



# Energy and Telecommunications Interim Committee

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## 58th Montana Legislature

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## MEMORANDUM

**To:** Energy and Telecommunications Interim Committee (ETIC)

**From:** Mary Vandenberg  
Research Analyst  
444-5367 or mvandenberg@mt.gov

**Date:** May 23, 2004

**Subject:** Universal System Benefits (USB) -- Electricity Laws

I have attached a draft of LC 4, a bill that you requested in November 2003. This draft implements the instructions that you provided on March 25. Explanations and questions are provided below. Also, Rep. Olson asked me to remind you that you did not deal with the issue of carry-forward of USB funds. This is discussed below.

### Section 1

- **Defines "cost-effective renewable resource project."**

Rep. Olson requested that I include this definition which was prepared by John Bushnell of the Northwest Power and Conservation Council. (Mr. Bushnell's information was emailed to you earlier. His proposal also defined "cost-effective energy conservation." You did not discuss or vote on this concept so I did not include it in the committee's bill.)

- **Revise definition of "universal system benefits program" to specify that renewable resource projects must be cost-effective.**

? In some cases, projects that meet Mr. Bushnell's definition of "cost-effective renewable resource project" should be part of the electricity supply portfolio. However, renewable projects may be off the grid or may not be adequate to serve all portions of the load and may be excluded for that reason. Do you want to add some language to prevent double-dipping and clarify that you don't intend to push these projects out of the electricity supply?

? Do you want to revise (d) at the top of p.10 with respect to research and development for renewables?

## Section 2

- **Extends the USB charge through December 31, 2007.**
- **Increases minimum annual funding requirement for low-income energy and weatherization assistance from 17% to 25%.**
- **Requires the Department of Revenue (DOR) to report annually to the ETIC on USB activities and expenditures; eliminates requirement that utilities each report to ETIC.**

This is a companion to the requirement that the DOR adopt rules for uniform reporting (see Section 4). The idea here is to emphasize quality over quantity. If the DOR is required to summarize the information in the reports for the ETIC, then the DOR has an incentive to be sure that the information is reported fully and in an understandable manner. If the reports of utilities and large customers are incomplete, the DOR can work with them to get complete reports. Only 4 of the entities that have been required to report to the ETIC have been doing so. Nobody seems to have been monitoring this. The ETIC can still get copies of the reports from the any of the parties that report or that receive reports.

## Section 3

- **Requires annual reports to the ETIC from the Department of Environmental Quality and the Department of Public Health and Human Services regarding their USB expenditures.**

If the committee wants uniform reporting from all parties that spend USB funds, then these agencies should be required to report on their expenditures.

## Section 4

- **Requires DOR to adopt rules for uniform reporting by Dec. 1, 2005.**

## Section 5

- **Cleans up references to subsection numbers changed by amendment to previous sections.**

## Section 6

- **Immediate effective date for section that requires rulemaking so DOR can get started on rulemaking as soon as possible. Standard Oct. 1 effective date for remaining law so as not to interfere with reporting under current law.**

## Carry-Forward of USB Funds

When a utility's total annual credits for USB programs do not satisfy its annual funding requirement, the utility must make a payment to the state. No carry-forward of unspent USB funds is authorized by statute. Without the necessary statutory authority, the DOR has adopted rules that authorize

extensions.

Options that have been identified by various parties include the following:

1. Require the utility to remit unspent USB funds to the general fund. (Set a date certain for spending the money.)
2. Prohibit any carry-forward of USB funds so the state can distribute the funds to programs. Require that funds not spent by a certain date be deposited in the USB funds that are provided for in 69-8-412.
3. Clearly authorize carry-forward for a specified period of time only when specific criteria are met (e.g., a contract has been signed that provides for expenditure of the funds for qualified programs within the next year; a project is abandoned and the utility commits to spend the money within a certain time frame; or a project is completed under budget.)
4. Specify a maximum dollar amount that may be carried forward to the next year.
5. Establish other standards or criteria for carry-forward.
6. Clarify in statute how the funds that are not expended and transmitted to the state should be allocated between the two types of state funds.
7. Conform statute to actual practice by requiring that credited funds or resources be expended by the following year unless the DOR grants an extension for good cause shown.