

BALLOT LANGUAGE FOR INITIATIVE NO. 180 (I-180)

INITIATIVE NO. 180

A LAW PROPOSED BY INITIATIVE PETITION

I-180 incrementally requires investor-owned utilities in Montana to supply more electricity from renewable energy sources like wind, solar, geothermal, and new hydroelectric. By 2030, 50% must come from renewable energy sources; by 2050, 80%. Utilities may only use hydroelectric sources existing before 2005 to meet renewable energy mandates when their total renewable energy portfolio, including hydroelectric sources, is at least 80%. I-180 prohibits rate increases beyond 2% annually for costs associated with the mandates. I-180 requires each cooperative utility to hold elections to determine whether it should adopt the mandates. Anticipating closure of coal mines, electrical generating plants, and railroad facilities due to required reductions in carbon dioxide emissions, I-180 levies taxes on each kilowatt of electricity produced to fund worker retraining programs and pension safety nets, and to offset coal severance tax revenue reductions.

I-180 establishes two new taxes on each kilowatt of electricity produced in Montana, increasing 2017-2021 general fund revenues a total of \$329,025 to supplant declining coal severance tax revenues, and raising \$20.4 million by 2021 to fund worker retraining. The volume of displaced workers who will seek assistance is unknown.

YES on Initiative I-180

NO on Initiative I-180

THE COMPLETE TEXT OF INITIATIVE NO. 180 (I-180)

Be it enacted by the People of the State of Montana:

Section 1. Section 5-5-230, MCA, is amended to read:

"5-5-230. Energy and telecommunications interim committee. (1) The energy and telecommunications interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the department of public service regulation and the public service commission.

(2) For the interim beginning in 2021, the energy and telecommunications interim committee shall:

(a) review and evaluate the effect that reduction in fossil fuel use is having and will have on:

(i) employment and pensions of fossil fuel workers; and

(ii) the decrease in revenue received pursuant to the Montana coal severance tax; and

(b) make recommendations regarding:

(i) modifications in the tax rates in [section 9]; and

(ii) training and benefits for fossil fuel workers affected by the reduction in fossil fuel use."

Section 2. Section 69-3-2003, MCA, is amended to read:

"69-3-2003. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Ancillary services" means services or tariff provisions related to generation and delivery of electric power other than simple generation, transmission, or distribution. Ancillary services related to transmission services include energy losses, energy imbalances, scheduling and dispatching, load following, system protection, spinning reserves and nonspinning reserves, and reactive power.

(2) "Balancing authority" means a transmission system control operator who balances electricity supply and load at all times to meet transmission system operating criteria and to provide reliable electric service to customers.

(3) "Common ownership" means the same or substantially similar persons or entities that maintain a controlling interest in more than one community renewable energy project even if the ownership shares differ between two community renewable energy projects. Two community renewable energy projects may not be considered to be under common ownership simply because the same entity provided debt or equity or both debt and equity to both projects.

(4) "Community renewable energy project" means an eligible renewable resource that:

(a) is interconnected on the utility side of the meter in which local owners have a controlling interest and that is less than or equal to 25 megawatts in total calculated nameplate capacity; ~~or~~

(b) is owned by a public utility and has less than or equal to 25 megawatts in total calculated nameplate capacity;

(c) is interconnected on the customer side of the meter, is located on property owned by the same person who owns the eligible renewable resource, and is less than or equal to 3 megawatts in total calculated nameplate capacity; or

(d) is interconnected on the customer side of the meter, is leased to a person owning property in Montana, is located on property owned by the lessee pursuant to a lease-

purchase agreement that meets the requirements of subsection (11), and is less than or equal to 3 megawatts in total calculated nameplate capacity.

(5) (a) "Competitive electricity supplier" means any person, corporation, or governmental entity that is selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or cooperative.

(b) The term does not include governmental entities selling electricity produced only by facilities generating less than 250 kilowatts that were in operation prior to 1990.

(6) "Compliance year" means each calendar year beginning January 1 and ending December 31, starting in 2008, for which compliance with this part must be demonstrated.

(7) "Cooperative utility" means:

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

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

(8) "Dispatch ability" means the ability of either a balancing authority or the owner of an electric generating resource to rapidly start, stop, increase, or decrease electricity production from that generating resource in order to respond to the balancing authority's need to match supply resources to loads on the transmission system.

(9) "Electric generating resource" means any plant or equipment used to generate electricity by any means.

(10) "Eligible renewable resource" means a facility either located within Montana or delivering electricity from another state into Montana that commences commercial operation after January 1, 2005, or a hydroelectric project expansion referred to in subsection (10)(d)(iv), any of which produces electricity from one or more of the following sources:

(a) wind;

(b) solar;

(c) geothermal;

(d) water power, in the case of a hydroelectric project that:

(i) does not require a new appropriation, diversion, or impoundment of water and that has a nameplate rating of 10 megawatts or less;

(ii) is installed at an existing reservoir or on an existing irrigation system that does not have hydroelectric generation as of April 16, 2009, and has a nameplate capacity of 15 megawatts or less; ~~or~~

(iii) meets the requirements for becoming an eligible renewable resource set forth in 69-3-2004(4); or

~~(iii)~~ (iv) is an expansion of an existing hydroelectric project that commences construction and increases existing generation capacity on or after October 1, 2013. Engineering estimates of the average incremental generation from the increase in existing generation capacity must be submitted to the commission for review. The commission shall determine an average annual incremental generation that will constitute the eligible renewable resource from the capacity expansion, subject to further revision by the commission in the event of significant changes in stream flow or dam operation.

(e) landfill or farm-based methane 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, including wood pieces that have been treated with chemical preservatives, such as creosote, pentachlorophenol, or copper-chrome arsenic, and that are used at a facility that has a nameplate capacity of 5 megawatts or less;

(h) hydrogen derived from any of the sources in this subsection (10) for use in fuel cells; and

(i) the renewable energy fraction from:

(i) the sources identified in this subsection (10) of electricity production from a multiple-fuel process with fossil fuels;

(ii) flywheel storage as defined in 15-6-157(4)(d);

(iii) hydroelectric pumped storage as defined in 15-6-157(4)(e);

(iv) batteries; and

(v) compressed air derived from any of the sources in this subsection (10) that is forced into an underground storage reservoir and later released, heated, and passed through a turbine generator.

(11)(a) "Lease-purchase agreement" means an agreement between the lessor and a lessee establishing the terms for the lessee's eventual ownership of the resource before or at the end of the lease period. For purposes of this subsection (11), a lessor is an owner of an eligible renewable resource and a lessee owns property where the eligible renewable resource is located. The agreement must include a specific dollar amount by which the lessee or lessee's successor may exercise a right to purchase the eligible renewable resource at each time the right to purchase under the agreement may be exercised.

(b) Unless both parties mutually agree, terms of the lease-purchase agreement may not be determined after a lease is signed.

(c) This subsection (11) does not apply to transactions entered into pursuant to Title 69, chapter 3, part 6, unless the utility is the lessor.

~~(11)~~(12) "Local owners" means:

(a) Montana residents;

(b) general partnerships of which all partners are Montana residents;

(c) business entities organized under the laws of Montana that:

(i) have less than \$50 million of gross revenue;

(ii) have less than \$100 million of assets; and

(iii) have at least 50% of the equity interests, income interests, and voting interests

owned by Montana residents;

(d) Montana nonprofit organizations;

(e) Montana-based tribal councils;

(f) Montana political subdivisions or local governments;

(g) Montana-based cooperatives other than cooperative utilities; or

(h) any combination of the individuals or entities listed in subsections ~~(11)(a)~~ (12)(a) through ~~(11)(g)~~ (12)(g).

~~(12)~~(13) "Nonspinning reserve" means offline generation that can be ramped up to capacity and synchronized to the grid within 10 minutes and that is needed to maintain system frequency stability during emergency conditions, unforeseen load swings, and generation disruptions.

~~(13)~~(14) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter 3, on January 1, 2005, including the public utility's successors or assignees.

~~(14)~~(15) "Renewable energy credit" means a tradable certificate of proof of 1 megawatt hour of electricity generated by an eligible renewable resource that is tracked and verified by the commission and includes all of the environmental attributes associated with that 1 megawatt-hour unit of electricity production.

~~(15)~~(16) "Renewable energy fraction" means the proportion of electricity output directly attributable to electricity and associated renewable energy credits produced by one of the sources identified in subsection (10).

~~(16)~~(17) "Seasonality" means the degree to which an electric generating resource is capable of producing electricity in each of the seasons of the year.

~~(17)~~(18) "Small customer" means a retail customer that has an individual load with an average monthly demand of less than 5,000 kilowatts.

~~(18)~~(19) "Spinning reserve" means the online reserve capacity that is synchronized to the grid system and immediately responsive to frequency control and that is needed to maintain system frequency stability during emergency conditions, unforeseen load swings, and generation disruptions.

~~(19)~~(20) "Total calculated nameplate capacity" means the calculation of total nameplate capacity of the community renewable energy project and other eligible renewable resources that are:

- (a) located within 5 miles of the project;
- (b) constructed within the same 12-month period; and
- (c) under common ownership."

Section 3. Section 69-3-2004, MCA, is amended to read:

"69-3-2004. Renewable resource standard -- administrative penalty -- waiver. (1)

Except as provided in ~~69-3-2007~~ [section 7] and subsections (11) through (14) of this section, a graduated renewable energy standard is established for public utilities and competitive electricity suppliers as provided in subsections ~~(2) through (4)~~ (2) and (3) of this section.

~~(2) In each compliance year beginning January 1, 2008, through December 31, 2009, each public utility and competitive electricity supplier shall procure a minimum of 5% of its retail sales of electrical energy in Montana from eligible renewable resources.~~

~~(3) (a) In each compliance year beginning January 1, 2010, through December 31, 2014, each public utility and competitive electricity supplier, except as provided in subsections (13) and (14), shall procure a minimum of 10% of its retail sales of electrical energy in Montana from eligible renewable resources.~~

~~(b) Beginning January 1, 2012, as part of their compliance with subsection (3)(a), public utilities shall purchase both the renewable energy credits and the electricity output from community renewable energy projects that total at least 50 megawatts in nameplate capacity.~~

~~(c) Public utilities shall proportionately allocate the purchase required under subsection (3)(b) based on each public utility's retail sales of electrical energy in Montana in the calendar year 2011.~~

~~(4) (2)(a) In the each compliance year beginning January 1, 2015, and in each succeeding compliance year, through December 31, 2017, each public utility and competitive electricity supplier, except as provided in subsections (13) and (14), shall procure a minimum of 15% of its retail sales of electrical energy in Montana from eligible renewable resources.~~

~~(b) (i) As part of their compliance with subsection (4)(a) (2)(a), public utilities shall purchase both the renewable energy credits and the electricity output from community renewable energy projects that total at least 75 megawatts in nameplate capacity.~~

~~(ii) In meeting the standard in subsection (4)(b)(i) (2)(b)(i), a public utility may include purchases made under subsection (3)(b) electricity and renewable energy credit purchases made from community renewable energy projects.~~

~~(c) Public utilities shall proportionately allocate the purchase required under subsection~~

~~(4)(b)~~ (2)(b) based on each public utility's proportion of the total retail sales of electrical energy by public utilities in Montana in the calendar year 2014.

(3) (a) Except as provided in subsections (13) and (14), each public utility and competitive electricity supplier, in the compliance year beginning:

(i) January 1, 2018, shall procure a minimum of 19% of its retail sales of electrical energy in Montana from eligible renewable resources;

(ii) January 1, 2019, and in each succeeding compliance year through December 31, 2025, shall procure an additional 3%, incrementally increased each year by 3% and totaling 40% in 2025, of its retail sales of electrical energy in Montana from eligible renewable resources;

(iii) January 1, 2026, and in each succeeding compliance year through December 31, 2040, shall procure an additional 2%, incrementally increased each year by 2% and totaling 70% in 2040, of its retail sales of electrical energy in Montana from eligible renewable resources;

(iv) January 1, 2041, and in each succeeding compliance year through December 31, 2050, shall procure an additional 1%, incrementally increased each year by 1% and totaling 80% in 2050, and thereafter, of its retail sales of electrical energy in Montana from eligible renewable resources.

(b) (i) To comply with this subsection (3), public utilities shall purchase both the renewable energy credits and the electricity output from community renewable energy projects equal to at least 15% of the calculated nameplate capacity added during the year.

(ii) Each year, the annual purchase requirements of subsection (3)(b)(i) must be added to purchases previously required of a public utility under subsection (2)(b) to arrive at the total electricity output required to be produced by community renewable energy projects during each succeeding year.

(4) (a) In accordance with subsection (7)(d) as part of compliance with this section, a public utility or competitive electricity supplier may count as an eligible renewable resource a hydroelectric facility not otherwise an eligible renewable resource under 69-3-2003(10)(d) if the annual output of electricity by all hydroelectric facilities owned by the utility or competitive electricity supplier, plus the annual output of electricity required for the public utility or competitive electricity supplier to meet the requirements of 69-3-2004(2) and (3), is equal to or more than 80% of the annual sales of electricity for the public utility or competitive electricity supplier.

(b) When calculating electricity from hydroelectric facilities, a public utility or competitive electricity supplier may not count electricity purchased from hydroelectric facilities not owned by the utility or the competitive electric supplier unless the hydroelectric facility producing the electricity is an eligible renewable resource as defined in 69-3-2003.

(5) (a) In complying with the standards required under subsections (2) ~~through (4)~~ and (3), a public utility or competitive electricity supplier shall, for any given compliance year, calculate its procurement requirement based on the public utility's or competitive electricity supplier's previous year's sales of electrical energy to retail customers in Montana.

(b) The standards in subsections (2) ~~through (4)~~ and (3) must be calculated on a delivered-energy basis after accounting for any line losses.

(6) A public utility or competitive electricity supplier has until 3 months following the end of each compliance year to purchase renewable energy credits for that compliance year.

(7) (a) In order to meet the standards established in subsections (2) ~~through (4)~~ and (3), a public utility or competitive electricity supplier may only use:

(i) electricity from an eligible renewable resource in which the associated renewable

energy credits have not been sold separately;

(ii) renewable energy credits created by an eligible renewable resource purchased separately from the associated electricity; or

(iii) any combination of subsections (7)(a)(i) and (7)(a)(ii).

(b) A public utility or competitive electricity supplier may not resell renewable energy credits and count those sold credits against the public utility's or the competitive electricity supplier's obligation to meet the standards established in subsections (2) ~~through (4)~~ and (3).

(c) Renewable energy credits sold through a voluntary service such as the one provided for in 69-8-210(2) may not be applied against a public utility's or competitive electricity supplier's obligation to meet the standards established in subsections (2) ~~through (4)~~ and (3).

(d) Renewable energy credits from an eligible renewable resource that are not used by a public utility, competitive electricity supplier, community renewable energy project, or Montana property owner that owns the eligible renewable resource to meet the requirements of this section may be sold to other public utilities, competitive electricity suppliers, cooperative utilities, municipal utilities, or other entities meeting the requirements of this section or meeting renewable energy procurement requirements in other places.

(8) Nothing in this part limits a public utility or competitive electricity supplier from exceeding the standards established in subsections (2) ~~through (4)~~ and (3).

(9) If a public utility or competitive electricity supplier exceeds a standard established in subsections (2) ~~through (4)~~ and (3) in any compliance year, the public utility or competitive electricity supplier may carry forward the amount by which the standard was exceeded to comply with the standard in ~~either or both~~ any or all of the ~~2~~ subsequent compliance years. The carryforward may not be double-counted.

(10) Except as provided in subsections (11) and (12), if a public utility or competitive electricity supplier is unable to meet the standards established in subsections (2) ~~through (4)~~ and (3) in any compliance year, that public utility or competitive electricity supplier shall pay an administrative penalty, assessed by the commission, of \$10 for each megawatt hour of renewable energy credits that the public utility or competitive electricity supplier failed to procure. A public utility may not recover this penalty in electricity rates. Money generated from these penalties must be deposited in the universal low-income energy assistance fund established in 69-8-412(1)(b).

(11) A public utility or competitive electricity supplier may petition the commission for a short-term waiver from full compliance with the standards in subsections (2) ~~through (4)~~ and (3) and the penalties levied under subsection (10). The petition must demonstrate that the:

(a) public utility or competitive electricity supplier has undertaken all reasonable steps to procure renewable energy credits under long-term contract, but full compliance cannot be achieved either because renewable energy credits cannot be procured or for other legitimate reasons that are outside the control of the public utility or competitive electricity supplier; or

(b) integration of additional eligible renewable resources into the electrical grid will clearly and demonstrably jeopardize the reliability of the electrical system and that the public utility or competitive electricity supplier has undertaken all reasonable steps to mitigate the reliability concerns.

(12) (a) Retail sales made by a competitive electricity supplier according to prices, terms, and conditions of a written contract executed prior to April 25, 2007, are exempt from the

standards in subsections (2) ~~through (4)~~ and (3).

(b) The exemption provided for in subsection (12)(a) is terminated upon:

(i) modification after April 25, 2007, of the prices, terms, or conditions in a written contract; or

(ii) extension of the contract.

(13) A public utility that served 50 or fewer retail customers in Montana on December 31, 2012, is exempt from the requirements of subsections (2) ~~through (4)~~ and (3).

(14) (a) A competitive electricity supplier with four or fewer small customers in Montana is exempt from the requirements of subsections (2) ~~through (4)~~ and (3).

(b) For the purposes of determining the number of small customers served by a competitive electricity supplier, an entity that purchases electricity for commercial or industrial use and does not resell electricity to others is one small customer regardless of the number of its metered locations."

Section 4. Section 69-3-2005, MCA, is amended to read:

"69-3-2005. Procurement -- cost recovery -- reporting. (1) In meeting the requirements of this part, a public utility shall:

(a) conduct renewable energy solicitations under which the public utility offers to purchase renewable energy credits, either with or without the associated electricity, under contracts of at least 10 years in duration;

(b) consider the importance of geographically diverse rural economic development when procuring renewable energy credits; and

(c) consider the importance of dispatch ability, seasonality, and other attributes of the eligible renewable resource contained in the commission's supply procurement rules when considering the procurement of renewable energy or renewable energy credits.

(2) A public utility that intends to enter into contracts of less than 10 years in duration shall demonstrate to the commission that these contracts will provide a lower long-term cost of meeting the standard established in 69-3-2004.

(3) (a) Contracts signed for projects located in Montana must require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if the Montana residents have substantially equal qualifications to those of nonresidents.

(b) Contracts signed for projects located in Montana must require all contractors to pay the standard prevailing rate of wages for heavy construction, as provided in 18-2-414, during the construction phase of the project.

(4) All contracts signed by a public utility to meet the requirements of this part are eligible for advanced approval under procedures established by the commission. Upon advanced approval by the commission, these contracts are eligible for cost recovery from ratepayers, except that nothing in this part limits the commission's ability to subsequently, in any future cost-recovery proceeding, inquire into the manner in which the public utility has managed the contract and to disallow cost recovery if the contract was not reasonably administered.

(5) A public utility or competitive electricity supplier shall submit renewable energy procurement plans to the commission in accordance with rules adopted by the commission. The plans must be submitted to the commission on or before:

(a) June 1, 2013 ~~2017~~, for the standard required in ~~69-3-2004(4)~~ 69-3-2004(3)(a)(i); and

(b) June 1, 2018, for the standard required in 69-3-2004(3)(a)(ii);

(c) June 1, 2024, for the standard required in 69-3-2004(3)(a)(iii);

(d) June 1, 2039, for the standard required in 69-3-2004(3)(a)(iv); and
~~(b)~~(e) any additional future dates as required by the commission.

(6) A public utility or competitive electricity supplier shall submit annual reports, in a format to be determined by the commission, demonstrating compliance with this part for each compliance year. The reports must be filed by March 1 of the year following the compliance year.

(7) For the purpose of implementing this part, the commission has regulatory authority over competitive electricity suppliers."

Section 5. Section 69-3-2006, MCA, is amended to read:

"69-3-2006. Commission authority -- rulemaking authority. (1) The commission has the authority to generally implement and enforce the provisions of this part.

(2) The commission shall adopt rules before ~~June 1, 2006~~ June 1, 2017, to:

(a) select a renewable energy credit tracking system to verify compliance with this part;

(b) establish a system by which renewable resources become certified as eligible renewable resources;

(c) define the process by which waivers from full compliance with this part may be granted;

(d) establish procedures under which contracts for eligible renewable resources and renewable energy credits may receive advanced approval;

(e) define the requirements governing renewable energy procurement plans and annual reports; ~~and~~

(f) establish maximum retail rate impacts in accordance with [section 7]; and

~~(f)~~(g) generally implement and enforce the provisions of this part.

(3) The commission may adopt rules to ensure that the calculation of energy generation and the renewable energy credits for eligible renewable resources under 69-3-2003(10)(d)(iii) and (10)(d)(iv) reflects the actual electrical production from the expansion as typically reduced by seasonal water conditions."

Section 6. Section 69-3-2008, MCA, is amended to read:

"69-3-2008. Cooperative utility -- exemption -- standard. (1) A Except as provided in [section 8] and subsection (2) of this section, a cooperative utility is exempt from the graduated renewable energy standard established in 69-3-2004.

(2) (a) Each governing body of a cooperative utility that has 5,000 or more customers that serves 100 or more meters or is a generation and transmission cooperative as defined in 35-18-318 is responsible for implementing and enforcing a renewable energy standard for that cooperative utility or that generation and transmission cooperative that recognizes the intent of the legislature and the people of Montana to encourage new renewable energy production and rural economic development, while taking into consideration the effect of the standard on rates, reliability, jobs, and financial resources.

(b) To meet the requirements of subsection (2)(a), a cooperative utility or generation and transmission cooperative shall comply with [section 8]."

NEW SECTION. Section 7. Cost caps -- retail rates. (1)(a) The commission shall establish a maximum retail rate impact for each public utility and competitive electricity supplier required to meet the standards established in 69-3-2004(2) and (3).

(b) The retail rate impact may be no more than 2% of the total electric bill annually for each customer.

(c) The retail rate impact must be determined net of new eligible renewable resources of electricity supply from energy resources that are not eligible renewable resources and are reasonably available at the time of the determination.

(2) Subject to the maximum retail rate impact permitted by this section, a public utility or competitive electricity supplier may determine the price paid for renewable energy credits from customer-generators as defined in 69-8-103. The public utility or competitive electricity supplier may not discriminate in determining the price paid for renewable energy credits.

NEW SECTION. Section 8. Renewable energy requirements -- voluntary participation -- cooperative duties. (1)(a) Beginning within the year after December 31, 2016, the governing body of a cooperative utility as defined in 69-3-2003 shall, once every four years, provide a secret mail ballot to each cooperative utility member.

(b) The ballot must be submitted to the cooperative utility members in substantially the following form, but may include other questions:

(i) Shall (insert name of cooperative utility) voluntarily comply with section 69-3-2004 of the Montana Renewable Power Production and Rural Economic Development Act in accordance with 69-3-2008 by procuring (insert relevant percentage obtained from 69-3-2004) % of the power used to serve utility customers from eligible renewable resources by (insert relevant year five years from the date of the poll)?

YES.

NO.

(ii) As a member of (insert name of cooperative utility), will you commit to purchasing for (insert price) per kWh, electricity generated from an eligible renewable resource as defined in 69-3-2003 regardless of what type of electric generation is utilized to serve other members?

YES.

NO.

(c) If by a majority of the mail ballots returned to the cooperative, the cooperative membership votes to voluntarily comply with 69-3-2004, the governing body of the cooperative must take steps to bring the cooperative into compliance.

(2) (a) A cooperative utility shall semi-annually mail to its customers an offer to purchase, in lieu of power from the utility's fossil fuel power portfolio, a product composed of or supporting, in whole or in part, power from an eligible renewable resource as defined in 69-3-2003 at, notwithstanding subsection (3)(a) of this section, whatever price is available.

(b) The semi-annual offer may be included in a cooperative utility customer's regular bill.

(c) If a customer purchases a product pursuant to subsection (2)(a) and the cooperative utility is voluntarily complying with standards established in 69-3-2004 and 69-3-2008, the purchases may be used by the cooperative utility in meeting the voluntary compliance standards.

(3) (a) Except as provided in subsection (3)(b), the retail rate impact of a cooperative utility's voluntary compliance with 69-3-2004 and 69-3-2008 may be no more than 2% of the total electric bill annually for each customer.

(b) Subject to it being ratified by a majority of those voting at a cooperative annual meeting, or by a majority of the mail ballots on the question returned by cooperative

members, the governing body of a cooperative utility may agree by a majority vote to exceed the retail rate impact provided for in subsection (3)(a).

(4) If a governing board of a cooperative utility that is a member of a generation and transmission cooperative as defined in 35-18-318 requests that the generation and transmission cooperative offer the member cooperative utility the opportunity to purchase their load ratio share of the generation and transmission cooperative's electricity supply from an eligible renewable resource, the generation and transmission cooperative shall accommodate the member cooperative utility's request. The request must comply with 35-18-318 and the request may be enforced at the discretion of a court via a motion by any cooperative member for an affirmative injunction compelling compliance.

(5)(a) If a cooperative utility, whose members wish to purchase energy generated by eligible renewable resources, is limited in its ability to acquire eligible renewable resources by a requirements contract with a generation and transmission cooperative as defined in 35-18-318 or other supplier of electricity, the cooperative utility or other supplier must acquire whatever amount allowed by the contract that will fulfill or partially fulfill the members' request.

(b) Contracts with a cooperative consenting to voluntarily comply with 69-3-2004(2) or (3) are subject to 69-3-2004(12).

NEW SECTION. Section 9. Coal Severance Tax Gradual Replacement Tax.

(1) [Section 9] may be cited as the "Coal Severance Tax Gradual Replacement Tax."

(2) As society transfers to energy generation using less coal, revenue which now comes from the coal severance tax will be lost. It is the policy of the state of Montana to replace it by an electrical production tax found in subsections (4) through (7), passed through to in-state and out-of-state energy consumers who will benefit by the transition to cleaner, lower cost methods of producing electricity.

(3) The tax rates found in subsection (4) have been determined as follows:

(a) In 2015, the coal severance tax brought in \$60,891,414. About 23% of Montana's coal is used to produce electricity here.

(b) Reducing that \$60,891,414 amount by 23% and further reducing that amount by 80% produces an estimate that coal tax revenue would be reduced by \$11,204,020 per year in 2050 if Montanans transition to 80% renewable electricity by then.

(c) To produce \$11,204,020 in revenue it would require a tax on annual Montana electricity production (i.e., 21.4 billion kWh) of \$0.00053 per kilowatt hour (kWh).

(d) Since the loss of coal tax severance revenue will be gradual over the years between 2017 and 2050, the electricity production tax to replace it can be phased in. It will require a \$0.00021 per kilowatt hour (kWh) tax on electricity production to replace the estimated \$448,161 coal tax revenue lost in 2017 as the transition begins; a slightly higher rate found in subsection (4)(b) through (4)(d) will be needed in subsequent years.

(e) Thus, to cover coal severance tax revenue loss, Montanans intend that the electric production tax used as a substitute, would cost a consumer using 1000 kWh of electricity a month, \$0.26/year in years 2017 & 2018, \$1.01/year in years 2019 through 2025, \$2.69/year in years 2025 through 2050, and \$6.36 a year thereafter. The Coal Severance Tax Gradual Replacement Tax for consumers using 2000 kWh of electricity a month, that is, twice the amount of electricity, will cost twice these amounts in taxes, and so on. The savings from eliminating fuel costs, which include the coal severance tax being replaced, are intended to exceed the cost of the replacement tax.

(4) Beginning January 1, 2017, subject to the provision of subsection 6, each person

engaged in the generation, manufacture, or production of electricity in Montana (also known as the “producer” in statutes referenced in subsection (7)) shall on or before the 30th day after each quarter ending March 31, June 30, September 30, and December 31 render to the department of revenue a statement showing the gross amount required to produce the electricity generated during the preceding quarter without any deduction and shall pay a license tax on this electricity, measured at the place of production and as shown on the statement required, in the manner and within the time provided in the provisions referenced in subsection (7), in the sum of:

- (a) \$0.000021 per kilowatt hour (kWh) for the years 2017 and 2018;
- (b) \$0.000084 per kilowatt hour for the years 2019 through 2025;
- (c) \$0.000224 per kilowatt hour for the years 2026 through 2050;
- (d) \$0.00053 per kilowatt hour for the year 2051 and each year thereafter.

(5) For purposes of subsection (4), the generation, manufacture, or production of electricity includes but is not limited to water power, wind, solar, coal, natural gas, geothermal, coalbed methane, or any other means of electricity generation for barter, sale, or exchange. Electricity that is reasonably used for the production of the electricity is not included.

(6) Persons with generating units rated less than 3 megawatts of generating capacity are not required to render a statement or to remit an electrical energy production tax to the department of revenue on the production of those generating units. If a generating unit or group of units is net metered through a metering system showing gross energy production and has a capacity rating of 30 kW or higher, the utility to which the unit is metered shall include the electricity production of the generating unit in its report to the department of revenue and remit the required license tax on that production. The utility may include in its bill to the net metered customer an amount equal to the tax remitted for that customer’s production and non-net kWh used.

(7) The tax in subsections (4) and (5) must be administered pursuant to the provisions of 15-51-102, 15-51-103, 15-51-104, 15-51-106, and 15-51-109 through 15-51-114.

(8) The amounts collected pursuant to this [Section 9] must be treated as if they had been collected from the coal severance tax.

NEW SECTION. Section 10. Short Title. [Sections 10 through 20] may be cited as the “Displaced Fossil Fuel Worker Retraining Act.”

NEW SECTION. Section 11. Policy. (1) This chapter establishes an affirmative policy to enable the retraining of displaced fossil fuel workers. This includes but is not limited to providing necessary counseling, training, jobs services, and health care for displaced fossil fuel workers and their families as society transitions to a new energy economy embracing renewable energy. This chapter also establishes a safety net for fossil fuel pensioners by augmenting pensions that are not fully funded because the pensioners’ employers are bankrupt or defunct.

(2) To defray all costs of the displaced fossil fuel worker and fossil fuel pensioner programs, it is the policy of the state of Montana to assess the electricity production tax in [section 20(1)(a) & (c)], passed through to in-state and out-of-state energy consumers who will benefit by the transition to methods of producing electricity which eliminate the fossil fuel cost component from the utility bill. The policy includes, for example, for a consumer using 1000 kWh of electricity a month, a cost of \$0.20/month or \$2.40/year for 5 years (or multiples thereof for greater use), and assessments only as needed in subsequent years.

NEW SECTION. Section 12. Definitions. As used in this chapter, the following definitions apply:

(1) "Coal company" means an entity licensed to do business in Montana and engaged in the business of mining coal.

(2) "Department" means the department of labor and industry provided for in 2-15-1701.

(3) "Displaced fossil fuel worker" means a person who:

(a) has worked for a coal company, railroad company, or utility company in Montana for at least 24 months prior to losing a full-time job or a part-time job as defined in 39-11-103, whether year-round or seasonal employment with the company, because the company downsized its workforce by reducing output from or closing Montana coal mines, or Montana electrical generating plants, or by reducing the amount of coal hauled in Montana by rail; and

(b) is unemployed or underemployed and is experiencing difficulty obtaining appropriate or suitable employment.

(4) "Displaced fossil fuel workers' fund" means the fund created pursuant to [Section 11] which must be:

(a) a fund containing a dedicated revenue provision as defined in 17-1-502(3);

(b) a state special revenue fund as defined in 17-2-102(1)(b), and

(c) administered in accordance with 17-8-101(2).

(5) "Fossil fuel pensioner" means a person who:

(a) has worked for a coal or utility company in Montana or worked hauling coal in Montana for a railroad; and

(b) is drawing a pension or other retirement benefit incurred by a coal, utility, or railroad company or is entitled to draw a pension or other retirement benefit as a result of that work.

(6) "Railroad company" means a corporation licensed to do business in Montana and doing business in Montana that transports coal mined in Montana by rail to an electric generating facility either inside or outside of Montana.

(7) "Utility company" means an investor-owned electric or gas utility, rural electric cooperative, electric generation or transmission company, or municipally-owned electric or gas utility licensed to do business in Montana and doing business in Montana that owns or operates a coal-fired or natural gas-fired electric generating facility or a part of such facility.

NEW SECTION. Section 13. Rulemaking. The department may adopt rules concerning:

(1) eligibility of persons who may be served by the program established under [Section 16];

(2) a graduated fee schedule for program services;

(3) criteria for making grants as provided for in this chapter;

(4) benefits available under this chapter with benefits available under the Primary Sector Business Workforce Training Act; and

(5) provisions necessary to carry out this chapter.

NEW SECTION. Section 14. Duties of department. The department shall:

(1) conduct studies regarding the changing employment needs and problems of displaced fossil fuel workers in Montana and make recommendations to the governor and the legislature;

(2) serve as a clearinghouse for information and materials pertinent to programs and services available to assist and advise displaced fossil fuel workers on employment and related matters;

(3) conduct periodic conferences throughout the state to make displaced fossil fuel workers aware of the available non-fossil fuel related employment opportunities, programs, and services;

(4) at not more than four locations, serve as the permanent agency for the coordination and evaluation of employment programs and services for displaced fossil fuel workers in the state and as a planning agency for the development of those services;

(5) encourage displaced fossil fuel workers' organizations and other groups to institute local self-help activities designed to meet displaced fossil fuel workers' employment and related needs; and

(6) apply for and receive grants, appropriations, or gifts from any federal, state, or local agency, private foundation, or individual, including but not limited to funding from "The Partnerships for Opportunity and Workforce and Economic Revitalization (POWER) Initiative," to carry out the purposes of this chapter.

NEW SECTION. Section 15. Multipurpose service programs for displaced fossil fuel workers -- administrators. (1) The department may establish multipurpose service programs described in [section 16] for displaced fossil fuel workers.

(2) The department may enter into contracts with and make grants to nonprofit agencies or organizations to establish, organize, and administer the programs described in [section 16].

(3) The department may contract with an administrator for each program.

NEW SECTION. Section 16. Programs to aid displaced fossil fuel workers and fossil fuel pensioners. (1) The department shall develop programs in cooperation with federal, state, and local agencies and private employers to aid displaced fossil fuel workers.

(2) The services offered to displaced fossil fuel workers through the programs may include but are not limited to:

(a) job counseling services that are:

(i) specifically designed for displaced fossil fuel workers by taking into account and building upon their skills and experiences; and

(ii) operated to counsel displaced fossil fuel workers with respect to appropriate job opportunities;

(b) job training and job placement services that:

(i) include training and placement programs for jobs in the public, private, and renewable energy sectors;

(ii) assist displaced fossil fuel workers in gaining admission to existing public or private job training and educational programs; and

(iii) assist in identifying community needs and creating new jobs in the public and private sectors;

(c) referral to or development of programs for displaced fossil fuel workers in cooperation with local agencies that provide information and assistance with respect to health care, financial matters, education, nutrition, and legal issues;

(d) support services, including but not limited to:

(i) child care for preschool children;

(ii) transportation assistance; and

(iii) grants for education; and
(e) development of outreach programs to serve rural areas where needs for such programs have been identified.

(3) Workers who are participating in an approved program to retrain and re-employ displaced fossil fuel workers and who have started a program within 3 months of becoming displaced or as soon as a program was offered to them, whichever event occurs first, must:

(a) have the workers' training paid for from the displaced fossil fuel workers' fund or other state, federal, or privately funded program augmenting the displaced fossil fuel workers' fund;

(b) receive from the displaced fossil fuel workers' fund, during the workers' training period, after expiration of any unemployment benefits to which they are entitled to pursuant to 39-51-2116 and 39-51-2201 through 39-51-2208, (or in the case of railroad workers, after expiration of any unemployment benefits they are entitled pursuant to the federal Railroad Unemployment Insurance Act, 45 U.S.C.351, et seq.), an additional benefit amount equal to the unemployment benefit they have been receiving, subject to the limitations of subsections (3)(d), (4) and (5) of this section, but not to exceed 100% of the average weekly wage used to calculate unemployment benefits for the displaced fossil fuel worker;

(c) receive from the displaced fossil fuel workers' fund, subject to the limitations of subsection (3)(d), (4) and (5), during the workers' training period, in addition to any unemployment benefits to which they are entitled to pursuant to 39-51-2116 and 39-51-2201 through 39-51-2208, (or in the case of railroad workers, in addition to any unemployment benefits which they are entitled to pursuant to the federal Railroad Unemployment Insurance Act, 45 U.S.C.351, et seq.), an additional benefit amount equal to 20% of the benefits to which they are entitled pursuant to 39-51-2116 and 39-51-2201 through 39-51-2208, (or 45 U.S.C.351, et seq.), or subsection (3)(b) and (4) of this section, not to exceed 100% of the average weekly wage used to calculate unemployment benefits for the displaced fossil fuel worker; and

(d) receive an extension of benefits received pursuant to [Section 16] for a retraining period not to exceed 2 years from the date retraining started.

(4) The re-employment period during which a displaced fossil fuel worker is entitled to benefits after retraining has been completed may not extend beyond 12 weeks after the training is complete or until the worker obtains employment, whichever occurs first.

(5) If federal law changes to increase unemployment benefits from those in effect for workers on January 1, 2017, the amount to which displaced fossil fuel workers are entitled under this section must not exceed 100% of the average weekly wage used to calculate unemployment benefits for the displaced fossil fuel worker.

(6) If a pension plan of a fossil fuel pensioner, or other retirement obligation incurred by a coal, utility, or railroad company to a fossil fuel pensioner has been determined by the department to be insufficient to pay the fossil fuel pensioner the pension earned, money from the displaced fossil fuel workers' fund must be paid monthly, as a deficiency payment, to the fossil fuel pensioner to make up the difference.

NEW SECTION. Section 17. Acceptance of funds by administrator of local program. The administrator of a local displaced fossil fuel workers' program may accept, use, and dispose of all grants or contributions of money, services, and property for the purpose of carrying out the provisions of this chapter. The grants, contributions, or in-kind contributions may come from a local or other government.

NEW SECTION. Section 18. Evaluation of multipurpose service programs -- reports to the department -- rulemaking. (1) The administrator of each designated program established under this chapter shall annually report to the department. The department shall adopt rules regarding the report, including rules requiring the report to contain:

- (a) an evaluation of the effectiveness of the program's job counseling, training, placement referral, support, and outreach services to displaced fossil fuel workers; and
- (b) an accounting of all expenditures.

NEW SECTION. Section 19. Staff of service programs. To the extent possible, supervisory, technical, and administrative positions in the displaced fossil fuel workers' programs must be filled by displaced fossil fuel workers.

NEW SECTION. Section 20. Funding from energy sector. (1)(a) Beginning January 1, 2017, subject to the provision of subsection (1)(d), each person or other organization now engaged in the generation, manufacture, or production of electricity in Montana (also known as the "producer" in statutes referenced in subsection (1)(c)), shall on or before the 30th day after each quarter ending March 31, June 30, September 30, and December 31, render to the department of revenue a statement showing the gross amount, except for actual and necessary plant use, required to produce the electricity generated during the preceding quarter without any deduction and shall pay a license tax on all the electricity, measured at the place of production and as shown on the statement required in the manner and within the time provided in the provisions referenced in subsection (1)(c), in the sum of \$0.0002 per kilowatt hour (kWh).

(b) For purposes of subsection (1)(a), the generation, manufacture, or production of electricity includes but is not limited to water power, wind, solar, coal, natural gas, geothermal, coalbed methane, or any other means of electricity generation for barter, sale, or exchange. Electricity that is reasonably used for the production of the electricity is not included.

(c) The tax in subsection (1)(a) must be administered pursuant to the provisions of 15-51-102, 15-51-103, 15-51-104, 15-51-106, and 15-51-109 through 15-51-114.

(d) Persons or entities whose generating units are rated less than 3 megawatts of generating capacity are not required to render a statement or to remit an electrical energy production tax to the department of revenue on the production of their generating units. However, if a generating unit or group of units is net metered via a metering system showing gross energy production and has a capacity rating of 30 kW or greater, the utility to which the unit is metered shall include the electricity production of the generating unit in its report to the department of revenue and remit the required license tax on that production. The utility may include in its bill to the net metered customer an amount equal to the tax remitted for that customer's production and for non-net kWh used.

(2) Subject to temporary assessments made pursuant to subsection (8), on January 1, 2022, the tax assessed in subsection (1) must cease unless the legislature determines that the tax is needed to make good on obligations to displaced fossil fuel workers, or fossil fuel pensioners.

(3) The amounts collected pursuant to subsection (1) must be placed in the displaced fossil fuel workers' fund and the principle and interest in that fund may be used to finance the "Displaced Fossil fuel Worker Retraining Act."

(4) Funds used to administer the unemployment insurance program may not be used to

collect or distribute any of the revenue to or from the displaced fossil fuel workers' fund or to otherwise fund any multipurpose service program unless permission to use funds in such a manner is first approved by the U.S. Department of Labor or allowed under federal law, and such use will not endanger any part of the unemployment insurance program. If funding from a U.S. Department of Labor grant, The Partnerships for Opportunity and Workforce and Economic Revitalization Initiative, or other funding source becomes available to finance administrative expenses, the Department may use the funding. Otherwise, all costs of administering this chapter must be paid for from funds raised as a result of this chapter.

(5) If at any time the money in the displaced fossil fuel workers' fund will not defray the costs of benefits under this program, the department may borrow money to defray those costs and repay the loan from future assessments made pursuant to this section.

(6) The displaced fossil fuel workers' fund must be maintained until:

(a) the department determines that there are no fossil fuel workers potentially eligible for retraining;

(b) the department determines that there are no fossil fuel pensioners potentially eligible for pension deficiency payments; and

(c) there are no outstanding loans created pursuant to subsection (5) to be paid off.

(7) Excess money remaining in the displaced fossil fuel workers' fund at the time that assessment is discontinued must be transferred to the coal severance tax permanent fund.

(8) (a) If, as determined by the department, there are outstanding loans to be paid off under this section or costs of administering this act that will not be paid off within three years by revenue raised pursuant to assessments made pursuant to subsection (1) and the interest on that revenue or by other revenue generating provisions of this section, a temporary assessment of \$0.0002 per kilowatt hour must be added to the tax collected pursuant to subsection (1).

(b) When the department determines there are no outstanding loans to be paid off under this section, the temporary assessment levied pursuant to subsection 8(a) must cease.

NEW SECTION. Section 21. {standard} Repealer. The following section of the Montana Code Annotated is repealed:
69-3-2007. Cost caps.

NEW SECTION. Section 22. {standard} Codification instruction. (1) [Section 7] is intended to be codified as an integral part of Title 69, chapter 3, part 20, and the provisions of Title 69, chapter 3, part 20, apply to [section 7].

(2) [Section 8] is intended to be codified as an integral part of Title 35, chapter 18, part 3, and the provisions of Title 35, chapter 18, part 3, apply to [section 8].

(3) [Section 9] is intended to be codified as an integral part of Title 15 and the provisions of Title 15 apply to [section 9].

(4) [Sections 10 through 20] are intended to be codified as an integral part of Title 39, and the provisions of Title 39 apply to [sections 10 through 20].

NEW SECTION. Section 23. {standard} Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 24. {standard} Effective date. [This act] is effective January 1, 2017.