



Written Testimony of Donald J. Vigneau, AIA / Building Codes Project Manager
Northeast Energy Efficiency Partnerships (NEEP)
For the Labor, Commerce, Research and Economic Development Committee
Regarding HP 36/LD 43 - An Act to Repeal the Maine Uniform Building and Energy Code
April 7, 2011

Chairman Rector, Chairman Prescott, and members of the Committee:

On behalf of Northeast Energy Efficiency Partnerships (NEEP)¹, thank you for the opportunity to provide testimony on HP 36/ LD 43 - *"An Act to Repeal the Maine Uniform Building and Energy Code."*

NEEP is a regional non-profit organization founded in 1996 whose mission is to promote the efficient use of energy in homes, buildings, and industry throughout the Northeast and Mid-Atlantic through regionally coordinated programs and policies that increase the use of energy efficient products, services and practices, and help achieve a cleaner environment and a more reliable and affordable energy system.

NEEP has a long history of working on energy efficiency policies and programs in the state of Maine. Since its inception, NEEP has partnered with Efficiency Maine and a number of other stakeholder organizations inside and outside of government on a variety of initiatives that increase the energy savings potential of homes and businesses in Maine. These stakeholder organizations include: Maine Department of Education, State Planning Office (SPO), Maine School Management Association (MSMA), Natural Resources Council of Maine (NRCM), and Maine Building Officials and Inspectors Association (MBOIA). Together, NEEP and Maine stakeholder organizations have successfully worked on regional collaborative projects to transform markets, readying them for more energy efficient products and services, as well as complementary public policy projects. NEEP has helped the State of Maine to adopt new appliance efficiency standards; and to develop, adopt and administer advanced building energy codes and high performance school polices, among other measures.

Personally, I am a former Connecticut State Building Inspector, a former local building official, and a licensed professional architect, with 50 years experience in the design, construction review and regulation of building construction. As an active member of the Maine Energy and Certification Technical Advisory Groups (TAGs) to the Technical Building and Energy Codes Board (TBECB), I am taking this opportunity to comment on this bill that seeks to undo the process established by Maine in 2008 to create the Maine Uniform Building and Energy Code (MUBEC).

MUBEC is Progressive and Economically Responsible

The proposed legislation seeks to undo Maine's recently created statewide building and energy conservation code (MUBEC) even as it was just beginning to be formally implemented. In April of 2008, Governor John Baldacci signed into law the act establishing the state's first mandatory statewide building and energy code (MUBEC), automatically linked to the latest version of the International Energy Conservation Code (IECC). The MUBEC enactment in 2008 was a major step forward for Maine, as Maine is the last of the Northeast and Mid-Atlantic states to employ this important measure, thereby ensuring safe and efficient buildings for its businesses and citizens.

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



Recognizing the need in Maine to address opportunities to improve energy efficiency as well as all other aspects of construction, such as setting minimum building standards of quality, safety and health, NEEP has worked with TBECB since its formation in 2008, to assure the coordinated adoption of a uniform statewide building and energy code.

In line with the State's ongoing commitment to energy efficiency, in 2009 Maine agreed to meet the minimum national efficiency goals of the American Recovery and Investment Act (ARRA) in return for several million dollars in federal funding to help the state, its buildings and its cities and towns become more energy efficient. Section 410(a) of ARRA requires a state, as a condition for receiving this federal funding, to adopt the 2009 IECC for residential dwellings and ASHRAE 90.1-2007 for non-commercial buildings. Section 410(a) also requires the state to develop a plan to achieve 90% compliance with these energy codes by 2017.

Not only does MUBEC meet ARRA's minimum national efficiency goals, but it also promotes economic growth in the State of Maine. Maine's commitment to the ARRA goals, together with the MUBEC adoption, has brought over \$27 million in grants and programs into Maine from ARRA federal stimulus monies, to help implement workforce development, energy efficiency efforts and programs, and efficient construction standards. Maine has received or been assured of almost 98 percent of these funds² to date.

Rejecting the federal aid that Maine requested voluntarily (by voiding the commitments made as a condition of these grants, which LD 43 would accomplish) does nothing to promote the future economic viability and growth of business and commerce within the state.

MUBEC Creates Jobs

The wisdom of Maine's legislature in creating MUBEC is already starting to stimulate the creation of jobs, as demand for both energy auditors and contractors who can construct and certify building safety and energy performance is poised to increase significantly, under MUBEC requirements. Additionally, under MUBEC, third-party private sector inspectors may also perform building construction inspections on behalf of municipalities or homeowners, further growing the job market in Maine.

As the market's valuation of building safety and energy performance increases, Maine will benefit in the form of:

- Greater energy independence,
- Better residential and commercial building stock to enhance local tax bases, and
- Creation of a stronger economy.

Benefits of a Uniform Statewide Building and Energy Code

The filing of LD 43 would seem to reflect anxiety on the part of those in the state who have not previously had to comply with or enforce mandatory building energy codes. It is not the first time that a new building code has created some concern over those who then needed to learn to build to it or to ensure compliance with it. But Maine has the benefit of learning from states that have gone before it.

Building codes, including energy codes, are not new to either the United States or to this part of the country. For a century, Americans of all classes, and businesses of all types, have benefited from buildings being built to minimum standards for health, safety and building integrity. It is also true that the entire construction industry in the Northeast and Mid-Atlantic has accepted and profited from these code changes in learning how to use them; indeed, many regularly go beyond state code requirements and build to advanced voluntary standards. This has been a shared experience

² http://www.naseo.org/programs/sep/recovery/State_Energy_Program_ARRA_Update-2010-03.pdf (Page 29)



throughout the region since statewide code adoptions began in 1971. In many housing markets, builders take pride in advertising that their homes are built better and more efficiently than required by state code; it has proved to be an effective market strategy.

Many years of experience has thus proven that a uniform statewide building and energy code system helps, not hinders, construction processes and schedules, while setting minimum standards of quality, safety and health for all to follow. MUBEC is here; it is ready; it is a product of *four years* of analysis, dialogue and effort devoted by the State of Maine and its experienced professionals. A repeal of MUBEC would not only be counterproductive but fiscally irresponsible.

Value and Protection provided by MUBEC

MUBEC provides value to the entire construction industry by establishing and enforcing a single set of “ground rules” governing the building process. It also relieves local jurisdictions from the costs and efforts necessary to separately adopt and administer code regulations.

Contrarily, adoption of codes by local jurisdictions leads to:

- Inconsistency in code model adoption (i.e. choosing different editions of the same regulation);
- Gaps in adopted regulations that inevitably leave health and safety issues unaddressed;
- Different interpretations of identical issues from town to town;
- Code waivers without technical justification due to unavailability of technical expertise on appeals boards;
- No certification of local code enforcers for competency in any aspect of construction;
- No consistent or ongoing training for code officials, designers or builders to maintain technical competency in a constantly changing industry; and
- No overall direction or coordination between codes adopted by trade boards.

LD 43 will legally require code enforcement officials to inspect construction solely for safety from the “catching or spreading of fire;” but would not protect homes and buildings from:

- Safety against structural collapse due to wind or snow or poor design;
- Protection from carbon monoxide or other toxic substances;
- Prevention of water and air leakage into the structure;
- Freezing of pipes;
- Infestation by vermin or mold; and
- Lack of proper ventilation, among other things.

These are only a few of the typical construction defects that owners and occupants of new homes and buildings will face if MUBEC is repealed.

Conclusion

NEEP urges a Not Recommended vote by the Committee and for the legislature to uphold the current law regarding the administration of a mandatory statewide building and energy code.

It is vitally important to the future of Maine’s economy that the state not retreat from the MUBEC assurances it has already adopted, that it provide for safe, healthy living and working conditions in buildings that your residents and businesses will have to live with for decades to come. Maine cannot afford to remain uncompetitive in the region, and face the higher costs of financing, insurance and uncertain liability risks in doing business. It also will be unable to control price volatility due to world energy markets and the affordability of living in Maine that comes from uncoordinated and varying building ordinances that are affected by local, independent and often uninformed decisions.



A vote against recommending LD 43 is an endorsement of the enactment of MUBEC in 2008 by this body to move the state into the 21st Century, and give it the necessary tools to meet the economic and technological challenges that are already here, and will continue to tax Maine's economy and environment.

We appreciate this opportunity to provide NEEP's perspective on why this legislation is a major concern for economic, energy and environmental policy for the state of Maine, and we continue to offer our support in working with this committee and all other building and energy codes stakeholders to address specific concerns in the implementation of MUBEC.

Thank you again for the opportunity to provide our comments.

Contact Information:

Donald J. Vigneau, AIA
NEEP Building Energy Codes Project Manager
781-860-9177 x 136 or dvigneau@neep.org