



## Implications for repealing the energy code in Maine or reverting to local option code adoption

In 2009 Maine agreed to meet the minimum national energy efficiency goals set forth in the American Recovery and Investment Act (ARRA) in return for some \$27 million 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 International Energy Conservation Code (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 percent compliance with these energy codes by 2017.

### Federal Funding Commitment

In return for this funding, then Governor John Baldacci provided a letter of assurance to the U.S. Department of Energy that the state of Maine, would indeed, meet the conditions set forth in ARRA. See:

[http://www.maine.gov/tools/whatsnew/index.php?topic=transparency\\_related\\_information&id=71535&v=article](http://www.maine.gov/tools/whatsnew/index.php?topic=transparency_related_information&id=71535&v=article)

In adopting the Mandatory Uniform Building and Energy Code (MUBEC) in 2008, Maine met its ARRA conditions for adopting the latest national model energy codes.

- The state has also spent a considerable amount of time, resources and money toward enhancing compliance with these codes through training, education and outreach across the state.
- These commitments have brought Maine over \$27 million in grants and programs from ARRA stimulus monies to help implement workforce development, energy efficiency efforts and programs, and efficient construction standards.
- To date, Maine has received or been assured of some 98 percent of these funds.

### Local Level Adoptions

Reverting to local adoptions could have the following negative economic impacts on Maine:

- Commitments made as a result of Maine's acceptance of \$27 million in ARRA funds could be voided, as ARRA called for statewide adoptions of mandatory codes.
- Forthcoming DOE grants would be jeopardized. (See requirements below from DOE)
- An additional burden of proof for businesses and homeowners seeking to recover costs from shoddy or unsafe construction would be created by eliminating a single, "reasonable standard of care" for the courts to apply in rendering their decisions on harm to the owners of the property affected by such work.
- More favorable property insurance rates would be jeopardized by not adopting and enforcing mandatory statewide building/energy codes. The national property/ casualty



insurance companies and underwriters rate every state, county and local municipal jurisdiction on the standards of care they can and will apply for risks associated with losses due to fire, structural failures, inadequate provisions for health and other public safety causes. This risk assessment takes place every three years across the U.S. and is a principal factor in the costs of property insurance, heavily influenced by inspections for compliance with recognized, up-to-date national building and fire safety standards and practices, including accessibility and energy efficiency.

### Department of Energy Analysis of Maine Building Code

According to an analysis conducted by the U.S. Department of Energy of the adoption of MUBEC, the adjustments made to building practices and standards, as well as costs, are minor<sup>1</sup>. These changes involve small adjustments in insulation levels, better sealing of window and door openings, sealing ducts and running the systems inside of the dwelling spaces, using right-sized/less costly heating equipment that will match the lower energy losses in the tighter construction, using water heaters that operate much more efficiently, and using more efficient lighting that pays for itself in mere months.

*All of these products and systems are now standard in the Maine marketplace and are proven in thousands of homes in the Northeast.*

### Incremental cost of adopting the building code

In a report from The Building Energy Codes Assistance Project (BCAP), "[Incremental Construction Cost Analysis for New Homes,](#)" [moving from current practice to the 2009 IECC](#) would result in:

- Incremental costs of \$819.34 per new home. However, the annual energy savings per home would be \$243.37 on average, meaning the simple payback for homeowners would occur in 3.37 years.
- When amortized over a 30-year loan, the average additional cost on a 20 percent down payment would be \$163.74 and just \$3.18 more in monthly mortgage payments. Moreover, when factoring in energy savings, the homeowner would realize net savings within the first year. For examples of how the cost is rolled into a mortgage, please see one of BCAP's Incremental Cost Fact Sheets.

[http://bcapcean.org/sites/default/files/EPA%20Cost%20Increment%20Project-FINAL\\_0.pdf](http://bcapcean.org/sites/default/files/EPA%20Cost%20Increment%20Project-FINAL_0.pdf)

---

<sup>1</sup> Impact of MUBEC adoption as analyzed for DOE: [http://www.energycodes.gov/publications/techassist/residential/Residential\\_Maine.pdf](http://www.energycodes.gov/publications/techassist/residential/Residential_Maine.pdf)



## DOE Requirements

**SEC. 410. ADDITIONAL STATE ENERGY GRANTS.** (a) *In General.*--Amounts appropriated under the heading ``Department of Energy--Energy Programs--Energy Efficiency and Renewable Energy" in this title shall be available to the Secretary of Energy for making additional grants under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.). **The Secretary shall make grants under this section in excess of the base allocation established for a State under regulations issued pursuant to the authorization provided in section 365(f) of such Act only if the governor of the recipient State notifies the Secretary of Energy in writing that the governor has obtained necessary assurances that each of the following will occur:**

(1) The applicable State regulatory authority will seek to implement, in appropriate proceedings for each electric and gas utility, with respect to which the State regulatory authority has ratemaking authority, a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently and that provide timely cost recovery and a timely earnings opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings, in a way that sustains or enhances utility customers' incentives to use energy more efficiently.

**(2) The State, or the applicable units of local government that have authority to adopt building codes, will implement the following:**

**(A) A building energy code (or codes) for residential buildings that meets or exceeds the most recently published International Energy Conservation Code, or achieves equivalent or greater energy savings.**

**(B) A building energy code (or codes) for commercial buildings throughout the State that meets or exceeds the ANSI/ASHRAE/IESNA Standard 90.1-2007, or achieves equivalent or greater energy savings.**

**(C) A plan for the jurisdiction achieving compliance with the building energy code or codes described in subparagraphs (A) and (B) within 8 years of the date of enactment of this Act in at least 90 percent of new and renovated residential and commercial building space. Such plan shall include active training and enforcement programs and measurement of the rate of compliance each year.**

(3) The State will to the extent practicable prioritize the grants toward funding energy efficiency and renewable energy programs, including--

(A) The expansion of existing energy efficiency programs approved by the State or the appropriate regulatory authority, including energy efficiency retrofits of buildings and industrial facilities, that are funded--



(i) By the State; or

(ii) Through rates under the oversight of the applicable regulatory authority, to the extent applicable;

(B) the expansion of existing programs, approved by the State or the appropriate regulatory authority, to support renewable energy projects and deployment activities, including programs operated by entities which have the authority and capability to manage and distribute grants, loans, performance incentives, and other forms of financial assistance; and

(C) Cooperation and joint activities between States to advance more efficient and effective use of this funding to support the priorities described in this paragraph.

(b) *State Match.*--The State cost share requirement under the item relating to "Department of Energy; Energy Conservation" in title II of the Department of the Interior and Related Agencies Appropriations Act, 1985 (42 U.S.C. 6323a; 98 Stat. 1861) shall not apply to assistance provided under this section.