

MICHIGAN PUBLIC SERVICE COMMISSION (EXCERPT)
Act 3 of 1939

460.9t Low-income energy assistance fund.

Sec. 9t.

(1) The low-income energy assistance fund is created in the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund and credit to the fund interest and earnings from fund investments. Beginning December 1, 2025, and by each December 1 thereafter, the state treasurer shall report to the commission the total amount of money that was collected by the fund and the remaining balance of the fund from the immediately preceding fiscal year.

(3) Money in the fund at the close of the fiscal year remains in the fund and does not lapse to the general fund.

(4) The department of licensing and regulatory affairs is the administrator of the fund for auditing purposes.

(5) Subject to the limitations imposed in this section, the department of health and human services shall expend money from the fund, on appropriation, as provided in the Michigan energy assistance act, 2012 PA 615, MCL 400.1231 to 400.1235. The department of health and human services, in consultation with the commission, shall ensure that all money collected for the fund from a geographic area is returned, to the extent possible, to that geographic area and ensure the fund is administered to promote all of the following:

(a) Statewide access to the Michigan energy assistance program established in section 3 of the Michigan energy assistance act, 2012 PA 615, MCL 400.1233, ensuring that funds collected from a specific geographic area are, to the extent possible, returned to eligible low-income customers in that specific geographic area.

(b) Collaboration between the department of health and human services, the commission, energy providers, and entities that administer assistance programs to ensure that, to the extent possible, eligible low-income customers in a geographic area are receiving funds proportional to what customers in that geographic area are being assessed.

(c) For energy providers and entities that administer assistance programs, education and outreach on availability of the assistance programs and funding.

(6) Beginning March 1, 2027, and by each March 1 thereafter, the department of health and human services shall provide to the house and senate appropriations subcommittee for the department of health and human services budget and the house and senate standing committees on energy a report that contains all of the following information:

(a) The distribution of money from the fund across this state.

(b) A summary of total funds received and assistance awarded for each county in this state.

(c) A summary of the education, marketing, and outreach to improve the distribution of funds.

(7) The department of health and human services may combine the report required under subsection (6) with the report required under section 3 of the Michigan energy assistance act, 2012 PA 615, MCL 400.1233.

(8) Subject to the limitations imposed in this subsection, the commission may, after an opportunity to comment, annually approve a low-income energy assistance funding factor no later than May 1 of each year for the subsequent fiscal year. The low-income energy assistance funding factor must be the same across all customer classes. Before the effective date of the 2024 amendatory act that amended this section, the low-income energy assistance funding factor must not exceed a cap of \$1.00. Beginning on the effective date of the 2024 amendatory act that amended this section, the commission may increase the low-income energy assistance funding factor to \$1.25 and by not more than \$0.25 each year thereafter. Subject to this subsection, the low-income energy assistance funding factor must not exceed a cap of \$2.00. Beginning in 2029, and each year thereafter, the commission shall adjust the cap on the low-income energy assistance funding factor by the percentage increase in the United States Consumer Price Index for the immediately preceding calendar year. If the remaining balance reported under subsection (2) is greater than 10% of the funds collected by the low-income energy assistance funding factor in the fiscal year for which the remaining balance was reported, the commission shall set the low-income energy assistance funding factor at a rate at which the total funds collected will not exceed the total amount of funds collected by the low-income energy assistance funding factor in the year for which the report under subsection (2) is made minus the remaining balance reported under subsection (2). An electric utility, municipally owned electric utility, or cooperative electric utility that collects money under this subsection shall remit that money to the state treasurer for deposit in the fund on a monthly basis no later than 30 days after the last day in each calendar month. The electric utility, municipally owned electric utility, or cooperative electric utility shall list the low-income energy assistance funding factor as a separate line item on each customer's bill.

(9) An electric utility, municipally owned electric utility, or cooperative electric utility with fewer than 45,000 residential electric customers may elect to opt out of a low-income energy assistance funding factor under this section by annually filing a notice with the public service commission by April 1. The notice filed by the utility must include the total number of retail billing meters the utility serves in this state that would be subject to the low-

income energy assistance funding factor if the utility were not opting out. The utility shall provide the number of retail billing meters to the commission as both a total of retail billing meters in the utility's service territory and a total of billing meters by county.

(10) An electric utility, municipally owned electric utility, or cooperative electric utility that opts out under subsection (9) must establish and fund an energy assistance program for its residential customers that provides assistance to its residential customers for both their electric and home heating needs consistent with the eligibility requirements of the Michigan energy assistance program established in section 3 of the Michigan energy assistance act, 2012 PA 615, MCL 400.1233. An electric utility, municipally owned utility, or cooperative electric utility shall ensure that the funds available for energy assistance programs established under this subsection are sufficient to provide assistance to all eligible customers who apply, but the utility is not required to spend more for an energy assistance program than what the utility would have collected from the low-income energy assistance funding factor if the utility did not opt out under subsection (9). Beginning October 1, 2025, and annually thereafter, an electric utility, municipally owned utility, or cooperative electric utility that opts out under subsection (9) shall provide notice to its residential customers of available energy assistance provided by the utility. The notice must include a description of the program, eligibility guidelines, application information, and a statement that the utility's assistance program is offered instead of collecting the low-income energy assistance factor. The utility shall include information regarding the assistance program on its website. Beginning December 1, 2026, and annually thereafter, an electric utility, municipally owned utility, or cooperative electric utility that opts out under subsection (9) shall submit to the commission a report that contains the following information:

(a) The total amount of funds available for energy assistance for the utility's customers.

(b) The total number of the utility's customers, by county, that applied for energy assistance through the utility program.

(c) The total number of the utility's customers, by county, that received assistance.

(d) The total amount of assistance provided to the utility's customers, by county, including a description of the amount of assistance provided for each home heating commodity.

(e) Any other information the commission considers necessary to demonstrate compliance with this subsection.

(11) The commission may develop a template that utilities may use to meet the reporting requirements of subsection (10).

(12) The attorney general or a customer of a municipally owned utility or cooperative electric utility that opts out under subsection (9) may commence a civil action for injunctive relief against the municipally owned utility or cooperative electric utility if that utility fails to meet the requirements of this section. The attorney general or customer shall commence an action under this subsection in the circuit court for the county in which the principal office of the utility is located. The attorney general or customer shall not file an action under this subsection unless the attorney general or customer has given the utility at least 60 days' written notice of the intent to sue, the basis for the suit, and the relief sought. Not later than 30 days after the utility receives written notice of the intent to sue, the utility and the attorney general or customer shall meet and make a good-faith attempt to determine if there is a credible basis for the action. The utility shall take all reasonable and prudent steps necessary to comply with the applicable requirements of this section within 90 days after the meeting if there is a credible basis for the action. If the parties do not agree as to whether there is a credible basis for the action, the attorney general or customer may proceed to file the suit. The commission shall ensure that an electric utility that opts out under subsection (9) complies with this subsection and may, after opportunity for a hearing, take steps to enforce the requirements of this subsection.

(13) An electric utility, municipally owned electric utility, cooperative electric utility, that does not opt out under subsection (9), or association representing a municipally owned electric utility or cooperative electric utility that does not opt out under subsection (9), shall annually provide to the commission by April 1 the number of retail billing meters it serves in this state that are subject to the low-income energy assistance funding factor. The utility shall provide the number of retail billing meters to the commission as both a total of retail billing meters in the utility's service territory and a total of billing meters by county.

(14) This act does not give the commission the power to regulate a municipally owned electric utility.

(15) As used in this section:

(a) "Fund" means the low-income energy assistance fund created in subsection (1).

(b) "Low-income energy assistance funding factor" means a nonbypassable surcharge on each retail billing meter payable monthly by every customer receiving a retail distribution service from an electric utility, municipally owned electric utility, or cooperative electric utility, that does not opt out under subsection (9), regardless of the identity of the customer's electric generation supplier. The low-income energy assistance funding factor must not be charged on more than 1 residential meter per residential site.

(c) "United States Consumer Price Index" means the United States Consumer Price Index for all urban consumers as defined and reported by the United States Department of Labor, Bureau of Labor Statistics.

History: Add. 2013, Act 95, Imd. Eff. July 1, 2013 ;-- Am. 2024, Act 168, Eff. Apr. 2, 2025 ;-- Am. 2024, Act 169, Eff. Apr. 2, 2025