



**Comments of Northeast Energy Efficiency Partnerships (NEEP)
To the Joint Committee on Telecommunications, Utilities and Energy
Regarding Various Acts Pertaining to Energy Efficiency**

July 9, 2013

The Honorable Benjamin B. Downing, Senate Chairman
Joint Committee on Telecommunications, Utilities and Energy
State House Room 410 Boston, MA 02133

The Honorable John D. Keenan, House Chairman
Joint Committee on Telecommunications, Utilities and Energy
State House Room 473B Boston, MA 02133

Chairman Keenan, Chairman Downing and Members of the Committee:

On behalf of Northeast Energy Efficiency Partnerships (NEEP)¹, thank you for the opportunity to provide comments on several of the bills before you today.

NEEP is a regional non-profit whose mission is to serve the Northeast and Mid-Atlantic to accelerate energy efficiency in the building sector through public policy, program strategies and education. Our vision is that the region will fully embrace energy efficiency as a cornerstone of sustainable energy policy to help achieve a cleaner environment and a more reliable and affordable energy system.

For the reasons elaborated on below, NEEP urges favorable reports on H. 2741/S. 1586, S. 1564 and S. 1566. We ask the Committee to reject S.1587, S. 1590 S. 1619/H. 2948, H. 2919, H. 2978, H. 2910, S. 1575 and S. 1574.

In Support:

The bills NEEP supports pertain to efficiency for heating fuels, building energy information disclosure and access to building energy data by customers.

H. 2741 / S. 1586 - Relative to oilheat efficiency funding

NEEP believes that all customers should have access to energy efficiency opportunities. Over the past several years, we have been working with allies including consumer and environmental advocates, oil dealers, faith groups and businesses to urge creation of an oilheat energy efficiency fund. Please see our extensive written comments on the benefits of H. 2741 (and the companion bill, S. 1586) for the state's residential and business customers,

¹ These comments are offered by NEEP staff and do not necessarily represent the view of the NEEP Board of Directors, sponsors or partners.

and potential it holds for creating jobs, increasing comfort, saving money, and reducing pollution. We thank the Committee chairmen for your leadership on behalf of this important bill, and urge you to maximize your efforts to ensure passage and enactment.

S. 1564 and S. 1566 - Access to utility building energy data

NEEP is in favor of increased access to building energy consumption data for owners and occupants. We believe that such information can help people understand energy usage patterns and make visible whether buildings are low-performing relative to similar buildings. Information can help drive the market valuation of energy-efficient buildings, encouraging property owners to invest in upgrades that will lower operating costs and reduce monthly energy bills. The requirement in S. 1566 applies to every non-residential building that they own equal to or greater than 25,000 gross square feet and to every residential building equal to or greater than 25 units or 25,000 gross square feet. We support S. 1566 as it would strengthen the City of Boston's building benchmarking ordinance, and similar local regulations. Further, we support S. 1564, because it would make building energy history data available to the general public, while protecting sensitive customer data. This would be a step in the right direction in helping the market understand and value buildings based on the efficiency of their systems.

In Opposition:

While most of the following bills are well-intentioned, NEEP's extensive experience in energy efficiency policy, building energy codes, high performance buildings and efficiency program design inform our determination that these bills should not be enacted as conceived. We therefore ask the Committee to report unfavorably on the following titles:

S. 1587- Promoting zero net-energy buildings

NEEP has been active in promoting zero-net energy or "ZNEB" buildings with our partners at the Department of Energy Resources and the electric and gas utilities and the Cape Light Compact, including serving on the Governor Patrick's Net Zero Energy Buildings Taskforce. The intent of this legislation is to accelerate progress toward such goals set under the Global Warming Solutions Act by developing advanced building codes. However, S. 1587 would replace the state's existing base code adoption language with a ZNEB target, instead. While we support this legislation in concept, we note that it is difficult to apply ZNEB as a code minimum, given siting issues. ZNEB requirements could in fact be counter-productive to urban infill, transit oriented development and other well located sites for development, especially for commercial buildings. As such, NEEP believes that the standards set forward in this legislation are not appropriate for minimum energy code.

S.1590 - Expedited permitting for energy efficient buildings in green communities

This is another bill that we see as well-intentioned, but missing the mark. This act would replace the current Green Communities Act stretch code adoption language with an expedited permitting requirement on municipalities for buildings that meet approximate stretch code performance, thus making the stretch code optional and not mandatory. An optional stretch

code, by way of S. 1590, would dramatically weaken the Green Communities program criteria and risks reducing substantial greenhouse gas and energy savings potential.

H. 2978 - Requiring LEED for state buildings and single family homes

We urge the Committee to report unfavorably on this bill, as we have repeatedly in prior sessions. NEEP sees H. 2978 as misinformed and misapplied, both in terms of schools and private residences. First, we have grave concerns about this bill's intent to require LEED² Silver for all residential construction of 5,000 square feet for single family and 7,500 square feet for multi-family. This would nullify the progress made by the Commonwealth regarding the so-called "stretch energy code." It would not, in fact, assure energy savings like the stretch code does because LEED does not focus solely on energy, but allows applicants to "shop for points." Also, LEED is not a code and cannot be administered or enforced as code.

Next, we are concerned that this legislation overlooks current practice at the Massachusetts Department of Education's School Building Authority (MSBA) to encourage high performance school design and construction, and would displace a very thorough, effective and beneficial set of criteria already in place to encourage high performance school construction in the Commonwealth. This practice allows new school construction projects to choose from two similar protocols, each that require schools to meet the state's stretch building energy code. LEED Silver would actually be a step backwards on the energy savings front.

The MSBA stipulates that school districts use the design standards found in the Massachusetts Collaborative for High Performance Schools protocol (MA-CHPS) or the state-specific LEED for Schools program to be eligible for additional state funding. As the Northeast regional convener of CHPS and the Collaborative for High Performance Schools, NEEP reminds the Committee that the Commonwealth has made a significant investment of time and resources in purchasing the CHPS license for Massachusetts, developing and adapting CHPS specifically for the state, and training a significant number of practitioners and other stakeholders on its implementation. Since there is already a robust process and set of guidelines in place to encourage schools to incorporate energy efficiency and other green design protocols, we urge the legislature to keep that system intact.

H. 2910 and S. 1575 - Creation of a state energy efficiency database

These bills seek to address the need for greater transparency into which are being served by the statewide Mass Save® energy efficiency programs. While we wholeheartedly support the need to serve all customer classes and regions equitably and make it easier for customers and municipalities to access energy data, we would note that these concerns are already being addressed through the existing framework overseen by the Energy Efficiency Advisory Council (EEAC). We oppose these bills on the grounds that a statewide database is already being created in partnership with the Department of Energy Resources and the regulated electric and gas utilities and the Cape Light Compact. We also note that the Mass Save® programs are making great strides with their Efficient Neighborhoods+ initiative, targeting communities

² U.S. Green Building Council's Leadership in Energy and Environmental Design

with great need, as well as their efforts to address landlord/tenant barriers and better reach the multifamily sectors. We urge the supports here to continue to work through the EEAC process and key stakeholders as part of the program development and evaluation process.

H.2919 - Relative to energy efficiency literacy for commercial property managers

This bill would require the utilities to create an in-depth education program offered statewide for commercial building managers and operators to learn how to economically achieve greater energy efficiency and reduce energy use as part of their three-year energy efficiency plans. NEEP certainly believes that large buildings need trained managers who understand how building systems work together, and how to find and mitigate energy waste. We question the wisdom of developing such a program legislatively, circumventing the state's Energy Efficiency Advisory Council and the existing efficiency programs which currently offer some training assistance. We believe that such a new offering should be developed under the auspices of Mass Save® and the existing framework for efficiency program delivery, rather than through the Department of Public Utilities.

S. 1619/ H.2948 - Expanded opt-out program for large users

NEEP opposed the original large customer opt-out legislation (S. 1680) in 2011, and we strongly oppose the expansion called for in these mirror bills. The statewide electric and gas energy efficiency programs run under the Mass Save® banner work because of the unified and coordinated funding, marketing, operation and evaluation. They work because system benefit charge (SBC) funds are pooled together and available for customers to tap when they are ready to undertake an efficiency project, rather than tying that money up for an undetermined amount of time, with uncertain energy savings, as this bill would allow for the ten largest customers in each utility service territory.

We have talked to commercial and industrial (C&I) program staff at some of the state's electric and natural gas utilities about how the opt-out provision has worked since it went into effect in January of 2013. We have learned that for most of the program administrators (utilities and Cape Light Compact), only a handful of the eligible customers (the five largest users in each territory) have decided to opt out for the available one, two or three years. This path allows them to access ninety percent of the funds they would pay in over a three year period, and use it to do their own efficiency programs with minimal cost-effectiveness oversight. But opting out comes at a cost.

When faced with the choice, most customers have realized there is far greater value in staying in the Mass Save® programs, having the technical support of the program administrators, not the headaches and uncertainties of running their own programs. Many also realize that they stand to gain even more efficiency incentives than what they pay into the SBC. In fact, one gas utility reported that they used the opt-out provision as a point of engagement with their largest customers, as an entrée to talk about efficiency. As a result, none opted out of the utility programs, and three out of five of those customers are undertaking significant efficiency projects that will save large amounts of natural gas.

Expanding opt-out to the ten largest customers in each service territory, as S. 1619 / H. 2948 proposes, risks drastically undermining the efficiency program funding for all commercial customer classes above 200 kW – which in essence includes all users bigger than a small business. One large customer has already tied up half a million dollars in program funds over three years, with no guarantee as to when they would use it for efficiency projects. Opting out also increases the program costs for all other C&I customers that remain in the program. Allowing the largest commercial and industrial users to opt out of efficiency programs does not represent the best use of ratepayer dollars to advance energy efficiency, and would in fact present additional burdens on these businesses as well as harm those that do not have the option of special treatment.

S.1574 - Relative to affordable housing energy efficiency

NEEP opposes this bill, as we have in past sessions. While well intentioned, this legislation is tied to a building energy performance goal that is inconsistent with the existing state goals for building performance through the code and stretch code appendix. The bill would apply when “applicants demonstrate that the building design incorporates energy conservation measures that exceed those required by the state building code by at least fifteen per cent or are otherwise designed to comply with energy star standards...” Instead, it should be tied statutorily to Appendix 120.AA to the state building energy code, which sets the above code performance targets. It would also, thus, keep the efforts in line with the ratepayer funded efficiency programs, making applicants eligible for that funding as well.

Further, this bill does not reflect the substantial work that is being done by the program administrators and the Department of Energy Resources to address the need to reach multifamily housing units with energy efficiency, and the new and improved incentives and financing tools developed specifically to target such underserved market segments. We refer the committee and bill sponsors to the Mass Save® website for more on these programs.³

In Closing

We thank the Committee and bill sponsors for your many good efforts to harness the power of energy efficiency and clean energy in the Commonwealth, and thank you for the opportunity to provide these comments. Please do not hesitate to contact me or my NEEP colleagues with any questions regarding this testimony or other matters related to energy efficiency policies in Massachusetts or across the region.



Natalie Hildt Treat
Senior Manager, Public Policy Outreach
Northeast Energy Efficiency Partnerships (NEEP)
(781) 860-9177 x121 or ntreat@neep.org

³ <http://www.masssave.com/business/multi-family-facilities>