



**Comments of Don Vigneau, AIA**  
**Northeast Energy Efficiency Partnerships (NEEP)**  
**To the Joint Committee on Labor, Commerce, Research, and Economic Development**  
**Regarding Maine Legislative Documents 1093, 1120, 1182, and 1191**  
**April 22, 2015**

Senator Volk, Representative Herbig, and members of the Committee:

On behalf of Northeast Energy Efficiency Partnerships (NEEP)<sup>1</sup>, thank you for the opportunity to provide comment on Legislative Documents: 1093, An Act Regarding the Municipalities to Which the Maine Uniform Building and Energy Code Applies; 1120, An Act To Repeal the Maine Uniform Building and Energy Code; 1182, An Act To Exempt Certain Agricultural Buildings from the Maine Uniform Building and Energy Code; and 1191, An Act To Remove the Municipal Mandate To Enforce the Maine Uniform Building and Energy Code.

NEEP was founded in 1996 as a non-profit whose mission is to serve the Northeast and Mid-Atlantic to accelerate energy efficiency in the building sector through public policy, program strategies and education. Our vision is that the region will fully embrace energy efficiency as a cornerstone of sustainable energy policy to help achieve a cleaner environment and a more reliable and affordable energy system. NEEP is one of six Regional Energy Efficiency Organizations, as designated by the U.S. Department of Energy, which work to support several energy initiatives in their states, including enhancing compliance with building energy codes. NEEP has worked to promote Maine's energy code for several years, including developing resources for a local action campaign for the adoption of the Maine Uniform Building and Energy Code (MUBEC).

Opposition to LDs 1093, 1120, and 1191:

**NEEP strongly opposes these bills because repealing or limiting the enforcement of MUBEC means:**

- **Lower occupant health, safety, and comfort:** MUBEC exists to protect building owners and tenants
- **Higher utility bills and operating costs:** MUBEC decreases the magnitude and volatility of such costs
- **Lower property values and increased insurance premiums in affected areas:** these rates will adjust over time to reflect the inherent risks from lower quality of construction
- **Higher costs of doing business and advantages given to those building lesser quality buildings:** consistent statewide rules level the playing field for builders and developers
- **Loss of local jobs and increased dependence on heating oil and overseas energy sources:** positions like energy auditor and third inspector cannot be outsourced, keeping money in the local economy
- **Lost opportunities to capitalize on federal mortgages and new public housing insurance:** by 2016, HUD and USDA will require the same energy provisions as MUBEC

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<sup>1</sup> [NEEP](http://www.neep.org) 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. The comments are presented by NEEP staff and don't necessarily reflect the views of NEEP's Board, sponsors or partners.



Furthermore:

- LD 1093 would affect communities throughout the state and not only those with populations of 4,000 - 5,000 residents, as it would place more Maine businesses and residents – particularly those in neighboring cities and towns – at risk from inadequate, unsafe building construction, additions and renovations.
- LD 1120 would restore laws prior to any uniform code adoption, thereby placing Maine businesses and residents in higher risk categories for property/fire/casualty insurance and financing of improvements/ refinancing of buildings, as well as higher risk of health and life safety conditions due to less or no limits on indoor air quality, toxic materials, and standards of safety for structural adequacy and adequate means of egress. Also, the ability of local fire departments to remain safe while responding to emergencies at these buildings should not be compromised.
- LD 1191, which would make MUBEC enforcement optional in any community, achieves the same lack of protections for Maine businesses and residents as LD 1093. There would be no guarantee of any code compliance without the oversight of enforcement, resulting in the absence of the same financial, health and safety protections as would occur under LD 1120.

As noted in the attached summary of the U.S. Department of Energy's Analysis of Statewide Adoption Rates of Building Energy Code by Local Jurisdictions, leaving jurisdictions with no guidance or assistance in selecting minimum standards for health, fire and life safety puts businesses, the public and first responders' safety, the value of taxable property of all towns, and the costs of insuring and financing of all properties at risk.

#### Recommended Modifications for LD 1182:

In addition, NEEP proposes the following amendments to LD 1182, An Act To Exempt Certain Agricultural Buildings from the Maine Uniform Building and Energy Code:

- LD 1182 would exempt buildings housing livestock or harvested crops from all code requirements. Wholesale exemption from the codes is, as noted above, the removal of financial, health and safety protections for businesses and residents of Maine. First, we recommend that the bill language is clarified to only exempt non-commercial facilities with very limited occupancy. Second, we recommend that the bill be amended to exempt these structures from compliance with the insulation performance standards of the Maine Energy Code and remain as Utility buildings. This would preserve the requirements for safe construction of the buildings, protections from fire, and for persons working in these buildings. Safety and energy standards for mechanical equipment and lighting should also be maintained.

In conclusion, NEEP strongly opposes the LDs 1093, 1120, and 1191. Secondarily, NEEP recommends approval of LD 1182 with amendments. Please do not hesitate to contact NEEP for technical support and assistance in these efforts.

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## Statewide Code with Jurisdictional Adoption Flexibility: DOE Report

“Some of the states with mandatory statewide codes appear to have jurisdictional flexibility built into the adoption process, either through legislative language, including exemptions for certain jurisdictions, or through their legislative structure and tradition of the given state. For this study, the states that fall into this category are listed below along with a brief explanation regarding why they are characterized as having jurisdictional adoption flexibility.

- Colorado has a long history of being a home-rule state in which there is a well-defined relationship between state and local governments, including separate and concurrent powers for each outlined in the state constitution and through established legal rulings. Although it has adopted the 2003 IECC as the residential energy code statewide, it allows local municipalities to decide individually which 3.4 codes to adopt and implement within their communities (BCAP 2010).As a result, the predominant code among Colorado’s jurisdictions is in fact the 2009 IECC.

- Iowa also is a home-rule state in which each city and county is given the authority to adopt an energy code. The Iowa energy code legislation focuses primarily on cities with a population of 15,000 or more. These cities can adopt and enforce either their own code that has been developed by a nationally recognized code organization, or enforce the statewide building energy code. Informally, smaller jurisdictions in Iowa that have a code enforcement function in place are mandated to enforce the adopted statewide energy code; rural areas of the state are also technically required to implement the code, but there are little to no enforcement bodies in these areas.<sup>1</sup>

- Illinois, like Colorado, has a long history of being a strong home-rule state. Only recently (i.e., in 2010) did the state legislature, with House Bill 3987, relax the home-rule authority related to residential building energy codes.<sup>2</sup>

- Maine is a home-rule state that has historically had a mandatory statewide energy code; however, in 2011 the state legislation was modified such that code adoption is optional for communities with populations less than 4,000.<sup>3</sup>

- Montana is a home-rule state in which the purpose of the statewide code is to provide reasonably uniform standards and requirements, but each jurisdiction is given the authority to adopt.

Like Iowa, statewide implementation efforts focus on more populous jurisdictions.

- Oklahoma implemented a statewide mandatory code in July 2011. Technically, no exceptions are granted to jurisdictions, and no adoption flexibility was written into the law. However, prior to adoption it did not even have an agency with authority to review or adopt codes (BCAP 2012). For the purposes of this study, Oklahoma is considered to be in a state in transition, in which jurisdictions are still in the beginning stages of setting up an energy code adoption process

### Mandatory Statewide Code

The remaining states in the study with statewide energy codes appear to have mandatory codes with regulations that require the local jurisdictions to adopt the model statewide code. In some cases, they permit the jurisdictions to adopt alternative codes if they meet or exceed the model statewide code. In addition, some of these states will require that the statewide code applies to any jurisdiction that does not adopt an energy code. In all cases, the energy code is mandatory statewide, with no explicit exceptions or jurisdictional flexibility. The states in this category include Idaho, Maryland, Massachusetts, Nevada, Pennsylvania, South Carolina, Tennessee, and Utah.”

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**Further Information:** *Vermont mandates a statewide energy code. South Dakota and Tennessee adopt the 2006 codes; Oklahoma adopts 2003. Arizona, Kansas, Missouri, Wyoming have no mandatory statewide code but their jurisdictions adopt voluntarily under Home Rule.*

**Conclusion:** *Only four states currently do not have minimum model building codes that can be adopted. Leaving jurisdictions with no guidance or assistance in selecting minimum standards for health, fire and life safety puts businesses, the public and first responders safety, the value of taxable property of all towns, and the costs of insuring and financing of all properties at risk.*