

**§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).

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