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Date: (Filing No. H-)

ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1251, L.D. 1757, Bill, “An Act To Clarify Certain Standards for the Efficiency Maine Trust’s Triennial Plan”

Amend the bill by inserting after the title and before the enacting clause the following:

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is necessary that this legislation take effect prior to the start of the next fiscal year for the Efficiency Maine Trust to remove uncertainty and prevent market disruption for Maine contractors, vendors and customers; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

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

Sec. 1. 30-A MRSA §4706, sub-§2, ¶D, as amended by PL 1993, c. 175, §3, is further amended to read:

D. In any litigation or proceeding in which an authority is a party, the authority may introduce evidence based on any information that is deemed confidential and is within the control or custody of the authority; ~~and~~

Sec. 2. 30-A MRSA §4706, sub-§2, ¶E, as enacted by PL 1993, c. 175, §4, is amended to read:

E. Any person or agency directly involved in the administration or auditing of weatherization, energy conservation or fuel assistance programs of the Maine State Housing Authority and any agency of the State with a legitimate reason to know must be given access to those records described in subsection 1, paragraphs C and D; ~~and~~

COMMITTEE AMENDMENT

1 **Sec. 3. 30-A MRSA §4706, sub-§2, ¶F** is enacted to read:

2 F. The Maine State Housing Authority may provide records to the Efficiency Maine
3 Trust pursuant to Title 35-A, section 10104, subsection 4, paragraph A, subparagraph
4 (2).'

5 Amend the bill by striking out all of section 2 and inserting the following:

6 '**Sec. 2. 35-A MRSA §10104, sub-§4**, as amended by PL 2013, c. 369, Pt. A,
7 §§10 to 13, is further amended to read:

8 **4. Triennial plan.** The board shall vote on a detailed, triennial, ~~energy efficiency,~~
9 ~~alternative energy resources and conservation~~ plan that includes the quantifiable measures
10 of performance metrics developed under subsection 3 and make a full report of the vote
11 to the commission in accordance with this subsection. The triennial plan must provide
12 integrated planning, program design and implementation strategies for all energy
13 efficiency, alternative energy resources and conservation programs administered by the
14 trust, including but not limited to the electric efficiency and conservation programs under
15 section 10110, the natural gas efficiency and conservation programs under section 10111,
16 the Regional Greenhouse Gas Initiative Trust Fund under section 10109, the Heating
17 Fuels Efficiency and Weatherization Fund under section 10119 and any state or federal
18 funds or publicly directed funds accepted by or allocated to the trust for the purposes of
19 this chapter. The triennial plan must include provisions for the application of appropriate
20 program funds to support workforce development efforts that are consistent with and
21 promote the purposes of the trust. ~~Beginning January 1, 2011, the triennial plan must~~
22 ~~specify the appropriate participation of the State in national and regional carbon markets.~~
23 The plan must ~~be consistent with~~ take into consideration the comprehensive state energy
24 plan pursuant to Title 2, section 9, subsection 3, paragraph C. The plan must include, but
25 is not limited to, efficiency and conservation program budget allocations, objectives,
26 targets, performance metrics, program designs, program implementation strategies,
27 timelines and other relevant information.

28 A. The triennial plan must be developed by the trust, in consultation with entities and
29 agencies engaged in delivering efficiency programs in the State, to authorize and
30 govern or coordinate implementation of energy efficiency and weatherization
31 programs in the State. The triennial plan must identify ~~all~~ the maximum achievable
32 cost-effective energy efficiency savings, ~~as defined by rule by the trust,~~ and related
33 programs that could be implemented pursuant to sections 10110 and 10111, the costs
34 and benefits of such programs and the basis and support for such identified costs and
35 benefits. The trust shall conduct an evaluation of ~~all~~ the maximum cost-effective
36 potential for electrical and natural gas energy efficiency savings in the State at least
37 once every ~~5~~ 3 years.

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

1 (2) Unless prohibited by federal law, the Maine State Housing Authority and the
2 Department of Health and Human Services shall furnish to the trust data
3 pertaining to the identity, location and contact information, but not including
4 income or asset information, of households that qualify for low-income
5 programs, as determined necessary by the trust to develop and implement the
6 triennial plan and to evaluate program effectiveness. Data received pursuant to
7 this subparagraph is deemed to be received by the commission and is subject to a
8 protective order issued by the commission pursuant to section 1311-A.

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

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

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

23 D. Prior to submission of the triennial plan to the commission, the trust shall offer to
24 provide a detailed briefing on the draft plan to the joint standing committee of the
25 Legislature having jurisdiction over energy matters and, at the request of the
26 committee, shall provide such a briefing and opportunity for input from the
27 committee. After providing such opportunity for input and making any changes as a
28 result of any input received, the board shall deliver the plan to the commission for its
29 review and approval. ~~The~~ At the request of the trust or any party to the triennial plan,
30 the commission shall open an adjudicatory proceeding and issue an order either
31 ~~approving the plan and issuing the appropriate orders to transmission and distribution~~
32 ~~utilities and gas utilities or rejecting the plan and stating the reasons for the rejection~~
33 ~~to review the triennial plan. If an adjudicatory proceeding is not requested, the~~
34 ~~commission may use an adjudicatory proceeding or other process to review the~~
35 ~~triennial plan. The commission shall review the triennial plan to determine whether it~~
36 ~~will capture the maximum achievable cost-effective energy efficiency savings. In~~
37 ~~conducting the review, the commission shall defer to the trust's calculations of energy~~
38 ~~savings as long as the calculations were conducted consistent with rules of the trust~~
39 ~~and are supported by evidence in the record and the trust used a reasonable and~~
40 ~~transparent process to make the technical determinations necessary to make those~~
41 ~~calculations. The commission shall reject elements of the plan that propose to use~~
42 ~~funds generated pursuant to sections 3210-C, 10110, 10111 or 10119 if the plan fails~~
43 ~~to reasonably explain how these elements of the program would achieve the~~
44 ~~objectives and implementation requirements of the programs established under those~~
45 ~~sections or the measures of performance metrics under subsection 3. If the~~

1 commission approves the triennial plan, the commission shall issue the appropriate
2 orders to transmission and distribution utilities and natural gas utilities for the
3 procurement of energy efficiency resources identified within the plan pursuant to
4 section 10110, subsection 4-A and section 10111, subsection 2. If the commission
5 rejects the triennial plan, the commission shall issue an order stating the reasons for
6 the rejection. Funds generated under these statutory authorities may not be used
7 pursuant to the triennial plan unless those elements of the plan proposing to use the
8 funds have been approved by the commission. ~~The commission shall approve all~~
9 ~~elements of the triennial plan it determines to be cost effective, reliable and~~
10 ~~achievable and shall incorporate into gas utility and transmission and distribution~~
11 ~~rates sufficient revenue to provide for the procurement of energy efficiency resources~~
12 ~~identified within the plan pursuant to section 10110, subsection 4-A and section~~
13 ~~10111, subsection 2.~~ The commission shall approve or reject the entire plan or
14 elements of the plan within 120 days of its delivery to the commission. The board,
15 within 30 days of final commission approval of ~~its~~ the triennial plan, shall submit the
16 triennial plan to the joint standing committee of the Legislature having jurisdiction
17 over energy matters together with any explanatory or other supporting material as the
18 committee may request and, at the request of the committee, shall provide a detailed
19 briefing on the ~~final~~ triennial plan. After receipt of the triennial plan, the joint
20 standing committee of the Legislature having jurisdiction over energy matters may
21 submit legislation relating to the triennial plan.

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

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

- 31 (1) Reducing energy costs, including residential heating costs;
- 32 (2) Weatherizing substantially all homes whose owners or occupants are willing
33 to participate in and share the costs of cost-effective home weatherization to a
34 minimum standard of weatherization, as defined by the trust, by 2030;
- 35 (3) Reducing peak-load demand for electricity through trust programs by 300
36 megawatts by 2020;
- 37 (4) By 2020, achieving electricity and natural gas program savings of at least
38 20% and heating fuel savings of at least 20%, as defined in and determined
39 pursuant to the ~~measures of performance~~ metrics approved by the commission
40 under section 10120;
- 41 (5) Creating stable private sector jobs providing alternative energy and energy
42 efficiency products and services in the State by 2020; and

1 (6) ~~Reducing~~ Contributing to the effort to reduce greenhouse gas emissions ~~from~~
2 the heating and cooling of buildings in the State by amounts consistent with the
3 State's goals greenhouse gas emission levels established in Title 38, section 576.

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

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

13 As used in this paragraph, "heating fuel" means liquefied petroleum gas, kerosene or
14 #2 heating oil, but does not include fuels when used for industrial or manufacturing
15 processes.

16 G. After the triennial plan is approved, the trust or any party to the triennial plan may
17 petition for, or the commission may initiate on its own, consideration of revising the
18 calculations of avoided energy costs used in the determination of maximum
19 achievable cost-effective energy efficiency resources pursuant to section 10110,
20 subsection 4-A or section 10111, subsection 2 upon a showing that, subsequent to the
21 publication of the avoided energy cost study relied upon, changes in price forecasts
22 would result in more than a 25% change in the value of avoided energy cost affecting
23 a significant portion of the program activity in the triennial plan.'

24 Amend the bill by striking out all of section 7 and inserting the following:

25 '**Sec. 7. 35-A MRSA §10111, sub-§2**, as amended by PL 2017, c. 358, §1, is
26 further amended to read:

27 **2. Natural gas conservation fund; procurement level.** The natural gas
28 conservation fund, which is a nonlapsing fund, is established to carry out the purposes of
29 this section. ~~The commission shall assess each gas utility, in accordance with the~~
30 ~~triennial plan, an amount necessary to capture all cost-effective energy efficiency that is~~
31 ~~achievable and reliable for those consumers who are eligible to receive funds from the~~
32 ~~natural gas conservation fund~~ ensure that gas utilities on behalf of their ratepayers
33 procure through the trust the maximum achievable cost-effective natural gas energy
34 efficiency and conservation resources pursuant to section 10104, subsection 4. The
35 commission may issue any appropriate order to the gas utilities necessary to achieve the
36 goals of this subsection, including the collection of funds for the procurement of cost-
37 effective energy efficiency resources. The commission shall direct a gas utility that
38 collects any ~~portion of the assessment funds~~ under this subsection from a customer that is
39 a large-volume manufacturer and large-volume agricultural business to collect the
40 ~~assessment funds~~ only on the first 1,000,000 centum cubic feet of natural gas used by that
41 manufacturer or agricultural business in each year. The limitation on the collection of the
42 ~~assessment funds~~ from large-volume manufacturers and large-volume agricultural
43 businesses may not affect the trust's determination of the amount necessary to capture all
44 cost-effective energy efficiency that is achievable and reliable. The limitation does not

1 ~~limit~~ prohibit the eligibility of a large-volume manufacturer or large-volume agricultural
2 business to participate in a natural gas conservation program. All amounts collected
3 under this subsection must be transferred to the natural gas conservation fund. Any
4 interest on funds in the fund must be credited to the fund. Funds not spent in any fiscal
5 year remain in the fund to be used for the purposes of this section.

6 The ~~assessments charged to~~ funds collected from gas utilities under this section are just
7 and reasonable costs for rate-making purposes and must be reflected in the rates of gas
8 utilities.

9 All funds collected pursuant to this section are collected under the authority and for the
10 purposes of this section and are deemed to be held in trust for the purposes of benefiting
11 natural gas consumers served by the gas utilities assessed under this subsection. In the
12 event funds are not expended or contracted for expenditure within 2 years of being
13 collected from consumers, the commission shall ensure that the value of those funds is
14 returned to consumers.

15 For purposes of this subsection, "large-volume manufacturer" means a customer that is a
16 gas utility ratepayer engaged in manufacturing in the State and purchases at least
17 1,000,000 centum cubic feet of natural gas per year. For purposes of this subsection,
18 "large-volume agricultural business" means a customer that is a gas utility ratepayer that
19 purchases at least 1,000,000 centum cubic feet of natural gas per year and is engaged in
20 the commercial growing or harvesting of plants or commercial aquaculture, as defined in
21 Title 12, section 6001, subsection 1, in the State.

22 When determining the maximum achievable cost-effective natural gas energy efficiency
23 resources, the commission shall apply the discount rate adopted by the trust and ensure
24 that the calculations of avoided energy costs are consistent with rules adopted by the trust
25 and are supported by evidence in the record. Avoided energy costs must include but are
26 not limited to the retail value of natural gas supply including a wholesale risk premium
27 and demand reduction induced price effects. The trust shall use, and the commission
28 shall give deference to, values for each element of avoided energy cost from a regional
29 avoided energy cost study as long as the analysis has been developed through a
30 transparent process, with input from state agencies, public advocates, utilities or energy
31 efficiency administrators from at least 3 other states in New England and the analysis has
32 been published not more than 24 months prior to the trust's filing of the triennial plan.
33 When values specific to the State are not available in the regional study, the trust may
34 use, and the commission shall give deference to, regional values provided in that regional
35 study or values determined from other sources when supported by evidence in the record.

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

38 Amend the bill by inserting after section 9 the following:

39 **'Emergency clause.** In view of the emergency cited in the preamble, this
40 legislation takes effect when approved.'

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

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SUMMARY

This amendment makes the following changes to the bill.

1. It adds language to clarify the provision in the bill regarding the requirement for the Maine State Housing Authority and the Department of Health and Human Services to provide data to the Efficiency Maine Trust.

2. It provides that the Public Utilities Commission is required to conduct an adjudicatory proceeding to review the triennial plan if requested by the Efficiency Maine Trust or any party to the triennial plan; otherwise, the commission may use an adjudicatory proceeding or other process to complete the review.

3. It makes other technical changes to clarify language.

FISCAL NOTE REQUIRED

(See attached)