HOUSE DOCKET, NO. 1475 FILED ON: 1/15/2015

HOUSE . . . . . No. 2909

The Commonwealth of Massachusetts

PRESENTED BY:

Frank I. Smizik

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act further promoting energy efficiency and green jobs.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Frank I. Smizik	*15th Norfolk*
James B. Eldridge	*Middlesex and Worcester*
Paul W. Mark	*2nd Berkshire*
Kevin G. Honan	*17th Suffolk*
Thomas M. Stanley	*9th Middlesex*
Peter V. Kocot	*1st Hampshire*
Tom Sannicandro	*7th Middlesex*
Jonathan Hecht	*29th Middlesex*
Denise Provost	*27th Middlesex*
Jennifer E. Benson	*37th Middlesex*
David M. Rogers	*24th Middlesex*
Kay Khan	*11th Middlesex*
Marcos A. Devers	*16th Essex*
Michael J. Moran	*18th Suffolk*

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By Mr. Smizik of Brookline, a petition (accompanied by bill, House, No. 2909) of Frank I. Smizik and others for legislation to further promote energy efficiency and green jobs. Telecommunications, Utilities and Energy.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *2025* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

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, as appearing in the 2012 Official Edition, is hereby amended by inserting after section 35II the following section:

Section 35II1/2: 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

11 subsidiary made from the fund on the Massachusetts management and accounting reporting
12 system. Amounts remaining in the fund at the end of a fiscal year shall not revert to the General
13 Fund and shall be available for expenditure by the fund in the next fiscal year and thereafter.

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

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

18 "Fuel oil industry" or "oil heat industry," persons in the production, transportation, or
19 sale of oil heat fuel; and persons engaged in the manufacture or distribution of oil heat fuel
20 utilization equipment; provided that "fuel oil industry" or "oil heat industry" shall not include
21 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, 2016, 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
55 into the Oil Heat Energy Efficiency Fund pursuant to section 35II1/2 of chapter 10. The Fund
56 shall be expended by the commissioner of energy resources, pursuant to this section, and subject
57 to the approval of the energy efficiency advisory council (EEAC) for the sole purpose of
58 designing, marketing and providing cost-effective energy efficiency programs through financial
59 incentives and services for residential and small business demand-side management programs
60 that improve energy efficiency and reduce consumption for residential and commercial
61 customers who utilize oil heat fuel for space heat or domestic hot water heating, including but
62 not limited to: replacing or upgrading older, inefficient oil heating or domestic hot water
63 systems; duct sealing and insulation, pipe insulation, building envelope sealing and insulation;
64 storm windows; blower door air sealing services; research and design; and marketing of oil heat
65 efficiency products or services. Program design for envelope measures and measures that will
66 save electricity or natural gas, in addition to oil heat,shall be conducted by the EEAC and the
67 program administrator(s), and result in integrated programs that serve all customers, regardless
68 of heating fuel type. Program design elements that result in savings of multiple fuels shall be
69 funded from the oil heat efficiency trust in an equitable manner and in proportion to the oil heat
70 savings generated. No more than one percent (1%) of such funds may be used for training. No
71 more than one percent (1%) of such funds may be allocated to the department for administration
72 of the fund and coordination of the programs. Program design for heating system programs shall
73 be conducted by EEAC and the program administrator(s), provided, however, that under the
74 programs, any oil heating system eligible for replacement shall be replaced with a new oil

75 heating system. The commissioner shall act as the fiscal agent responsible with ensuring these
76 services are delivered as approved by the EEAC and in a cost effective manner that is
77 coordinated with other energy efficiency programs, including the option of DOER to designate
78 the delivery of some or all of the funds through the existing Program Administrators.

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

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

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

89 (2) To implement this section, the commissioner, with the approval of the EEAC
90 and, is hereby directed and authorized to enter into contracts with appropriate organization(s) to
91 serve as energy efficiency program administrator(s), selected through a competitive procurement
92 process, to deliver and operate, in a cost-effective manner, oil heat energy efficiency programs to
93 be provided by retail heating oil dealers and other business entities, organizations and agencies
94 with qualified technical personnel including oil heat technicians in good standing with the
95 Commonwealth in possession of a certificate of competency as defined by Code of
96 Massachusetts Regulation (CMR) 527 CMR 4.00. Programs shall be approved by the EEAC and

97 shall be delivered in a cost effective manner that is coordinated with other energy efficiency
98 programs.

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

112 An investment plan shall include: (i) an assessment of the estimated lifetime cost,
113 reliability and magnitude of all available energy efficiency resources that are cost effective or
114 less expensive than supply; (ii) the estimated energy cost savings that the acquisition of such
115 resources will provide to oil heat consumers, including, but not limited to, reductions in energy
116 costs and increases in price stability and affordability for low-income customers; (iii) a
117 description of programs, which may include, but which shall not be limited to: (A) efficiency
118 programs; (B) programs for research, development and commercialization of products or
119 processes which are more energy-efficient than those generally available; (C) programs for

120 development of markets for such products and processes, including recommendations for new
121 appliance and product efficiency standards; (D) programs for planning and evaluation; and (E)
122 programs for public education regarding energy efficiency; provided, however, that not more
123 than 1 percent (1%) of the fund shall be expended for items (B) and (C) collectively, and not
124 more than 2 percent (2%) of the fund shall be expended for item (E) without authorization from
125 the advisory council; (iv) a proposed mechanism which provides performance incentives to the
126 program administrator(s) based on their success in meeting or exceeding the goals in the plan;
127 (v) the budget that is needed to support the programs; (vi) data showing the percentage of all
128 monies collected that will be used for direct consumer benefit, such as incentives and technical
129 assistance to carry out the plan.

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

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

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

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

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

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

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