

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill in Part B in section 3 in §10104 by striking out all of subsection 3 (page 6, lines 4 to 12 in L.D.) and inserting the following:

**3. Measures of performance.** The trust shall adopt by rule quantifiable measures of performance to which it will be held accountable. The measures must be established for a 3-year period. Rules adopted by the trust under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Prior to provisionally adopting rules under this subsection, the trust shall seek comments from the commission on the proposed measures of performance. The trust shall also develop quantifiable measures of performance to which it will hold accountable all recipients of funding from the trust and recipients of funds used to deliver energy efficiency and weatherization programs administered or funded by the trust. Such measures may include, but are not limited to, reduced energy consumption, increased use of alternative energy resources, reduced capacity demand for natural gas, electricity and fossil fuels, reduced carbon dioxide emissions, program and overhead costs and cost-effectiveness, the number of new jobs created by the award of trust funds, the number of energy efficiency trainings or certification courses completed and the amount of sales generated.'

Amend the bill in Part B in section 3 in §10104 in subsection 4 by striking out all of the first paragraph (page 6, lines 13 to 27 in L.D.) and inserting the following:

**4. Triennial plan.** The board by rule shall establish a detailed, triennial energy efficiency and alternative energy resources plan. The triennial plan must provide integrated planning, program design and implementation strategies for all energy efficiency and alternative energy resources 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. The plan must be consistent with the comprehensive state energy plan pursuant to Title 2, section 9, subsection 3, paragraph C.'

Amend the bill in Part B in section 3 in §10104 in subsection 4 by striking out all of paragraphs C and D and inserting the following:

**C.** Prior to provisionally adopting rules under this subsection, the board shall seek comments from the commission on the proposed plan and shall approve the plan contained in provisionally adopted rules by an affirmative vote of 2/3 of the voting members of the board. The board shall approve the plan only 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, the state energy efficiency targets in paragraph F and 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. When submitting its provisionally adopted rules to the Legislature under this subsection, the trust shall provide a detailed explanation of the proposed plan to the joint standing committee of the Legislature having jurisdiction over energy matters. The joint standing committee may recommend rejection of elements of the plan that propose to use funds generated pursuant to sections 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 the Legislature had provided for the allocation of those funds.'

Amend the bill in Part B in section 3 in §10104 in subsection 4 by inserting at the end a new blocked paragraph to read:

'Rules adopted by the trust under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.'

Amend the bill in Part B in section 3 in §10104 in subsection 5 in the 2nd and 3rd lines (page 8, lines 15 and 16 in L.D.) by striking out the following: "the commission and"

Amend the bill in Part B in section 3 in §10104 in subsection 6 in the first paragraph in the last 2 lines (page 9, lines 26 and 27 in L.D.) by striking out the following: "also approved by the commission using the same standard as for" and inserting the following: 'included in an amendment to the rules governing'

Amend the bill in Part B in section 3 by striking out all of §10120 and inserting the following:

**'§ 10120. Commission oversight of Efficiency Maine Trust**

**1. Measures of performance.** The commission shall review and advise the board and the Legislature regarding proposed measures of performance governing the trust pursuant to section 10104, subsection 3, including whether the proposed measures satisfy the requirements of this chapter, including the principles of administration set forth in section 10104, subsection 2 and whether the proposed measures are in the public interest. The rules adopted by the trust establishing measures of performance must define the electricity, natural gas and heating fuel savings targets established in section 10104, subsection 4, paragraph F and specify the measures for assessing progress in meeting the targets.

**2. Expenditure of funds; regulation.** The trust may not expend any funds from assessments made under this chapter until the trust adopts rules establishing the triennial plan and the Legislature approves allocations of those funds. The commission upon recommendation of the Public Advocate or the Attorney General may open an investigation of practices or acts of the trust. If the commission, upon investigation, finds that the trust has failed to comply with any requirement of this chapter or other requirements of law in the use or expenditure of any funds from assessments made under this chapter, the commission may issue an appropriate 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 expend or encumber any

funds derived from assessments made under this chapter until the commission finds the trust has come into compliance with the law. The commission may adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

Amend the bill in Part C in section 2 by striking out all of subsection 3 (page 32, lines 3 to 8 in L.D.) and inserting the following:

**'3. Triennial plan.** The Director of the Efficiency Maine Trust shall hire or contract staff as needed to support the Efficiency Maine Trust and, no later than March 15, 2010, shall provisionally adopt rules establishing the triennial plan according to Title 35-A, section 10104. The Efficiency Maine Trust may study existing rules, conduct research, appoint technical advisory groups and hold public meetings in preparation for transitioning to the new structure and to support the development of the triennial plan.'

Amend the bill in Part J by striking out all of section 1 and inserting in its place the following:

**'Sec. J-1. Appropriations and allocations.** The following appropriations and allocations are made.

**EFFICIENCY MAINE TRUST**

**Conservation Administration Fund 0966**

Initiative: Allocates funds to reflect the transfer of the Conservation Administration Fund program from the Public Utilities Commission to the Efficiency Maine Trust.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	\$432,774
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<hr/> \$0	<hr/> \$432,774

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	\$1,200,000
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<hr/> \$0	<hr/> \$1,200,000

<b>FEDERAL EXPENDITURES FUND ARRA</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	\$4,576,500
<b>FEDERAL EXPENDITURES FUND ARRA TOTAL</b>	<hr/> \$0	<hr/> \$4,576,500

<b>FEDERAL BLOCK GRANT FUND ARRA</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	\$557,725

FEDERAL BLOCK GRANT FUND ARRA TOTAL	\$0	\$557,725
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**Conservation Program Fund 0967**

Initiative: Allocates funds to reflect the transfer of the Conservation Program Fund program from the Public Utilities Commission to the Efficiency Maine Trust.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	\$14,135,334
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$14,135,334

**Efficiency Maine Trust N081**

Initiative: Allocates funds to reflect the elimination of the Maine Energy Conservation Board at the Public Utilities Commission and the transfer of related funds to the Efficiency Maine Trust.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	\$263,400
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$263,400

**Efficiency Maine Trust N081**

Initiative: Allocates funds to reflect a transfer from the reimbursement fund at the Public Utilities Commission to the Efficiency Maine Trust for the trust's operating costs during the transition year in fiscal year 2009-10.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$700,000	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	\$700,000	\$0

**Energy and Carbon Savings Trust Fund N027**

Initiative: Allocates funds to reflect the transfer of the Energy and Carbon Savings Trust Fund program from the Public Utilities Commission to the Efficiency Maine Trust.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	\$30,000,000

OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$30,000,000
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**Energy Conservation Small Business Revolving Loan Fund N087**

Initiative: Allocates funds to reflect the transfer of the Energy Conservation Small Business Revolving Loan Fund from the Public Utilities Commission to the Efficiency Maine Trust.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	\$410,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$410,000

**Heating Fuels Efficiency and Weatherization Fund N088**

Initiative: Provides a base allocation to authorize expenditures of any funds received for the program.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$500

**Natural Gas Conservation Fund N085**

Initiative: Allocates funds from an assessment of up to 3% of certain gas utilities' delivery revenues.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	\$891,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$891,000

**Solar Rebate Program Fund Z012**

Initiative: Allocates funds to reflect the transfer of the Solar Rebate Program Fund from the Public Utilities Commission to the Efficiency Maine Trust.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	\$750,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$750,000

**Solar Rebate Program Fund Z012**

Initiative: Allocates funds to reflect the transfer of the Solar Rebate Program Fund from the Public Utilities Commission to the Efficiency Maine Trust.

<b>FEDERAL EXPENDITURES FUND ARRA</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	\$500,000
<b>FEDERAL EXPENDITURES FUND ARRA TOTAL</b>	<b>\$0</b>	<b>\$500,000</b>

<b>EFFICIENCY MAINE TRUST</b>		
<b>DEPARTMENT TOTALS</b>	<b>2009-10</b>	<b>2010-11</b>
FEDERAL EXPENDITURES FUND	\$0	\$432,774
OTHER SPECIAL REVENUE FUNDS	\$700,000	\$47,650,234
FEDERAL EXPENDITURES FUND ARRA	\$0	\$5,076,500
FEDERAL BLOCK GRANT FUND ARRA	\$0	\$557,725
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$700,000</b>	<b>\$53,717,233</b>

**PUBLIC UTILITIES COMMISSION**

**Conservation Administration Fund 0966**

Initiative: Deallocates funds to reflect the transfer of 17 positions and associated costs of the Conservation Administration Fund program at the Public Utilities Commission to the Efficiency Maine Trust.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2009-10</b>	<b>2010-11</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(2.000)
Personal Services	\$0	(\$137,054)
All Other	\$0	(\$295,720)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$432,774)</b>

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
POSITIONS - FTE COUNT	0.000	(9.000)
Personal Services	\$0	(\$921,469)
All Other	\$0	(\$278,531)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$1,200,000)</b>

<b>FEDERAL EXPENDITURES FUND ARRA</b>	<b>2009-10</b>	<b>2010-11</b>
Personal Services	\$0	(\$421,302)
All Other	\$0	(\$4,155,198)
<b>FEDERAL EXPENDITURES FUND ARRA TOTAL</b>	<b>\$0</b>	<b>(\$4,576,500)</b>

<b>FEDERAL BLOCK GRANT FUND ARRA</b>	<b>2009-10</b>	<b>2010-11</b>
Personal Services	\$0	(\$132,393)
All Other	\$0	(\$425,332)
<b>FEDERAL BLOCK GRANT FUND ARRA TOTAL</b>	<b>\$0</b>	<b>(\$557,725)</b>

**Conservation Administration Fund 0966**

Initiative: Deallocates funds to reflect the transfer of the Energy Conservation Small Business Revolving Loan Fund from the Public Utilities Commission to the Efficiency Maine Trust.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	(\$410,000)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$410,000)</b>

**Conservation Program Fund 0967**

Initiative: Deallocates funds to reflect the transfer of the Conservation Program Fund program at the Public Utilities Commission to the Efficiency Maine Trust.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	(\$14,135,334)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$14,135,334)</b>

**Energy and Carbon Savings Trust Fund N027**

Initiative: Deallocates funds to reflect the transfer of the Energy and Carbon Savings Trust Fund program from the Public Utilities Commission to the Efficiency Maine Trust.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	(\$30,000,000)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$30,000,000)</b>

**Maine Energy Conservation Board Z076**

Initiative: Deallocates funds to reflect the elimination of the Maine Energy Conservation Board at the Public Utilities Commission and the transfer of related funds to the Efficiency Maine Trust.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	(\$263,400)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$263,400)</b>

**Solar Rebate Program Fund Z012**

Initiative: Deallocates funds to reflect the transfer of the Solar Rebate Program Fund from the Public Utilities Commission to the Efficiency Maine Trust.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	(\$750,000)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$750,000)</b>

**Solar Rebate Program Fund Z012**

Initiative: Deallocates funds to reflect the transfer of the Solar Rebate Program Fund from the Public Utilities Commission to the Efficiency Maine Trust.

<b>FEDERAL EXPENDITURES FUND ARRA</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	(\$500,000)
<b>FEDERAL EXPENDITURES FUND ARRA TOTAL</b>	<b>\$0</b>	<b>(\$500,000)</b>

<b>PUBLIC UTILITIES COMMISSION</b>		
<b>DEPARTMENT TOTALS</b>	<b>2009-10</b>	<b>2010-11</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>(\$432,774)</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>(\$46,758,734)</b>
<b>FEDERAL EXPENDITURES FUND ARRA</b>	<b>\$0</b>	<b>(\$5,076,500)</b>
<b>FEDERAL BLOCK GRANT FUND ARRA</b>	<b>\$0</b>	<b>(\$557,725)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$52,825,733)</b>



<b>SECTION TOTALS</b>	<b>2009-10</b>	<b>2010-11</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>\$0</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$700,000</b>	<b>\$891,500</b>
<b>FEDERAL EXPENDITURES FUND ARRA</b>	<b>\$0</b>	<b>\$0</b>
<b>FEDERAL BLOCK GRANT FUND ARRA</b>	<b>\$0</b>	<b>\$0</b>
<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$700,000</b>	<b>\$891,500</b>

**SUMMARY**

This amendment, which is the minority report of the Joint Select Committee on Maine's Energy Future, modifies those portions of the bill relating to the development by the Efficiency Maine Trust of its triennial plan and measures of performance. Under the bill, these are reviewed by the legislative committee of jurisdiction but are not subject to direct legislative approval; they are subject to approval by the Public Utilities Commission. Under this amendment, they must be developed by the trust with input from the Public Utilities Commission but must take the form of major substantive rules subject to legislative approval. In order to ensure the rules are submitted to the Legislature in time for review and approval during the Second Regular Session of the 124th Legislature and so will be in place when the trust is required to begin implementing programs on July 1, 2010, this amendment requires the major substantive rules to be provisionally adopted by March 15, 2010. This amendment also makes explicit that the various funds that will be administered by the trust may not be expended by the trust without legislative allocation of those funds.

This amendment replaces the Part J appropriations and allocations section to reflect the removal of the provision authorizing an oversight and evaluation fund.

**FISCAL NOTE REQUIRED**  
**(See attached)**