetings; quorum. The board shall meet quarterly and at such other times as the board determines necessary. Five Seven voting members of the board constitute a quorum for the transaction of business under this chapter.

6. Duties and powers. In addition to other duties set forth in this chapter, the board shall:

A. Adopt rules necessary to carry out its duties. Rules adopted pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;

B. Adopt, amend and maintain the Maine Uniform Building and Energy Code;

C. Adopt rules for the review and adoption of amendments to the Maine Uniform Building and Energy Code, including:

(1) A process for consideration of amendment proposals submitted by municipalities, county, regional or state governmental units, professional trade organizations and the public;

(2) A requirement that amendments that are more restrictive than the national minimum standard be accompanied by an economic impact statement that includes:

(a) An identification of the types and an estimate of the number of the small businesses subject to the proposed amendment;

(b) The projected reporting, record-keeping and other administrative costs required for compliance with the proposed amendment, including the type of professional skills necessary for preparation of the report or record;

(c) A brief statement of the probable impact on affected small businesses; and

(d) A description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of the proposed amendment;

(3) A process for reviewing and evaluating criteria to identify whether an amendment is needed to:

(a) Address a critical life or safety need, a specific state policy or statute or a unique character of the State;

(b) Ensure consistency with state rules or federal regulations; or

(c) Correct errors and omissions;

(4) Timelines governing the filing of amendments, ~~which must require board action within 90 days of filing;~~ and a process to establish an annual adoption cycle; and

(5) A process for publication of adopted amendments within 30 days of adoption;

D. Identify and resolve conflicts between the Maine Uniform Building and Energy Code and the codes and standards referenced in section 9725(1). The board shall develop rules designed to resolve these conflicts, which must include:

(1) Notification to the authority or authorities having jurisdiction over the code or standard that is in conflict with the Maine Uniform Building and Energy Code and a request for submission of proposed solutions for such conflicts;

(2) Procedures for consideration of proposed solutions submitted by the authority or authorities having jurisdiction over the code or standard that is in conflict with the Maine Uniform Building and Energy Code and consideration of new approaches to resolving the conflict; and

(3) Publication of resolution of the conflict within 30 days of adoption;

D-1. The Committee shall seek to identify conflicts between the Maine Uniform Building and Energy Code and all other codes and standards referenced in 9725 and develop solutions.

E. Develop technical advisory groups of experts and interest group representatives as necessary to provide the board with detailed information and recommendations on amendments to the Maine Uniform Building and Energy Code, national model codes revisions and conflict resolution with other building-related codes and standards adopted in the State. The board may direct the technical advisory groups to identify economic impacts on small businesses, housing affordability, construction costs, life-cycle costs or code enforcement costs of proposed changes to the code;

F. In accordance with section 9723, ensure that training and certification regarding the Maine Uniform Building and Energy Code is readily available, affordable and accessible to municipal building inspectors; and

G. Make historic preservation a policy priority in the adoption and amendment of the Maine Uniform Building and Energy Code.

(1) Provisions of model codes and standards intended to facilitate the continued use or adaptive reuse of historic buildings must be maintained in the adopted versions of the Maine Uniform Building and Energy Code.

(2) The board shall proactively identify additional or alternative compliance means and methods for historic buildings in the adoption and amendment of the Maine Uniform Building and Energy Code.

H. Review existing state codes listed in section 9725 and make recommendations to the legislature for changes that would enhance the efficiency and effectiveness of those codes.

I. Review alternative methods of funding for the board, create an equitable source of revenue and report back its recommendations to the Business Research and Economic Development Committee no later than January 1, 2010.

★ J.

§ 9723. Training and certification

1. Appoint committee; establish requirements. The board shall appoint a 5-member training and certification committee, referred to in this section as "the committee," to establish the training and certification requirements for municipal building inspectors.

2. Training program. The committee shall direct the ~~training coordinator of the Division Office~~ of Building Codes and Standards, established in Title 25, section 2372, to develop a training program for municipal building inspectors.

3. Annual review. The committee shall annually review the training program developed pursuant to subsection 2 to confirm that training courses are regularly offered in geographically diverse locations and that training for municipal building inspectors is fully funded by the State.

§ 9724. Application

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

2. Prior statewide codes and standards. Effective January 1, 2010, the Maine Uniform Building and Energy Code adopted pursuant to this chapter replaces, and is intended to be the successor to, the Model Energy Code established in Title 35-A, section 121 and the Maine model radon standard for new residential construction set forth in Title 25, section 2466.

3. Ordinances. Effective January 1, 2010, except as provided in subsection 4 and section 9725, any ordinance regarding a building code of any political subdivision of the State that is inconsistent with the Maine Uniform Building and Energy Code is void.

4. Exception. This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision regarding a building code that conforms substantially with any applicable provision of state law or that sets forth provisions for local enforcement of building codes.

§ 9725. Fire and building-related codes and standards remain

The codes and standards listed in this section remain in force in their entirety unless the board adopts and publishes a conflict resolution between them the fire and safety codes and standards and the Maine Uniform Building and Energy Code. Conflict resolutions adopted pursuant to this chapter must also be incorporated into the fire and safety codes and standards these codes by the appropriate authorities:

1. **Fire safety codes and standards.** Fire safety codes and standards adopted pursuant to Title 25, sections 2452 and 2465;
2. **Electrical standards.** Electrical standards adopted pursuant to Title 32, section 1153-A;
3. **Plumbing code.** The plumbing code adopted pursuant to Title 32, section 3403-B;
4. **Oil and solid fuel burning equipment standards.** Oil and solid fuel burning equipment standards adopted pursuant to Title 32, section 2353;
5. **Propane and natural gas equipment standards.** Propane and natural gas equipment standards adopted pursuant to Title 32, section 14804;
6. **Boiler and pressure vessel standards.** Boiler and pressure vessel standards adopted pursuant to Title 32, section 15104-A; and
7. **Elevator standards.** Elevator standards adopted pursuant to Title 32, section 15206.

§ 9726. Enforcement.

1. **Voluntary Municipal Enforcement.** By vote of its legislative body, a municipality may choose to enforce the provisions of the Maine Uniform Building and Energy Code, ~~or any portion thereof.~~ A code enforcement officer must be certified to enforce the code.
2. **Board Notification.** Each municipality, which chooses to enforce the Maine Uniform Building and Energy Code, shall notify the Board of its decision to enforce within 60 days of the action of its legislative body.
3. **Public List.** The board shall maintain and make publicly available a list of all municipalities for which the Board has received notification pursuant to this section.

~~Sec. 4. 25 MRSA §2351,~~ as corrected by RR 1995, c. 2, §56, is amended to read:

§ 2351. Inspector; compensation; deputy

In every town and city of more than 2,000 inhabitants, and in every town of 2,000 inhabitants or less, if such a town so votes at a town meeting, and in each village corporation, if such a corporation so votes at the annual meeting thereof, the municipal officers shall annually in the month of April appoint

an inspector of buildings, who must be a person ~~skilled in the construction of buildings~~certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E, and shall determine the inspector's compensation. ~~The municipal officers shall define the limits within which the inspector of buildings has jurisdiction, which includes the thickly settled portion of each such city or of each village in each such city or town.~~ Whenever the inspector of buildings becomes incapacitated, the municipal officers may appoint or authorize the inspector of buildings to appoint a deputy inspector of buildings who shall serve until removed by the municipal officers, but in no event beyond the term for which the inspector of buildings was appointed. The deputy inspector shall perform such duties as may be required of the deputy inspector by the inspector. The compensation of the deputy inspector is determined by the municipal officers.

~~Sec. 5. 25 MRSA §2353~~ is amended to read:

§ 2353. Duty to inspect buildings under construction

The inspector of buildings shall inspect each new building during the process of construction,~~for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103 and~~ so far as may be necessary, to see that all proper safeguards against the catching or spreading of fire are used, that the chimneys and flues are made safe and that proper cutoffs are placed between the timbers in the walls and floorings where fire would be likely to spread, and may give such directions in writing to the owner or contractor, ~~as he deems~~the inspector considers necessary, concerning the construction of ~~such~~the building so as to render the ~~same~~building safe from the catching and spreading of fire.

~~Sec. 6 4. 25 MRSA §2361~~, as enacted by PL 1985, c. 101, is amended to read:

§ 2361. Proceedings by municipality

1. Municipal enforcement. Duly appointed fire chiefs or their designees, municipal building inspectors and code enforcement officers may bring a civil action in the name of the municipality to enforce any of the state laws, duly ~~promulgated~~adopted state rules or local ordinances enacted pursuant to ~~chapters 313 to 321~~this Part and Title 10, chapter 1103; and

2. Notice. In any proceeding brought by or against the State ~~which~~that involves the validity of a municipal ordinance, the municipality ~~shall~~must be given notice of the proceeding and ~~shall be~~is entitled to be made a party to the proceeding and to be heard. In any proceeding brought by or against the municipality ~~which~~that involves the validity of statute, ordinance or regulation, the Attorney General ~~shall~~must be served and ~~shall be~~is made a party to the proceeding and ~~be~~is entitled to be heard. This section ~~shall apply~~applies to enforcement of statutes, rules or ordinances enacted pursuant to ~~chapters 313 to 321~~this Part and Title 10, chapter 1103.

~~Sec. 7 5. 25 MRSA c. 314~~ is enacted to read:

CHAPTER 314 **Building Codes and Standards**

§ 2371. Definitions

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

1. **Board.** “Board” means the Technical Building Codes and Standards Board established in Title 5, section 12004-G, subsection 5-A.

2. **Code.** “Code” means the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103.

3. **Commissioner.** “Commissioner” means the Commissioner of Public Safety.

4. **Inspector of buildings.** “Inspector of buildings” means an inspector of buildings appointed pursuant to section 2351.

§ 2372. ~~Division Office~~ of Building Codes and Standards

1. **Established.** ~~The Division Office~~ of Building Codes and Standards is established within the Department of Public Safety, ~~Office of the State Fire Marshal~~ to provide administrative support and technical assistance to the board in executing its duties pursuant to Title 10, section 9722, subsection 6.

2. **Staff.** The commissioner may appoint or remove for cause staff of the ~~Division Office~~ of Building Codes and Standards established under subsection 1, including:

A. A technical codes coordinator, *certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E*, who serves as the bureau director and as the principal administrative and supervisory employee of the board. The technical codes coordinator shall attend meetings of the board, keep records of the proceedings of the board and direct and supervise the personnel employed to carry out the duties of the board, including but not limited to providing technical support and public outreach for the adoption of the code, amendments, conflict resolutions and interpretations. Technical support and public outreach must include, but may not be limited to:

(1) Providing *non-binding* interpretation of the code for professionals and the general public; and

(2) Establishing and maintaining a publicly accessible website to publish general technical assistance, code updates and interpretations and post-training course schedules;

~~B. A training coordinator, whose duties include the establishment of a program, through cooperative agreements with national, regional and state organizations, to provide the building inspector training required by the training and certification committee appointed by the board pursuant to Title 10, section 9723; and~~

~~B. An office specialist to provide administrative support to the *Office* technical codes coordinator, the training coordinator and the board.~~

§ 2373. Enforcement

~~1. **Code enforcement.** — A municipality that is required to have an inspector of buildings pursuant to chapter 313 shall enforce the code. Enforcement may be provided through interlocal agreements with other municipalities or by contractual agreements between municipal, county or regional authorities. Contracts with 3rd party certified inspectors may be used in place of local code enforcement officers to enforce this chapter.~~

~~2. **Building inspectors.** — An inspector of buildings shall review applications, review construction documents and issue permits for the erection, alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued, enforce compliance with the code and issue certificates of occupancy.~~

~~3. **Reports of inspections.** — An inspector of buildings may accept reports of inspection by certified agencies or individuals approved by the board. Reports of such inspections must be in writing and be certified by a responsible officer of an approved agency or by the responsible individual. The inspector of buildings is authorized to engage such expert opinion as necessary to report upon unusual technical issues that arise.~~

~~4. **Fees.** — A municipality that is required to have an inspector of buildings pursuant to chapter 313 shall establish a schedule of building inspection permit fees sufficient to cover the cost of employing an inspector of buildings enforcing the Maine Uniform Building and Energy Code.~~

§ 2374. Uniform Building Codes and Standards Fund

The Uniform Building Codes and Standards Fund is established within the Department of Public Safety to fund the activities of the Division Office of Building Codes and Standards under this chapter and the activities of the board under Title 10, chapter 1103. Revenue for this fund is provided by the surcharge established by section 2450-A.

Sec. 8 6. 25 MRSA §2450, as amended by PL 2003, c. 358, §1, is further amended to read:

§ 2450. Examinations by Department of Public Safety

The Commissioner of Public Safety shall adopt, in accordance with requirements of the Maine Administrative Procedure Act, a schedule of fees for the examination of all plans for construction, reconstruction or repairs submitted to the Department of Public Safety. The fee schedule for new construction or new use is 5¢ per square foot for occupied spaces and 2¢ per square foot for bulk storage occupancies, except that a fee for review of a plan for new construction by a public school may not exceed \$450. The fee schedule for reconstruction, repairs or renovations is based on the cost of the project and may not exceed \$450, except as provided in section 2450-A. The fees must be credited to a special revenue account to defray expenses in carrying out this section. Any balance of the fees may not lapse, but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal years.

Sec. 9 7. 25 MRSA §2450-A is enacted to read:

§ 2450-A. Surcharge on plan review fee for Uniform Building Codes and Standards Fund

In addition to the fees established in section 2450, a surcharge of 4¢ per square foot of occupied space must be levied on the existing fee schedule for new construction, reconstruction, repairs, renovations or new use for the sole purpose of funding the activities of the Technical Building Codes and Standards Board with respect to the Maine Uniform Building and Energy Code, established pursuant to the Title 10, chapter 1103 and the activities of the ~~Division~~ Office of Building Codes and Standards under chapter 314, except that the fee for review of a plan for the renovation of a public school, including the fee established under section 2450, may not exceed \$450. Revenue collected from this surcharge must be deposited into the Uniform Building Codes and Standards Fund established by section 2374.

Sec. ~~10~~ 8. 25 MRSA §2466, sub-§5 is enacted to read:

5. Repeal. This section is repealed January 1, 2010.

Sec. ~~11~~ 9. 30-A MRSA §4451, sub-§2-A, ¶E, as enacted by PL 1991, c. 163, is amended to read:

E. Building standards under chapter 141; chapter 185, subchapter ~~1~~; beginning January 1, 2010, Title 10, chapter 1103; and Title 25, chapters 313 and 331.

Sec. ~~12~~ 10. 30-A MRSA §4451, sub-§3, as amended by PL 1997, c. 296, §7 and PL 2003, c. 20, Pt. OO, §2 and affected by §4 and amended by c. 689, Pt. B, §6, is further amended to read:

3. Training and certification of code enforcement officers. In cooperation with the Maine Community College System, the Department of Environmental Protection ~~and~~, the Department of Health and Human Services and the Department of Public Safety, the office shall establish a continuing education program for individuals engaged in code enforcement. This program must provide basic and advanced training in the technical and legal aspects of code enforcement necessary for certification.

Sec. ~~13~~ 11. 30-A MRSA §4452, sub-§5, as amended by PL 2007, c. 112, §§4 to 6, is further amended to read:

5. Application. This section applies to the enforcement of land use laws and ordinances or rules ~~which~~that are administered and enforced primarily at the local level, including:

- A. The plumbing and subsurface waste water disposal rules adopted by the Department of Health and Human Services under Title 22, section 42, including the land area of the State ~~which~~that is subject to the jurisdiction of the Maine Land Use Regulation Commission;
- B. Laws pertaining to public water supplies, Title 22, sections 2642, 2647 and 2648;
- C. Local ordinances adopted pursuant to Title 22, section 2642;

- D. Laws administered by local health officers pursuant to Title 22, chapters 153 and 263;
- E. Laws pertaining to fire prevention and protection, which require enforcement by local officers pursuant to Title 25, chapter 313;
- F. Laws pertaining to the construction of public buildings for the physically disabled pursuant to Title 25, chapter 331;
- G. Local land use ordinances adopted pursuant to section 3001;
- H. ~~Local building codes adopted pursuant to sections 3001 and 3007;~~
- I. ~~Local housing codes adopted pursuant to sections 3001 and 3007;~~
- J. Laws pertaining to junkyards, automobile graveyards and automobile recycling businesses and local ordinances regarding junkyards, automobile graveyards and automobile recycling businesses, pursuant to chapter 183, subchapter 1 and Title 38, section 1665-A, subsection 3-;
- K. Local ordinances regarding electrical installations pursuant to chapter 185, subchapter ~~H~~2;
- L. Local ordinances regarding regulation and inspection of plumbing pursuant to chapter 185, subchapter ~~HH~~3;
- M. Local ordinances regarding malfunctioning subsurface waste water disposal systems pursuant to section 3428;
- N. The subdivision law and local subdivision ordinances adopted pursuant to section 3001 and subdivision regulations adopted pursuant to section 4403;
- O. Local zoning ordinances adopted pursuant to section 3001 and in accordance with section 4352;
- P. Wastewater discharge licenses issued pursuant to Title 38, section 353-B;
- Q. Shoreland zoning ordinances adopted pursuant to Title 38, sections 435 to 447, including those that were state-imposed;
- R. The laws pertaining to harbors in Title 38, chapter 1, subchapter 1, local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2;
- S. Local ordinances and ordinance provisions regarding storm water, including, but not limited to, ordinances and ordinance provisions regulating nonstorm water discharges, construction site runoff and postconstruction storm water management, enacted as required by the federal Clean Water Act and federal regulations and by state permits and rules; and
- T. Laws pertaining to limitations on construction and excavation near burial sites and established cemeteries in Title 13, section 1371-A and local ordinances and regulations adopted by municipalities in accordance with this section and section 3001 regarding those limitations-; and

U. The Maine Uniform Building and Energy Code, adopted pursuant to Title 10, chapter 1103 locally enforced pursuant to Title 10, section 9726 and Title 30-A, section 3003.

Sec. 14 12. 35-A MRSA §121, sub-§3 is enacted to read:

3. Repeal. This section is repealed January 1, 2010.

Sec. 15 13. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 10, section 9722, subsection 4, initial appointments made to the Technical Building Codes and Standards Board are as set out in this section.

1. The appointments made under Title 10, section 9722, subsection 2, paragraphs B, E, H and K are for a term of 2 years.

2. The appointments made under Title 10, section 9722, subsection 2, paragraphs C, F and I are for a term of 3 years.

Sec. 16 14. Adoption of Maine Uniform Building and Energy Code. The Technical Building Codes and Standards Board established by the Maine Revised Statutes, Title 5, section 12004-G, subsection 5-A, referred to in this section as "the board," shall adopt the Maine Uniform Building and Energy Code pursuant to Title 10, section 9722, in accordance with this section.

1. The Maine Uniform Building and Energy Code adopted in accordance with Title 10, section 9722, subsection 6 must be composed of the substance of the following, with administrative and other minor changes to customize the codes for Maine:

A. ~~The 2009 version of the~~ International Building Code, *commencing with the 2009 edition;*

B. ~~The 2009 version of the~~ International Existing Building Code, *commencing with the 2009 edition;*

C. ~~The 2009 version of the~~ International Residential Code, *commencing with the 2009 edition;*

D. ~~The 2009 version of the~~ International Energy Conservation Code, *commencing with the 2009 edition;*

E. *ASHRAE Standards 62.1, 62.2 and 90.1; and*

~~E. The model building energy code adopted pursuant to Title 35-A, section 121 and set forth in Title 10, sections 1415-C and 1415-D and associated rules; and~~

F. The Maine model radon standard for new residential construction set forth in Title 25, section 2466 and associated rules.

2. Existing state codes and standards, where applicable, must be referenced in chapter one of the Maine Uniform Building and Energy Code.

3. The board shall adopt the Maine Uniform Building and Energy Code no later than ~~June 1, 2009~~ *January 1, 2010*.

A. Between ~~June 1, 2009~~ *January 1, 2010* and ~~December 31, 2009~~ *July 1, 2010*, building construction and renovation projects may utilize either the Maine Uniform Building and Energy Code or existing building and energy codes adopted by any political subdivision of the State.

B. The board shall maintain an adoption cycle for future versions of the Maine Uniform Building and Energy Code that is coordinated with the State Fire Marshal's adoption cycle and that does not lapse more than 5 years or one national model code version cycle.

Sec. ~~17~~ 15. Appointments; convening of Technical Building Codes and Standards Board. The Governor shall make the appointments pursuant to the Maine Revised Statutes, Title 10, section 9722 subsection 2 in sufficient time for the Governor to convene the first meeting of the Technical Building Codes and Standards Board by November 1, 2008.

~~Sec. 18. Staggered effective date for enforcement of Maine Uniform Building and Energy Code.~~ ~~A municipality that has more than 2,000 residents that has adopted any building code by August 1, 2008 shall begin enforcement of the Maine Uniform Building and Energy Code adopted pursuant to the Maine Revised Statutes, Title 10, chapter 1103 by June~~ *July 1, 2010*. Any municipality with more than 2,000 residents that has not adopted any building code by August 1, 2008 shall begin enforcement of Maine Uniform Building and Energy Code by ~~January~~ *July 1, 2012*.

SUMMARY

This bill defines a uniform statewide building and energy code, known as the Maine Uniform Building and Energy Code, that will replace all building and energy codes adopted by state agencies and municipalities.

It establishes the Technical Building Codes and Standards Board in the Department of Public Safety, which will amend, update and adopt the code. The board will also identify and resolve conflicts between the code and ~~other building-related~~ *the fire and safety* codes, publish conflict resolutions on the Internet within 30 days, establish a process for considering amendments suggested by municipalities and citizens and ensure that training and certification for municipal building inspectors is readily available, affordable and accessible. The board may appoint technical advisory groups to make recommendations on specific code issues.

It establishes the ~~Division Office~~ *Office* of Building Codes and Standards in the Department of Public Safety ~~in the Office of the State Fire Marshal~~ to provide administrative and technical support. The ~~division office~~ *office* will include a technical codes coordinator to provide technical support to the board, a training coordinator to establish a training program for building inspectors and an office specialist to provide administrative support for the board and division staff.

~~Enforcement of the code will be carried out by local building inspectors in municipalities of more than 2,000 residents, and these municipalities are considered the authority having jurisdiction over~~

LD 2257, item 1, 123rd Maine State Legislature
An Act To Establish a Uniform Building and Energy Code

~~matters of local code enforcement. Enforcement of the code in municipalities with fewer than 2,000 residents is optional.~~

Enforcement of the code will be voluntary at the municipal level.

Funding for the board, the ~~division~~ office and training expenses for building inspectors will be provided from a surcharge on fire and life safety code plan review fees through the Office of State Fire Marshal and standards plan reviews for commercial and public buildings. All funding is to be deposited into a Department of Public Safety dedicated revenue fund called the Uniform Building Codes and Standards Fund.

(1) Provisions of model codes and standards intended to facilitate the continued use or adaptive reuse of historic buildings must be maintained in the adopted versions of the Maine Uniform Building and Energy Code.

(2) The board shall proactively identify additional or alternative compliance means and methods for historic buildings in the adoption and amendment of the Maine Uniform Building and Energy Code.

H. Review existing state codes listed in section 9725 and make recommendations to the legislature for changes that would enhance the efficiency and effectiveness of those codes.

I. Review alternative methods of funding for the board, create an equitable source of revenue and report back its recommendations to the Business Research and Economic Development Committee no later than January 1, 2010.

★ J. Review, in consultation with relevant stakeholders, the local enforcement of the Maine Uniform Building and Energy Code and report its findings to the Business, Research and Economic Development Committee no later than November 15, 2013.

§ 9723. Training and certification

1. Appoint committee; establish requirements. The board shall appoint a 5-member training and certification committee, referred to in this section as “the committee,” to establish the training and certification requirements for municipal building inspectors.

2. Training program. The committee shall direct the training coordinator of the Division Office of Building Codes and Standards, established in Title 25, section 2372, to develop a training program for municipal building inspectors.

3. Annual review. The committee shall annually review the training program developed pursuant to subsection 2 to confirm that training courses are regularly offered in geographically diverse locations and that training for municipal building inspectors is fully funded by the State.

§ 9724. Application

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

2. Prior statewide codes and standards. Effective January 1, 2010, the Maine Uniform Building and Energy Code adopted pursuant to this chapter replaces, and is intended to be the successor to, the Model Energy Code established in Title 35-A, section 121 and the Maine model radon standard for new residential construction set forth in Title 25, section 2466.

3. Ordinances. Effective January 1, 2010, except as provided in subsection 4 and section 9725, any ordinance regarding a building code of any political subdivision of the State that is inconsistent with the Maine Uniform Building and Energy Code is void.

Working at one of the states largest private development firms, I strongly believe there is significant merit in establishing a state wide uniform building code.

When we look at developing in new towns and City's, the risk of new and differently interpreted codes adds to the ultimate cost of a project. Going in looking at any development, the private developer assesses the risk, cost and possible reward or return on their time and capital. The more the "unknowns" can be defined for everyone on a consistence basis, the better chance the community will have attracting economic development.

Please consider the impact of NOT creating a consistence code for the State of Maine.

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SUBJECT	LANGUAGE IN LD 2257	SPO Proposal	MEMA Proposal
<p>Adoption of Codes/Standards by new board</p>	<p>Establishes a Technical Building Codes and Standards Board within the Department of Public Safety, to adopt, amend and maintain the Maine Uniform Building and Energy Code, to resolve conflicts between the Maine Uniform Building and Energy Code and other building-related codes and to provide for training for municipal building inspectors.</p> <p><u>Memberships.</u> The board consists of 11 voting members, appointed by the Governor:</p> <p>A. The State Fire Marshal or a designee;</p> <p>B. A fire chief, recommended by the Maine Fire Chiefs' Association or its successor organization;</p> <p>C. A municipal code enforcement officer employed by a municipality that is not a service center community under Title 30-A, chapter 187, recommended by the Maine Municipal Association or its successor organization;</p> <p>D. A municipal code enforcement officer employed by a service center community under Title 30-A, chapter 187, recommended by the Maine Service Centers Coalition or its successor organization;</p> <p>E. A residential builder recommended by a statewide regional association of home builders and remodelers;</p> <p>F. A commercial builder recommended by a statewide association of general contractors;</p> <p>G. An architect licensed in the State who is accredited by a nationally recognized organization that administers credentialing programs related to environmentally sound building practices and standards, recommended by a statewide chapter of a national institute of architects;</p> <p>H. A structural engineer licensed in the State, recommended by a statewide association of structural engineers;</p> <p>I. A historic preservation representative, recommended by the Maine Historic Preservation Commission, with experience implementing the standards for the treatment of historic properties set forth in 36 Code of Federal Regulations, Part 68 (2007), who is:</p> <p>(1) An architect licensed in the State;</p> <p>(2) A structural engineer licensed in the State;</p> <p>or</p> <p>(3) A builder;</p> <p>J. An energy efficiency representative, recommended</p>	<p>Increases board membership from 11 to 12 by adding a mechanical engineer and provides greater detail on qualifications for appointments to the board and changes the qualifications for the energy efficiency representative to the board.</p> <p>Increases the quorum requirement from 5 to 7.</p> <p>Duties & powers (top of page 4 of the bill): strikes the requirement for the board to act within 90 days from the filing of an amendment, with the requirement of an annual adoption cycle.</p> <p>Requires the Board to identify conflicts between the MUBEC and the Energy Code and all other codes (Fire safety, electrical, plumbing, oil/solid fuel, propane/hot gas, boiler and pressure vessels, elevators) and develop solutions.</p> <p>Requires the board to review these existing codes and make recommendations to Legislature for changes to enhance efficiency and effectiveness of those codes.</p> <p>Requires the board to review alternative methods of funding for the board, create equitable source of revenue and report back w/ recommendations to BRED by January 2010.</p>	<p>Increases membership to 13 members by adding a mechanical engineer and a public member, and keeps the Fire Marshal.</p> <p>Moves the board from DPS to DPFR.</p> <p>Amends the qualification for the energy efficiency representative.</p> <p>Adds the Commissioner of PFR as the Chair and a nonvoting ex officio member.</p> <p>Increases quorum to 7.</p> <p>Strikes the board's rulemaking authority</p> <p>Requires adoption by the Board of the MUBEC by no later than January 2010.</p> <p>Requires the board to identify conflicts between codes and develop rules to resolve conflicts- and report to the Legislature beginning 2011 on the identified conflicts and proposed recommendations for solution.</p> <p>Allows for a training program for the MUBEC that is available and affordable to municipal building inspectors and 3rd party inspectors and builders.</p> <p>Proposes review for alternative sources of funding for the board with recommendations to the Legislature.</p> <p>Adds section that will allow commissioner to appoint or remove staff for cause, including the technical codes coordinator who would serve as the principal administrative and supervisory employee of the board. The coordinator would provide technical support/outreach to the public for adoption of the code and this would include providing advisory interpretations of the code and establishing a website for the public.</p>

SUBJECT

LANGUAGE IN LD 2257

SPO Proposal

MMA Proposal

by the director of the Governor's Office of Energy Independence and Security, who is:

- (1) An architect licensed in the State;
- (2) A structural engineer licensed in the State;
or
- (3) A builder; and
- K. A professional building access specialist experienced with state and federal accessibility regulations, recommended by the Maine Human Rights Commission.

A member appointed under this subsection must have at least 5 years' experience in the field that member is nominated to represent and must be employed in that field.

☉ **Ex officio member: chair.** The Commissioner of Public Safety, or the commissioner's designee, serves as a nonvoting ex officio member and as the chair of the board. The chair is responsible for ensuring that the board maintains the purpose of its charge when executing its assigned duties, that any adoption and amendment requirements for the Maine Uniform Building and Energy Code are met and that training and technical assistance is provided to municipal building inspectors.

☉ **Terms: removal.** Appointments to the board are made for a 4-year term, and members are eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment immediately effective for the unexpired term. A member of the board may be removed from the board for cause by the Governor.

☉ **Meetings: quorum.** The board shall meet quarterly and at such other times as the board determines necessary. Five voting members of the board constitute a quorum for the transaction of business under this chapter.

☉ **Duties and powers.** In addition to other duties set forth in this chapter, the board shall:

- A. Adopt rules necessary to carry out its duties. Rules adopted pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;
- B. Adopt, amend and maintain the Maine Uniform Building and Energy Code;
- C. Adopt rules for the review and adoption of

SUBJECT

LANGUAGE IN LD 2257

SPO Proposal

MMA Proposal

amendments to the Maine Uniform Building and Energy Code, including:

(1) A process for consideration of amendment proposals submitted by municipalities, county, regional or state governmental units, professional trade organizations and the public;

(2) A requirement that amendments that are more restrictive than the national minimum standard be accompanied by an economic impact statement that includes:

(a) An identification of the types and an estimate of the number of the small businesses subject to the proposed amendment;

(b) The projected reporting, record-keeping and other administrative costs required for compliance with the proposed amendment, including the type of professional skills necessary for preparation of the report or record;

(c) A brief statement of the probable impact on affected small businesses; and

(d) A description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of the proposed amendment;

(3) A process for reviewing and evaluating criteria to identify whether an amendment is needed to:

(a) Address a critical life or safety need, a specific state policy or statute or a unique character of the State;

(b) Ensure consistency with state rules or federal regulations; or

(c) Correct errors and omissions;

(4) Timelines governing the filing of amendments, which must require board action within 90 days of filing; and

(5) A process for publication of adopted amendments within 30 days of adoption;

D. Identify and resolve conflicts between the Maine Uniform Building and Energy Code and the codes and standards referenced in section 9725. The board shall

SUBJECT

LANGUAGE IN LD 2257

SPO Proposal

MMA Proposal

develop rules designed to resolve these conflicts, which must include:

(1) Notification to the authority or authorities having jurisdiction over the code or standard that is in conflict with the Maine Uniform Building and Energy Code and a request for submission of proposed solutions for such conflicts;

(2) Procedures for consideration of proposed solutions submitted by the authority or authorities having jurisdiction over the code or standard that is in conflict with the Maine Uniform Building and Energy Code, and consideration of new approaches to resolving the conflict; and

(3) Publication of resolution of the conflict within 30 days of adoption;

E. Develop technical advisory groups of experts and interest group representatives as necessary to provide the board with detailed information and recommendations on amendments to the Maine Uniform Building and Energy Code, national model codes, revisions and conflict resolution with other building-related codes and standards adopted in the State. The board may direct the technical advisory groups to identify economic impacts on small businesses, housing affordability, construction costs, life-cycle costs or code enforcement costs of proposed changes to the code;

F. In accordance with section 9723, ensure that training and certification regarding the Maine Uniform Building and Energy Code is readily available, affordable and accessible to municipal building inspectors; and

G. Make historic preservation a policy priority in the adoption and amendment of the Maine Uniform Building and Energy Code.

(1) Provisions of model codes and standards intended to facilitate the continued use or adaptive reuse of historic buildings must be maintained in the adopted versions of the Maine Uniform Building and Energy Code.

(2) The board shall proactively identify additional or alternative compliance means and methods for historic buildings in the adoption

SUBJECT	LANGUAGE IN LD 2257	SPO Proposal	MMA Proposal
<p>☉ <u>Training & Certification</u></p>	<p>and amendment of the Maine Uniform Building and Energy Code.</p> <p>☉ § 9723. Training and certification:</p> <p>☉ 1. <u>Appoint committee; establish requirements.</u> The board shall appoint a 5-member training and certification committee to establish the training and certification requirements for municipal building inspectors.</p> <p>2. <u>Training program.</u> The committee shall direct the training coordinator of the Division of Building Codes and Standards, established in Title 25, section 2372, to develop a training program for municipal building inspectors.</p> <p>3. <u>Annual review.</u> The committee shall annually review the training program developed pursuant to subsection 2 to confirm that training courses are regularly offered in geographically diverse locations and that training for municipal building inspectors is fully funded by the State.</p>	<p>☉ The Office of Building Codes and Standards would be responsible for developing the training program for municipal building inspectors, instead of the training coordinator.</p>	<p>☉ The certification committee would coordinate its efforts with the code enforcement officer training program within SPO.</p> <p>☉ The board will establish a certification program for 3rd party residential building and energy code inspectors to meet the needs of the public. The board may develop separate programs for inspections of different buildings and different codes within the MUBEC, determine the training and hours required for course completion and manner to demonstrate proficiency in inspecting and shall issue a certificate of completion to those who meet these requirements established by the board. The board may establish reasonable course fees and fees for courses offered by the State must be paid to the Treasurer to be used by the board for this section; the board shall determine a process for suspension or removal of individuals holding an unexpired certificate.</p>
<p>☉ <u>Limits on Home Rule/ effect on Prior Codes/Standards</u></p>	<p>☉ Application</p> <p>1. <u>Limitations on home rule authority.</u> This chapter provides express limitations on municipal home rule authority.</p> <p>2. <u>Prior statewide codes and standards.</u> Effective January 1, 2010, the Maine Uniform Building and Energy Code adopted pursuant to this chapter replaces, and is intended to be the successor to, the Model Energy Code established in Title 35-A, section 121 and the Maine model radon standard for new residential construction set forth in Title 25, section 2466.</p>	<p>☉ Changes the date of the repeal of Model Code from January to July of 2010.</p> <p>☉ Strikes the exception language for building codes that "conform substantially" with any applicable provision of state law.</p>	<p>☉ Adds language in the exception: for purposes of municipal enforcement, this section does not prohibit adoption by reference of the MUBEC or any portion thereof without amendment by any political subdivision.</p>

SUBJECT	LANGUAGE IN ED 2257	SPO Proposal	MMA Proposal
	<p>3. Ordinances. Effective January 1, 2010, except as provided in subsection 4 and section 9725, any ordinance regarding a building code of any political subdivision of the State that is inconsistent with the <u>Maine Uniform Building and Energy Code is void.</u></p> <p>4. Exception. This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision regarding a building code that conforms substantially with any applicable provision of state law or that sets forth provisions for local enforcement of building codes.</p>		
<p>☉ Fire & Building Codes Remaining in Effect</p>	<p>§ 9725. Fire and building-related codes and standards remain</p> <p>The codes and standards listed in this section remain in force in their entirety unless the board adopts and publishes a conflict resolution between them and the Maine Uniform Building and Energy Code. Conflict resolutions adopted pursuant to this chapter must also be incorporated into these codes by the appropriate authorities:</p> <ol style="list-style-type: none"> 1. Fire safety codes and standards. Fire safety codes and standards adopted pursuant to Title 25, sections 2452 and 2465. 2. Electrical standards. Electrical standards adopted pursuant to Title 32, section 1153-A. 3. Plumbing code. The plumbing code adopted pursuant to Title 32, section 3403-B. 4. Oil and solid fuel burning equipment standards. Oil and solid fuel burning equipment standards adopted pursuant to Title 32, section 2353. 5. Propane and natural gas equipment standards. Propane and natural gas equipment standards adopted pursuant to Title 32, section 14804. 6. Boiler and pressure vessel standards. Boiler and pressure vessel standards adopted pursuant to Title 32, section 15104-A; and 7. Elevator standards. Elevator standards adopted 	<p>☉ Amendment would allow the board to adopt and publish conflict resolution between the MUBEC and the fire and life safety codes and standards only.</p>	

SUBJECT	LANGUAGE IN LD 2257	SPO Proposal	MMA Proposal
<ul style="list-style-type: none"> • Certification of Inspectors 	<p>pursuant to Title 32, section 15206.</p> <p>§ 2351 Inspector; compensation; deputy</p> <p>In every town and city of more than 2,000 inhabitants, and in every town of 2,000 inhabitants or less, if such a town so votes at a town meeting, and in each village corporation, if such a corporation so votes at the annual meeting thereof, the municipal officers shall annually in the month of April appoint an inspector of buildings, who must be a person skilled in the construction of buildings certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E, and shall determine the inspector's compensation.</p>	<ul style="list-style-type: none"> • Strikes this section 	
	<p>§ 2353. Duty to inspect buildings under construction</p> <p>The inspector of buildings shall inspect each new building during the process of construction for compliance with the <u>Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103, and so far as may be necessary; to see that all proper safeguards against the catching or spreading of fire are used, that the chimneys and flues are made safe and that proper cutoffs are placed between the timbers in the walls and floorings where fire would be likely to spread, and may give such directions in writing to the owner or contractor; as he deems the inspector considers necessary; concerning the construction of such the building so as to render the same building safe from the catching and spreading of fire</u></p>	<ul style="list-style-type: none"> • Strikes this section 	
	<p>§ 2372. Division of Building Codes and Standards</p> <p>1. Established. <u>The Division of Building Codes and Standards is established within the Department of Public Safety. Office of the State Fire Marshal to provide administrative support and technical assistance to the board in executing its duties pursuant to Title 10, section 9722, subsection 6.</u></p> <p>2. Staff. <u>The commissioner may appoint or remove for cause staff of the Division of Building Codes and Standards established under subsection 1, including:</u></p> <p>A. <u>A technical codes coordinator who serves as the principal administrative and supervisory employee of the board. The technical codes coordinator shall attend meetings of the board, keep records of the</u></p>	<ul style="list-style-type: none"> • Changes the title from Division to Office of Building Codes and Standards. • Amends the training and certification requirements to require the Office of Building Codes and Standards to develop a training program for municipal building inspectors. • Requires the technical codes coordinator to be certified in building standards • The coordinator would provide "non-binding" interpretation of the code for professionals and the public. 	

SUBJECT	LANGUAGE IN LD 2257	SPO Proposal	MMA Proposal
	<p>proceedings of the board and direct and supervise the personnel employed to carry out the duties of the board, including but not limited to providing technical support and public outreach for the adoption of the code, amendments, conflict resolutions, and interpretations. Technical support and public outreach must include, but may not be limited to:</p> <p>(1) Providing interpretation of the code for professionals and the general public; and</p> <p>(2) Establishing and maintaining a publicly accessible website to publish general technical assistance, code updates and interpretations and post-training course schedules;</p> <p>B. A training coordinator, whose duties include the establishment of a program, through cooperative agreements with national, regional and state organizations, to provide the building inspector training required by the training and certification committee appointed by the board pursuant to Title 10, section 9723; and</p> <p>C. An office specialist to provide administrative support to the technical codes coordinator, the training coordinator and the board.</p>	<ul style="list-style-type: none"> ● Strikes the language requiring the coordinator to provide the building inspector training. 	
<ul style="list-style-type: none"> ● Enforcement 	<p><u>§ 2373. Enforcement</u></p> <p><u>1. Code enforcement.</u> A municipality that is required to have an inspector of buildings pursuant to chapter 313 shall enforce the code. Enforcement may be provided through interlocal agreements with other municipalities or by contractual agreements between municipal, county or regional authorities. Contracts with 3rd-party-certified inspectors may be used in place of local code enforcement officers to enforce this chapter.</p> <p><u>2. Building inspectors.</u> An inspector of buildings shall review applications, review construction documents and issue permits for the erection, alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued, enforce compliance with the code and issue certificates of occupancy.</p>	<ul style="list-style-type: none"> ● Strikes entire section 2373 on enforcement and fees. ● Strikes Section 18 of the bill on staggered effective date for enforcement of the MUBEC.. ● Adds voluntary municipal enforcement under section 9726; a municipality by vote of its legislative body may choose to enforce the provisions of the MUBEC; a CEO must be certified to enforce the code. ● Municipalities that choose to enforce the MUBEC shall notify the board within 60 days of the action of its legislative body. 	

SUBJECT	LANGUAGE IN LD 2257	SPO Proposal	MMA Proposal
	<p>3. Reports of inspections. An inspector of buildings may accept reports of inspection by agencies or individuals approved by the board. Reports of such inspections must be in writing and be certified by a responsible officer of an approved agency or by the responsible individual. The inspector of buildings is authorized to engage such expert opinion as necessary to report upon unusual technical issues that arise.</p> <p>4. Fees. A municipality that is required to have an inspector of buildings pursuant to chapter 313 shall establish a schedule of building inspection permit fees sufficient to cover the cost of employing an inspector of buildings.</p> <p>Sec. 18. Staggered effective date for enforcement of Maine Uniform Building and Energy Code. A municipality that has more than 2,000 residents that has adopted any building code by August 1, 2008 shall begin enforcement of the Maine Uniform Building and Energy Code adopted pursuant to the Maine Revised Statutes, Title 10, chapter 1103 by June 1, 2010. Any municipality with more than 2,000 residents that has not adopted any building code by August 1, 2008 shall begin enforcement of Maine Uniform Building and Energy Code by January 1, 2012.</p>	<ul style="list-style-type: none"> The board shall maintain a publicly available list of these municipalities. 	
<ul style="list-style-type: none"> Funding 	<p>§ 2374. Uniform Building Codes and Standards Fund</p> <p>The Uniform Building Codes and Standards Fund is established within the Department of Public Safety to fund the activities of the Division of Building Codes and Standards under this chapter and the activities of the board under Title 10, chapter 1103. Revenue for this fund is provided by the surcharge established by section 2450-A.</p> <p>§ 2450-A. Surcharge on plan review fee for Uniform Building Codes and Standards Fund</p> <p>In addition to the fees established in section 2450, a</p>		

SUBJECT	LANGUAGE IN LD 2257	SPO Proposal	MMA Proposal
<ul style="list-style-type: none"> ● Codes Included in the MUBEC/ Date for Adoption 	<p>surcharge of 4¢ per square foot of occupied space must be levied on the existing fee schedule for new construction, reconstruction, repairs, renovations or new use for the sole purpose of funding the activities of the Technical Building Codes and Standards Board with respect to the Maine Uniform Building and Energy Code, established pursuant to the Title 10, chapter 1103 and the activities of the Division of Building Codes and Standards under chapter 314, except that the fee for review of a plan for the renovation of a public school, including the fee established under section 2450, may not exceed \$450. Revenue collected from this surcharge must be deposited into the Uniform Building Codes and Standards Fund established by section 2374.</p>		
<ul style="list-style-type: none"> ● Codes Included in the MUBEC/ Date for Adoption 	<p>Sec. 16. Adoption of Maine Uniform Building and Energy Code. The Technical Building Codes and Standards Board established by the Maine Revised Statutes, Title 5, section 12004-G, subsection 5-A, referred to in this section as "the board," shall adopt the Maine Uniform Building and Energy Code pursuant to Title 10, section 9722, in accordance with this section.</p> <ol style="list-style-type: none"> 1. The Maine Uniform Building and Energy Code adopted in accordance with Title 10, section 9722, subsection 6 must be composed of the substance of the following, with administrative and other minor changes to customize the codes for Maine: <ol style="list-style-type: none"> A. The 2009 version of the International Building Code; B. The 2009 version of the International Existing Building Code; C. The 2009 version of the International Residential Code; D. The 2009 version of the International Energy Conservation Code; E. The model building energy code adopted pursuant to Title 35-A, section 121 and set forth in Title 10, sections 1415-C and 1415-D and associated rules; and 	<ul style="list-style-type: none"> ● Changes the codes from the 2009 versions to "the code commencing with the 2009 version" ● Adds the ASHRAE Standards 62.1, 62.2 and 90.1 ● Strikes the model energy code from the MUBEC. ● Changes the adoption date of the MUBEC by the board from January 2010 to July 2010. 	

SUBJECT	LANGUAGE IN LD 2257	SPO Proposal	MMA Proposal
	<p>F. The Maine model radon standard for new residential construction set forth in Title 25, section 2466 and associated rules.</p> <p>2. Existing state codes and standards, where applicable, must be referenced in chapter one of the Maine Uniform Building and Energy Code.</p> <p>3. The board shall adopt the Maine Uniform Building and Energy Code no later than June 1, 2009.</p> <p>A. Between June 1, 2009 and December 31, 2009, building construction and renovation projects may utilize either the Maine Uniform Building and Energy Code or existing building and energy codes adopted by any political subdivision of the State.</p> <p>B. The board shall maintain an adoption cycle for future versions of the Maine Uniform Building and Energy Code that is coordinated with the State Fire Marshal's adoption cycle and that does not lapse more than 5 years or one national model code version cycle.</p>		
<p>Energy Codes</p>		<p>Adds the following:</p> <p>§1415-C. Mandatory standards for residential construction</p> <p>1. Prescriptive standard.</p> <p>1-A. Performance standards.</p> <p>2. Exemption. The provisions of sub-§3 shall not apply to log homes or modular housing units.</p> <p>3. Multifamily structures Residential Buildings. Effective January 1, 2006/2010, any new construction, remodeling or substantial renovation of a residential</p>	

SUBJECT

LANGUAGE IN LED 2257

SPO Proposal

MMA Proposal

building must conform to the Maine Uniform Building and Energy Code set forth in Title 10, chapter 11003. Any new construction or renovation of a conditioned space in any residential building of more than 2 dwelling units built on or after January 1, 2006 but before January 1, 2010 must conform to:

A. Chapter 11 of the International Residential Code for One- and Two-Family Dwellings adopted by the International Code Council in 2003 or the 2003 edition of the International Energy Conservation Code published by the International Code Council.

B. The standards adopted by ASHRAE in 2003 for ventilation practices in residential low-rise building construction entitled "Ventilation and Acceptable Indoor Air Quality in Low-Rise Residential Buildings," commonly referred to as ASHRAE 62-2-2003.

§1415-D. Mandatory standards for commercial construction

Except as provided in this section, new construction or substantial renovation of any commercial building undertaken after January 1, 2004 but before January 1, 2010 must conform to ASHRAE Standard 62-2001 and either ASHRAE Standard 90.1-2001 or the 2003 edition of the International Energy Conservation Code published by the International Code Council under any of the compliance methods specified in the standards. For the purpose of this section, "substantial renovation" means any renovation for which the cost exceeds 50% of the building's current value prior to renovation. *Effective January 1, 2010 any new construction, or additions, alterations, renovations or repairs to existing commercial buildings must conform to the Maine Uniform Building and Energy Code set forth in Title 10, chapter 1103.*



KURT ADAMS
CHAIRMAN

STATE OF MAINE
PUBLIC UTILITIES COMMISSION
242 STATE STREET
18 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0018

SHARON M. REISHUS
VENDEAN V. VAFIADES
COMMISSIONERS

April 1, 2008

Honorable Lynn Bromley, Senate Chair
Honorable Nancy E. Smith, House Chair
Joint Standing Committee on Business, Research and Economic Development
Augusta, Maine 04333

Re: Follow-up Information for LD 2257, An Act to Establish a Uniform Building and Energy Code

Dear Senator Bromley and Representative Smith:

As you work LD 2257, please consider the following brief synopsis of the energy savings potential from adoption of a statewide energy code.

The Maine Public Utilities Commission conducted a study of new home construction practices in Maine. A statewide sample of 80 homes was surveyed using infrared sensing and blower door testing. The annual energy costs of the sample homes were then estimated with the use of a computer model. Results from the study will inform the development of a high efficiency new home construction program. Some results from the study also provide information on the value of residential building energy codes. Specifically, the study found that eighty-three percent of newly constructed homes would not meet the Maine Model Building Energy Code. Most of these homes (66%) fail to meet the energy code because they lack foundation insulation. The second largest reason for non-compliance is poor ceiling insulation installation practices and missing insulation. The Commission's contractors estimated the annual average energy costs for these non-compliant homes to be \$4,880¹.

To test the cost effectiveness of various levels of increased energy efficiency, the contractors conducted cash flow analyses that included more expensive mortgages due to features that increased the energy efficiency of the home. The annual cost of the higher mortgages was combined with lower annual energy costs associated with different levels of home energy efficiency. One of the calculations compared the trade of the cost to bring the home into compliance with the code compared to the lower annual operating costs from reduced energy use. The study found that a home with a 30 year mortgage built to the energy code, would have a net positive cash flow of \$50 for the first year of the mortgage due to lower energy costs. In essence, consumers are economically better off from day one if their home meets the building energy code compared to current construction practice.

¹ For the study oil cost was set at \$3.45 per gallon and electricity was set at \$.16



PRINTED ON RECYCLED PAPER

These savings are consistent with countless other studies that identify building energy codes as a highly effective strategy for reducing energy costs. More surprising was Maine's very low rate of compliance with the energy code.

When the \$317 in annual energy savings from meeting the code for an individual home is multiplied by the nearly 7,000 homes constructed in Maine each year, one can calculate the cost of noncompliance at over \$1.8 million² to Maine households each year. Since homes are expected to last for 50 years, and this cost adds up each year for every home failing to meet the code, the cost to Maine is substantial. This analysis assumes energy savings at today's prices. As energy costs increase in the future and mortgages remain fixed, cash flows to homeowners will improve.

Sincerely,

Chris Simpson
Chris Simpson
Legislative Liaison

cc: Members of the Business, Research and Economic Development
Members of the Utilities and Energy Committee
Natalie Haynes, Legislative Analyst
Lucia Nixon, Legislative Analyst

² Simply $7,000 \times \$317 \times 83\%$

MMA

Legislative BULLETIN

A PUBLICATION OF MAINE MUNICIPAL ASSOCIATION

Vol. XXX No. 13

March 28, 2008

School Budget Validation Referendum Fix-up Bill Just Printed

Municipal and school officials across the state are struggling right now with the administrative difficulties of implementing the mandatory school budget validation referendum process as enacted in 2007. That mandatory law was written with obvious haste and with a lack of solid understanding of municipal election practices. A primary characteristic of municipal election clerks is that they rightfully insist that all election procedures are followed to the letter. Unfortunately, the 2007 school reorganization law was enacted in such a way that following the law to the letter actually sets the municipality up for election irregularities.

A bill to fix those problems has just been printed. LD 2280, *An Act to Clarify and Improve the Laws Governing the Formation of Regional School Units*, is one of two school consolidation "fix-up" bills generated by the Education Committee.

It is imperative that LD 2280 be quickly enacted with the necessary two-thirds support in both the House and Senate to make it immediately effective law. The time to begin the school budget adoption process is upon us, and municipal officials are urged to contact their legislators over the next few days and urge them to quickly enact LD 2280 as "emergency" legislation.

What LD 2280 does:

Validation referendum: a single ballot question. Under the terms of the law enacted in 2007, the election clerks were supposed to provide one of two possible ballots to people wishing to

cast an absentee ballot at the validation referendum vote. The required wording of one possible ballot characterized the school budget as being within the school's so-called "EPS allocation". The required wording of the other ballot characterized the school budget as being greater than the EPS allocation. One or the other of those ballots was supposed to be made available for absentee voters at least seven days before the meeting where the school budget is provisionally approved by the local legislative body. The obvious problem is that there is no

way to know which ballot to provide to the absentee voter before the legislative approval of the budget, because the local legislative body could change the proposed school budget either up or down. *LD 2280 gets rid of the conflicting ballot questions and creates a single question that can be printed well in advance of the referendum.*

Budget validation referendum, ballot distribution. As indicated above, the 2007 law requires the absentee ballots for the referendum election to be

(continued on page 2)

Criminal Justice Committee Still Working County Jail Bill

The Criminal Justice Committee met several times this week to discuss and work on the state/county jail unification proposal. Although the Committee has made considerable process on several elements of the bill, the issue of greatest municipal concern is still unresolved. That issue is the 2008 cap on property taxes to fund the unified state/county corrections system, which was the highly advertised centerpiece of the entire proposal.

A subcommittee of the interested parties, including state and county representatives, members of the Criminal Justice Committee and MMA will be meeting over the next few days to try to work out an agreement over the implementation of the property tax cap. As described in detail in the March 21st edition of the *Legislative Bulletin*, the

unresolved issue is how to appropriately fund 2009 county jail operations.

The county representatives on the negotiations team are concerned that the Board of Corrections (the body responsible for overseeing the unified system) will not be operational in time to address and fund the 2009 cost of county jail operations that exceed the 2008 property tax freeze. Currently, the 2008 property tax liability for county jail operations is estimated to be capped at \$60 million. The county representatives have proposed to adjust the 2008 operational budget figures by 5% to provide the funding necessary to get through the six-month (January 1, 2009 to June 30, 2009) transitional phase. Although the county representatives believe that an

(continued on page 4)

SCHOOL (cont'd)

distributed at least seven days before the adoption of the school budget by the local legislative body. The law then requires the election clerks to mark "rejected" on any absentee ballot that may be submitted before the school budget is adopted by the legislative body. It is unprecedented to issue an absentee ballot that may then be summarily rejected for being submitted too early. *Accordingly, LD 2280 requires the absentee ballots to be made available only after the adoption of the school budget by the local legislative body.*

Scheduling the referendum; absentee balloting period. The 2007 law included a convoluted sentence governing the maximum period of time between the budget adoption meeting and the validation referendum. Because of its convoluted grammar, the sentence could be read in a number of ways. *LD 2280 makes it clear that the referendum question must be held within 14 calendar days of the budget adoption meeting. However, the referendum may not be held on a Saturday, Sunday or legal holiday.*

It should be noted that the maximum 14-day period within which to conduct the referendum election presents a compressed period of time for the election clerks to conduct the absentee ballot distribution and collection process, and many municipal clerks are concerned about that. At the same time, if the standard 30-day absentee balloting process is allowed, the timeframe necessary to develop and ultimately adopt the school budget becomes extremely difficult to manage, especially if two cycles of the referendum voting process are necessary

to achieve an approved school budget. The 14 day period represents something of a compromise between two competing time-management pressures.

Committing property taxes in the event of a rejected school budget. A significant concern on the municipal level that is associated with the mandatory school budget referendum process is the real potential that a municipality's school is not finally adopted by July 1. Some municipalities, and particularly the larger, more urban towns and cities, regularly commit their property taxes in July and need to commit their property taxes during that time of the year for cash-flow purposes. *LD 2280 creates an express authority for any municipality to commit its property taxes in the event the school budget is not finally adopted by July 1 of any year. That property tax commitment may be based on either the most recent school budget that was proposed by the school board or the school budget that was provisionally approved by the local legislative body, at the municipality's discretion.*

In addition to those changes, LD 2280 corrects a couple of problems with the 2007 school consolidation law that are not directly related to the budget validation referendum process.

The consolidation referendum ballot question. The 2007 school consolidation law requires a certain "explanation" to be included as part of the local ballot to approve or reject a school reorganization proposal. The explanation language focuses exclusively on the financial penalties that will be incurred for failing to approve the school reorganization but allows no other "explanation" regarding other financial or governance implications of the proposed reorganization. From the municipal perspective, "explanation" language of this kind violates the doctrine of neutrality that applies to ballot wording. *LD 2280 appropriately removes that "explanation" language from the ballot and allows the normal political process of public hearing and information exchange prior to the referendum vote to take care of "explaining" the potentially complicated impacts of any consolidation plan to the voters.*

The consolidation referendum deadline. The 2007 school consolida-

tion law required the referendum vote to approve the proposed consolidation plans to be held no later than November 4, 2008. *LD 2280 extends that deadline to January 30, 2009.*

Restructuring one of the penalties for failing to consolidate. For any school system that is not a "minimum receiver", the financial penalties for failing to consolidate are: (1) a 50% reduction in the EPS allocation for system administration (which can be precisely calculated as \$105 per student); and (2) a higher-than-otherwise required mill rate effort that must be levied in order to receive the school system's full school subsidy. The problem with the second penalty is that it is not only impossible to calculate with any precision in a timely manner, the fundamental structure of the penalty is impossible to explain to anyone who hasn't been totally immersed over the last decade in the dark juices of Maine's school funding law. *Accordingly, LD 2280 converts this second mysterious penalty into a somewhat less mysterious penalty that is, at the very least, easier for the voter to calculate. Specifically, the second penalty would increase the maximum mill rate effort for the non-compliant school systems by 2%. For example, the maximum mill rate effort that generally applied for this school year was 7.44 mills. 2% of 7.44 mills is .15 mill. Therefore, a non-compliant school system's maximum mill rate effort would be 7.59 mills.*

Conclusion. We understand that the controversies surrounding the school consolidation legislation make it especially difficult for the Legislature to act in a consensus-based manner with respect to any school consolidation fix-up bill. It is the municipal hope, however, that LD 2280 will be understood by Maine's lawmakers for what it is. LD 2280 does nothing more than implement necessary technical changes so that the reorganization law and the school budget validation procedures enacted last year can actually be implemented. To withhold from LD 2280 the two-thirds support necessary to make it immediately effective law would be a tremendous disservice to the officials of local government that need to implement the school budget validation referendum right now.

Legislative Bulletin

A weekly publication of the Maine Municipal Association throughout sessions of the Maine State Legislature.

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Editorial Staff: Geoffrey Herman, Kate Dufour, Jeff Austin, and Laura Veilleux of the State & Federal Relations staff.

Public Hearing Held on Motor Vehicle Excise Tax Bill

A bill that would restructure the motor vehicle excise tax rate structure was given its public hearing on Wednesday this week. The details of LD 2270, *An Act to Change the Formula for the Calculation of the Motor Vehicle Excise Tax*, were detailed in the March 14th edition of the *Legislative Bulletin*.

The origin of LD 2270 was the report of a working group initiated by the Legislature and tasked with studying the excise tax rate structure in response to the chronic complaints legislators receive about the motor vehicle excise tax, particularly from people who purchase new cars. The working group was convened by Maine Revenue Services last fall, and included municipal representatives, MMA, a representative of the Maine Auto Dealers Association, and a representative of the Secretary of State's Office, Bureau of Motor Vehicles.

In summary, LD 2270 would drop both the highest and lowest excise tax rates by 12.5% but preserve the general progressivity of the rate structure by incrementally increasing the intermediate rates in such a way that all car owners will continue to experience year-to-year excise tax rate reductions. LD 2270 would also stretch out the current six-year declining rate structure to eight years.

On a rate-structure-to-rate-structure basis, LD 2270 would reduce municipal excise tax collections by approximately \$3 million, or 1.6%, in its first year of implementation.

At the public hearing, nobody spoke either for or against LD 2270. MMA testified "neither for nor against", and attempted to explain to the Taxation Committee that the redesigned excise tax structure was not being recommended by the municipal representatives on the working group as a "call to action". Instead, the municipal representatives on the working group developed the redesigned structure as a reasonable alternative system to be considered if the Legislature feels compelled to lower the excise tax rate obligations of new car

owners. Municipal officials are far less inclined than legislators to restructure the excise tax rate structure to benefit the new car owners at the expense of people who do not own new cars.

MMA also pointed out that the proposed redesign of the excise tax rate structure was developed last fall, before the working group participants were aware of the depth of the tough economic times that are now depressing motor vehicle excise tax revenues. The redesigned rate structure was also developed before the arrival of a very punishing winter that has contributed to the deterioration of Maine's 14,000 miles of local roads and severely depleted municipal public works budgets.

Based on the reaction of the Taxation Committee members to LD 2270, it seems unlikely the bill will be given a

favorable Committee report.

In the first place, the Tax Committee members were legitimately concerned about putting into a motion a proposal that would reduce revenues to support the state's local road structure in this difficult environment.

In addition, more than a few Committee members suggested that the restructuring proposal they might support should focus more on the excise tax base (the Manufacturer's Suggested Retail Price or "MSRP") than the rate. According to these members of the Taxation Committee, the principal concerns expressed by their constituents are focused on the use of the MSRP as being an inaccurate proxy of the price paid.

The Committee is scheduled to finalize its recommendation on LD 2270 within the next few days.

Local Option "Tax Benefit" Program

Several weeks ago a bill submitted on behalf of the Town of Kittery was given its public hearing before the Taxation Committee. The bill was LD 2202, *An Act To Allow the Town of Kittery to Implement a Program to Abate Taxes for Senior Citizens in Exchange for Public Service*.

As printed, LD 2202 would authorize Kittery to implement a tax "abatement" program whereby citizens in Kittery at least sixty years of age could perform volunteer services for the town in exchange for a tax abatement of no more than \$750 in value. Each volunteer hour would have to be valued at least at the minimum wage rate, the volunteer would have to be considered a public employee of the town and therefore eligible for unemployment compensation, and the value of the abatement could not be considered

income for the purposes of Maine's income tax law.

The bill has been amended by the Taxation Committee in several ways and given a unanimous "ought to pass" recommendation, suggesting that it will become law in its amended form.

As amended by Committee, LD 2202 would authorize the following:

Any municipality, not just Kittery, is authorized by LD 2202 to adopt an ordinance that would create a so-called "volunteer property tax assistance program". This enabling legislation is located in the same section of law that currently allows municipalities to adopt so-called "local option circuit breaker" programs, and therefore incorporates an underlying standard in that law that any beneficiary of the

(continued on page 6)

The Mixed-Up Building Code Bill

Here's an allegory for you.

Last night I read my 2-year old one of his favorite bed-time books. It's called *The Mixed-Up Chameleon* by Eric Carle. At the beginning of the book there is an illustration of how a warm and well-fed chameleon is sparkling green, but when the chameleon becomes tired and hungry it turns dull and grey.

The troubles begin for the Mixed-Up Chameleon when it goes to the zoo and sees all the different animals and wants to be more than just a Chameleon who eats flies and sparkles green. He wants to have all the wonderful qualities of the animals at the zoo — and his wish comes true.

He wants wings like the Flamingo and fins like a fish. He wants a neck like a giraffe and a trunk like an elephant. He wants the antlers of a deer and the tail of a fox.

After a while he becomes hungry. But when a fly passes by, the chameleon can no longer capture it. His new wings and trunk and tail have become a burden to his eating flies and being a sparkling green chameleon.

LD 2257, the statewide building code bill is becoming the mixed up chameleon.

MMA's Legislative Policy Committee supported LD 2257 in order to assist the effort to adopt a single, uniform statewide building code in Maine. In all previous sessions where this issue had been debated, MMA opposed the efforts to adopt a uniform code. That former position, while unpopular, was principled. The principle being that if municipalities were going to be responsible for enforcing the code, they should have the authority to adopt the code.

This session, the municipal officials on the MMA policy committee decided to change their opposition and support the uniform code. This is a loss of home rule and a sacrifice of principle. But the LPC members were clearly influenced by the argument that different codes across the state can be

a burden to designers, builders and property owners. The original principle yielded to a new reality.

Unfortunately, some proponents of a uniform building code want more.

A small group of proponents is insisting that around 100 municipalities that have never in their history even adopted a building code be compelled to enforce this new code. Perhaps their interest in demanding a very significant municipal mandate is understandable given their perspectives, and some may feel that they are standing on principle to pursue it, but it doesn't make a great deal of sense. The municipalities enforcing a comprehensive building code today will continue to do so once a uniform code is adopted by the state. However, demanding that another 75-100 municipalities who have chosen not to adopt a building code be mandated to do so is adding a very heavy burden on the goal of a uniform code.

LD 2257 also establishes a new board to do the work of adopting a building code. A board of some kind is essential. A code cannot simply be adopted and then abandoned. The establishment of training opportunities and certification procedures, refereeing code disputes and issuing code amendments all take time and money. In these budget times, however, establishing a new board that looks more and more like additional bureaucracy is a burden on the goal of a uniform code.

Some proponents would also like homeowners to be mandated to hire third-party, private-sector inspectors to verify that their projects meet the energy code. Perhaps some homeowners may seek out those services. Some private-sector capacity to provide voluntary inspections may make sense. However, in this economy, requiring every new building project to have an inspection costing hundreds of dollars is yet another burden on the goal of a uniform code.

MMA and a coalition of residen-

tial builders, commercial contractors, developers and service center communities support a comprehensive bill that ensures the adoption of a uniform statewide building code, creates a board to do the work and promotes, but does not require, third-party inspections.

Proponents are demanding more and more. Maybe to some their case is compelling. Maybe to some they are standing on principle. Meanwhile, Mainers who would like a uniform building code are hungry.

JAIL (cont'd)

additional \$1.5 million — a 2.5% adjustment to the 2008 cap — is necessary to get through the transitional phase, the proposal calls for a 5% adjustment, generating \$3 million. Once fully operational, the county representatives believe the Board will have the authority and time necessary to appropriately fund future county jail operational budgets, after which no additional adjustments to the "frozen" tax assessments will be necessary.

While the county representatives' concerns may be understandable, state officials point out that flat funding is the level of funding most governmental bodies are facing today.

Municipal officials are very concerned with the precedent of making amendments to the property tax freeze before it is even implemented. From the municipal perspective, if the property tax freeze is "unfrozen" even before it is implemented, the property tax freeze is just a myth...an empty and inaccurate slogan. This first-year adjustment to the tax freeze that is being proposed will provide a road map leading directly to the property taxpayers whenever the unified system runs into funding problems in the future. If the property taxpayers are tapped to provide the funding safety-valve this one time, it will become standard practice

The concept of the property tax

(continued on page 6)

LEGISLATIVE HEARINGS

NOTE: You should check your newspapers for Legal Notices as there may be changes in the hearing schedule. Weekly schedules and supplements are available at the Senate Office at the State House and the Legislature's web site at <http://www.state.me.us/legis/senate/Documents/hearing/ANPHFrame.htm>. If you wish to have updates to the Hearing Schedules e-mailed directly to you, sign up on the ANPH homepage listed above. Work Session schedules and hearing updates are available at the Legislative Information page at <http://www.state.me.us/legis/>.

Wednesday, April 2

Legal & Veterans Affairs

Room 437, State House, 1:00 p.m.

Tel: 287-1310

LD 2261 – An Act to Allow a Casino in Oxford County. (Initiated bill)

IN THE HOPPER

(The bill summaries are written by MMA staff and are not necessarily the bill's summary statement or an excerpt from that summary statement. During the course of the legislative session, many more bills of municipal interest will be printed than there is space in the Legislative Bulletin to describe. Our attempt is to provide a description of what would appear to be the bills of most significance to local government, but we would advise municipal officials to also review the comprehensive list of LDs of municipal interest that can be found on MMA's website, www.memun.org.)

Criminal Justice & Public Safety

LD 2279 – An Act To Ensure Equitable Payment for E-9-1-1 Services. (Emergency) (Sponsored by Sen. Mitchell of Kennebec Cty; additional cosponsors.)

This bill requires every municipality to contract with a qualified entity to provide public safety answering point (PSAP) services, and if any municipality fails to contract for those services, this bill requires the Department of Public Safety to provide those PSAP services and requires that municipality to pay the Department for those services.

Education & Cultural Affairs

LD 2272 – An Act To Reduce the Percentage of the Cost of Local Schools Paid by the State from 55% to 49%. (Emergency) (Sponsored by Rep. Joy of Crystal; additional cosponsors.)

This bill would reduce the state's obligation to financially support K-12 public education from 55%, as directed by the voters in a 2004 statewide referendum, to 49%. The money "saved" by this reduction in state obligation would be redirected by this bill to the state's community college system and several programs administered by the Department of Health and Human Services.

LD 2281 – An Act To Amend the Laws Governing the Reorganization of School Administrative Units. (Reported by Rep. Norton of Bangor for the Joint Standing Committee on Education and Cultural Affairs.)

This bill exempts certain school systems from the mandate to adopt the school budget by the "school budget validation referendum" process. Those exempted school systems include: (1) municipal

school systems in which the responsibility for the approval of the school budget is vested in a town or city council; and (2) school systems where the school board has approved a budget that proposes to raise an amount that exceeds the Essential Programs and Services (EPS) allocation for that school system by less than 5%.

Taxation

LD 2274 – An Act To Amend the Municipal Tree Growth Reimbursement Formula. (Reported by Rep. Piotti of Unity for the Joint Standing Committee on Taxation.)

This bill amends the municipal Tree Growth reimbursement formula for the purpose of improving its stability and predictability. The bill does not change the overall amount of reimbursement that would be annually appropriated for that purpose by the Legislature, but it smoothes out the distribution system by: (1) utilizing each affected municipality's full value (or "equalized") mill rate instead of the municipality's municipal mill rate; and (2) removing the town-by-town adjustment in the current formula that purports to subtract from the reimbursement that would otherwise be distributed the alleged value of the extra General Purpose Aid to Education school subsidy that the municipality receives because of the land that is enrolled in the Tree Growth program.

LD 2276 – An Act To Improve the Administration of State-Municipal Revenue Sharing. (Reported by Rep. Piotti of Unity for the Joint Standing Committee on Taxation.)

This bill includes the several recommendations of a working group made up of municipal officials by implementing several technical amendments with respect to the administration (but not the distribution) of the municipal revenue sharing program, as well as amendments to the way municipal revenue sharing affects the municipal "LD 1" spending limit calculations. Specifically, this bill makes technical amendments to the revenue sharing law so that the State Treasurer can post on the state's website the projected revenue sharing distribution for each town and city no later than April 15 each year, and expressly directs the State Treasurer to make that posting by that deadline. This bill also fixes the system of capitalizing the Local Government Efficiency Fund to prevent the Legislature from using that Fund as a vehicle to raid municipal revenue sharing by fixing the annual contribution of revenue sharing dollars to the Fund at the level of \$500,000. This bill would also limit the amount of the Local Government Efficiency Fund resources that is available for planning purposes to 10% of the Fund's annual capitalization, thereby providing 90% of the Fund for the direct implementation of actual efficiency projects, and further requires that those planning grants be matched on a dollar-for-dollar basis with local funds. This bill requires that all calculations of "net new state funding" would be based on actual rather than projected revenue sharing receipts. Finally, if the revenue sharing distribution is reduced from the previous year rather than increased, this bill allows the municipality's property tax levy limit to be adjusted upwards to reflect that loss in state-based financial support.

TAX BENEFIT (cont'd)

program must be a person who has a homestead property in the municipality.

In addition to that underlying standard, LD 2202 requires that the local volunteer property tax assistance program be applied to homesteaders who are at least 60 years of age, the maximum "benefit" may not exceed a \$750 tax credit, and the benefit must be related to the amount of volunteer services provided. As was the case with the printed bill, the benefits can not be considered as income for state income tax purposes, although it is MMA's understanding that the benefit would be considered income for federal income tax purposes.

LD 2202 authorizes the municipal ordinance to provide additional procedures or standards of eligibility beyond the three minimum standards of: (1) a homesteader; (2) sixty year (or older) age limit; and (3) \$750 maximum benefit value.

For example, the municipal ordinance might include an income-test for eligibility, reduce the maximum benefit level or apply more specificity with respect to what type of volunteer services may be provided, identify who within the municipality administers the program, and how the actual "benefit" is delivered, etc.

Assuming LD 2202 is enacted, any municipality that wants to be more forward with this local-option "volunteer property tax assistance" program

would be well advised to consult with the municipal attorney before presenting an ordinance to the voters in order to be absolutely clear about all the issues associated with implementing this volunteer program that are not expressly addressed in LD 2202. Such additional issues may include the employment status of the volunteers with respect to workers' compensation and unemployment insurance, the degree to which the municipality's insurance program provides liability coverage for their activities, the administration of tax-related documentation, and whether the volunteers' benefits are provided directly in the form of remuneration or in the form of a set-off against their property tax obligation.

JAIL (cont'd)

freeze originated with the Administration, and there was obviously a plan to finance the unified corrections system using the capped property tax revenue as a base. It is time for that plan to fully reveal itself.

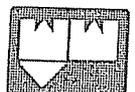
One issue of municipal interest that has been decided by the Committee is how to fund the existing county jail debt. In response to a request from the Criminal Justice Committee, MMA reviewed and would have supported a proposal whereby all municipalities would help to retire the counties' aggregated existing debt, including those municipalities in counties that currently do not have any debt. As proposed by MMA's Legislative Policy Committee (LPC), each municipality,

based on its proportionate share of the total state value, would fund a portion of the debt in order to help the corrections consolidation plan to move forward. However, the debt retirement proposal ultimately endorsed by the Criminal Justice Committee requires the county that issued the debt to remain financially responsible for retiring the debt. The state, however, would remain responsible for funding the cost of retiring all debt issued after 2008.

Please stay tuned throughout the next week for further information and potential action alerts on the Committee's progress on the property tax freeze. If you have any questions about the state/county jail unification proposal, please feel free to contact Kate Dufour at 1-800-452-8786 or kdufour@memun.org.

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LD 2257-Draft for Committee (3-28-08)

An Act To Establish a Uniform Building and Energy Code

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

Sec. 1. 5 MRSA §12004-G, sub-§5-A is enacted to read:

5-A.

<u>Building</u>	<u>Technical</u>	<u>Expenses</u>	<u>10 MRSA c.</u>
<u>Codes and</u>	<u>Building Codes and</u>	<u>Only</u>	<u>1103</u>
<u>Standards</u>	<u>Standards Board</u>		

Sec. 2. 10 MRSA §9707 is enacted to read:

§ 9707. Repeal

This chapter is repealed January 1, 2010.

Sec. 3. 10 MRSA c. 1103 is enacted to read:

CHAPTER 1103

Maine uniform building and energy code

§ 9721. Definitions

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

1. Board. “Board” means the Technical Building Codes and Standards Board established in Title 5, section 12004-G, subsection 5-A.

2. Maine Uniform Building and Energy Code. “Maine Uniform Building and Energy Code” means the uniform statewide building and energy code adopted by the board pursuant to this chapter.

§ 9722. Technical Building Codes and Standards Board

1. Establishment. The Technical Building Codes and Standards Board, established in Title 5, section 12004-G, subsection 5-A and located within the Department of Public Safety the Department of Professional and Financial Regulation, is established to adopt the Maine Uniform Building and Energy Code no later than January 1, 2010 and to identify and resolve conflicts between the Maine Uniform Building and Energy Code and other building related codes and to provide for coordinate training for municipal building inspectors and third-party residential building and energy code inspectors.

2. Membership. The board consists of 13 44 voting members, appointed by the Governor:

- A. The State Fire Marshal or a designee;
- B. A fire chief, recommended by the Maine Fire Chiefs' Association or its successor organization;
- C. A municipal code enforcement officer employed by a municipality, which has voted to locally enforce the code pursuant to section 9726, that is not a service center community under Title 30-A, chapter 187, recommended by the Maine Municipal Association or its successor organization;
- D. A municipal code enforcement officer employed by a ~~service center community~~ municipality which has voted to locally enforce the code pursuant to section 9726, that is a service center community under Title 30-A, chapter 187, recommended by the Maine Service Centers Coalition or its successor organization;
- E. A residential builder recommended by a statewide regional association of home builders and remodelers;
- F. A commercial builder recommended by a statewide association of general commercial contractors;
- G. An architect licensed in the State who is accredited by a nationally recognized organization that administers credentialing programs related to environmentally sound building practices and standards, recommended by a statewide chapter of a national institute of architects;
- H. A structural engineer licensed in the State, recommended by a statewide association of structural engineers;
- I. A historic preservation representative, recommended by the Maine Historic Preservation Commission, with experience implementing the standards for the treatment of historic properties set forth in 36 Code of Federal Regulations, Part 68 (2007), who is:
- (1) An architect licensed in the State;
 - (2) A structural engineer licensed in the State; or
 - (3) A builder;
- J. An energy efficiency representative, recommended by the director of the Governor's Office of Energy Independence and Security, who is: An energy efficiency representative that has experience or expertise in the implementation of energy codes or in the application of energy efficiency measures in residential or commercial construction nominated by the State Energy Director.
- (1) An architect licensed in the State;
 - (2) A structural engineer licensed in the State; or
 - (3) A builder; and

K. A professional building access specialist experienced with state and federal accessibility regulations, recommended by the Maine Human Rights Commission;

L. A mechanical engineer licensed in the State, recommended by a statewide association of mechanical engineers; and,

M. A public member.

A member appointed under this subsection must have at least 5 years' experience in the field that member is nominated to represent and must be employed in that field.

3. Ex officio members; chair. The Commissioner of the Department of Professional and Financial Regulation, or the Commissioner's designee, Commissioner of Public Safety, or the commissioner's designee, serves as a nonvoting ex officio member and as the chair of the board. The chair is responsible for ensuring that the board maintains the purpose of its charge when executing its assigned duties, that any adoption and amendment requirements for the Maine Uniform Building and Energy Code are met and that training and technical assistance is provided to municipal building inspectors.

4. Terms; removal. Appointments to the board are made for a 4-year term, and members are eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment immediately effective for the unexpired term. A member of the board may be removed from the board for cause by the Governor.

5. Meetings; quorum. The board shall meet quarterly and at such other times as the board determines necessary. Five Seven voting members of the board constitute a quorum for the transaction of business under this chapter.

6. Duties and powers. In addition to other duties set forth in this chapter, the board shall:

A. Adopt rules necessary to carry out its duties. Rules adopted pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;

B.A. Adopt, amend and maintain the Maine Uniform Building and Energy Code no later than January 1, 2010;

C. Adopt rules for the review and adoption of amendments to the Maine Uniform Building and Energy Code, including:

(1) A process for consideration of amendment proposals submitted by municipalities, county, regional or state governmental units, professional trade organizations and the public;

(2) A requirement that amendments that are more restrictive than the national minimum standard be accompanied by an economic impact statement that includes:

(a) An identification of the types and an estimate of the number of the small businesses

subject to the proposed amendment;

(b) The projected reporting, record-keeping and other administrative costs required for compliance with the proposed amendment, including the type of professional skills necessary for preparation of the report or record;

(c) A brief statement of the probable impact on affected small businesses; and

(d) A description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of the proposed amendment;

(3) A process for reviewing and evaluating criteria to identify whether an amendment is needed to:

(a) Address a critical life or safety need, a specific state policy or statute or a unique character of the State;

(b) Ensure consistency with state rules or federal regulations; or

(c) Correct errors and omissions;

(4) Timelines governing the filing of amendments, which must require board action within 90 days of filing; and

(5) A process for publication of adopted amendments within 30 days of adoption.

B. Make historic preservation a policy priority in the adoption and amendment of the Maine Uniform Building and Energy Code.

(1) Provisions of model codes and standards intended to facilitate the continued use or adaptive reuse of historic buildings must be maintained in the adopted versions of the Maine Uniform Building and Energy Code.

(2) The board shall proactively identify additional or alternative compliance means and methods for historic buildings in the adoption and amendment of the Maine Uniform Building and Energy Code.

C. The Board shall identify and resolve conflicts between the Maine Uniform Building and Energy Code and the codes and standards referenced in section 9725(1). The board shall develop rules designed to resolve these conflicts, which must include:

(1) Notification to the authority or authorities having jurisdiction over the code or standard that is in conflict with the Maine Uniform Building and Energy Code and a request for submission of proposed solutions for such conflicts;

(2) Procedures for consideration of proposed solutions submitted by the authority or authorities having jurisdiction over the code or standard that is in conflict with the Maine

Uniform Building and Energy Code and consideration of new approaches to resolving the conflict; and

(3) Publication of resolution of the conflict within 30 days of adoption.

C-1 The Committee shall seek to identify conflicts between the Maine Uniform Building and Energy Code and all other codes and standards referenced in 9725 and develop solutions. Beginning January 1, 2011 the board shall report to the Legislature by January 1 of each odd-number year on conflicts identified by the board and recommendations for resolution;

D. Develop technical advisory groups of experts and interest group representatives as necessary to provide the board with detailed information and recommendations on ~~amendments to the Maine Uniform Building and Energy Code, national model codes revisions and conflict resolution with~~ other building-related codes and standards adopted in the State. The board may direct the technical advisory groups to identify economic impacts on small businesses, housing affordability, construction costs, life-cycle costs or code enforcement costs of proposed changes to the code;

E. In accordance with section 9723, ~~ensure that~~ establish training and certification regarding the Maine Uniform Building and Energy Code is readily available, affordable and accessible to municipal building inspectors, third-party inspectors and builders; and

F. Review existing state codes listed in section 9725 and make recommendations to the legislature for changes that would enhance the efficiency and effectiveness of those codes.

G. Review alternative methods of funding for the board, create an equitable source of revenue and report back its recommendations to the Business Research and Economic Development Committee no later than January 1, 2010.

7. Staff. The commissioner may appoint or remove for cause staff of the Board including a technical codes coordinator who serves as the principal administrative and supervisory employee of the board. The technical codes coordinator shall attend meetings of the board, keep records of the proceedings of the board and direct and supervise the personnel employed to carry out the duties of the board, including but not limited to providing technical support and public outreach for the adoption of the code, amendments, conflict resolutions and interpretations. Technical support and public outreach must include, but may not be limited to:

(1) Providing advisory interpretations of the code for professionals and the general public; and

(2) Establishing and maintaining a publicly accessible website to publish general technical assistance, code updates and interpretations and post-training course schedules;

§ 9723. Training and certification

1. Appoint committee; establish requirements. The board shall appoint a 5-member training and certification committee, referred to in this section as "the committee," to establish the training and certification requirements for municipal building inspectors who enforce the code locally, third-party inspectors and builders.

2. Training program. The committee shall coordinate its efforts with the Code Enforcement Officer training program within the State Planning Office. ~~Direct the training coordinator of the Division of Building Codes and Standards, established in Title 25, section 2372, to develop a training program for municipal building inspectors.~~

3. Annual review. The committee shall annually review the training program developed pursuant to subsection 2 to confirm that training courses are regularly offered in geographically diverse locations, and that training for municipal building inspectors is fully funded by the State.

1. Inspector training and certification. The board shall establish a certification program for third-party, residential building and energy code inspectors that most effectively meet the needs of the public. For the purposes of this section, a building and energy code inspector is a person who is qualified to determine if the residential property has been constructed consistently with the Maine Uniform Building and Energy Code. The board:

A. May develop separate programs for inspections of different building types and for different codes within the MUBEC should the board determine that the skills or training needed to perform these inspections merit the distinction;

B. Shall determine the content of the training, the hours required for course completion and the manner in which applicants must demonstrate proficiency in inspecting, including programs offered by other entities which provide equivalent courses and training;

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

D. May establish reasonable course fees. All fees for courses offered by the State must be paid to the Treasurer of State to be used by the board for the purposes of this section; this does not include fees for courses offered by other entities;

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

F. Shall determine a process for the suspension or removal of an individual holding an unexpired certificate.

§ 9724. Application

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

2. Prior statewide codes and standards. Effective January 1, 2010, the Maine Uniform

Building and Energy Code adopted pursuant to this chapter replaces, and is intended to be the successor to, the Model Energy Code established in Title 35-A, section 121 and the Maine model radon standard for new residential construction set forth in Title 25, section 2466.

3. Ordinances. Effective January 1, 2010, except as provided in subsection 4 and section 9725, any ordinance regarding a building code, energy code, radon code or fire code/life-safety code of any political subdivision of the State that is inconsistent with the Maine Uniform Building and Energy Code is void except as provided by subsection 4.

4. Exception. For purposes of municipal enforcement pursuant to section 9726, this section does not prohibit the adoption by reference pursuant to Title 30-A, section 3003 of the Maine Uniform Building and Energy Code or any portion thereof without amendment by any political subdivision of the state. ~~This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision regarding a building code that conforms substantially with any applicable provision of state law or that sets forth provisions for local enforcement of building codes.~~

§ 9725. Fire and building-related codes and standards remain

The codes and standards listed in this section remain in force in their entirety unless the board adopts and publishes a conflict resolution between the fire and safety codes and standards ~~them~~ and the Maine Uniform Building and Energy Code. Conflict resolutions adopted pursuant to this chapter must also be incorporated into the fire safety codes and standards ~~these codes~~ by the appropriate authorities:

1. Fire safety codes and standards. Fire safety codes and standards adopted pursuant to Title 25, sections 2452 and 2465;

2. Electrical standards. Electrical standards adopted pursuant to Title 32, section 1153-A;

3. Plumbing code. The plumbing code adopted pursuant to Title 32, section 3403-B;

4. Oil and solid fuel burning equipment standards. Oil and solid fuel burning equipment standards adopted pursuant to Title 32, section 2353;

5. Propane and natural gas equipment standards. Propane and natural gas equipment standards adopted pursuant to Title 32, section 14804;

6. Boiler and pressure vessel standards. Boiler and pressure vessel standards adopted pursuant to Title 32, section 15104-A;

7. Elevator standards. Elevator standards adopted pursuant to Title 32, section 15206;
and,

~~**8. Manufactured Housing.** Manufactured housing standards pursuant to Title 10, chapters 951, 953.~~

§9726. Enforcement.

1. Voluntary Municipal Enforcement. By vote of its legislative body, a municipality

may choose to enforce the provisions of the Maine Uniform Building and Energy Code, or any portion thereof. A code enforcement officer must be certified to enforce the code.

2. Board Notification. Each municipality, which chooses to enforce the Maine Uniform Building and Energy Code, shall notify the Board of its decision to enforce within 60 days of the action of its legislative body.

3. Public List. The board shall maintain and make publicly available a list of all municipalities for which the Board has received notification pursuant to this section.

§ 9727. Uniform Building Codes and Standards Fund

The Uniform Building Codes and Standards Fund is established to fund the activities of the board under Title 10, chapter 1103. Revenue for this fund is provided by all revenues raised pursuant to Title 24, section 2450-A. Any balance of the fees may not lapse, but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal years.

Sec. 4. 10 MRSA §8001, as amended by 2007, c. 402, Pt. C, §1 (AMD), is amended to read:

[Drafting note: I have not listed item 38 as it is quite long.]

39. Technical Building Codes and Standards Board.

Sec. 4. 25 MRSA §2351, as corrected by RR 1995, c. 2, §56, is amended to read:

§ 2351. Inspector; compensation; deputy

In every town and city of more than 2,000 inhabitants, and in every town of 2,000 inhabitants or less, if such a town so votes at a town meeting, and in each village corporation, if such a corporation so votes at the annual meeting thereof, the municipal officers shall annually in the month of April appoint an inspector of buildings, who must be a person skilled in the construction of buildings certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E, and shall determine the inspector's compensation. ~~The municipal officers shall define the limits within which the inspector of buildings has jurisdiction, which includes the thickly settled portion of each such city or of each village in each such city or town.~~ Whenever the inspector of buildings becomes incapacitated, the municipal officers may appoint or authorize the inspector of buildings to appoint a deputy inspector of buildings who shall serve until removed by the municipal officers, but in no event beyond the term for which the inspector of buildings was appointed. The deputy inspector shall perform such duties as may be required of the deputy inspector by the inspector. The compensation of the deputy inspector is determined by the municipal officers.

Sec. 5. 25 MRSA §2353 is amended to read:

§ 2353. Duty to inspect buildings under construction

The inspector of buildings shall inspect each new building during the process of construction, ~~for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103 and~~ so far as may be necessary, to see that all proper safeguards against the catching or spreading of fire are used, that the chimneys and flues are made safe and that proper cutoffs are placed between the timbers in the walls and floorings where fire would be likely to spread, and may give such directions in writing to the owner or contractor, ~~as he deems~~ the inspector considers necessary, concerning the construction of such ~~the~~ building so as to render the ~~same~~ building safe from the catching and spreading of fire.

Sec. 6. 25 MRSA §2361, as enacted by PL 1985, c. 101, is amended to read:

§ 2361. Proceedings by municipality

1. **Municipal enforcement.** Duly appointed fire chiefs or their designees, municipal building inspectors and code enforcement officers may bring a civil action in the name of the municipality to enforce any of the state laws, duly promulgated ~~adopted~~ state rules or local ordinances enacted pursuant to ~~chapters 313 to 324~~ this Part and Title 10, chapter 1103; and

2. **Notice.** In any proceeding brought by or against the State ~~which~~ that involves the validity of a municipal ordinance, the municipality ~~shall~~ must be given notice of the proceeding and ~~shall be~~ is entitled to be made a party to the proceeding and to be heard. In any proceeding brought by or against the municipality ~~which~~ that involves the validity of statute, ordinance or regulation, the Attorney General ~~shall~~ must be served and ~~shall be~~ is made a party to the proceeding and ~~be~~ is entitled to be heard. This section ~~shall apply~~ applies to enforcement of statutes, rules or ordinances enacted pursuant to ~~chapters 313 to 324~~ this Part and Title 10, chapter 1103.

~~Sec. 7. 25 MRSA c. 314~~ is enacted to read:

CHAPTER 314

Building Codes and Standards

§ 2371. Definitions

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

1. **Board.** ~~“Board” means the Technical Building Codes and Standards Board established in Title 5, section 12004-G, subsection 5-A.~~

2. **Code.** ~~“Code” means the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103.~~

3. **Commissioner.** ~~“Commissioner” means the Commissioner of Public Safety.~~

4. **Inspector of buildings.** ~~“Inspector of buildings” means an inspector of buildings appointed pursuant to section 2351.~~

§ 2372. Division of Building Codes and Standards

~~1. **Established.** — The Division of Building Codes and Standards is established within the Department of Public Safety, Office of the State Fire Marshal to provide administrative support and technical assistance to the board in executing its duties pursuant to Title 10, section 9722, subsection 6.~~

~~2. **Staff.** — The commissioner may appoint or remove for cause staff of the Division of Building Codes and Standards established under subsection 1, including:~~

~~A. A technical codes coordinator who serves as the principal administrative and supervisory employee of the board. The technical codes coordinator shall attend meetings of the board, keep records of the proceedings of the board and direct and supervise the personnel employed to carry out the duties of the board, including but not limited to providing technical support and public outreach for the adoption of the code, amendments, conflict resolutions and interpretations. Technical support and public outreach must include, but may not be limited to:~~

~~(1) Providing interpretation of the code for professionals and the general public; and~~

~~(2) Establishing and maintaining a publicly accessible website to publish general technical assistance, code updates and interpretations and post training course schedules;~~

~~B. A training coordinator, whose duties include the establishment of a program, through cooperative agreements with national, regional and state organizations, to provide the building inspector training required by the training and certification committee appointed by the board pursuant to Title 10, section 9723; and~~

~~C. An office specialist to provide administrative support to the technical codes coordinator, the training coordinator and the board.~~

§ 2373. Enforcement

~~1. **Code enforcement.** — A municipality that is required to have an inspector of buildings pursuant to chapter 313 shall enforce the code. Enforcement may be provided through interlocal agreements with other municipalities or by contractual agreements between municipal, county or regional authorities. Contracts with 3rd party certified inspectors may be used in place of local code enforcement officers to enforce this chapter.~~

~~2. **Building inspectors.** — An inspector of buildings shall review applications, review construction documents and issue permits for the erection, alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued, enforce compliance with the code and issue certificates of occupancy.~~

~~3. **Reports of inspections.** — An inspector of buildings may accept reports of inspection by agencies or individuals approved by the board. Reports of such inspections must be in writing and be certified by a responsible officer of an approved agency or by the responsible individual. The inspector of buildings is authorized to engage such expert opinion as necessary to report upon unusual technical issues that arise.~~

~~4. Fees. A municipality that is required to have an inspector of buildings pursuant to chapter 313 shall establish a schedule of building inspection permit fees sufficient to cover the cost of employing an inspector of buildings.~~

~~§ 2374. Uniform Building Codes and Standards Fund~~

~~The Uniform Building Codes and Standards Fund is established within the Department of Public Safety to fund the activities of the activities of the Division of Building Codes and Standards under this chapter and the activities of the board under Title 10, chapter 1103. Revenue for this fund is provided by the surcharge established by section 2450-A.~~

Sec. 8. 25 MRSA §2450, as amended by PL 2003, c. 358, §1, is further amended to read:

§ 2450. Examinations by Department of Public Safety

The Commissioner of Public Safety shall adopt, in accordance with requirements of the Maine Administrative Procedure Act, a schedule of fees for the examination of all plans for construction, reconstruction or repairs submitted to the Department of Public Safety. The fee schedule for new construction or new use is 5¢ per square foot for occupied spaces and 2¢ per square foot for bulk storage occupancies, except that a fee for review of a plan for new construction by a public school may not exceed \$450. The fee schedule for reconstruction, repairs or renovations is based on the cost of the project and may not exceed \$450, except as provided in section 2450-A. The fees must be credited to a special revenue account to defray expenses in carrying out this section. Any balance of the fees may not lapse, but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal years.

Sec. 9. 25 MRSA §2450-A is enacted to read:

§ 2450-A. Surcharge on plan review fee for Uniform Building Codes and Standards Fund

In addition to the fees established in section 2450, a surcharge of 4¢ per square foot of occupied space must be levied on the existing fee schedule for new construction, reconstruction, repairs, renovations or new use for the sole purpose of funding the activities of the Technical Building Codes and Standards Board with respect to the Maine Uniform Building and Energy Code, established pursuant to the Title 10, chapter 1103 and the activities of the Division of Building Codes and Standards under chapter 314, except that the fee for review of a plan for the renovation of a public school, including the fee established under section 2450, may not exceed \$450. Revenue collected from this surcharge must be deposited into the Uniform Building Codes and Standards Fund established by section 2374 Title 10, section 9727. This section is repealed effective January 1, 2010.

Sec. 10. 25 MRSA §2466, sub-§5 is enacted to read:

5. Repeal. This section is repealed January 1, 2010.

~~Sec. 11. 30 A MRSA §4451, sub-§2 A, ¶E, as enacted by PL 1991, c. 163, is amended to read:~~

E. Building standards under chapter 141; chapter 185, subchapter ~~II~~; beginning January 1, 2010, Title 10, chapter 1103; and Title 25, chapters 313 and 331.

Sec. 12. 30-A MRSA §4451, sub-§3, as amended by PL 1997, c. 296, §7 and PL 2003, c. 20, Pt. OO, §2 and affected by §4 and amended by c. 689, Pt. B, §6, is further amended to read:

3. Training and certification of code enforcement officers. In cooperation with the Maine Community College System, the Department of Environmental Protection ~~and~~ the Department of Health and Human Services and the Technical Building Codes and Standards Board ~~Department of Public Safety~~, the office shall establish a continuing education program for individuals engaged in code enforcement. This program must provide basic and advanced training in the technical and legal aspects of code enforcement necessary for certification.

Sec. 13. 30-A MRSA §4452, sub-§5, as amended by PL 2007, c. 112, §§4 to 6, is further amended to read:

5. Application. This section applies to the enforcement of land use laws and ordinances or rules ~~which~~that are administered and enforced primarily at the local level, including:

- A. The plumbing and subsurface waste water disposal rules adopted by the Department of Health and Human Services under Title 22, section 42, including the land area of the State ~~which~~that is subject to the jurisdiction of the Maine Land Use Regulation Commission;
- B. Laws pertaining to public water supplies, Title 22, sections 2642, 2647 and 2648;
- C. Local ordinances adopted pursuant to Title 22, section 2642;
- D. Laws administered by local health officers pursuant to Title 22, chapters 153 and 263;
- E. Laws pertaining to fire prevention and protection, which require enforcement by local officers pursuant to Title 25, chapter 313;
- F. Laws pertaining to the construction of public buildings for the physically disabled pursuant to Title 25, chapter 331;
- G. Local land use ordinances adopted pursuant to section 3001;
- H. ~~Local building codes adopted pursuant to sections 3001 and 3007;~~
- I. ~~Local housing codes adopted pursuant to sections 3001 and 3007;~~
- J. Laws pertaining to junkyards, automobile graveyards and automobile recycling businesses and local ordinances regarding junkyards, automobile graveyards and automobile recycling businesses, pursuant to chapter 183, subchapter 1 and Title 38, section 1665-A, subsection 3-;
- K. Local ordinances regarding electrical installations pursuant to chapter 185, subchapter ~~II~~2;
- L. Local ordinances regarding regulation and inspection of plumbing pursuant to chapter 185, subchapter ~~III~~3;
- M. Local ordinances regarding malfunctioning subsurface waste water disposal systems pursuant

to section 3428;

N. The subdivision law and local subdivision ordinances adopted pursuant to section 3001 and subdivision regulations adopted pursuant to section 4403;

O. Local zoning ordinances adopted pursuant to section 3001 and in accordance with section 4352;

P. Wastewater discharge licenses issued pursuant to Title 38, section 353-B;

Q. Shoreland zoning ordinances adopted pursuant to Title 38, sections 435 to 447, including those that were state-imposed;

R. The laws pertaining to harbors in Title 38, chapter 1, subchapter 1, local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2;

S. Local ordinances and ordinance provisions regarding storm water, including, but not limited to, ordinances and ordinance provisions regulating nonstorm water discharges, construction site runoff and postconstruction storm water management, enacted as required by the federal Clean Water Act and federal regulations and by state permits and rules; and

T. Laws pertaining to limitations on construction and excavation near burial sites and established cemeteries in Title 13, section 1371-A and local ordinances and regulations adopted by municipalities in accordance with this section and section 3001 regarding those limitations; and

U. The Maine Uniform Building and Energy Code, locally enforced pursuant to Title 10, section 9726 and Title 30-A, section 3003 Title 10, chapter 1103.

Sec. 14. 35-A MRSA §121, sub-§3 is enacted to read:

3. Repeal. This section is repealed January 1, 2010.

Sec. 15. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 10, section 9722, subsection 4, initial appointments made to the Technical Building Codes and Standards Board are as set out in this section.

1. The initial appointments made under Title 10, section 9722, subsection 2, paragraphs B, E, H, J, K and M are for a term of 2 years.

2. The initial appointments made under Title 10, section 9722, subsection 2, paragraphs C, D, F, G I and L are for a term of 3 years.

3. Thereafter, all terms shall be governed by section 9722.

Sec. 16. Adoption of Maine Uniform Building and Energy Code. The Technical Building Codes and Standards Board established by the Maine Revised Statutes, Title 5, section 12004-G, subsection 5-A, referred to in this section as "the board," shall adopt the Maine Uniform Building and Energy Code pursuant to Title 10, section 9722, in accordance with this section.

1. The Maine Uniform Building and Energy Code adopted in accordance with Title 10, section

9722, subsection 6 must be composed of the substance of the following, with ~~administrative and other minor~~ changes to customize the codes for Maine:

- A. The ~~2009~~ 2006 version of the International Building Code;
- B. The ~~2009~~ 2006 version of the International Existing Building Code;
- C. The ~~2009~~ 2006 version of the International Residential Code;
- D. The ~~2009~~ 2006 version of the International Energy Conservation Code;
- E. ASHRAE Standards 62.1, 62.2 and 90.1; and, ~~The model building energy code adopted pursuant to Title 35-A, section 121 and set forth in Title 10, sections 1415-C and 1415-D and associated rules; and~~
- F. The Maine model radon standard for new residential construction set forth in Title 25, section 2466 and associated rules.

2. Existing state codes and standards, where applicable, must be referenced in chapter one of the Maine Uniform Building and Energy Code.

3. The board shall adopt the Maine Uniform Building and Energy Code no later than January 1, 2010 ~~June 1, 2009~~.

~~A. Between June 1, 2009 and December 31, 2009, building construction and renovation projects may utilize either the Maine Uniform Building and Energy Code or existing building and energy codes adopted by any political subdivision of the State.~~

~~B. The board shall maintain an adoption cycle for future versions of the Maine Uniform Building and Energy Code that is coordinated with the State Fire Marshal's adoption cycle and that does not lapse more than 5 years or one national model code version cycle.~~

Sec. 17. Appointments; convening of Technical Building Codes and Standards Board. The Governor shall make the appointments pursuant to the Maine Revised Statutes, Title 10, section 9722 subsection 2 in sufficient time for the Governor to convene the first meeting of the Technical Building Codes and Standards Board to be held by November 1, 2008.

~~**Sec. 18. Staggered effective date for enforcement of Maine Uniform Building and Energy Code.** A municipality that has more than 2,000 residents that has adopted any building code by August 1, 2008 shall begin enforcement of the Maine Uniform Building and Energy Code adopted pursuant to the Maine Revised Statutes, Title 10, chapter 1103 by June 1, 2010. Any municipality with more than 2,000 residents that has not adopted any building code by August 1, 2008 shall begin enforcement of Maine Uniform Building and Energy Code by January 1, 2012.~~

Resolved. Contractor Licensing. That a study committee of contractor stakeholders be formed to review the issues involved with residential home construction contractor licensing and report back to the Business Research and Economic Development Committee no later than January 1, 2010, with recommendations for a licensing Board to commence operations by May 1, 2010, but in no event until after the effective date of a uniform statewide building code. The study group shall be comprised of nine members. The Maine Contractors and Builders Alliance shall nominate two contractors. The Maine Municipal Association shall nominate one local building inspector. Associated General Contractors of Maine shall nominate one member, whose primary expertise shall be in commercial construction, but which does do residential construction work as well. Associated Builders and Contractors shall nominate one individual, who shall be a subcontractor. The Home Builders and Remodelers Association of Maine shall nominate two contractors. The nominees collectively must have expertise in foundations, roofing, framing, siding, insulation and grading. The Governor shall also appoint one member who shall be a public member. The Director of the Office of Licensing and Registration of the Department of Professional and Financial Regulation or her designee shall act as chairperson.

SUMMARY

This bill defines a uniform statewide building and energy code, known as the Maine Uniform Building and Energy Code, that will replace all building and energy codes adopted by state agencies and municipalities.

It establishes the Technical Building Codes and Standards Board in the Department of Professional and Financial Regulation that will adopt the code by January 1, 2010 with an effective date of January 1, 2010. If future resources are available the board will also identify conflicts between the code and other building-related codes and recommend resolutions to the Legislature. It will coordinate training of inspectors in conjunction with the existing State Planning Office code enforcement officer training program. The board will also review state codes for efficiencies. The board may appoint technical advisory groups to make recommendations on specific code issues.

Enforcement of the code will be voluntary at the municipal level. A program to certify private, third-party inspectors modeled on current law is proposed.

Funding for the initial, code-adoption work of the board will be provided by a surcharge on the existing plan review fee charged by the Fire Marshal's Office.