MAINE STATE LEGISLATURE

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~~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. 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~~ *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. 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 ~~I~~1; 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 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, ~~adopted pursuant to Title 10, chapter 1103~~ *locally enforced pursuant to Title 10, section 9726 and Title 30-A, section 3003.*

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 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. 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. 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* 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* 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~~ *office* staff. *An unfunded training coordinator position exists in the State Planning Office and will be funded by this program.*

~~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 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.

R. & S. COPY

L.D. 2257

Date: (Filing No. H-)

BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE

HOUSE OF REPRESENTATIVES

123RD LEGISLATURE

FIRST SPECIAL SESSION

COMMITTEE AMENDMENT " " to H.P. 1619, L.D. 2257, Bill, "An Act To Establish a Uniform Building and Energy Code"

Amend the bill by inserting after section 1 the following:

'**Sec. 2. 10 MRSA §1415-C, sub-§7** is enacted to read:

7. Repeal. This section is repealed July 1, 2010.

Sec. 3. 10 MRSA §1415-D, sub-§2 is enacted to read:

2. Repeal. This section is repealed July 1, 2010.

Sec. 4. 10 MRSA §1420, sub-§4 is enacted to read:

4. Repeal. This section is repealed July 1, 2010.'

Amend the bill in section 2 in §9707 in the first paragraph in the first line (page 1, line 10 in L.D.) by striking out the following: "January" and inserting the following: 'July'

Amend the bill in section 3 by striking out all of §§9722, 9723 and 9724 and inserting the following:

'**§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 the fire and life safety codes in Title 25, sections 2452 and 2465 and to provide for training for municipal building officials, local code enforcement officers and 3rd-party inspectors.

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

A. The State Fire Marshal or a designee or a fire chief, recommended by the Maine Fire Chiefs' Association or its successor organization;

B. 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;

C. 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;

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

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

F. 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;

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

H. 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;

I. An energy efficiency representative, recommended by the director of the Governor's Office of Energy Independence and Security within the Executive Department, who has experience or expertise in the design or implementation of energy codes or in the application of energy efficiency measures in residential or commercial construction;

J. A mechanical engineer licensed in the State, recommended by a statewide association of mechanical engineers; and

K. A lumber material dealer or supplier, recommended by a statewide association of lumber dealers in the State.

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 an ex officio member and as the chair of the board. The chair is a nonvoting member, except in the case of a tie 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 officials.

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. 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 in accordance with the Maine Administrative Procedure Act necessary to carry out its duties under this chapter. 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 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 fire safety codes and standards adopted pursuant to Title 25, section 2452. 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;

E. On December 31st of each calendar year beginning in 2010, report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters any proposals for proposed conflict resolutions for codes and standards referenced in section 9725, subsections 2 to 7; proposals to improve the efficiency and effectiveness of those codes and standards; and alternative methods of funding for the board to create an equitable source of revenue;

F. 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;

G. 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 officials;

H. 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; and

I. Approve methods of energy performance rating for use in generating any consumer information labels that may be required in the marketing and sale of residential and commercial buildings or units within buildings.

§9723. Training and certification program standards

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 officials, local code enforcement officers and 3rd-party inspectors. For purposes of this section, "3rd-party inspector" has the same meaning as set forth in Title 25, section 2371, subsection 6.

2. Training program standards; implementation. The committee shall direct the training coordinator of the Bureau of Building Codes and Standards, established in Title 25, section 2372, to develop a training program for municipal building officials, local code enforcement officers and 3rd-party inspectors. The Executive Department, State Planning Office, pursuant to Title 30-A, section 4451, subsection 3-A, shall implement the training and certification program established under this chapter.

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 officials is fully funded by the State.

§9724. Application

1. Limitations on home rule authority. This chapter provides express limitations on municipal home rule authority. Beginning July 1, 2010, the Maine Uniform Building and Energy Code must be enforced in a municipality that has more than 2,000 residents and that has adopted any building code by August 1, 2008. Beginning July 1, 2012, the Maine Uniform Building and Energy Code must be enforced in a municipality that has more than 2,000 residents and that has not adopted any building code by August 1, 2008. The Maine Uniform Building and Energy Code must be enforced through inspections that comply with Title 25, section 2373.

2. Prior statewide codes and standards. Effective July 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 July 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 that sets forth provisions for local enforcement of

building codes. The requirements of the Maine Uniform Building and Energy Code do not apply to log homes or manufactured housing as defined in chapter 951.'

Amend the bill in section 3 in §9725 by striking out all of the first paragraph (page 5, lines 21 to 24 in L.D.) and inserting the following:

'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 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 by the appropriate authorities:'

Amend the bill by striking out all of sections 4 and 5 and inserting the following:

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

§2351. Inspector of buildings; 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.'

Amend the bill by inserting after section 5 the following:

'**Sec. 6. 25 MRSA §2357,** as amended by PL 1999, c. 725, §5, is further amended to read:

§2357. No occupancy without certificate; appeal

Subject to the provisions of Title 10, chapter 951, a ~~new~~ building may not be occupied until the inspector of buildings has given a certificate of occupancy for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103, pursuant to the required inspections in section 2373 that the ~~same~~ building has been built in accordance with section 2353, and so as to be safe from fire. If the owner permits it to be so occupied without such certificate, the owner must be penalized in accordance with Title 30-A, section 4452. In case the inspector of buildings for any cause declines to give that certificate and the builder has in the builder's own judgment complied with section 2353, an appeal may be taken to the municipal officers and, if on such appeal it is decided by them that the section has been complied with, the owner of the building is not liable to a fine for want of the certificate of the inspector.'

Amend the bill by striking out all of section 7 and inserting the following:

'**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. Building official. "Building official" means a building official appointed pursuant to section 2351.

3. Bureau. "Bureau" means the Bureau of Building Codes and Standards established in section 2372.

4. Code. "Code" means the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103.

5. Commissioner. "Commissioner" means the Commissioner of Public Safety.

6. Third-party inspector. "Third-party inspector" means a person certified by the State to conduct inspections under Title 30-A, section 4451 for compliance with the code. A 3rd-party inspector may not hold a pecuniary interest, directly or indirectly, in any building for which the 3rd-party inspector issues an inspection report pursuant to section 2373 and may not be appointed as a building official.

P. & S.

§2372. Bureau of Building Codes and Standards

1. Established. The Bureau of Building Codes and Standards is established within the Department of Public Safety 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 bureau, 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 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 nonbinding 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; and

B. An office specialist to provide administrative support to the bureau and the board.

§2373. Municipal inspection options

Beginning July 1, 2010, the code must be enforced in a municipality that has more than 2,000 residents and that has adopted any building code by August 1, 2008. Beginning July 1, 2012, the code must be enforced in a municipality that has more than 2,000 residents and that has not adopted any building code by August 1, 2008. The code must be enforced through inspections that comply with the code through any of the following means:

1. Building officials. Building officials and local code enforcement officers;

2. Interlocal agreements. Interlocal agreements with other municipalities that share the use of building officials certified in building standards pursuant to Title 10, section 9723;

3. Contractual agreements. Contractual agreements with county or regional authorities that share the use of building officials certified in building standards pursuant to Title 10, section 9723; and

4. Third-party inspectors. Reports from 3rd-party inspectors certified pursuant to Title 10, section 9723 submitted to the building official prior to obtaining a certificate of occupancy in section 2357 that are obtained pursuant to independent contractual arrangements between the building owner and 3rd-party inspector or the municipality and 3rd-party inspector.

§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 bureau under this chapter and the activities of the board under Title 10, chapter 1103 and the Executive Department, State Planning Office under Title 30-A, section 4451, subsection 3-A. Revenue for this fund is provided by the surcharge established by section 2450-A. Any balance of the fund may not lapse, but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal year.'

Amend the bill in section 9 in §2450-A in the first paragraph in the 6th line (page 9, line 17 in L.D.) by striking out the following: "and the activities of the Division" and inserting the following: ', the activities of the Bureau'

Amend the bill in section 9 in §2450-A in the first paragraph in the 6th line (page 9, line 17 in L.D.) by inserting after the following: "314" the following: 'and the activities of the Executive Department, State Planning Office under Title 30-A, section 4451, subsection 3-A'

Amend the bill in section 10 in subsection 5 in the first line (page 9, line 23 in L.D.) by striking out the following: "January" and inserting the following: 'July'

Amend the bill by inserting after section 12 the following:

'**Sec. 13. 30-A MRSA §4451, sub-§3-A** is enacted to read:

3-A. Training and certification of inspectors in the Maine Uniform Building and Energy Code. In accordance with the training and certification requirements developed pursuant to Title 10, section 9723, the office shall provide the training necessary to certify municipal building officials, local code enforcement officers and 3rd-party inspectors.'

Amend the bill by striking out all of section 16 and inserting the following:

'**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 edition of the International Building Code;

B. The 2009 edition of the International Existing Building Code;

C. The 2009 edition of the International Residential Code;

D. The 2009 edition of the International Energy Conservation Code;

E. The ASHRAE Standards 62.1, 62.2 and 90.1; 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.

A. Between January 1, 2010 and 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.'

Amend the bill by inserting after section 17 the following:

'**Sec. 18. Report from the Technical Building Codes and Standards Board.** The Technical Building Codes and Standards Board, established pursuant to Title 10, section 9722, shall provide by March 1, 2009 a report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters regarding the criteria that will be used to develop rules to resolve the conflicts between the Maine Uniform Building and Energy Code and the fire and life safety codes in the Maine Revised Statutes, Title 25, sections 2452 and 2465, pursuant to its authority under Title 10, section 9722, subsection 6, paragraph D. The joint standing committee of the Legislature having jurisdiction over business, research and economic development matters is authorized to submit legislation relating to this criteria to the Second Regular Session of the 124th Legislature.

Sec. 19. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes, Title 25, sections 2351, 2353, 2357 and 2361 the words "inspector of buildings" appear, they are amended to read "building official" and wherever in the Maine Revised Statutes the words "building inspector" appear, they are amended to read "building official," and the Revisor of Statutes shall implement these revisions when updating, publishing or republishing the statutes.

Sec. 20. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC SAFETY, DEPARTMENT OF

Bureau of Building Codes and Standards Z068

Initiative: Provides an allocation for 2 new positions and related costs within the newly created Bureau of Building Codes and Standards.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
POSITIONS - LEGISLATIVE COUNT	0.000	2.000
Personal Services	$0	$162,979
All Other	$0	$130,639
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$293,618

PUBLIC SAFETY, DEPARTMENT OF DEPARTMENT TOTALS	2007-08	2008-09
OTHER SPECIAL REVENUE FUNDS	$0	$293,618
DEPARTMENT TOTAL - ALL FUNDS	$0	$293,618

STATE PLANNING OFFICE

Planning Office 0082

Initiative: Allocates funds for one Planner II position and general operating expenses beginning April 9, 2009 to carry out the purposes of this Act.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	$0	$18,175
All Other	$0	$254
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$18,429

STATE PLANNING OFFICE DEPARTMENT TOTALS	2007-08	2008-09
OTHER SPECIAL REVENUE FUNDS	$0	$18,429
DEPARTMENT TOTAL - ALL FUNDS	$0	$18,429

SECTION TOTALS	2007-08	2008-09
OTHER SPECIAL REVENUE FUNDS	$0	$312,047
SECTION TOTAL - ALL FUNDS	$0	$312,047

Sec. 21. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 25, sections 2351, 2353, 2357 and 2361 take effect July 1, 2010.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment is the majority report of the committee.

1. It amends the membership of the Technical Building Codes and Standards Board in the Department of Public Safety.

2. It provides the board with the authority to resolve conflicts only between the Maine Uniform Building and Energy Code and the fire and life safety codes.

3. It requires the board to adopt rules in accordance with the Maine Administrative Procedure Act necessary to carry out its duties.

4. It requires the board on December 31st of each calendar year beginning in 2010 to report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters any proposals for proposed conflict resolutions for codes and standards referenced in the Maine Revised Statutes, Title 10, section 9725, subsections 2 to 7; proposals to improve the efficiency and effectiveness of those codes and standards; and alternative methods of funding for the board to create an equitable source of revenue.

5. It changes the establishment of the Division of Building Codes and Standards in the Department of Public Safety, instead establishing it as an independent bureau within the Department of Public Safety.

6. It amends the energy efficiency building standards laws to incorporate the standards of the Maine Uniform Building and Energy Code.

7. It provides that, beginning July 1, 2010, the Maine Uniform Building and Energy Code must be enforced in a municipality that has more than 2,000 residents and that has adopted any building code by August 1, 2008. Beginning July 1, 2012, the Maine Uniform Building and Energy Code must be enforced in a municipality that has more than 2,000 residents and that has not adopted any building code by August 1, 2008. It provides that the Maine Uniform Building and Energy Code be enforced through inspections that comply with the code through any of the following means:

A. Municipally appointed building officials and local code enforcement officers;

B. Interlocal agreements with other municipalities that share the use of building officials certified in building standards pursuant to Title 10, section 9723;

C. Contractual agreements with county or regional authorities that share the use of building officials certified in building standards pursuant to Title 10, section 9723; and

D. Reports from 3rd-party inspectors certified pursuant to Title 10, section 9723 submitted to the building official prior to obtaining a certificate of occupancy in Title 25, section 2357 that are obtained pursuant to independent contractual arrangements between the building owner and 3rd-party inspector or the municipality and 3rd-party inspector.

8. It replaces the term "inspector of buildings" with "building official."

9. It adds a definition for "3rd-party inspector" and requires the board to develop a training program for municipal building officials, local code enforcement officers and 3rd-party inspectors.

10. It clarifies that the Executive Department, State Planning Office is responsible for implementing the training and certification program established by the board.

11. It adds an appropriations and allocations section.

FISCAL NOTE REQUIRED
(See attached)

Approved: 04/08/08 mac

123rd MAINE LEGISLATURE

LD 2257 **LR 3523(02)**

An Act To Establish a Uniform Building and Energy Code

Fiscal Note for Bill as Amended by Committee Amendment " "
Committee: Business, Research and Economic Development
Fiscal Note Required: Yes

Fiscal Note

State Mandate - Unfunded

	2007-08	2008-09	Projections 2009-10	Projections 2010-11
Appropriations/Allocations				
Other Special Revenue Funds	$0	$312,047	$324,719	$335,694
Revenue				
Other Special Revenue Funds	$0	$312,400	$324,800	$336,000
Transfers				
Other Special Revenue Funds	$0	$18,429	$78,072	$80,468

State Mandates

Required Activity	Unit Affected	Costs
Requiring municipalities that have more than 2000 residents to enforce the Maine Uniform Building and Energy Code is a state mandate pursuant to the Maine Constitution.	Municipality	Insignificant

Fiscal Detail and Notes

This bill establishes a new program, the Bureau of Building Codes and Standards, within the Department of Public Safety. The Bureau is charged with providing administrative support and technical assistance to the Technical Building Codes and Standards Board, which is established to adopt, amend and maintain the Maine Uniform Building and Energy Code. The Department of Public Safety will require an Other Special Revenue Funds allocation of $293,618 for a Bureau Director and clerical position, technology and other related costs. A Planner II position within the State Planning Office is funded by the Bureau and the costs of that position, $18,429 in fiscal year 2008-09, will be transferred to the Bureau. The allocation and the transfer of costs from the State Planning Office are funded by a surcharge on new construction, reconstruction, repairs, renovations and new use which will be deposited into a newly created fund, the Uniform Building Codes and Standards Fund. It is estimated that the surcharge will result in additional Other Special Revenue Funds of $312,400 in fiscal year 2008-09.

R. & S. COPY

L.D. 2257

Date: (Filing No. H-)

BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE

HOUSE OF REPRESENTATIVES

123RD LEGISLATURE

FIRST SPECIAL SESSION

COMMITTEE AMENDMENT " " to H.P. 1619, L.D. 2257, Bill, "An Act To Establish a Uniform Building and Energy Code"

Amend the bill by striking out the title and substituting the following:

'An Act To Establish a Uniform Building Code'

Amend the bill in section 2 in §9707 in the first paragraph in the first line (page 1, line 10 in L.D.) by striking out the following: "January" and inserting the following: 'July'

Amend the bill by striking out all of sections 3 to 6 and inserting the following:

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

CHAPTER 1103

MAINE UNIFORM BUILDING 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 Code. "Maine Uniform Building Code" means the uniform statewide building 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

R. of S.

Safety, is established to adopt, amend and maintain the Maine Uniform Building Code, to resolve conflicts between the Maine Uniform Building Code and the fire and life safety codes in Title 25, sections 2452 and 2465 and to provide for training for municipal building officials, local code enforcement officers and 3rd-party inspectors.

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

A. The State Fire Marshal or a designee or a fire chief, recommended by the Maine Fire Chiefs' Association or its successor organization;

B. 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;

C. 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;

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

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

F. 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;

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

H. 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;

I. An energy efficiency representative, recommended by the director of the Governor's Office of Energy Independence and Security within the Executive Department, who has experience or expertise in the design or implementation of energy codes or in the application of energy efficiency measures in residential or commercial construction;

J. A mechanical engineer licensed in the State, recommended by a statewide association of mechanical engineers; and

K. A lumber material dealer or supplier, recommended by a statewide association of lumber dealers in the State.

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 an ex officio member and as the chair of the board. The chair is a nonvoting member, except in the case of a tie 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 Code are met and that training and technical assistance is provided to municipal building officials.

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. 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 in accordance with the Maine Administrative Procedure Act necessary to carry out its duties under this chapter. 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 Code;

C. Adopt rules for the review and adoption of amendments to the Maine Uniform Building 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 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 Code and the fire safety codes and standards adopted pursuant to Title 25, section 2452. 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 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 Code and consideration of new approaches to resolving the conflict; and

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

E. On December 31st of each calendar year beginning in 2010, report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters any proposals for proposed conflict resolutions for codes and standards referenced in section 9725, subsections 2 to 7; proposals to improve the efficiency and effectiveness of those codes and standards; and alternative methods of funding for the board to create an equitable source of revenue;

F. 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 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;

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

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

This subsection is repealed January 1, 2012.

§9723. Training and certification program standards

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 officials, local code enforcement officers and 3rd-party inspectors. For purposes of this section, "3rd-party inspector" has the same meaning as set forth in Title 25, section 2371, subsection 6.

2. Training program standards; implementation. The committee shall direct the training coordinator of the Bureau of Building Codes and Standards, established in Title 25, section 2372, to develop a training program for municipal building officials, local code enforcement officers and 3rd-party inspectors. The Executive Department, State Planning Office, pursuant to Title 30-A, section 4451, subsection 3-A, shall implement the training and certification program established under this chapter.

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 officials 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. Ordinances. Effective July 1, 2010, except as provided in subsection 3 and section 9725, any ordinance regarding a building code of any political subdivision of the State that is inconsistent with the Maine Uniform Building Code is void. The Maine Uniform Building Code may be enforced through inspections that comply with Title 25, section 2373.

3. Exception. This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision that sets forth provisions for local enforcement of building codes. The requirements of the Maine Uniform Building Code do not apply to log homes or manufactured housing as defined in chapter 951.

§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 and the Maine Uniform Building Code. Conflict resolutions adopted pursuant

to this chapter must also be incorporated into the fire and safety codes and standards 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.'

Amend the bill by striking out all of section 7 and inserting the following:

'**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. Building official. "Building official" means a building official appointed pursuant to section 2351.

3. Bureau. "Bureau" means the Bureau of Building Codes and Standards established in section 2372.

4. Code. "Code" means the Maine Uniform Building Code adopted pursuant to Title 10, chapter 1103.

5. Commissioner. "Commissioner" means the Commissioner of Public Safety.

6. Third-party inspector. "Third-party inspector" means a person certified by the State to conduct inspections under Title 30-A, section 4451 for compliance with the code. A 3rd-party inspector may not hold a pecuniary interest, directly or indirectly, in any

building for which the 3rd-party inspector issues an inspection report pursuant to section 2373 and may not be appointed as a building official.

§2372. Bureau of Building Codes and Standards

1. Established. The Bureau of Building Codes and Standards is established within the Department of Public Safety 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 bureau, 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 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 nonbinding 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; and

B. An office specialist to provide administrative support to the bureau and the board.

§2373. Municipal inspection options

Beginning July 1, 2010, the code may be enforced in a municipality that has more than 2,000 residents and that has adopted any building code by August 1, 2008. Beginning July 1, 2012, the code may be enforced in a municipality that has more than 2,000 residents and that has not adopted any building code by August 1, 2008. The code may be enforced through inspections that comply with the code through any of the following means:

1. Building officials. Building officials and local code enforcement officers;

2. Interlocal agreements. Interlocal agreements with other municipalities that share the use of building officials certified in building standards pursuant to Title 10, section 9723;

3. Contractual agreements. Contractual agreements with county or regional authorities that share the use of building officials certified in building standards pursuant to Title 10, section 9723; and

4. Third-party inspectors. Reports from 3rd-party inspectors certified pursuant to Title 10, section 9723 submitted to the building official that are obtained pursuant to

independent contractual arrangements between the building owner and 3rd-party inspector or the municipality and 3rd-party inspector.

Each municipality that chooses to enforce the Maine Uniform Building Code shall notify the board of its decision to enforce within 60 days of the action of its legislative body. The board shall maintain and make publicly available a list of all municipalities for which the board has received notification pursuant to this section.

§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 bureau under this chapter and the activities of the board under Title 10, chapter 1103 and the Executive Department, State Planning Office under Title 30-A, section 4451, subsection 3-A. Revenue for this fund is provided by the surcharge established by section 2450-A. Any balance of the fund may not lapse, but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal year.'

Amend the bill in section 9 in §2450-A in the first paragraph in the 5th line (page 9, line 16 in L.D.) by striking out the following: "and Energy"

Amend the bill in section 9 in §2450-A in the first paragraph in the 6th line (page 9, line 17 in L.D.) by striking out the following: "and the activities of the Division" and inserting the following: ', the activities of the Bureau'

Amend the bill in section 9 in §2450-A in the first paragraph in the 6th line (page 9, line 17 in L.D.) by inserting after the following: "314" the following: 'and the activities of the Executive Department, State Planning Office under Title 30-A, section 4451, subsection 3-A'

Amend the bill in section 9 in §2450-A by adding at the end a new indented paragraph to read:

'This section is repealed January 1, 2012.'

Amend the bill in section 10 in subsection 5 in the first line (page 9, line 23 in L.D.) by striking out the following: "January" and inserting the following: 'July'

Amend the bill by inserting after section 12 the following:

'**Sec. 13. 30-A MRSA §4451, sub-§3-A** is enacted to read:

3-A. Training and certification of inspectors in the Maine Uniform Building Code. In accordance with the training and certification requirements developed pursuant to Title 10, section 9723, the office shall provide the training necessary to certify municipal building officials, local code enforcement officers and 3rd-party inspectors.'

Amend the bill by striking out all of section 13 (page 9, lines 37 and 38, page 10, lines 1 to 39 and page 11, lines 1 to 11 in L.D.) and inserting the following:

'**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 Code adopted pursuant to Title 10, chapter 1103.'

Amend the bill by striking out all of section 16 and inserting the following:

'**Sec. 16. Adoption of Maine Uniform Building 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 Code pursuant to Title 10, section 9722 in accordance with this section.

1. The Maine Uniform Building 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 edition of the International Building Code;

B. The 2009 edition of the International Existing Building Code; and

C. The 2009 edition of the International Residential Code.

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

3. The board shall adopt the Maine Uniform Building Code no later than January 1, 2010.

A. Between January 1, 2010 and July 1, 2010, building construction and renovation projects may utilize either the Maine Uniform Building Code or existing building 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 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.'

Amend the bill by striking out all of section 18 (page 12, lines 18 to 24 in L.D.) and inserting the following:

'**Sec. 18. Report from the Technical Building Codes and Standards Board.** The Technical Building Codes and Standards Board, established pursuant to Title 10, section 9722, shall provide by March 1, 2009 a report to the joint standing committee of the Legislature having jurisdiction over business, research and economic

development matters regarding the criteria that will be used to develop rules to resolve the conflicts between the Maine Uniform Building Code and the fire and life safety codes in the Maine Revised Statutes, Title 25, sections 2452 and 2465, pursuant to its authority under Title 10, section 9722, subsection 6, paragraph D. The joint standing committee of the Legislature having jurisdiction over business, research and economic development matters is authorized to submit legislation relating to this criteria to the Second Regular Session of the 124th Legislature.

Sec. 19. Report on local enforcement from the Technical Building Codes and Standards Board. By December 1, 2013, the Technical Building Codes and Standards Board, established pursuant to the Maine Revised Statutes, Title 10, section 9722, shall provide a report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters regarding the status of local enforcement efforts for the Maine Uniform Building Code. The joint standing committee of the Legislature having jurisdiction over business, research and economic development matters is authorized to submit legislation relating to the Maine Uniform Building Code to the First Regular Session of the 126th Legislature.

Sec. 20. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes, Title 25, sections 2351, 2353, 2357 and 2361 the words "inspector of buildings" appear, they are amended to read "building official" and wherever in the Maine Revised Statutes the words "building inspector" appear, they are amended to read "building official," and the Revisor of Statutes shall implement these revisions when updating, publishing or republishing the statutes.

Sec. 21. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC SAFETY, DEPARTMENT OF

Bureau of Building Codes and Standards Z068

Initiative: Provides an allocation for 2 new positions and related costs within the newly created Bureau of Building Codes and Standards.

OTHER SPECIAL REVENUE FUNDS	**2007-08**	**2008-09**
POSITIONS - LEGISLATIVE COUNT	0.000	2.000
Personal Services	$0	$162,979
All Other	$0	$130,639
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$293,618

PUBLIC SAFETY, DEPARTMENT OF DEPARTMENT TOTALS	2007-08	2008-09
OTHER SPECIAL REVENUE FUNDS	$0	$293,618
DEPARTMENT TOTAL - ALL FUNDS	$0	$293,618

STATE PLANNING OFFICE

Planning Office 0082

Initiative: Allocates funds for one Planner II position and general operating expenses beginning April 9, 2009 to carry out the purposes of this Act.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	$0	$18,175
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OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$18,429

STATE PLANNING OFFICE DEPARTMENT TOTALS	2007-08	2008-09
OTHER SPECIAL REVENUE FUNDS	$0	$18,429
DEPARTMENT TOTAL - ALL FUNDS	$0	$18,429

SECTION TOTALS	2007-08	2008-09
OTHER SPECIAL REVENUE FUNDS	$0	$312,047
SECTION TOTAL - ALL FUNDS	$0	$312,047

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

R. & S.

SUMMARY

This amendment is the minority report of the committee.

1. It establishes the Maine Uniform Building Code and removes references in the code to the International Energy Conservation Code and the Maine model radon standard for new residential construction set forth in the Maine Revised Statutes, Title 25, section 2466 and associated rules.

2. It amends the membership of the Technical Building Codes and Standards Board in the Department of Public Safety.

3. It provides the board with the authority to resolve conflicts only between the Maine Uniform Building Code and the fire and life safety codes.

4. It requires the board to adopt rules in accordance with the Maine Administrative Procedure Act necessary to carry out its duties and sunsets the duties of the board in January 2012.

5. It requires the board on December 31st of each calendar year beginning in 2010 to report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters any proposals for proposed conflict resolutions for codes and standards referenced in Title 10, section 9725, subsections 2 to 7; proposals to improve the efficiency and effectiveness of those codes and standards; and alternative methods of funding for the board to create an equitable source of revenue.

6. It changes the establishment of the Division of Building Codes and Standards in the Department of Public Safety, instead establishing it as an independent bureau within the Department of Public Safety.

7. It removes mandatory enforcement of the Maine Uniform Building Code and provides that municipalities may choose to enforce the Maine Uniform Building Code through inspections that comply with the code through any of the following means:

A. Building officials and local code enforcement officers;

B. Interlocal agreements with other municipalities that share the use of building officials certified in building standards pursuant to Title 10, section 9723;

C. Contractual agreements with county or regional authorities that share the use of building officials certified in building standards pursuant to Title 10, section 9723; and

D. Reports from 3rd-party inspectors certified pursuant to Title 10, section 9723 submitted to the building official that are obtained pursuant to independent contractual arrangements between the building owner and 3rd-party inspector or the municipality and 3rd-party inspector.

8. It sunsets the surcharge on plan review fees in January 2012.

9. It replaces the term "inspector of buildings" with "building official."

10. It adds a definition for "3rd-party inspector" and requires the board to develop a training program for municipal building officials, local code enforcement officers and 3rd-party inspectors.

11. It clarifies that the Executive Department, State Planning Office is responsible for implementing the training and certification program established by the board.

12. It adds an appropriations and allocations section.

13. It adds a report on local enforcement efforts from the board to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters by December 1, 2013.

FISCAL NOTE REQUIRED
(See attached)