



# 125th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2012

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Legislative Document

No. 1864

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S.P. 649

In Senate, March 12, 2012

**An Act To Improve Efficiency Maine Trust Programs To Reduce Heating Costs and Provide Energy Efficient Heating Options for Maine's Consumers**

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Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

*Joseph G. Carleton Jr.*

JOSEPH G. CARLETON, JR.  
Secretary of the Senate

Presented by Senator THIBODEAU of Waldo. (GOVERNOR'S BILL)  
Cosponsored by Representative: KESCHL of Belgrade.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 35-A MRSA §3210, sub-§9, ¶B**, as amended by PL 2011, c. 314, §1, is  
3 further amended to read:

4 B. The commission shall collect alternative compliance payments made by  
5 competitive electricity providers and shall deposit all funds collected under this  
6 paragraph in the Energy Efficiency and Renewable Resource Fund established under  
7 section 10121, subsection 2 to be used to fund research, development and  
8 demonstration projects relating to renewable energy technologies and to fund rebates  
9 for cost-effective renewable energy technologies.

10 **Sec. 2. 35-A MRSA §10103, sub-§2**, as enacted by PL 2009, c. 372, Pt. B, §3, is  
11 amended to read:

12 **2. Governance; board.** The trust is created as a body corporate and politic and a  
13 public instrumentality of the State and is governed by the ~~independent~~ Efficiency Maine  
14 Trust Board, established in Title 5, section 12004-G, subsection 10-C, in accordance with  
15 this section.

16 A. The board consists of the following 9 voting members:

17 (1) The director of the Governor's Office of Energy Independence and Security;

18 (2) The director of the Maine State Housing Authority; and

19 (3) Seven members appointed by the Governor, reviewed by the joint standing  
20 committee of the Legislature having jurisdiction over energy matters and  
21 approved by the Senate. Among these 7 members must be persons who  
22 adequately represent the interests of commercial energy consumers, industrial  
23 energy consumers, small business energy consumers, residential energy  
24 consumers and low-income energy consumers; among these members must be  
25 persons with knowledge of and experience in financial matters and consumer  
26 advocacy and who possess substantial management expertise or knowledge of or  
27 experience with conservation fund programs, carbon reduction programs or  
28 energy efficiency or climate change policy. The requirements of this  
29 subparagraph may be met through the appointment of one or more persons who  
30 satisfy more than one of the requirements, as long as at any one time the 7  
31 members include among them members who adequately represent the identified  
32 interests and who ~~posses~~ possess the required knowledge, expertise and  
33 experience.

34 Appointed trustees serve 3-year terms. If an appointed trustee is unable to  
35 complete the term, the Governor shall appoint a replacement for the remainder of  
36 the unexpired term.

37 B. ~~The board shall elect~~ Governor appoints a chair, ~~The board shall elect~~ a  
38 vice-chair, a secretary and a treasurer from among the members. Each officer elected  
39 by the board serves for a one-year term and is eligible for reelection.

40 C. A majority of the trustees constitutes a quorum.

1 D. The board may elect an executive committee of not fewer than 5 trustees who, in  
2 intervals between meetings of the board, may transact such business of the trust as the  
3 board may authorize from time to time.

4 **Sec. 3. 35-A MRSA §10104, sub-§12** is enacted to read:

5 **12. Budget.** The budget for the trust must be submitted as part of the budget for  
6 State Government in accordance with Title 5, sections 1663 to 1666. The trust shall  
7 present its budget recommendations contained in any budget legislation to the joint  
8 standing committee of the Legislature having jurisdiction over energy matters. The joint  
9 standing committee of the Legislature having jurisdiction over energy matters shall  
10 review the trust’s recommendations and make recommendations to the joint standing  
11 committee of the Legislature having jurisdiction over appropriations and financial affairs.  
12 Within 30 days after enactment of the budget, the trust shall amend the triennial plan if  
13 needed to conform to the approved budget.

14 **Sec. 4. 35-A MRSA §10108**, as enacted by PL 2009, c. 372, Pt. B, §3, is repealed  
15 and the following enacted in its place:

16 **§10108. Liability**

17 **1. Bond.** All officers, directors, employees and other agents of the trust entrusted  
18 with the custody of funds of the trust or authorized to disburse the funds of the trust must  
19 be bonded either by a blanket bond or by individual bonds with a minimum limitation of  
20 \$100,000 coverage for each person covered by the bond or bonds, or equivalent fiduciary  
21 liability insurance, conditioned upon the faithful performance of their duties. The  
22 premiums for the bond or bonds must be paid out of the assets of the trust.

23 **2. Indemnification.** Each trustee must be indemnified by the trust against expenses  
24 actually and necessarily incurred by the trustee in connection with the defense of any  
25 action or proceeding in which the trustee is made a party by reason of being or having  
26 been a trustee and against any final judgment rendered against the trustee in that action or  
27 proceeding.

28 **Sec. 5. 35-A MRSA §10110, sub-§2, ¶K** is enacted to read:

29 K. The trust shall provide programs developed in partnership with energy providers,  
30 such as transmission and distribution utilities, to provide consumers with information  
31 on energy options to promote energy efficiency and increased use of alternative  
32 energy resources in the State.

33 **Sec. 6. 35-A MRSA §10119-A** is enacted to read:

34 **§10119-A. Efficient electric heating program**

35 **1. Legislative finding.** The Legislature finds that the installation of efficient electric  
36 heating systems in buildings for the purpose of supplementing or replacing less efficient  
37 heating systems helps the State reduce its overall energy use and stabilize electric rates.

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

3           A. "Building" means a stand-alone structure or individual dwelling unit within a  
4 structure that is located within the State.

5           B. "Lender" means any entity that provides loans to qualifying customers under the  
6 program. "Lender" includes the trust and transmission and distribution utilities.

7           C. "Program" means the efficient electric heating program established by the trust  
8 under this section.

9           D. "Qualifying customer" means the owner or operator of a building that meets the  
10 terms established by the trust for participation in the program.

11           E. "Qualifying heating system" means an efficient electric space heating or water  
12 heating system that meets the standards established by the trust, including but not  
13 limited to heat pumps or similar technologies. "Qualifying heating system" includes  
14 associated weatherization.

15           **3. Program.** The trust shall develop and administer an efficient electric heating  
16 program to help qualifying customers supplement or replace less efficient heating  
17 systems within their buildings. The program must include loans for qualifying customers  
18 to finance the installation of qualifying heating systems for buildings that will result in a  
19 reduction in the use or more efficient use of energy within the building. The trust may  
20 allow the participation of any lender meeting the terms of the program, including the trust  
21 itself, and shall allow transmission and distribution utilities to provide loans as provided  
22 in subsection 8. As necessary, the trust shall assist in educating the public regarding the  
23 program.

24           The trust shall develop and administer the program using funds derived from assessments  
25 on transmission and distribution utilities under section 10110, subsections 4 and 5 to  
26 support cost-effective efficient electric heating pilot projects in cooperation with  
27 transmission and distribution utilities.

28           **4. Low-income customers.** To the extent funding is available under the program, a  
29 portion of the program must include loans or other assistance to low-income residential  
30 customers who are receiving public financial assistance to heat their dwellings.

31           **5. Loan terms.** Loans from each lender under the program must be established at a  
32 fixed rate for a period up to 15 years and must provide that the loans may be prepaid by a  
33 participating customer without prepayment penalty. Short-term loans must also be made  
34 available involving 6 months of interest-only payments.

35           **6. Installation of heating systems.** The trust shall ensure that qualifying heating  
36 systems installed under the program are installed by qualified installers and that any  
37 installer meeting the program qualifications may participate in the program.

38           **7. On-bill financing.** To facilitate the repayment of loans under the program,  
39 periodic financing payments to the lender may be included on the electric bill that is  
40 issued by the qualifying customer's transmission and distribution utility. Any  
41 administrative or other costs to the utility associated with on-bill financing, including any

1 collection, delinquency or bad debt expenses, must be recovered and retained by the  
2 utility as part of the financing payments made by a customer participating in the program.

3 **8. Transmission and distribution utilities.** A transmission and distribution utility  
4 may provide loans through the program to qualifying customers for installation of  
5 qualifying heating systems for buildings receiving transmission and distribution service  
6 within the utility's service territory. The financing charges for such loans must be  
7 established by the utility, and the utility may earn a return on such loans based on the  
8 utility's weighted average cost of capital as established by the commission for the utility's  
9 distribution service. Any difference between the utility's weighted average cost of capital  
10 and any financing payments received from customers related to loans issued by the utility  
11 under this section must be funded by amounts collected by the trust from the utility  
12 pursuant to section 10110.

13 **9. Rate-making treatment.** The costs and earnings of a transmission and  
14 distribution utility attributable to participating in the program must be accounted for as  
15 direct costs and earnings of the utility for rate-making purposes, and such activities must  
16 be considered part of the regulated activities of the utility pursuant to section 713.

17 **10. Rulemaking.** The commission and the trust shall adopt any rules necessary to  
18 administer this section. Rules adopted under this subsection are routine technical rules  
19 pursuant to Title 5, chapter 375, subchapter 2-A.

20 **Sec. 7. 35-A MRSA §10121,** as amended by PL 2011, c. 314, §§2 to 4, is further  
21 amended to read:

22 **§10121. Energy Efficiency and Renewable Resource Fund**

23 **1. Funding for energy efficiency and renewable resource research and**  
24 **development; community demonstration projects; rebates for cost-effective energy**  
25 **efficiency and renewable energy technologies.** The trust by rule shall establish and  
26 administer a program allowing retail consumers of electricity to make voluntary  
27 contributions to fund energy efficiency and renewable resource research and  
28 development, to fund community demonstration projects using energy efficiency and  
29 renewable energy technologies and to fund rebates for cost-effective energy efficiency  
30 and renewable energy technologies. The program must:

31 A. Include a mechanism for customers to indicate their willingness to make  
32 contributions;

33 B. Provide that transmission and distribution utilities collect and account for the  
34 contributions and forward them to the trust;

35 C. Provide for a distribution of the funds, which on an annual basis may not exceed  
36 the average of the annual funding distributed in fiscal year 2007-08 to fiscal year  
37 2009-10, through a competitive bid process to the University of Maine System, the  
38 Maine Maritime Academy or the Maine Community College System for energy  
39 efficiency and renewable resource research and development;

40 D. Provide for a distribution of the funds through a competitive bid process to  
41 Maine-based nonprofit organizations that qualify under the federal Internal Revenue

1 Code, Section 501(c)(3), consumer-owned transmission and distribution utilities,  
2 community-based nonprofit organizations, community action programs,  
3 municipalities, quasi-municipal corporations or districts as defined in Title 30-A,  
4 section 2351, community-based renewable energy projects as defined in section  
5 3602, subsection 1 and school administrative units as defined in Title 20-A, section 1  
6 for community demonstration projects using energy efficiency and renewable energy  
7 technologies;

8 E. Provide for an annual distribution of ~~35%~~ 25% of the funds to the Maine  
9 Technology Institute to support the development and commercialization of energy  
10 efficiency and renewable energy technologies; ~~and~~

11 F. Provide rebates for cost-effective energy efficiency and renewable energy  
12 technologies as determined by the trust; ~~and~~

13 G. Provide all funds not expended under paragraphs A to F to energy efficiency  
14 projects on a competitive, cost-effective, fuel-neutral basis.

15 **2. Fund established.** There is established the Energy Efficiency and Renewable  
16 Resource Fund, referred to in this section as "the fund." The fund is a nonlapsing fund  
17 administered by the trust. All funds collected by the trust pursuant to subsection 1 must  
18 be deposited in the fund for distribution by the trust in accordance with subsection 1. The  
19 trust may seek and accept funding for the program established pursuant to subsection 1  
20 from other sources, public or private. Any funds accepted for use in the program  
21 established pursuant to subsection 1 must be deposited in the fund. Funds not spent in  
22 any fiscal year remain in the fund to be used for the purposes of this section. Any interest  
23 earned on funds in the fund must be credited to the fund.

24 The trust may allocate funds pursuant to subsection 1, paragraphs C, D ~~and~~, F and G from  
25 the fund to most effectively meet the objectives of the triennial plan pursuant to section  
26 10104, subsection 4.

27 **3. Report.** The trust shall report by December 1st of each year to the joint standing  
28 committee of the Legislature having jurisdiction over utilities and energy matters on the  
29 fund. The report must include:

30 A. A description of actions taken by the trust pursuant to subsections 1 and 2 during  
31 the prior 12 months;

32 B. An accounting of total deposits into and expenditures from the fund during the  
33 prior 12 months; and

34 C. A description of any research and development or community demonstration  
35 project that received a distribution from the fund during the prior 12 months,  
36 including its objectives, current status and results.

37 **4. Rulemaking.** The trust shall adopt rules to implement this section. The rules  
38 must include, but are not limited to:

39 A. Selection criteria for the competitive bid process pursuant to subsection 1,  
40 paragraphs C and D, including, but not limited to, the cost-effectiveness of the project

1 or development and the likelihood that the renewable energy technology will be  
2 adopted on a broader scale in this State; and

3 B. Qualification criteria for rebates for energy efficiency and renewable energy  
4 technologies pursuant to subsection 1, paragraph F, including, but not limited to,  
5 cost-effectiveness and quality assurance requirements.

6 Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter  
7 375, subchapter 2-A.

8 **Sec. 8. 35-A MRSA §10123** is enacted to read:

9 **§10123. Home heating equipment rebate program**

10 **1. Home heating equipment rebate program.** The trust shall administer a home  
11 heating equipment rebate program. To the extent that funds are available through the  
12 trust's funding resources, an owner or tenant of residential property located in the State is  
13 entitled to a rebate for installation of qualified, efficient home heating equipment as  
14 defined by the trust. The rebate must be available for both space heating and water  
15 heating systems, including but not limited to efficient oil and gas boilers, electric heating  
16 systems and biomass, solar and geothermal systems. The rebate must be available for  
17 replacement and supplemental heating equipment. Equipment must be installed by a  
18 qualified installer. The rebate for qualified home heating equipment must be 5% of the  
19 purchase price, not to exceed \$500. In the case of a newly constructed residence, the  
20 rebate must be available to the original owner or occupant.

21 **2. Energy audit requirement.** To qualify for a rebate under this section, an owner  
22 or tenant of residential property must demonstrate to the satisfaction of the trust that an  
23 energy audit has been completed.

24 **3. Limitation to residents of State.** Participation in the program established in this  
25 section is limited to residents of the State.

26 **4. Funding.** The trust shall identify up to \$1,000,000 from existing resources to  
27 fund the rebate program established in this section. Additional funding may be derived  
28 from existing funding sources available to the trust, including the Regional Greenhouse  
29 Gas Initiative Trust Fund, the Energy Efficiency and Renewable Resource Fund,  
30 electricity and natural gas system benefit charges, forward capacity market revenues and  
31 other sources proportional to the applicable technology employed.

32 **SUMMARY**

33 This bill amends the Efficiency Maine Trust Act to change the governance and  
34 budget structures; to place an equal emphasis on programs regarding alternative heating  
35 energy sources and energy efficiency; to establish cost-effective heating rebates and loan  
36 programs; and to expand a voluntary renewable resource fund to include energy  
37 efficiency.