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Date: (Filing No. S-)

ENERGY, UTILITIES AND TECHNOLOGY

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
125TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 649, L.D. 1864, Bill, “An Act To Improve Efficiency Maine Trust Programs To Reduce Heating Costs and Provide Energy Efficient Heating Options for Maine’s Consumers”

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

COMMITTEE AMENDMENT

1 inclusion in the budget of the State Government the amount of any funds administered by
2 the trust that require legislative allocation in the budget. The joint standing committee of
3 the Legislature having jurisdiction over energy matters shall make recommendations to
4 the joint standing committee of the Legislature having jurisdiction over appropriations
5 and financial affairs with regard to any proposed allocation of the trust's funds in any
6 budget legislation. Within 30 days after enactment of legislation that includes an
7 allocation of funds that affects the trust's triennial plan, the trust shall make any necessary
8 adjustments to the triennial plan.'

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

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

12 **2. Funding level.** The natural gas conservation fund, which is a nonlapsing fund, is
13 established to carry out the purposes of this section. The commission shall assess each
14 gas utility that serves at least 5,000 residential customers an amount that is no less than
15 3% of the gas utility's delivery revenues as defined by commission rule. In accordance
16 with the triennial plan, the commission may assess a higher amount. All amounts
17 collected under this subsection must be transferred to the natural gas conservation fund.
18 Any interest on funds in the fund must be credited to the fund. Funds not spent in any
19 fiscal year remain in the fund to be used for the purposes of this section.

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

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

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

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

33 **§10121. Energy Efficiency and Renewable Resource Fund**

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

1 A. Include a mechanism for customers to indicate their willingness to make
2 contributions;

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

5 C. Provide for a distribution of the funds through a competitive bid process to the
6 University of Maine System, the Maine Maritime Academy or the Maine Community
7 College System for energy efficiency and renewable resource research and
8 development;

9 D. Provide for a distribution of the funds through a competitive bid process to
10 Maine-based nonprofit organizations that qualify under the federal Internal Revenue
11 Code, Section 501(c)(3), consumer-owned transmission and distribution utilities,
12 community-based nonprofit organizations, community action programs,
13 municipalities, quasi-municipal corporations or districts as defined in Title 30-A,
14 section 2351, community-based renewable energy projects as defined in section
15 3602, subsection 1 and school administrative units as defined in Title 20-A, section 1
16 for community demonstration projects using energy efficiency and renewable energy
17 technologies;

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

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

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

32 The trust may allocate funds pursuant to subsection 1, paragraphs C, D and F from the
33 fund to most effectively meet the objectives of the triennial plan pursuant to section
34 10104, subsection 4.

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

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

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

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

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

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

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

13 Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter
14 375, subchapter 2-A.

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

21 1. The annual cost of the natural gas system benefit charge on the average
22 residential, commercial and industrial customer;

23 2. The number of programs operated by the Efficiency Maine Trust that are designed
24 to benefit natural gas customers in the service territory of the natural gas utility that is
25 assessed the natural gas system benefit charge; and

26 3. The proportion of the natural gas system benefit charge that is delivered as
27 benefits to customers and the proportion that is expended on administrative costs.

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

1 report must specifically identify options for any changes in statute or rules needed to
2 provide loans or utility on-bill financing to consumers for efficient heating equipment.

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

8 **1. Approval; rate-making treatment.** A transmission and distribution utility must
9 submit its proposed pilot program to the Public Utilities Commission for approval. The
10 commission shall examine the proposal and, if it finds the proposal is reasonably
11 designed and consistent with the provisions of this section, shall approve the pilot
12 program. For rate-making purposes under the Maine Revised Statutes, Title 35-A,
13 chapter 3, the commission shall treat the activities of a transmission and distribution
14 utility under an approved pilot program as regulated activities of the utility.

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

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

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

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

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

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

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

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

36 B. The reduction in energy costs for participating customers;

37 C. The repayment experience of participating customers;

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

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

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

3 The Public Utilities Commission shall analyze the reports submitted under this subsection
4 and shall submit those reports, together with any analyses, findings or recommendations
5 of the commission related to the reports and the pilot programs to the joint standing
6 committee of the Legislature having jurisdiction over energy matters by January 15,
7 2014.'

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

10 **SUMMARY**

11 This amendment accomplishes the following:

12 1. It preserves that portion of the bill that renames and expands the Renewable
13 Resource Fund to include energy efficiency, but removes all the other changes made by
14 the bill to that fund;

15 2. It preserves that portion of the bill that clarifies that the Efficiency Maine Trust is
16 a body corporate and politic and a public instrumentality of the State, but removes the
17 changes to the board made by the bill;

18 3. It replaces the portion of the bill relating to the Efficiency Maine Trust budget to
19 clarify and maintain the current allocation process for those funds of the trust that are
20 collected by the Public Utilities Commission for use by the trust and subject to allocation.
21 It directs the joint standing committee of the Legislature having jurisdiction over energy
22 matters to make recommendations to the joint standing committee of the Legislature
23 having jurisdiction over appropriations and financial affairs with respect to any proposed
24 allocation of the trust's funds. It also adds a requirement that the trust provide semiannual
25 budget reports to the joint standing committee of the Legislature having jurisdiction over
26 energy matters that include all the trust's revenues and expenses for the current and next
27 fiscal years and that identify any significant departures from the trust's triennial plan.
28 That committee is authorized to report out legislation relating to the trust upon review of
29 the report;

30 4. It adds a provision directing the Efficiency Maine Trust to provide the joint
31 standing committee of the Legislature having jurisdiction over energy matters an
32 opportunity to provide input during the development of the trust's triennial plan;

33 5. It preserves that portion of the bill that adds a standard indemnification provision
34 for trustees of the Efficiency Maine Trust;

35 6. It preserves that portion of the bill that directs the Efficiency Maine Trust to
36 develop in partnership with energy providers and transmission and distribution utilities
37 programs to provide customers with information on energy options to promote efficiency
38 and alternative energy resources;

39 7. It replaces the portions of the bill that created an efficient electric heat program
40 and home heating equipment rebate program with an authorization for transmission and
41 distribution utilities to develop and implement pilot programs to measure the

1 effectiveness of electric heat pumps and electric thermal storage units. The pilot
2 programs are subject to review and approval by the Public Utilities Commission. Each
3 transmission and distribution utility may provide up to 500 heating units within its service
4 territory. It also directs the Efficiency Maine Trust to report to the joint standing
5 committee of the Legislature having jurisdiction over energy matters by March 31, 2013
6 on its findings and recommendations relating to efficient heating options for residential
7 and small business consumers; and

8 8. It adds additional provisions that provide that natural gas conservation programs
9 administered by the Efficiency Maine Trust must ensure that the programs benefit the
10 consumers served by the gas utilities assessed under the natural gas conservation
11 programs and directs the Governor's Office of Energy Independence and Security or its
12 successor to assess the trust's effectiveness in delivering these programs.

13 **FISCAL NOTE REQUIRED**

14 **(See attached)**