

SENATE No. 1843

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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: | |
|-------------------------------|--------------------------------|------------------|
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | |
| <i>Frank I. Smizik</i> | <i>15th Norfolk</i> | <i>1/26/2017</i> |
| <i>Marjorie C. Decker</i> | <i>25th Middlesex</i> | <i>2/1/2017</i> |
| <i>Paul R. Heroux</i> | <i>2nd Bristol</i> | <i>2/1/2017</i> |
| <i>Solomon Goldstein-Rose</i> | <i>3rd Hampshire</i> | <i>2/1/2017</i> |
| <i>Carlos Gonzalez</i> | <i>10th Hampden</i> | <i>2/1/2017</i> |
| <i>Michelle M. DuBois</i> | <i>10th Plymouth</i> | <i>2/1/2017</i> |
| <i>Peter V. Kocot</i> | <i>1st Hampshire</i> | <i>2/3/2017</i> |

SENATE No. 1843

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1843) of James B. Eldridge, Frank I. Smizik, Marjorie C. Decker, Paul R. Heroux and other members of the General Court for legislation to further promote energy efficiency and green jobs. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

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:

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

3 Section 35II1/2. There shall be established and set up on the books of the commonwealth
4 a separate fund to be known as the Oil Heat Energy Efficiency Fund. The fund shall consist of
5 amounts credited to the fund in accordance with sections 11J of chapter 25A and expended
6 exclusively for the purposes of said section 11J of said chapter 25A. The fund shall be
7 administered by the commissioner of energy resources, pursuant to section 11J(b) of chapter
8 25A, in coordination with the secretary of administration and finance. The fund shall be an
9 expendable trust fund and shall not be subject to appropriation or allotment. The commissioner
10 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 inserting after
15 section 11I the following section:

16 Section 11J. (a) As used in this section, the following words shall have the following
17 meanings unless the context clearly requires otherwise:

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.

24 “No. 2 dyed distillate”, fuel oil classified as No. 2 distillate by the American Society for
25 Testing and Materials that is indelibly dyed in accordance with regulations prescribed by the
26 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”, the energy efficiency advisory council
34 established pursuant to section 22 of chapter 25.

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, 2018, the department shall require a systems benefit
45 assessment of \$.025 per gallon be placed on all gallons of oil heat fuel sold for residential or
46 commercial use in Massachusetts in order to establish oil heat energy efficiency programs. The
47 assessment shall be collected at the point of sale of oil heat fuel by a wholesale distributor to a
48 person other than a wholesale distributor, including a sale made pursuant to an exchange. A
49 wholesale distributor shall be responsible for payment of the assessment to the Commonwealth
50 on a quarterly basis and shall provide to the Commonwealth certification of the volume of fuel
51 sold. No. 1 distillate and No. 2 dyed distillate fuel sold for uses other than as oil heat fuel are
52 excluded from the assessment. Distillate fuel used by vessels, railroad, utilities, farmers and the
53 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 35III1/2 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 for the sole purpose of designing, marketing
58 and providing cost-effective energy efficiency programs through financial incentives and
59 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 water systems; 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 natural
66 gas, in addition to oil heat, shall be conducted by the energy efficiency advisory council and the
67 program administrator, and result in integrated programs that serve all customers, regardless of
68 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 1 per cent of such funds may be used for training. No more than
71 1 per cent of such funds may be allocated to the department for administration of the fund and
72 coordination of the programs. Program design for heating system programs shall be conducted
73 by energy efficiency advisory council and the program administrator, provided, however, that
74 under the programs, any oil heating system eligible for replacement shall be replaced with a new
75 oil heating system. The commissioner shall act as the fiscal agent responsible with ensuring these
76 services are delivered as approved by the energy efficiency advisory council and in a cost

77 effective manner that is coordinated with other energy efficiency programs, including the option
78 of the department of energy resources to designate the delivery of some or all of the funds
79 through the existing program administrators.

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

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

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

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

99 advisory council and shall be delivered in a cost effective manner that is coordinated with other
100 energy efficiency programs.

101 (3) Every 3 years, in a manner consistent with natural gas and electric efficiency plans set
102 forth in section 21 of chapter 25, on or before April 30, the program administrators shall jointly
103 prepare an oil heat efficiency investment plan for approval by the department and the energy
104 efficiency advisory council. Each plan shall provide for the acquisition of energy efficiency
105 resources that are cost effective or less expensive than supply and shall be prepared in
106 coordination with the energy efficiency advisory council. A program included in the plan shall
107 be screened through cost-effectiveness testing which compares the value of program benefits to
108 the program costs to ensure that the program is designed to obtain energy savings and system
109 benefits with value greater than the costs of the program. Program cost effectiveness shall be
110 reviewed periodically by the department and by the energy efficiency advisory council. If a
111 program fails the cost-effectiveness test as part of the review process, it shall either be modified
112 to meet the test or shall be terminated. The energy efficiency advisory council may allow for
113 transitional, 1 year plans in order to achieve consistency with section 21 of chapter 25.

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

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

132 (4) The program administrators shall submit the investment plan to the energy efficiency
133 advisory council. Not later than 90 days after the submission of a plan, the department and
134 energy efficiency advisory council shall approve, modify and approve, or reject and require the
135 resubmission of the plan accordingly.

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

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

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

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

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

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