

## CHAPTER 97

## EFFICIENCY MAINE TRUST ACT

**§10101. Short title**

This chapter may be known and cited as "the Efficiency Maine Trust Act." [PL 2009, c. 372, Pt. B, §3 (NEW).]

## SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW).

**§10102. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2009, c. 372, Pt. B, §3 (NEW).]

**1. Administrative costs.** "Administrative costs" means costs of the trust in carrying out its responsibilities under this chapter, including, but not limited to, costs of:

A. Securing necessary expertise; [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. Contracting for program delivery; and [PL 2009, c. 372, Pt. B, §3 (NEW).]

C. Monitoring and enforcing contractual obligations. [PL 2009, c. 372, Pt. B, §3 (NEW).]  
[PL 2009, c. 372, Pt. B, §3 (NEW).]

**2. Administration fund.** "Administration fund" means the administration fund established pursuant to section 10103, subsection 5.  
[PL 2009, c. 372, Pt. B, §3 (NEW).]

**3. Alternative energy resources.** "Alternative energy resources" means nonfossil fuel energy resources, including, but not limited to, biomass, wood, wood pellets and solar, wind or geothermal resources.  
[PL 2009, c. 372, Pt. B, §3 (NEW).]

**3-A. Beneficial electrification.** "Beneficial electrification" means electrification of a technology that results in reduction in the use of a fossil fuel, including electrification of a technology that would otherwise require energy from a fossil fuel, and that provides a benefit to a utility, a ratepayer or the environment, without causing harm to utilities, ratepayers or the environment, by improving the efficiency of the electricity grid or reducing consumer costs or emissions, including carbon emissions.  
[PL 2019, c. 365, §1 (NEW).]

**4. Board.** "Board" means the Efficiency Maine Trust Board.  
[PL 2009, c. 372, Pt. B, §3 (NEW).]

**5. Director.** "Director" means the Director of the Efficiency Maine Trust.  
[PL 2009, c. 372, Pt. B, §3 (NEW).]

**5-A. Energy storage system.** "Energy storage system" has the same meaning as in section 3481, subsection 6.  
[PL 2021, c. 298, §2 (NEW).]

**6. Forward capacity market.** "Forward capacity market" means the program established by the regional transmission organization that is in effect on the effective date of this subsection and compensates providers of electrical capacity with payments for the availability or reduction of capacity as determined by the regional transmission organization.  
[PL 2009, c. 372, Pt. B, §3 (NEW).]

**7. Program funds.** "Program funds" means any of the funds established pursuant to this chapter, other than the administration fund, to fund Efficiency Maine Trust programs.  
[PL 2009, c. 372, Pt. B, §3 (NEW).]

**8. Regional transmission organization.** "Regional transmission organization" means the independent systems operator that administers and oversees the wholesale electricity markets in which the State participates.  
[PL 2009, c. 372, Pt. B, §3 (NEW).]

**9. Triennial plan.** "Triennial plan" means the plan required under section 10104, subsection 4.  
[PL 2009, c. 372, Pt. B, §3 (NEW).]

**10. Trust.** "Trust" means the Efficiency Maine Trust established in section 10103.  
[PL 2009, c. 372, Pt. B, §3 (NEW).]

**11. Trustee.** "Trustee" means a member of the board.  
[PL 2009, c. 372, Pt. B, §3 (NEW).]

## SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW). PL 2019, c. 365, §1 (AMD). PL 2021, c. 298, §2 (AMD).

### §10103. Efficiency Maine Trust

**1. Establishment; purpose.** The Efficiency Maine Trust is established for the purposes of developing, planning, coordinating and implementing energy efficiency and alternative energy resources programs in the State to:

A. Provide uniform, integrated planning, program design and administration of programs pursuant to this chapter and any other provisions of law administered by the trust; [PL 2009, c. 372, Pt. B, §3 (NEW).]

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 and 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 fossil fuels;
- (4) Increasing new jobs and business development to deliver affordable energy and energy efficiency products and services;
- (5) Enhancing heating improvements 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; [PL 2013, c. 369, Pt. A, §3 (RPR).]

C. Ensure that all expenditures of the trust are cost-effective in terms of avoided energy costs as provided by rules adopted pursuant to section 10105, subsection 5, paragraph A; and [PL 2009, c. 518, §7 (AMD).]

D. Actively promote investment in cost-effective energy and energy efficiency measures and systems that use energy resources that reduce overall energy costs for consumers in the State. [PL 2013, c. 369, Pt. A, §4 (AMD).]

Nothing in this chapter is intended or may be construed to constitute a mandate that would prevent the sale of carbon emission reductions into a voluntary carbon market.

[PL 2013, c. 369, Pt. A, §§3, 4 (AMD).]

**2. Governance; board.** The trust is created as a body corporate and politic and a public instrumentality of the State and is governed by the independent Efficiency Maine Trust Board, established in Title 5, section 12004-G, subsection 10-C, in accordance with this section.

A. The board consists of the following 9 voting members:

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

(2) The director of the Maine State Housing Authority; and

(3) Seven 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 7 members must be persons who adequately represent the interests of commercial energy consumers, industrial energy consumers, small business energy consumers, residential energy consumers and low-income energy consumers; among these members must be persons with knowledge of and experience in financial matters and consumer advocacy and who 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 7 members include among them members who adequately represent the identified interests and who possess the required knowledge, expertise and experience.

Appointed trustees serve 3-year terms. If an appointed trustee is unable to complete the term, the Governor shall appoint a replacement for the remainder of the unexpired term. [PL 2013, c. 424, Pt. B, §14 (RPR).]

B. The board shall elect a chair, a vice-chair, a secretary and a treasurer from among the members. Each officer serves for a one-year term and is eligible for reelection. [PL 2009, c. 372, Pt. B, §3 (NEW).]

C. A majority of the trustees constitutes a quorum. [PL 2009, c. 372, Pt. B, §3 (NEW).]

D. The board may elect an executive committee of not fewer than 5 trustees who, in intervals between meetings of the board, may transact such business of the trust as the board may authorize from time to time. [PL 2009, c. 372, Pt. B, §3 (NEW).]

[PL 2013, c. 424, Pt. B, §14 (AMD).]

**3. Administration of trust; director.** The board shall appoint, using a full and competitive search process, a qualified full-time director of the trust. The Director of the Efficiency Maine Trust serves at the pleasure of the board. The director must have demonstrated experience in the planning, design or delivery of energy efficiency programs or the management of organizations that plan, design or deliver those programs. The board shall establish the rate and amount of compensation of the director and all other employees of the trust. The director:

A. Serves as the president of the trust and as the liaison between the board and any committee of the Legislature having jurisdiction over energy matters; [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. Is responsible for:

- (1) Establishing an office for the trust;
- (2) Hiring and organizing staff for the trust and determining their qualifications and duties; and
- (3) Managing the trust's programs, services and staff and performing other duties as the board considers appropriate; and [PL 2009, c. 372, Pt. B, §3 (NEW).]

C. May delegate to employees of the trust any powers and duties that the director considers proper. [PL 2009, c. 372, Pt. B, §3 (NEW).]

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**4. Program funding.** The board may apply for and receive grants from municipal, 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 those projects funded by those funds, except that, from fiscal year 2019-20 to fiscal year 2024-25, such payments must be used to promote high-performance air source heat pump technology and deposited in the Heating Fuels Efficiency and Weatherization Fund established in section 10119. 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.

[PL 2019, c. 306, §2 (AMD).]

**4-A. Use of revenues from the energy infrastructure benefits fund.** The trust shall use revenues transferred to the trust from the energy infrastructure benefits fund pursuant to Title 5, section 282, subsection 9:

A. To improve the State's economy by pursuing lower energy costs for people, communities and businesses in a manner that will enhance the environment of the State in accordance with the triennial plan. In the expenditure of funds pursuant to this paragraph, the trust may provide grants, loans, programs and incentives; and [PL 2013, c. 369, Pt. A, §6 (RPR).]

B. To compensate public members of the Interagency Review Panel pursuant to Title 5, section 12004-G, subsection 30-D. [PL 2009, c. 655, Pt. B, §4 (NEW).]

As part of the annual report required under section 10104, subsection 5, the director shall report on the use of revenues from the energy infrastructure benefits fund. The report must document the revenues transferred from the energy infrastructure benefits fund to the trust during the most recently completed fiscal year and the current fiscal year and amounts and uses of money expended by the trust in accordance with this subsection during the most recently completed and the current fiscal year.

[PL 2013, c. 369, Pt. A, §6 (AMD).]

**5. Administration fund.** The board shall establish an administration fund to be used solely to defray administrative costs. The trust may annually deposit funds authorized to be used for administrative costs under this chapter into the administration fund. Any interest on funds in the administration fund must be credited to the administration fund and any funds unspent in any fiscal year must either remain in the administration fund to be used to defray administrative costs or be transferred to program funds.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

## SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW). PL 2009, c. 518, §7 (AMD). PL 2009, c. 655, Pt. B, §§3, 4 (AMD). PL 2011, c. 637, §2 (AMD). PL 2011, c. 655, Pt. MM, §18 (AMD). PL 2011, c. 655, Pt. MM, §26 (AFF). PL 2013, c. 369, Pt. A, §§3-6 (AMD). PL 2013, c. 424, Pt. B, §14 (AMD). PL 2019, c. 306, §2 (AMD).

**§10104. Duties**

**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.

[PL 2013, c. 369, Pt. A, §7 (AMD).]

**2. Programs.** The trust shall plan, design and administer programs to ensure that funds are expended for uses consistent with applicable state and federal law and so that the following principles of administration are met:

A. Programs are consumer-oriented such that the processes for participation and program design are targeted to serve the multiple needs of energy consumers in this State; [PL 2009, c. 372, Pt. B, §3 (NEW).]

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; [PL 2013, c. 369, Pt. A, §8 (AMD).]

C. The efficiency with which programs are planned, designed, overseen and delivered is maximized; and [PL 2009, c. 372, Pt. B, §3 (NEW).]

D. Sufficient checks and balances are provided to ensure consistency with public policy and accountability for meeting the principles set out in paragraphs A to C so that energy efficiency programs in the State are sustainable for the long term. [PL 2009, c. 372, Pt. B, §3 (NEW).]

[PL 2013, c. 369, Pt. A, §8 (AMD).]

**3. Performance metrics.** The trust shall develop quantifiable performance metrics 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 performance metrics may include, but are not limited to, reduced energy consumption, increased use of alternative energy resources, reduced heating costs, 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.

[PL 2019, c. 313, §4 (AMD).]

**4. Triennial plan.** The board shall vote on a detailed, triennial plan that includes the quantifiable performance metrics 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 efficiency, alternative energy resources and conservation programs administered by the trust, including but not limited to the electric efficiency 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. The plan must take into consideration the comprehensive state energy plan pursuant to Title 2, section 9, subsection 3, paragraph C. The plan must include, but is not limited to, efficiency and conservation program budget allocations, objectives, targets, performance metrics, program designs, program implementation strategies, timelines and other relevant information.

A. The triennial plan must be developed by the trust, in consultation with entities and agencies engaged in delivering efficiency programs in the State, to authorize and govern or coordinate implementation of energy efficiency and weatherization programs in the State. The triennial plan must identify the maximum achievable cost-effective energy efficiency savings, as defined by rule by the trust, and related programs that could be implemented pursuant to sections 10110 and 10111, the costs and benefits of such programs and the basis and support for such identified costs and benefits. The trust shall conduct an evaluation of the maximum cost-effective potential for electrical and natural gas energy efficiency savings in the State at least once every 3 years.

(1) Transmission and distribution utilities and natural gas utilities shall furnish data to the trust that the trust requests under this subsection to develop and implement the triennial plan or conduct the evaluation of all cost-effective potential for electrical and natural gas energy efficiency savings 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.

(2) Unless prohibited by federal law, the Maine State Housing Authority and the Department of Health and Human Services shall furnish to the trust data pertaining to the identity, location and contact information, but not including income or asset information, of households that qualify for low-income programs, as determined necessary by the trust to develop and implement the triennial plan and to evaluate program effectiveness. Data received pursuant to this subparagraph is deemed to be received by the commission and is subject to a protective order issued by the commission pursuant to section 1311-A. [PL 2019, c. 313, §5 (AMD).]

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. [PL 2009, c. 372, Pt. B, §3 (NEW).]

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. [PL 2011, c. 637, §3 (NEW).]

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, advances the state energy efficiency targets in paragraph F, reflects the best practices of program administration under subsection 2 and is consistent with the provisions of this section. [PL 2019, c. 313, §5 (AMD).]

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. At the request of the trust or any party to the triennial plan, the commission shall open an adjudicatory proceeding to review the triennial plan. If an adjudicatory proceeding is not requested, the commission may use an adjudicatory proceeding or other process to review the triennial plan. The commission shall review the triennial plan to

determine whether it will capture the maximum achievable cost-effective energy efficiency savings. In conducting the review, the commission shall defer to the trust's calculations of energy savings as long as the calculations were conducted consistent with rules of the trust and are supported by evidence in the record and the trust used a reasonable and transparent process to make the technical determinations necessary to make those calculations. 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 performance metrics under subsection 3. If the commission approves the triennial plan, the commission shall issue the appropriate orders to transmission and distribution utilities and natural gas utilities for the procurement of energy efficiency resources identified within the plan pursuant to section 10110, subsection 4-A and section 10111, subsection 2. If the commission rejects the triennial plan, the commission shall issue an order stating the reasons for the rejection. 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 the entire plan or elements of the plan within 120 days of its delivery to the commission. The board, within 30 days of final commission approval of the triennial plan, shall submit the triennial 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 triennial plan. After receipt of the triennial plan, the joint standing committee of the Legislature having jurisdiction over energy matters may submit legislation relating to the triennial plan. [PL 2019, c. 313, §5 (AMD).]

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. [PL 2009, c. 372, Pt. B, §3 (NEW).]

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 and to users of all fuel types. The plan must set forth the costs and benefits of the trust's programs that advance the following goals and funding necessary to meet those goals:

- (1) Reducing energy costs, including residential heating costs;
- (2) For the period beginning January 1, 2020 and ending January 1, 2030, weatherizing 35,000 homes and businesses, with at least 10,000 of such weatherization projects completed in low-income households through the combined efforts of the trust and the Maine State Housing Authority;
- (3) Reducing peak-load demand for electricity by the maximum achievable cost-effective amount;
- (4) Achieving the maximum achievable cost-effective electricity and natural gas program savings, as defined in and determined pursuant to the performance metrics approved by the commission under section 10120;
- (5) Creating stable private sector jobs providing alternative energy and energy efficiency products and services in the State;
- (6) Contributing to the effort to reduce greenhouse gas emissions in the State by amounts consistent with the greenhouse gas emission levels established in Title 38, section 576-A and in a manner consistent with the State's climate action plan adopted and updated under Title 38, section 577;

(7) Promoting the purchase of high-efficiency heat pump systems to achieve by 2030 the goal of at least 115,000 households in the State wholly heated by heat pumps and an additional 130,000 households in the State partially heated by heat pumps; and

(8) Promoting the purchase of battery electric vehicles and plug-in hybrid vehicles to achieve by 2030 the goal of at least 120,000 such vehicles registered in the State. [PL 2021, c. 209, §1 (RPR).]

G. In developing the triennial plan, or an annual update plan under subsection 6, the trust may include, as part of its budget for electric efficiency and conservation programs under section 10110, the costs of providing nonwires alternatives in accordance with section 3132-D. [PL 2021, c. 209, §2 (RPR).]

H. After the triennial plan is approved, the trust or any party to the triennial plan may petition for, or the commission may initiate on its own, consideration of revising the calculations of avoided energy costs used in the determination of maximum achievable cost-effective energy efficiency resources pursuant to section 10110, subsection 4-A or section 10111, subsection 2 upon a showing that, subsequent to the publication of the avoided energy cost study relied upon, changes in price forecasts would result in more than a 25% change in the value of avoided energy cost affecting a significant portion of the program activity in the triennial plan. [PL 2021, c. 209, §3 (NEW).]  
[PL 2021, c. 209, §§1-3 (AMD).]

**5. Report.** The trust shall report by December 1st of each year to the commission and the joint standing committee of the Legislature having jurisdiction over energy matters. The report must include:

A. A description of actions taken by the trust pursuant to this section, including descriptions of all energy efficiency, weatherization and conservation programs implemented during the prior 12 months and all programs that the trust plans to implement during the next 12 months, a description of how the trust determines the cost-effectiveness of each program and its assessment of the cost-effectiveness of programs implemented during the prior 12 months; [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. An accounting of:

(1) Assessments made on each transmission and distribution utility pursuant to section 10110 during the prior 12 months and projected assessments during the next 12 months and total deposits into and expenditures from the program fund during the prior 12 months and projected deposits into and expenditures from the program funds during the next 12 months;

(2) Assessments made pursuant to section 10111 during the prior 12 months and projected assessments during the next 12 months and total deposits into and expenditures from the natural gas conservation fund during the prior 12 months and projected deposits into and expenditures from the natural gas conservation fund during the next 12 months;

(3) Any heating fuel assessments made for the purposes of section 10119 during the prior 12 months and projected assessments during the next 12 months and total deposits into and expenditures from the Heating Fuels Efficiency and Weatherization Fund during the prior 12 months and projected deposits into and expenditures from the Heating Fuels Efficiency and Weatherization Fund during the next 12 months;

(4) Total funds received and expended by the State on energy efficiency and weatherization pursuant to the Weatherization Assistance for Low-income Persons Program of the United States Department of Energy and the Low-income Home Energy Assistance Program of the United States Department of Health and Human Services;



(5) The amount and source of any grants or funds deposited in the program fund pursuant to section 10110 during the previous 12 months and the projected amount and source of any such funds during the next 12 months; and

(6) Total deposits into and expenditures from the conservation administration fund under section 10110 during the prior 12 months and projected deposits into and expenditures from the conservation administration fund during the next 12 months; [PL 2009, c. 372, Pt. B, §3 (NEW).]

C. Any recommendations for changes to the laws relating to energy conservation; and [PL 2009, c. 372, Pt. B, §3 (NEW).]

D. The performance of the trust and individual programs and program delivery agents or service providers in meeting the objectives, targets and performance metrics approved by the commission and contained in the triennial plan. [PL 2019, c. 313, §6 (AMD).]

The report must be approved by the board before the report is presented to the commission and the joint standing committee of the Legislature having jurisdiction over energy matters.  
[PL 2019, c. 313, §6 (AMD).]

**6. Updated plans.** Within 90 days of completion of the annual report under subsection 5, the director shall submit to the board an annual update plan describing any significant changes to the triennial plan under subsection 4 related to program budget allocations, goals, targets, performance metrics, program designs, implementation strategies, timelines and other relevant information for the year ahead for all funds administered and managed by the trust. The director or any contractor, grantee or agency delivering programs may not execute any significant changes until the changes are approved by the board and, in the case of significant changes to programs using funds generated by assessments under this chapter, until the changes are also approved by the commission using the same standard as for the triennial plan.

All annual update plans must be presented to the commission and the joint standing committee of the Legislature having jurisdiction over energy matters.  
[PL 2019, c. 313, §7 (AMD).]

**7. Certification.** The board shall by rule establish certification standards for energy auditors, installers of energy efficiency measures or other service providers that provide services under programs administered by the trust. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.  
[PL 2009, c. 372, Pt. B, §3 (NEW).]

**8. Approval of Maine State Housing Authority plans.** After July 1, 2010, the Maine State Housing Authority, prior to applying for federal funds on behalf of the State pursuant to Title 30-A, section 4741, subsection 15 for weatherization, energy conservation and fuel assistance pursuant to the Weatherization Assistance for Low-income Persons Program administered through the United States Department of Energy and the Low-income Home Energy Assistance Program administered through the United States Department of Health and Human Services, shall submit to the board for its review and input the authority's implementation plans for the use of such funds. The plans must describe the amount of budget available to support the heat pump goal established in section 10119, subsection 2, paragraph A, subparagraph (2), the plans' strategy for promoting that goal and an estimate of the number of units that will be installed. The plans must provide for coordination by the Maine State Housing Authority in its use of such funds with the programs administered by the trust under this chapter. The Maine State Housing Authority shall consider in its plans any recommendations of the board to the extent the recommendations are consistent with the applicable federal guidelines governing the use of the funds.  
[PL 2019, c. 306, §3 (AMD).]

**9. Coordination with other entities.** Consistent with the requirements of this chapter and other applicable laws, the board shall coordinate with the activities and programs of state agencies and authorities that relate to the purposes of this chapter in order to align such activities and programs with the plans and programs of the trust. For purposes of this subsection, activities and programs of state agencies and authorities that relate to the purposes of this chapter include but are not limited to energy efficiency programs relating to state facilities administered by the Department of Administrative and Financial Services, Bureau of General Services, the adoption, amendment and maintenance of the Maine Uniform Building and Energy Code by the Technical Building Codes and Standards Board, established in Title 5, section 12004-G, subsection 5-A within the Department of Public Safety, energy efficiency or green energy workforce development activities of the Department of Labor or the State Workforce Board, energy efficiency and weatherization programs administered by the Maine State Housing Authority and the activities of the nonwires alternative coordinator established pursuant to section 1701, subsection 2-A.

[PL 2019, c. 298, §22 (AMD).]

**10. Independent analysis of programs.** The trust shall arrange for an independent evaluation of each major program implemented under this section. Each major program must be evaluated at least once every 5 years. The evaluation must include an accounting audit of the program and an evaluation of the program's effectiveness in meeting the goals of this section. The evaluations must be conducted by a competent professional with expertise in energy efficiency matters, including the management of cost-effective energy efficiency programs. The trust shall include the results of all evaluations conducted under this subsection in the annual report submitted pursuant to subsection 5. For purposes of this subsection, "major program" means a program with an annual budget of more than \$500,000.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**11. Other duties.** The trust shall do all things necessary or convenient to carry out the lawful purposes of the trust.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**12. Budget transparency.** The trust shall provide on January 30th and July 30th of each year to the joint standing committee of the Legislature having jurisdiction over energy matters a report that includes the trust's revenues and program expenses for the current fiscal year and program budgets for the next fiscal year for all the trust's funds and programs, whether or not subject to legislative allocation. The report must indicate any significant departures from the triennial plan approved pursuant to subsection 4 or an updated plan approved pursuant to subsection 6. After receiving a report, the joint standing committee of the Legislature having jurisdiction over energy matters may report out legislation relating to the trust. In accordance with applicable provisions of Title 5, chapter 149, the trust shall also prepare and submit to the State Budget Officer for inclusion in the budget of the State Government the amount of any funds administered by the trust that require legislative allocation in the budget. The joint standing committee of the Legislature having jurisdiction over energy matters shall make recommendations to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs with regard to any proposed allocation of the trust's funds in any budget legislation. Within 30 days after enactment of legislation that includes an allocation of funds that affects the trust's triennial plan, the trust shall make any necessary adjustments to the triennial plan.

[PL 2011, c. 637, §4 (NEW).]

**13. Maine Clean Energy and Sustainability Accelerator.** The trust shall administer the Maine Clean Energy and Sustainability Accelerator under section 10129.

[RR 2021, c. 1, Pt. A, §39 (COR).]

#### SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW). PL 2009, c. 518, §8 (AMD). PL 2011, c. 627, §5 (AMD). PL 2011, c. 637, §§3, 4 (AMD). PL 2013, c. 369, Pt. A, §§7-13 (AMD). PL 2017, c. 110, §34

(AMD). PL 2019, c. 298, §§21, 22 (AMD). PL 2019, c. 306, §3 (AMD). PL 2019, c. 313, §§4-7 (AMD). PL 2019, c. 476, §4 (AMD). PL 2021, c. 209, §§1-3 (AMD). PL 2021, c. 358, §1 (AMD). RR 2021, c. 1, Pt. A, §39 (COR).

#### **§10105. Powers, duties and limitations**

**1. Funds.** The trust shall administer programs and funds in accordance with this chapter and other applicable laws.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**2. Efficiency Maine projects; bonds.** The board shall propose, develop and approve revenue bond projects as Efficiency Maine projects under Title 10, section 963-A, subsection 10-A.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**3. Bylaws.** The trust shall adopt bylaws, through the board, consistent with this section for the governance of its affairs.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**4. Purchasing agent rules.** Notwithstanding Title 5, section 1831, the trust is not subject to rules adopted by the State Purchasing Agent in selecting service providers pursuant to this chapter. The trust shall consider delivery of programs by means of contracts with service providers that participate in competitive bid processes for providing services within individual market segments or for particular end uses.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**5. Rules.** The board shall adopt rules for establishing and administering the trust and its programs. These rules must include:

A. Provisions for the expenditure of trust funds, including, but not limited to, the development of program budgets, criteria for energy efficiency and conservation programs and other consumer benefit programs, the process for project selection and approval, minimum requirements for project monitoring and verification and the cost-effectiveness tests to be used for measuring and comparing program benefits and costs; and [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. Provisions for the independent evaluation of program expenditures to ensure cost-effectiveness of projects to improve energy efficiency or to reduce greenhouse gases. [PL 2009, c. 372, Pt. B, §3 (NEW).]

Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**6. Self-dealing prohibited.** In the operation or dissolution of the trust, no part of the net earnings of the trust may benefit any trustee, officer or employee except that the trust may pay reasonable compensation for services rendered and otherwise hold, manage and dispose of its property in furtherance of the purposes of the trust.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**7. Recommendations; advisory groups.** The trust may make recommendations to the Governor, the Legislature and other public officials regarding energy efficiency, weatherization and renewable energy programs. The trust may establish technical advisory groups as needed for the purposes of gathering technical knowledge on any aspect of energy conservation or policy.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

#### SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW).

#### **§10106. Freedom of access; confidentiality**

The proceedings of the board and records of the trust are subject to the freedom of access laws, Title 1, chapter 13, except as specifically provided in this section. [RR 2009, c. 1, §25 (COR).]

**1. Confidential records.** The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. A record obtained or developed by the trust that:

(1) A person, including the trust, to whom the record belongs or pertains has requested be designated confidential and that the board has determined contains information that gives the owner or a user an opportunity to obtain a business or competitive advantage over another person who does not have access to the information, except through the trust's records, or access to which by others would result in a business or competitive disadvantage, loss of business or other significant detriment, other than loss or denial of financial assistance from the trust, to any person to whom the record belongs or pertains; or

(3) Contains information about the energy usage profile of an identifiable customer of a transmission and distribution utility in the State or an identifiable customer of a distributor of heating fuel or other energy source; and [PL 2017, c. 163, §2 (AMD).]

B. A financial statement or tax return. [PL 2009, c. 372, Pt. B, §3 (NEW).]

The social security number, address, telephone number or e-mail address of a customer that has participated or may participate in a program of the trust is confidential.

The trust shall provide to a legislative committee, on written request signed by the chairs of that committee, any information or records, including information designated confidential under this subsection, specified in the written request. The information or records may be used only for the lawful purposes of the committee and in any action arising out of any investigation conducted by it. [PL 2017, c. 163, §2 (AMD).]

**2. Exceptions.** Notwithstanding subsection 1, the following are not confidential and are public records:

A. Any otherwise confidential information the confidentiality of which the board determines to have been satisfactorily and effectively waived; [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. Any otherwise confidential information that has already lawfully been made available to the public; and [PL 2009, c. 372, Pt. B, §3 (NEW).]

C. Impersonal, statistical or general information. [PL 2009, c. 372, Pt. B, §3 (NEW).]  
[PL 2009, c. 372, Pt. B, §3 (NEW).]

**3. Disclosure prohibited; further exceptions.** The director or a trustee, officer, employee, agent, other representative of the trust or other person may not knowingly divulge or disclose records designated confidential by this section, except that the board, in its discretion and in conformity with legislative freedom of access criteria in Title 1, chapter 13, subchapter 1-A, may make or authorize any disclosure of information of the following types or under the following circumstances:

A. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person; [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. To a financing institution or credit reporting service; [PL 2009, c. 372, Pt. B, §3 (NEW).]

C. Information necessary to comply with any federal or state law or rule or with any agreement pertaining to financial assistance; [PL 2009, c. 372, Pt. B, §3 (NEW).]

D. If necessary to ensure collection of any obligation in which the trust has or may have an interest; [PL 2009, c. 372, Pt. B, §3 (NEW).]

E. In any litigation or proceeding in which the trust has appeared, introduction for the record of any information obtained from records designated confidential by this section; and [PL 2009, c. 372, Pt. B, §3 (NEW).]

F. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, as long as any such order appears to have first been served on the person to whom the confidential information sought pertains or belongs and as long as any such order appears on its face or otherwise to have been issued or made upon lawful authority. [PL 2009, c. 372, Pt. B, §3 (NEW).]

[PL 2009, c. 372, Pt. B, §3 (NEW).]

#### SECTION HISTORY

RR 2009, c. 1, §25 (COR). PL 2009, c. 372, Pt. B, §3 (NEW). PL 2011, c. 343, §1 (AMD). PL 2017, c. 163, §2 (AMD).

#### **§10107. Conflicts of interest; financial disclosure statements**

Each trustee is an "executive employee" for purposes of Title 5, sections 18, 18-A and 19. A trustee or employee of the trust or a spouse or dependent child of any of those individuals may not receive any direct personal benefit from the activities of the trust in assisting any private entity. This section does not prohibit corporations or other entities with which a trustee is associated by reason of ownership or employment from participating in program activities with the trust if ownership or employment is made known to the board and the trustee abstains from voting on matters relating to that participation. [PL 2009, c. 518, §9 (AMD).]

#### SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW). PL 2009, c. 518, §9 (AMD).

#### **§10108. Liability**

**1. Bond.** All officers, directors, employees and other agents of the trust entrusted with the custody of funds of the trust or authorized to disburse the funds of the trust must be bonded either by a blanket bond or by individual bonds with a minimum limitation of \$100,000 coverage for each person covered by the bond or bonds, or equivalent fiduciary liability insurance, conditioned upon the faithful performance of their duties. The premiums for the bond or bonds must be paid out of the assets of the trust.

[PL 2011, c. 637, §5 (NEW).]

**2. Indemnification.** Each trustee must be indemnified by the trust against expenses actually and necessarily incurred by the trustee in connection with the defense of any action or proceeding in which the trustee is made a party by reason of being or having been a trustee and against any final judgment rendered against the trustee in that action or proceeding.

[PL 2011, c. 637, §5 (NEW).]

#### SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW). PL 2011, c. 637, §5 (RPR).

#### **§10109. Regional Greenhouse Gas Initiative Trust Fund**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Carbon dioxide allowance" has the same meaning as in Title 38, section 580-A, subsection 2. [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. "Trade association aggregator" means an entity that gathers individual members of a trade association together for the purpose of receiving electrical efficiency services or bidding on electrical efficiency contracts. [PL 2009, c. 372, Pt. B, §3 (NEW).]

C. "Trust fund" means the Regional Greenhouse Gas Initiative Trust Fund established in subsection 2. [PL 2009, c. 372, Pt. B, §3 (NEW).]  
[PL 2009, c. 372, Pt. B, §3 (NEW).]

**2. Establishment of Regional Greenhouse Gas Initiative Trust Fund.** The Regional Greenhouse Gas Initiative Trust Fund is established and is the successor to the fund that was established under former section 10008. The trust fund is established to support the goals and implementation of the carbon dioxide cap-and-trade program established under Title 38, section 580-B. The trust fund is established as a nonlapsing fund administered by the trust for the purposes established in this section. The trust is authorized to receive, and shall deposit in the trust fund and expend in accordance with this section, revenue resulting from the sale of carbon dioxide allowances, pursuant to Title 38, section 580-B, and any forward capacity market or other capacity payments from the regional transmission organization that may be attributable to projects funded by the trust under this section. The trust fund may not be used for any other purpose and money in the trust fund is considered to be held in trust for the purposes of benefiting consumers.

A. The trustees have a fiduciary duty to the customers of the State's transmission and distribution utilities in the administration of the trust fund. Upon accepting appointment as a trustee, each trustee must acknowledge the fiduciary duty to use the trust fund only for the purposes set forth in this section. [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. The trustees shall ensure that the goals and objectives of the trust fund, as established in this section and in rules adopted by the trust, are carried out. The trustees shall represent the interests of the trust fund in the development of the triennial plan. [PL 2009, c. 372, Pt. B, §3 (NEW).]  
[PL 2009, c. 372, Pt. B, §3 (NEW).]

**3. Ceiling on energy efficiency spending.**  
[PL 2013, c. 369, Pt. A, §14 (RP).]

**3-A. Payments.** The trust shall transfer funds, to the extent funds are available, to the commission each year during fiscal years 2017-18, 2018-19 and 2019-20 in accordance with this subsection to be used by the commission for disbursements to affected customers. An affected customer who uses the entire disbursement received by that customer toward an efficiency measure approved by the trust in the fiscal year in which it is received must receive \$1 of assistance from the trust for every \$3 of the disbursement plus any additional customer funds that are applied by the affected customer toward the cost of the approved efficiency measure as long as the total of assistance from the trust and the disbursement allocated by the commission under this subsection for that customer for that fiscal year does not exceed 65% of the total measure cost.

For the purposes of this subsection, "affected customer" means a customer who is not primarily in the business of selling electricity, is receiving service at a transmission or subtransmission voltage level as defined in section 10110, subsection 6 within the electrical utility transmission system administered by an independent system operator of the New England bulk power system or a successor organization and is an energy-intensive manufacturer, as defined in reports prepared by the U.S. Energy Information Administration. The commission may also determine that a manufacturer not defined as an energy-intensive manufacturer in reports prepared by the U.S. Energy Information Administration is an affected customer if that manufacturer meets the other requirements of the definition under this subsection.

A. The commission shall direct funds to be disbursed quarterly during fiscal years 2017-18, 2018-19 and 2019-20 for the benefit of affected customers in proportion to their retail purchase of electricity as measured in kilowatt-hours for the prior calendar year. The total amount to be

disbursed from the fund, to the extent those funds are available, must be \$2,500,000 in fiscal year 2017-18, \$2,500,000 in fiscal year 2018-19 and \$1,000,000 in fiscal year 2019-20. [PL 2017, c. 282, §1 (AMD).]

B. During fiscal years 2017-18, 2018-19 and 2019-20, an affected customer who receives a disbursement under this subsection is not eligible to receive financial or other assistance from the trust fund established in this section except as allowed under this subsection. This ineligibility does not apply to any trust program opportunity notices issued before July 1, 2016 or to any affected customer that elects in writing to the commission prior to October 1, 2017 to not receive a disbursement under this subsection for the full period of fiscal years 2017-18 to 2019-20. The commission shall reduce the total amount to be disbursed under paragraph A as necessary to reflect the share of load represented by affected customers electing to opt out. [PL 2017, c. 282, §1 (AMD).]

C. The commission shall include in its annual report pursuant to section 120, subsection 7 to the joint standing committee of the Legislature having jurisdiction over public utilities matters a description of the commission's activities in carrying out the requirements of this subsection, a list of affected customers receiving disbursements, a list of those who elected to use the disbursements toward efficiency measures and the results of the activities under this subsection. [PL 2015, c. 498, §1 (NEW).]

[PL 2017, c. 282, §1 (AMD).]

**4. Expenditures; projects.** Except for transfers required under subsection 3-A and other costs authorized in accordance with this chapter, funds in the trust fund must be expended in accordance with this subsection.

A. Trust funds must be allocated for measures, investments, loans, technical assistance and arrangements that reduce electricity consumption, increase energy efficiency or reduce greenhouse gas emissions and lower energy costs at commercial or industrial facilities and for investment in measures that lower residential heating energy demand and reduce greenhouse gas emissions. The measures that lower residential heating demand must be fuel-neutral and may include, but are not limited to, energy efficiency improvements to residential buildings, energy storage systems and upgrades to efficient heating systems that will reduce residential energy costs and greenhouse gas emissions, as determined by the board. The trust shall ensure that measures to reduce the cost of residential heating are available for low-income households as defined by the trust. When promoting electricity cost and consumption reduction, the trust may consider measures at commercial and industrial facilities that also lower peak capacity demand, including energy storage systems. Subject to the apportionment 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 and heating energy costs by fossil fuel combustion in the State at the lowest cost in funds from the trust fund per unit of emissions; or
- (2) Reliably increase the efficiency with which energy in the State is consumed at the lowest cost in funds from the trust fund per unit of energy saved. [PL 2021, c. 298, §3 (AMD).]

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. [PL 2009, c. 372, Pt. B, §3 (NEW).]

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. [PL 2009, c. 372, Pt. B, §3 (NEW).]

D. Community-based renewable energy projects, as defined in section 3602, subsection 1, may apply for funding from the trust to the extent they are eligible under paragraph A. [PL 2013, c. 369, Pt. A, §16 (AMD).]

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. [PL 2009, c. 372, Pt. B, §3 (NEW).]

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. [PL 2009, c. 372, Pt. B, §3 (NEW).]

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. [PL 2009, c. 372, Pt. B, §3 (NEW).]

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. [PL 2009, c. 372, Pt. B, §3 (NEW).]

I. A trade association aggregator is eligible to participate in competitive bid processes under this subsection. [PL 2009, c. 372, Pt. B, §3 (NEW).]

J. Trust fund receipts must, upon request by the Department of Environmental Protection, 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 F, subparagraph (1). [PL 2013, c. 369, Pt. A, §17 (AMD).]

[PL 2021, c. 298, §3 (AMD).]

**5. Effective date.** This section takes effect July 1, 2010.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

#### SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW). PL 2009, c. 565, §6 (AMD). PL 2009, c. 565, §9 (AFF). PL 2013, c. 369, Pt. A, §§14-17 (AMD). PL 2015, c. 498, §§1, 2 (AMD). PL 2017, c. 282, §§1, 2 (AMD). PL 2019, c. 69, §1 (AMD). PL 2021, c. 298, §3 (AMD).

#### **§10110. Electric efficiency and conservation programs**

**(CONFLICT)**

**(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**



**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Administrative costs" means costs of the trust that are funded pursuant to and associated with the implementation of this section, including, but not limited to, costs of program planning and evaluation, costs of securing necessary expertise, costs associated with contract formation and administration and costs of monitoring and enforcing contractual obligations. [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. "Administration fund" means the conservation administration fund established by the trust pursuant to subsection 8. [PL 2009, c. 372, Pt. B, §3 (NEW).]

C. **(CONFLICT: Text as repealed and replaced by PL 2021, c. 209, §4)** "Conservation programs" means programs developed by the trust pursuant to this section designed to reduce inefficient electricity use or to increase the efficiency with which electricity is used. [PL 2021, c. 209, §4 (RPR).]

C. **(CONFLICT: Text as repealed and replaced by PL 2021, c. 293, Pt. A, §48)** "Conservation programs" means programs developed by the trust pursuant to this section designed to increase the efficiency of electricity use. [PL 2021, c. 293, Pt. A, §48 (RPR).]

D. "Prior conservation efforts" means programs to promote conservation undertaken at the direction or with the authorization of the commission prior to March 1, 2002. [PL 2009, c. 372, Pt. B, §3 (NEW).]

E. "Program fund" means the conservation program fund established by the trust pursuant to subsection 7. [PL 2009, c. 372, Pt. B, §3 (NEW).]

F. "Service provider" means a public or private provider of energy conservation services or an entity selected by the trust to contract with such providers or otherwise arrange the delivery of conservation programs. [PL 2009, c. 372, Pt. B, §3 (NEW).]

G. "Trade association aggregator" means an entity that gathers individual members of a trade association together for the purpose of receiving electrical efficiency services or bidding on electrical efficiency contracts. [PL 2009, c. 372, Pt. B, §3 (NEW).]

[PL 2021, c. 209, §4 (AMD); PL 2021, c. 293, Pt. A, §48 (AMD).]

**2. Programs.** The trust shall develop and implement conservation programs to help reduce energy costs for electricity 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 programs. Conservation 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 encourage efficiency in electricity use, 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 programs that:

- (1) Increase consumer awareness of cost-effective options for conserving 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 reducing or shifting demand for electricity or balancing load, including by the implementation of beneficial electrification and energy storage systems; and
- (5) Reduce total energy costs for electricity consumers in the State by increasing the efficiency with which electricity is consumed. [PL 2021, c. 298, §4 (AMD).]
- B. The trust, with regard to funds available to the trust under this section, shall:
- (1) Target at least 10% of funds for electricity conservation collected under former subsection 4 or subsection 4-A or \$2,600,000, whichever is greater, to programs for low-income residential consumers, as defined by the board by rule;
- (2) Target at least 10% of funds for electricity conservation collected under former subsection 4 or subsection 4-A or \$2,600,000, whichever is greater, 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. [PL 2015, c. 494, Pt. A, §39 (AMD).]
- 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. [PL 2009, c. 372, Pt. B, §3 (NEW).]
- D. The trust shall monitor conservation planning and program development activities in the region and around the country. [PL 2009, c. 372, Pt. B, §3 (NEW).]
- E. The trust shall implement conservation programs by contracting with service providers in accordance with subsection 3. [PL 2009, c. 372, Pt. B, §3 (NEW).]
- F. The trust shall monitor and evaluate the delivery of conservation programs by service providers and assess the cost-effectiveness of programs in meeting the objectives and overall strategy established by the trust. [PL 2009, c. 372, Pt. B, §3 (NEW).]
- G. The trust, to the extent possible, shall coordinate its efforts with other agencies of the State with energy-related responsibilities. [PL 2009, c. 372, Pt. B, §3 (NEW).]
- 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. [PL 2009, c. 372, Pt. B, §3 (NEW).]
- 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 planning or conservation 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 programs and the objectives and overall strategy for the conservation programs. [PL 2009, c. 372, Pt. B, §3 (NEW).]
- 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. [PL 2009, c. 372, Pt. B, §3 (NEW).]

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. [PL 2011, c. 637, §6 (NEW).]

L. **(TEXT EFFECTIVE UNTIL 9/30/24) (TEXT REPEALED 9/30/24)** Pursuant to section 3214, subsection 2-A, the trust shall work with investor-owned transmission and distribution utilities, consumer-owned transmission and distribution utilities that elect to participate in an arrearage management program pursuant to section 3214, subsection 2-A and other stakeholders to provide access to a complementary low-income energy efficiency program for participants in the arrearage management programs in order to help reduce participants' energy consumption.

This paragraph is repealed September 30, 2024. [PL 2021, c. 101, §2 (AMD).]  
[PL 2021, c. 101, §2 (AMD); PL 2021, c. 298, §4 (AMD).]

**3. Implementation.** The trust shall seek to implement the delivery of conservation programs in all regions of the State on an equitable basis and to citizens at all income levels. The trust may arrange the delivery of conservation programs by contracting with service providers. The trust shall select service providers in accordance with this subsection.

A. The trust shall select service providers through a competitive bidding process. [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. To the extent practicable, the trust shall encourage the development of resources, infrastructure and skills within the State by giving preference to in-state service providers. [PL 2009, c. 372, Pt. B, §3 (NEW).]

C. Notwithstanding paragraph A:

(1) The trust may select a service provider for one or more conservation programs without employing a competitive bidding process if the trust finds that the selection of the service provider will promote the efficient and effective delivery of conservation programs and is consistent with the objectives and overall strategy of the conservation programs; and

(2) For the delivery of conservation programs to low-income residential consumers, the commission, without employing a competitive bidding process, may use the delivery system for the Weatherization Assistance for Low-income Persons Program administered through the United States Department of Energy and the network of for-profit and not-for-profit entities who have held contracts with transmission and distribution utilities to deliver conservation services to low-income and residential customers. [PL 2009, c. 372, Pt. B, §3 (NEW).]

In accordance with section 10105, the trust is not subject to rules adopted by the State Purchasing Agent in selecting service providers pursuant to this subsection. The board shall adopt rules establishing procedures governing the selection of service providers under this subsection. The board shall consult with the State Purchasing Agent in developing the rules.

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

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**4. Funding level; base assessment.**

[PL 2013, c. 369, Pt. A, §19 (RP); PL 2013, c. 369, Pt. A, §30 (AFF).]

**4-A. Procurement of cost-effective energy efficiency and conservation resources.** The commission shall ensure that transmission and distribution utilities on behalf of their ratepayers procure through the trust the maximum achievable cost-effective electric energy efficiency and conservation resources pursuant to section 10104, subsection 4, except that the commission may not require the inclusion in rates under this subsection of a total amount that exceeds 4% of total retail electricity and transmission and distribution sales in the State as determined by the commission by rule. The cost of procurement of cost-effective electric energy efficiency and conservation resources is a just and reasonable element of rates. The commission may issue any appropriate orders to transmission and distribution utilities necessary to achieve the goals of this subsection. When determining the maximum achievable cost-effective energy efficiency resources, the commission shall:

A. Consider electric energy efficiency resources that are reasonably foreseeable to be acquired by the trust using the Regional Greenhouse Gas Initiative Trust Fund under section 10109, federal or state grants or settlement funds designated by the board for programs implemented under this section, except that forward capacity market payments deposited in the Heating Fuels Efficiency and Weatherization Fund established in section 10119 may not be considered; [PL 2021, c. 209, §5 (RPR).]

B. Apply the discount rate adopted by the trust and ensure that the calculations of avoided energy costs are consistent with rules adopted by the trust and are supported by evidence in the record. Avoided energy costs must include but are not limited to the following elements:

- (1) Retail value of electricity supply including a wholesale risk premium;
- (2) Statewide average value of avoided marginal transmission and distribution costs;
- (3) Statewide average for line losses; and
- (4) Demand reduction induced price effects.

The trust shall use, and the commission shall give deference to, values for each element of avoided energy cost from a regional avoided energy supply cost study as long as the analysis has been developed through a transparent process, with input from state agencies, public advocates, utilities or energy efficiency administrators from at least 3 other states in New England and the analysis has been published not more than 24 months prior to the trust's filing of the plan. When values specific to the State are not available in the regional study, the trust may use, and the commission shall give deference to, regional values provided in that regional study or values determined from other sources when supported by evidence in the record; and [PL 2019, c. 313, §8 (AMD).]

C. Maximize total electricity savings for all ratepayers. [PL 2013, c. 369, Pt. A, §20 (NEW); PL 2013, c. 369, Pt. A, §30 (AFF).]

The commission shall consider gross efficiency savings for the purpose of determining savings that are cost-effective, reliable and achievable. The commission shall consider whether the trust is taking reasonable steps to achieve high net and gross efficiency savings, including but not limited to the use of national standard practices as identified by the trust by rule.

Rules adopted under this subsection are routine technical rules under Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 209, §5 (AMD).]

**5. Other assessments on transmission and distribution utilities.**

[PL 2013, c. 369, Pt. A, §21 (RP).]

**6. Transmission and subtransmission voltage level.** After July 1, 2007, electricity customers receiving service at transmission and subtransmission voltage levels are not eligible for conservation programs undertaken under this section, and those customers are not required to pay in rates any amount associated with any procurement of energy efficiency resources by transmission and distribution

utilities ordered under subsection 4-A. For the purposes of this section, "transmission voltage levels" means 44 kilovolts or more, and "subtransmission voltage levels" means 34.5 kilovolts.

[PL 2015, c. 494, Pt. A, §40 (AMD).]

**7. Conservation program fund.** The trust shall establish a conservation program fund to be used solely for 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. [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. Any interest earned on funds in the program fund must be credited to the program fund. [PL 2009, c. 372, Pt. B, §3 (NEW).]

C. Funds not spent in any fiscal year remain in the program fund to be used for conservation programs. [PL 2009, c. 372, Pt. B, §3 (NEW).]

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. [PL 2009, c. 372, Pt. B, §3 (NEW).]

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**8. Administration fund.** The trust may transfer up to 9% of funds collected pursuant to this section to its administration fund to be used solely to defray administrative costs. Any interest on funds in the administration fund must be credited to the administration fund and any funds unspent in any fiscal year must either remain in the administration fund to be used to defray administrative costs or be transferred to the program fund.

[PL 2013, c. 369, Pt. A, §23 (AMD).]

**9. Prior conservation efforts.** Except as otherwise directed by the commission, transmission and distribution utilities shall continue to administer contracts associated with prior conservation efforts. Such contracts may not be renewed, extended or otherwise modified by transmission and distribution utilities in a manner that results in any increased expenditures associated with those contracts.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**10. Funds held in trust.** All funds collected from electricity consumers pursuant to this section are collected under the authority and for the purposes of this section and are deemed to be held in trust for the purposes of benefiting electricity consumers. In the event funds are not expended or contracted for expenditure within 2 years of being collected from consumers, the commission shall ensure that the value of those funds is returned to consumers.

[PL 2013, c. 369, Pt. A, §24 (AMD).]

**11. Resolution of disputes.** Upon receipt of an appropriate filing by a party to a contract relating to prior conservation efforts, the commission shall adjudicate a dispute relating to the interpretation or administration of the contract by the transmission and distribution utility.

In the case of a dispute filed after April 5, 2002, the commission shall refer the dispute to commercial arbitration in accordance with this paragraph. Each party to the contract shall select an arbitrator who is not a current employee of the party. The selected arbitrators shall then select a 3rd arbitrator. If the arbitrators cannot agree on the 3rd arbitrator, each party shall submit to the commission a list of at least 3 arbitrators who have no previous or current interest in the contract and, to the extent practicable, have special competence and experience with respect to the subject matter involved in the dispute. The commission shall choose the 3rd arbitrator from among the persons on the lists provided by the parties.

After their selection, the arbitrators shall promptly hear and determine the controversy pursuant to the rules of the American Arbitration Association for the conduct of commercial arbitration proceedings, except that if such rules conflict with any procedural rules established by the commission or applicable provisions of the laws of this State relating to arbitration, the applicable commission rules or provisions of state law govern the arbitration. The arbitrators shall submit their decision to the commission.

A. The commission shall accept or reject the decision within 30 days of its submission, unless the commission requires additional time, in which case it may extend its review for another 30 days. [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. If the commission does not reject the decision within 30 days or, if it extends its review period an additional 30 days, within 60 days, the decision is deemed accepted. [PL 2009, c. 372, Pt. B, §3 (NEW).]

C. If the commission rejects the decision, the commission shall adjudicate the dispute. [PL 2009, c. 372, Pt. B, §3 (NEW).]

A decision by the commission under this subsection, including a decision by the arbitrators that is deemed accepted by the commission pursuant to paragraph B, is enforceable in a court of law. [PL 2009, c. 372, Pt. B, §3 (NEW).]

**12. Ratemaking and cost recovery.** The assessments charged to transmission and distribution utilities under this section are just and reasonable costs for rate-making purposes and must be reflected in the rates of transmission and distribution utilities. [PL 2009, c. 372, Pt. B, §3 (NEW).]

**13. Rules.** The trust shall adopt rules necessary to implement this section. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2009, c. 372, Pt. B, §3 (NEW).]

**14. Effective date.** This section takes effect July 1, 2010. [PL 2009, c. 372, Pt. B, §3 (NEW).]

#### SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW). PL 2009, c. 518, §10 (AMD). PL 2011, c. 637, §6 (AMD). PL 2013, c. 369, Pt. A, §§18-24 (AMD). PL 2013, c. 369, Pt. A, §30 (AFF). PL 2013, c. 556, §2 (AMD). PL 2015, c. 255, §1 (AMD). PL 2015, c. 494, Pt. A, §§39, 40 (AMD). PL 2017, c. 414, §2 (AMD). PL 2019, c. 306, §§4, 5 (AMD). PL 2019, c. 313, §8 (AMD). PL 2019, c. 365, §§2, 3 (AMD). PL 2019, c. 608, §2 (AMD). PL 2021, c. 101, §2 (AMD). PL 2021, c. 209, §§4, 5 (AMD). PL 2021, c. 293, Pt. A, §48 (AMD). PL 2021, c. 298, §4 (AMD).

#### §10111. Natural gas conservation program

**1. Program established.** In accordance with the goals and objectives of the triennial plan, the trust shall establish a cost-effective conservation program to promote the efficient use of natural gas. Each gas utility in the State shall contribute data and other relevant information to assist in the development of the program. In determining whether the program is cost-effective, the trust may consider whether it promotes sustainable economic development or reduces greenhouse gas emissions to the extent the trust can quantify or otherwise reasonably identify such effects. The trust shall encourage efficiency in natural gas use, provide incentives for cost-effective energy efficiency measures in the State and take into account the cost and benefits of energy efficiency and conservation to existing business activity in the State.

A. The trust shall consider, without limitation, a natural gas conservation program that:

(1) Increases consumer awareness of cost-effective options for conserving energy;

(2) Creates more favorable market conditions for the increased use of efficient products and services; and

(3) Promotes sustainable economic development and reduces environmental damage. [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. The trust shall apportion available funds such that:

(1) A reasonable percentage of the available funds is directed to programs for low-income residential consumers, as defined by the trust. The trust shall establish the percentage based on an assessment of the opportunity for cost-effective conservation measures for such consumers, including an assessment of the number of low-income residential consumers that may be eligible for such programs;

(2) A reasonable percentage of the available funds is directed to programs for small business consumers, as defined by the trust. The trust shall establish the percentage based on an assessment of the opportunity for cost-effective conservation measures for such consumers. In defining "small business" for the purposes of this subparagraph, the trust shall consider definitions of that term used for other programs in this State that assist small businesses; and

(3) To the greatest extent practicable, the remaining available funds are apportioned in a manner that allows all other consumers to have a reasonable opportunity to participate in one or more conservation programs. [PL 2009, c. 372, Pt. B, §3 (NEW).]

[PL 2019, c. 313, §9 (AMD).]

**2. Natural gas conservation fund; procurement level.** The natural gas conservation fund, which is a nonlapsing fund, is established to carry out the purposes of this section. The commission ensure that gas utilities on behalf of their ratepayers procure through the trust the maximum achievable cost-effective natural gas energy efficiency and conservation resources pursuant to section 10104, subsection 4. The commission may issue any appropriate order to the gas utilities necessary to achieve the goals of this subsection, including the collection of funds for the procurement of cost-effective energy efficiency resources. The commission shall direct a gas utility that collects any funds under this subsection from a customer that is a large-volume manufacturer and large-volume agricultural business to collect the funds only on the first 1,000,000 centum cubic feet of natural gas used by that manufacturer or agricultural business in each year. The limitation on the collection of the funds from large-volume manufacturers and large-volume agricultural businesses may not affect the trust's determination of the amount necessary to capture all cost-effective energy efficiency that is achievable and reliable. The limitation does not prohibit the eligibility of a large-volume manufacturer or large-volume agricultural business to participate in a natural gas conservation program. All amounts collected under this subsection must be transferred to the natural gas conservation fund. Any interest on funds in the fund must be credited to the fund. Funds not spent in any fiscal year remain in the fund to be used for the purposes of this section.

The funds collected from gas utilities under this section are just and reasonable costs for rate-making purposes and must be reflected in the rates of gas utilities.

All funds collected pursuant to this section are collected under the authority and for the purposes of this section and are deemed to be held in trust for the purposes of benefiting natural gas consumers. In the event funds are not expended or contracted for expenditure within 2 years of being collected from consumers, the commission shall ensure that the value of those funds is returned to consumers.

For purposes of this subsection, "large-volume manufacturer" means a customer that is a gas utility ratepayer engaged in manufacturing in the State and purchases at least 1,000,000 centum cubic feet of natural gas per year. For purposes of this subsection, "large-volume agricultural business" means a customer that is a gas utility ratepayer that purchases at least 1,000,000 centum cubic feet of natural

gas per year and is engaged in the commercial growing or harvesting of plants or commercial aquaculture, as defined in Title 12, section 6001, subsection 1, in the State.

When determining the maximum achievable cost-effective natural gas energy efficiency resources, the commission shall apply the discount rate adopted by the trust and ensure that the calculations of avoided energy costs are consistent with rules adopted by the trust and are supported by evidence in the record. Avoided energy costs must include but are not limited to the retail value of natural gas supply including a wholesale risk premium and demand reduction induced price effects. The trust shall use, and the commission shall give deference to, values for each element of avoided energy cost from a regional avoided energy cost study as long as the analysis has been developed through a transparent process, with input from state agencies, public advocates, utilities or energy efficiency administrators from at least 3 other states in New England and the analysis has been published not more than 24 months prior to the trust's filing of the triennial plan. When values specific to the State are not available in the regional study, the trust may use, and the commission shall give deference to, regional values provided in that regional study or values determined from other sources when supported by evidence in the record.

Rules adopted by the commission under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2019, c. 313, §10 (AMD).]

**2-A. Exemption.** A wholesale electricity-generating facility that has a nameplate capacity of 3 megawatts or greater is not eligible to participate in any natural gas conservation program under this section. The commission may not allow a gas utility to collect an assessment under this section through its rates from a wholesale electricity-generating facility that has a nameplate capacity of 3 megawatts or greater.

[PL 2015, c. 425, §2 (NEW).]

**3. Rules.** The trust may adopt rules necessary to implement this section. Rules adopted by the trust under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**4. Effective date.** This section takes effect July 1, 2010.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

#### SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW). PL 2011, c. 637, §7 (AMD). PL 2013, c. 369, Pt. A, §25 (AMD). PL 2015, c. 425, §§1, 2 (AMD). PL 2017, c. 282, §3 (AMD). PL 2017, c. 358, §1 (AMD). PL 2019, c. 313, §§9, 10 (AMD).

#### §10112. Solar and wind energy rebate program

**(REPEALED)**

#### SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW). MRSA T. 35-A §10112, sub-§7 (RP).

#### §10113. Training for installers of energy equipment

**1. Installation training.** To the extent that funds and resources allow, the trust may establish training programs for installers of energy equipment that most effectively meet the needs of the public. The trust:

A. May develop separate programs for different energy technologies or services when the trust determines that the skills or training for the installation of those technologies or services merit the distinction; [PL 2021, c. 209, §6 (AMD).]



A-1. May offer training programs to code enforcement officers, inspectors or other professionals involved in designing, marketing, regulating or educating about energy equipment; [PL 2021, c. 209, §6 (NEW).]

A-2. May offer training programs to contractors or other professionals involved in designing, installing or constructing energy efficiency, weatherization or other building performance measures for homes and businesses; [PL 2021, c. 209, §6 (NEW).]

B. Shall confer with relevant professional licensing boards and the Technical Building Codes and Standards Board under Title 10, section 9722 when it develops the course content and requirements; [PL 2021, c. 209, §6 (AMD).]

C. Shall determine the content of the training, the hours required for course completion and the manner in which applicants must demonstrate proficiency in energy equipment installation; [PL 2021, c. 209, §6 (AMD).]

D. May issue a certificate of completion to individuals who meet the requirements the trust has established; [PL 2021, c. 209, §6 (AMD).]

E. May establish reasonable course fees. All fees must be paid to the trust to be used for the purposes of this section; [PL 2021, c. 209, §6 (AMD).]

F. Shall determine terms for the expiration and renewal of an applicant's certificate of completion; and [PL 2009, c. 372, Pt. B, §3 (NEW).]

G. Shall determine an appropriate means of maintaining recognition of the training received by persons holding certificates issued pursuant to former section 10002 or former Title 32, chapter 87. [PL 2009, c. 372, Pt. B, §3 (NEW).]

[PL 2021, c. 209, §6 (AMD).]

**2. Qualifications for installing energy equipment.** A certificate of completion issued by the trust pursuant to subsection 1 does not exempt the holder from any applicable licensing requirements for activities involved in installing energy equipment, including but not limited to licensing requirements established in Title 32, chapter 17 or 49.

[PL 2021, c. 209, §6 (AMD).]

**3. Effective date.** This section takes effect July 1, 2010.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

#### SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW). PL 2021, c. 209, §6 (AMD).

#### §10114. Training for energy auditors

**1. Auditor training.** To the extent that funds and resources allow, the trust shall set standards for training programs for energy auditors that most effectively meet the needs of the public and that satisfy the requirements of funding sources. For the purposes of this subsection, an energy auditor is a person who is trained to prepare a report that delineates the energy consumption characteristics of a building, identifies appropriate energy efficiency operations and maintenance procedures and recommends appropriate energy efficiency measures. The trust:

A. May develop separate programs for audits of different building types and functions when the trust determines that the skills or training needed to perform these audits merit the distinction; [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. Shall determine the content of the training, the hours required for course completion and the manner in which applicants must demonstrate proficiency in energy auditing; [PL 2009, c. 372, Pt. B, §3 (NEW).]

C. Shall issue a certificate of completion to individuals who meet the requirements the trust has established; [PL 2009, c. 372, Pt. B, §3 (NEW).]

D. May establish reasonable course fees. All fees collected by the trust must be used for the purposes of this section; [PL 2009, c. 372, Pt. B, §3 (NEW).]

E. Shall determine terms for the expiration and renewal of an applicant's certificate of completion; [PL 2009, c. 372, Pt. B, §3 (NEW).]

F. Shall determine an appropriate means of maintaining recognition of the training received by persons holding a certification; [PL 2009, c. 372, Pt. B, §3 (NEW).]

G. Shall work with state agencies and other interested parties to establish certification standards for energy auditors who perform work under programs administered by the trust; and [PL 2009, c. 372, Pt. B, §3 (NEW).]

H. Shall recognize other established training programs that offer certification consistent with the trust's energy auditor training standards. [PL 2009, c. 372, Pt. B, §3 (NEW).]  
[PL 2009, c. 372, Pt. B, §3 (NEW).]

**2. Effective date.** This section takes effect July 1, 2010.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

#### SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW).

#### §10115. Federal energy programs

**1. Programs.** The trust shall oversee and administer:

A. The United States Department of Energy State Energy Program; and [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. Other federally funded programs and projects related to trust programs. [PL 2009, c. 372, Pt. B, §3 (NEW).]

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**2. Effective date.** This section takes effect July 1, 2010.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**3. Use of funds.** All funds received pursuant to this section must be expended in accordance with the requirements of sections 10103, 10104 and 10105, unless specifically prohibited by federal law or regulation. Funds to be expended for programs or projects related to weatherization and energy-efficient use of fossil fuels for heating must be deposited in the Heating Fuels Efficiency and Weatherization Fund established in section 10119 and expended in accordance with that section. The trust may transfer any federal funds received pursuant to 42 United States Code, Sections 6321 to 6326 (2009) to the appropriate state agency as it considers necessary to the extent that such funds are designated for a purpose that falls outside the energy efficiency and alternative energy programs that the trust oversees and administers.

[PL 2009, c. 518, §11 (NEW).]

#### SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW). PL 2009, c. 518, §11 (AMD).

#### §10116. Energy Conservation Small Business Revolving Loan Program

**1. Program and fund.** The trust shall establish the Energy Conservation Small Business Revolving Loan Program, referred to in this subsection as "the program," and the Energy Conservation Small Business Revolving Loan Fund, referred to in this subsection as "the fund." The fund consists of federal capitalization grants and awards made to the State for the purposes for which the fund is

established; any amounts that the trust deposits in the fund from the assessment on transmission and distribution utilities pursuant to section 10110 or from other program funds, to the extent that use of such funds for the program will be consistent with the requirements governing the use of such funds; principal and interest received from the repayment of loans made from the fund; any interest earned on investment of fund balances; and other funds from any public or private source received for the purposes for which the fund is established. The fund is a nonlapsing revolving fund account.

A. The trust shall credit all repayments of loans made to businesses, including interest, penalties and other fees and charges related to fund loans, to the fund account. [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. Money in the fund not needed to meet the current obligations of the program must be deposited with the Treasurer of State to the credit of the fund account and may be invested in such manner as is provided by law. Interest received on that investment must be credited to the fund account. [PL 2009, c. 372, Pt. B, §3 (NEW).]

C. At the end of each fiscal year, all unencumbered balances in the fund account may be carried forward to be used for the purposes specified in this subsection. [PL 2009, c. 372, Pt. B, §3 (NEW).]

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**2. Effective date.** This section takes effect July 1, 2010.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

#### SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW).

#### §10117. Energy efficiency of rental properties

**1. Residential energy efficiency disclosure statement.** The trust and the Maine State Housing Authority shall prepare a residential energy efficiency disclosure statement form for landlords and other lessors of residential properties to use to disclose to tenants and lessees information about the energy efficiency of the property in order to comply with Title 14, section 6030-C. The trust and the Maine State Housing Authority shall post and maintain the statement form required by this subsection on the Internet in a format that is easily accessible by the public.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**2. Suggested energy efficiency standards.** The trust and the Maine State Housing Authority shall prepare suggested energy efficiency standards for landlords and other lessors of residential property that is used by a tenant or lessee as a primary residence. The trust and the Maine State Housing Authority shall post and maintain the standards required by this subsection on the Internet in a format that is easily accessible by the public.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**3. Effective date.** This section takes effect July 1, 2010.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

#### SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW).

#### §10118. Public information and outreach

**1. General.** The trust shall provide to the public information about renewable energy technologies and energy efficiency practices. In providing this information, the trust shall consider:

A. The aspects of renewable energy technologies and energy efficiency practices about which the public needs information; [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. The most effective means of providing the information; and [PL 2009, c. 372, Pt. B, §3 (NEW).]

C. The members of the public who would most benefit from the information. [PL 2009, c. 372, Pt. B, §3 (NEW).]

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**2. Funding.** The trust may seek federal funding for the purposes of this section and, to the extent necessary, may charge reasonable fees to cover the costs of training or other services provided pursuant to this section. All fees must be paid to the trust and used to reimburse the trust for its expenses in providing the service for which the fee is charged.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**3. Effective date.** This section takes effect July 1, 2010.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

## SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW).

### §10119. Heating Fuels Efficiency and Weatherization Fund

**1. Fund established; use of money.** The Heating Fuels Efficiency and Weatherization Fund, referred to in this section as "the fund," is established. The fund is a nonlapsing fund and is administered by the trust in accordance with this section. Any interest earned on funds in the fund must be credited to the fund, and funds not spent in any fiscal year remain in the fund to be used in accordance with this section. The trust may receive and deposit in the fund funds from the following sources:

A. Any funds collected from an assessment on heating fuels; [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. Federal funds and awards that may be used for the purposes of this section; [PL 2009, c. 652, Pt. A, §49 (AMD).]

C. The proceeds of any bonds issued for the purposes of this section; [PL 2009, c. 372, Pt. B, §3 (NEW).]

D. Principal and interest received from the repayment of loans made from the fund; [PL 2009, c. 372, Pt. B, §3 (NEW).]

E. Any interest earned on investment of fund balances; [PL 2019, c. 306, §6 (AMD).]

F. Any funds from public or private sources received in support of the purposes for which the fund is established; and [PL 2019, c. 306, §6 (AMD).]

G. Payments from the forward capacity market or other payments by the regional transmission organization. [PL 2019, c. 306, §6 (NEW).]

The trust may annually deposit funds received pursuant to this section into the administration fund, to a maximum in any fiscal year of 10% of the revenues received under this section.

[PL 2019, c. 306, §6 (AMD).]

**2. Program.** All funds deposited in the fund must be administered by the trust in accordance with the following.

A. All funds deposited in the fund must be administered by the trust to reduce heating fuel consumption consistent with the purpose and targets of the trust and the triennial plan to achieve the following goals:

- (1) By 2030, to provide cost-effective energy efficiency and weatherization measures to substantially all homes and businesses whose owners wish to participate in programs established by the trust under this section; and

(2) From fiscal year 2019-20 to fiscal year 2024-25, to install 100,000 new high-performance air source heat pumps in the State to provide heating in residential and nonresidential spaces. "High-performance air source heat pump" means an air source heat pump that satisfies minimum heating performance standards as determined by the trust. [PL 2019, c. 306, §6 (AMD).]

B. Funds from the fund may be used only for programs that provide cost-effective heating fuel efficiency or weatherization measures in accordance with this paragraph.

(1) Program categories may include low-income, single-family and 2-family residential units, multifamily residential units, small business, commercial and institutional and such other categories as the trust determines appropriate.

(2) Within program categories, the trust may differentiate between programs for new construction and existing buildings.

(3) Cost-effective heating fuel efficiency measures must include measures that improve the energy efficiency of energy-using heating and cooling systems through system upgrades or conversions, including conversions to energy-efficient systems that rely on renewable energy sources, high-performance air source heat pumps or other systems that rely on effective energy efficiency technologies.

(4) Eligible program measures may include, but are not limited to, training or certification of energy auditors, insulation installers, mechanical heating system installers and maintenance technicians and building energy inspectors. [PL 2019, c. 306, §6 (AMD).]

C. Program designs approved by the trust may contain:

(1) Incentives to consumers to purchase and install cost-effective heating fuel efficiency and weatherization products and services, except in the case of programs to deliver education, training or certifications;

(2) Loan options for prescribed products and services, including specially designed loans for low-income and moderate-income consumers for the purchase and installation of a high-performance air source heat pump;

(3) A plan for integrating delivery of heating fuel efficiency and weatherization measures with electric efficiency measures; and

(4) A system for the equitable allocation of costs among the contributing funds or subaccounts administered by the trust when more than one efficiency opportunity is identified, except that for purposes of advancing the goal of paragraph A, subparagraph (2), payments from the forward capacity market deposited in the fund must be used to supplement, and not supplant, heat pump incentive amounts approved through the triennial plan for electric efficiency and conservation programs. [PL 2019, c. 306, §6 (AMD).]

D. [PL 2019, c. 306, §6 (RP).]  
[PL 2019, c. 306, §6 (AMD).]

**3. Rulemaking.** The board may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2009, c. 372, Pt. B, §3 (NEW).]

**4. Effective date.** This section takes effect July 1, 2010. [PL 2009, c. 372, Pt. B, §3 (NEW).]

#### SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW). PL 2009, c. 652, Pt. A, §49 (AMD). PL 2019, c. 306, §6 (AMD).

## §10120. Commission oversight of Efficiency Maine Trust

**1. Performance metrics.** The trust shall incorporate performance metrics in the triennial plan. The performance metrics must define the electricity, natural gas and heating fuel savings targets established in section 10104, subsection 4, paragraph F and specify the metrics for assessing progress in meeting the targets. The commission shall ratify performance metrics incorporated in the triennial plan if it finds that these metrics 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 performance metrics in the triennial plan at any time by mutual agreement.

[PL 2019, c. 313, §11 (AMD).]

**2. Regulation.** The trust may not expend any funds from assessments made under this chapter until the commission approves the triennial plan. The commission upon recommendation of the Public Advocate or the Attorney General may open an investigation of practices or acts of the trust. If the commission, upon investigation, finds that the trust has failed to comply with any requirement of this chapter or other requirements of law in the use or expenditure of any funds from assessments made under this chapter, the commission may issue an appropriate order directing the trust to take necessary actions to bring the trust into compliance with the law and may suspend or limit the authority of the trust to expend or encumber any funds derived from assessments made under this chapter until the commission finds the trust has come into compliance with the law. The commission may adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

**3. Oversight and evaluation fund.** The commission shall establish an oversight and evaluation fund to be used solely to defray the commission's projected costs of ongoing oversight of the trust's programs and results, including but not limited to reviewing the trust's calculation of program costs and benefits, measurement and verification procedures and program evaluations and reviewing and approving the triennial plan. The commission may use funds to contract with expert 3rd-party resources to provide technical assistance or impartial evaluation of the performance of energy efficiency programs administered by the trust. The commission may assess the trust an amount not to exceed 1% of the total funds administered by the trust, and the trust shall transfer that amount to the commission to be deposited into the oversight and evaluation fund. Any interest on funds in the oversight and evaluation fund must be credited to the oversight and evaluation fund and any funds unspent in any fiscal year must either remain in the oversight and evaluation fund to be used for the purposes specified in this subsection or be transferred to the trust for deposit in appropriate program funds.

[PL 2013, c. 369, Pt. A, §26 (AMD).]

**4. Regional analysis of avoided costs.** The commission shall participate in any New England-wide process to establish a common analysis for determining the avoided costs of energy efficiency resources. The commission shall, at a minimum, provide input on the scope of work for any analysis, provide information specific to the State that may be useful for the analysis and review and provide feedback on drafts or other regional work products. The trust shall pay that portion attributable to the State of the cost of developing an avoided cost analysis. This subsection does not limit the ability of the trust to participate in the development of a regional avoided cost analysis.

[PL 2019, c. 313, §12 (NEW).]

### SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW). PL 2013, c. 369, Pt. A, §26 (AMD). PL 2019, c. 313, §§11, 12 (AMD). PL 2019, c. 313, §§11, 12 (AMD).

## §10121. Energy Efficiency and Renewable Resource Fund

**1. Funding for energy efficiency and renewable resource research and development; community demonstration projects; rebates for cost-effective energy efficiency and renewable energy technologies.** The trust by rule shall establish and administer a program allowing retail consumers of electricity to make voluntary contributions to fund energy efficiency and renewable resource research and development, to fund community demonstration projects using energy efficiency and renewable energy technologies and to fund rebates for cost-effective energy efficiency and renewable energy technologies. The program must:

A. Include a mechanism for customers to indicate their willingness to make contributions; [PL 2009, c. 565, §7 (NEW); PL 2009, c. 565, §9 (AFF).]

B. Provide that transmission and distribution utilities collect and account for the contributions and forward them to the trust; [PL 2009, c. 565, §7 (NEW); PL 2009, c. 565, §9 (AFF).]

C. Provide for a distribution of the funds through a competitive bid process to the University of Maine System, the Maine Maritime Academy or the Maine Community College System for energy efficiency and renewable resource research and development; [PL 2011, c. 637, §8 (AMD).]

D. Provide for a distribution of the funds through a competitive bid process to Maine-based nonprofit organizations that qualify under the federal Internal Revenue Code, Section 501(c)(3), consumer-owned transmission and distribution utilities, community-based nonprofit organizations, community action programs, municipalities, quasi-municipal corporations or districts as defined in Title 30-A, section 2351, community-based renewable energy projects as defined in section 3602, subsection 1 and school administrative units as defined in Title 20-A, section 1 for community demonstration projects using energy efficiency and renewable energy technologies; [PL 2011, c. 637, §8 (AMD).]

E. Provide for an annual distribution of 35% of the funds to the Maine Technology Institute to support the development and commercialization of energy efficiency and renewable energy technologies; and [PL 2011, c. 637, §8 (AMD).]

F. Provide rebates for cost-effective energy efficiency and renewable energy technologies as determined by the trust. [PL 2011, c. 637, §8 (AMD).]

[PL 2011, c. 637, §8 (AMD).]

**2. Fund established.** There is established the Energy Efficiency and Renewable Resource Fund, referred to in this section as "the fund." The fund is a nonlapsing fund administered by the trust. All funds collected by the trust pursuant to subsection 1 must be deposited in the fund for distribution by the trust in accordance with subsection 1. The trust may seek and accept funding for the program established pursuant to subsection 1 from other sources, public or private. Any funds accepted for use in the program established pursuant to subsection 1 must be deposited in the fund. Funds not spent in any fiscal year remain in the fund to be used for the purposes of this section. Any interest earned on funds in the fund must be credited to the fund.

The trust may allocate funds pursuant to subsection 1, paragraphs C, D and F from the fund to most effectively meet the objectives of the triennial plan pursuant to section 10104, subsection 4.

[PL 2011, c. 637, §8 (AMD).]

**3. Report.** The trust shall report by December 1st of each year to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters on the fund. The report must include:

A. A description of actions taken by the trust pursuant to subsections 1 and 2 during the prior 12 months; [PL 2009, c. 565, §7 (NEW); PL 2009, c. 565, §9 (AFF).]

B. An accounting of total deposits into and expenditures from the fund during the prior 12 months; and [PL 2009, c. 565, §7 (NEW); PL 2009, c. 565, §9 (AFF).]

C. A description of any research and development or community demonstration project that received a distribution from the fund during the prior 12 months, including its objectives, current status and results. [PL 2009, c. 565, §7 (NEW); PL 2009, c. 565, §9 (AFF).]  
[PL 2009, c. 565, §7 (NEW); PL 2009, c. 565, §9 (AFF).]

**4. Rulemaking.** The trust shall adopt rules to implement this section. The rules must include, but are not limited to:

A. Selection criteria for the competitive bid process pursuant to subsection 1, paragraphs C and D, including, but not limited to, the cost-effectiveness of the project or development and the likelihood that the renewable energy technology will be adopted on a broader scale in this State; and [PL 2011, c. 314, §4 (NEW).]

B. Qualification criteria for rebates for energy efficiency and renewable energy technologies pursuant to subsection 1, paragraph F, including, but not limited to, cost-effectiveness and quality assurance requirements. [PL 2011, c. 637, §8 (AMD).]

Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[PL 2011, c. 637, §8 (AMD).]

#### SECTION HISTORY

PL 2009, c. 565, §7 (NEW). PL 2009, c. 565, §9 (AFF). PL 2011, c. 314, §§2-4 (AMD). PL 2011, c. 637, §8 (AMD).

#### **§10122. Health care facility program**

The trust shall develop and implement a process to review projects undertaken by health care facilities that are directed solely at reducing energy costs through energy efficiency, renewable energy technology or smart grid technology and to certify those projects that are likely to be cost-effective. If a project is certified as likely to be cost-effective by the trust, the review process serves as an alternative to the certificate of need process established pursuant to Title 22, section 329, subsection 3. [PL 2011, c. 424, Pt. A, §6 (NEW); PL 2011, c. 424, Pt. E, §1 (AFF).]

#### SECTION HISTORY

PL 2011, c. 424, Pt. A, §6 (NEW). PL 2011, c. 424, Pt. E, §1 (AFF).

#### **§10123. School decarbonization program**

To the extent funds are available, the trust shall develop a program to provide technical and financial support to help kindergarten to grade 12 schools, including charter schools and private schools, to become carbon neutral. Under this program, the trust may: [PL 2021, c. 152, §1 (AMD).]

**1. Professional services.** Facilitate access to professional services, including but not limited to energy audits, technical support, financing and legal services, to assist in the planning, design or procurement of construction projects, solar power purchases or equipment that will help a school facility to become carbon neutral. The trust may provide financial incentives for these services; [PL 2021, c. 152, §1 (AMD).]

**2. Energy measures.** Provide financial assistance for cost-effective energy measures identified in an energy audit or the plans, designs or procurements of a school facility. Eligibility for energy measures qualifying for financial assistance under this section must be determined by the trust; and [PL 2021, c. 152, §1 (AMD).]

**3. School payments.** Accept payments from schools, including, but not limited to, payments equal to or less than the value on monthly energy bills of the energy savings as a result of the energy measures. These payments may include costs to develop and oversee the project, administer the program and service loans.



[PL 2013, c. 366, §1 (NEW).]

The trust, in collaboration with the Department of Education, shall identify and provide incentives for cost-effective electric and natural gas conservation projects in school construction projects designated by the State Board of Education for funding pursuant to rules adopted under Title 20-A, section 15905. [PL 2019, c. 347, §2 (NEW).]

#### SECTION HISTORY

PL 2013, c. 366, §1 (NEW). PL 2019, c. 347, §2 (AMD). PL 2021, c. 152, §1 (AMD).

#### §10124. Agricultural fair assistance program

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 6/30/24)

(WHOLE SECTION TEXT REPEALED 6/30/24 by T. 35-A, §10124, sub-§5)

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agricultural fair" has the same meaning as in Title 7, section 81, subsection 1. [PL 2019, c. 169, §1 (NEW).]

B. "Demand charge" means a charge on an electric bill that is based on the customer's peak demand for electricity. [PL 2019, c. 169, §1 (NEW).]

C. "Fund" means the agricultural fair assistance program fund established under subsection 3. [PL 2019, c. 169, §1 (NEW).]

D. "Program" means the agricultural fair assistance program established under subsection 2. [PL 2019, c. 169, §1 (NEW).]

[PL 2019, c. 169, §1 (NEW).]

**2. Program established.** The trust shall establish and administer an agricultural fair assistance program to help agricultural fairs reduce electricity costs through the most cost-effective opportunities available. Under the program, the trust shall:

A. Conduct outreach and provide technical assistance to agricultural fairs to:

(1) Identify opportunities to reduce electricity costs, including but not limited to opportunities to reduce peak electricity demand; and

(2) Enroll agricultural fairs in existing programs offered by the trust as appropriate; and [PL 2019, c. 169, §1 (NEW).]

B. Offer custom financial incentives to agricultural fairs to implement electric efficiency and conservation measures, including but not limited to measures to reduce peak electricity demand. [PL 2019, c. 169, §1 (NEW).]

The program may use a definition of cost-effective other than the definition adopted by the trust pursuant to section 10110, subsection 2.

[PL 2019, c. 169, §1 (NEW).]

**3. Fund established.** The trust shall establish the agricultural fair assistance program fund as a nonlapsing fund administered by the trust to fund the program. The commission shall assess each transmission and distribution utility an amount necessary to collect the total amount of demand charges paid by agricultural fairs in the State to transmission and distribution utilities during the prior year. All amounts collected under this subsection must be transferred to the fund. Any interest earned on funds in the fund must be credited to the fund. Funds not spent in any fiscal year remain in the fund to be used by the program. The assessments charged to transmission and distribution utilities under this

subsection are just and reasonable costs for rate-making purposes. The commission may issue any appropriate orders to transmission and distribution utilities necessary to achieve the goals of this subsection.

[PL 2019, c. 169, §1 (NEW).]

**4. Report.** No later than January 15, 2022 and January 15, 2024, the trust shall submit a report on the program to the joint standing committee of the Legislature having jurisdiction over energy and utility matters. The report must include information on program implementation, total deposits into and expenditures from the fund, program activity and reductions in peak electricity demand, energy consumption and electricity costs achieved. After receiving the report due by January 15, 2024, the committee may report out a bill relating to the program to the Second Regular Session of the 131st Legislature.

[PL 2019, c. 169, §1 (NEW).]

**5. Repeal; remaining funds.** This section is repealed June 30, 2024. In the event funds in the fund are not expended or contracted for expenditure as of June 30, 2024, the commission shall ensure that the value of those funds is returned to electricity consumers.

[PL 2019, c. 169, §1 (NEW).]

**REVISOR'S NOTE:** §10124. Electric Vehicle Fund as enacted by PL 2019, c. 258, §1 is REALLOCATED TO TITLE 35-A, SECTION 10126

**REVISOR'S NOTE:** §10124. School solar energy program as enacted by PL 2019, c. 347, §3 is REALLOCATED TO TITLE 35-A, SECTION 10127

#### SECTION HISTORY

PL 2019, c. 169, §1 (NEW).

#### **§10125. Electric Vehicle Charging Infrastructure Fund**

**1. Fund established.** The Electric Vehicle Charging Infrastructure Fund is established as a nonlapsing fund administered by the trust to increase the availability and effectiveness of electric vehicle charging infrastructure in the State. Any interest earned on funds in the fund must be credited to the fund, and funds not spent in any fiscal year remain in the fund to be used in accordance with this section. The trust may receive and deposit in the fund funds from the following sources:

- A. Federal funds and awards that may be used for the purposes of this section; [PL 2019, c. 258, §1 (NEW).]
- B. Any interest earned on investment of fund balances; and [PL 2019, c. 258, §1 (NEW).]
- C. Any other funds from public or private sources received in support of the purposes for which the fund is established. [PL 2019, c. 258, §1 (NEW).]

The trust may expend funds received under paragraphs A and C consistent with the allowable uses of and any criteria or limitations placed upon the expenditure of those funds by the sources of those funds. [PL 2021, c. 402, §1 (AMD).]

#### SECTION HISTORY

PL 2019, c. 258, §1 (NEW). PL 2021, c. 402, §1 (AMD).

#### **§10126. Electric Vehicle Fund**

**(REALLOCATED FROM TITLE 35-A, SECTION 10124)**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Battery electric vehicle" means a fully electric, zero-emission vehicle that has an on-board electrical energy storage device that is designed to be recharged using an external energy source. [PL 2019, c. 258, §1 (NEW); RR 2019, c. 1, Pt. A, §54 (RAL).]

B. [PL 2021, c. 402, §2 (RP).]

C. "Fund" means the Electric Vehicle Fund established in subsection 2. [PL 2019, c. 258, §1 (NEW); RR 2019, c. 1, Pt. A, §54 (RAL).]

D. "Plug-in hybrid electric vehicle" means a vehicle that uses an on-board electrical energy storage device that is designed to be recharged using an external energy source to power an electric motor and uses a petroleum-based fuel to power an internal combustion engine. [PL 2019, c. 258, §1 (NEW); RR 2019, c. 1, Pt. A, §54 (RAL).]

E. "Program" means the program established pursuant to subsection 3. [PL 2019, c. 258, §1 (NEW); RR 2019, c. 1, Pt. A, §54 (RAL).]

[PL 2021, c. 402, §2 (AMD).]

**2. Fund established.** The Electric Vehicle Fund is established as a nonlapsing fund administered by the trust to transform markets toward the adoption of electric vehicles and to support the purchase of electric vehicles in the State. Any interest earned on funds in the fund must be credited to the fund, and funds not spent in any fiscal year remain in the fund to be used in accordance with this section. The trust may receive and deposit in the fund funds from the following sources:

A. Federal funds and awards that may be used for the purposes of this section; [PL 2019, c. 258, §1 (NEW); RR 2019, c. 1, Pt. A, §54 (RAL).]

B. Any interest earned on investment of fund balances; and [PL 2019, c. 258, §1 (NEW); RR 2019, c. 1, Pt. A, §54 (RAL).]

C. Any other funds from public or private sources received in support of the purposes for which the fund is established. [PL 2019, c. 258, §1 (NEW); RR 2019, c. 1, Pt. A, §54 (RAL).]

The fund may be used for the program and other uses consistent with the purposes for which the fund is established.

[PL 2019, c. 258, §1 (NEW); RR 2019, c. 1, Pt. A, §54 (RAL).]

**3. Rebate program established; eligibility.** In accordance with the provisions of this section, the trust shall establish and administer a program that provides rebates for the purchase or lease of electric vehicles. A person may apply for and, as resources within the fund allow, receive a rebate for an electric vehicle, subject to eligibility requirements established by the trust. Eligibility criteria for the vehicle must include that the vehicle is: a battery electric vehicle or plug-in hybrid electric vehicle; purchased, or leased from its original equipment manufacturer or an authorized licensee of the original equipment manufacturer or a licensed automobile dealer for a term of 36 months or more, in the State; and registered in the State, except that a vehicle is not eligible if it has a gross vehicle weight rating of 6,000 pounds or less, is not a truck or an off-road vehicle and has a manufacturer's suggested retail price greater than \$50,000. To the extent funds are available, the trust may extend program eligibility to medium duty vehicles and heavy duty vehicles that are battery electric vehicles or plug-in hybrid electric vehicles. Eligibility requirements for the recipient of the rebate must include that the recipient attests to a commitment to retain ownership, whether through purchase or lease, of the eligible electric vehicle for at least 36 months from the date of purchase or lease. The trust may require a recipient of a rebate under this section who does not retain ownership of the eligible electric vehicle for at least 36 months to repay the trust up to the full amount of the rebate.

The trust shall establish the rebate amount for each eligible electric vehicle. The trust shall establish rebate amounts that it determines most effectively increase the purchase of eligible electric vehicles. For each model of an eligible electric vehicle, the trust may establish different rebate amounts based

on the size of the vehicle battery. The trust may establish different rebate amounts for the purpose of providing reasonable opportunity for participation in the program across different customer groups and geographic areas. The trust may establish reasonable limits on the number of rebates per vehicle or per person.

[PL 2021, c. 402, §3 (AMD).]

**4. List of eligible electric vehicles; applications.** The trust shall develop, make available on its publicly accessible website and periodically update a list of eligible electric vehicles and rebates included in the program. The trust shall develop and make available at its offices and on its publicly accessible website all forms and other documents necessary for a person to apply for and receive a direct rebate under this section.

[PL 2019, c. 258, §1 (NEW); RR 2019, c. 1, Pt. A, §54 (RAL).]

**5. Rules.** The trust may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2019, c. 258, §1 (NEW); RR 2019, c. 1, Pt. A, §54 (RAL).]

#### SECTION HISTORY

PL 2019, c. 258, §1 (NEW). RR 2019, c. 1, Pt. A, §54 (RAL). PL 2021, c. 402, §§2, 3 (AMD).

#### §10127. School solar energy program

**(REALLOCATED FROM TITLE 35-A, SECTION 10124)**

**(REPEALED)**

#### SECTION HISTORY

PL 2019, c. 347, §3 (NEW). RR 2019, c. 1, Pt. A, §55 (RAL). PL 2021, c. 152, §2 (RP).

#### §10128. Thermal Energy Investment Program

**1. Establishment; purpose.** The Thermal Energy Investment Program is established within the trust to provide incentives and low-interest or no-interest loans to strengthen the State's forest products industry and lower energy costs by increasing the efficient use of thermal energy production.

[PL 2021, c. 199, §2 (NEW).]

**2. Thermal Energy Investment Fund.** There is established in the custody of the trust a special nonlapsing fund, to be known as the Thermal Energy Investment Fund. The Thermal Energy Investment Fund consists of the following:

A. Sums the commission collects from alternative compliance payments made by competitive electricity providers to satisfy the portfolio requirements for thermal renewable energy credits established in section 3210, subsection 3-C; [PL 2021, c. 199, §2 (NEW).]

B. Funds that the trust may receive from the State or from the Federal Government or funds from other agreements whose purpose is consistent with this section; [PL 2021, c. 199, §2 (NEW).]

C. Principal and interest received from the repayment of loans made from the Thermal Energy Investment Fund; and [PL 2021, c. 199, §2 (NEW).]

D. Interest earned from the investment of Thermal Energy Investment Fund balances. [PL 2021, c. 199, §2 (NEW).]

[PL 2021, c. 199, §2 (NEW).]

**3. Program details.** The trust, through the Thermal Energy Investment Program established in subsection 1, shall provide incentives and low-interest or no-interest loans to businesses, municipalities, educational institutions and nonprofit entities in the State for the installation of new thermal energy-derived projects from the Thermal Energy Investment Fund established in subsection 2. The trust shall require Thermal Energy Investment Program participants to substantially share in the cost of projects

funded under this section. The trust shall seek to maximize the Thermal Energy Investment Program's impact per dollar of expenditure from the Thermal Energy Investment Fund and shall set limits it determines prudent on the size of incentives. The trust may not provide incentives or loans from the Thermal Energy Investment Fund for the refurbishment or maintenance of existing facilities.

The trust shall develop activities promoting the Thermal Energy Investment Program in consultation with the Finance Authority of Maine, established in Title 10, chapter 110. The trust shall consult with the Finance Authority of Maine, when appropriate, in its decisions to award incentives and loans. To the extent that funding is available, the trust shall offer technical assistance to eligible projects in a manner that is coordinated and consistent with other trust programs.

For purposes of this subsection, "new thermal energy-derived project" means a project that produces thermal energy and thermal renewable energy credits, including, but not limited to, wood-fueled combined heat and power cogeneration boiler installations; colocation development that increases the efficient use of wood for energy production; conversion of fossil fuel-fired boilers to wood-fueled boilers or boilers using biofuels derived from wood; and the installation of new wood-fueled boilers or boilers using biofuels derived from wood. As used in this paragraph, "thermal energy" has the same meaning as in section 3210, subsection 2, paragraph D and "thermal renewable energy credit" has the same meaning as in section 3210, subsection 2, paragraph E.

[PL 2021, c. 199, §2 (NEW).]

**REVISOR'S NOTE:** §10128. Maine Clean Energy and Sustainability Accelerator (As enacted by PL 2021, c. 358, §2 is REALLOCATED TO TITLE 35-A, SECTION 10129)

#### SECTION HISTORY

PL 2021, c. 199, §2 (NEW).

#### **§10129. Maine Clean Energy and Sustainability Accelerator (REALLOCATED FROM TITLE 35-A, SECTION 10128)**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Accelerator" means the Maine Clean Energy and Sustainability Accelerator established under subsection 2. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

B. "Alternative fuel vehicle project" means any project, technology, product, service, function or measure that supports the development or deployment of alternative fuels used for electricity generation, alternative fuel vehicles and related infrastructure, including infrastructure for electric vehicle charging stations, and that does not include the combustion of fossil fuels. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

C. "Demand response project" means any project, technology, product, service, function or measure that changes the usage of electricity by retail customers from normal consumption patterns in response to:

(1) Changes in the price of electricity over time; or

(2) Incentive payments designed to induce lower electricity use at times of high market prices or when system reliability is jeopardized. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

D. "Electrification" means the installation, construction or use of end-use electric technology that replaces existing technology based on fossil fuel consumption. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

E. "Energy efficiency project" means any project, technology, product, service, function or measure that results in the reduction of energy use required to achieve the same level of service or

output obtained before the application of the project, technology, product, service, function or measure. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

F. "Fuel switching" means any project that replaces a heating system or industrial process using fossil fuels with a system or process that uses a different fuel and achieves lower net greenhouse gas emissions. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

G. "Greenhouse gas" has the same meaning as in Title 38, section 574, subsection 1. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

H. "Microgrid" means a group of interconnected loads and distributed energy resources within clearly defined electrical boundaries that acts as a single controllable entity in a larger electrical grid and that can connect to and disconnect from the larger grid to operate in either grid-connected or isolation mode. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

I. "Qualified projects" means the following kinds of technologies and activities that are eligible for financing and investment from the accelerator:

(1) Renewable energy generation, including:

(a) Solar, wind and geothermal projects;

(b) Projects using small-scale hydropower that produce 30 megawatts or less of electricity as long as such a project provides 95% or greater efficiency for upstream and downstream passage for diadromous fish species present downstream of the project;

(c) Projects using ocean and hydrokinetic power generation;

(d) Projects using fuel cells to store energy; and

(e) Projects that are biomass generators fueled by wood or wood waste, landfill gas or anaerobic digestion of agricultural products, by-products or wastes;

(2) Building energy efficiency, fuel switching and electrification;

(3) Industrial decarbonization;

(4) Grid technology such as storage to support clean energy distribution, including microgrids and smart grid applications as described in section 3143;

(5) Clean transportation, including battery electric vehicles, plug-in hybrid electric vehicles, hydrogen vehicles, other zero-emissions fueled vehicles, related vehicle charging and fueling infrastructure and low-emissions mass public transit; and

(6) Any other key areas identified by the board as consistent with the mandate of the accelerator as described in subsection 3. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

J. "Renewable energy generation" means electricity created by sources that are continually replenished by nature, such as the sun, wind and water. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

K. "Renewable energy project" means the development, construction, deployment, alteration or repair of any project, technology, product, service, function or measure that generates electric power from renewable energy. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

L. "System efficiency project" means the development, construction, deployment, alteration or repair of any distributed generation system, energy storage system, smart grid technology, advanced battery system, microgrid system, fuel cell system or combined heat and power systems. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

M. "Vulnerable communities" means:

(1) Low-income communities, defined as any geographical unit for which the United States Census Bureau publishes sample data in which 30% or more of the population are individuals with low income;

(2) Low-income households, defined as a household with annual income equal to, or less than, the greater of:

(a) An amount equal to 80% of the median income of the area in which the household is located, as reported by the federal Department of Housing and Urban Development; and

(b) Two hundred percent of the federal poverty line; and

(3) Communities of color and tribal communities, which include any geographically distinct area in which the population of color is higher than the average population of color of the State.

[PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

[PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

**2. Establishment.** The Maine Clean Energy and Sustainability Accelerator is established under the trust and is administered by the trust as a dedicated, specialized finance program designed to drive private capital into market gaps for goods and services producing low or zero greenhouse gas emissions and use finance tools to mitigate climate change; that does not take deposits; that is funded by government, public, private or charitable contributions; and that invests in or finances projects alone or in conjunction with other investors.

[PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

**3. Mandate.** The accelerator shall help this State combat the causes and effects of climate change through the rapid deployment of mature technologies and the commercialization and scaling of new technologies by maximizing the reduction of greenhouse gas emissions in this State for every dollar deployed by the accelerator, including by:

A. Providing financing support for investments in low-emissions and zero-emissions technologies and processes in order to rapidly accelerate market penetration; [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

B. Catalyzing and mobilizing private capital through public investment and supporting a more robust marketplace for clean technologies, while minimizing competition with private investment; [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

C. Enabling communities affected by climate change to benefit from and afford projects and investments that reduce greenhouse gas emissions; [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

D. Providing support for workers and communities affected by the transition to a low-carbon economy; and [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

E. Causing the rapid transition to a clean energy economy without raising energy costs to end users and seeking to lower costs when possible. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

[PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

**4. Finance and investment.** The following provisions govern the finance and investment activities of the accelerator.

A. The accelerator may provide finance and investment services, including but not limited to:

(1) Originating, evaluating, underwriting and closing financing and investment transactions in qualified projects;

(2) Partnering with private capital providers and capital markets to attract co-investment from private banks, community development financial institutions, investors and others in order to

drive new investment into underpenetrated markets, to increase the efficiency of private capital markets with respect to investing in greenhouse gas reduction projects and to increase total investment caused by the accelerator;

- (3) Managing the accelerator's portfolio of assets to ensure performance and monitor risk;
- (4) Ensuring appropriate debt and risk mitigation products are offered; and
- (5) Overseeing prudent, noncontrolling equity investments. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

B. The accelerator may provide capital to qualified projects in the form of:

- (1) Debt financing;
- (2) Credit enhancements, including loan loss reserves and loan guarantees;
- (3) Aggregation and warehousing;
- (4) Equity capital; and
- (5) Any other financial product approved by the board. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

[PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

**5. Zero-emissions fleet and related infrastructure financing program.** The accelerator shall explore the establishment of a program to provide low-interest and zero-interest loans, up to 30 years in length, to any school, municipal planning organization or nonprofit organization seeking financing for the acquisition of zero greenhouse gas emissions vehicle fleets or associated infrastructure to support zero greenhouse gas emissions vehicle fleets.

[PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

**6. Project prioritization and requirements.** The following provisions govern project prioritization and requirements.

A. While investing in projects that mitigate greenhouse gas emissions, the accelerator shall maximize the reduction of greenhouse gas emissions in this State for every dollar deployed by the accelerator. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

B. The accelerator shall ensure that 40% of its investment activity is directed to serve vulnerable communities. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

C. For any project exceeding \$100,000 in total costs that is financed in whole or in part by the accelerator, the accelerator shall ensure that, for those portions of the project that are funded by the accelerator, any workers employed by contractors and subcontractors conducting construction work on those portions are paid wages not less than those prevailing on similar construction in the locality. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

[PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

**7. Administration.** The following provisions govern administration.

A. The accelerator may be capitalized with federal funds available from a national clean energy and sustainability accelerator and may accept other federal funds as available. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

B. To sustain operations, the accelerator shall manage revenue from financing fees, interest, repaid loans and other types of funding. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

C. The accelerator shall create a publicly available annual report that describes the financial activities, greenhouse gas emissions reductions and private capital mobilization metrics of the



accelerator for the previous year. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

D. The accelerator may not accept deposits. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

E. The accelerator may accept and use philanthropic funds. [PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

[PL 2021, c. 358, §2 (NEW); RR 2021, c. 1, Pt. A, §40 (RAL).]

#### SECTION HISTORY

PL 2021, c. 358, §2 (NEW). RR 2021, c. 1, Pt. A, §40 (RAL).

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