HOUSE DOCKET, NO. 989 FILED ON: 1/19/2011

HOUSE . . . . . No. 879

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 passage of the accompanying:

An Act establishing the cost saving oil heat and propane energy efficiency program .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Frank I. Smizik	*15th Norfolk*
James B. Eldridge	☐ *[District]* ☐
Carl M. Sciortino, Jr.	*34th Middlesex*
Katherine M. Clark	*Middlesex and Essex*
Steven M. Walsh	*11th Essex*
Peter V. Kocot	*1st Hampshire*
David Paul Linsky	*5th Middlesex*
Sal N. DiDomenico	*Middlesex, Suffolk, and Essex*
Stephen Stat Smith	*28th Middlesex*
Ann-Margaret Ferrante	*5th Essex*

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HOUSE . . . . . No. 879

By Mr. Smizik of Brookline, a petition (accompanied by bill, House, No. 879) of Frank I. Smizik and others establishing the cost saving oil heat and propane energy efficiency program. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

An Act establishing the cost saving oil heat and propane energy efficiency program .

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 35II the following section:

Section 35JJ: There shall be established and set up on the books of the commonwealth a separate fund to be known as the Oil Heat and Propane Energy Efficiency Fund. The fund shall consist of amounts credited to the fund in accordance with sections 19B of chapter 25 and expended exclusively for the purposes of said sections 19B of said chapter 25A. The fund shall be administered by the oil heat and propane efficiency trust, pursuant to section 19C of chapter 25, subject to the approval of the energy efficiency advisory council, pursuant to section 22 of chapter 25, and the commissioner 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 in the next fiscal year and thereafter.

SECTION 2. Chapter 25A of the General Laws is hereby amended by adding after section 19 the following new sections: -

Section 19A. For the purposes of sections 19A through 19C, inclusive, 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.

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

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

28 “Cost Effective,“ with respect to an energy efficiency program, means that the program
29 meets the total resource cost test, which requires that the net present value of economic benefits
30 over the life of the program or measure, including avoided supply and delivery costs and
31 deferred or avoided investments, is greater than the net present value of the economic costs over
32 the life of the program, including program costs and incremental costs borne by the energy
33 consumer.

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

36 “Propane,” or “propane fuel,” a hydrocarbon fuel with a chemical makeup of C3H8 that
37 is used for space and hot water heating.

38 “Propane industry,” persons in the production, transportation, or sale of propane fuel used
39 for space heating and hot water heating; and persons engaged in the manufacture or distribution
40 of propane fuel utilization equipment; provided that “propane industry” shall not include ultimate
41 consumers of propane fuel.

42 “Retail marketer,” a person engaged primarily in the sale of oil heat fuel or propane fuel
43 to ultimate consumers.

44 “Wholesale distributor,” a person or business entity that produces No. 1 distillate or No. 2
45 dyed distillate or propane; imports No. 1 distillate or No. 2 dyed distillate or propane; or
46 transports No. 1 distillate or No. 2 dyed distillate or propane across state boundaries or among
47 local marketing areas; and sells the products to another person that does not produce, import, or
48 transport No. 1 distillate o r No. 2 dyed distillate or propane across state boundaries or among
49 local marketing areas.

50 Section 19B: (1) Beginning in 2012, an assessment of $.025 cents (two and one-half
51 cents) per gallon shall be imposed on all gallons of oil heat fuel sold in Massachusetts in order to
52 establish the cost-saving Oil Heat Energy Efficiency Program. The assessment shall be collected
53 at the point of sale of oil heat fuel by a wholesale distributor to a person other than a wholesale
54 distributor, including a sale made pursuant to an exchange. A wholesale distributor shall be
55 responsible for payment of the assessment to the Commonwealth on a quarterly basis; and shall
56 provide to the Commonwealth certification of the volume of fuel sold. No. 1 distillate and No. 2
57 dyed distillate fuel sold for uses other than as oil heat fuel are excluded from the assessment.

58 Distillate fuel used by vessels, railroad, utilities, farmers and the military are exempt from the
59 assessment.

60 (2) An assessment of $.025 cents (two and one-half cents) per gallon shall be imposed
61 on all gallons of propane heating fuel sold in Massachusetts in order to establish the Propane
62 Heat Energy Efficiency Program. The assessment shall be collected at the point of sale of
63 propane fuel by a wholesale distributor to a person other than a wholesale distributor, including a
64 sale made pursuant to an exchange. A wholesale distributor shall be responsible for payment of
65 the assessment to the Commonwealth on a quarterly basis; and shall provide to the
66 Commonwealth certification of the volume of fuel sold.

67 (3) Such funds shall be deposited by the commissioner of administration and finance into
68 the Oil Heat and Propane Energy Efficiency Fund pursuant to section 35JJ of chapter 10. The
69 Fund shall be expended by the oil heat and propane efficiency trust, pursuant to section 19C and
70 subject to the approval of the EEAC pursuant to section 22 of chapter 25, for the sole purpose of
71 designing, marketing and providing cost-effective energy efficiency programs through financial
72 incentives and services, measured by the total resource cost test, for a residential and small
73 business demand-side management program that improves energy efficiency and reduces
74 consumption in for residential, commercial and industrial customers who utilize oil and/or
75 propane for space heat or domestic hot water including but not limited to: the replacement or
76 upgrade of older, inefficient oil and propane heating or domestic hot water system systems; duct
77 sealing and insulation, pipe insulation, building envelope sealing and insulation; storm windows;
78 blower door air sealing services; research and design; and marketing of efficiency products or
79 services. Program design for envelope measures and measures that will save electricity or
80 natural gas, in addition to oil heat or propane shall be conducted by the trust and the program
81 administrator(s), with substantial input from, and approval by, the energy efficiency advisory
82 council and result in integrated programs that serve all customers, regardless of heating fuel type.
83 Program design elements that result in savings of multiple fuels shall be funded from the oil heat
84 and propane trust in proportion to the oil heat and propane savings generated and other heating
85 fuel types also funding in proportion to their savings. No more than one percent (1%) of such
86 funds may be used for training. Program design for heating system programs shall be conducted
87 by the trust and the program administrator(s), with substantial input from, and approval by, the
88 energy efficiency advisory council, provided, however, that such oil heating systems replaced
89 shall be replaced with a new oil heating system, and such propane heating systems replaced shall
90 be replaced with a new propane heating system. The secretary of executive office of energy and
91 the environment shall designate the oil heat and propane efficiency trust, pursuant to section 19C
92 of chapter 25, as the fiscal agent responsible with ensuring these services are delivered as
93 approved by the energy efficiency advisory council and in a cost effective manner that is
94 coordinated with other energy efficiency programs. Funds shall be apportioned between oil heat
95 efficiency programs and propane efficiency programs in direct correlation to funds generated
96 from oil heat fuel sales and propane sales.

97 At least 20 per cent of the funds collected shall be spent on comprehensive low-income
98 residential oil heat demand-side management and education programs. The secretary shall
99 designate that these programs be administered in conjunction with the low income
100 weatherization funds administered by the department of housing and community development
101 and delivered through the Heating Energy Assistance Task Weatherization Program and Low
102 Income Home Energy Assistance Program pursuant to the qualification guidelines outlined by
103 said programs.

104 Section 19C: (1) Massachusetts shall establish a non-profit Oil Heat and Propane
105 Efficiency Trust to serve as the fiscal agent for oil and propane energy efficiency funds and
106 programs in the commonwealth. The Trust will be composed of five members, one of which will
107 represent the oil heating industry, one of which will represent the propane heat industry, one of
108 which will represent the environmental community, one of which will be the Attorney General
109 and one of which will be the Commissioner of Energy Resources who will serve as chairman.
110 The Secretary of Energy and Environmental Affairs shall appoint each member of the Trust for a
111 period of 4 years, with term periods for members staggered. Actions of the trust shall require a
112 majority vote.

113 The Trust, in consultation with the energy efficiency advisory council as set forth in
114 section 22 of chapter 25, shall establish a target budget designed to ramp-up over time to capture
115 cost-effective energy efficiency for heating oil and propane, and a corresponding annual
116 assessment designed to recover enough money to fund the programs;

117 (2) To implement this section the Trust, in consultation with the energy efficiency
118 advisory council as set forth in section 22 of chapter 25, is hereby directed and authorized to
119 enter into contracts with appropriate organization(s) to serve as energy efficiency program
120 administrator(s), selected through a competitive procurement process, to deliver and operate, in a
121 cost-effective manner, the Oil Heat and Propane Energy Efficiency Program to be provided by
122 retail heating oil and propane dealers and other business entities, organizations and agencies with
123 qualified technical personnel including oil heat technicians in good standing with the
124 Commonwealth in possession of a certificate of competency as defined by Code of
125 Massachusetts Regulation (CMR) 527 CMR 4.00, and are delivered as approved by the energy
126 efficiency advisory council and in a cost effective manner that is coordinated with other energy
127 efficiency programs.

128 (3) Every 3 years, on or before April 30, the program administrators shall jointly prepare
129 an oil heat efficiency investment plan and a propane efficiency investment plan. Each plan shall
130 provide for the acquisition of energy efficiency resources that are cost effective or less expensive
131 than supply and shall be prepared in coordination with the energy efficiency advisory council
132 established by section 22.

133 A plan shall include: (i) an assessment of the estimated lifetime cost, reliability and
134 magnitude of all available energy efficiency resources that are cost effective or less expensive
135 than supply; (iii) the estimated energy cost savings that the acquisition of such resources will
136 provide to oil heat and propane consumers, including, but not limited to, reductions in energy
137 costs and increases in price stability and affordability for low-income customers; (iv) a
138 description of programs, which may include, but which shall not be limited to: (A) efficiency
139 programs; (B) programs for research, development and commercialization of products or
140 processes which are more energy-efficient than those generally available; (C) programs for
141 development of markets for such products and processes, including recommendations for new
142 appliance and product efficiency standards; (D) programs providing support for energy use
143 assessment, real time monitoring systems, engineering studies and services related to new
144 construction or major building renovation, including integration of such assessments, systems,
145 studies and services with building energy codes programs and processes, or those regarding the
146 development of high performance or sustainable buildings that exceed code; (E) programs for
147 planning and evaluation; and (F) programs for public education regarding energy; provided,
148 however, that not more than 1 per cent of the fund shall be expended for items (B) and (C)
149 collectively, without authorization from the advisory council; (v) a proposed mechanism which
150 provides performance incentives to the program administrator(s) based on their success in
151 meeting or exceeding the goals in the plan; (vi) the budget that is needed to support the
152 programs; (vii) data showing the percentage of all monies collected that will be used for direct
153 consumer benefit, such as incentives and technical assistance to carry out the plan.

154 (4) Programs shall be designed to treat all energy use in a building in a comprehensive
155 and coordinated fashion across the state with maximum use of common program designs,
156 integrated programs, and a common pool of energy efficiency vendors and contractors who can
157 treat all energy use in a building comprehensively.

158 The financial incentives used in said program may be a combination of low or zero
159 interest loans or direct rebates and other financial incentives. The Trust, in consultation with the
160 energy efficiency advisory council as set forth in section 22 of chapter 25, shall solicit input from
161 the oil heat industry, banking and lending institutions and environmental, consumer, and low
162 income advocacy groups on the development of the regulations implementing this section and
163 delivery of all program services.

164 (5) The department of energy resources shall issue regulations implementing this section
165 within 3 months of enactment of this section and the Trust shall enter into contracts within 6
166 months after such regulations have been made final.

167 (6) From time to time, the Trust, in consultation with the energy efficiency advisory
168 council, shall undertake, or cause to be undertaken, an assessment of cost-effective oil heat and
169 propane energy efficiency resource potential in the commonwealth.

170 (7) Evaluation, monitoring, and verification of the efficiency programs shall be
171 conducted by an independent third-party selected by the energy efficiency advisory council, in
172 consultation with the Trust. Said independent third party shall report its findings to the Trust, the
173 energy efficiency advisory council, the joint committee on telecommunications, utilities, and
174 energy, and the public. Allocations for independent third-party EM&V and other consulting
175 services shall not exceed 1 per cent of the fund on an annual basis

176 (8) The Trust, in collaboration with the program administrator(s) and the energy
177 efficiency advisory council, shall prepare an annual report to the joint committee on
178 telecommunications, utilities, and energy and the public that includes but is not limited to: a
179 description and amount and use of proceeds of home Oil Heat and Propane Energy Efficiency
180 Fund collected under this section, a description of the cost-effective energy efficiency programs
181 funded through such proceeds; and demonstration of the consumer savings, cost-effectiveness of,
182 and the lifetime and annual energy savings achieved by the energy efficiency programs funded.