

# Summary of *An Act Regarding Maine's Energy Future*



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On June 12, 2009, Governor Baldacci signed into law *An Act Regarding Maine's Energy Future* (LD 1485), putting Maine on a path to reduce statewide heating oil consumption 20% by 2020. The bill is enacted with an emergency provision so that it will take effect immediately upon passage.

The legislation establishes the new, independent Efficiency Maine Trust (Trust) for the purpose of administering programs for energy efficiency and alternative energy resources to help individuals and businesses in Maine “meet their energy needs at the lowest cost.” On July 1, 2010, the existing Efficiency Maine programs will be moved out of the Public Utilities Commission (PUC) and merged with the existing Energy and Carbon Savings Trust programs. The new Trust will be governed by an independent, 9-member board representing diverse state agencies, customer classes, and environmental interests and is subject to oversight by the PUC.

The Trust is directed to develop a 3-year plan providing integrated planning, program design and implementation strategies for all energy efficiency and alternative energy resources programs in the state, for all customer classes, for all fuels, except that Maine State Housing Authority’s energy programs are exempted from coverage by the plan. The plan should be designed to advance enumerated “targets,” including:

- weatherizing 100% of Maine residences and 50% of Maine businesses by 2030,
- achieving energy savings of at least 30% of electric consumption, 30% of natural gas consumption, and 20% heating fuels consumption by 2020,
- capturing all cost-effective energy efficiency resources available for electric and natural gas utility ratepayers, and
- reducing greenhouse gas emissions from the heating and cooling of buildings in Maine consistent with the statewide goals of reducing such emissions least 10% below 1990 levels by 2020 and ultimately 75-85% below 2003 levels.

The plan must be developed through an open and consultative process. The plan will be presented to the legislature for input, and then to the Public Utilities Commission to be approved or rejected.

A novel feature of the law directs the trust to design programs that will address both electric and thermal energy needs of customers at the same time, through an integrated set of programs. Both energy efficiency and alternative energy options are eligible for funding from these programs, so long as they meet tests for “cost-effectiveness.”

Proposals to establish a reliable funding stream to help middle income customers and businesses reduce their consumption of heating oil, kerosene or propane were eliminated from the bill. Instead, short term funds for this purpose will be limited to amounts from the federal stimulus package (American Recovery and Reinvestment Act) and ongoing federal weatherization funds for low income households. By 2012, there will be no assured funding for programs to help non-low income homes or businesses reduce costs of heating with oil, propane or kerosene. In lieu of a reliable funding stream, the bill (a) directs the Trust to submit a report to the legislature, by January, 2011, recommending appropriate levels and mechanisms of funding ongoing programs sufficient to capture cost-effective thermal efficiency resources, including heating oil, kerosene and propane and (b) directs the first \$50 million of any future sale or lease of state-owned lands used for energy infrastructure to go into the Trust to promote energy independence.

Additionally, the Act authorizes the issuing of revenue bonds of \$30 million/year, up to \$200 million total, to support a new program for the construction or substantial rehab of multifamily affordable rental housing units and replacement of substandard manufactured housing units.

The Act prohibits state authorities from issuing permits or entering lease or sale agreements for state-owned lands to be used by energy transmission facilities (e.g., pipelines, high voltage DC electric transmission lines) until a “plan” regarding best use of these lands, appropriate valuations, and assessment of the effects on ratepayers, the environment, and development of new energy projects is enacted.

### Detailed Act Summary

<b>Part A</b>	
	Effective July 1, 2010, this Part repeals and/or reorganizes statutes related to energy. It eliminates the Energy Resources Council, the Energy and Carbon Savings Trust, and the Energy Conservation Board.
<b>Part B</b>	<b>Establishes new Title 35-A MRSA Chapter 97</b>
§ 10102	Definitions of note: <ul style="list-style-type: none"> <li>• Administrative costs are costs of securing expertise, contracting for program delivery, monitoring and enforcing contractual obligations.</li> <li>• Alternative energy resources mean non-fossil fuel energy resources, including but not limited to biomass, wood, wood pellets, solar, wind, or geothermal resources.</li> </ul>
§ 10103	The Efficiency Maine Trust
Sub-1: Trust Established	Efficiency Maine Trust (the Trust) is established to develop, plan, implement programs for energy efficiency and alternative energy resources programs in Maine. The programs must provide uniform, integrated planning, program design and administration <b>to help individuals and businesses meet their energy needs at the lowest cost</b> and generally to improve the economic security of the State by: <ol style="list-style-type: none"> <li>1. maximizing the use of cost-effective weatherization and energy efficiency measures, including heating and cooling systems that rely on alternative energy resources;</li> <li>2. reducing overdependence on price-volatile fossil fuels;</li> <li>3. increasing new jobs and business development to deliver energy efficiency and alternative energy resources products and services;</li> <li>4. enhancing comfort and indoor air quality while reducing energy costs, and also reducing the need for fuel assistance for low income households;</li> <li>5. simplifying and enhancing consumer access to technical assistance and financial incentives;</li> <li>6. using cost-effective energy efficiency investments to reduce greenhouse gas emissions.</li> </ol> <p>The Trust must ensure that “<b>all expenditures of the trust are cost-effective in terms of avoided energy costs</b>” and must “actively promote investment in ... measures ... that reduce overall energy costs for Maine consumers.”</p>
Sub-2: Governance	“The trust is <b>governed by an independent board</b> ” of nine voting members. Seven members are appointed by the governor, reviewed by the legislative Utilities and Energy Committee, and confirmed by the Senate. The members must “adequately represent the interests of” energy consumers from of all classes, persons with knowledge and experience in: finance, consumer advocacy, management, conservation fund programs, carbon reduction programs, energy efficiency or climate change policy. The director of the Governor’s Office of Energy Independence and Security and the director of the

	Maine State Housing Authority serve as ex officio voting members.
Sub-3 Director	The board hires and fires the director. Using a full and competitive search process, the director must have demonstrated experience in the planning, design or delivery of energy efficiency programs or the management of organizations that do so.
Sub-4, 5, and 6	Not summarized here.
§ 10104	<b>Duties of the Trust</b>
Sub-1	Not summarized here.
Sub-2 Programs	The trust administers programs to ensure that funds are spent consistent with applicable laws and so that enumerated “best practices” of efficiency programs are met: A. programs are consumer oriented, targeted to serve the multiple needs of energy consumers; B. program effectiveness is maximized through the centralization of expertise, mitigating influence of politics, nimble reaction to changing circumstances and through strong advocacy of cost-effective energy efficiency; C. efficiency of planning and delivery is maximized; D. there are sufficient checks and balances to ensure consistency with state policies and accountability
Sub-3 Metrics	All recipients of funds administered or funded by the trust are subject to performance metrics established by the trust. Maine State Housing Authority programs are not administered by the trust and are not subject to trust performance metrics.
Sub-4 3-year Plan	<p>A triennial plan will provide integrated planning, program design and implementation strategies for all energy efficiency and alternative energy resources programs administered by the trust, including those funded by electric system benefit charges, natural gas conservation programs, the Regional Greenhouse Gas Initiative Trust Fund, the Heating Fuels Efficiency Weatherization Fund, plus any state or federal funds accepted by the Trust.</p> <p>The plan is to include provisions regarding budget allocations, objectives, targets, measures of performance, program designs, program implementation strategies, timelines, and workforce development.</p> <p>Utilities must furnish data to the trust subject to confidential treatment, as appropriate.</p> <p>The board shall approve the plan by a 2/3 vote if it finds that the plan is consistent with the statutory authority for each source of funds that it covers and with the best practices of Sub-2.</p> <p>The Trust offers a detailed briefing and opportunity for input to the Utilities and Energy Committee of the legislature.</p> <p>The Trust delivers the plan to the Public Utilities Commission (PUC) for review and approval. The PUC opens a proceeding and issues an order approving, modifying or rejecting elements of the plan with regard to the use of funds generated by the electric System Benefit Charge (SBC), the natural gas charge, or any future heating oil charge (not established at this time).</p> <p>The final plan is re-submitted to the Utilities and Energy Committee of the legislature and is subject to additional requests for explanation and a detailed briefing.</p> <p>An objective of the plan is to design and deliver energy efficiency and weatherization programs, available to all Maine energy consumers, regardless of fuel type, that advance</p>

	<p>the targets of:</p> <ol style="list-style-type: none"> <li>1. Weatherizing 100% of residences and 50% of businesses by 2030</li> <li>2. Reducing peak-load electric energy consumption by 100 MW by 2020</li> <li>3. Reducing consumption of liquid fossil fuels by at least 30% by 2030</li> <li>4. Achieving by 2020 electric and natural gas savings of at least 30% and heating fuel savings of at least 20%</li> <li>5. Capturing all cost-effective energy efficiency resources available for electric and natural gas utility ratepayers</li> <li>6. Building stable private sector jobs</li> <li>7. Saving consumers \$3 for every \$1 of program funds invested in heating and cooling measures</li> <li>8. Reducing greenhouse gas emissions consistent with the goals of 38 MRSA 576</li> </ol>
Sub-5 Report	<p>The Trust reports to the PUC and Utilities and Energy Committee by December 1 annually. The report, which must be approved by a vote of the trust, must include:</p> <ul style="list-style-type: none"> <li>• Description of programs, program activities and cost-effectiveness of programs of past year and plans for the year ahead</li> <li>• A financial accounting of assessments (e.g., system benefit charges) made on electric and gas utilities and, when applicable, on unregulated heating fuels, and of total deposits and expenditures from these assessments for the prior year and the year ahead</li> <li>• A financial accounting of total funds received by the state from the federal Weatherization Assistance Program and LIHEAP that is used for weatherization and efficiency;</li> <li>• Amounts used for administration of programs</li> <li>• Recommended legislative changes</li> <li>• Performance of grantees or contractors of the Trust, and the Trust overall, in meeting the objectives, targets and performance metrics contained in the plan.</li> </ul>
Sub-6 Plan Updates	<p>The Trust approves and presents to the PUC and the Utilities and Energy Committee any significant changes to the Triennial Plan. If such changes impact use of funds collected from ratepayers, such changes must be approved by the PUC.</p>
Sub-7 Certification Standards	<p>The Trust establishes certification standards for energy auditors, installers and other service providers, where applicable, through routine technical rules.</p>
Sub-8 MSHA Plans	<p>After July 1, 2010, the Trust reviews and provides input on implementation plans prior to MSHA applying for federal funds for weatherization, energy conservation and fuel assistance under the federal WAP and LIHEAP programs. MSHA must include in its plan any recommendations of the board if they are consistent with federal guidelines.</p>
Sub-9 Coordination	<p>The Trust coordinates the activities and programs of state agencies and authorities that relate to the purposes of this chapter, including management of state facilities, establishment of Maine Uniform Building and Energy Codes, “green” energy workforce development programs, and MSHA programs on efficiency and weatherization.</p>
Sub-10 Evaluation	<p>The Trust arranges for independent evaluation of each major program (&gt;\$500,000) at least once every 5 years.</p>
Sub-11	<p>The Trust does all things necessary or convenient to carry out the lawful purposes of the Act</p>
§10105	<p><b>Trust Powers</b></p>
Sub-1	<p>Administer programs and funds</p>
Sub-2	<p>Propose, develop and approve revenue bond projects</p>
Sub-3	<p>Adopt by-laws</p>
Sub-4	<p>Trust is not subject to procurement rules of the State Purchasing Agent</p>
Sub-5	<p>Adopt rules for the expenditure of trust funds, development of program budgets, criteria for programs, process for project selection and approval, measurement and</p>

	verification, cost-effectiveness tests, and independent evaluations
Sub-6	Self-dealing prohibited.
Sub-7	The Trust makes recommendations to public officials regarding energy efficiency, weatherization and renewable energy programs. The Trust may establish technical advisory groups.
§10106	<b>Freedom of access; Confidentiality.</b> The proceedings and records of the Trust are subject to Freedom of Access laws. Information appropriately designated will be treated as Confidential except for information that has already become public or is impersonal, general, or statistical or that has waived confidential treatment. Confidential information will not be disclosed, except in certain circumstances, with appropriate limitations and protections.
§10107	<b>Conflict of Interest. Not summarized here.</b>
§10108	<b>Liability. Not summarized here.</b>
§10109	<b>Regional Greenhouse Gas Initiative (RGGI) Trust Fund</b>
	Functions, powers and duties of the Energy and Carbon Savings Trust are re-stated as functions, powers and duties of the Efficiency Maine Trust without substantive changes. Maximum annual administrative costs raised to \$800,000.
§10110	<b>Electric efficiency</b> and conservation programs. Provisions of this section are moved to this Chapter from their prior location at Title 35-A, 3211-A and, generally, the functions, powers and duties of the PUC are re-stated as those of the Efficiency Maine Trust, without substantive changes.
§10111	<b>Natural gas efficiency</b> and conservation program.
Sub-1 Program	The Trust establishes a program in accord with the goals and objectives of the Triennial Plan to promote the efficient use of natural gas.
Sub-2 Funding	The PUC shall assess no less than 3% of delivery revenues for the gas utility having more than 5,000 customers, and may assess a higher amount in accordance with the Triennial Plan.
Sub-3 Rules	The Trust shall establish rules to implement this section.
§10112	<b>Solar and wind energy rebate program.</b> Provisions of this section are moved to this Chapter from their prior location in statute; generally, the Trust takes over the former duties of the PUC. This section takes effect 7/1/2010 and is repealed 12/31/2010.
§10113	<b>Training for installers of solar equipment.</b> Provisions of this section are moved to this Chapter from their prior location in statute; generally, the Trust takes over former duties of the PUC.
§10114	<b>Training for energy auditors.</b> Provisions of this section are moved to this Chapter from their prior location in statute; generally, the Trust takes over duties of the PUC.
§10115	<b>Federal energy programs.</b> The Trust oversees and administers the US DOE State Energy Program and other federally funded programs and projects related to Trust programs.
§10116	<b>Energy Conservation Small Business Revolving Loan Program.</b> Provisions of this section are moved to this Chapter from prior location in statute; generally, the Trust takes over the duties of the PUC.
§10117	<b>Energy efficiency of rental properties.</b> Provisions of this section are moved to this Chapter from prior location in statute; generally, the Trust takes over the duties of the PUC.
§10118	<b>Public Information and Outreach.</b> The trust shall provide public information and outreach about energy efficiency and renewable energy technologies and may seek federal funding for this purpose.
§10119	<b>Heating Fuels Efficiency and Weatherization Program</b>
Sub-1 Fund	A “fund” of the same name is established to be administered by the Trust effective July 1, 2010. Funds may be deposited in the fund from any assessment on heating fuels,

	federal funds, proceeds of bonds, or any other sources consistent with the purposes of this section. Up to 10% of funds may be used for fund administration.
Sub-2 Program	<p>Funds must be administered to reduce heating fuel consumption with the purpose and targets of the trust and the triennial plan to achieve the following goal:</p> <ul style="list-style-type: none"> <li>• By 2030, to provide cost-effective energy efficiency and weatherization measures to substantially all homes and businesses that wish to participate in programs established under this section.</li> </ul> <p>Funds may only be used for cost-effective measures for the benefit of heating fuel customers or to providers serving those customers.</p> <p>Program categories include low income, 1- and 2-family units, multi-family units, small business, commercial businesses, and institutional.</p> <p>Cost-effective measures must include measures that improve the energy efficiency of energy-using systems, such as heating and cooling systems, through system upgrades or conversions, including conversions to energy efficient systems that rely on renewable energy sources or effective energy efficiency technologies.</p> <p>Program designs must contain incentives for products and services identified by a certified auditor, a schedule of customer co-payments and loan options, a plan for integrating delivery of thermal and electric measures, and a system for the equitable allocation of costs among the contributing funds (<i>i.e.</i>, electric, natural gas, heating fuel, RGGI, federal). Other programs may include training and certification of auditors, installers, and others.</p>
§10119	<b>PUC oversight of Trust</b>
Sub-1 Measures of Performance	The PUC ratifies measures of performance in the Triennial Plan if the measures satisfy the requirements of this chapter, including the principles of §10104 sub-2 and are in the public interest. The PUC and the Trust may revise, by mutual agreement, one or more of the measures at any time.
Sub-2 Regulation	The trust may not spend funds from assessments on electric or gas utilities or on heating fuels until the commission approves the Triennial Plan. The PUC may open an investigation of trust actions or practices and may issue an order directing the trust to take necessary actions to bring the trust into compliance with the law and may suspend or limit the authority of the trust to spend such funds until the Trust has come into compliance with the law. The PUC may adopt rules to implement this subsection.
Sub-3 Funding	The PUC may assess the Trust up to 1% of total funds administered by the Trust for oversight and evaluation and costs of contracting 3 <sup>rd</sup> -party expertise
<b>Part C</b>	<b>Transition</b>
	<p>The Governor nominates the board within 30 days of the effective date (which is 90 days after the end of the 2009 legislative session). The effective date is likely to be mid-September, 2009.</p> <p>Within 30 days of confirmation, the Board shall appoint the director and within 90 days shall establish by-laws.</p> <p>By July 1, 2010, the Trust shall submit a Triennial Plan for approval by the PUC.</p> <p>All contracts of the PUC entered into pursuant to the existing electric and natural gas conservation programs continue in effect until amended or rescinded by the Trust. On July 1, 2010, the Trust is the successor to the programs currently managed under the name of Efficiency Maine at the PUC. Contracts in place on July 1, 2010 may be</p>

	<p>extended for up to 2 years, subject to approval by the Trust.</p> <p>In hiring and contracting, the Trust director gives preference to state employees and contractors who were employed by the PUC working on efficiency and renewable energy programs. Such employees, and any other state employees, who accept employment at the Trust may elect to continue as state employees or to work under new agreements.</p>
Heating Fuel Program	<p>By January 2011, the Trust must submit a proposal to the legislature:</p> <ul style="list-style-type: none"> <li>• Reflecting appropriate funding mechanisms, amounts of funding, entities to be assessed, and provisions for exceptions or rebates;</li> <li>• Recommendations for changes to the natural gas conservation assessment</li> <li>• Identifying changes in funding that would be required to obtain all achievable, cost-effective energy efficiency and alternative energy resources, as identified by studies conducted by the trust and others.</li> </ul> <p>The legislature may submit legislation relating to heating fuel weatherization and efficiency programs and the on-going sustainable funding mechanism that will support realization of the state’s energy efficiency and alternative energy resource goals.</p>
<b>Part D</b>	<b>Not Summarized Here</b>
<b>Part E</b>	<b>Maine Energy, Housing &amp; Economic Recovery Program</b>
	<p>Establishes a program to support construction or substantial rehab of multifamily affordable rental housing units and replacement of substandard manufactured housing units.</p> <p>Authorizes the Maine State Housing Authority to issue up to \$30 million/year in revenue bonds up to a total of \$200 million.</p>
<b>Part F</b>	<b>Energy Independence; Corridors Plan</b>
Energy Independence Fund	<p>Each year, the first \$50 million in revenues, if any, derived from lease or sale of “state assets” by energy transmission lines, is transferred to the Energy Independence Fund.</p> <p>Fund is housed in the program funds of the Efficiency Maine Trust.</p> <p>Purpose of fund will be to ensure a methodical transition to energy independence for Maine; to invest in and transform the ways homes and business are heated, energy is used, and people and cargo is transported; to gain independence from foreign oil; and, to reduce energy costs statewide.</p> <p>State assets include state-owned land or assets including submerged lands, the rights-of-way of the state highway system, the federal interstate highway system, state-owned or state-controlled rail corridors or other state transportation corridors.</p>
Study Commission; Plan; Report	<p>The Commission to Study Energy Infrastructure is established, comprised of 3 members of the Senate, 5 members of the House, and 5 members appointed by the Governor.</p> <p>The Study Commission is to “examine the feasibility and effects” of the state entering into agreements for leasing or otherwise allowing the use of state-owned land or assets “for the installation of lines, cables, pipelines or other structures for the transmission of energy resources, communication transmission systems or related facilities.” It will also examine policy issues of any energy facilities longer than 75 miles in length.</p> <p>Objects of study and a “recommended plan governing such agreements” must include</p>

	<p>appropriate valuation to maximize the public value and the potential effect in Maine of agreements on development of renewable energy and other energy projects, on ratepayers and consumers, on the environment and natural resources.</p> <p>The report of the Commission’s findings and recommendations is due no later than December 2, 2009, to the Utilities and Energy Committee of the legislature.</p>
Prohibition	<p>No state authority may enter into a “significant occupancy agreement” until a law approving a plan covering such agreements is enacted. A significant occupancy agreement is one involving energy facilities &gt;75 miles long; involving high voltage DC current; or is otherwise “substantially different” from prior such agreements in terms of value, duration, formula, etc).</p> <p>For an energy facility &gt;75 miles long, no state authority may issue any permit or sell or lease state lands for installation of such facility, until such plan is enacted in law.</p> <p>Limited agreements to continue negotiations is not covered by the prohibition.</p> <p>Applications for energy facilities pending before April 1, 2009, are not covered by the prohibition.</p> <p>Existing pipeline facilities are not covered. Marine oil terminal facilities are not covered.</p> <p>This section is repealed 90 days after the close of the 124<sup>th</sup> legislative session.</p>
<b>Part G</b>	<b>Workforce Development</b>
	The Department of Labor, PUC and MSHA will perform a needs assessment of energy efficiency and green industry workforce development needs and develop a plan, together with other state agencies and stakeholders for providing training, and other strategies to meet the need. The plan must identify related long term funding needs.
<b>Part H</b>	<b>Not summarized here.</b>
<b>Part I</b>	<b>Task Force to advance energy efficiency at state facilities. Not summarized here.</b>
<b>Part J</b>	<b>Appropriations and Allocations – Not Summarized Here</b>
<b>Part K</b>	<b>Renewable Resource Fund – Not Summarized Here</b>

**For Further Information:** Michael Stoddard, Deputy Director, (207) 761-4566, [mstoddard@env-ne.org](mailto:mstoddard@env-ne.org)



142 High Street, Suite 422, Portland, ME 04101 (207) 761-4566 [admin@env-ne.org](mailto:admin@env-ne.org)  
 Rockport, ME / Boston, MA / Providence, RI / Hartford, CT / Portland, ME  
 Charlottetown, PEI, Canada / [www.env-ne.org](http://www.env-ne.org) / Daniel L. Sosland, Executive Director

Environment Northeast is a nonprofit organization that researches and advocates innovative policies that tackle our environmental challenges while promoting sustainable economic development. ENE is at the forefront of state and regional efforts to combat global warming with solutions that promote clean energy, clean air and healthy forests.