

1 SENATE BILL NO. 147  
2 INTRODUCED BY C. POPE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A UTILITY ENERGY CONSERVATION  
5 STANDARD; PROVIDING ACQUISITION REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY;  
6 PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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8 WHEREAS, affordable, reliable sources of electrical service are essential to the long-term health and  
9 well-being of Montana citizens and their state economy; and

10 WHEREAS, utility investments in conservation continue to represent the cheapest, cleanest, and most  
11 readily available source of energy and capacity; and

12 WHEREAS, advanced technology investments proven to conserve energy, including more efficient  
13 motors, water heaters, and Internet-connected thermostats, to name a few, allow Montanans to achieve more  
14 while using less; and

15 WHEREAS, Montana investor-owned utilities may be otherwise disincentivized to adopt utility-scale  
16 efficiency initiatives due to their traditional business goal of selling more electricity; and

17 WHEREAS, utility investments in conservation benefit all customers, program participants and  
18 nonparticipants alike, by reducing the need for costly investments in new generation.

19 THEREFORE, an utility energy conservation standard is hereby enacted to ensure investor-owned  
20 utilities in Montana invest in minimal levels of energy efficiency where proven to be cost effective to ratepayers,  
21 and that the standards properly reimburse and reward Montana investor-owned utilities for energy efficiency  
22 investments made on behalf of ratepayers when those investments are approved by the Montana Public  
23 Service Commission.

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

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27 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 5], unless the context clearly  
28 indicates otherwise, "utility" means a public utility regulated by the commission pursuant to this chapter.

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**NEW SECTION. Section 2. Energy conservation standard -- rulemaking authority.** (1) On or before December 31, 2024, an electric distribution utility shall implement energy conservation programs that achieve energy savings equivalent to the greater of:

- (a) 1% of the total annual average of normalized kilowatt-hour sales of the electric distribution utility during the preceding 5 calendar years; and
- (b) pursuant to [section 3], the annual energy conservation target as identified in the utility's most recent energy conservation assessment.

(2) The commission shall adopt rules implementing energy conservation programs that address:

- (a) a process and method for the evaluation, verification, and measurement of program savings;
- (b) a stakeholder process for considering and recommending energy conservation programs for approval by the commission;
- (c) a methodology for addressing the allocation of program funds for utility programs applicable to each customer class along with a methodology for the recovery of program costs; and
- (d) any other issues the commission considers relevant.

**NEW SECTION. Section 3. Energy conservation acquisition.** (1) A utility shall acquire all achievable cost-effective energy conservation as provided in [sections 2 through 4].

(2) (a) Within 2 years of [the effective date of this act], a utility shall submit an energy conservation assessment to the commission.

- (b) The energy conservation assessment must:
  - (i) be completed by an independent entity with experience in performing energy conservation evaluations for utilities;
  - (ii) estimate the amount of all available and achievable cost-effective energy conservation on the utility's system that could reasonably be acquired by all utility programs on or before December 31, 2023, and account for the effect of any state or federal energy conservation acquisition programs; and
  - (iii) be updated every 4 years.

(3) The energy conservation assessment must be accompanied by a plan for acquiring all cost-

1 effective energy conservation identified by the assessment, including the establishment of annual energy  
2 conservation targets. The annual energy conservation target may not be lower than 1% of retail load as  
3 identified in [section 2].

4 (4) (a) The commission shall, in accordance with a schedule established by commission rule,  
5 approve, disapprove, or modify the energy conservation assessment and the plan submitted by the utility under  
6 procedures established by commission rule.

7 (b) In making the determination pursuant to subsection (4)(a), the commission shall consider:

8 (i) compliance with the requirements of [sections 2 through 4];

9 (ii) the adequacy and methodological soundness of the analysis contained in the energy  
10 conservation assessment;

11 (iii) the amount of cost-effective energy conservation on the utility's system;

12 (iv) the need for energy and capacity resources;

13 (v) the benefits of energy conservation investments;

14 (vi) the reasonable capacity of the utility to implement cost-effective energy conservation programs  
15 and measures, including consideration of a reasonable and feasible schedule for the implementation of the  
16 programs and measures and the acquisition of cost-effective energy conservation;

17 (vii) that successful utility acquisition of energy conservation through utility programs depends in  
18 part on voluntary participation and actions by utility customers that, in turn, determine timing and levels of  
19 energy conservation that can be acquired and the establishment of reasonable targets;

20 (viii) that a utility's ability to acquire achievable energy conservation may be impacted by the  
21 availability of other state or federal energy conservation programs administered by or on behalf of the state or  
22 federal government or their agents;

23 (ix) the timeframe for acquiring total achievable cost-effective energy conservation, which may not  
24 be more than 20 years; and

25 (x) any other factor the commission determines relevant.

26 (5) If a utility is unable to meet the energy savings targets established pursuant to subsection (4),  
27 the utility shall provide an explanation of why the targets were not achieved. The report may include a request  
28 by the utility to adjust the target.

1           (6)     (a) At regular intervals, but not more often than every 4 years, under a schedule and through  
 2 procedures established by commission rule, a utility shall submit to the commission a comprehensive  
 3 measurement, verification, and program evaluation report prepared by an independent entity that has  
 4 experience in performing energy conservation program evaluations for utilities.

5           (b)     In preparing the report, the independent program evaluator shall:

6           (i)     measure and verify energy and demand savings;

7           (ii)    determine the cost-effectiveness of the energy conservation programs and measures;

8           (iii)   assess the performance of the utility or contractors of the utility in implementing energy  
 9 conservation programs and measures;

10          (iv)    provide recommendations on how program performance can be improved; and

11          (v)     include any other information the commission considers necessary.

12          (c)     The independent program evaluator may not be the same entity that prepared the energy  
 13 conservation assessment and plan pursuant to subsection (2).

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 15           NEW SECTION. Section 4. Energy conservation -- cost recovery and incentives. (1) The  
 16 commission shall provide for the timely recovery of the actual costs of prudent energy conservation activities,  
 17 including the energy conservation assessment, through annual cost adjustments, plus the interest on the  
 18 accumulated amount.

19          (2)     The commission shall allow an incentive for a utility's acquisition of cost-effective energy  
 20 conservation programs in excess of established annual energy conservation targets as identified in its most  
 21 recent energy conservation assessment.

22          (3)     In complying with subsection (2) the commission shall, subject to subsection (4), create a  
 23 performance-based incentive that shares the net economic benefits resulting from cost-effective energy  
 24 conservation acquired as a result of utility programs between the utility and its customers in excess of the  
 25 annual target as determined by the utility's most recent energy conservation assessment as follows:

26          (a)     at a ratio of 70% to customers and 30% to the utility for energy conservation acquisition  
 27 equaling or exceeding one-quarter of 1% of load above the annual target;

28          (b)     at a ratio of 60% to customers and 40% to the utility for energy conservation acquisition

1 equaling or exceeding one-half of 1% of load above the annual target; and

2 (c) provide other incentives the commission determines appropriate, including but not limited to  
3 incentives for energy conservation programs that deliver durable, multiyear, cost-effective energy savings and  
4 other energy conservation initiatives.

5 (4) Incentives rendered pursuant to subsection (3) apply only to the net economic benefits  
6 resulting from the first year of energy savings.

7 (5) (a) Subject to subsection (3), incentives must be granted annually based on preliminarily  
8 reported energy conservation acquisition figures.

9 (b) Incentives may be subject to a true-up based on evaluation, verification, and measurement  
10 findings as prescribed in [section 3].

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12 **NEW SECTION. Section 5. Commission authority -- rulemaking.** (1) The commission may  
13 promulgate rules necessary to implement [sections 1 through 5] and shall exercise its authority in a timely  
14 manner to provide certainty to each utility regarding their responsibilities under [sections 1 through 5].

15 (2) The commission shall, to the greatest extent possible, integrate any existing commission rules  
16 concerning utility acquisition of energy conservation with rules promulgated pursuant to [sections 1 through 5].

17 (3) In establishing procedures, the commission shall ensure that the due process rights of the  
18 utilities subject to the provisions of [sections 1 through 5] are not infringed on, and that the public has a right to  
19 participate in commission proceedings with respect to the utilities' acquisition of energy conservation.

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21 **NEW SECTION. Section 6. Codification instruction.** [Sections 1 through 5] are intended to be  
22 codified as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to [sections 1  
23 through 5].

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25 **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.

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