

## 1 SENATE BILL NO. 150

2 INTRODUCED BY J. WINDY BOY, D. KARY, J. KEANE, M. LANG, R. LYNCH, E. MCCLAFFERTY,  
3 R. PEPPERS, B. SMITH, S. STEWART-PEREGOY, G. VUCKOVICH, J. WELBORN

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE AMOUNT OF UNIVERSAL SYSTEM BENEFITS  
6 FUNDS USED BY A PUBLIC UTILITY FOR LOW-INCOME ENERGY AND WEATHERIZATION ASSISTANCE;  
7 CLARIFYING WAYS A PUBLIC UTILITY MAY PROVIDE ASSISTANCE; AMENDING SECTIONS 69-8-402 AND  
8 69-8-412, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY  
9 DATE."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12  
13 **Section 1.** Section 69-8-402, MCA, is amended to read:

14 **"69-8-402. Universal system benefits programs.** (1) Universal system benefits programs are  
15 established for the state of Montana to ensure continued funding of and new expenditures for energy  
16 conservation, renewable resource projects and applications, and low-income energy assistance.

17 (2) Beginning January 1, 1999, 2.4% of each utility's annual retail sales revenue in Montana for the  
18 calendar year ending December 31, 1995, is established as the initial funding level for universal system benefits  
19 programs. To collect this amount of funds on an annualized basis in 1999, the commission shall establish rates  
20 for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates for the  
21 cooperatives.

22 (a) The recovery of all universal system benefits programs costs imposed pursuant to this section is  
23 authorized through the imposition of a universal system benefits charge assessed at the meter for each local  
24 utility system customer as provided in this section.

25 (b) A utility must receive credit toward annual funding requirements for the utility's internal programs or  
26 activities that qualify as universal system benefits programs, including those amortized or nonamortized portions  
27 of expenditures for the purchase of power that are for the acquisition or support of renewable energy,  
28 conservation-related activities, or low-income energy assistance, and for large customers' programs or activities  
29 as provided in subsection (7). The department of revenue shall review claimed credits of the utilities and large  
30 customers pursuant to 69-8-414.

1 (c) A utility at which the sale of power for final end use occurs is the utility that receives credit for the  
2 universal system benefits programs expenditure.

3 (d) A customer's utility shall collect universal system benefits funds less any allowable credits.

4 (e) For a utility to receive credit for low-income-related expenditures, the activity must have taken place  
5 in Montana.

6 (f) If a utility's or a large customer's credit for internal activities does not satisfy the annual funding  
7 provisions of subsection (2), then the utility shall make a payment to the universal system benefits fund  
8 established in 69-8-412 for any difference.

9 (3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding  
10 requirements for universal system benefits programs and low-income energy assistance.

11 (4) A utility's transition plan must describe how the utility proposes to provide for universal system  
12 benefits programs, including the methodologies, such as cost-effectiveness and need determination, used to  
13 measure the utility's level of contribution to each program.

14 (5) (a) A cooperative utility's minimum annual funding requirement for low-income energy and  
15 weatherization assistance is established at 17% of the cooperative utility's annual universal system benefits  
16 funding level and is inclusive within the overall universal system benefits funding level.

17 (b) A public utility's minimum annual funding requirement for low-income energy and weatherization  
18 assistance is established at 50% of the public utility's annual universal system benefits funding level and is  
19 inclusive within the overall universal system benefits funding level.

20 ~~(a)(c)~~ A utility must receive credit toward the utility's low-income energy assistance annual funding  
21 requirement for the utility's internal low-income energy assistance programs or activities. INTERNAL PROGRAMS AND  
22 ACTIVITIES MAY INCLUDE PROVIDING LOW-INCOME ENERGY AND WEATHERIZATION ASSISTANCE ON INDIAN RESERVATIONS.

23 ~~(b)(d)~~ If a utility's credit for internal activities does not satisfy its annual funding requirement, then the  
24 utility shall make a payment for any difference to the universal low-income energy assistance fund established  
25 in 69-8-412.

26 (6) An individual customer may not bear a disproportionate share of the local utility's funding  
27 requirements, and a sliding scale must be implemented to provide a more equitable distribution of program costs.

28 (7) (a) A large customer:

29 (i) shall pay a universal system benefits programs charge with respect to the large customer's qualifying  
30 load equal to the lesser of:

1 (A) \$500,000, less the large customer credits provided for in this subsection (7); or

2 (B) the product of 0.9 mills per kilowatt hour multiplied by the large customer's total kilowatt hour  
3 purchases, less large customer credits with respect to that qualifying load provided for in this subsection (7);

4 (ii) must receive credit toward that large customer's universal system benefits charge for internal  
5 expenditures and activities that qualify as a universal system benefits programs expenditure, and these internal  
6 expenditures must include but not be limited to:

7 (A) expenditures that result in a reduction in the consumption of electrical energy in the large customer's  
8 facility; and

9 (B) those amortized or nonamortized portions of expenditures for the purchase of power at retail or  
10 wholesale that are for the acquisition or support of renewable energy or conservation-related activities.

11 (b) Large customers making these expenditures must receive a credit against the large customer's  
12 universal system benefits charge, except that any of those amounts expended in a calendar year that exceed that  
13 large customer's universal system benefits charge for the calendar year must be used as a credit against those  
14 charges in future years until the total amount of those expenditures has been credited against that large  
15 customer's universal system benefits charges.

16 (8) (a) A public utility shall prepare and submit an annual summary report of the public utility's activities  
17 relating to all universal system benefits programs to the commission, the department of revenue, and the energy  
18 and telecommunications interim committee provided for in 5-5-230. A cooperative utility shall prepare and submit  
19 annual summary reports of activities to the cooperative utility's respective local governing body, the statewide  
20 cooperative utility office, and the energy and telecommunications interim committee. The statewide cooperative  
21 utility office shall prepare and submit an annual summary report of the activities of individual cooperative utilities,  
22 including a summary of the pooling of statewide credits, as provided in subsection (3), to the department of  
23 revenue and the energy and telecommunications interim committee. The annual report of a public utility or of the  
24 statewide cooperative utility office must include but is not limited to:

25 (i) the types of internal utility and customer programs being used to satisfy the provisions of this chapter;

26 (ii) the level of funding for those programs relative to the annual funding requirements prescribed in  
27 subsection (2); and

28 (iii) any payments made to the statewide funds in the event that internal funding was below the prescribed  
29 annual funding requirements.

30 (b) Before September 15 of the year preceding a legislative session, the energy and telecommunications

1 interim committee shall review the universal system benefits programs and, if necessary, submit  
2 recommendations regarding these programs to the legislature.

3 (9) A utility or large customer filing for a credit shall develop and maintain appropriate documentation  
4 to support the utility's or the large customer's claim for the credit.

5 (10) (a) A large customer claiming credits for a calendar year shall submit an annual summary report of  
6 its universal system benefits programs activities and expenditures to the department of revenue and to the large  
7 customer's utility. The annual report of a large customer must identify each qualifying project or expenditure for  
8 which it has claimed a credit and the amount of the credit. Prior approval by the department of revenue or the  
9 utility is not required, except as provided in subsection (10)(b).

10 (b) If a large customer claims a credit that the department of revenue disallows in whole or in part, the  
11 large customer is financially responsible for the disallowance. A large customer and the large customer's utility  
12 may mutually agree that credits claimed by the large customer be first approved by the utility. If the utility  
13 approves the large customer credit, the utility may be financially responsible for any subsequent disallowance."  
14

15 **Section 2.** Section 69-8-412, MCA, is amended to read:

16 **"69-8-412. Funds established -- fund administrators designated -- purpose of funds -- department**  
17 **rulemaking authority to administer funds.** (1) If, pursuant to 69-8-402(2)(f) or ~~(5)(b)~~ (5)(d), there is any positive  
18 difference between credits and the annual funding requirement, the department of revenue shall establish one  
19 or both of the following funds:

20 (a) a fund to provide for universal system benefits programs other than low-income energy assistance.  
21 The department of environmental quality shall administer this fund.

22 (b) a fund to provide universal low-income energy assistance. The department of public health and  
23 human services shall administer this fund.

24 (2) The purpose of these funds is to fund universal system benefits programs.

25 (3) The department of environmental quality and the department of public health and human services  
26 shall expend the money in each representative fund on universal system benefits programs in the utility service  
27 territory from which the money was received.

28 (4) The department of environmental quality and the department of public health and human services  
29 may adopt rules that administer and expend the money in each respective fund based on an annual assessment  
30 of identified funding needs in the utility service territory from which the money was received. In assessing the

1 funding needs, the departments shall solicit utility and public comment from the utility service territory from which  
 2 the money was received. The annual assessment must also take into account existing utility and large customer  
 3 universal system benefits programs expenditures."

4  
 5 COORDINATION SECTION. SECTION 3. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 11 AND  
 6 [THIS ACT] ARE PASSED AND APPROVED AND IF BOTH AMEND 69-8-402, THEN THE SECTIONS AMENDING 69-8-402 ARE  
 7 VOID AND 69-8-402 MUST BE AMENDED AS FOLLOWS:

8 **"69-8-402. Universal system benefits programs.** (1) Universal system benefits programs are  
 9 established for the state of Montana to ensure continued funding of and new expenditures for energy  
 10 conservation, renewable resource projects and applications, and low-income energy assistance.

11 (2) ~~Beginning~~ Except as provided in subsection (11), beginning January 1, 1999, 2.4% of each utility's  
 12 annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the  
 13 initial funding level for universal system benefits programs. To collect this amount of funds on an annualized basis  
 14 in 1999, the commission shall establish rates for utilities subject to its jurisdiction and the governing boards of  
 15 cooperatives shall establish rates for the cooperatives.

16 (a) The recovery of all universal system benefits programs costs imposed pursuant to this section is  
 17 authorized through the imposition of a universal system benefits charge assessed at the meter for each local  
 18 utility system customer as provided in this section.

19 (b) A utility must receive credit toward annual funding requirements for the utility's internal programs or  
 20 activities that qualify as universal system benefits programs, including those amortized or nonamortized portions  
 21 of expenditures for the purchase of power that are for the acquisition or support of renewable energy,  
 22 conservation-related activities, or low-income energy assistance, and for large customers' programs or activities  
 23 as provided in subsection (7). The department of revenue shall review claimed credits of the utilities and large  
 24 customers pursuant to 69-8-414.

25 (c) A utility at which the sale of power for final end use occurs is the utility that receives credit for the  
 26 universal system benefits programs expenditure.

27 (d) A customer's utility shall collect universal system benefits funds less any allowable credits.

28 (e) For a utility to receive credit for low-income-related expenditures, the activity must have taken place  
 29 in Montana.

30 (f) If a utility's or a large customer's credit for internal activities does not satisfy the annual funding

1 provisions of subsection (2), then the utility shall make a payment to the universal system benefits fund  
2 established in 69-8-412 for any difference.

3 (3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding  
4 requirements for universal system benefits programs and low-income energy assistance.

5 (4) A utility's transition plan must describe how the utility proposes to provide for universal system  
6 benefits programs, including the methodologies, such as cost-effectiveness and need determination, used to  
7 measure the utility's level of contribution to each program.

8 (5) (a) A cooperative utility's minimum annual funding requirement for low-income energy and  
9 weatherization assistance is established at 17% of the cooperative utility's annual universal system benefits  
10 funding level and is inclusive within the overall universal system benefits funding level.

11 (b) Except as provided in subsection (11), a public utility's minimum annual funding requirement for  
12 low-income energy and weatherization assistance is established at 50% of the public utility's annual universal  
13 system benefits funding level and is inclusive within the overall universal system benefits funding level.

14 ~~(a)~~(c) A utility must receive credit toward the utility's low-income energy assistance annual funding  
15 requirement for the utility's internal low-income energy assistance programs or activities.

16 ~~(b)~~(d) If a utility's credit for internal activities does not satisfy its annual funding requirement, then the  
17 utility shall make a payment for any difference to the universal low-income energy assistance fund established  
18 in 69-8-412.

19 (6) An individual customer may not bear a disproportionate share of the local utility's funding  
20 requirements, and a sliding scale must be implemented to provide a more equitable distribution of program costs.

21 (7) (a) A large customer:

22 (i) shall pay a universal system benefits programs charge with respect to the large customer's qualifying  
23 load equal to the lesser of:

24 (A) \$500,000, less the large customer credits provided for in this subsection (7); or

25 (B) the product of 0.9 mills per kilowatt hour multiplied by the large customer's total kilowatt hour  
26 purchases, less large customer credits with respect to that qualifying load provided for in this subsection (7);

27 (ii) must receive credit toward that large customer's universal system benefits charge for internal  
28 expenditures and activities that qualify as a universal system benefits programs expenditure, and these internal  
29 expenditures must include but not be limited to:

30 (A) expenditures that result in a reduction in the consumption of electrical energy in the large customer's

1 facility; and

2 (B) those amortized or nonamortized portions of expenditures for the purchase of power at retail or  
3 wholesale that are for the acquisition or support of renewable energy or conservation-related activities.

4 (b) Large customers making these expenditures must receive a credit against the large customer's  
5 universal system benefits charge, except that any of those amounts expended in a calendar year that exceed that  
6 large customer's universal system benefits charge for the calendar year must be used as a credit against those  
7 charges in future years until the total amount of those expenditures has been credited against that large  
8 customer's universal system benefits charges.

9 (8) (a) ~~Except as provided in subsection (11),~~ a public utility shall prepare and submit an annual  
10 summary report of the public utility's activities relating to all universal system benefits programs to the  
11 commission, the department of revenue, and the energy and telecommunications interim committee provided for  
12 in 5-5-230. A cooperative utility shall prepare and submit annual summary reports of activities to the cooperative  
13 utility's respective local governing body, the statewide cooperative utility office, and the energy and  
14 telecommunications interim committee. The statewide cooperative utility office shall prepare and submit an annual  
15 summary report of the activities of individual cooperative utilities, including a summary of the pooling of statewide  
16 credits, as provided in subsection (3), to the department of revenue and the energy and telecommunications  
17 interim committee. The annual report of a public utility or of the statewide cooperative utility office must include  
18 but is not limited to:

19 (i) the types of internal utility and customer programs being used to satisfy the provisions of this chapter;

20 (ii) the level of funding for those programs relative to the annual funding requirements prescribed in  
21 subsection (2); and

22 (iii) any payments made to the statewide funds in the event that internal funding was below the prescribed  
23 annual funding requirements.

24 (b) Before September 15 of the year preceding a legislative session, the energy and telecommunications  
25 interim committee shall review the universal system benefits programs and, if necessary, submit  
26 recommendations regarding these programs to the legislature.

27 (9) A utility or large customer filing for a credit shall develop and maintain appropriate documentation  
28 to support the utility's or the large customer's claim for the credit.

29 (10) (a) A large customer claiming credits for a calendar year shall submit an annual summary report of  
30 its universal system benefits programs activities and expenditures to the department of revenue and to the large

1 customer's utility. The annual report of a large customer must identify each qualifying project or expenditure for  
2 which it has claimed a credit and the amount of the credit. Prior approval by the department of revenue or the  
3 utility is not required, except as provided in subsection (10)(b).

4 (b) If a large customer claims a credit that the department of revenue disallows in whole or in part, the  
5 large customer is financially responsible for the disallowance. A large customer and the large customer's utility  
6 may mutually agree that credits claimed by the large customer be first approved by the utility. If the utility  
7 approves the large customer credit, the utility may be financially responsible for any subsequent disallowance.

8 (11) A public utility with fewer than 50 customers is exempt from the requirements of this section.

9

10 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

11

12 NEW SECTION. Section 5. Retroactive applicability. [This act] applies retroactively, within the  
13 meaning of 1-2-109, to universal system benefits activities beginning on or after January 1, 2015.

14

- END -