

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 section 2 in subsection 2 in the 2nd line (page 1, line 13 in L.D.) by striking out the following: "independent" and inserting the following: 'independent'

Amend the bill in section 2 in subsection 2 by striking out all of paragraph B (page 1, lines 37 to 39 in L.D.) and inserting the following:

‘B. The board shall elect a chair, a vice-chair, a secretary and a treasurer from among the members. Each officer serves for a one-year term and is eligible for reelection.’

Amend the bill by striking out all of section 3 (page 2, lines 4 to 13 in L.D.) and inserting the following:

‘**Sec. 3. 35-A MRSA §10104, sub-§4, ¶B-1** is enacted to read:

B-1. In developing the triennial plan, the trust shall provide the joint standing committee of the Legislature having jurisdiction over energy matters an opportunity to provide input on the plan, which may occur at the same time the trust consults with other entities in the development of the plan.

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

**12. Budget transparency.** The trust shall provide on January 30th and July 30th of each year to the joint standing committee of the Legislature having jurisdiction over energy matters a report that includes the trust's revenues and program expenses for the current fiscal year and program budgets for the next fiscal year for all the trust's funds and programs, whether or not subject to legislative allocation. The report must indicate any significant departures from the triennial plan approved pursuant to subsection 4 or an updated plan approved pursuant to subsection 6. After receiving a report, the joint standing committee of the Legislature having jurisdiction over energy matters may report out legislation relating to the trust. In accordance with applicable provisions of Title 5, chapter 149, the trust shall also prepare and submit to the State Budget Officer for inclusion in the budget of the State Government the amount of any funds administered by the trust that require legislative allocation in the budget. The joint standing committee of the Legislature having jurisdiction over energy matters shall make recommendations to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs with regard to any proposed allocation of the trust's funds in any budget legislation. Within 30 days after enactment of legislation that includes an allocation of funds that affects the trust's triennial plan, the trust shall make any necessary adjustments to the triennial plan.’

Amend the bill by striking all of sections 6, 7 and 8 and inserting the following:

‘**Sec. 6. 35-A MRSA §10111, sub-§2**, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

**2. Funding level.** The natural gas conservation fund, which is a nonlapsing fund, is established to carry out the purposes of this section. The commission shall assess each gas utility that serves at least 5,000 residential customers an amount that is no less than 3% of the gas utility's delivery revenues as

defined by commission rule. In accordance with the triennial plan, the commission may assess a higher amount. All amounts collected under this subsection must be transferred to the natural gas conservation 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.

The assessments charged to gas utilities under this section are just and reasonable costs for rate-making purposes and must be reflected in the rates of gas utilities.

All funds collected pursuant to this section are collected under the authority and for the purposes of this section and are deemed to be held in trust for the purposes of benefiting natural gas consumers served by the gas utilities assessed under this subsection. In the event funds are not expended or contracted for expenditure within 2 years of being collected from consumers, the commission shall return the value of those funds to consumers by appropriate reductions in the assessment collected pursuant to this subsection.

Rules adopted by the commission under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

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

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

- A. Include a mechanism for customers to indicate their willingness to make contributions;
- B. Provide that transmission and distribution utilities collect and account for the contributions and forward them to the trust;
- C. Provide for a distribution of the funds through a competitive bid process to the University of Maine System, the Maine Maritime Academy or the Maine Community College System for energy efficiency and renewable resource research and development;
- D. Provide for a distribution of the funds through a competitive bid process to Maine-based nonprofit organizations that qualify under the federal Internal Revenue Code, Section 501(c)(3), consumer-owned transmission and distribution utilities, community-based nonprofit organizations, community action programs, municipalities, quasi-municipal corporations or districts as defined in Title 30-A,

section 2351, community-based renewable energy projects as defined in section 3602, subsection 1 and school administrative units as defined in Title 20-A, section 1 for community demonstration projects using energy efficiency and renewable energy technologies;

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

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

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

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

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

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

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

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

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

A. Selection criteria for the competitive bid process pursuant to subsection 1, paragraphs C and D, including, but not limited to, the cost-effectiveness of the project or development and the likelihood that the renewable energy technology will be adopted on a broader scale in this State; and

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

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

**Sec. 8. Report.** The Governor's Office of Energy Independence and Security or its successor shall provide to the joint standing committee of the Legislature having jurisdiction over energy matters by January 15, 2013 a report of its assessment of the Efficiency Maine Trust's effectiveness in delivering natural gas conservation programs pursuant to the Maine Revised Statutes, Title 35-A, Section 10111. The assessment must include, but need not be limited to:

1. The annual cost of the natural gas system benefit charge on the average residential, commercial and industrial customer;
2. The number of programs operated by the Efficiency Maine Trust that are designed to benefit natural gas customers in the service territory of the natural gas utility that is assessed the natural gas system benefit charge; and
3. The proportion of the natural gas system benefit charge that is delivered as benefits to customers and the proportion that is expended on administrative costs.

**Sec. 9. Efficient heating equipment report.** The Efficiency Maine Trust shall report to the joint standing committee of the Legislature having jurisdiction over energy matters by March 31, 2013 its findings and recommendations relating to efficient heating options for residential and small business consumers. The report must be based on the results of the Efficiency Maine Trust's competitive heating equipment innovation project, low-income heating equipment installations and any other relevant research or activities conducted by or available to the trust. The report must include information on the cost-effectiveness of different heating equipment options and whether and to what degree the Efficiency Maine Trust's programs are assisting consumers in this State in improving the efficiency of their heating systems. The report must include a description of what constitutes efficient electric heating equipment and provide any findings of the Efficiency Maine Trust regarding the effectiveness of emerging electric technologies, as well as any findings regarding efficient use of oil, gas, wood or other fuels. The report must identify any market barriers or impediments to consumers installing more efficient heating systems, as well as any administrative, funding or policy barriers affecting the Efficiency Maine Trust's ability to assist consumers in installing efficient heating systems. The report must specifically identify options for any changes in statute or rules needed to provide loans or utility on-bill financing to consumers for efficient heating equipment.

**Sec. 10. Pilot program.** Notwithstanding any other provision of law, in accordance with this section, a transmission and distribution utility may develop and implement, upon approval of the Public Utilities Commission, a pilot program within its service territory to measure the effectiveness of efficient electric heating systems and may advertise the availability of its pilot program to its customers.

**1. Approval; rate-making treatment.** A transmission and distribution utility must submit its proposed pilot program to the Public Utilities Commission for approval. The commission shall examine the proposal and, if it finds the proposal is reasonably designed and consistent with the provisions of this

section, shall approve the pilot program. For rate-making purposes under the Maine Revised Statutes, Title 35-A, chapter 3, the commission shall treat the activities of a transmission and distribution utility under an approved pilot program as regulated activities of the utility.

**2. Program elements.** Under an approved pilot program, a transmission and distribution utility:

A. May provide efficient electric heat pumps or electric thermal storage units to up to 500 residential or small business customers within its service territory;

B. Must determine that the overall energy costs to each customer participating in the pilot program will decrease as a result of participation in the pilot program, as measured by the customer's overall energy costs, regardless of the source of energy, and the financing costs associated with participation in the pilot program;

C. May provide on-bill financing to customers participating in the pilot program on terms and conditions and cost of capital approved by the Public Utilities Commission. The terms of any financing may not exceed 5 years and any delinquency or bad debt expenses must be recovered through the pilot program, as approved by the commission, and may not be recovered from the transmission and distribution utility's ratepayers;

D. May offer rebates to participating customers to be applied to the total installation cost of the efficient electric heat pumps or electric thermal storage units; and

E. May enroll customers in the pilot program only until December 31, 2013.

**3. Measurement and analysis; report.** Each transmission and distribution utility that implements a pilot program under this section shall measure and report to the Public Utilities Commission by November 15, 2013 on:

A. The overall reduction in energy use by participating customers;

B. The reduction in energy costs for participating customers;

C. The repayment experience of participating customers;

D. The effectiveness of the heating equipment installed under the pilot program;

E. The extent to which participating customers also took advantage of any programs offered by the Efficiency Maine Trust; and

F. The effect of the program on the electric grid, including effects during off-peak and peak times and seasons.

The Public Utilities Commission shall analyze the reports submitted under this subsection and shall submit those reports, together with any analyses, findings or recommendations of the commission related to the reports and the pilot programs to the joint standing committee of the Legislature having jurisdiction over energy matters by January 15, 2014.'

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

## **SUMMARY**

This amendment accomplishes the following:

1. It preserves that portion of the bill that renames and expands the Renewable Resource Fund to include energy efficiency, but removes all the other changes made by the bill to that fund;
2. It preserves that portion of the bill that clarifies that the Efficiency Maine Trust is a body corporate and politic and a public instrumentality of the State, but removes the changes to the board made by the bill;
3. It replaces the portion of the bill relating to the Efficiency Maine Trust budget to clarify and maintain the current allocation process for those funds of the trust that are collected by the Public Utilities Commission for use by the trust and subject to allocation. It directs the joint standing committee of the Legislature having jurisdiction over energy matters to make recommendations to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs with respect to any proposed allocation of the trust's funds. It also adds a requirement that the trust provide semiannual budget reports to the joint standing committee of the Legislature having jurisdiction over energy matters that include all the trust's revenues and expenses for the current and next fiscal years and that identify any significant departures from the trust's triennial plan. That committee is authorized to report out legislation relating to the trust upon review of the report;
4. It adds a provision directing the Efficiency Maine Trust to provide the joint standing committee of the Legislature having jurisdiction over energy matters an opportunity to provide input during the development of the trust's triennial plan;
5. It preserves that portion of the bill that adds a standard indemnification provision for trustees of the Efficiency Maine Trust;
6. It preserves that portion of the bill that directs the Efficiency Maine Trust to develop in partnership with energy providers and transmission and distribution utilities programs to provide customers with information on energy options to promote efficiency and alternative energy resources;
7. It replaces the portions of the bill that created an efficient electric heat program and home heating equipment rebate program with an authorization for transmission and distribution utilities to develop and implement pilot programs to measure the effectiveness of electric heat pumps and electric thermal storage units. The pilot programs are subject to review and approval by the Public Utilities Commission. Each transmission and distribution utility may provide up to 500 heating units within its service territory. It also directs the Efficiency Maine Trust to report to the joint standing committee of the Legislature having jurisdiction over energy matters by March 31, 2013 on its findings and recommendations relating to efficient heating options for residential and small business consumers; and
8. It adds additional provisions that provide that natural gas conservation programs administered by the Efficiency Maine Trust must ensure that the programs benefit the consumers served by the gas utilities assessed under the natural gas conservation programs and directs the Governor's Office of Energy Independence and Security or its successor to assess the trust's effectiveness in delivering these programs.

## **FISCAL NOTE REQUIRED**

**(See attached)**