

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 by inserting after the enacting clause and before section 1 the following:

**Sec. 1. 2 MRSA §9**, as amended by PL 2013, c. 415, §§1 to 4 and c. 541, §1, is repealed.

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

**3. Administration of trust; director.** ~~The board shall appoint, using a full and competitive search process, a qualified full-time director of the trust. The Governor shall appoint the Director of the Efficiency Maine Trust, subject to review by the joint standing committee of the Legislature having jurisdiction over energy matters and approval by the Senate. The director serves at the pleasure of the board and shall apprise the Commissioner of the Maine Energy Office regarding the execution of the director's responsibilities. The director must have demonstrated experience in the planning, design or delivery of energy efficiency programs or the management of organizations that plan, design or deliver those programs.~~ The board shall establish the rate and amount of compensation of the director and all other employees of the trust. The director:

A. Serves as the president of the trust and as the liaison between the board and any committee of the Legislature having jurisdiction over energy matters;

B. Is responsible for:

(1) Establishing an office for the trust;

(2) Hiring and organizing staff for the trust and determining their qualifications and duties; and

(3) Managing the trust's programs, services and staff and performing other duties as the board considers appropriate; and

C. May delegate to employees of the trust any powers and duties that the director considers proper.

**Sec. 3. 35-A MRSA §10104, sub-§4**, as amended by PL 2013, c. 369, Pt. A, §§10 to 13, is further amended to read:

**4. Triennial plan.** The board shall vote on a detailed, triennial, energy efficiency, alternative energy resources and conservation plan that includes the quantifiable measures of performance developed under subsection 3 and make a full report of the vote to the commission in accordance with this subsection. The triennial plan must provide integrated planning, program design and implementation strategies for all energy efficiency, alternative energy resources and conservation programs administered by the trust, including but not limited to the electric efficiency and conservation programs under section 10110, the natural gas efficiency and conservation programs under section 10111, the Regional Greenhouse Gas

Initiative Trust Fund under section 10109, the Heating Fuels Efficiency and Weatherization Fund under section 10119 and any state or federal funds or publicly directed funds accepted by or allocated to the trust for the purposes of this chapter. The triennial plan must include provisions for the application of appropriate program funds to support workforce development efforts that are consistent with and promote the purposes of the trust. Beginning January 1, 2011, the triennial plan must specify the appropriate participation of the State in national and regional carbon markets. The plan must be consistent with the comprehensive state energy plan pursuant to ~~Title 2~~, section ~~910205~~, subsection ~~3~~, ~~paragraph C2~~.

A. The triennial plan must be developed by the trust, in consultation with entities and agencies engaged in delivering efficiency programs in the State, to authorize and govern or coordinate implementation of energy efficiency and weatherization programs in the State. The triennial plan must identify all achievable cost-effective energy efficiency savings and related programs that could be implemented pursuant to sections 10110 and 10111, the costs and benefits of such programs and the basis and support for such identified costs and benefits. The trust shall conduct an evaluation of all cost-effective potential for electrical and natural gas energy efficiency savings in the State at least once every 5 years.

(1) Transmission and distribution utilities and natural gas utilities shall furnish data to the trust that the trust requests under this subsection to develop and implement the triennial plan or conduct the evaluation of all cost-effective potential for electrical and natural gas energy efficiency savings subject to such confidential treatment as a utility may request and the board determines appropriate pursuant to section 10106. The costs of providing the data are deemed reasonable and prudent expenses of the utilities and are recoverable in rates.

B. In developing the triennial plan, the staff of the trust shall consult the board and provide the opportunity for the board to provide input on drafts of the plan.

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.

C. The board shall review and approve the triennial plan by affirmative vote of 2/3 of the trustees upon a finding that the plan is consistent with the statutory authority for each source of funds that will be used to implement the plan, advances the state energy efficiency targets in paragraph F and reflects the best practices of program administration under subsection 2. The plan must include, but is not limited to, efficiency and conservation program budget allocations, objectives, targets, measures of performance, program designs, program implementation strategies, timelines and other relevant information.

D. Prior to submission of the triennial plan to the commission, the trust shall offer to provide a detailed briefing on the draft plan to the joint standing committee of the Legislature having jurisdiction over energy matters and, at the request of the committee, shall provide such a briefing and opportunity for input from the committee. After providing such opportunity for input and making any changes as a result of any input received, the board shall deliver the plan to the commission for

its review and approval. The commission shall open an adjudicatory proceeding and issue an order either approving the plan and issuing the appropriate orders to transmission and distribution utilities and gas utilities or rejecting the plan and stating the reasons for the rejection. The commission shall reject elements of the plan that propose to use funds generated pursuant to sections 3210-C, 10110, 10111 or 10119 if the plan fails to reasonably explain how these elements of the program would achieve the objectives and implementation requirements of the programs established under those sections or the measures of performance under subsection 3. Funds generated under these statutory authorities may not be used pursuant to the triennial plan unless those elements of the plan proposing to use the funds have been approved by the commission. The commission shall approve all elements of the triennial plan it determines to be cost-effective, reliable and achievable and shall incorporate into gas utility and transmission and distribution rates sufficient revenue to provide for the procurement of energy efficiency resources identified within the plan pursuant to section 10110, subsection 4-A and section 10111, subsection 2. The commission shall approve or reject the entire plan or elements of the plan within 120 days of its delivery to the commission. The board, within 30 days of final commission approval of its plan, shall submit the plan to the joint standing committee of the Legislature having jurisdiction over energy matters together with any explanatory or other supporting material as the committee may request and, at the request of the committee, shall provide a detailed briefing on the final plan. After receipt of the plan, the joint standing committee of the Legislature having jurisdiction over energy matters may submit legislation relating to the plan.

E. The trust shall determine the period to be covered by the triennial plan except that the period of the plan may not interfere with the delivery of any existing contracts to provide energy efficiency services that were previously procured pursuant to efficiency and conservation programs administered by the commission.

F. It is an objective of the triennial plan to design, coordinate and integrate sustained energy efficiency and weatherization programs that are available to all energy consumers in the State and to users of all fuel types. The plan must set forth the costs and benefits of energy efficiency programs that advance the following goals, and funding necessary to meet those goals:

- (1) Reducing energy costs, including residential heating costs;
- (2) Weatherizing substantially all homes whose owners or occupants are willing to participate in and share the costs of cost-effective home weatherization to a minimum standard of weatherization, as defined by the trust, by 2030;
- (3) Reducing peak-load demand for electricity through trust programs by 300 megawatts by 2020;
- (4) By 2020, achieving electricity and natural gas program savings of at least 20% and heating fuel savings of at least 20%, as defined in and determined pursuant to the measures of performance approved by the commission under section 10120;

(5) Creating stable private sector jobs providing alternative energy and energy efficiency products and services in the State by 2020; and

(6) Reducing greenhouse gas emissions from the heating and cooling of buildings in the State by amounts consistent with the State's goals established in Title 38, section 576.

The trust shall preserve when possible and appropriate the opportunity for carbon emission reductions to be monetized and sold into a voluntary carbon market. Any program of the trust that supports weatherization of buildings must be voluntary and may not constitute a mandate that would prevent the sale of emission reductions generated through weatherization measures into a voluntary carbon market.

Except when specifically provided in the individual goals under this paragraph, the trust may consider expected savings from market effects not attributable to the trust as well as efforts by other organizations, including but not limited to federally funded low-income weatherization programs.

As used in this paragraph, "heating fuel" means liquefied petroleum gas, kerosene or #2 heating oil, but does not include fuels when used for industrial or manufacturing processes.'

Amend the bill by inserting after section 1 the following:

'**Sec. 5. 35-A MRSA Pt. 9** is enacted to read:

## **PART 9**

### **MAINE ENERGY OFFICE**

#### **CHAPTER 101**

### **MAINE ENERGY OFFICE**

#### **§ 10201. Definitions**

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings.

**1. Board.** "Board" means the Efficiency Maine Trust Board, established in Title 5, section 12004-G, subsection 10-C.

**2. Commissioner.** "Commissioner" means the Commissioner of the Maine Energy Office.

**3. Office.** "Office" means the Maine Energy Office.

**4. Trust.** "Trust" means the Efficiency Maine Trust established in section 10103.

## **§ 10202. Office established**

**1. Establishment.** The Maine Energy Office is established in the Executive Department to carry out responsibilities of the State relating to energy resources, planning and development. The office is directly responsible to the Governor.

## **§ 10203. Commissioner; deputy commissioner; staff**

The office is under the control and supervision of the Commissioner of the Maine Energy Office, who reports directly to the Governor.

**1. Commissioner.** The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over energy matters and to confirmation by the Senate. The commissioner serves at the pleasure of the Governor.

**2. Deputy commissioner.** The deputy commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over energy matters and to confirmation by the Senate. The deputy commissioner serves at the pleasure of the Governor.

**3. Staff.** The commissioner may employ personnel as necessary to carry out the work of the office.

## **§ 10204. Funding**

The office is funded in accordance with this section.

**1. Federal funds.** The office is funded by federal funds that are available to and received by the office. Such federal funds may be applied to support the personal services and all other costs of the office.

**2. Efficiency Maine Trust funds.** An amount equal to \$300,000 from the trust must be transferred annually to the office.

**3. Additional funds.** Any additional funding of the office must be provided from the General Fund or other available resources.

## **§ 10205. Powers and duties of commissioner**

The commissioner is responsible for the execution of the duties of the office. The commissioner shall:

**1. Energy policy.** In collaboration with the relevant state agencies, coordinate state energy policy and actively foster cooperation with the trust;

**2. Comprehensive state energy plan.** In consultation with the board, prepare and submit an updated comprehensive state energy plan to the Governor and the Legislature by January 15th of every odd-numbered year. Within the comprehensive state energy plan, the commissioner shall identify

opportunities to lower the total cost of energy to consumers in this State and transmission capacity and infrastructure needs and recommend appropriate actions to lower the total cost of energy to consumers in this State and facilitate the development and integration of new renewable energy generation within the State and support the State's renewable resource portfolio requirements specified in section 3210 and wind energy development goals specified in section 3404. The comprehensive state energy plan must include a section that specifies the State's progress in meeting the oil dependence reduction targets in section 10207. The office shall make recommendations, if needed, for additional legislative and administrative actions to ensure that the State can meet the reduction targets in section 10207. The recommendations must include a cost and resource estimate for technology development needed to meet the reduction targets.

A. Beginning in 2015, the update to the plan must:

(1) Be submitted to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters and the joint standing committee of the Legislature having jurisdiction over natural resources matters;

(2) Address the association between energy planning and meeting the greenhouse gas reduction goals in the state climate action plan pursuant to Title 38, section 577. The commissioner shall consult with the Department of Environmental Protection in developing this portion of the plan;

(3) Include a section devoted to wind energy development, including:

(a) The State's progress toward meeting the wind energy development goals established in section 3404, subsection 2, including an assessment of the likelihood of achieving the goals and any recommended changes to the goals;

(b) Examination of the permitting process and any recommended changes to the permitting process;

(c) Identified successes in implementing the recommendations contained in the February 2008 final report of the Governor's Task Force on Wind Power Development created by executive order issued May 8, 2007;

(d) A summary of tangible benefits provided by expedited wind energy developments, including, but not limited to, documentation of community benefits packages and community benefit agreement payments provided;

(e) A review of the community benefits package requirement under section 3454, subsection 2, the actual amount of negotiated community benefits packages relative to the statutorily required minimum amount and any recommended changes to community benefits package policies;

(f) Projections of wind energy developers' plans, as well as technology trends and their state policy implications;

(g) Recommendations, including, but not limited to, identification of places within the State's unorganized and deorganized areas for inclusion in the expedited permitting area established pursuant to chapter 34-A and the creation of an independent siting authority to consider wind energy development applications;

(4) Include a description of activities undertaken pursuant to subsection 8; and

(5) Include a description of the State's activities relating to the expansion of natural gas service, any actions taken by the office to expand access to natural gas in the State and any recommendations for actions by the Legislature to expand access to natural gas in the State.

The joint standing committee of the Legislature having jurisdiction over utilities and energy matters may report out legislation by February 1st of each odd-numbered year relating to the content of the plan. The joint standing committee of the Legislature having jurisdiction over natural resources matters may make recommendations regarding that legislation to the joint standing committee of the Legislature having jurisdiction over energy matters.

**3. Annual report.** By January 15th of each year, prepare and submit to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters an annual report that describes the activities of the office during the previous calendar year in carrying out its duties under this subsection and describes the State's progress in implementation of the state energy plan prepared pursuant to subsection 2. After receipt and review of the annual report required under this subsection, the joint standing committee of the Legislature having jurisdiction over utilities and energy matters may submit legislation relating to energy policy;

**4. Collect and analyze data.** In collaboration with other relevant state agencies, private industry and nonprofit organizations, collect and analyze energy data, including, but not limited to, data on energy supply, demand and costs in this State with consideration of all available energy sources;

**5. Information to public.** Coordinate the dissemination of energy information to the public and the media;

**6. Information to Governor, Legislature.** Provide technical assistance and information to the Governor and the Legislature regarding the State's short-range and long-range energy needs and the resources to meet those needs;

**7. Funds.** Seek, accept and administer funds from public and private sources and develop partnerships with public and private entities to support the goals of the office, including, but not limited to, promoting energy efficiency, demand-side management and distributed generation;

**8. Agreements.** Work with transmission and distribution utilities, state agencies involved in the permitting of energy generation facilities and other relevant entities to negotiate agreements that create value for electricity consumers with developers of renewable generation who are interested in building energy generation facilities or developing or utilizing energy transmission infrastructure in this State. This subsection does not authorize the commissioner to be a signatory to any such agreement unless that authority is otherwise granted by law;

**9. Make recommendations.** Monitor energy transmission capacity planning and policy affecting this State and the regulatory approval process for the development of energy infrastructure pursuant to section 122 and make recommendations to the Governor and the Legislature as necessary for changes to the relevant laws and rules to facilitate energy infrastructure planning and development; and

**10. Additional action.** Take action as necessary to carry out the goals and objectives of the state energy plan prepared pursuant to subsection 2, including lowering the total cost of energy to consumers in this State.

### **§ 10206. Advice to state agencies**

The commissioner shall advise state agencies regarding energy-related principles for agencies to consider, along with the laws and policies governing those agencies, in conjunction with the sale, lease or other allowance for use of state-owned land or assets for the purpose of development of energy infrastructure. For the purposes of this section, "state-owned" and "energy infrastructure corridor" have the same meanings as in section 122, subsection 1. At a minimum, the commissioner shall consider the following principles in advising state agencies under this subsection:

**1. Public interest.** The principles for the determination of the long-term public interest of the State as specified in section 122, subsection 1-D, paragraph B;

**2. Constitution of Maine.** Avoiding wherever possible the use of lands subject to the provisions of the Constitution of Maine, Article IX, Section 23;

**3. Strategic location.** Maximizing the benefit realized from the State's strategic location within New England and the northeastern region; and

**4. Memorandum of agreement.** Complying with the provisions of the memorandum of agreement between the Maine Turnpike Authority and the Department of Transportation under section 122, subsection 1-C, when applicable.

Nothing in this section alters any of the responsibilities or limits any of the authority of the Department of Administrative and Financial Services, Bureau of General Services pursuant to Title 5. Nothing in this section alters or limits the ability of departments or agencies of the State, along with the Bureau of General Services pursuant to Title 5, to generate or cogenerate energy at state facilities for use on site and elsewhere.

### **§ 10207. Oil dependence reduction plan**

The office, with input from stakeholders and in consultation with the trust, shall develop a plan to reduce the use of oil in all sectors of the economy in this State. The plan must:

**1. Targets for reducing oil consumption.** Be designed to achieve the targets of reducing the State's consumption of oil by at least 30% from 2007 levels by 2030 and by at least 50% from 2007 levels by 2050;

**2. Policies; infrastructure.** Focus on near-term policies and infrastructure changes that set the State on a reasonable trajectory to meet the 2030 and 2050 targets in subsection 1;

**3. Alternative energy sources.** Prioritize the improvement of energy efficiency and the transition to the use of alternative energy sources for heating and transportation; and

**4. Existing data.** Draw on existing state data and studies rather than new analyses, including, but not limited to, analyses and data from the State's climate action plan pursuant to Title 38, section 577 and the progress updates to the climate action plan under Title 38, section 578, the comprehensive state energy plan pursuant to section 10205, subsection 2, the trust's triennial plan pursuant to section 10104, subsection 4 and analyses completed by the Federal Government, nonprofit organizations and other stakeholders.

### **§ 10208. Maine Energy Resources Development Program**

The Maine Energy Resources Development Program, referred to in this section as "the program," is established to promote energy research and demonstration activities related to both the use of indigenous, renewable resources and more efficient use of energy. The office, as funding allows, shall administer the program. The commissioner may accept private money for the purpose of funding the program.

**1. Report.** The commissioner shall include, in the comprehensive state energy plan under section 10205, subsection 2, a report that specifies, in regard to the program, the expenditure of program funds, the purposes for which the funds were used and the amount of the funds and the sources from which the funds were derived.

**2. Approval.** For all proposed program expenditures of \$10,000 or more, the commissioner shall seek approval for those expenditures from the Governor. If the Governor approves, the commissioner shall seek approval for those expenditures from the Legislature under the procedures authorizing the transfer of funds set forth in Title 5, section 1585.

### **§ 10209. Reporting of petroleum inventories and deliveries**

The following provisions govern the reporting of petroleum inventories and deliveries.

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

A. "Petroleum product" means propane; gasoline; unleaded gasoline; gasohol; kerosene; #2 heating oil; diesel fuel; kerosene-based jet fuel; aviation gasoline; #4, #5 and #6 residual oil for utility and nonutility uses; and Bunker C oil;

B. "Primary storage facility" means a facility that receives petroleum products into the State by pipeline or by ship; and

C. "Primary supplier" means a refiner, marketer, distributor, firm or person who makes the first sale of any petroleum product to resellers or consumers in this State.

**2. Primary storage facility; report.** Each owner or lessee of a primary storage facility in the State shall make an accurate report of petroleum inventories and deliveries on the first and 3rd Monday of each month to the office on a form provided by the commissioner. The form must contain a conspicuous statement of the penalties provided in subsection 4 and must require, with regard to the owner's or lessee's primary storage facility, the following information:

A. The total inventory of each petroleum product stored in the State, as measured within not more than 3 working days prior to the reporting date; and

B. The quantities of each petroleum product delivery expected into the State within 15 days of the reporting date or within any longer period established by the commissioner.

**3. Primary supplier; report.** Each primary supplier of petroleum products shall make an accurate report of actual and anticipated deliveries on the 3rd Monday of each month to the office on a form provided by the commissioner, unless the report is already being submitted in accordance with federal regulations. The form must contain a conspicuous statement of the penalties provided in subsection 4 and must require the following information:

A. Actual deliveries of all petroleum products in this State during the preceding calendar month;

B. Anticipated deliveries of all petroleum products in this State during the following calendar month or during any longer period established by the commissioner; and

C. Allocation fractions for all petroleum products for the following month or for any longer period established by the commissioner.

**4. Violation.** A person who violates this section is subject to the following penalties.

A. An owner or lessee of a primary storage facility or a primary supplier who fails to provide the information required by this section commits a Class D crime. Violation of this paragraph is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

B. An owner or lessee of a primary storage facility or a primary supplier who knowingly or recklessly supplies false or misleading information is guilty of a violation of Title 17-A, section 453. An owner or lessee of a primary storage facility who supplies false or misleading information commits a civil violation for which a fine of \$2,500 may be adjudged.

**5. Report to Legislature.** The office shall provide reports to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters as follows:

A. If the office determines, based on available information, that there is or may be a significant shortfall in supply inventories or anticipated deliveries into the State of home heating oil or kerosene, the office shall provide a report including:

(1) The information that suggests a supply shortfall;

(2) Current and anticipated inventories of home heating oil and kerosene storage supplies;

(3) Any recommendations of the office for actions by the State in response to the anticipated supply shortfall; and

(4) A report on inventories, deliveries, curtailments, shortfalls or other matters relating to the availability of petroleum products in this State, at the request of the joint standing committee of the Legislature having jurisdiction over utilities and energy matters.

**Sec. 6. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 35-A, in the title headnote, the words "public utilities" are amended to read "public utilities and energy" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. 7. Maine Revised Statutes amended; revision clause.** Wherever in the Maine Revised Statutes the words "governor's energy office" appear or reference is made to that entity or those words, those words are amended to read or mean, as appropriate, "maine energy office" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. 8. Appropriations and allocations.** The following appropriations and allocations are made.

## **EXECUTIVE DEPARTMENT**

### **Governor's Energy Office Z122**

Initiative: Provides allocations of \$300,000 in fiscal years 2015-16 and 2016-17 for the establishment of a Deputy Director position and carrying out duties relating to energy resources, planning and development.

**OTHER SPECIAL REVENUE FUNDS**

**2015-16**

**2016-17**

POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$65,989	\$92,340
All Other	\$234,011	\$207,660
OTHER SPECIAL REVENUE FUNDS TOTAL	<hr/> \$300,000	<hr/> \$300,000

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

## SUMMARY

This amendment amends the bill to:

1. Rename the Governor's Energy Office the Maine Energy Office. It repeals the language in Title 2 that establishes the office and establishes it instead in Title 35-A, expands the headnote for Title 35-A and places the office under the control and supervision of a commissioner, rather than a director;
2. Specify that an amount equal to \$300,000 from Efficiency Maine Trust must be transferred annually to the Maine Energy Office; and
3. Establish in the Maine Energy Office a position of deputy commissioner, to be appointed by the Governor, subject to confirmation by the Senate.

The amendment also adds an appropriations and allocations section.