HOUSE . . . . . No. 3897

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act further promoting energy efficiency and green jobs.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after section 35OO the following section:

Section 35PP: There shall be established and set up on the books of the commonwealth a separate fund to be known as the Oil Heat Energy Efficiency Fund. The fund shall consist of amounts credited to the fund in accordance with sections 11J of chapter 25A and expended exclusively for the purposes of said section 11J of said chapter 25A. The fund shall be administered by the commissioner of energy resources, pursuant to section 11J(b) of chapter 25A, in coordination with the secretary of administration and finance. The fund shall be an expendable trust fund and shall not be subject to appropriation or allotment. The commissioner shall report monthly by source all amounts credited to the fund and all expenditures by subsidiary made from the fund on the Massachusetts management and accounting reporting system. Amounts remaining in the fund at the end of a fiscal year shall not revert to the General Fund and shall be available for expenditure by the fund in the next fiscal year and thereafter.

SECTION 2. Chapter 25A of the General Laws is hereby amended by adding after section 11I the following new sections:

Section 11J. (a) For the purposes of section 11J, the following terms shall have the following meanings:

"Fuel oil industry" or "oil heat industry," persons in the production, transportation, or sale of oil heat fuel; and persons engaged in the manufacture or distribution of oil heat fuel utilization equipment; provided that "fuel oil industry" or "oil heat industry" shall not include ultimate consumers of oil heat fuel.

22 “No. 1 distillate,” fuel oil classified as No. 1 distillate by the American Society for
23 Testing and Materials (ASTM).

24 “No. 2 dyed distillate,” fuel oil classified as No. 2 distillate by the American Society for
25 Testing and Materials (ASTM) that is indelibly dyed in accordance with regulations prescribed
26 by the Secretary of the Treasury under section 4082(a) (2) of the Internal Revenue Code of 1986.

27 “Cost Effective,“ with respect to an energy efficiency program, means that the program
28 meets a cost-benefit test, which requires that the net present value of economic benefits over the
29 life of the program or measure, including avoided supply and delivery costs and deferred or
30 avoided investments, environmental benefits and avoided environmental costs, avoided operation
31 and maintenance costs and other appropriate energy and non-energy benefits as determined by
32 the department, is greater than the net present value of the costs over the life of the program.

33 “Energy Efficiency Advisory Council (EEAC),” refers to the energy efficiency advisory
34 council established pursuant to section 22 of chapter 25 of the general laws.

35 “Oil heat fuel,” No.1 distillate and No.2 dyed distillate that is used as a fuel for
36 residential or commercial space or hot water heating.

37 “Retail marketer,” a person engaged primarily in the sale of oil heat fuel to ultimate
38 consumers.

39 “Wholesale distributor,” a person or business entity that produces No. 1 distillate or No. 2
40 dyed distillate; imports No. 1 distillate or No. 2 dyed distillate; blends No. 1 distillate or No. 2
41 dyed distillate with biodiesel or biofuels; or transports No. 1 distillate or No. 2 dyed distillate
42 across state boundaries or among local marketing areas; and sells the products to retail home or
43 commercial heating oil companies for resale.

44 (b)(1) Beginning , June 1, 2013, the department shall require a systems benefit
45 assessment of two and one-half cents ($.025) per gallon be placed on all gallons of oil heat fuel
46 sold for residential or commercial use in Massachusetts in order to establish oil heat energy
47 efficiency programs. The assessment shall be collected at the point of sale of oil heat fuel by a
48 wholesale distributor to a person other than a wholesale distributor, including a sale made
49 pursuant to an exchange. A wholesale distributor shall be responsible for payment of the
50 assessment to the Commonwealth on a quarterly basis; and shall provide to the Commonwealth
51 certification of the volume of fuel sold. No. 1 distillate and No. 2 dyed distillate fuel sold for
52 uses other than as oil heat fuel are excluded from the assessment. Distillate fuel used by vessels,
53 railroad, utilities, farmers and the military are exempt from the assessment.

54 (2) Such funds shall be deposited by the secretary of administration and finance into the
55 Oil Heat Energy Efficiency Fund pursuant to section 35PP of chapter 10. The Fund shall be
56 expended by the commissioner of energy resources, pursuant to this section, and subject to the

57 approval of the energy efficiency advisory council (EEAC) for the sole purpose of designing,
58 marketing and providing cost-effective energy efficiency programs through financial incentives
59 and services for residential and small business demand-side management programs that improve
60 energy efficiency and reduce consumption for residential and commercial customers who utilize
61 oil heat fuel for space heat or domestic hot water heating, including but not limited to: replacing
62 or upgrading older, inefficient oil heating or domestic hot watersystems; duct sealing and
63 insulation, pipe insulation, building envelope sealing and insulation; storm windows; blower
64 door air sealing services; research and design; and marketing of oil heat efficiency products or
65 services. Program design for envelope measures and measures that will save electricity or
66 natural gas, in addition to oil heat,shall be conducted by the EEAC and the program
67 administrator(s), and result in integrated programs that serve all customers, regardless of heating
68 fuel type. Program design elements that result in savings of multiple fuels shall be funded from
69 the oil heat efficiency trust in an equitable manner and in proportion to the oil heat savings
70 generated.No more than one percent (1%) of such funds may be used for training. No more than
71 one percent (1%) of such funds may be allocated to the department for administration of the fund
72 and coordination of the programs. Program design for heating system programs shall be
73 conducted by EEAC and the program administrator(s), provided, however, that under the
74 programs, an oil heating system shall be replaced with a new oil heating system. The
75 commissioner shall act as the fiscal agent responsible with ensuring these services are delivered
76 as approved by the EEAC and in a cost effective manner that is coordinated with other energy
77 efficiency programs.

78 At least 20 percent of the funds collected shall be spent on comprehensive low-income
79 residential oil heat energy efficiency and education programs. The commissioner shall designate
80 that these programs be implemented through the low income weatherization and fuel assistance
81 program network administered by the department of housing and community development.

82 (c) (1) The EEAC shall advise the department on all aspects of oil energy efficiency
83 funds and programs in the commonwealth. Actions of the EEAC pertaining to disbursement of
84 the oil heat efficiency funds and programs shall require a majority vote.

85 The EEAC shall establish a target budget designed to ramp-up over time to capture cost-
86 effective energy efficiency for heating oil, and a corresponding annual assessment designed to
87 recover enough money to fund the programs.

88 (2) To implement this section, the commissioner, with the approval of the EEAC and, is
89 hereby directed and authorized to enter into contracts with appropriate organization(s) to serve as
90 energy efficiency program administrator(s), selected through a competitive procurement process,
91 to deliver and operate, in a cost-effective manner, oil heat energy efficiency programs to be
92 provided by retail heating oil dealers and other business entities, organizations and agencies with
93 qualified technical personnel including oil heat technicians in good standing with the
94 Commonwealth in possession of a certificate of competency as defined by Code of

95 Massachusetts Regulation (CMR) 527 CMR 4.00. Programs shall be approved by the EEAC and
96 shall be delivered in a cost effective manner that is coordinated with other energy efficiency
97 programs.

98 (3) Every 3 years, in a manner consistent with natural gas and electric efficiency plans set
99 forth in section 21 of chapter 25, on or before April 30, the program administrators shall jointly
100 prepare an oil heat efficiency investment plan for approval by the department and the EEAC.
101 Each plan shall provide for the acquisition of energy efficiency resources that are cost effective
102 or less expensive than supply and shall be prepared in coordination with the energy efficiency
103 advisory council established by section 22 of chapter 25. A program included in the plan shall be
104 screened through cost-effectiveness testing which compares the value of program benefits to the
105 program costs to ensure that the program is designed to obtain energy savings and system
106 benefits with value greater than the costs of the program. Program cost effectiveness shall be
107 reviewed periodically by the department and by the EEAC. If a program fails the cost-
108 effectiveness test as part of the review process, it shall either be modified to meet the test or shall
109 be terminated. The EEAC may allow for transitional, one year plans in order to achieve
110 consistency with section 21 of chapter 25.

111 An investment plan shall include: (i) an assessment of the estimated lifetime cost,
112 reliability and magnitude of all available energy efficiency resources that are cost effective or
113 less expensive than supply; (ii) the estimated energy cost savings that the acquisition of such
114 resources will provide to oil heat consumers, including, but not limited to, reductions in energy
115 costs and increases in price stability and affordability for low-income customers; (iii) a
116 description of programs, which may include, but which shall not be limited to: (A) efficiency
117 programs; (B) programs for research, development and commercialization of products or
118 processes which are more energy-efficient than those generally available; (C) programs for
119 development of markets for such products and processes, including recommendations for new
120 appliance and product efficiency standards; (D) programs providing support for energy use
121 assessment, real time monitoring systems, engineering studies and services related to new
122 construction or major building renovation, including integration of such assessments, systems,
123 studies and services with building energy codes programs and processes, or those regarding the
124 development of high performance or sustainable buildings that exceed code; (E) programs for
125 planning and evaluation; and (F) programs for public education regarding energy; provided,
126 however, that not more than 1 per cent of the fund shall be expended for items (B) and (C)
127 collectively, without authorization from the advisory council; (iv) a proposed mechanism which
128 provides performance incentives to the program administrator(s) based on their success in
129 meeting or exceeding the goals in the plan; (v) the budget that is needed to support the programs;
130 (vi) data showing the percentage of all monies collected that will be used for direct consumer
131 benefit, such as incentives and technical assistance to carry out the plan.

132 (4) The program administrator(s) shall submit the investment plan to the EEAC. Not later
133 than 90 days after the submission of a plan, the department and EEAC shall approve, modify and
134 approve, or reject and require the resubmission of the plan accordingly.

135 (5) Programs shall be designed to treat all energy use in a building in a comprehensive
136 and coordinated fashion across the state with maximum use of common program designs,
137 integrated programs, and a common pool of energy efficiency vendors and contractors who can
138 treat all energy use in a building comprehensively.

139 The financial incentives used in said programs may be a combination of low or zero
140 interest loans or direct rebates and other financial incentives. The EEAC shall solicit input from
141 the oil heat industry, consumer groups, and low income advocacy groups regarding the
142 implementation of this section and delivery of all program services.

143 (6) The department shall issue regulations implementing this section within 1 year of
144 enactment of this section and the commissioner shall enter into contracts within 6 months after
145 such regulations have been made final.

146 (7) From time to time, the EEAC shall undertake, or cause to be undertaken, an
147 assessment of cost effective oil heat energy efficiency resource potential in the commonwealth.

148 (8) Evaluation, monitoring, and verification of the efficiency programs shall be
149 conducted by an independent third-party selected by the EEAC. Said independent third party
150 shall report its findings to the EEAC, the joint committee on telecommunications, utilities, and
151 energy, and the public through the department of energy resourses. Allocations for independent
152 third-party monitoring and other consulting services shall not exceed 1 per cent of the fund on an
153 annual basis

154 (9) The EEAC, in collaboration with the program administrator(s), shall prepare an
155 annual report for submission to the joint committee on telecommunications, utilities, and energy
156 and the public through the department of energy resources that includes, but is not limited to: a
157 description of the amount and use of proceeds of the Oil Heat Energy Efficiency Fund collected
158 under this section; a description of the cost effective energy efficiency programs funded through
159 such proceeds; the demonstration of consumer savings, cost-effectiveness, and the lifetime and
160 annual energy savings achieved by the energy efficiency programs funded; and the lifetime and
161 annual greenhouse gas emissions benefits achieved by energy efficiency programs funded.

162 SECTION 3. Chapter 25 of the General Laws is amended by in Section 21 by inserting
163 after subsection (e) the following new subsections:-

164 (f) In implementing its energy efficiency plan, each electric and natural gas distribution
165 company Program Administrator, the Oil Heat Energy Efficiency Program Administrator, and
166 any other entity that receives public subsidy and provides energy efficiency services shall, in

167 consultation with the Energy Efficiency Advisory Council, as defined by section 22 of chapter
168 25 of the General Laws, and subject to the approval of the Department of Public Utilities:

169 (1) Report aggregate residential and commercial ratepayer data for those who receive
170 energy efficiency program benefits to the Department Of Energy Resources. The report shall
171 specify for each zip code the number of participants served; energy efficiency measures
172 provided; program and participant dollars spent per measure; energy savings per measure; and
173 the number of participants that reside in rental units.

174 (2) Not later than January 1, 2013 and every January 1 and July 1 of each year thereafter,
175 each electric, natural gas distribution company, and oil heat energy efficiency Program
176 Administrator, and any other entity that receives public subsidy and provides energy efficiency
177 services shall submit the data identified in Section (f)(1) to the Department Of Energy
178 Resources.

179 (g) The Department Of Energy Resources shall establish and maintain a database to store
180 and manage all energy efficiency program data collected under section (f) of chapter 25.

181 (h) The Department Of Energy Resources shall establish annual benchmarks for reaching
182 the statewide goals and providing equitable access to historically harder-to-reach segments,
183 including, but not limited to, residential rental properties, low and moderate-income homeowners
184 and renters (those earning up to 120% state median income), communities whose primary
185 language is not English, and small commercial businesses, which may not be participating at
186 rates commensurate with the funds that they are paying into the programs as ratepayers.

187 (i) Not later than January 1, 2014 and every January 1 of each year thereafter, the
188 Department Of Energy Resources shall provide a report to the Joint Committee on
189 Telecommunications, Utilities and Energy, and the public through the department, demonstrating
190 whether energy efficiency programs are reaching ratepayers and buildings equitably.

191 (j) The Department Of Energy Resources shall promulgate regulations to implement the
192 requirements of this legislation within one year of enactment.

193 SECTION 4. Chapter 23J of the General Laws, as so appearing, is hereby amended in
194 Section 5 by inserting at the end the following new paragraph:-

195 The center shall annually, no later than April 1, submit to the governor, the joint
196 committee on telecommunications, utilities and energy, energy efficiency advisory council a
197 report detailing the energy efficiency and green industry workforce development needs in the
198 State. The report shall include:

199 (A) data on jobs created and demographic information about who is hired;

200 (B) recommended target hiring goals;

201 (C) average salaries and benefits information;

202 (C) recommended legislation to implement the proposed plan on a long-term basis.

203 SECTION 5. Section 7 of chapter 465 of the acts of 1980 is hereby amended by inserting
204 after subsection (g) the following subsections:-

205 (h) A utility shall be exempt from the requirements of subsection (b) if said utility
206 includes the Massachusetts residential conservation service as part of an efficiency investment
207 plan prepared and submitted to the department in accordance with Section 21 of Chapter 25 of
208 the General Laws.

209 (i) The department shall be exempt from the requirements of subsection (f) for any utility
210 that includes the Massachusetts residential conservation service as part of an efficiency
211 investment plan prepared and submitted to the department in accordance with Section 21 of
212 Chapter 25 of the General Laws.