

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill in the emergency preamble in the 2nd paragraph in the first line (page 1, line 3 in L.D.) by striking out the following: "can" and inserting the following: 'may'

Amend the bill in the emergency preamble by inserting after the 5th paragraph the following:

‘Whereas, the State's interest in the development of wind energy resources must be balanced with the interests of Maine ratepayers; and’

Amend the bill in Part A by inserting before section 1 the following:

‘Sec. A-1. 30-A MRSA §4452, sub-§5, ¶S, as amended by PL 2007, c. 112, §5, is further amended to read:

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~~

Sec. A-2. 30-A MRSA §4452, sub-§5, ¶T, as enacted by PL 2007, c. 112, §6, is amended to read:

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

Sec. A-3. 30-A MRSA §4452, sub-§5, ¶U is enacted to read:

U. Standards under a wind energy development certification issued by the Department of Environmental Protection pursuant to Title 35-A, section 3456 if the municipality chooses to enforce those standards.’

Amend the bill in Part A in section 1 in subsection 1 in paragraph B in the 3rd line (page 2, line 3 in L.D.) by striking out the following: "projects are" and inserting the following: 'development is'

Amend the bill in Part A in section 2 by striking out all of subsection 2 (page 2, lines 9 to 40 in L.D.) and inserting the following:

‘2. Need for modification of regulatory process for siting wind energy developments. The Legislature finds that it is in the public interest to reduce the potential for controversy regarding siting of grid-scale wind energy development by expediting development in places where it is most compatible with existing patterns of development and resource values when considered broadly at the landscape level. Accordingly, the Legislature finds that certain aspects of the State's regulatory process for determining the environmental acceptability of wind energy developments should be modified to encourage the siting of wind energy developments in these areas. Such changes include, but are not limited to:

A. Making wind energy development a permitted use within certain parts of the State's unorganized and deorganized areas;

B. Refining certain procedures of the Department of Environmental Protection and the Maine Land Use Regulation Commission; and

C. Because the Legislature recognizes that wind turbines are potentially a highly visible feature of the landscape that will have an impact on views, judging the effects of wind energy development on scenic character and existing uses related to scenic character based on whether the development significantly compromises views from a scenic resource of state or national significance such that the development has an unreasonable adverse effect on the scenic character or existing uses related to the scenic character of that resource.

The Legislature further finds that, while wind energy may be developed at many sites with minimal site-specific environmental impacts, wind energy developments may have, in addition to their beneficial environmental effects and potential scenic impacts, specific adverse environmental effects that must be addressed in state permitting decisions pursuant to approval criteria tailored to address issues presented by wind energy development. Nothing in this section is meant to diminish the importance of addressing as appropriate site-specific impacts on natural values, including, but not limited to, wildlife, wildlife habitats and other ecological values.

The Legislature further finds that development of the State's wind energy resources should be undertaken in a manner that ensures significant tangible benefits to the people of the State, including, but not limited to, residents of communities that host wind energy facilities; and that the State should seek to host a substantial amount of wind energy as part of a strategy to reduce greenhouse gas emissions and meet the goals established in the state climate action plan developed pursuant to Title 38, section 577.'

Amend the bill in Part A in section 4 in §3451 by striking out all of subsection 6 (page 4, lines 10 to 13 in L.D.) and inserting the following:

'6. Grid-scale wind energy development. "Grid-scale wind energy development" means a wind energy development that is of a size that would qualify as a development of state or regional significance that may substantially affect the environment as defined under Title 38, section 482, subsection 2, paragraph A or paragraph C.'

Amend the bill in Part A in section 4 in §3451 by striking out all of subsection 9 (page 4, lines 25 to 38 and page 5, lines 1 to 27 in L.D.) and inserting the following:

'9. Scenic resource of state or national significance. "Scenic resource of state or national significance" means an area or place owned by the public or to which the public has a legal right of access that is:

A. A national natural landmark, federally designated wilderness area or other comparable outstanding natural and cultural feature, such as the Orono Bog or Meddybemps Heath;

B. A property listed on the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended, including, but not limited to, the Rockland Breakwater Light and Fort Knox;

C. A national or state park;

D. A great pond that is:

(1) One of the 66 great ponds located in the State's organized area identified as having outstanding or significant scenic quality in the "Maine's Finest Lakes" study published by the Executive Department, State Planning Office in October 1989; or

(2) One of the 280 great ponds in the State's unorganized or deorganized areas designated as outstanding or significant from a scenic perspective in the "Maine Wildlands Lakes Assessment" published by the Maine Land Use Regulation Commission in June 1987;

E. A segment of a scenic river or stream identified as having unique or outstanding scenic attributes listed in Appendix G of the "Maine Rivers Study" published by the Department of Conservation in 1982;

F. A scenic viewpoint located on state public reserved land or on a trail that is used exclusively for pedestrian use, such as the Appalachian Trail, that the Department of Conservation designates by rule adopted in accordance with section 3457;

G. A scenic turnout constructed by the Department of Transportation pursuant to Title 23, section 954 on a public road that has been designated by the Commissioner of Transportation pursuant to Title 23, section 4206, subsection 1, paragraph G as a scenic highway; or

H. Scenic viewpoints located in the coastal area, as defined by Title 38, section 1802, subsection 1, that are ranked as having state or national significance in terms of scenic quality in:

(1) One of the scenic inventories prepared for and published by the Executive Department, State Planning Office: "Method for Coastal Scenic Landscape Assessment with Field Results for Kittery to Scarborough and Cape Elizabeth to South Thomaston," Dominie, et al., October 1987; "Scenic Inventory Mainland Sites of Penobscot Bay," Dewan and Associates, et al., August 1990; or "Scenic Inventory: Islesboro, Vinalhaven, North Haven and Associated Offshore Islands," Dewan and Associates, June 1992; or

(2) A scenic inventory developed by or prepared for the Executive Department, State Planning Office in accordance with section 3457.

Amend the bill in Part A in section 4 in §3451 in subsection 10 in the 2nd line (page 5, line 29 in L.D.) by striking out the following: "improvement attributable to" and inserting the following: 'improvements attributable to the'

Amend the bill in Part A in section 4 in §3452 in the first line (page 6, line 1 in L.D.) by striking out the following: "ans" and inserting the following: 'and'

Amend the bill in Part A in section 4 in §3452 by striking out all of subsection 1 (page 6, lines 2 to 12 in L.D.) and inserting the following:

‘1. Application of standard. In making findings regarding the effect of an expedited wind energy development on scenic character and existing uses related to scenic character pursuant to Title 12, section 685-B, subsection 4 or Title 38, section 484, subsection 3 or section 480-D, the primary siting authority shall determine, in the manner provided in subsection 3, whether the development significantly compromises views from a scenic resource of state or national significance such that the development has an unreasonable adverse effect on the scenic character or existing uses related to scenic character of the scenic resource of state or national significance. Except as otherwise provided in subsection 2, determination that a wind energy development fits harmoniously into the existing natural environment in terms of potential effects on scenic character and existing uses related to scenic character is not required for approval under either Title 12, section 685-B, subsection 4, paragraph C or Title 38, section 484, subsection 3.’

Amend the bill in Part A in section 4 in §3452 in subsection 2 in the 2nd line (page 6, line 14 in L.D.) by inserting after the following: "development" the following: 'in terms of potential effects'

Amend the bill in Part A in section 4 in §3452 in subsection 3 in the 2nd line (page 6, line 25 in L.D.) by striking out the following: "project" and inserting the following: 'development'

Amend the bill in Part A in section 4 in §3452 in subsection 3 in paragraph D in the first line (page 6, line 32 in L.D.) by striking out the following: "project" and inserting the following: 'expedited wind energy development's'

Amend the bill in Part A in section 4 in §3452 in subsection 3 in the blocked paragraph in the 4th line (page 7, line 4 in L.D.) by striking out the following: "values and existing uses related to scenic charcter" and inserting the following: 'character and existing uses related to scenic character'

Amend the bill in Part A in section 4 in §3452 by striking out all of subsection 4 (page 7, lines 9 to 25 in L.D.) and inserting the following:

‘4. Visual impact assessment; rebuttable presumption. An applicant for an expedited wind energy development shall provide the primary siting authority with a visual impact assessment of the development that addresses the evaluation criteria in subsection 3 if the primary siting authority determines such an assessment is necessary in accordance with subsection 3. There is a rebuttable presumption that a visual impact assessment is not required for those portions of the development's generating facilities that are located more than 3 miles, measured horizontally, from a scenic resource of state or national significance. The primary siting authority may require a visual impact assessment for portions of the development's generating facilities located more than 3 miles and up to 8 miles from

a scenic resource of state or national significance if it finds there is substantial evidence that a visual impact assessment is needed to determine if there is the potential for significant adverse effects on the scenic resource of state or national significance. Information intended to rebut the presumption must be submitted to the primary siting authority by any interested person within 30 days of acceptance of the application as complete for processing. The primary siting authority shall determine if the presumption is rebutted based on a preponderance of evidence in the record.'

Amend the bill in Part A in section 4 by striking out all of §3454 (page 8, lines 1 to 10 in L.D.) and inserting the following:

§ 3454. Determination of tangible benefits

In making findings pursuant to Title 12, section 685-B, subsection 4 or Title 38, section 484, subsection 3, the primary siting authority shall presume that an expedited wind energy development provides energy and emissions-related benefits described in section 3402 and shall make additional findings regarding other tangible benefits provided by the development. The Department of Labor, the Executive Department, State Planning Office and the Public Utilities Commission shall provide review comments if requested by the primary siting authority.'

Amend the bill in Part A in section 4 in §3456 in the first line (page 8, line 18 in L.D.) by inserting after the following: " **development** " the following: ' **in organized areas** '

Amend the bill in Part A in section 4 in §3456 in subsection 1 in the blocked paragraph in the first line (page 8, line 31 in L.D.) by striking out the following: "project" and inserting the following: 'wind energy development subject to certification under this section'

Amend the bill in Part A in section 4 in §3456 by striking out all of subsection 3 (page 9, lines 9 to 12 in L.D.) and inserting the following:

3. Enforcement of standards. Following certification under this section and during construction and operation, the standards in subsection 1 for a wind energy development subject to certification under this section may be enforced by the municipality in which the generating facilities are located at the municipality's discretion pursuant to Title 30-A, section 4452. The department is not responsible for enforcement of this section.'

Amend the bill in Part A in section 4 by striking out all of §3457 (page 9, lines 15 to 28 in L.D.) and inserting the following:

§ 3457. Rulemaking; scenic viewpoint; scenic inventory

1. Scenic viewpoint. The Department of Conservation shall adopt rules to designate scenic viewpoints located on state public reserved land or on a trail that is used exclusively for pedestrian use, such as the Appalachian Trail, that have state or national significance from a scenic perspective based on criteria modeled after those used in the "Maine Rivers Study" published by the Department of Conservation in 1982 and "Maine Wildlands Lakes Assessment" published by the Maine Land Use Regulation Commission in June 1987 and consideration of the criteria in section 3452, subsection 3.

2. Scenic inventory. The Executive Department, State Planning Office shall adopt rules regarding the methodology for conducting a scenic inventory of scenic resources of state or national significance that are located in the coastal area, as defined by Title 38, section 1802, subsection 1, in a manner comparable to that used for an inventory listed in section 3451, subsection 9, paragraph H, subparagraph (1). The office may contract with an outside entity for the preparation of a scenic inventory conducted pursuant to the methodology developed pursuant to this subsection.

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

Amend the bill in Part A by striking out all of section 5 and inserting the following:

'Sec. A-5. Tracking progress toward achievement of state wind energy goals. The Executive Department, Governor's Office of Energy Independence and Security, referred to in this section as "the office," shall, on an annual basis, monitor and make an assessment of progress toward meeting the wind energy development goals established in the Maine Revised Statutes, Title 35-A, section 3404, subsection 2 and, by December 2013, in consultation with other state agencies as appropriate, conduct a full review of the status of meeting the goals for 2015 and the likelihood of achieving the goals for 2020. The office shall provide its assessment and recommendations under this section to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by January 15th of each year.

1. Assessment. The assessment under this section must include:

- A. Examination of experiences from the permitting process;
- B. Identified successes, including tangible benefits realized from wind energy development, in implementing the recommendations contained in the February 2008 final report of the Governor's Task Force on Wind Power Development in Maine pursuant to Executive Order issued May 8, 2007;
- C. Projections of wind energy developers' plans, as well as technology trends and their state policy implications;
- D. The status of Maine and each of the other New England states in making progress toward reducing greenhouse gas emissions; and
- E. Recommendations, including, but not limited to, any changes regarding:
 - (1) The wind energy development goals established in Title 35-A, section 3404, subsection 2;
 - (2) Permitting processes for wind energy development;
 - (3) Identification of places within the State's unorganized and deorganized areas for inclusion in the expedited permitting area established pursuant to Title 35-A, chapter 34-A; and
 - (4) Creation of an independent siting authority to consider wind energy development applications.

2. Assessment of tangible benefits; first annual report. In the report due January 15, 2009, the office shall include an assessment of whether there is a need for additional funding to conduct the analysis of tangible benefits realized from wind energy development as required under this section and, if funding is needed, recommendations for a funding mechanism that is connected to the fees assessed to wind

energy developers by the Department of Environmental Protection and the Maine Land Use Regulation Commission. Following receipt and review of the report, the joint standing committee of the Legislature having jurisdiction over utilities and energy matters may submit legislation to the First Regular Session of the 124th Legislature regarding the subject matter of this subsection.'

Amend the bill in Part B in section 1 in subsection 2 by striking out all of the 4th blocked paragraph (page 10, lines 34 to 36 and page 11, lines 1 and 2 in L.D.) and inserting the following:

'The board may not assume jurisdiction over an application for an expedited wind energy development as defined in Title 35-A, section 3451, subsection 4 or for a certification pursuant to Title 35-A, section 3456.'

Amend the bill in Part B in section 4 in paragraph D in the 5th line (page 11, line 20 in L.D.) by inserting after the following: "department" the following: ', including the record of any adjudicatory hearing held by the department.'

Amend the bill in Part B in section 5 in paragraph A in subparagraph (1) in the 4th to 6th lines (page 11, lines 41 to 42 and page 12, line 1 in L.D.) by striking out the following: "pursuant to the site location of development laws pursuant to chapter 3, subchapter 1, article 6, the Natural Resources Protection Act or storm water management laws"

Amend the bill in Part B in section 9 by striking out all of subsection 3 (page 13, lines 6 to 21 in L.D.) and inserting the following:

'3. Maximum fee. The commissioner shall set the actual fees and shall publish a schedule of all fees by November 1st of each year. If the commissioner determines that a particular application, by virtue of its size, uniqueness, complexity or other relevant factors, is likely to require significantly more costs than those listed on Table I, the commissioner may designate that application as subject to special fees. Through August 31, 2009, a special fee may not exceed \$250,000. Beginning September 1, 2009, a special fee may not exceed \$75,000. Such a designation must be made at, or prior to, the time the application is accepted as complete and may not be based solely on the likelihood of extensive public controversy. All department staff who have worked on the review of the application, including, but not limited to, preapplication consultations, shall submit quarterly reports to the commissioner detailing the time spent on the application and all expenses attributable to the application, including the costs of any appeals filed by the applicant and, after taking into consideration the interest of fairness and equity, any other appeals if the commissioner finds it in the public interest to do so. The costs associated with assistance to the board on an appeal before the board may be separately charged. The processing fee for that application must be the actual cost to the department. The applicant must be billed quarterly and all fees paid prior to receipt of the permit. Nothing in this section limits the commissioner's authority to enter into an agreement with an applicant for payment of costs in excess of the maximum special fee established in this subsection.'

Amend the bill in Part B in section 13 by striking out all of subsections 1 to 5 (page 14, lines 22 to 26 in L.D.) and inserting the following:

'1. Effects on scenic character and existing uses related to scenic character;

2. Tangible benefits, including postconstruction reporting of tangible benefits realized;
3. Noise and shadow flicker effects;
4. Effects on avian and bat species;
5. Public safety-related setbacks; and
6. Decommissioning plans, including demonstration of current and future financial capacity that would be unaffected by the applicant's future financial condition to fully fund any necessary decommissioning costs commensurate with the project's scale, location and other relevant considerations, including, but not limited to, those associated with site restoration and turbine removal.'

Amend the bill in Part C in section 2 in subsection 2-C in the 3rd line (page 15, line 3 in L.D.) by striking out the following: "an allowable, permitted use" and inserting the following: 'a use requiring a permit, but not a special exception,'

Amend the bill in Part C in section 6 by striking out all of the first paragraph (page 17, lines 10 to 14 in L.D.) and inserting the following:

'Sec. C-6. Expedited permitting area designation; permitted use. No later than September 1, 2008, the Maine Land Use Regulation Commission shall adopt a rule listing the following specific places within the State's unorganized and deorganized areas, which comprise the expedited permitting area for purposes of this Act, except that the commission may subsequently add additional areas to this list by rule in the manner provided by this Act:'

Amend the bill in Part C in section 6 in subsection 2 in the 15th to 17th lines (page 18, lines 28 to 30 in L.D.) by striking out the following: "the 12.5-acre north-south trending area just south and west of Kibby Mountain in Skinner Twp., 07822" and inserting the following: 'that portion of Skinner Twp., 07822, composed of the 193.3-acre area that follows the ridge to Kibby Mountain, bounded on the east and west by the 2,820-foot contour, on the south by the town line and on the north by the line from the 2,820-foot contour through the 3,220-foot contour from Kibby Mountain'

Amend the bill in Part C in section 6 by striking out all of the 3 indented paragraphs (page 18, lines 44 and 45 and page 19, lines 1 to 16 in L.D.) and inserting the following:

'4. Transition; establishment of expedited permitting area and permitted use prior to rulemaking. Notwithstanding any other provision of law, prior to the Maine Land Use Regulation Commission's adoption of the rules required by this section, the portion of expedited permitting area located in the State's unorganized and deorganized areas consists of the lands and state waters specified in this section and an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, is a use requiring a permit, but not a special exception, subject to permitting by the Maine Land Use Regulation Commission or Department of Environmental Protection in accordance with this Act and other applicable law, in all districts and subdistricts located within the expedited permitting area.

No later than September 1, 2008, the Maine Land Use Regulation Commission shall adopt a rule amending its land use districts and standards to provide that grid-scale wind energy development as defined in the Maine Revised Statutes, Title 35-A, section 3451 is a use requiring a permit, but not a special exception, in all districts or subdistricts located within the expedited permitting area designated

pursuant to this section, subject to permitting by the Maine Land Use Regulation Commission or Department of Environmental Protection in accordance with this Act and other applicable law.

Rules adopted by the Maine Land Use Regulation Commission pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

Amend the bill by striking out all of Part D and inserting the following:

PART D

Sec. D-1. 35-A MRSA §3211-C, as amended by PL 2007, c. 493, §§1 to 3, is further amended to read:

§ 3211-C. Solar and wind energy rebate program; fund

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

A. "Qualified solar energy system" means a solar photovoltaic system or a solar thermal system.

A-1. "Qualified solar thermal water system installer" means a person who has been certified by the commission to install solar thermal systems designed to heat water and who holds a current license from the State as a master plumber, as a master oil burner technician or as a propane and natural gas technician or has been certified as a type II, type III or universal heating, ventilation and air conditioning refrigeration technician through a certification program approved by the United States Environmental Protection Agency.

A-2. "Qualified wind energy system" means any device, such as a wind charger, windmill or wind turbine and associated facilities, with a peak generating capacity of 100 kilowatts or less that converts wind energy to electrical energy for use primarily in a residence, public facility or place of business that is located in an area with demonstrated wind power potential.

B. "Solar photovoltaic system" means a solar energy device with a peak generating capacity of 100 kilowatts or less used for generating electricity for use in a residence or place of business.

C. "Solar thermal system" means a configuration of solar collectors and a pump, heat exchanger and storage tank or fans designed to heat water or air for the purpose of space heating, domestic water heating or both space and domestic water heating. Solar thermal system types include forced circulation, integral collector storage, thermosyphon and self-pumping systems.

2. Solar and wind energy rebate program. To the extent that funds are available in the fund established in subsection 3 and the requirements of subsection 2-A are satisfied, an owner or tenant of residential or commercial property located in the State is entitled to a rebate for a qualified solar energy system that is installed in accordance with this subsection after July 1, 2005 that will be connected to the electrical grid or a qualified wind energy system that is installed in accordance with this subsection after

January 1, 2009 that will be connected to the electrical grid. The commission shall set rebate levels for qualified solar energy systems and qualified wind energy systems. In setting rebate levels, the commission may consider market demand for qualified solar energy systems and qualified wind energy systems, program implementation experience and other factors relevant to the solar energy and wind energy rebate program.

A. To qualify for a rebate, a solar photovoltaic system must meet the following installation requirements:

(1) For a system installed after July 1, 2005 but before January 1, 2007, the system must be installed by a master electrician who has completed a training course to prepare for certification by a North American board of certified energy practitioners or by a master electrician working in conjunction with either a person who has been certified by a North American board of certified energy practitioners or a person who has completed a training course to prepare for certification by a North American board of certified energy practitioners; or

(2) For a system installed on or after January 1, 2007, the system must be installed by a master electrician who has been certified by a North American board of certified energy practitioners or by a master electrician working in conjunction with a person who has been certified by a North American board of certified energy practitioners.

B. To qualify for a rebate, a solar thermal system designed to heat water must be installed by a qualified solar thermal water system installer and, if the solar thermal system is designed to heat potable water, it must be installed by a qualified solar thermal water system installer who holds a current license as a master plumber or by a qualified solar thermal water system installer working in conjunction with a master plumber.

D. To qualify for a rebate, the electrical components of a qualified wind energy system must be installed by a master electrician or by a factory trained and approved dealer for the qualified wind energy system working under the supervision of a master electrician.

In the case of a newly constructed residence, the rebate must be available to the original owner or occupant.

2-A. Energy audit requirement; solar photovoltaic system. To qualify for a rebate for a solar photovoltaic system under this section, an owner or tenant of residential or commercial property located in the State must demonstrate to the satisfaction of the commission that an energy audit, as defined by the commission by rule, has been completed.

3. Funding level; fund. The commission shall assess transmission and distribution utilities to collect funds for the solar and wind energy rebate program in accordance with this subsection. The amount of all assessments by the commission under this subsection must result in total program expenditures by each transmission and distribution utility that do not exceed 0.005 cent per kilowatt-hour. To the extent

practicable, the commission shall establish and collect the assessment in a manner that is consistent with the assessment made under section 3211-A. The commission shall establish a solar and wind energy rebate program fund to be used solely for the purposes of this section. All assessments made under this subsection are deposited in the fund. Any interest on funds in the fund must be credited to the fund. Funds not spent in any fiscal year remain in the fund to be used for the purposes of this section. ~~In each fiscal year, 25% of the fund is allotted to solar photovoltaic system rebates and 75% of the fund is allotted to solar thermal system rebates.~~ The commission shall determine the allotment of the fund in each fiscal year between solar photovoltaic system rebates, solar thermal system rebates and qualified wind energy system rebates, with a minimum of 20% of the fund provided to each of the 3 types of rebates.

4. Rules. The commission shall adopt rules necessary to implement the provisions of this section, including procedures and standards for demonstrating qualification for a rebate under this section and a definition of "energy audit" for the purposes of subsection 2-A. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Report. The commission shall report by December 1st of each year to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters a description of actions taken by the commission pursuant to this section during the prior 12 months.

6. Limitation to residents of State; repeal. Participation in the solar and wind energy rebate program and fund established in this section is limited to residents of the State. This section is repealed December 31, 2010.'

Amend the bill in Part E by striking out all of section 1 (page 21, lines 23 to 26 in L.D.) and inserting the following:

'Sec. E-1. Application; municipal authority. This Act applies to a proposed wind energy development for which the Department of Environmental Protection or the Maine Land Use Regulation Commission has not accepted an application as complete for processing as of the effective date of this Act. This Act does not apply to a proposed wind energy development of the type subject to certification pursuant to the Maine Revised Statutes, Title 35-A, section 3456 for which a municipality has accepted an application as complete for processing as of the effective date of this Act. This Act is not intended to limit a municipality's authority to regulate wind energy development.'

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

SUMMARY

This amendment makes the following changes to the bill.

1. It clarifies the definition of "scenic resource of state or national significance" to specify that it is limited to areas that are owned by the public or to which the public has legal right of access and to clarify that it includes scenic viewpoints on pedestrian trails that the Department of Conservation designates by rule as having state or national significance, as well as scenic viewpoints on state public reserved land as provided in the bill.

2. It clarifies that the rulemaking of the Executive Department, State Planning Office with respect to the methodology for conducting a scenic inventory of scenic resources applies to those resources located in the coastal area.

3. It clarifies the application of the scenic standard regarding the effect of an expedited wind energy development to require the primary siting authority to determine whether the development significantly compromises views from a scenic resource of state or national significance such that the development has an unreasonable adverse effect on the scenic character or existing uses related to scenic character of the scenic resource.

4. It clarifies that municipalities are permitted but not required to enforce the standards for a wind energy development certification issued by the Department of Environmental Protection for a smaller-scale wind energy development and that the department is not responsible for enforcement of such standards.

5. It adds language to require the Executive Department, Governor's Office of Energy Independence and Security to submit its findings and recommendations from its annual assessment of progress toward reaching the State's wind energy goals to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters and to require the office in its the first report, due January 15, 2009, to include an assessment of whether additional funding is needed to analyze the tangible benefits realized by wind energy developments.

6. It clarifies, with respect to appeals to the Board of Environmental Protection of license or permit decisions of the Commissioner of Environmental Protection regarding wind energy developments, that the administrative record of the department includes the record of any adjudicatory hearing of the department.

7. It amends the provision in the bill regarding the special fee that may be required by the Department of Environmental Protection to provide a maximum fee of \$250,000 until September 1, 2009 and \$75,000 beginning September 1, 2009, rather than an unlimited fee for wind energy development as proposed in the bill. It also adds language to clarify that the Commissioner of Environmental Protection has the authority to enter into an agreement with an applicant for a payment of costs in excess of the maximum special fee.

8. It adds to the provision in the bill regarding submission requirements to be specified by the Department of Environmental Protection and the Maine Land Use Regulation Commission for applications for wind energy developments to include as additional submission requirements postconstruction reporting of tangible benefits from wind energy development and decommissioning plans, including demonstration of ability to fully fund any necessary future decommissioning costs.

9. It clarifies that the Maine Land Use Regulation Commission's authority to amend the list of places included in the expedited permitting area is limited to adding additional areas to the list, and it clarifies the reference to the portion of Skinner Township included in the expedited permitting area.

10. It amends the provision in the bill regarding the establishment of a wind energy rebate to limit qualified wind energy systems to those with a peak generating capacity of 100 kilowatts or less and to specify that a qualified system is one that is located in an area with demonstrated wind energy potential rather than an area with a specific wind energy classification based on United States Department of Energy

maps as provided in the bill. It revises the installation requirements for wind energy systems to narrow the requirement to the installation of the electrical components of the system. It also amends the allotment of the solar and wind energy rebate program fund between the different rebates to require the Public Utilities Commission to determine for each fiscal year the allotment of funds between solar photovoltaic system rebates, solar thermal system rebates and qualified wind energy system rebates, with a minimum of 20% of the fund provided to each of the 3 types of rebates. The bill in contrast allots 50% of the fund to solar system rebates and 50% to wind system rebates.

11. The amendment adds language to specify that this Act does not apply to a proposed wind energy development of a type that is subject to certification by the Department of Environmental Protection, which refers to the smaller-scale wind energy developments in organized areas, if a municipality has accepted an application for that proposed development as complete for processing as of the effective date of the Act. It also adds language to clarify that the Act is not intended to limit municipal authority to regulate wind energy development.

FISCAL NOTE REQUIRED
(See attached)