

**Title 35-A: PUBLIC UTILITIES**  
**Chapter 97: EFFICIENCY MAINE TRUST ACT**

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**Maine Revised Statutes**  
**Title 35-A: PUBLIC UTILITIES**  
**Chapter 97: EFFICIENCY MAINE TRUST ACT**

**§10101. SHORT TITLE**

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

SECTION HISTORY

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. [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; [2009, c. 372, Pt. B, §3 (NEW).]

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

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

[2009, c. 372, Pt. B, §3 (NEW) .]

**2. Administration fund.** "Administration fund" means the administration fund established pursuant to section 10103, subsection 5.

[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.

[2009, c. 372, Pt. B, §3 (NEW) .]

**4. Board.** "Board" means the Efficiency Maine Trust Board.

[2009, c. 372, Pt. B, §3 (NEW) .]

**5. Director.** "Director" means the Director of the Efficiency Maine Trust.

[2009, c. 372, Pt. B, §3 (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.

[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.

[ 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.

[ 2009, c. 372, Pt. B, §3 (NEW) . ]

**9. Triennial plan.** "Triennial plan" means the plan required under section 10104, subsection 4.

[ 2009, c. 372, Pt. B, §3 (NEW) . ]

**10. Trust.** "Trust" means the Efficiency Maine Trust established in section 10103.

[ 2009, c. 372, Pt. B, §3 (NEW) . ]

**11. Trustee.** "Trustee" means a member of the board.

[ 2009, c. 372, Pt. B, §3 (NEW) . ]

#### SECTION HISTORY

2009, c. 372, Pt. B, §3 (NEW) .

## §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; [ 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; [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 [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. [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.

[ 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. [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. [2009, c. 372, Pt. B, §3 (NEW).]

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

[ 2011, c. 655, Pt. MM, §18 (AMD); 2011, c. 655, Pt. MM, §26 (AFF); 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; [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 [2009, c. 372, Pt. B, §3 (NEW).]

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

[ 2009, c. 372, Pt. B, §3 (NEW) .]

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

[ 2013, c. 369, Pt. A, §5 (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 [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. [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.

[ 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.

[ 2009, c. 372, Pt. B, §3 (NEW) .]

#### SECTION HISTORY

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

[ 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; [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; [2013, c. 369, Pt. A, §8 (AMD) .]

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

[ 2013, c. 369, Pt. A, §8 (AMD) .]

**3. Measures of performance.** The trust shall develop quantifiable measures of performance for all programs it administers and to which it will hold accountable all recipients of funding from the trust and recipients of funds used to deliver energy and energy efficiency and weatherization programs administered or funded by the trust. Such measures may include, but are not limited to, reduced energy consumption, increased use of alternative energy resources, 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.

[ 2013, c. 369, Pt. A, §9 (AMD) .]

**4. Triennial plan.** The board shall vote on a detailed, triennial, energy efficiency, alternative energy resources and conservation plan that includes the quantifiable measures of performance developed under subsection 3 and make a full report of the vote to the commission in accordance with this subsection. The triennial plan must provide integrated planning, program design and implementation strategies for all energy 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. Beginning January 1, 2011, the triennial plan must specify the appropriate participation of the State in national and regional carbon markets. The plan must be consistent with the comprehensive state energy plan pursuant to Title 2, section 9, subsection 3, paragraph C.

A. The triennial plan must be developed by the trust, in consultation with entities and agencies engaged in delivering 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 all achievable cost-effective energy efficiency savings 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 all cost-effective potential for electrical and natural gas energy efficiency savings in the State at least once every 5 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. [ 2013, c. 369, Pt. A, §10 (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. [ 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. [ 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 and reflects the best practices of program administration under subsection 2. The plan must include, but is not limited to, efficiency and conservation program budget allocations, objectives, targets, measures of performance, program designs, program implementation strategies, timelines and other relevant information. [ 2013, c. 369, Pt. A, §11 (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. The commission shall open an adjudicatory proceeding and issue an order either approving the plan and issuing the appropriate orders to transmission and distribution utilities and gas utilities or rejecting the plan and stating the reasons for the rejection. The commission shall reject elements of the plan that propose to use funds generated pursuant to sections 3210-C, 10110, 10111 or 10119 if the plan fails to



reasonably explain how these elements of the program would achieve the objectives and implementation requirements of the programs established under those sections or the measures of performance under subsection 3. Funds generated under these statutory authorities may not be used pursuant to the triennial plan unless those elements of the plan proposing to use the funds have been approved by the commission. The commission shall approve all elements of the triennial plan it determines to be cost-effective, reliable and achievable and shall incorporate into gas utility and transmission and distribution rates sufficient revenue to provide for the procurement of energy efficiency resources identified within the plan pursuant to section 10110, subsection 4-A and section 10111, subsection 2. 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 its plan, shall submit the plan to the joint standing committee of the Legislature having jurisdiction over energy matters together with any explanatory or other supporting material as the committee may request and, at the request of the committee, shall provide a detailed briefing on the final plan. After receipt of the plan, the joint standing committee of the Legislature having jurisdiction over energy matters may submit legislation relating to the plan. [ 2013, c. 369, Pt. A, §12 (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. [ 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 energy efficiency programs that advance the following goals, and funding necessary to meet those goals:

- (1) Reducing energy costs, including residential heating costs;
- (2) Weatherizing substantially all homes whose owners or occupants are willing to participate in and share the costs of cost-effective home weatherization to a minimum standard of weatherization, as defined by the trust, by 2030;
- (3) Reducing peak-load demand for electricity through trust programs by 300 megawatts by 2020;
- (4) By 2020, achieving electricity and natural gas program savings of at least 20% and heating fuel savings of at least 20%, as defined in and determined pursuant to the measures of performance 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 by 2020; and
- (6) Reducing greenhouse gas emissions from the heating and cooling of buildings in the State by amounts consistent with the State's goals established in Title 38, section 576.

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

Except when specifically provided in the individual goals under this paragraph, the trust may consider expected savings from market effects not attributable to the trust as well as efforts by other organizations, including but not limited to federally funded low-income weatherization programs.

As used in this paragraph, "heating fuel" means liquefied petroleum gas, kerosene or #2 heating oil, but does not include fuels when used for industrial or manufacturing processes. [ 2013, c. 369, Pt. A, §13 (RPR). ]

[ 2013, c. 369, Pt. A, §§10-13 (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; [ 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; [ 2009 , c . 372 , Pt . B , §3 (NEW) . ]

C. Any recommendations for changes to the laws relating to energy conservation; and [ 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 measures of performance approved by the commission and contained in the triennial plan. [ 2009 , c . 372 , Pt . B , §3 (NEW) . ]

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.

[ 2009 , c . 372 , Pt . B , §3 (NEW) . ]

**6. Updated plans.** Within 30 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, measures of performance, 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.

[ 2009, c. 372, Pt. B, §3 (NEW) . ]

**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.

[ 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 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 include 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.

[ 2009, c. 372, Pt. B, §3 (NEW) . ]

**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 and energy efficiency and weatherization programs administered by the Maine State Housing Authority.

[ 2017, c. 110, §34 (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.

[ 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.

[ 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.

[ 2011, c. 637, §4 (NEW) . ]

#### SECTION HISTORY

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

## §10105. POWERS, DUTIES AND LIMITATIONS

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

[ 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.

[ 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.

[ 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.

[ 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 [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. [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.

[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.

[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.

[2009, c. 372, Pt. B, §3 (NEW).]

#### SECTION HISTORY

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. [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

[2017, c. 163, §2 (AMD).]

B. A financial statement or tax return. [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.

[ 2011, c. 343, §1 (AMD); 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; [2009, c. 372, Pt. B, §3 (NEW).]

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

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

[ 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; [2009, c. 372, Pt. B, §3 (NEW).]

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

[ 2009, c. 372, Pt. B, §3 (NEW) .]

#### SECTION HISTORY

RR 2009, c. 1, §25 (COR). 2009, c. 372, Pt. B, §3 (NEW). 2011, c. 343, §1 (AMD). 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. [ 2009, c. 518, §9 (AMD) . ]

SECTION HISTORY

2009, c. 372, Pt. B, §3 (NEW). 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.

[ 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.

[ 2011, c. 637, §5 (NEW) . ]

SECTION HISTORY

2009, c. 372, Pt. B, §3 (NEW). 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.

[ 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. [ 2009, c. 372, Pt. B, §3 (NEW) . ]

C. "Trust fund" means the Regional Greenhouse Gas Initiative Trust Fund established in subsection 2.

[ 2009, c. 372, Pt. B, §3 (NEW) . ]

[ 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. [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. [2009, c. 372, Pt. B, §3 (NEW).]

[ 2009, c. 372, Pt. B, §3 (NEW) .]

### 3. Ceiling on energy efficiency spending.

[ 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. [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. [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. [2015, c. 498, §1 (NEW).]

[ 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. The trust shall allocate 50% of the funds for residential programs and 50% for commercial and industrial programs. 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 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. 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.

Notwithstanding this paragraph, during fiscal years 2017-18 to 2019-20, the trust is not required to allocate 50% of the funds to residential programs and 50% of the funds to commercial and industrial programs and may instead allocate those funds to programs at the trust's discretion. [ 2017 , c . 282 , §2 (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. [ 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. [ 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. [ 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. [ 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. [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. [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. [2009, c. 372, Pt. B, §3 (NEW).]

I. A trade association aggregator is eligible to participate in competitive bid processes under this subsection. [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). [2013, c. 369, Pt. A, §17 (AMD).]

[ 2013, c. 369, Pt. A, §§15-17 (AMD); 2017, c. 282, §2 (AMD) .]

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

[ 2009, c. 372, Pt. B, §3 (NEW) .]

#### SECTION HISTORY

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

## §10110. ELECTRIC EFFICIENCY AND CONSERVATION PROGRAMS

*(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. [2009, c. 372, Pt. B, §3 (NEW).]

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

C. "Conservation programs" means programs developed by the trust pursuant to this section designed to reduce inefficient electricity use. [2009, c. 372, Pt. B, §3 (NEW).]

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. [2009, c. 372, Pt. B, §3 (NEW).]

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

[ 2009, c. 372, Pt. B, §3 (NEW) .]

**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 achieving reductions in demand for electricity during peak use periods; and
- (5) Reduce total energy costs for electricity consumers in the State by increasing the efficiency with which electricity is consumed. [2009, c. 372, Pt. B, §3 (NEW).]

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. [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. [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. [2009, c. 372, Pt. B, §3 (NEW) .]

E. The trust shall implement conservation programs by contracting with service providers in accordance with subsection 3. [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. [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. [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. [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. [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. [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. [2011, c. 637, §6 (NEW).]

L. (TEXT EFFECTIVE UNTIL 9/30/21) (TEXT REPEALED 9/30/21) 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, 2021. [2017, c. 414, §2 (AMD).]

[ 2017, c. 414, §2 (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. [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. [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. [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.

[2009, c. 372, Pt. B, §3 (NEW) .]

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

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

**4-A. Procurement of cost-effective energy efficiency resources.** The commission shall ensure that transmission and distribution utilities on behalf of their ratepayers procure all electric energy efficiency resources found by the commission to be cost-effective, reliable and achievable 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 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 amount of cost-effective electric energy efficiency resources to be procured under this subsection, the commission shall:

A. Consider electric energy efficiency resources that are reasonably foreseeable to be acquired by the trust using all other sources of revenue, including, but not limited to, the Regional Greenhouse Gas Initiative Trust Fund under section 10109; [2013, c. 369, Pt. A, §20 (NEW); 2013, c. 369, Pt. A, §30 (AFF).]

B. Ensure that calculations of avoided energy costs and the budget identified by the trust in its triennial plan as needed to capture all cost-effective electric energy efficiency resources are reasonable, based on sound evidence and make use of best practices across the region; and [2013, c. 369, Pt. A, §20 (NEW); 2013, c. 369, Pt. A, §30 (AFF).]

C. Maximize total electricity savings for all ratepayers. [2013, c. 369, Pt. A, §20 (NEW); 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 and shall consider both net and gross efficiency savings for the purpose of determining the appropriateness of the amount identified by the trust in its triennial plan as needed to capture all cost-effective electric energy efficiency resources.

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

[2015, c. 255, §1 (AMD) .]

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

[ 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.

[ 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. [2009, c. 372, Pt. B, §3 (NEW) .]

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

[ 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.

[ 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.

[ 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.

[ 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.

[ 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. [ 2009, c. 372, Pt. B, §3 (NEW) . ]

C. If the commission rejects the decision, the commission shall adjudicate the dispute. [ 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.

[ 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.

[ 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.

[ 2009, c. 372, Pt. B, §3 (NEW) . ]

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

[ 2009, c. 372, Pt. B, §3 (NEW) . ]

#### SECTION HISTORY

2009, c. 372, Pt. B, §3 (NEW). 2009, c. 518, §10 (AMD). 2011, c. 637, §6 (AMD). 2013, c. 369, Pt. A, §§18-24 (AMD). 2013, c. 369, Pt. A, §30 (AFF). 2013, c. 556, §2 (AMD). 2015, c. 255, §1 (AMD). 2015, c. 494, Pt. A, §§39, 40 (AMD). 2017, c. 414, §2 (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 that serves at least 5,000 residential customers 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 seek to encourage efficiency in natural gas use, provide incentives for the development of new, energy-efficient business activity 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. [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. [2009, c. 372, Pt. B, §3 (NEW).]

[ 2009, c. 372, Pt. B, §3 (NEW) .]

**2. Funding level.** The natural gas conservation fund, which is a nonlapsing fund, is established to carry out the purposes of this section. The commission shall assess each gas utility, in accordance with the triennial plan, an amount necessary to capture all cost-effective energy efficiency that is achievable and reliable for those consumers who are eligible to receive funds from the natural gas conservation fund. The commission shall direct a gas utility that collects any portion of the assessment under this subsection from a customer that is a large-volume manufacturer and large-volume agricultural business to collect the assessment 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 assessment 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 limit 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 assessments charged to 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 served by the gas utilities assessed under this subsection. 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.

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

[ 2017, c. 358, §1 (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.

[ 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.

[ 2009, c. 372, Pt. B, §3 (NEW) . ]

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

[ 2009, c. 372, Pt. B, §3 (NEW) . ]

#### SECTION HISTORY

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

## **§10112. SOLAR AND WIND ENERGY REBATE PROGRAM** *(REPEALED)*

#### SECTION HISTORY

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

## **§10113. TRAINING FOR INSTALLERS OF SOLAR EQUIPMENT**

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

- A. May develop separate programs for different solar technologies or applications when the trust determines that the skills or training for the installation of those technologies or applications merit the distinction; [2009, c. 372, Pt. B, §3 (NEW).]
- B. Shall confer with the Plumbers' Examining Board and the Electricians' Examining Board when it develops the course content and requirements; [2009, c. 372, Pt. B, §3 (NEW).]
- C. Shall determine the content of the training, the hours required for course completion and the manner in which applicants must demonstrate proficiency in solar equipment installation; [2009, c. 372, Pt. B, §3 (NEW).]
- D. Shall issue a certificate of completion to individuals who meet the requirements the trust has established; [2009, c. 372, Pt. B, §3 (NEW).]
- E. May establish reasonable course fees. All fees must be paid to the Treasurer of State to be used by the trust for the purposes of this section; [2009, c. 372, Pt. B, §3 (NEW).]
- F. Shall determine terms for the expiration and renewal of an applicant's certificate of completion; and [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. [2009, c. 372, Pt. B, §3 (NEW).]

[ 2009, c. 372, Pt. B, §3 (NEW) .]

**2. Qualifications for installing solar 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 solar equipment, including but not limited to licensing requirements established in Title 32, chapter 17 or 49.

[ 2009, c. 372, Pt. B, §3 (NEW) .]

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

[ 2009, c. 372, Pt. B, §3 (NEW) .]

#### SECTION HISTORY

2009, c. 372, Pt. B, §3 (NEW).

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

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

[ 2009, c. 372, Pt. B, §3 (NEW) .]

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

[ 2009, c. 372, Pt. B, §3 (NEW) .]

#### SECTION HISTORY

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 [2009, c. 372, Pt. B, §3 (NEW).]

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

[ 2009, c. 372, Pt. B, §3 (NEW) .]

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

[ 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.

[ 2009, c. 518, §11 (NEW) .]

#### SECTION HISTORY

2009, c. 372, Pt. B, §3 (NEW). 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. [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. [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. [2009, c. 372, Pt. B, §3 (NEW).]

[ 2009, c. 372, Pt. B, §3 (NEW) .]

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

[ 2009, c. 372, Pt. B, §3 (NEW) .]

### SECTION HISTORY

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.

[ 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.

[ 2009, c. 372, Pt. B, §3 (NEW) .]

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

[ 2009, c. 372, Pt. B, §3 (NEW) .]

SECTION HISTORY

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; [2009, c. 372, Pt. B, §3 (NEW).]

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

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

[ 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.

[ 2009, c. 372, Pt. B, §3 (NEW) .]

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

[ 2009, c. 372, Pt. B, §3 (NEW) .]

SECTION HISTORY

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; [2009, c. 372, Pt. B, §3 (NEW) .]

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

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

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

E. Any interest earned on investment of fund balances; and [2009, c. 372, Pt. B, §3 (NEW).]

F. Any other funds from public or private sources received in support of the purposes for which the fund is established. [2009, c. 372, Pt. B, §3 (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.

[2009, c. 652, Pt. A, §49 (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 goal:

(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. [2009, c. 372, Pt. B, §3 (NEW).]

B. Funds from the fund may be used only for programs that provide cost-effective energy efficiency and weatherization measures for the benefit of heating fuel customers or to efficiency service providers serving those customers and in accordance with the following.

(1) Program categories must 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; and

(3) Cost-effective energy efficiency measures must include measures that improve the energy efficiency of energy-using systems, such as heating and cooling systems, through system upgrades or conversions, including conversions to energy-efficient systems that rely on renewable energy sources or systems that rely on effective energy efficiency technologies. [2009, c. 372, Pt. B, §3 (NEW).]

C. Program designs approved by the trust must contain:

(1) Incentives to consumers to purchase and install cost-effective efficiency and weatherization products and services identified by a certified energy auditor, except in the case of programs to deliver education, training or certifications;

(2) A schedule of customer copayments and loan options for prescribed products and services. Programs for low-income consumers may provide exemptions from the copayment and schedule;

(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. [2009, c. 372, Pt. B, §3 (NEW).]

D. Other 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. [2009, c. 372, Pt. B, §3 (NEW).]

[2009, c. 372, Pt. B, §3 (NEW).]

**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.

[ 2009, c. 372, Pt. B, §3 (NEW) .]

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

[ 2009, c. 372, Pt. B, §3 (NEW) .]

#### SECTION HISTORY

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

## §10120. COMMISSION OVERSIGHT OF EFFICIENCY MAINE TRUST

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

[ 2009, c. 372, Pt. B, §3 (NEW) .]

**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.

[ 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.

[ 2013, c. 369, Pt. A, §26 (AMD) .]

#### SECTION HISTORY

2009, c. 372, Pt. B, §3 (NEW). 2013, c. 369, Pt. A, §26 (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; [2009, c. 565, §7 (NEW); 2009, c. 565, §9 (AFF).]
- B. Provide that transmission and distribution utilities collect and account for the contributions and forward them to the trust; [2009, c. 565, §7 (NEW); 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; [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; [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 [2011, c. 637, §8 (AMD).]
- F. Provide rebates for cost-effective energy efficiency and renewable energy technologies as determined by the trust. [2011, c. 637, §8 (AMD).]

[ 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.

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

[ 2009, c. 565, §7 (NEW); 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 [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. [2011, c. 637, §8 (AMD).]

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

[ 2011, c. 637, §8 (AMD) .]

#### SECTION HISTORY

2009, c. 565, §7 (NEW). 2009, c. 565, §9 (AFF). 2011, c. 314, §§2-4 (AMD). 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. [2011, c. 424, Pt. A, §6 (NEW); 2011, c. 424, Pt. E, §1 (AFF).]

#### SECTION HISTORY

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

## §10123. SCHOOL ENERGY SAVINGS PROGRAM

To the extent funds are available, the trust shall develop a program to provide energy savings improvements to kindergarten to grade 12 schools, including charter schools and private schools. Under this program, the trust may: [2013, c. 366, §1 (NEW).]

**1. Energy audits.** Provide incentives and technical support for an energy audit of a school facility;

[ 2013, c. 366, §1 (NEW) .]

**2. Energy measures.** Provide financial assistance for energy measures identified in an energy audit as likely to achieve total savings within 10 years that are greater than the total costs of the measures; and

[ 2013, c. 366, §1 (NEW) .]

**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.

[ 2013, c. 366, §1 (NEW) .]

SECTION HISTORY

2013, c. 366, §1 (NEW) .

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