



SENATE STANDING COMMITTEE REPORT

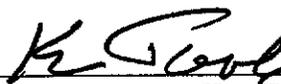
February 16, 2005

Page 1 of 1

Mr. President:

We, your committee on **Energy and Telecommunications** recommend that **Senate Joint Resolution 17** (first reading copy -- white) **do pass**.

Signed: _____


Senator Ken Foole, Chair

- END -

Committee Vote:
Yes 11, No 0.

381031SC.sjo

Handwritten initials, possibly "KF", in the bottom right corner.



SENATE STANDING COMMITTEE REPORT

February 16, 2005

Page 1 of 1

Mr. President:

We, your committee on **Energy and Telecommunications** recommend that **Senate Bill 143** (second reading copy -- yellow) **do pass as amended.**

Signed: _____

A handwritten signature in black ink, appearing to read "K Toole".

Senator Ken Toole, Chair

And, that such amendments read:

1. Title, page 1, line 5 through line 8.

Strike: "AUTHORIZING" on line 5 through "ACT;" on line 8

2. Page 4, line 6.

Following: "in"

Strike: "subsections"

Insert: "subsection"

Following: "(9)"

Strike: "and (10)"

3. Page 6, line 1 through line 7.

Strike: subsection 10 in its entirety

4. Page 6, line 27 through 30

Strike: section 4 in its entirety

Renumber: subsequent section

- END -

Committee Vote:

Yes 11, No 0.

381028SC.sjo

Handwritten initials in black ink, possibly "KT".



SENATE STANDING COMMITTEE REPORT

February 16, 2005

Page 1 of 1

Mr. President:

We, your committee on **Energy and Telecommunications** recommend that **Senate Bill 321** (first reading copy -- white) **do pass as amended.**

Signed: _____

Senator Ken Toole, Chair

And, that such amendments read:

1. Page 1, line 12.

Strike: "5"

Insert: "7"

2. Page 1, line 29.

Insert: "(3) This section does not apply to rural telephone companies as defined in 69-3-803."

3. Page 2, line 6.

Strike: "1985"

Insert: "1998"

- END -

Committee Vote:

Yes 6, No 5.

381142SC.ssc

Handwritten initials, possibly "KT", in the bottom right corner.



SENATE STANDING COMMITTEE REPORT

February 16, 2005

Page 1 of 1

Mr. President:

We, your committee on **Energy and Telecommunications** recommend that **Senate Bill 356** (first reading copy -- white) do **pass as amended**.

Signed: _____

A handwritten signature in black ink, appearing to read "K Toole".

Senator Ken Toole, Chair

And, that such amendments read:

1. Title, page 1, line 6.

Strike: "CAN"

Insert: "MUST"

2. Page 1, line 14.

Following: "public"

Strike: "at reasonable times"

Insert: "during regular business hours, as defined in 2-16-117"

3. Page 1, line 18.

Strike: "can"

Insert: "must"

- END -

Committee Vote:

Yes 11, No 0.

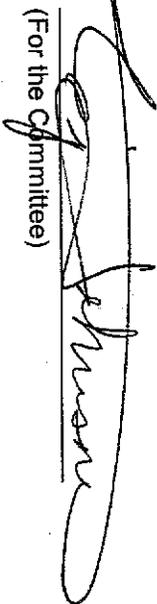
381029SC.sjo

Handwritten initials in black ink, possibly "KT".

COMMITTEE FILE COPY

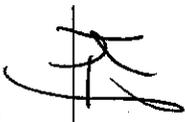
TABLED BILL

The SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE TABLED SB 371, SB 455, by motion, on Tuesday, February 15, 2005.


(For the Committee)

February 16, 2005

Cj Johnson, Secretary


(Secretary of Senate)

8:00, 2-16
(Time) (Date)

Phone: 444-4759

PROXY VOTE

I, the undersigned, hereby authorize Senator William Stole to
vote my proxy on any issue before the Senate Energy & Telecom
Committee held on 2/25/05, 2005.



SENATOR Robert Cunniff
STATE OF MONTANA

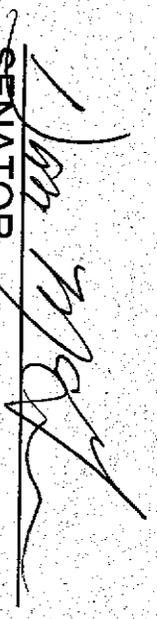
PROXY VOTE

I, the undersigned, hereby authorize Senator Lewis to

vote my proxy on any issue before the Senate Energy

Committee held on 2/15, 2005.

- SB 34 - No
- SB 307 - No
- SB 321 - No
- SB 356 - Yes?
- SB 371 - No
- SB 415 - No
- SB 428 - ?
- SB 364 - No
- SB 143 - No
- SB 455 - Hold


SENATOR
STATE OF MONTANA

PROXY VOTE

I, the undersigned, hereby authorize Senator F. S. Mann to
vote my proxy on any issue before the Senate Energy & Telecomm in

Committee held on Feb 15, 2005.

SR 143 No

SR 34 Yes (if not amended) if amended vote me with you

SR 321 No

SR 356 No

SR 371 No

Richard Cook
SENATOR
STATE OF MONTANA

PROXY VOTE

*see
copy
2/15/05*
To Lewis's

I, the undersigned, hereby authorize Senator McCree to

vote my proxy on any issue before the Senate Energy

Committee held on 2/15, 2005.


SENATOR

STATE OF MONTANA

MONTANA STATE SENATE 2005 LEGISLATURE

VISITOR REGISTER

DATE 2.15.05

SENATE COMMITTEE ON Energy & Telecomm.

BILLS BEING HEARD TODAY SB 364, 415, 428, 455, SJ 17

Exc Action SB 143, 34, 321, 356, 371

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Ridal Owen	761-4596	MT Grain Growers		X	
Donald Quander		Large Customers Group	415		X
Bob Roney		PSC	SJ 17	X	
Mike Costanti	556-9827	PPG	SB 415	X	
Gary Wilks	868-9177	MECA	SB 415		
Chuck Magraw	449-3375	NRDC + RNP	SB 415	X	
" "	" "	" "	SB 364	X	
" "	" "	" "	SB SJ 17	X	
GARY FORRESTER		MT CONTRACTORS ASSN	SR 415	X	
DEREK GOLDMAN	443-3949	Mt. Audubon	SB 415	X	
Matt Elsaesser	431-0815	MCV	SB 415	X	
Matt Leow	243-2908	Mont PIRG	SB 415 / SB 364	X	
JANVA BOYLE	457-4716	AARP MT	SB 415	X	

Tommy Schupp 570-4105 MT Farm Bureau " X

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MONTANA STATE SENATE 2005 LEGISLATURE

VISITOR REGISTER

DATE 2/15/05

SENATE COMMITTEE ON ENERGY & Telecomm

BILLS BEING HEARD TODAY SB 364, 415, 428, 455, SJ17

Exc Action SB 143, 343, 321, 356, 371

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
<i>Carol Hansen</i>	<i>2-0230</i>	<i>Black Hills Energy</i>	<i>5 364</i> <small>415</small>		<input checked="" type="checkbox"/>
<i>Mike Wesley</i>	<i>4-3111</i>	<i>Governors Office</i>	<i>SB 415</i>	<input checked="" type="checkbox"/>	
<i>Bonnie Allen</i>			<i>455</i>	<input checked="" type="checkbox"/>	
<i>John K. 752123</i>			<i>415</i> <i>364 45</i>		<input checked="" type="checkbox"/>
<i>Tim Jamison</i>	<i>443-0815</i>	<i>Self</i>	<i>415</i> <i>SJ17</i>	<input checked="" type="checkbox"/>	
<i>DAVE HARDY</i>	<i>223-3091</i>		<i>SB 455</i> <i>SB 364</i>		<input checked="" type="checkbox"/>
<i>Janet Olsen</i>	<i>441-5001</i>	<i>DEQ</i>	<i>143</i>	<input checked="" type="checkbox"/>	

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MONTANA STATE SENATE 2005 LEGISLATURE

VISITOR REGISTER

DATE 2.15.05

SENATE COMMITTEE ON ENERGY & TELECOMM

BILLS BEING HEARD TODAY SB 364, 415, 428, 455, SJ 17

EXC ACTION SB 143, 34, 321, 356, 371

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Patrick Judge	443-2520	MEIC	SJR, 415, 364	✓	
Pat Dopfer	690-2667	Dopfer Solar	SB 415	✓	
GERARD BRYAN	222-8656	SELF	415		
Wendy Kleussasser	378-2179	WindPark Solutions America	415 SJ 17	✓	
DAVID RYAN	494-0930	MT. RENEWABLE ENERGY ASSN	415 364 SJ 17	✓	
Charlie Rehbein	444-7788	DPHHS - SLTC Aging Services	SB 428		
Doretta Klein	443-7794	MCADS ✓	SB 428	✓	
J. A. Smayda	829-3626	Carpenter	SB 415	✓	
Nancy Kitchin	444-3144	Dept of Gp	SB 415	✓	
Smith Rasmann	449-2394	MA ✓	SB 428	✓	
Tom Schueit		PSC	415 SJ 17	*	
Juan Chaturain	532-8231	2-1-1 Missoula	SB 428	X	
KEVIN SCHOTT	855-0308	MT GRAIN GROWER	SB 415	X	

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**MONTANA STATE SENATE
2005 LEGISLATURE**

VISITOR REGISTER

DATE 2.15.05

SENATE COMMITTEE ON Energy & Telecommunication

BILLS BEING HEARD TODAY SB 364, 415, 428, 455 & SJ 17

Executive Action: SB 143, 34, 321, 356, 371

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
R. Paul Williamson	370-6601	UM-MCOT	SB 415 LL 465	✓	
Tom M. Hoyer	245-0352	El Paso Valley Electric Co-op	SB 415 SB 364		✓
Laudia B. Brown	404 728-6049	Montana United Church of Christ Caring for Creation Network/Global Warming Coalition	415	✓	
Kenneth M. Walker	406 543-7265	Montana Chapter Sierra Club	415	✓	
Ken Fink	431-6657	Prognosis Taken, Inc.	415	✓	
Richard Parks	848-7314	NPRC	415	✓	
Sherry Stevens Wulf	752-7266	211-United Way	428	✓	
Walter Pyatt	756-8243	Consumer	428	✓	
Jim Morton	728-3710	Dist VI HRC	428	✓	
Tim McCauley	442-4360	United Way - Lewis & Clark Co	428	✓	
Gary Owen	727-3400	United Way of Cascade County	428	✓	
Christina Powell	586-3333	211 The Help Center	428	✓	
Susie McIntyre	727-2881	Voices of Hope	428	✓	

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MONTANA STATE SENATE 2005 LEGISLATURE

VISITOR REGISTER

DATE 2.15.05

SENATE COMMITTEE ON Energy & TeleComm

BILLS BEING HEARD TODAY SB 364, 415, 428, 455, SJ 17

Exc Action SB 143, 34, 321, 356, 371

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Kirsty Evans	771-8648	Voices of Hope	428	α	
Sandi Filipowicz	771-9804	Voices of Hope	428	✓	
Brooks Davis	452-5944	Montana Farmers Union	415	✓	
LINDA STOLL	431-1368	MONTANA WILDERNESS ASSN	415	✓	
Don Judge	459-1708	Tennis 190 / w/ Senior Club	SJ 17 SB 415	X	
Monique Lay	841-3963	Disaster + Emergency Svcs	SB 428	X	
Dan Lieberg	841-3911	Disaster + Emergency Svcs	428	Y	
Jean Curtis	258-3262	Missoula Co / MACo	428	X	
Jim Kember	439-6791	MT Assoc of Chiefs of Police	428	X	
Sami Butler	457-4744	ICHS, MCI	428	X	
Pat Bishop		United Way of Commerce	428	X	
Gayle Shirley	444-2596	DPHHS	428	X	
Paul Spangler	447-	Mont. Assoc. of	428	X	

8285 DES Coordinator

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Amendments to Senate Bill No. 371
1st Reading Copy

For the Senate Energy and Telecommunications Committee

Prepared by Casey Barrs
February 15, 2005 (11:34am)

1. Title, page 1, line 6.
Following: "DATE;"
Insert: "DEFINING THE TERM "RENEWABLE RESOURCE";"

2. Title, page 1, line 6.
Following: "UTILITY'S"
Strike: "MINIMUM"
Following: "REQUIREMENT"
Insert: "FOR LOW-INCOME ENERGY ASSISTANCE; INCREASING A LARGE CUSTOMER'S ANNUAL FUNDING REQUIREMENT FOR LOW-INCOME ENERGY ASSISTANCE"

3. Title, page 1, line 7 through line 9.
Strike: "IMPROVING" on line 7 through "CREDITS;" on line 9
Insert: "REQUIRING UTILITIES TO PUBLISH A PLAN THAT DESCRIBES UNIVERSAL SYSTEM BENEFITS PROGRAMS; REVISING THE UNIVERSAL SYSTEM BENEFITS PROGRAM CREDIT REVIEW PROCESS"

4. Title, page 1, line 10.
Following: "RULES"
Insert: "FOR ELECTRIC UNIVERSAL BENEFITS PROGRAMS; PROVIDING THE PUBLIC SERVICE COMMISSION WITH RULEMAKING AUTHORITY OVER NATURAL GAS UNIVERSAL SYSTEM BENEFITS PROGRAM REPORTING REQUIREMENTS; REQUIRING THE PUBLIC SERVICE COMMISSION TO ADOPT A RATE FOR NATURAL GAS UNIVERSAL SYSTEM BENEFITS PROGRAMS"

5. Title, page 1, line 12 through line 13.
Strike: "TO" on line 12 through "CUSTOMERS" on line 13
Insert: "SUBMIT AN ANALYSIS OF LOW-INCOME ENERGY ASSISTANCE PROGRAMS AND CUSTOMER NEEDS TO THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE; EXPANDING THE ALLOWABLE UNIVERSAL SYSTEM BENEFITS PROGRAM CREDITS FOR LARGE CUSTOMERS; ESTABLISHING A SUNSET FOR MARKET TRANSFORMATION; CHANGING THE BASE YEAR FOR UNIVERSAL SYSTEM BENEFITS PROGRAM CHARGE RATES; PROVIDING THAT IF A UTILITY'S INTERNAL PROGRAMS DO NOT SATISFY ANNUAL FUNDING PROVISIONS,

regulation.

(8) "Storage facilities" means those facilities that are owned, controlled, or operated by a person offering storage service for natural gas and generally means any underground reservoir suitable for the storage of natural gas and the facilities used to inject and withdraw natural gas into and out of that underground reservoir.

(9) "Transition costs" means:

(a) a natural gas utility's net, verifiable production- and gathering-related costs, including costs of capital, that become unrecoverable as a result of customer choice and open access. These costs include but are not limited to:

(i) regulatory assets and deferred charges that exist as a result of current regulatory practices and that may be accounted for up to the point in time that the commission issues a final order in a docket addressing transition costs, including all costs, expenses, and fees related to the issuance of transition bonds;

(ii) the above-market costs associated with existing gas supply commitments;

(iii) other natural gas utility investments rendered uneconomic as a result of implementation of customer choice and open access;

(iv) the costs associated with renegotiation or buyout of existing natural gas purchase contracts; and

(v) the costs associated with the issuance of any related transition bonds authorized by the commission pursuant to 69-3-1403.

(b) the costs of refinancing or retiring debt or equity capital of the natural gas utility and associated federal and state tax liabilities or other utility costs for which the use of transition bonds would benefit customers.

(10) "Transmission facilities" means those facilities owned, controlled, and operated by a transmission services provider that are used to transport natural gas from a gathering line or storage facility to a distribution facility, storage facility, or end-use customer.

(11) "Transmission services provider" means a person controlling or operating transmission facilities.

(12) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of universal system benefits program costs.

(13) "Universal system benefits programs" means public purpose programs for cost-effective local energy conservation, ~~low-income weatherization, and low-income energy bill assistance~~ and for the purposes provided in the Montana energy assistance program, as described in [section 9]."

{Internal References to 69-3-1402: None.}

Insert: "Section 2. Section 69-3-1408, MCA, is amended to read:

"69-3-1408. Universal system benefits programs --

natural gas universal system benefits charge for local conservation programs and the Montana energy assistance program."

{Internal References to 69-3-1408: None.}"

Insert: "Section 3. Section 69-8-102, MCA, is amended to read:

"69-8-102. Legislative findings and policy. The legislature finds and declares the following:

(1) The generation and sale of electricity is becoming a competitive industry.

(2) Montana customers should have the freedom to choose their electricity supply and related services in accordance with this chapter. Affording this opportunity serves the public interest.

(3) The interests of small Montana consumers must be protected through the provision of adequate and reliable default supply service at the lowest long-term total cost.

(4) The financial integrity of electrical utilities must be fostered.

(5) The public interest requires the continued protection of consumers through:

(a) licensure of electricity suppliers;

(b) provision of information to consumers regarding electricity supply service;

(c) provision of a process for investigating and resolving complaints;

(d) continued funding for public purpose programs for:

(i) cost-effective local energy conservation;

(ii) low-income customer weatherization;

(iii) renewable resource projects and applications;

(iv) research and development programs related to energy conservation and renewables;

(v) market transformation programs until December 31, 2010;
and

(vi) low-income energy assistance;

(e) establishment of a Montana energy assistance program, as described in [section 9];

~~(e)~~ (f) assurance of service reliability and quality; and

~~(f)~~ (g) prevention of anticompetitive and abusive activities.

(6) A utility in the state of Montana may not be advantaged or disadvantaged in the competitive electricity supply market, including the consideration of the existence of universal system benefits programs and the comparable level of funding for those programs throughout the regions neighboring Montana."

{Internal References to 69-8-102: None.}"

Insert: "Section 4. Section 69-8-103, MCA, is amended to read:

"69-8-103. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Aggregator" or "market aggregator" means an entity, licensed by the commission, that aggregates retail customers, purchases electrical energy, and takes title to electrical energy

(g) billing costs;
(h) planning and administrative costs; and
(i) any other costs directly related to the purchase of electricity, management of default electricity supply costs, and provision of default supply and related services.

(14) "Financing order" means an order of the commission adopted in accordance with 69-8-503 that authorizes the imposition and collection of fixed transition amounts and the issuance of transition bonds.

(15) (a) "Fixed transition amounts" means those nonbypassable rates or charges, including but not limited to:

(i) distribution;
(ii) connection;
(iii) disconnection; and
(iv) termination rates and charges that are authorized by the commission in a financing order to permit recovery of transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition costs and of acquiring transition property through a plan approved by the commission in the financing order, including the costs of issuing, servicing, and retiring transition bonds.

(b) If requested by the utility in the utility's application for a financing order, fixed transition amounts must include nonbypassable rates or charges to recover federal and state taxes in which the transition cost recovery period is modified by the transactions approved in the financing order.

(16) "Functionally separate" means a utility's separation of the utility's electricity supply, transmission, distribution, and unregulated retail energy services assets and operations.

(17) "Interested person" means a retail electricity customer, the consumer counsel established in 5-15-201, the commission, or a utility.

(18) "Large customer" means, for universal system benefits programs purposes, a customer with an individual load greater than a monthly average of 1,000 kilowatt demand in the previous calendar year for that individual load.

(19) "Local governing body" means a local board of trustees of a rural electric cooperative.

(20) "Low-income customer" means those energy consumer households and families with incomes at or below industry-recognized levels that qualify those consumers for low-income energy-related assistance.

(21) "Net metering" means measuring the difference between the electricity distributed to and the electricity generated by a customer-generator that is fed back to the distribution system during the applicable billing period.

(22) "Net metering system" means a facility for the production of electrical energy that:

(a) uses as its fuel solar, wind, or hydropower;
(b) has a generating capacity of not more than 50

chapter 19, or this chapter.

~~(28)~~ (29) "Transition bondholder" means a holder of transition bonds, including trustees, collateral agents, and other entities acting for the benefit of that bondholder.

~~(29)~~ (30) "Transition bonds" means any bond, debenture, note, interim certificate, collateral, trust certificate, or other evidence of indebtedness or ownership issued by the board or other transition bonds issuer that is secured by or payable from fixed transition amounts or transition property. Proceeds from transition bonds must be used to recover, reimburse, finance, or refinance transition costs and to acquire transition property.

~~(30)~~ (31) "Transition charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of transition costs.

~~(31)~~ (32) "Transition cost recovery period" means the period beginning on July 1, 1998, and ending when a utility customer does not have any liability for payment of transition costs.

~~(32)~~ (33) "Transition costs" means:

(a) a public utility's net verifiable generation-related and electricity supply costs, including costs of capital, that become unrecoverable as a result of the implementation of this chapter or of federal law requiring retail open access or customer choice;

(b) those costs that include but are not limited to:

(i) regulatory assets and deferred charges that exist because of current regulatory practices and can be accounted for up to the effective date of the commission's final order regarding a public utility's transition plan and conservation investments made prior to universal system benefits charge implementation;

(ii) nonutility and utility power purchase contracts executed before May 2, 1997, including qualifying facility contracts;

(iii) existing generation investments and supply commitments or other obligations incurred before May 2, 1997, and costs arising from these investments and commitments;

(iv) the costs associated with renegotiation or buyout of the existing nonutility and utility power purchase contracts, including qualifying facilities and all costs, expenses, and reasonable fees related to issuing transition bonds; and

(v) the costs of refinancing and retiring of debt or equity capital of the public utility and associated federal and state tax liabilities or other utility costs for which the use of transition bonds would benefit customers.

~~(33)~~ (34) "Transition period" means the period ending July 1, 2027.

~~(34)~~ (35) "Transition property" means the property right created by a financing order, including without limitation the right, title, and interest of a utility, assignee, or other issuer of transition bonds to all revenue, collections, claims,

established as the initial funding level for universal system benefits programs. To collect this amount of funds on an annualized basis in ~~1999~~, the commission shall establish rates for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates for the cooperatives. ~~These universal system benefits charge rates must remain in effect through December 31, 2005.~~

(b) (i) Subject to the recalculation in subsection (2)(b)(ii), beginning January 1, 2006, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 2004, is established as the funding level for universal system benefits programs. To collect this amount of funds on an annualized basis in 2006, the commission shall establish rates for utilities subject to its jurisdiction and the local governing board of cooperatives shall establish rates for cooperatives.

(ii) Beginning with the 4-year period that begins January 1, 2006, the funding level must be recalculated once every 4 calendar years. For the initial 4-year period, the funding level must be recalculated based on 2.4% of each utility's annual retail sales revenue in Montana for the calendar year concluding on December 31, 2008. The funding level must be recalculated on December 31 of the second year of each succeeding 4-year period based on 2.4% of each utility's annual retail sales revenue in Montana for that calendar year. The commission and the local governing body of cooperatives shall reestablish rates to go into effect on January 1, 2010, and on January 1 of each succeeding fourth calendar year in order to collect the adjusted funding level.

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

(b)(d) Except as provided in subsections (5)(c) and (6)(c), but subject to subsection (2)(g), a utility must receive credit toward annual funding requirements for the utility's internal programs or activities that qualify as universal system benefits programs, including those amortized or nonamortized portions of expenditures for the purchase of power that are for the acquisition or support of renewable energy, conservation-related activities, or low-income energy assistance, and for large customers' programs or activities as provided in subsection (7). The department of revenue shall review claimed credits or activities of the utilities and large customers customers' expenditures and activities pursuant to 69-8-414.

~~(c)(e)~~ A utility's distribution services provider at which the sale of power for final end use occurs is the utility that receives credit for the universal system benefits programs expenditure.

system benefits funding level.

(b) Except as provided in subsection (6)(c), a cooperative utility must receive credit toward the cooperative utility's Montana energy assistance program activities.

(c) A cooperative utility's Montana energy assistance program activities funded by large customers' allocations pursuant to subsection (8)(a) may not be used by the cooperative utility to meet its annual Montana energy assistance program funding requirement pursuant to subsection (6)(a).

(d) If a cooperative utility's credit for Montana energy assistance program activities does not satisfy its annual funding requirement or if the cooperative utility's Montana energy assistance program activities do not fully utilize the large customers' allocations pursuant to subsection (8)(a), the cooperative utility shall make a payment for any difference to the universal low-income energy assistance fund established in 69-8-412(1)(b).

(7) Except as provided in subsections (5)(d) and (6)(d), if a utility's credit for internal programs or activities does not satisfy the annual funding provisions of subsection (2), the utility shall make a payment to the universal system benefits fund established in 69-8-412(1)(a) for any difference.

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

~~(7)(8) (a) A large customer shall:~~

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

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

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

(i) on an annual basis, allocate a minimum of 30% of its total universal system benefits charge for that year for the Montana energy assistance program; and

(ii) inform the large customer's utility, no later than January 15 of the year following the year in which the large customer paid the applicable universal system benefits charge, of the amount of the charge that the large customer decides to allocate for the Montana energy assistance program.

(b) The large customer's utility shall use the large customer's allocation for the utility's Montana energy assistance program activities.

~~(ii)(c) must A large customer may receive credit toward that large customer's reimbursement from its utility of a portion of its universal system benefits charge for:~~

universal system benefits program activities for the prior calendar year if that cooperative utility implemented universal system benefits program activities. The report of a cooperative utility must be submitted to the department of public health and human services, the department of revenue, the energy and telecommunications interim committee provided for in 5-5-230, and the cooperative utility's respective local governing body.

~~(c)~~ On or before March 1 of each year, ~~A cooperative utility shall prepare and submit annual summary reports of activities to the cooperative utility's respective local governing body, the statewide cooperative utility office, and the energy and telecommunications interim committee. The~~ the statewide cooperative utility office shall prepare and submit an annual summary a report of the universal system benefits program activities of individual cooperative utilities that use the pooling provisions provided for in subsection (3), including a summary of the pooling of statewide credits, as provided in the calculations necessary to demonstrate compliance with subsection (3), to the department of public health and human services, the department of revenue, and the energy and telecommunications interim committee provided for in 5-5-230.

~~(d)~~ The annual report of a public utility or of the statewide cooperative utility office must include but is not limited to:

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

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

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

~~(9)~~ (11) A utility or large customer filing for a credit shall develop and maintain appropriate documentation to support the utility's or the large customer's claim for the credit; and the documentation must be made available to the public upon request, except to the extent that confidential information would be disclosed.

~~(10)~~ (12) (a) A large customer ~~claiming credits for a calendar year~~ shall submit an annual summary report of its universal system benefits programs activities and expenditures and the allocation required by subsection (8)(a) to the department of revenue by March 1 of each year and to the large customer's utility. The annual report of a large customer must identify each qualifying project or expenditure for which it has claimed a credit and the amount of the credit. Prior approval by the department of revenue or the utility is not required, except as provided in subsection ~~(10)(b)~~ (12)(b).

(b) If a large customer ~~claims a credit~~ receives a reimbursement for an expenditure or activity that the department

continuously monitor whether or not workable competition has developed for small customers.

(b) If the commission determines that workable competition has developed for small customers after July 1, 2010, the commission shall provide a report to the legislature that includes recommendations for legislative implementation of customer choice for small customers.

(8) The commission shall adopt rules implementing 69-8-402, applying the provisions of [section 9], that establish:

(a) allocations between universal system benefits programs;

(b) allocations within universal system benefits programs;
and

(c) procedures and guidelines for public utility low-income energy and conservation assistance expenditures to exceed the funding level established in 69-8-402(5) in necessary and appropriate circumstances.

~~(8)~~(9) In addition to promulgating rules expressly provided for in this chapter, the commission may promulgate any other rules necessary to carry out the provision of this chapter.

~~(9)~~(10) This chapter does not give the commission the authority to:

(a) regulate cooperative utilities in any manner other than reviewing certification filings for compliance with this chapter; or

(b) compel any change to a cooperative utility's certification filing made pursuant to this chapter."

{Internal References to 69-8-403: None.}

Insert: "Section 7. Section 69-8-412, MCA, is amended to read:

"69-8-412. Funds established -- fund administrators designated -- purpose of funds -- department rulemaking authority to administer funds. (1) If, pursuant to ~~69-8-402(2)(f) or (5)(b)~~, 69-8-402(5)(d), (6)(d), and (7), there is any positive difference between credits and expenditures and the annual funding requirement requirements, the department of revenue shall establish one or both of the following funds:

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

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

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

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

(4) The department of environmental quality and the department of public health and human services may adopt rules

in available conservation and energy efficiency measures that reduce the customer's bill and payment requirements.

(4) Priority must be given to a monthly energy bill payment assistance program."

Insert: "NEW SECTION. **Section 10. Department of public health and human services analysis and report.** The department of public health and human services shall provide to the energy and telecommunications interim committee, at a time to be determined by the committee, an analysis of the gap between energy bills, taking into account any bill payment assistance programs, and the ability of low-income households to pay for and retain monthly electric and natural gas service at various levels of household income, family size, and energy usage patterns, along with recommendations for closing this gap."

Insert: "**Section 11.** Section 69-8-414, MCA, is amended to read:

"69-8-414. Universal system benefits programs credit review process. (1) All annual reports required pursuant to 69-8-402~~(8)~~ and (10) and (12) must be filed with the department of revenue on March 1 of each year.

(2) ~~Except as provided in 69-8-413, upon~~ Upon a challenge by an interested person, the department of revenue shall ensure that the credit claimed is consistent with this chapter. An interested person may file comments challenging the claim, including supporting documentation, with the department of revenue. A challenge of any claimed credit must be filed within 60 days of the department of revenue's receipt of the credit claimant's annual reports required pursuant to 69-8-402~~(8)~~ and (10) and (12).

(3) Claimed credits are presumed to be correct unless challenged by an interested person. If a challenge is filed by an interested person, the department of revenue shall conduct an initial review of a challenged credit and shall ~~make a determination as to~~ determine the likelihood that the challenged credit qualifies for universal system benefits programs or determine that there is insufficient information provided in the report to make a determination that the challenged credit qualifies for universal system benefits programs. If the department of revenue finds that the challenged credit is not likely to qualify for universal system benefits programs, or that there is insufficient information in the report to make a determination, the department of revenue shall formally review the challenge, ~~otherwise~~ Otherwise, the department of revenue shall dismiss the challenge and provide a statement of the reasons supporting dismissal of the challenge. The burden of proof as to the qualification of the challenged expenditure rests with the entity that has claimed the credits, and the department of revenue may compel the entity to produce documents and other evidence as part of its review. ~~The department of revenue may request additional information from the credit claimant or interested person.~~ The department of revenue shall complete the

initial review within 30 days of the challenge.

(4) If the department of revenue determines that a formal review of a challenged credit is necessary, the department of revenue shall provide public notice of the opportunity to comment to the credit claimant and interested persons. The department of revenue may also schedule an oral hearing. If a hearing is scheduled, the department of revenue shall provide public notice of the hearing to the credit claimant and interested persons.

(5) For a formal credit review challenge, the following procedures apply:

(a) The credit claimant shall provide documentation supporting the credit claimed to the department of revenue and to all interested persons, subject to department of revenue protective orders for confidential or sensitive materials, upon a showing of a privacy interest by the credit claimant.

(b) The department of revenue shall make all materials related to the claim, the challenge, and the submitted comments available to the credit claimant and for public inspection and photocopying, subject to any department of revenue protective orders.

(c) The credit claimant may respond in writing to any comments and other documents filed by an interested person.

(d) The department of revenue may ask for additional detailed information to implement this section.

(6) Upon completing a formal review of a challenged credit, the department of revenue shall make a decision to certify or to deny the credit claimed, providing a statement of the reasons supporting the department of revenue's decision. The formal review of a challenged credit, including the department of revenue's final decision, must be completed within 60 days of the department of revenue's public notice of the opportunity to comment on the challenged credit."

{ Internal References to 69-8-414:
69-8-402 x 69-8-413 x }

Insert: "NEW SECTION. Section 12. {standard} Codification instruction. [Sections 9 and 10] are intended to be codified as an integral part of Title 69, chapter 8, part 4, and the provisions of Title 69, chapter 8, part 4, apply to [sections 9 and 10]."

- END -

that administer and expend the money in each respective fund based on an annual assessment of identified funding needs in the utility service territory from which the money was received. In assessing the funding needs, the departments shall solicit utility and public comment from the utility service territory from which the money was received. The annual assessment must also take into account existing utility and large customer universal system benefits programs expenditures."

{Internal References to 69-8-412:

69-8-402 69-8-402}"

Insert: "Section 8. Section 69-8-413, MCA, is amended to read:

"69-8-413. Department rulemaking authority. (1) The department of revenue shall adopt rules on or before ~~September 1, 1999~~ December 1, 2005, specifying acceptable universal system benefits programs credits and expenditures and adopting procedures for challenged the review of credits. The department is required to prepare uniform reporting requirements that will ensure that utilities and large customers provide enough information for the general public to understand and evaluate universal system benefits programs, expenditures, and activities.

(2) In developing rules under this section, the department of revenue shall consult with the public service commission.

~~(2) Rules adopted pursuant to this part must be adopted in accordance with the Montana Negotiated Rulemaking Act, Title 2, chapter 5, part 1.~~

~~(3) Universal system benefits programs credits claimed or expenditures made prior to the adoption of the rules under subsection (1) must be allowed and are not subject to the requirements of 69-8-414."~~

{Internal References to 69-8-413:

69-8-414 x}"

Insert: "NEW SECTION. Section 9. Montana energy assistance program. (1) There is a Montana energy assistance program.

(2) The Montana energy assistance program consists of:

(a) a monthly energy bill payment assistance program in the form of a rate discount, fixed credit, or both;

(b) energy assistance and weatherization assistance delivered to low-income customers in coordination with the federal department of energy's weatherization assistance program;

(c) an emergency or crisis assistance program; and

(d) other programs that seek to reduce barriers to affordability, such as arrears forgiveness, waivers for security deposits, and other comparable programs.

(3) In designing and implementing the Montana energy assistance program, utilities shall endeavor to:

(a) bring participants' bills into the range of affordability;

(b) provide incentives for participants to make timely payments; and

(c) encourage participants to reduce usage and participate

of revenue disallows in whole or in part, the large customer is financially responsible for the disallowance. A large customer and the large customer's utility may mutually agree that ~~credits claimed by the large customer be first approved~~ the large customer's expenditures and activities first be approved as qualifying by the utility. If the utility approves the large customer ~~credit~~ customer's reimbursement, the utility may be financially responsible for any subsequent disallowance.

(c) A large customer seeking or having received a reimbursement shall develop and maintain appropriate documentation to support the large customer's claim. This documentation constitutes a public record to the extent that the documentation does not contain a trade secret as defined in 30-14-402 or is otherwise confidential."

{ Internal References to 69-8-402:

69-8-201 x 69-8-201 x 69-8-311 x 69-8-412
69-8-414 x 69-8-414 x }

Insert: "Section 6. Section 69-8-403, MCA, is amended to read:

"69-8-403. Commission authority -- rulemaking authority.

(1) Beginning on the effective date of a commission order regarding a public utility's transition plan, the commission shall regulate the public utility's retail transmission, distribution, and default supply services within the state of Montana, as provided in this chapter.

(2) The commission shall license electricity suppliers and enforce licensing provisions pursuant to 69-8-404.

(3) The commission shall promulgate rules that identify the licensees and ensure that the offered electricity supply is provided as offered and is adequate in terms of quality, safety, and reliability.

(4) The commission shall establish just and reasonable rates through established ratemaking principles for public utility default supply, distribution, and transmission services, including rates for service classes to ensure the collection of 2.4% of each public utility's 2004 annual retail sales revenue in Montana and then, in subsequent years, as directed under 69-8-402, to fund universal system benefits programs, and shall regulate these services. The commission may approve rates and charges for those services based on alternative forms of ratemaking, such as performance-based ratemaking, on a demonstration by the public utility that the alternative method complies with this chapter, and on the public utility's transition plan.

(5) The commission shall certify that a cooperative utility has adopted a transition plan that complies with this chapter. A cooperative utility's transition plan is considered certified 60 days after the cooperative utility files for certification.

(6) The commission shall promulgate rules that protect consumers, distribution services providers, and electricity suppliers from anticompetitive and abusive practices.

(7) (a) After July 1, 2010, the commission shall

(i) internal expenditures and activities that qualify as a universal system benefits programs expenditure, and these internal expenditures must include but not be limited to:

(A) expenditures conservation measures that result in a reduction in the consumption of electrical energy in the large customer's facility or that result in a more efficient use of electricity at the large customer's facility; and

(ii) internal expenditures and activities that result in the production of electrical energy from renewable resources for use in the large customer's facility.

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

~~(b) Large customers making these expenditures must receive a credit against the large customer's universal system benefits charge, except that any of those amounts expended in a~~

(d) If the amount of the reimbursement in any given calendar year, that exceed when combined with the allocation by the large customer under subsection (8) (a) exceeds that large customer's universal system benefits charge for the that calendar year, the excess constitutes must be used as a credit that may be used against those charges in future years until the total amount of those expenditures has been credited against that large customer's universal system benefits charges.

(e) Subsection (8) (d) does not limit a large customer's obligation to allocate a minimum of 30% of its total universal system benefits charge for that year for the Montana energy assistance program as required by subsection (8) (a).

(9) On or before March 1 of each year, a utility shall publish a plan that describes how the utility intends to implement universal system benefits programs for that year. The plan of a public utility must be submitted to the department of public health and human services, the commission, and the energy and telecommunications interim committee provided for in 5-5-230. The plan of a cooperative utility must be submitted to the department of public health and human services, the energy and telecommunications interim committee, the cooperative utility's respective local governing body, and the statewide cooperative utility office.

~~(8)(10) (a) On or before March 1 of each year, A a public utility shall prepare and submit an annual summary a report of the public utility's universal system benefits program activities for the prior calendar year. relating to all universal system benefits programs The report of a public utility must be submitted to the department of public health and human services, to the commission, the department of revenue, and the energy and telecommunications interim committee provided for in 5-5-230.~~

(b) On or before March 1 of each year, a cooperative utility shall prepare and submit a report of the utility's

~~(d)~~(f) A customer's distribution services provider shall collect universal system benefits funds less any allowable credits.

~~(e)~~(g) For a utility to receive credit for low-income-related universal system benefits programs expenditures, the activity must have taken place in Montana.

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

(3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding requirements for universal system benefits programs provided that the required allocation funding for the Montana energy assistance program pursuant to subsection (6) (a) is met on an annual basis and low-income energy assistance.

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

(5) (a) Except as provided in 69-8-403(8) (c), a public utility's minimum annual funding requirement for low-income energy and weatherization assistance the Montana energy assistance program is established at 17% 40% of the public utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

~~(a)~~(b) Except as provided in subsection (5) (c), a public utility must receive credit toward the public utility's low-income energy assistance annual funding requirement for the utility's internal low-income energy assistance programs or activities Montana energy assistance program activities.

(c) A public utility's Montana energy assistance program activities funded by large customers' allocations pursuant to subsection (8) (a) may not be used by the public utility to meet its annual Montana energy assistance program funding requirement pursuant to subsection (5) (a).

~~(b)~~(d) If a public utility's credit for internal activities Montana energy assistance program activities does not satisfy its annual funding requirement or if the public utility's Montana energy assistance program activities do not fully utilize the large customers' allocations pursuant to subsection (8) (a), then the public utility shall make a payment for any difference to the universal low-income energy assistance fund established in 69-8-412 69-8-412(1) (b).

(6) (a) A cooperative utility's annual funding requirement for the Montana energy assistance program is established at a minimum of 30% of the cooperative utility's annual universal

payments, money, or proceeds of or arising from or constituting fixed transition amounts that are the subject of a financing order, including those nonbypassable rates and other charges and fixed transition amounts that are authorized by the commission in the financing order to recover transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition costs and acquiring transition property, including the costs of issuing, servicing, and retiring transition bonds. Any right that a utility has in the transition property before the utility's sale or transfer or any other right created under this section or created in the financing order and assignable under this chapter or assignable pursuant to a financing order is only a contract right.

~~(35)~~(36) "Transmission facilities" means those facilities that are used to provide transmission services as determined by the federal energy regulatory commission and the commission.

~~(36)~~(37) "Transmission services provider" means an entity controlling or operating transmission facilities.

~~(37)~~(38) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of universal system benefits programs costs.

~~(38)~~(39) "Universal system benefits programs" means public purpose programs for:

(a) cost-effective local energy conservation;

(b) the Montana energy assistance program, as established in [section 9], composed of low-income customer weatherization energy and weatherization assistance;

(c) renewable resource projects and applications, including those that capture unique social and energy system benefits or that provide transmission and distribution system benefits;

(d) research and development programs related to energy conservation and renewables; and

(e) market transformation designed to encourage competitive markets for public purpose universal system benefits programs; and

~~(f) low-income energy assistance.~~

~~(39)~~(40) "Utility" means any public utility or cooperative utility."

{Internal References to 69-8-103:

15-32-402 x 15-72-103 x 15-72-104 x 35-19-102 x
69-3-1403 x 75-25-101 x}"

Insert: "Section 5. Section 69-8-402, MCA, is amended to read:

"69-8-402. Universal system benefits programs. (1)

Universal system benefits programs are established for the state of Montana to ensure continued funding of and new expenditures for energy conservation, renewable resource projects and applications, and low-income energy assistance the Montana energy assistance program.

(2) (a) Beginning January 1, 1999, through December 31, 2005, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is

kilowatts;

- (c) is located on the customer-generator's premises;
- (d) operates in parallel with the distribution services provider's distribution facilities; and
- (e) is intended primarily to offset part or all of the customer-generator's requirements for electricity.

(23) "Nonbypassable rates or charges" means rates or charges that are approved by the commission and imposed on a customer to pay the customer's share of transition costs or universal system benefits programs costs even if the customer has physically bypassed either the utility's transmission or distribution facilities.

(24) "Pilot program" means an experimental program using a select set of small customers to assess the potential for developing and offering customer choice of electricity supply to small customers in the future.

(25) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter 3, on May 2, 1997, including the public utility's successors or assignees.

(26) "Qualifying load" means, for payments and credits associated with universal system benefits programs, all nonresidential demand-metered accounts of a large customer within the utility's service territory in which the customer qualifies as a large customer.

(27) "Renewable resource" means the production of electricity from any of the following sources:

(a) wind;

(b) solar;

(c) geothermal;

(d) water power derived from a hydroelectric project with a nameplate rating of 1 megawatt or less or a hydroelectric project that does not require a new appropriation, diversion, or impoundment of water and that has a nameplate rating of 10 megawatts or less;

(e) landfill gas;

(f) gas produced during the treatment of wastewater;

(g) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic fuels from wood, forest, or field residues, except that low-emission, nontoxic biomass does not include wood pieces that have been treated with chemical preservatives, such as creosote, pentachlorophenol, or copper-chroma-arsenic; or

(h) hydrogen derived from any of the sources described in subsections (27)(a) through (27)(g) for use in fuel cells.

~~(27)~~(28) "Small customer" means a residential customer or a commercial customer who has an individual account with an average monthly demand in the previous calendar year of less than 50 kilowatts or a new residential or commercial customer with an estimated average monthly demand of less than 50 kilowatts of a public utility that has restructured pursuant to Title 35,

as an intermediary for sale to retail customers.

(2) "Assignee" means any entity, including a corporation, partnership, board, trust, or financing vehicle, to which a utility assigns, sells, or transfers, other than as security, all or a portion of the utility's interest in or right to transition property. The term also includes an entity, corporation, public authority, partnership, trust, or financing vehicle to which an assignee assigns, sells, or transfers, other than as security, the assignee's interest in or right to transition property.

(3) "Board" means the board of investments created by 2-15-1808.

(4) "Broker" or "marketer" means an entity, licensed by the commission, that acts as an agent or intermediary in the sale and purchase of electrical energy but that does not take title to electrical energy.

(5) "Cooperative utility" means:

(a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or

(b) an existing municipal electric utility as of May 2, 1997.

(6) "Customer" or "consumer" means a retail electric customer or consumer. The university of Montana, pursuant to 20-25-201(1), and Montana state university, pursuant to 20-25-201(2), are each considered a single retail electric customer or consumer with a single individual load.

(7) "Customer-generator" means a user of a net metering system.

(8) "Default supplier" means a distribution services provider of a utility that has restructured in accordance with this chapter.

(9) "Default supply service" means the provision of electricity supply by a default supplier.

(10) "Distribution facilities" means those facilities by and through which electricity is received from a transmission services provider and distributed to the customer and that are controlled or operated by a distribution services provider.

(11) "Distribution services provider" means a utility owning distribution facilities for distribution of electricity to the public.

(12) "Electricity supplier" means any person, including aggregators, market aggregators, brokers, and marketers, offering to sell electricity to retail customers in the state of Montana.

(13) "Electricity supply costs" means the actual costs of providing default supply service, including but not limited to:

(a) capacity costs;

(b) energy costs;

(c) fuel costs;

(d) ancillary service costs;

(e) demand-side management and energy efficiency costs;

(f) transmission costs, including congestion and losses;

establishing nonbypassable rate. (1) A natural gas utility shall implement, upon commission approval, a universal system benefits program that considers existing universal system benefits programs in the state programs that take into account:

(a) historic levels of funding by the utility for universal system benefits programs;

(b) the needs of the utility's low-income natural gas customers;

(c) the impact of universal system benefits program funding obligations on all customers;

(d) appropriate allocations within and between the authorized universal system benefits programs; and

(e) any other factors the commission considers necessary.

(2) The commission shall establish a universal system benefits charge that either all natural gas transmission services providers or all distribution services providers, or both, in the state of Montana shall charge to all end-use customers, taking into consideration the current level of expenditure by the natural gas utility, among other factors, appropriate levels of funding for universal system benefits programs, impacts on ratepayers, existing universal system benefits programs in the state, cost-effectiveness, and similar costs imposed in other states. The method of assessing those rates may not disproportionately burden a large transmission services provider's customers. Within the universal system benefits charge, a natural gas utility's annual funding requirement for low-income weatherization and low-income energy bill assistance the Montana energy assistance program, as provided for in [section 9], is established at 0.42% of a natural gas utility's annual revenue by the commission at a percentage of revenue that reflects:

(a) the historical level of spending for the programs for each natural gas utility; and

(b) the impact of universal system benefits program funding obligation on all customers.

(3) A natural gas utility must receive credit for its internal programs or activities that qualify as universal system benefits programs.

~~(3)(4) On or before July 1, 2002, the commission shall conduct a reevaluation of the ongoing need for universal system benefits programs and annual funding requirements and shall make recommendations to the 58th legislature regarding the future need for universal system benefits programs. The determination should focus specifically on the existence of markets to provide for any of the universal system benefits programs or on whether other means for funding those universal system benefits programs have developed. These recommendations may also address how future reevaluations will be provided, if necessary. The commission shall adopt rules establishing requirements for a natural gas utility's reporting of activities and expenditures funded by the~~

THEN THE UTILITY SHALL MAKE A PAYMENT INTO A STATE SPECIAL REVENUE ACCOUNT FOR THE DIFFERENCE; REVISING UTILITY AND LARGE CUSTOMER UNIVERSAL SYSTEM BENEFITS PROGRAM REPORTING REQUIREMENTS"

6. Title, page 1, line 14.

Following: "69-8-403,"

Insert: "69-8-412,"

7. Page 1, line 18 through page 19, line 11.

Strike: everything after the enacting clause

Insert: "Section 1. Section 69-3-1402, MCA, is amended to read:

"69-3-1402. **Definitions.** As used in this part, the following definitions apply:

(1) "Customer" means a natural gas customer or consumer of natural gas supply or natural gas transmission facilities, storage facilities, or distribution facilities.

(2) "Distribution facilities" means those facilities that are not transmission facilities:

(a) by and through which natural gas is received from a transmission services provider and transmitted to the customer; and

(b) operated by a distribution services provider.

(3) "Distribution services provider" means a person controlling or operating distribution facilities for distribution of natural gas to the public.

(4) "Natural gas supplier" means a person, including aggregators, market aggregators, brokers, and marketers, licensed by the commission that is offering to sell natural gas to retail customers in the state of Montana.

(5) "Natural gas utility" means a utility regulated by the commission on May 2, 1997, that provides natural gas services to the public.

(6) "Open access" means that a natural gas utility has made its transmission facilities, storage facilities, or distribution facilities available to all natural gas suppliers, transmission services providers, distribution services providers, and customers on a nondiscriminatory and comparable basis.

(7) "Performance-based ratemaking" means those forms of regulation that include but are not limited to the use of revenue indexing, price indexing, ranges of authorized return, gas cost indexing, and innovative use of utility-related assets and activities, such as system sales of excess natural gas supplies, release of upstream pipeline capacity, and performance of billing services for other natural gas suppliers. A performance-based regulation may also include a mechanism for automatic annual adjustments of revenue to prices to reflect changes in any index adopted for the implementation of the performance-based form of

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S BILL NO. 371

INTRODUCED BY

Harrington
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING UNIVERSAL SYSTEM BENEFITS PROGRAMS FOR ELECTRICITY AND NATURAL GAS; REMOVING THE UNIVERSAL SYSTEM BENEFITS CHARGE RATES TERMINATION DATE; INCREASING A UTILITY'S MINIMUM ANNUAL FUNDING REQUIREMENT; IMPROVING THE DETAIL AND OVERSIGHT OF UTILITY PLANS THAT PROVIDE FOR UNIVERSAL SYSTEM BENEFITS PROGRAMS; PLACING THE BURDEN OF PROOF AS TO THE QUALIFICATION OF CHALLENGED EXPENDITURES UPON THE ENTITY THAT HAS CLAIMED THE CREDITS; REQUIRING THE PUBLIC SERVICE COMMISSION TO ADOPT RULES; REQUIRING THE DEPARTMENT OF REVENUE TO ADOPT RULES; CREATING A MONTANA ENERGY ASSISTANCE PROGRAM; DIRECTING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO CONDUCT A STUDY OF THE NEEDS OF MONTANA'S LOW-INCOME ENERGY CUSTOMERS; AND AMENDING SECTIONS 69-3-1402, 69-3-1408, 69-8-102, 69-8-103, 69-8-402, 69-8-403, 69-8-413, AND 69-8-414, MCA."

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

Section 1. Section 69-3-1402, MCA, is amended to read:

"69-3-1402. Definitions. As used in this part, the following definitions apply:

(1) "Customer" means a natural gas customer or consumer of natural gas supply or natural gas transmission facilities, storage facilities, or distribution facilities.

(2) "Distribution facilities" means those facilities that are not transmission facilities:

(a) by and through which natural gas is received from a transmission services provider and transmitted to the customer; and

(b) operated by a distribution services provider.

(3) "Distribution services provider" means a person controlling or operating distribution facilities for distribution of natural gas to the public.

(4) "Natural gas supplier" means a person, including aggregators, market aggregators, brokers, and marketers, licensed by the commission that is offering to sell natural gas to retail customers in the state of Montana.

1 (10) "Transmission facilities" means those facilities owned, controlled, and operated by a transmission
 2 services provider that are used to transport natural gas from a gathering line or storage facility to a distribution
 3 facility, storage facility, or end-use customer.

4 (11) "Transmission services provider" means a person controlling or operating transmission facilities.

5 (12) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a
 6 customer to pay the customer's share of universal system benefits program costs.

7 (13) "Universal system benefits programs" means public purpose programs for cost-effective local
 8 energy conservation, ~~low-income weatherization, and low-income energy bill assistance~~ and the purposes
 9 provided for in the Montana energy assistance program, as described in [section 8]."

10
 11 **Section 2.** Section 69-3-1408, MCA, is amended to read:

12 **"69-3-1408. Universal system benefits programs -- establishing nonbypassable rate.** (1) A natural
 13 gas utility shall implement, upon commission approval, a universal system benefits program that considers
 14 existing universal system benefits programs in the state.

15 (2) The commission shall establish a universal system benefits charge that either all natural gas
 16 transmission services providers or all distribution services providers, or both, in the state of Montana shall charge
 17 to all end-use customers, taking into consideration the current level of expenditure by the natural gas utility,
 18 cost-effectiveness, and similar costs imposed in other states. The method of assessing those rates may not
 19 disproportionately burden a large transmission services provider's customers. Within the universal system
 20 benefits charge, a natural gas utility's annual funding requirement for low-income weatherization and low-income
 21 energy bill assistance is established ~~at 0.42% of a natural gas utility's annual revenue:~~ by the commission at a
 22 percentage of revenue that reflects:

23 (a) the historical level of spending for the programs for each natural gas utility;

24 (b) the need for assistance in paying energy bills to ensure that basic energy needs are affordable; and

25 (c) the impact of universal system benefits program funding obligations on all customers.

26 (3) A natural gas utility must receive credit for its internal programs or activities that qualify as universal
 27 system benefits programs.

28 (4) The natural gas utility's universal system benefits programs must conform with the provisions of the
 29 Montana energy assistance program described in [section 8].

30 ~~(3) On or before July 1, 2002, the commission shall conduct a reevaluation of the ongoing need for~~

1 ~~(f)~~(g) prevention of anticompetitive and abusive activities.

2 (6) A utility in the state of Montana may not be advantaged or disadvantaged in the competitive
3 electricity supply market, including the consideration of the existence of universal system benefits programs and
4 the comparable level of funding for those programs throughout the regions neighboring Montana."

5
6 **Section 4.** Section 69-8-103, MCA, is amended to read:

7 **"69-8-103. Definitions.** As used in this chapter, unless the context requires otherwise, the following
8 definitions apply:

9 (1) "Aggregator" or "market aggregator" means an entity, licensed by the commission, that aggregates
10 retail customers, purchases electrical energy, and takes title to electrical energy as an intermediary for sale to
11 retail customers.

12 (2) "Assignee" means any entity, including a corporation, partnership, board, trust, or financing vehicle,
13 to which a utility assigns, sells, or transfers, other than as security, all or a portion of the utility's interest in or right
14 to transition property. The term also includes an entity, corporation, public authority, partnership, trust, or
15 financing vehicle to which an assignee assigns, sells, or transfers, other than as security, the assignee's interest
16 in or right to transition property.

17 (3) "Board" means the board of investments created by 2-15-1808.

18 (4) "Broker" or "marketer" means an entity, licensed by the commission, that acts as an agent or
19 intermediary in the sale and purchase of electrical energy but that does not take title to electrical energy.

20 (5) "Cooperative utility" means:

21 (a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or

22 (b) an existing municipal electric utility as of May 2, 1997.

23 (6) "Customer" or "consumer" means a retail electric customer or consumer. The university of Montana,
24 pursuant to 20-25-201(1), and Montana state university, pursuant to 20-25-201(2), are each considered a single
25 retail electric customer or consumer with a single individual load.

26 (7) "Customer-generator" means a user of a net metering system.

27 (8) "Default supplier" means a distribution services provider of a utility that has restructured in
28 accordance with this chapter.

29 (9) "Default supply service" means the provision of electricity supply by a default supplier.

30 (10) "Distribution facilities" means those facilities by and through which electricity is received from a

1 include nonbypassable rates or charges to recover federal and state taxes in which the transition cost recovery
2 period is modified by the transactions approved in the financing order.

3 (16) "Functionally separate" means a utility's separation of the utility's electricity supply, transmission,
4 distribution, and unregulated retail energy services assets and operations.

5 (17) "Interested person" means a retail electricity customer, the consumer counsel established in
6 5-15-201, the commission, or a utility.

7 (18) "Large customer" means, for universal system benefits programs purposes, a customer with an
8 individual load greater than a monthly average of 1,000 kilowatt demand in the previous calendar year for that
9 individual load.

10 (19) "Local governing body" means a local board of trustees of a rural electric cooperative.

11 (20) "Low-income customer" means a utility customer receiving residential service:

12 (a) who participates in a means-tested state or federal low-income financial assistance program; or

13 (b) whose household income is at or below 175% of federal poverty guidelines as defined annually by
14 the department of public health and human services ~~those energy consumer households and families with~~
15 ~~incomes at or below industry-recognized levels that qualify those consumers for low-income energy-related~~
16 ~~assistance.~~

17 (21) "Net metering" means measuring the difference between the electricity distributed to and the
18 electricity generated by a customer-generator that is fed back to the distribution system during the applicable
19 billing period.

20 (22) "Net metering system" means a facility for the production of electrical energy that:

21 (a) uses as its fuel solar, wind, or hydropower;

22 (b) has a generating capacity of not more than 50 kilowatts;

23 (c) is located on the customer-generator's premises;

24 (d) operates in parallel with the distribution services provider's distribution facilities; and

25 (e) is intended primarily to offset part or all of the customer-generator's requirements for electricity.

26 (23) "Nonbypassable rates or charges" means rates or charges that are approved by the commission
27 and imposed on a customer to pay the customer's share of transition costs or universal system benefits
28 programs costs even if the customer has physically bypassed either the utility's transmission or distribution
29 facilities.

30 (24) "Pilot program" means an experimental program using a select set of small customers to assess

1 (iii) existing generation investments and supply commitments or other obligations incurred before May
2 2, 1997, and costs arising from these investments and commitments;

3 (iv) the costs associated with renegotiation or buyout of the existing nonutility and utility power purchase
4 contracts, including qualifying facilities and all costs, expenses, and reasonable fees related to issuing transition
5 bonds; and

6 (v) the costs of refinancing and retiring of debt or equity capital of the public utility and associated
7 federal and state tax liabilities or other utility costs for which the use of transition bonds would benefit customers.

8 (33) "Transition period" means the period ending July 1, 2027.

9 (34) "Transition property" means the property right created by a financing order, including without
10 limitation the right, title, and interest of a utility, assignee, or other issuer of transition bonds to all revenue,
11 collections, claims, payments, money, or proceeds of or arising from or constituting fixed transition amounts that
12 are the subject of a financing order, including those nonbypassable rates and other charges and fixed transition
13 amounts that are authorized by the commission in the financing order to recover transition costs and the costs
14 of recovering, reimbursing, financing, or refinancing the transition costs and acquiring transition property,
15 including the costs of issuing, servicing, and retiring transition bonds. Any right that a utility has in the transition
16 property before the utility's sale or transfer or any other right created under this section or created in the financing
17 order and assignable under this chapter or assignable pursuant to a financing order is only a contract right.

18 (35) "Transmission facilities" means those facilities that are used to provide transmission services as
19 determined by the federal energy regulatory commission and the commission.

20 (36) "Transmission services provider" means an entity controlling or operating transmission facilities.

21 (37) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a
22 customer to pay the customer's share of universal system benefits programs costs.

23 (38) "Universal system benefits programs" means public purpose programs not otherwise funded
24 through other components of rates charged by the utility to its customers for:

25 (a) cost-effective local energy conservation;

26 (b) the Montana energy assistance program, as established in [section 8], composed of low-income
27 energy bill payment and energy conservation assistance customer weatherization;

28 (c) renewable resource projects and applications, including those that capture unique social and energy
29 system benefits or that provide transmission and distribution system benefits; and

30 (d) research and development programs related to energy conservation and renewables;

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

4 (3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding
5 requirements for universal system benefits programs, but this collective pool must ensure that the required
6 funding allocation for the Montana energy assistance program is met on an annual basis and low-income energy
7 assistance.

8 (4) ~~A utility's transition plan must describe~~ Each utility shall annually publish a plan by March 1 that
9 describes how the utility proposes to provide for universal system benefits programs; including, This description
10 must include the methodologies, such as cost-effectiveness and need determination, used to design and
11 implement the specific programs for each category of universal system benefits programs. This plan must be
12 submitted annually and must include the required reporting items for the prior calendar year's program funding
13 and the results reported pursuant to subsection (8). The plan must be submitted to the department of public
14 health and human services, the commission, the department of revenue, and the energy and
15 telecommunications interim committee, measure the utility's level of contribution to each program. A cooperative
16 utility shall adopt a plan through its board of directors. The plan of a utility regulated by the public service
17 commission must be approved by the commission.

18 (5) ~~Except as provided in 69-8-403(8) and 69-8-413(1), a utility's minimum annual funding requirement~~
19 ~~for low-income energy and weatherization assistance~~ the Montana energy assistance program is established
20 at ~~47%~~ 30% of the utility's annual universal system benefits funding level and is inclusive within the overall
21 universal system benefits funding level.

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

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

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

30 (7) (a) A large customer:

1 to:

2 (a) ~~the types of a description of~~ internal utility and customer programs being used to satisfy the
3 provisions of this chapter, including:

4 (i) the number of customers served by each program;

5 (ii) the average benefit amount provided to individual customers for each program or project;

6 (iii) the results of any evaluation of each program in light of its intended purpose;

7 (iv) a copy of each program or project description, including the qualifications for each program; and

8 (v) any public education or outreach materials used by the utility to promote each program and seek
9 customer enrollment in each program;

10 (b) the level of funding for those programs relative to the annual funding requirements prescribed in
11 subsection (2); and

12 (c) any payments made to the statewide funds in the event that internal funding was below the
13 prescribed annual funding requirements.

14 (9) A utility or large customer filing for a credit shall develop and maintain appropriate documentation
15 to support the utility's or the large customer's claim for the credit. Documentation must consist, at a minimum,
16 of invoices, payment records, impact evaluations, and customer billing records.

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

23 (b) If a large customer claims a credit that the department of revenue disallows in whole or in part, the
24 large customer is financially responsible for the disallowance. A large customer and the large customer's utility
25 may mutually agree that credits claimed by the large customer be first approved by the utility. If the utility
26 approves the large customer credit, the utility may be financially responsible for any subsequent disallowance."
27

28 **Section 6.** Section 69-8-403, MCA, is amended to read:

29 **"69-8-403. Commission authority -- rulemaking authority.** (1) Beginning on the effective date of a
30 commission order regarding a public utility's transition plan, the commission shall regulate the public utility's retail

1 ~~(9)~~(10) This chapter does not give the commission the authority to:

2 (a) regulate cooperative utilities in any manner other than reviewing certification filings for compliance
3 with this chapter; or

4 (b) compel any change to a cooperative utility's certification filing made pursuant to this chapter."
5

6 **Section 7.** Section 69-8-413, MCA, is amended to read:

7 **"69-8-413. Department rulemaking authority.** (1) The department of revenue shall adopt rules on or
8 before ~~September 1, 1999~~ December 1, 2005, specifying acceptable universal system benefits programs credits
9 and expenditures and adopting procedures for challenged credits, including:

10 (a) establishing notification requirements for the receipt of utility and large customer reports; and

11 (b) establishing procedures allowing interested persons to provide the department of revenue with
12 information or an explanation regarding why a specific claimed credit or expenditure is inconsistent with the
13 provisions of this chapter or rules adopted by the department of revenue.

14 (2) In developing rules under this section, the department of revenue shall consult with the public
15 service commission.

16 ~~(2) Rules adopted pursuant to this part must be adopted in accordance with the Montana Negotiated~~
17 ~~Rulemaking Act, Title 2, chapter 5, part 1.~~

18 ~~(3) Universal system benefits programs credits claimed or expenditures made prior to the adoption of~~
19 ~~the rules under subsection (1) must be allowed and are not subject to the requirements of 69-8-414."~~
20

21 **NEW SECTION. Section 8. Montana energy assistance program -- funding -- purposes --**
22 **components.** (1) There is a Montana energy assistance program.

23 (2) That portion of a utility's universal system benefits funding that is directed to low-income programs
24 as required by 69-8-402 must conform to the policies, purposes, and program design of the Montana energy
25 assistance program.

26 (3) The purpose of the Montana energy assistance program is to create a statewide energy bill payment
27 assistance program for low-income residential customers that will:

28 (a) bring participants' bills into the range of affordability;

29 (b) provide incentives for participants to make timely payments;

30 (c) encourage participants to reduce usage and participate in available conservation and energy

1 cost-effective ways to transfer information electronically and to employ available protocols that will minimize
2 administrative costs.

3 (4) A utility that is both a gas and electric utility may coordinate design and implementation of the electric
4 universal system benefits program funding for the Montana energy assistance program with the gas universal
5 system benefits program funding but may not commingle the funds and customer benefits for either program.
6 A utility that provides electric universal system benefits funding to another entity to implement a program element
7 of the Montana energy assistance program shall take reasonable steps to ensure that the electric universal
8 system benefits funding is directed to customers for the payment of or for the benefit of electric service.

9
10 NEW SECTION. Section 10. Study of needs. (1) The department of public health and human services
11 shall conduct a study of the needs of Montana's low-income energy customers. The cost of this study is eligible
12 for reimbursement from universal system benefits programs funding. This study must be published in draft form
13 and must be available for public review and comment no later than December 31, 2005. This draft must also
14 be made available to the energy and telecommunications interim committee before it is finalized. This study must
15 consider:

- 16 (a) the impact of current and projected electric and natural gas prices;
- 17 (b) the ability of low-income customers to afford basic energy needs and pay on a timely basis;
- 18 (c) the impact of existing bill payment assistance programs;
- 19 (d) the impact on all ratepayers as a result of the inability of low-income customers to afford essential
20 energy services;
- 21 (e) an estimate of the gap between energy bills and the ability of low-income households to pay for and
22 retain monthly electric and natural gas service at various levels of household income, family size, and energy
23 usage patterns; and
- 24 (f) recommendations for program design and implementation steps to improve the enrollment of eligible
25 customers in the Montana energy assistance program throughout the state.

26
27 **Section 11.** Section 69-8-414, MCA, is amended to read:

28 **"69-8-414. Universal system benefits programs credit review process.** (1) All annual reports
29 required pursuant to 69-8-402(8) and (10) must be filed with the department of revenue on March 1 of each year.

30 (2) ~~Except as provided in 69-8-413, upon~~ Upon a challenge by an interested person, the department

1 interested person.

2 (d) The department of revenue may ask for additional detailed information to implement this section.

3 (6) Upon completing a formal review of a challenged credit, the department of revenue shall make a
4 decision to certify or to deny the credit claimed, providing a statement of the reasons supporting the department
5 of revenue's decision. The formal review of a challenged credit, including the department of revenue's final
6 decision, must be completed within 60 days of the department of revenue's public notice of the opportunity to
7 comment on the challenged credit."

8

9 NEW SECTION. **Section 12. Codification instruction.** [Sections 8 through 10] are intended to be
10 codified as an integral part of Title 69, chapter 8, part 4, and the provisions of Title 69, chapter 8, part 4, apply
11 to [sections 8 through 10].

12

- END -

1 of revenue shall ensure that the credit claimed is consistent with this chapter. An interested person may file
2 comments challenging the claim, including supporting documentation, with the department of revenue. A
3 challenge of any claimed credit must be filed within 60 days of the department of revenue's receipt of the credit
4 claimant's annual reports required pursuant to 69-8-402(8) and (10).

5 (3) Claimed credits are presumed to be correct unless challenged by an interested person. If a
6 challenge is filed by an interested person, the department of revenue shall conduct an initial review of a
7 challenged credit and shall ~~make a determination as to~~ determine the likelihood that the challenged credit
8 qualifies for universal system benefits programs or determine that there is insufficient information provided in
9 the report to make a determination that the challenged credit qualifies for universal system benefits programs.
10 If the department of revenue finds that the challenged credit is not likely to qualify for universal system benefits
11 programs; or that there is insufficient information in the report to make a determination, the department of
12 revenue shall formally review the challenge; ~~otherwise~~ Otherwise, the department of revenue shall dismiss the
13 challenge and provide a statement of the reasons supporting dismissal of the challenge. The burden of proof
14 as to the qualification of the challenged expenditure rests with the entity that has claimed the credits, and the
15 department of revenue may compel the entity to produce documents and other evidence as part of its review.
16 ~~The department of revenue may request additional information from the credit claimant or interested person.~~ The
17 department of revenue shall complete the initial review within 30 days of the challenge.

18 (4) If the department of revenue determines that a formal review of a challenged credit is necessary,
19 the department of revenue shall provide public notice of the opportunity to comment to the credit claimant and
20 interested persons. The department of revenue may also schedule an oral hearing. If a hearing is scheduled,
21 the department of revenue shall provide public notice of the hearing to the credit claimant and interested
22 persons.

23 (5) For a formal credit review challenge, the following procedures apply:

24 (a) The credit claimant shall provide documentation supporting the credit claimed to the department of
25 revenue and to all interested persons, subject to department of revenue protective orders for confidential or
26 sensitive materials, upon a showing of a privacy interest by the credit claimant.

27 (b) The department of revenue shall make all materials related to the claim, the challenge, and the
28 submitted comments available to the credit claimant and for public inspection and photocopying, subject to any
29 department of revenue protective orders.

30 (c) The credit claimant may respond in writing to any comments and other documents filed by an

1 efficiency measures that reduce the customer's bill and payment requirements; and

2 (d) be implemented as efficiently as possible and keep administrative costs as low as reasonably
3 possible.

4 (4) The Montana energy assistance program consists of the following components:

5 (a) a monthly energy bill payment assistance program in the form of a rate discount, fixed credit, or both;

6 (b) energy assistance and weatherization assistance delivered to low-income customers in coordination
7 with the federal department of energy's weatherization assistance program;

8 (c) an emergency or crisis assistance program; and

9 (d) other programs that seek to reduce barriers to affordability, such as arrears forgiveness, waivers
10 for security deposits, and other comparable programs.

11
12 **NEW SECTION. Section 9. Montana energy assistance program -- implementation.** (1) In
13 designing and funding the Montana energy assistance program components provided in [section 8], a utility shall
14 give priority to the monthly energy bill payment assistance program and provide a monthly bill discount or bill
15 reduction payment that reflects an analysis of:

16 (a) the needs of the utility's low-income customers;

17 (b) the amount of available funding; and

18 (c) the extent to which the program's funding will reduce the percentage of income spent by low-income
19 households to maintain basic energy needs to the percentage paid by other residential customers for basic
20 energy needs.

21 (2) A utility shall ensure that assistance that is provided to eligible customers will not be counted as
22 income or as a resource in other means-tested assistance programs for low-income households. The Montana
23 energy assistance program must be administered in a way that ensures that assistance will not result in the loss
24 of other federal or state assistance dollars.

25 (3) In cooperation with the department of public health and human services, a utility shall make use of
26 categorical eligibility and automatic enrollment methods of increasing participation in the Montana energy
27 assistance program. The department is authorized to enter into agreements with a utility to ensure the privacy
28 of customer information in the possession of the department and establish procedures to prevent the
29 dissemination of any private information except to establish qualification for the Montana energy assistance
30 program. A utility shall work cooperatively with the department of public health and human services to identify

1 transmission, distribution, and default supply services within the state of Montana, as provided in this chapter.

2 (2) The commission shall license electricity suppliers and enforce licensing provisions pursuant to
3 69-8-404.

4 (3) The commission shall promulgate rules that identify the licensees and ensure that the offered
5 electricity supply is provided as offered and is adequate in terms of quality, safety, and reliability.

6 (4) The commission shall establish just and reasonable rates through established ratemaking principles
7 for public utility default supply, distribution, and transmission services, and shall regulate these services. The
8 commission may approve rates and charges for those services based on alternative forms of ratemaking such
9 as performance-based ratemaking, on a demonstration by the public utility that the alternative method complies
10 with this chapter, and on the public utility's transition plan.

11 (5) The commission shall certify that a cooperative utility has adopted a transition plan that complies
12 with this chapter. A cooperative utility's transition plan is considered certified 60 days after the cooperative utility
13 files for certification.

14 (6) The commission shall promulgate rules that protect consumers, distribution services providers, and
15 electricity suppliers from anticompetitive and abusive practices.

16 (7) (a) After July 1, 2010, the commission shall continuously monitor whether or not workable
17 competition has developed for small customers.

18 (b) If the commission determines that workable competition has developed for small customers after
19 July 1, 2010, the commission shall provide a report to the legislature that includes recommendations for
20 legislative implementation of customer choice for small customers.

21 (8) The commission shall adopt rules implementing 69-8-402, including but not limited to rules that
22 establish:

23 (a) allocations between universal system benefits programs;

24 (b) allocations within universal system benefits programs;

25 (c) reporting requirements; and

26 (d) procedures and guidelines for public utility low-income energy and weatherization assistance
27 expenditures to exceed the funding level established in 69-8-402(5) in necessary and appropriate
28 circumstances.

29 ~~(8)~~(9) In addition to promulgating rules expressly provided for in this chapter, the commission may
30 promulgate any other rules necessary to carry out the provision of this chapter.

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

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

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

6 (ii) ~~must~~ may receive credit toward that large customer's universal system benefits charge, with the
7 exception of 30% of a large customer's universal system benefits program charge, which must be dedicated to
8 the customer's utility for the Montana energy assistance program expenditures, for internal expenditures and
9 activities that qualify as a universal system benefits programs expenditure, and these internal expenditures must
10 include but not be limited to:

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

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

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

20 (8) ~~A~~ On or before March 1, a public utility shall prepare and submit an annual ~~summary~~ report of the
21 public utility's activities for the prior calendar year relating that relate to all universal system benefits programs
22 to the department of public health and human services, the commission, the department of revenue, and the
23 energy and telecommunications interim committee provided for in 5-5-230. A cooperative utility shall prepare
24 and submit an annual ~~summary reports~~ report of activities to the cooperative utility's respective local governing
25 body, the statewide cooperative utility office, and the energy and telecommunications interim committee. The
26 statewide cooperative utility office shall prepare and submit an annual ~~summary~~ report of the activities of
27 individual cooperative utilities, including a summary of the pooling of statewide credits, as provided in
28 subsection (3), the calculations necessary to demonstrate compliance with subsection (3) concerning pooling
29 of statewide credits to the department of revenue and the energy and telecommunications interim committee.
30 The annual report of a public utility or of the statewide cooperative utility office must include but is not limited

- 1 ~~_____ (e) market transformation designed to encourage competitive markets for public purpose programs; and~~
2 ~~_____ (f) low-income energy assistance.~~
3 (39) "Utility" means any public utility or cooperative utility."
4

5 Section 5. Section 69-8-402, MCA, is amended to read:

6 "69-8-402. Universal system benefits programs. (1) Universal system benefits programs are
7 established for the state of Montana to ensure continued funding of and new expenditures for energy
8 conservation, renewable resource projects and applications, and ~~low-income energy assistance~~ the Montana
9 energy assistance program.

10 (2) Beginning January 1, 1999, 2.4% of each utility's annual retail sales revenue in Montana for the
11 calendar year ending December 31, 1995, is established as the initial funding level for universal system benefits
12 programs. To collect this amount of funds on an annualized basis beginning in 1999, the commission shall
13 establish rates for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates
14 for the cooperatives. ~~These universal system benefits charge rates must remain in effect through December 31,~~
15 ~~2005.~~

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
20 or activities that qualify as universal system benefits programs, ~~including those amortized or nonamortized~~
21 ~~portions 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 or activities of the utilities
24 and large customers pursuant to 69-8-414.

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

27 (d) A customer's distribution services provider shall collect universal system benefits funds ~~less any~~
28 ~~allowable credits.~~

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

1 the potential for developing and offering customer choice of electricity supply to small customers in the future.

2 (25) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter
3 3, on May 2, 1997, including the public utility's successors or assignees.

4 (26) "Qualifying load" means, for payments and credits associated with universal system benefits
5 programs, all nonresidential demand-metered accounts of a large customer within the utility's service territory
6 in which the customer qualifies as a large customer.

7 (27) "Small customer" means a residential customer or a commercial customer who has an individual
8 account with an average monthly demand in the previous calendar year of less than 50 kilowatts or a new
9 residential or commercial customer with an estimated average monthly demand of less than 50 kilowatts of a
10 public utility that has restructured pursuant to Title 35, chapter 19, or this chapter.

11 (28) "Transition bondholder" means a holder of transition bonds, including trustees, collateral agents,
12 and other entities acting for the benefit of that bondholder.

13 (29) "Transition bonds" means any bond, debenture, note, interim certificate, collateral, trust certificate,
14 or other evidence of indebtedness or ownership issued by the board or other transition bonds issuer that is
15 secured by or payable from fixed transition amounts or transition property. Proceeds from transition bonds must
16 be used to recover, reimburse, finance, or refinance transition costs and to acquire transition property.

17 (30) "Transition charge" means a nonbypassable rate or charge to be imposed on a customer to pay
18 the customer's share of transition costs.

19 (31) "Transition cost recovery period" means the period beginning on July 1, 1998, and ending when
20 a utility customer does not have any liability for payment of transition costs.

21 (32) "Transition costs" means:

22 (a) a public utility's net verifiable generation-related and electricity supply costs, including costs of
23 capital, that become unrecoverable as a result of the implementation of this chapter or of federal law requiring
24 retail open access or customer choice;

25 (b) those costs that include but are not limited to:

26 (i) regulatory assets and deferred charges that exist because of current regulatory practices and can
27 be accounted for up to the effective date of the commission's final order regarding a public utility's transition plan
28 and conservation investments made prior to universal system benefits charge implementation;

29 (ii) nonutility and utility power purchase contracts executed before May 2, 1997, including qualifying
30 facility contracts;

1 transmission services provider and distributed to the customer and that are controlled or operated by a
2 distribution services provider.

3 (11) "Distribution services provider" means a utility owning distribution facilities for distribution of
4 electricity to the public.

5 (12) "Electricity supplier" means any person, including aggregators, market aggregators, brokers, and
6 marketers, offering to sell electricity to retail customers in the state of Montana.

7 (13) "Electricity supply costs" means the actual costs of providing default supply service, including but
8 not limited to:

9 (a) capacity costs;

10 (b) energy costs;

11 (c) fuel costs;

12 (d) ancillary service costs;

13 (e) demand-side management and energy efficiency costs;

14 (f) transmission costs, including congestion and losses;

15 (g) billing costs;

16 (h) planning and administrative costs; and

17 (i) any other costs directly related to the purchase of electricity, management of default electricity supply
18 costs, and provision of default supply and related services.

19 (14) "Financing order" means an order of the commission adopted in accordance with 69-8-503 that
20 authorizes the imposition and collection of fixed transition amounts and the issuance of transition bonds.

21 (15) (a) "Fixed transition amounts" means those nonbypassable rates or charges, including but not
22 limited to:

23 (i) distribution;

24 (ii) connection;

25 (iii) disconnection; and

26 (iv) termination rates and charges that are authorized by the commission in a financing order to permit
27 recovery of transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition costs
28 and of acquiring transition property through a plan approved by the commission in the financing order, including
29 the costs of issuing, servicing, and retiring transition bonds.

30 (b) If requested by the utility in the utility's application for a financing order, fixed transition amounts must

1 universal system benefits programs and annual funding requirements and shall make recommendations to the
 2 58th legislature regarding the future need for universal system benefits programs. The determination should
 3 focus specifically on the existence of markets to provide for any of the universal system benefits programs or
 4 on whether other means for funding those universal system benefits programs have developed. These
 5 recommendations may also address how future reevaluations will be provided, if necessary.

6 (5) The commission shall adopt rules establishing requirements for a natural gas utility's reporting of
 7 activities and expenditures for programs funded by the natural gas universal system benefits charge for
 8 low-income weatherization, low-income energy assistance, and local conservation programs."

9

10 **Section 3.** Section 69-8-102, MCA, is amended to read:

11 **"69-8-102. Legislative findings and policy.** The legislature finds and declares the following:

12 (1) The generation and sale of electricity is becoming a competitive industry.

13 (2) Montana customers should have the freedom to choose their electricity supply and related services
 14 in accordance with this chapter. Affording this opportunity serves the public interest.

15 (3) The interests of small Montana consumers must be protected through the provision of adequate and
 16 reliable default supply service at the lowest long-term total cost.

17 (4) The financial integrity of electrical utilities must be fostered.

18 (5) The public interest requires the continued protection of consumers through:

19 (a) licensure of electricity suppliers;

20 (b) provision of information to consumers regarding electricity supply service;

21 (c) provision of a process for investigating and resolving complaints;

22 (d) continued funding for public purpose programs for:

23 (i) cost-effective local energy conservation;

24 (ii) low-income customer weatherization;

25 (iii) renewable resource projects and applications;

26 (iv) research and development programs related to energy conservation and renewables;

27 ~~(v) market transformation; and~~

28 ~~(vi)(v) low-income energy assistance;~~

29 (e) establishment of a Montana energy assistance program, as described in [section 8];

30 ~~(e)(f) assurance of service reliability and quality; and~~

1 (5) "Natural gas utility" means a utility regulated by the commission on May 2, 1997, that provides
2 natural gas services to the public.

3 (6) "Open access" means that a natural gas utility has made its transmission facilities, storage facilities,
4 or distribution facilities available to all natural gas suppliers, transmission services providers, distribution services
5 providers, and customers on a nondiscriminatory and comparable basis.

6 (7) "Performance-based ratemaking" means those forms of regulation that include but are not limited
7 to the use of revenue indexing, price indexing, ranges of authorized return, gas cost indexing, and innovative
8 use of utility-related assets and activities, such as system sales of excess natural gas supplies, release of
9 upstream pipeline capacity, and performance of billing services for other natural gas suppliers. A
10 performance-based regulation may also include a mechanism for automatic annual adjustments of revenue to
11 prices to reflect changes in any index adopted for the implementation of the performance-based form of
12 regulation.

13 (8) "Storage facilities" means those facilities that are owned, controlled, or operated by a person offering
14 storage service for natural gas and generally means any underground reservoir suitable for the storage of natural
15 gas and the facilities used to inject and withdraw natural gas into and out of that underground reservoir.

16 (9) "Transition costs" means:

17 (a) a natural gas utility's net, verifiable production- and gathering-related costs, including costs of capital,
18 that become unrecoverable as a result of customer choice and open access. These costs include but are not
19 limited to:

20 (i) regulatory assets and deferred charges that exist as a result of current regulatory practices and that
21 may be accounted for up to the point in time that the commission issues a final order in a docket addressing
22 transition costs, including all costs, expenses, and fees related to the issuance of transition bonds;

23 (ii) the above-market costs associated with existing gas supply commitments;

24 (iii) other natural gas utility investments rendered uneconomic as a result of implementation of customer
25 choice and open access;

26 (iv) the costs associated with renegotiation or buyout of existing natural gas purchase contracts; and

27 (v) the costs associated with the issuance of any related transition bonds authorized by the commission
28 pursuant to 69-3-1403.

29 (b) the costs of refinancing or retiring debt or equity capital of the natural gas utility and associated
30 federal and state tax liabilities or other utility costs for which the use of transition bonds would benefit customers.