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An Act To Create Affordable Heating Options for Maine Residents and Reduce Business Energy Costs

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 35-A MRSA §10103, sub-§1, ¶B, as enacted by PL 2009, c. 372, Pt. B, §3, is repealed and the following enacted in its place:

B. Reduce energy costs and improve security of the state and local economies. The trust shall administer cost-effective energy and energy efficiency programs consistent with applicable requirements of this chapter or other law to help individuals and businesses meet their energy needs at the lowest cost and generally to improve the economic security of the State by:

(1) Reducing the cost of energy to residents of the State;

(2) Maximizing the use of cost-effective weatherization and energy efficiency measures, including measures that improve the energy efficiency of energy-using systems, such as heating and cooling systems and system upgrades to energy efficient systems that rely on affordable energy resources;

(3) Reducing economic insecurity from the inefficient use of expensive fossil fuels;

(4) Increasing new jobs and business development to deliver affordable energy and energy efficiency products and services;

(5) Enhancing heating benefits for households of all income levels through implementation of cost-effective efficiency programs, including weatherization programs and affordable heating systems, that will produce comfort, improve indoor air quality, reduce energy costs for those households and reduce the need for future fuel assistance;

(6) Simplifying and enhancing consumer access to technical assistance and financial incentives relating to energy efficiency and the use of alternative energy resources by merging or coordinating dispersed programs under a single administrative unit possessing independent management and expertise; and

(7) Using cost-effective energy and energy efficiency investments to reduce greenhouse gas emissions;

Sec. 2. 35-A MRSA §10103, sub-§1, ¶D, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

D. Actively promote investment in cost-effective energy and energy efficiency measures and systems that use alternative energy resources that reduce overall energy costs for consumers in the State.

Sec. 3. 35-A MRSA §10103, sub-§2, ¶A, as amended by PL 2011, c. 637, §2 and c. 655, Pt. MM, §18 and affected by §26, is repealed and the following enacted in its place:

A. The board consists of the following 11 voting members:

(1) The Director of the Governor's Energy Office;

(2) The Commissioner of Economic and Community Development or the commissioner's designee;

(3) The Commissioner of Environmental Protection or the commissioner's designee; and

(4) Eight members appointed by the Governor, reviewed by the joint standing committee of the Legislature having jurisdiction over energy matters and approved by the Senate. Among these 8 members:

(a) One must represent the interests of commercial energy consumers;

(b) One must represent the interests of industrial energy consumers;

(c) One must represent the interests of small business energy consumers; and

(d) One must represent the interests of residential energy consumers and low-income energy consumers; and

(e) Four persons must collectively possess knowledge of and experience in financial matters and consumer advocacy and possess substantial management expertise or knowledge of or experience with conservation fund programs, carbon reduction programs or energy efficiency or climate change policy.

The requirements of this subparagraph may be met through the appointment of one or more persons who satisfy more than one of the requirements, as long as at any one time the 8 members include among them members who adequately represent the identified interests and who possess the required knowledge, expertise and experience.

Appointed members serve 3-year terms. If an appointed member is unable to complete the term, the Governor shall appoint a replacement for the remainder of the unexpired term.

Sec. 4. 35-A MRSA §10103, sub-§4, as amended by PL 2009, c. 655, Pt. B, §3, is further amended to read:

4. Program funding. The board may apply for and receive grants from state, federal and private sources for deposit into appropriate program funds including funds for both residential and business programs. The board may deposit in appropriate program funds the proceeds of any bonds issued for the purposes of programs administered by the trust. The board may receive and shall deposit in appropriate program funds revenue resulting from any forward capacity market or other capacity payments from the regional transmission organization that may be attributable to by those projects funded by those funds. The board shall deposit into appropriate program funds revenue transferred to the trust from the energy infrastructure benefits fund pursuant to Title 5, section 282, subsection 9 for use in accordance with subsection 4-A. The board may also deposit any grants or other funds received by or from any entity with which the trust has an agreement or contract pursuant to this chapter if the board determines that receipt of those funds is consistent with the purposes of this chapter.

Sec. 5. 35-A MRSA §10103, sub-§4-A, ¶A, as enacted by PL 2009, c. 655, Pt. B, §4, is repealed and the following enacted in its place:

A. To ensure the steady transition to improving the State's economy, the trust shall pursue lower energy costs for people, communities and businesses in a manner that will not undermine the environment of the State and in accordance with the triennial plan. In the expenditure of funds pursuant to this paragraph, the trust may provide grants, loans, programs and incentives on a competitive basis.

Sec. 6. 35-A MRSA §10104, sub-§1, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

1. Generally. In accordance with this section and other applicable law, the trust administers and disburses funds and coordinates programs to promote reduced energy costs, energy efficiency and increased use of alternative energy resources in the State. The trust is responsible for accounting for, evaluating and monitoring all activities of the trust and all programs funded in whole or in part by the trust.

Sec. 7. 35-A MRSA §10104, sub-§2, ¶B, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

B. The effectiveness of programs is maximized by building up and centralizing expertise, addressing conflicts of interest, mitigating the influence of politics, promoting flexible, timely program management and providing a champion for funding cost-effective energy and energy efficiency programs;

Sec. 8. 35-A MRSA §10104, sub-§3, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

3. Measures of performance. The trust shall develop quantifiable measures of performance for all programs it administers and to which it will hold accountable all recipients of funding from the trust and recipients of funds used to deliver energy and energy efficiency and weatherization programs administered or funded by the trust. Such measures may include, but are not limited to, reduced energy consumption, increased use of alternative energy resources, upgrades to more affordable heating systems, reduced capacity demand for natural gas, electricity and fossil fuels, reduced carbon dioxide emissions, program and overhead costs and cost-effectiveness, the number of new jobs created by the award of trust funds, the number of energy efficiency trainings or certification courses completed and the amount of sales generated.

Sec. 9. 35-A MRSA §10104, sub-§4, as amended by PL 2011, c. 637, §3, is further amended to read:

4. Triennial plan. The board shall vote on a detailed, triennial, energy efficiency, alternative energy resources and conservation plan that includes the quantifiable measures of performance developed under subsection 3 and make a full report of the vote to the commission in accordance with this subsection. The triennial plan must provide integrated planning, program design and implementation strategies for all energy programs including programs to reduce energy costs for residents of the State, energy efficiency, alternative energy resources and conservation programs administered by the trust, including but not limited to the electric ~~efficiency~~energy and conservation programs under section 10110, the natural gas efficiency and conservation programs under section 10111, the Regional Greenhouse Gas Initiative Trust Fund under section 10109, the Heating Fuels Efficiency and Weatherization Fund under section 10119 and any state or federal funds or publicly directed funds accepted by or allocated to the trust for the purposes of this chapter. The triennial plan must include provisions for the application of appropriate program funds to support workforce development efforts that are consistent with and promote the purposes of the trust. Beginning January 1, 2011, the triennial plan must specify the appropriate participation of the State in national and regional carbon markets. The plan must be consistent with the comprehensive state energy plan pursuant to Title 2, section 9, subsection 3, paragraph C.

A. The triennial plan must be developed by the trust, in consultation with entities and agencies engaged in delivering energy and energy efficiency programs in the State, to authorize and govern or coordinate implementation of energy and energy efficiency and weatherization programs in the State.

(1) Transmission and distribution utilities and natural gas utilities shall furnish data to the trust that the trust requests under this subsection subject to such confidential treatment as a utility may request and the board determines appropriate pursuant to section 10106. The costs of providing the data are deemed reasonable and prudent expenses of the utilities and are recoverable in rates.

B. In developing the triennial plan, the staff of the trust shall consult the board and provide the opportunity for the board to provide input on drafts of the plan.

B-1. In developing the triennial plan, the trust shall provide the joint standing committee of the Legislature having jurisdiction over energy matters an opportunity to provide input on the plan, which may occur at the same time the trust consults with other entities in the development of the plan.

C. The board shall review and approve the triennial plan by affirmative vote of 2/3 of the trustees upon a finding that the plan is consistent with the statutory authority for each source of funds that will be used to implement the plan, the state energy efficiency targets in paragraph FG and the best practices of program administration under subsection 2. The plan must include, but is not limited to, efficiency and conservation program budget allocations, objectives, targets, measures of performance, program designs, program implementation strategies, timelines and other relevant information.

D. Prior to submission of the triennial plan to the commission, the trust shall offer to provide a detailed briefing on the draft plan to the joint standing committee of the Legislature having jurisdiction over energy matters and, at the request of the committee, shall provide such a briefing and opportunity for input from the committee. After providing such opportunity for input and making any changes as a result of any input received, the board shall deliver the plan to the commission for its review and approval. The commission shall open a proceeding and issue an order either approving the plan or rejecting the plan and stating the reasons for the rejection. The commission shall reject elements of the plan that propose to use funds generated pursuant to sections 3210-C, 10110, 10111 or 10119 if the plan fails to reasonably explain how these elements of the program would achieve the objectives and implementation requirements of the programs established under those sections or the measures of performance under subsection 3. Funds generated under these statutory authorities may not be used pursuant to the triennial plan unless those elements of the plan proposing to use the funds have been approved by the commission. The commission shall approve or reject any elements of the triennial plan within 60 days of its delivery to the commission. The board, within 15 days of final commission approval of its plan, shall submit the plan to the joint standing committee of the Legislature having jurisdiction over energy matters together with any explanatory or other supporting material as the committee may request and, at the request of the committee, shall provide a detailed briefing on the final plan. After receipt of the plan, the joint standing committee of the Legislature having jurisdiction over energy matters may submit legislation relating to the plan.

E. The trust shall determine the period to be covered by the triennial plan except that the period of the plan may not interfere with the delivery of any existing contracts to provide energy efficiency services that were previously procured pursuant to efficiency and conservation programs administered by the commission.

~~F. It is an objective of the triennial plan to design, coordinate and integrate sustained energy efficiency and weatherization programs that are available to all energy consumers in the State, regardless of fuel type, that advance the targets of:~~

~~(1) Weatherizing 100% of residences and 50% of businesses by 2030;~~

~~(2) Reducing peak-load electric energy consumption by 100 megawatts by 2020;~~

~~(3) Reducing the State's consumption of liquid fossil fuels by at least 30% by 2030;~~

~~(4) By 2020, achieving electricity and natural gas savings of at least 30% and heating fuel savings of at least 20% as defined in and determined pursuant to the measures of performance ratified by the commission under section 10120;~~

~~(5) Capturing all cost-effective energy efficiency resources available for electric and natural gas utility ratepayers;~~

~~(6) Saving residential and commercial heating consumers not less than \$3 for every \$1 of program funds invested by 2020 in cost-effective heating and cooling measures that cost less than conventional energy supply;~~

~~(7) Building stable private sector jobs providing clean energy and energy efficiency products and services in the State by 2020; and~~

~~(8) Reducing greenhouse gas emissions from the heating and cooling of buildings in the State by amounts consistent with the State's goals established in Title 38, section 576.~~

~~The trust shall preserve when possible and appropriate the opportunity for carbon emission reductions to be monetized and sold into a voluntary carbon market. Any program of the trust that supports weatherization of buildings must be voluntary and may not constitute a mandate that would prevent the sale of emission reductions generated through weatherization measures into a voluntary carbon market.~~

~~As used in this paragraph, "heating fuel" means a fossil fuel used for the purposes of heating buildings or for domestic water heating, including liquefied petroleum gas, kerosene or #2 heating oil, but not including fuels when used for industrial or manufacturing processes, and "liquid fossil fuel" means any liquid fossil fuel or heating fuel used for a purpose other than for transportation.~~

G. It is an objective of the triennial plan to design, coordinate and integrate sustained energy efficiency and weatherization programs that are available to all energy consumers in the State, regardless of fuel type, that advance the targets of:

(1) Reducing heating costs for residents of the State;

(2) Weatherizing, as defined by the trust, 100% of residences and 50% of businesses by 2030 and interim goals established by the trust;

(3) Reducing peak-load electric energy consumption by 100 megawatts by 2020;

(4) Reducing the State's consumption of liquid fossil fuels as a share of gross state product by at least 30% by 2030;

(5) By 2020, achieving electricity and natural gas savings as a share of gross state product of at least 30% and heating fuel savings as a share of gross state product of at least 20% as defined in and determined pursuant to the measures of performance ratified by the commission under section 10120;

(6) Capturing all cost-effective energy efficiency resources available for electric and natural gas utility ratepayers;

(7) Saving residential and commercial heating consumers not less than \$3 for every \$1 of program funds invested by 2020 in cost-effective heating and cooling measures that cost less than conventional energy supply;

(8) Building stable private sector jobs providing clean energy and energy efficiency products and services in the State by 2020; and

(9) Reducing greenhouse gas emissions from the heating and cooling of buildings in the State by amounts consistent with the State's goals established in Title 38, section 576.

The trust shall preserve when possible and appropriate the opportunity for carbon emission reductions to be monetized and sold into a voluntary carbon market. Any program of the trust that supports weatherization of buildings must be voluntary and may not constitute a mandate that would prevent the sale of emission reductions generated through weatherization measures into a voluntary carbon market.

As used in this paragraph, "heating fuel" means a fossil fuel used for the purposes of heating buildings or for domestic water heating, including liquefied petroleum gas, kerosene or #2 heating oil, but not including fuels when used for industrial or manufacturing processes, and "liquid fossil fuel" means any liquid fossil fuel or heating fuel used for a purpose other than for transportation.

Sec. 10. 35-A MRSA §10109, sub-§3, as enacted by PL 2009, c. 372, Pt. B, §3, is repealed.

Sec. 11. 35-A MRSA §10109, sub-§§3-A and 3-B are enacted to read:

3-A. Investing in affordable energy costs. The portion of revenue dedicated to the Regional Greenhouse Gas Initiative Trust Fund under subsection 2 generated from residential consumers must be used for investment in projects that lower residential heating energy demand consistent with greenhouse gas reduction. The program must be technology-neutral and may include, but is not limited to, energy efficiency improvements, upgrades to advanced heating systems including efficient natural gas systems, efficient propane systems, wood pellet systems, efficient heating oil systems, heat pumps, renewable energy systems and any other system that will significantly reduce residential energy costs and greenhouse gas emissions, as determined by the board. The board shall give priority to measures with the highest benefit-to-cost ratio and may develop specific programs for extremely high-cost regions of the State.

3-B. Reducing business electricity prices. The portion of revenue dedicated to the Regional Greenhouse Gas Initiative Trust Fund under subsection 3 generated from business and industrial consumers must be used for rebates or prospective rate reductions calculated on a per-kilowatt-hour basis pursuant to sections 301 and 1322. The commission may request a transfer from the trust for the purposes of this subsection. The commission shall adopt rules to implement this subsection and may provide for a nonuniform electric rate reduction to maximize the benefit to the State's economy. The rules must establish a system under which proceeds from the sale of carbon dioxide allowances may be returned to electric ratepayers as direct credits on their bills at times of heightened price pressure in regional carbon dioxide allowance markets due to an extraordinary circumstance. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 12. 35-A MRSA §10109, sub-§4, as amended by PL 2009, c. 565, §6 and affected by §9, is further amended to read:

4. Further expenditures. The trust fund must be expended used to make further expenditures in accordance with this subsection.

A. During the years 2009, 2010 and 2011, not less than 85% of the trust fund must be allocated for measures, investments and arrangements that reduce electricity consumption, and not more than 15% must be allocated for fossil fuel conservation measures, investments and arrangements. Subject to the apportionment between fossil fuel and electricity conservation pursuant to this subsection, the trust shall fund conservation programs that give priority to measures with the highest benefit-to-cost ratio, as long as cost-effective collateral efficiency opportunities are not lost, and that:

~~(1) Reliably reduce greenhouse gas production by fossil fuel combustion in the State at the lowest cost in funds from the trust fund per unit of emissions; or~~

~~(2) Reliably reduce the consumption of electricity in the State at the lowest cost in funds from the trust fund per kilowatt-hour saved.~~

B. Expenditures from the trust fund relating to conservation of electricity and mitigation or reduction of greenhouse gases must be made predominantly on the basis of a competitive bid process for long-term contracts, subject to rules adopted by the board under section 10105. Rules adopted by the board to implement the competitive bid process under this paragraph may not include an avoided cost methodology for compensating successful bidders. Bidders may propose contracts designed to produce greenhouse gas savings or electricity conservation savings, or both, on a unit cost basis. Contracts must be commercially reasonable and may require liquidated damages to ensure performance. Contracts must provide sufficient certainty of payment to enable commercial financing of the conservation measure purchased and its installation.

C. The board may target bid competitions in areas or to participants as they consider necessary, as long as the requirements of paragraph A are satisfied.

~~D. Nonelectric savings programs must be used to maximize fossil fuel energy efficiency and conservation and associated greenhouse gas reductions, subject to the apportionment between fossil fuel and electricity conservation set forth in paragraph A. Community-based renewable energy projects, as defined in section 3602, subsection 1, may apply for funding from the trust as nonelectric savings programs.~~

E. The size of a project funded by the trust fund is not limited as long as funds are awarded to maximize energy efficiency and support greenhouse gas reductions and to fully implement the triennial plan.

F. ~~No more than \$800,000 of trust fund receipts in any one year may be used for the costs of administering the trust fund pursuant to this section. The limit on administrative costs established in this paragraph does not apply to the following costs that may be funded by the trust fund:~~

~~(1) Costs of the Department of Environmental Protection for participating in the regional organization as defined in Title 38, section 580-A, subsection 20 and for administering the allowance auction under Title 38, chapter 3-B; and~~

~~(2) Costs of the Attorney General for activities pertaining to the tracking and monitoring of allowance trading activity and managing and evaluating the trust's funding of conservation programs.~~

F-1. Trust fund receipts may be used to fund:

(1) Costs of the Department of Environmental Protection for participating in the regional organization as defined in Title 38, section 580-A, subsection 20 and for administering the allowance auction under Title 38, chapter 3-B. The department's projected costs must be forwarded from the trust fund at the beginning of each fiscal year and may include, among other costs, the administration and oversight of the State's participation in the carbon dioxide cap-and-trade program as authorized in Title 38, chapter 3-B; and.

(2) Costs of the Attorney General for activities pertaining to the tracking and monitoring of allowance trading activity and managing and evaluating the trust's funding of conservation programs.

G. In order to minimize administrative costs and maximize program participation and effectiveness, the trustees shall, to the greatest extent feasible, coordinate the delivery of and make complementary the energy efficiency programs under this section and other programs under this chapter.

H. The trust shall consider delivery of efficiency programs by means of contracts with service providers that participate in competitive bid processes for reducing energy consumption within individual market segments or for particular end uses.

I. A trade association aggregator is eligible to participate in competitive bid processes under this subsection.

J. Trust fund receipts ~~may~~must fund research approved by the Department of Environmental Protection in an amount of up to \$100,000 per year to develop new categories for carbon dioxide emissions offset projects, as defined in Title 38, section 580-A, subsection 6, that are located in the State. Expenditures on research pursuant to this paragraph are not considered administrative costs under paragraph FF-1.

Sec. 13. 35-A MRSA §10110, sub-§2, as amended by PL 2011, c. 637, §6, is further amended to read:

2. Programs. The trust shall develop and implement conservation and energy programs to help reduce energy costs for ~~electricity~~residential energy consumers in the State by the maximum amount possible. The trust shall establish and, on a schedule determined by the trust, revise objectives and an overall energy strategy for ~~conservation~~residential energy programs, including conservation programs. Conservation and energy programs implemented by the trust must be consistent with the objectives and an overall energy strategy developed by the trust and approved by the commission and be cost-effective, as defined by the board by rule. In defining "cost-effective," the board may consider the extent to which a program promotes sustainable economic development or reduces environmental damage to the extent the board can quantify or otherwise reasonably identify such effects. Consistent with the other requirements of this section, the trust, in adopting and implementing conservation programs, shall seek to reduce total residential energy costs, encourage efficiency in electricity use, provide affordable energy through electricity and provide incentives for the development of new, energy-efficient business activity in the State and take into account the costs and benefits of energy efficiency and conservation to existing business activity in the State.

A. The trust shall consider, without limitation, conservation and energy programs that:

- (1) Increase consumer awareness of cost-effective options for ~~conserving~~affordable energy;
- (2) Create more favorable market conditions for the increased use of energy-efficient products and services;
- (3) Promote sustainable economic development and reduce environmental damage;
- (4) Reduce the price of electricity over time for all consumers by achieving reductions in demand for electricity during peak use periods; and
- (5) Reduce total energy costs for electricity consumers in the State by increasing the efficiency with which electricity is consumed.

B. The trust, with regard to the assessment imposed under subsection 4, shall:

- (1) Target at least 20% of funds to programs for low-income residential consumers, as defined by the board by rule;
- (2) Target at least 20% of funds to programs for small business consumers, as defined by the board by rule; and
- (3) To the greatest extent practicable, apportion remaining funds among customer groups and geographic areas in a manner that allows all other customers to have a reasonable opportunity to participate in one or more conservation programs.

C. The trust shall hold at least one public hearing and invite, accept, review and consider comments and suggestions from interested parties prior to adopting or substantially revising conservation programs or the objectives and overall strategy for conservation programs.

D. The trust shall monitor conservation and energy planning and program development activities in the region and around the country.

E. The trust shall implement conservation and energy programs by contracting with service providers in accordance with subsection 3.

F. The trust shall monitor and evaluate the delivery of conservation and energy programs by service providers and assess the cost-effectiveness of programs in meeting the objectives and overall strategy established by the trust.

G. The trust, to the extent possible, shall coordinate its efforts with other agencies of the State with energy-related responsibilities.

H. The trust shall secure sufficient technical and administrative expertise to carry out its responsibilities pursuant to this section by:

(1) Contracting with appropriate entities with relevant expertise and experience;

(2) Establishing one or more advisory groups composed of persons with relevant expertise and experience; or

(3) Any other reasonable means developed by the trust.

I. The trust may coordinate its efforts under this section with similar efforts in other states in the northeast region and enter into agreements with public agencies or other entities in or outside of the State for joint or cooperative conservation and energy planning or conservation and energy program delivery, if the trust finds that such coordination or agreements would provide demonstrable benefits to citizens of the State and be consistent with this section, the conservation and energy programs and the objectives and overall strategy for the conservation and energy programs.

J. The trust shall encourage school facility managers to complete an energy efficiency training and certification program established and conducted by the trust under this section. To the extent the trust determines necessary and appropriate to meet the goals of this paragraph, the trust may, in accordance with the requirements of this section, establish incentive mechanisms to encourage participation in this program. For purposes of this paragraph, "school facility managers" means persons employed by school administrative units in this State who are responsible for the design or operation of school administrative unit facilities or the heating, ventilation or air conditioning systems or equipment used in such facilities.

K. The trust shall provide programs developed in partnership with energy providers, such as transmission and distribution utilities, to provide consumers with information on energy options to promote energy efficiency and increased use of alternative energy resources in the State.

Sec. 14. 35-A MRSA §10110, sub-§4, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

4. Funding level; base assessment. The commission shall assess transmission and distribution utilities to collect funds for conservation and energy programs and administrative costs in accordance with this subsection and shall make other assessments in accordance with subsection 5. The amount of all assessments by the commission under this subsection plus expenditures of a transmission and distribution utility associated with prior conservation efforts must result in conservation and energy expenditures by each transmission and distribution utility, not including expenditures on assessments under subsection 5, that are fixed at a rate of 0.145 cent per kilowatt-hour in 2013 dollars.

Sec. 15. 35-A MRSA §10110, sub-§5, as amended by PL 2009, c. 518, §10, is further amended to read:

5. Other assessments on transmission and distribution utilities. In accordance with the triennial plan, the commission shall ~~assess~~propose an assessment on each transmission and distribution utility ~~based on the utility's gross operating revenue~~ asto the extent the commission determines that such an assessment is necessary to realize all available energy efficiency and demand reduction cost-effective energy resources in this State ~~that are cost-effective, reliable and feasible~~ after consideration of the following:

- A. The amount of assessments pursuant to subsection 4 and their payment schedule;
- B. ~~The funding for conservation programs provided by the Regional Greenhouse Gas Initiative Trust Fund pursuant to section 10109;~~
- C. The amount of payments received from a forward capacity market as a result of conservation programs funded under this chapter; and
- D. Any other predictable sources of funding for or investment in conservation programs.

For the purposes of this subsection, "gross operating revenue" means revenue derived from filed rates, except from sales for resale. The commission may correct any errors in the assessments under this subsection by means of a credit or debit to the following year's assessment rather than reassessing all utilities in the current year. The commission ~~shall~~may determine the assessments under this subsection annually prior to June 1st and assess each utility for its pro rata share for expenditure, including funds for energy and energy conservation programs, during the fiscal year beginning July 1st. ~~The commission may not increase any assessment under this subsection until the Legislature has approved the Efficiency Maine Trust's budget.~~ Following the commission's approval of the triennial plan pursuant to section 10104, subsection 4 or any update plan pursuant to section 10104, subsection 6, the commission ~~shall~~may present any recommended increase in the assessment under this subsection to the joint standing committee of the Legislature having jurisdiction over public utilities matters. An increase in an assessment under this subsection after December 31, 2013 may not be collected until the Legislature has approved the Efficiency Maine Trust's budget, including specifically any increase in assessment proposed by the commission under this subsection. Each utility shall pay the assessment charged to that utility under this subsection on the same schedule that payment of assessments under subsection 4 is required.

Sec. 16. 35-A MRSA §10110, sub-§6, as enacted by PL 2009, c. 372, Pt. B, §3, is repealed.

Sec. 17. 35-A MRSA §10110, sub-§6-A is enacted to read:

6-A. Business electricity price relief. After December 31, 2013, industrial electricity customers receiving service are not eligible for new conservation programs undertaken under this section, and those customers are not required to pay in rates any amount associated with the assessment imposed on transmission and distribution utilities under subsection 4 or subsection 5. To remove the amount of the assessment under subsection 4, the commission shall reduce the rates of such customers by 0.145 cent per kilowatt-hour.

Sec. 18. 35-A MRSA §10110, sub-§7, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

7. Energy and conservation program fund. The trust shall establish an energy and conservation program fund to be used solely for cost-effective energy and conservation programs.

A. The commission shall deposit all assessments collected pursuant to this section, other than funds deposited in the administration fund, into the program fund.

B. Any interest earned on funds in the program fund must be credited to the program fund.

C. Funds not spent in any fiscal year remain in the program fund to be used for energy and conservation programs.

D. The commission or the trust may apply for and receive grants from state, federal and private sources for deposit in the program fund and also may deposit in the program fund any grants or other funds received by or from any entity with which the commission or trust has an agreement or contract pursuant to this section if the commission receives prior written consent from the trust that receipt of those funds would be consistent with the purposes of this section. If the commission or trust receives any funds pursuant to this paragraph, it shall establish a separate account within the program fund to receive the funds and shall keep those funds and any interest earned on those funds segregated from other funds in the program fund.

Sec. 19. 35-A MRSA §10120, sub-§1, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

1. Measures of performance. The trust shall incorporate measures of performance in the triennial plan. The measures of performance must define the electricity, natural gas and heating fuel savings targets established in section 10104, subsection 4, paragraph FG and specify the measures for assessing progress in meeting the targets. The commission shall ratify measures of performance incorporated in the triennial plan if it finds that these measures satisfy the requirements of this chapter, including the principles described in section 10104, subsection 2, and are in the public interest. The commission and the trust may revise one or more of the measures of performance in the triennial plan at any time by mutual agreement.[PL 2009, c. 372, Pt. B, § 3 (NEW).]

Sec. 20. 38 MRSA §579, first ¶, as amended by PL 2007, c. 608, §3, is further amended to read:

The department may participate in the regional greenhouse gas initiative as described in the climate action plan required in section 577. The commissioner or the commissioner's designee and the members chair of the Public Utilities Commission or the chair's designee are authorized to act as representatives for the State in the regional organization as defined in section 580-A, subsection 20, may contract with organizations and entities when such arrangements are necessary to efficiently carry out the purposes of this section and may coordinate the State's efforts with other states and jurisdictions participating in that initiative, with respect to:

Sec. 21. 38 MRSA §580-A, sub-§9-A is enacted to read:

9-A. Cost containment reserve. "Cost containment reserve" means an allowance or allowances that are offered for sale at an auction by the State for the purpose of containing the cost of carbon dioxide allowances. A cost containment reserve allowance offered for sale at an auction is separate from and additional to carbon dioxide allowances allocated by the department under this chapter.

Sec. 22. 38 MRSA §580-B, sub-§3, as enacted by PL 2007, c. 317, §17, is amended to read:

3. Base annual budget. The base annual carbon dioxide emissions budget is established at 5,948,902 tons of carbon dioxide. Beginning with the year 2015, the annual carbon dioxide emissions budget must decline by 148,722 tons per year until 2018 so that the annual carbon dioxide emissions budget for 2018 is 10% below the base annual carbon dioxide emissions budget. Commencing January 1, 2014, the base annual carbon dioxide emissions budget is established at 3,276,000 tons of carbon dioxide. Beginning with the year 2015, the annual carbon dioxide emissions budget must decline by 2.5% each year through the year 2020.

Sec. 23. 38 MRSA §580-B, sub-§4, ¶A-1 is enacted to read:

A-1. Provisions for the establishment of a mechanism for cost containment reserve allowances;

Sec. 24. 38 MRSA §580-B, sub-§4, ¶F, as enacted by PL 2007, c. 317, §17, is amended to read:

F. Provisions to manage the carbon dioxide allowance auction developed in coordination with other states and jurisdictions in the regional greenhouse gas initiative and in a manner that is consistent with provisions adopted by those states and jurisdictions and, including but not limited to provisions that, to the extent feasible, that:

- (1) Ensure close monitoring of allowance transactions in a manner that guards against collusion and market manipulation;
- (2) Ensure ongoing authentic price discovery and minimize price volatility;
- (3) Facilitate open participation for bidding to all individuals or entities that meet the financial requirements jointly adopted by the participating states;
- (4) Minimize administration and transaction costs and provide for an open and transparent user-friendly system;
- (5) Provide that ongoing monitoring of market activity is undertaken by entities that have complete financial independence from any market participant;

(6) For purposes of civil and criminal enforcement authority under section 349, establish a contract term at the time an allowance is purchased at the regional auction for violations of market rules jointly adopted by the participating states and jurisdictions or through another method of ensuring state jurisdiction; and

(7) Guarantee that the Attorney General, the Public Utilities Commission and the commissioner have access to all auction information and information concerning allowance trading activity, including reports provided to the regional organization by a market monitor.

Sec. 25. 38 MRSA §580-B, sub-§10-A is enacted to read:

10-A. Administration. The costs of the department's oversight and administration of, and participation in, the regional organization must be provided from the Efficiency Maine Trust's administrative budget pursuant to Title 35-A, section 10109, subsection 4, paragraph F-1.

Sec. 26. Report. By December 31, 2014 the Commissioner of Environmental Protection, in consultation with the director of the Governor's Energy Office, shall submit to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters and the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters a report on the effectiveness of the Maine Revised Statutes, Title 38, section 580-B and including recommendations for improvements.

Sec. 27. Effective date. This Act takes effect December 31, 2013.

SUMMARY

This bill amends the Efficiency Maine Trust laws by including energy cost reduction as a central mission of the trust. Specifically, it allows all energy sources to be eligible for funding to lower the cost of energy for Maine residents. In addition, the bill reduces electricity rates for industrial consumers by redirecting cap-and-trade auction revenue to reduce electricity rates. The bill provides additional flexibility for funding through an assessment that addresses all energy challenges in the State. Finally, the bill amends the regional greenhouse gas initiative laws and makes modifications to the structure of the Efficiency Maine Trust Board.