

## §10109. Regional Greenhouse Gas Initiative Trust Fund

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

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

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

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

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

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

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

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

### 3-A. Payments.

[PL 2021, c. 716, §1 (RP).]

**4. Expenditures; projects.** Except for other costs authorized in accordance with this chapter, funds in the trust fund must be expended in accordance with this subsection.

A. Trust funds must be allocated for measures, investments, loans, technical assistance and arrangements that reduce electricity consumption, increase energy efficiency or reduce greenhouse gas emissions and lower energy costs at commercial or industrial facilities and for investment in measures that lower residential heating energy demand and reduce greenhouse gas emissions. The measures that lower residential heating demand must be fuel-neutral and may include, but are not limited to, energy efficiency improvements to residential buildings, energy storage systems and upgrades to efficient heating systems that will reduce residential energy costs and greenhouse gas emissions, as determined by the board. The trust shall ensure that measures to reduce the cost of residential heating are available for low-income households as defined by the trust. When promoting electricity cost and consumption reduction, the trust may consider measures at

commercial and industrial facilities that also lower peak capacity demand, including energy storage systems. Subject to the apportionment pursuant to this subsection, the trust shall fund conservation programs that give priority to measures with the highest benefit-to-cost ratio, as long as cost-effective collateral efficiency opportunities are not lost, and that:

- (1) Reliably reduce greenhouse gas production and heating energy costs by fossil fuel combustion in the State at the lowest cost in funds from the trust fund per unit of emissions; or
  - (2) Reliably increase the efficiency with which energy in the State is consumed at the lowest cost in funds from the trust fund per unit of energy saved. [PL 2021, c. 298, §3 (AMD).]
- B. Expenditures from the trust fund relating to conservation of electricity and mitigation or reduction of greenhouse gases must be made predominantly on the basis of a competitive bid process for long-term contracts, subject to rules adopted by the board under section 10105. Rules adopted by the board to implement the competitive bid process under this paragraph may not include an avoided cost methodology for compensating successful bidders. Bidders may propose contracts designed to produce greenhouse gas savings or electricity conservation savings, or both, on a unit cost basis. Contracts must be commercially reasonable and may require liquidated damages to ensure performance. Contracts must provide sufficient certainty of payment to enable commercial financing of the conservation measure purchased and its installation. [PL 2009, c. 372, Pt. B, §3 (NEW).]
- C. The board may target bid competitions in areas or to participants as they consider necessary, as long as the requirements of paragraph A are satisfied. [PL 2009, c. 372, Pt. B, §3 (NEW).]
- D. Community-based renewable energy projects, as defined in section 3602, subsection 1, may apply for funding from the trust to the extent they are eligible under paragraph A. [PL 2013, c. 369, Pt. A, §16 (AMD).]
- E. The size of a project funded by the trust fund is not limited as long as funds are awarded to maximize energy efficiency and support greenhouse gas reductions and to fully implement the triennial plan. [PL 2009, c. 372, Pt. B, §3 (NEW).]
- F. No more than \$800,000 of trust fund receipts in any one year may be used for the costs of administering the trust fund pursuant to this section. The limit on administrative costs established in this paragraph does not apply to the following costs that may be funded by the trust fund:
- (1) Costs of the Department of Environmental Protection for participating in the regional organization as defined in Title 38, section 580-A, subsection 20 and for administering the allowance auction under Title 38, chapter 3-B; and
  - (2) Costs of the Attorney General for activities pertaining to the tracking and monitoring of allowance trading activity and managing and evaluating the trust's funding of conservation programs. [PL 2009, c. 372, Pt. B, §3 (NEW).]
- G. In order to minimize administrative costs and maximize program participation and effectiveness, the trustees shall, to the greatest extent feasible, coordinate the delivery of and make complementary the energy efficiency programs under this section and other programs under this chapter. [PL 2009, c. 372, Pt. B, §3 (NEW).]
- H. The trust shall consider delivery of efficiency programs by means of contracts with service providers that participate in competitive bid processes for reducing energy consumption within individual market segments or for particular end uses. [PL 2009, c. 372, Pt. B, §3 (NEW).]
- I. A trade association aggregator is eligible to participate in competitive bid processes under this subsection. [PL 2009, c. 372, Pt. B, §3 (NEW).]
- J. Trust fund receipts must, upon request by the Department of Environmental Protection, fund research approved by the Department of Environmental Protection in an amount of up to \$100,000

per year to develop new categories for carbon dioxide emissions offset projects, as defined in Title 38, section 580-A, subsection 6, that are located in the State. Expenditures on research pursuant to this paragraph are not considered administrative costs under paragraph F, subparagraph (1). [PL 2013, c. 369, Pt. A, §17 (AMD).]

K. The trust shall establish an industrial climate transition initiative to develop and support climate change mitigation strategies designed to reduce greenhouse gas emissions at industrial facilities in the State. In establishing the initiative and developing climate change mitigation strategies for industrial facilities, the trust shall:

- (1) Prioritize mitigation strategies identified in the State's climate action plan, as adopted and updated under Title 38, section 577, that offer the most cost-effective means of reducing greenhouse gas emissions at industrial facilities; and
- (2) Consider mitigation strategies and other recommendations identified by any working group, task force or other advisory body that is established by the Maine Climate Council, established under Title 38, section 577-A, to develop strategies and other recommendations to reduce greenhouse gas emissions at industrial facilities in the State.

The trust may allocate funds from the trust fund, and may expend any federal funds or other public or private funding that may be available, to establish the initiative under this paragraph and to develop and support climate change mitigation strategies designed to reduce greenhouse gas emissions at industrial facilities in the State. [PL 2021, c. 716, §2 (NEW).]

[PL 2021, c. 716, §2 (AMD).]

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

[PL 2009, c. 372, Pt. B, §3 (NEW).]

#### SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW). PL 2009, c. 565, §6 (AMD). PL 2009, c. 565, §9 (AFF). PL 2013, c. 369, Pt. A, §§14-17 (AMD). PL 2015, c. 498, §§1, 2 (AMD). PL 2017, c. 282, §§1, 2 (AMD). PL 2019, c. 69, §1 (AMD). PL 2021, c. 298, §3 (AMD). PL 2021, c. 716, §§1, 2 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Regular and First Special Session of the 131st Maine Legislature and is current through November 1, 2023. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.