

## **BALLOT LANGUAGE FOR INITIATIVE NO. 184 (I-184)**

### INITIATIVE NO. 184

#### A LAW PROPOSED BY INITIATIVE PETITION

I-184 revises energy and taxation laws. It requires investor-owned electric utilities to increase procurement of renewable sources like wind and solar, gradually equaling an 80% renewable energy requirement by 2050. Pre-2005 hydroelectric generation may only be counted if total renewable generation is 80%. Rate increases beyond 2% annually for costs caused by the mandates are prohibited. I-184 requires cooperative utilities to allow members to vote whether to voluntarily adopt initiative standards. To address reduction in coal-related mining, electric generation, and rail traffic, I-184 funds worker retraining and pension safety nets, and levies replacement taxes on each kilowatt hour of electricity produced to offset coal severance tax and royalty revenue reductions. I-184 allows governments, churches, and nonprofits to participate in 250-kilowatt net metering systems, permits aggregate net metering, and the creation of neighborhood renewable energy facilities.

I-184 establishes two new taxes on each kilowatt of electricity produced in Montana, increasing 2019-2023 general fund revenues a total of \$1.48 million to supplant declining coal severance tax revenues, and raising \$20 million by 2023 for worker retraining. The volume of displaced workers who will seek assistance is unknown.

YES ON INITIATIVE I-184

NO ON INITIATIVE I-184

## THE COMPLETE TEXT OF INITIATIVE NO. 184 (I-184)

Be it enacted by the People of the state of Montana this general revision of renewable energy policy and tax law:

**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) Each biennium through the 2031 legislative session, the committee shall:

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

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

(ii) revenue received pursuant to the Montana coal severance tax, Montana gross proceeds tax on coal, the wholesale energy transaction tax established by 15-72-104, taxes paid to Montana tribes for coal severance, and coal royalties paid to tribes and Montana state, county and local governments; and

(b) make recommendations to the legislature and state agencies regarding:

(i) modifications to the tax rates in [section 14];

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

(iii) replacement of revenue loss due to diminution of coal use that can be offset by a tax on savings accruing from the switch to non-fossil fuel generation of electricity."

**NEW SECTION. Section 2. Statement of intent to legislature.** By approving this act, the people of the state of Montana request that the Legislature consider enacting supplemental legislation to implement this act at the legislative session immediately following the general election at which this act was approved. Implementing legislation must include whether a statutory appropriation to the department of labor and industry of amounts in [section 3] and [section 4] accounts are to be added to 17-5-502(3), to achieve the purposes set forth in this act.

**NEW SECTION. Section 3. Tribal coal revenue replacement account.** (1) There is a tribal coal revenue replacement account within the state special revenue fund established in 17-2-102.

There must be paid into the account:

(a) money from tribal coal royalty replacement taxes and money from tribal taxes in lieu of the Montana coal severance tax collected pursuant to [sections 14(6)(b) and 14(7)(b)];

(b) interest income earned on the account; and

(c) any other funds, including grants, appropriations, or gifts received pursuant to [sections 16 and 18], for the purposes of administering [sections 5, 6, 14(6) and (7), 16, 17, and 18] as the funds relate to tribes.

(2) Funds in the royalty replacement account if statutorily appropriated in 17-5-502(3) by the legislature as provided in [section 2] to the department of labor and industry, and as they relate to tribes, must be administered in accordance with 17-8-101 to be used in accordance with [sections 5, 6, 14(6) and (7), 16, 17, and 18].

**NEW SECTION. Section 4. Displaced fossil fuel worker and fossil fuel retiree account. (1)**

There is a displaced fossil fuel worker and fossil fuel retiree account within the state special revenue fund established in 17-2-102. There must be paid into the account:

- (a) money from taxes collected pursuant to [section 14(4)(b)];
- (b) interest income earned on the account; and
- (c) any other funds, including grants, appropriations, or gifts received pursuant to [sections 19 and 20], for the purposes of administering [sections 5, 6, 14(4)(b) and 18 through 21].

(2) Funds in this account, if statutorily appropriated in 17-5-502(3) by the legislature as provided in [section 2] to the department of labor and industry, must be administered in accordance with 17-8-101 to be used in accordance with [sections 5, 6, 14(4)(b) and 18 through 21].

**Section 5.** Section 69-3-2001, MCA, is amended to read:

**“69-3-2001. Short title.** This part, Title 69, chapter 8, part 6, and [sections 12 through 22] may be cited as the "Montana Cohesive Renewable Power Production Energy Policy, Fossil Fuel Worker Retraining, Coal Revenue Replacement, and Rural Economic Development Act".”

**Section 6.** Section 69-3-2002, MCA, is amended to read:

**“69-3-2002. Findings.** The legislature ~~finds and people of Montana find~~ that:

- (1) Montana is blessed with an abundance of diverse renewable energy resources;
- (2) renewable energy production promotes sustainable rural economic development by creating new jobs and stimulating business and economic activity in local communities across Montana;
- (3) increased use of renewable energy will enhance Montana's energy self-sufficiency and independence; ~~and~~
- (4) fuel diversity, economic, and environmental benefits from renewable energy production accrue to the public at large, and therefore all consumers and utilities should support expanded development of these resources to meet the state's electricity demand and stabilize electricity prices;
- (5) as society transfers to energy generation using less coal, Montana will lose:
  - (a) revenue that comes from coal royalties, the coal severance tax, the coal gross proceeds tax, tribal taxes in lieu of coal severance and coal gross proceeds taxes, and other coal related revenue sources; and
  - (b) jobs associated with coal production and use.
- (6) Montana must therefore:
  - (a) replace coal-related revenue accruing to its governmental entities with an electrical production tax found in [section 14], passed through to in-state and out-of-state energy consumers who will benefit from the transition to cleaner, lower cost methods of producing electricity that do not have a fuel cost included in the electricity price;
  - (b) enable the retraining of displaced fossil fuel workers as provided in [section 19]; which includes, but is not limited to, providing necessary counseling, training, jobs services, mortgage payment help, and health care for displaced fossil fuel workers and their families as society transitions to a renewable energy economy; and

(c) establish a safety net for fossil fuel pensioners as provided in [section 19(8)] by augmenting pensions that are not fully funded because the pensioners' employers are bankrupt or defunct."

**Section 7.** 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) "Coal company" means an entity licensed to do business in Montana and engaged in coal mining.

~~(3)~~(4) "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)~~(5) "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)(i) is a project installed and commissioned prior to January 1, 2019;

(ii) is owned by a public utility; and

(iii) has less than or equal to 25 megawatts in total calculated nameplate capacity; or

(c)(i) is interconnected on the customer side of the meter;

(ii) is located on property owned by the same person who owns the eligible renewable resource; and

(iii) is less than or equal to 25 megawatts in total calculated nameplate capacity; or

(d)(i) is interconnected on the customer side of the meter;

(ii) is leased;

(iii) is located on Montana property owned by the lessee or lessor pursuant to a lease-purchase agreement that meets the requirements of subsection (15); and

(iv) is less than or equal to 25 megawatts in total calculated nameplate capacity.

~~(5)~~(6)(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)~~(7) "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)~~(8) "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)~~(9) "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.

(10) "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 a Montana coal mine, or Montana electrical generating facility, or by reducing the amount of coal hauled in Montana by rail;

(b) is unemployed or underemployed; and

(c) is experiencing difficulty obtaining appropriate employment at the prevailing wage of the job the worker held when the worker became unemployed or underemployed.

(11) "Displaced fossil fuel workers' 'account'" or "Displaced fossil fuel workers' 'fund'" means the fund created in [section 4], which must be:

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

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

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

~~(9)~~(12) "Electric generating resource" means any plant or equipment used to generate electricity by any means.

~~(10)~~(13) "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)(iii)~~(13)(d)(iii) or ~~(13)(d)(iv)~~(13)(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~~ 25 megawatts or less; ~~or~~

(iii) meets the requirements for becoming an eligible renewable resource 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)(13)~~ for use in fuel cells; and
- (i) the renewable energy fraction from:
  - (i) the sources identified in this subsection ~~(10)(13)~~ 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)(13)~~ that is forced into an underground storage reservoir and later released, heated, and passed through a turbine generator.

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

- (a) has worked for a coal company in Montana, or utility company in Montana, or worked hauling coal in Montana for a railroad company; and
- (b) is drawing a pension or other retirement benefit incurred by a coal company, utility company, or railroad company, or a designee or successor of a coal, utility, or railroad company, or is entitled to draw a pension or other retirement benefit because of that work.

(15)(a) "Lease-purchase agreement" means an agreement between the lessor and a lessee establishing the terms for the lessee's eventual ownership of an eligible renewable resource before or at the end of the lease period. For purposes of this term:

- (i) a lessor is an owner of an eligible renewable resource; and
- (ii) either a lessee or lessor may own property where the eligible renewable resource is located.
- (b) 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, and if not already owned by the lessee, the property where the eligible renewable resource is located, at each time the right to purchase or otherwise terminate under the agreement may be exercised.
- (c) Unless both parties mutually agree, terms of the lease-purchase agreement may not be determined after a lease is signed.
- (d) The term also applies to transactions entered pursuant to Title 69, chapter 3, part 6, if a public utility is the lessor.

~~(11)~~(16) "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)~~(16)(a) through ~~(11)(g)~~(16)(g).

~~(12)~~(17) "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)~~(18) "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.

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

~~(14)~~(20) "Renewable energy credit" means a tradable certificate of proof of 1 megawatt hour of electricity, or fraction thereof 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, or fraction thereof.

~~(15)~~(21) "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)~~(13).

~~(16)~~(22) "Seasonality" means the degree to which an electric generating resource is capable of producing electricity in each of the seasons of the year.

~~(17)~~(23) "Small customer" means a retail customer that has an individual load with an average monthly demand of less than 5,000 kilowatts.

~~(18)~~(24) "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)~~(25) "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 10 ~~5~~-miles of the project; and
- (b) ~~constructed within the same 12-month period; and~~
- (c) under common ownership."

(26) "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 that owns or operates a Montana coal-fired or natural gas-fired electric generating facility or a part of such facility."

**Section 8.** 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 13] 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) 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, 2019, 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)~~ subsections (2)(a) and (3), public utilities shall purchase renewable energy credits, or both the renewable energy credits and the electricity output from community renewable energy projects that total:~~

~~(A) at least 75 megawatts in nameplate capacity; and-~~

~~(B) at least 15% of the cumulative calculated nameplate renewable energy capacity added during each compliance period beginning in 2020 through the then current compliance period. As each compliance period occurs, the annual purchase requirement of subsection (3) must be added to purchases previously required under subsections (2)(b)(i)(A) and, if applicable, this subsection (2)(b)(i)(B) to determine the cumulative total.~~

~~(ii)(A) After December 31, 2018, in ~~not~~ meeting the standard in subsection (4)(b)(i)(2)(b)(i), a public utility shall ~~may~~ include any combination of:~~

~~(i) purchases made under subsection (3)(b) electricity and renewable energy credit purchased from community renewable energy projects, customer-generators or neighborhood renewable energy facility owners or customers; or~~

~~(ii) renewable energy credits purchased from community renewable energy projects, customer-generators, or neighborhood renewable energy facility owners or customers.~~

~~(B) At least half of the renewable energy credits or renewable energy credits coupled with renewable electricity output purchased to meet subsection (2)(b)(i)(B) requirements must come from projects that are less than or equal to 3 megawatts in calculated nameplate capacity.~~

~~(C) Nothing in this part prevents persons from selling or buying renewable energy credits separately from electricity output, or selling or buying electricity output separately from renewable energy credits.~~

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

(a) January 1, 2020, shall procure a minimum of 20% of its retail sales of electrical energy in Montana from eligible renewable resources;

(b) January 1, 2021, and in each succeeding compliance year through December 31, 2025, shall procure an additional 4%, incrementally increased each year by 4% and, in combination with electricity from eligible renewable resources required under subsections (2) and (3)(a), totaling at least 40% in 2025 of its retail sales of electrical energy in Montana from eligible renewable resources;

(c) 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, in combination with electricity from eligible renewable resources required under subsections (2), (3)(a) and (3)(b), totaling at least 70% in 2040 of its retail sales of electrical energy in Montana from eligible renewable resources;

(d) 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, in combination with electricity from eligible renewable resources required under subsections (2), (3)(a), (3)(b), and (3)(c), totaling at least 80% in 2050 and thereafter of its retail sales of electrical energy in Montana from eligible renewable resources.

(4)(a)(i) 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 as defined in 69-3-2003 if the annual output of electricity, not already counted as coming from an eligible renewable resource, by all hydroelectric facilities owned by the utility or competitive electricity supplier during the compliance year, plus the annual output of renewable electricity required for the public utility or competitive electricity supplier to meet the requirements of subsection (3) during that compliance year, is equal to or more than 80% of the annual retail sales of electricity for the public utility or competitive electricity supplier for that compliance year.

(ii) If at any time a public utility or competitive electricity supplier's retail sales of electrical energy in Montana from eligible renewable resources is required to be more than 80% as provided in subsection (3)(d), in accordance with subsection (7)(d) as part of compliance with this section, a public utility or competitive electricity supplier may only count as an eligible renewable resource for that compliance year, a hydroelectric facility not otherwise an eligible renewable resource as defined in 69-3-2003 if the annual output of electricity by all hydroelectric facilities, not already counted as coming from an eligible renewable resource, owned by the utility or competitive electricity supplier during that compliance year, plus the annual output of electricity required for the public utility or competitive electricity supplier to meet the increased requirements of 69-3-2004(3) for that compliance year, is equal to or greater than the highest percentage of increase above 80% of the annual sales of electricity for the public utility or competitive electricity supplier required by the future increase.

(b) When calculating electricity from hydroelectric facilities or renewable energy credits generated from hydroelectric facilities, a public utility or competitive electricity

supplier may not count electricity or renewable energy credits 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~~ 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 sold only once and 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 others.

(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) the 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) the 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; or

(c) if the waiver involves the public utility not meeting the community renewable energy requirement, the utility must have offered a price to:

(i) the community renewable energy projects for the required energy and renewable energy credits at least equal to the current avoided cost of electricity anticipated to be incurred from any planned new coal-fired or gas-fired electric generating facility, whichever is to be built first; and

(ii) customer-generators, neighborhood renewable energy facility customers or owners at least equal to the added cost the public utility is charging its customers to buy eligible renewable electricity, renewable electricity credits, or both offered to them.

(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 9.** 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 to construct or operate ~~for~~ projects located in Montana must require all contractors and project operators to pay the standard prevailing rate of wages for the work performed ~~heavy construction~~, as provided in 18-2-414 through 18-2-419, ~~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~~ 2019, for the standard required in ~~69-3-2004(4)~~ 69-3-2004(3)(a);
- and
- (b) June 1, 2020, for the standard required in 69-3-2004(3)(b);
- (c) June 1, 2026, for the standard required in 69-3-2004(3)(c);
- (d) June 1, 2041, for the standard required in 69-3-2004(3)(d); 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 10.** 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, 2019, 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 13];

(g) determine how to track and verify the use of renewable energy credits generated by net metering systems and neighborhood renewable energy facilities used to comply with this part; and

~~(f)~~(h) 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)(16)(d)(iii)(13) reflects the actual electrical production from the expansion as typically reduced by seasonal water conditions."

**Section 11.** Section 69-3-2008, MCA, is amended to read:

**"69-3-2008. Cooperative utility -- exemption -- standard.** (1) A Except as provided in [section 12] 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 12]."

**NEW SECTION. Section 12. Renewable energy requirements--voluntary participation--cooperative duties.** (1)(a) Beginning July 1, 2019, 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 69-3-2004 of the Montana Cohesive Renewable Energy Policy, Fossil Fuel Worker Retraining, Coal Revenue Replacement, and Rural Economic Development Act in accordance with 69-3-2008 by procuring (insert percentage as provided in 69-3-2004) of the power used to serve utility customers from eligible renewable resources by (insert date 5 years from the date of the poll)?

YES  NO.

(ii) Shall (insert name of cooperative utility) voluntarily comply with 69-8-603 as amended by [section 23] allowing for net metering?

YES  NO.

(iii) Shall (insert name of cooperative utility) voluntarily comply with [section 24] allowing for neighborhood renewable energy facilities?

YES  NO.

(iv) As a member of (insert name of cooperative utility), will you commit to purchasing for (insert price) per kilowatt hour, 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) A cooperative utility may eliminate a question in subsection (1)(b)(ii) and (iii) if that question already has been answered in the affirmative by its members.

(d) 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 shall take steps to bring the cooperative into compliance.

(2)(a) A cooperative utility shall mail semi-annually 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 the standards established in 69-3-2004 and 69-3-2008, the purchase 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 not be greater than 2% of the total electric bill annually to each customer.

(b) Subject to 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 the cooperative members, the governing body of a cooperative utility may agree by a majority vote to exceed the retail rate limit 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 its 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 if that is permissible under the energy procurement contract between the two. The request must comply with 35-18-318 and the request may be enforced at the discretion of a court through a motion by any cooperative board 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 shall 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 13. Cost caps -- retail rates.** (1)(a) The public service 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 not exceed 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) Unless it is set by the commission, and 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 14. Funding from energy sector.** (1)(a) In addition to the tax levied pursuant to 15-51-101 and subject to subsections (1)(c), 1(d) and (1)(e), each “producer” required to report pursuant to 15-51-101 shall pay a license tax on all the electricity, reported pursuant to 15-51-101 in the sums determined in accordance with subsections (3) through (9) and [section 15].

(b) For purposes of applying 15-51-101 as it relates to 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 to produce electricity is not included.

(c) The tax in subsections (1)(a) and (3) through (9) 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) A producer owning generating units with a total combined rated generation capacity of not more than 250 kilowatts is not required to render a statement under 15-51-101 for purposes of remitting an electrical energy production tax pursuant to subsections (1)(a), (1)(e), or (3) through (9) to the department of revenue on the production of those generating units.

(e)(i) If a producer is a public utility, the producer shall determine the electricity produced by any of its customer-generators or neighborhood renewable energy facilities with net metering systems as defined in 69-8-103 with a capacity rating of 250 kilowatts or less and include it in the public utility’s 15-51-101 statement.

(ii) The producer shall pay the replacement tax required in subsections (3) through (9) on the electricity produced by all customer-generators and neighborhood renewable energy facilities defined in subsection (1)(e)(i).

(iii) The producer may recover the per kilowatt hour replacement tax paid pursuant to subsection (1)(e)(ii) in bills to affected customer-generators and neighborhood renewable energy facilities.

(f) “Coal severance tax” as used in 15-38-302, 17-5-703, 17-5-709, 17-5-720, 17-5-721, 17-6-203, 17-7-205, 75-7-307, 82-4-244, and 85-1-603 must include revenue generated pursuant to subsections (1)(e)(ii) and (3) through (9).

(2) All costs of administering this chapter must be paid for from funds raised because of this chapter.

(3)(a) For purposes of making calculations regarding this section it is noted that:

(i) the 2015 coal severance tax was \$60,891,414; in 2016, it was \$60,358,548;

(ii) approximately 21% - 23% of Montana’s coal is used to produce electricity in Montana;

(iii) reducing the \$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;

(iv) to produce \$11,204,020 in revenue, it would require a tax of \$0.00053 per kilowatt hour on Montana's annual 21.4 billion kilowatt hours of electricity production;

(v) since the loss of coal tax severance revenue will be gradual over the years between 2019 and 2050, the electricity production tax to replace it can be phased in; and

(vi) it will require a \$0.000021 per kilowatt hour tax on electricity production to replace the \$448,161 coal tax revenue estimated to be lost in 2019 as the transition begins; a slightly higher rate will be needed in subsequent years;

(vii) to cover estimated coal severance tax revenue loss related to diminution in coal used to produce electricity for use by Montanans, it is estimated the electric production tax used as a substitute, would cost a consumer using 1000 kilowatt hours of electricity a month, \$0.26/year in years 2019 & 2020, \$1.01/year in 2021 through 2025, \$2.69/year in 2025 through 2050, and \$6.36 a year thereafter;

(viii) the coal severance tax gradual replacement tax for consumers using 2000 kilowatt hours of electricity a month, that is twice the amount of electricity considered in subsection (3)(a)(vii), will cost twice the amounts listed in (3)(a)(vii); and

(ix) fossil-fuel free electricity exported from Montana will carry an electricity production tax to recover revenue previously collected through coal severance taxes paid on that exported coal-fired electricity.

(b) Beginning January 1, 2019, subject to subsection (1)(d), the Montana electricity production tax in 15-51-101 must be increased, in addition to other increases that may be necessary because of subsections 4 through 9, by:

(i) \$0.000021 per kilowatt hour for the years 2019 and 2020;

(ii) \$0.000084 per kilowatt hour for the years 2021 through 2025;

(iii) \$0.000224 per kilowatt hour for the years 2026 through 2050; and

(iv) \$0.00053 per kilowatt hour for the year 2051 and each year thereafter.

(c) After subtracting amounts pursuant to subsection (2) necessary to administer subsection (3), the amounts collected pursuant to subsection (3)(b) must be treated as if they had been collected from the coal severance tax and deposited and distributed pursuant to Title 17, chapter 5, part 7, as if they were coal severance taxes.

(4)(a) For purposes of this subsection it is noted that to defray all costs of the displaced fossil fuel worker and fossil fuel pensioner programs under this law, a consumer using 1000 kilowatt hours of electricity a month, will pay approximately \$0.20/month or \$2.40/year for 5 years, and assessments only as needed in subsequent years.

(b)(i) Beginning January 1, 2019, pursuant to subsection (1)(a), the electricity production tax in 15-51-101 must be increased by \$0.0002 per kilowatt hour, in addition to other increases that may be necessary because of subsections (3) and (5) through (9).

(ii) Subject to temporary assessments made pursuant to subsection (4)(b)(vii), on January 1, 2024, the tax assessed in subsection (4)(b)(i) 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.

(iii) 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 [section 4] account 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 Montana department of labor and industry may use the funding. Otherwise, all costs of administering this chapter must be paid for from funds raised under this subsection (4).

(iv) If at any time the money in the displaced fossil fuel workers' [section 4] account will not defray the costs of benefits under this program, the Montana department of labor and industry may borrow money to defray those costs and repay the loan from future assessments made pursuant to this section.

(v) The [section 4] displaced fossil fuel workers' fund must be maintained until:

(A) the Montana department of labor and industry determines that there are no fossil fuel workers potentially eligible for retraining;

(B) the Montana department of labor and industry 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 (4)(b)(iv) to be paid off.

(vi) Excess funds remaining in the displaced fossil fuel workers' fund at the time that the [section 4] account is discontinued must be transferred to the coal severance tax permanent fund.

(vii)(A) If, as determined by the Montana department of labor and industry, 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 (4)(b)(i) 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 (4)(b)(i).

(B) When the Montana department of labor determines there are no outstanding loans to be paid off under this section, the temporary assessment levied pursuant to subsection (4)(b)(vii) must cease.

(c) Amounts collected pursuant to this subsection (4)(b) must be placed in the account established in [section 4] and the principle and interest in that fund must be used to finance [section 19] programs for fossil fuel workers.

(5)(a)(i) For purposes of making calculations under this subsection note that \$18,812,015 was derived from the coal gross proceeds tax during FY 2014; \$632,320 less than in FY 2013. In 2015 coal gross proceeds revenues were \$19,857,482, and were \$20,756,877 in FY 2016.

(ii) Beginning July 1, 2019, and for each tax year after, the department of revenue shall determine the total value of coal gross proceeds taxes collected

statewide in accordance with 15-23-703 for the previous tax year and the current tax year.

(b) If the department of revenue has made an energy generation determination pursuant to [section 15(3)(b)], and to the extent that Montana coal gross proceeds tax revenues are not offset by increased revenues accruing to the state from revenue resulting from eligible renewable energy development on state lands, increased revenues accruing to the wholesale energy transaction tax established by 15-72-104, or federal offsets to the loss of Montana gross proceeds tax revenues, to replace lost coal gross proceeds tax revenue, for every \$100,000 revenue decrease to the coal gross proceeds tax levied pursuant to Title 15, chapter 23, part 7, from the amount of revenue collected from that tax in 2016, the Montana electricity production tax in 15-51-101 must be increased in each succeeding year by \$0.000005 per kilowatt hour, in addition to other increases that may be necessary because of subsections (3) and (4) and (6) through (9).

(c)(i) The money collected under this subsection (5) to replace lost coal gross proceeds revenue must be distributed in accordance with 15-23-703(3) and any other applicable coal gross proceeds tax law, except that the revenues collected under subsection (5)(b) may not be directed toward any county with a mill levy below the average 56-county mill levy for the previous year.

(ii) references to “coal gross proceeds taxes” in 15-23-703(3) and elsewhere must include taxes collected pursuant to section 14(5)(b) to replace lost coal gross proceeds tax revenue.

(6)(a) Beginning July 1, 2019, and for each tax year after, the department of revenue shall determine royalties paid to a federally recognized Indian tribe in the state of Montana in lieu of the Montana coal severance tax for the previous tax year and the current tax year.

(b) If the department of revenue has made an energy generation determination pursuant to [section 15(3)(b)], and to the extent that annual Crow tribal tax or other tribal tax on coal in lieu of the Montana coal severance tax is not offset by revenues accruing to the tribe from revenue resulting from eligible renewable energy development on tribal lands, or federal offsets to the loss of coal severance tax revenues, to replace lost tribal tax in lieu of the Montana coal severance tax revenue, for every \$100,000 revenue decrease to the Crow tribal tax or other tribal tax on coal in lieu of the Montana coal severance tax levied pursuant to Crow tribal law or other tribal law from the amount of revenue collected from that tax in 2016, the Montana electricity production tax in 15-51-101 must be increased in each succeeding year by \$0.000005 per kilowatt hour, in addition to other increases that may be necessary because of subsections (3) through (5) and (7) through (9).

(c) The money collected under this subsection (6) to replace lost tribal tax on coal in lieu of the Montana coal severance tax must be deposited in the tribal coal royalty replacement account established in [section 3] and distributed by the department of revenue and the tribe in accordance with [section 16] programs and existing tribal law regulating distribution of the tribal tax on coal in lieu of the Montana coal severance tax.

(7)(a)(i) For purposes of making calculations regarding this subsection note that annual Crow tribal revenue from coal royalties was approximately \$20,400,000 in 2013.

(ii) Beginning July 1, 2019, and for each subsequent tax year, the department of revenue shall determine royalties paid to a federally recognized Indian tribe in the state of Montana for coal for the previous tax year and the current tax year.

(b) If the department of revenue has made an energy generation determination pursuant to [section 15(3)(b)], and to the extent that annual tribal revenue from coal royalties is not offset by revenues accruing to the tribe from revenue resulting from eligible renewable energy development on tribal lands, or federal offsets to the loss of tribal coal royalties, to replace lost tribal coal royalty revenue, for every \$100,000 revenue decrease to the tribal coal royalty revenue collected pursuant to tribal agreement with a payer of coal royalties from the amount of revenue collected from that agreement in 2016, the Montana electricity production tax in 15-51-101 must be increased in each succeeding year by \$0.000005 per kilowatt hour, in addition to other increases that may be necessary because of subsections (3) through (6) and (8) and (9).

(c) The money so collected under this subsection (7) to replace lost tribal royalty revenue must be deposited in the tribal coal royalty replacement account in [section 3] and distributed by the department of revenue and the tribe in accordance with [section 16] programs and tribal law for distributing coal royalty revenue.

(8)(a)(i) For purposes of making calculations regarding this subsection note that \$7,916,303 of revenue was derived as gross proceeds in FY 2015 from the Montana coal rentals and royalties program, managed by the department of natural resources and conservation, \$263,975 less than in FY 2014. Revenue was \$9,174,314 in FY 2016.

(ii) Beginning July 1, 2019, and for each tax year thereafter, the department of revenue shall determine total rental and royalty payments collected from all coal leases on state lands in Montana in accordance with 77-3-316 for the previous tax year and the current tax year.

(b) If the department of revenue has made an energy generation determination in accordance with [section 15(3)(b)], and to the extent that Montana coal rentals and royalties program revenues are not offset by increased revenues accruing to the state from revenue resulting from eligible renewable energy development on state lands, increased revenues accruing to the wholesale energy transaction tax established by 15-72-104, or federal offsets to the loss of Montana coal rentals and royalties, to replace lost coal royalty tax revenue, for every \$100,000 revenue decrease to the Montana coal rentals and royalties program gross proceeds administered pursuant to 77-1-202 by the department of natural resources and conservation, from the amount of revenue collected from that Montana coal rentals and royalties program in 2016, the Montana electricity production tax in 15-51-101 must be increased in each succeeding year by \$0.000005 per kilowatt hour, in addition to other increases that may be necessary because of subsections (3) through (7) and (9).

(c) The money collected under this subsection (8) to replace lost Montana coal rentals and royalties program revenue must be distributed in accordance with 77-3-318 and distributed in accordance to distribution determinations in existing department of natural resources and conservation law governing that program.

(9)(a)(i) For purposes of making calculations regarding this subsection note that the 2015 projection for federal coal royalty and rental revenue accruing to Montana was \$21,245,760, a gain from the \$19,351,680 projected for 2014.

(ii) Beginning July 1, 2019, and for each tax year after, the department of revenue shall determine federal mineral leasing funds attributable to coal leases in Montana paid in accordance with 17-3-240 for the previous tax year and the current tax year.

(b) If the department of revenue has made an energy generation determination in accordance with [section 15(3)(b)], and to the extent that federal coal royalty and rent

revenue was derived from the **federal** lands in Montana that is not offset by revenues accruing to the state from revenue resulting from eligible renewable energy development on federal lands, increased revenues accruing to the wholesale energy transaction tax established by 15-72-104, or federal offsets to the loss of federal coal royalty and rent revenue derived from the federal lands in Montana, to replace federal land coal royalty and rental revenue, for every \$100,000 revenue decrease to the federal coal royalty and rent revenue derived from the federal lands in Montana program gross proceeds administered pursuant to 30 U.S.C. 191; and 17-3-240, by the department of revenue and the Montana department of natural resources and conservation from the amount of revenue collected from that federal coal royalty and rent revenue was derived from the federal lands in Montana program in 2016, the Montana electricity production tax in 15-51-101 must be increased by the department of revenue in the succeeding year by \$0.000005 per kilowatt hour, in addition to other increases that may be necessary because of subsections (3) through (8).

(c) The money collected under this subsection (9) to replace lost federal coal royalty and rent revenue must be deposited in the state general fund and distributed in accordance with 17-3-240 and any other department of natural resources and conservation statutes governing that program, which in 2016, allocated 25% of the revenue to coal impacted local governments.

(10) If a power purchase agreement between the producer of electricity from an eligible renewable resource and a public utility, cooperative utility or competitive electricity supplier does not allow for the power purchase rate to be adjusted to account for the taxes provided for in this section, a tax levied under this section on the power producer shall be paid by the public utility, cooperative utility or competitive electricity supplier, who may recover those costs in rates.

**NEW SECTION. Section 15 Energy taxes -- substitute.** (1) To ensure that the taxes levied by [section (14)(5)] through (9)] are substitute taxes paid from savings accruing to consumers from the transition to eligible renewable resources, and to ensure that individual consumers receive some of the monetary benefit of the transition, the taxes generated by [section 14(5) through (9)] must not exceed the total savings accruing to consumers from the switch to eligible renewable resources, as calculated in subsection (2).

(2) Prior to determining assessment of taxes required under section 14(5) through (9), on or before May 1 of each year, the department of revenue shall make an energy generation determination of the previous calendar year by:

a) subtracting the average wholesale kilowatt hour price of electricity for the previous calendar year supplied to Montana consumers from instate eligible renewable resources from the average wholesale kilowatt hour price of electricity for the previous calendar year supplied to Montana consumers from instate resources using fossil fuel to generate electricity; and

b) multiplying the result from subsection (2)(a) by the number of all kilowatt hours of electricity supplied by Montana public utilities, and cooperative utilities for that year.

(3) Subject to subsection (4), if the energy generation determination made in accordance with subsection (2) is:

(a) less than zero, the department of revenue may not assess taxes in accordance with [section 14(5) through (9)] for the 12 months following June 30 of the year the [section 15(2)(b)] calculation was determined; or

(b) more than zero, the department of revenue shall assess taxes on a pro rata basis for the 12 months following June 30 of the year the [section 15(2)(b)] calculation was determined, from the tax generated in accordance with [section 14(5) through (9)]. The taxes assessed may not exceed 80% of the result in subsection (2)(b).

(4) If the combined taxes generated by [section 14(5) through (9)] for a July to June year exceeds 80% of the result in subsection (2)(b), the department of revenue shall adjust each tax in [section 14(5) through (9)] in the subsequent year on a pro rata basis to ensure revenue does not exceed savings and so the combined taxes in [section 14(5) through 9)] become replacement taxes rather than additional taxes for that year.

**NEW SECTION. Section 16. Programs to ameliorate the loss of coal royalty revenue.** (1) To ameliorate lost coal royalty revenue, the department of revenue and department of commerce:

(a) shall develop multipurpose service or other programs in cooperation with federal, state, and local agencies and private employers for tribes and other local government entities facing declining revenue from the loss of coal royalty and other coal-related revenue;

(b) may enter into contracts with and make grants to nonprofit agencies or other organizations to establish, organize, and administer programs under this section; and

(c) may contract with an administrator for each [section 16] program.

(2) To qualify for revenues distributed under this section, those who are participating in an approved program to replace lost coal royalty and other coal related revenue shall:

(a) receive from taxes imposed by [section 14], revenue as determined by the department of revenue; and

(b) cooperate with the department of revenue and department of commerce in developing revenue generating programs to offset coal royalty losses.

(3) The department of revenue shall:

(a) evaluate the amount of annual coal royalty and other coal related revenue lost pursuant to [section 14] and if necessary, coal reserves and existing contracts;

(b) evaluate the effect of other programs to build renewable energy production or storage facilities, or other revenue producing facilities on tribal, state or federal land, in offsetting the loss of coal royalty revenue; and

(c) subtract from the amount granted for the loss of coal royalty, any offsetting economic factors.

(4) To the extent applicants have the necessary job qualifications, all positions in programs related to replacing [section 14(6) and (7)] coal royalty or other coal-related revenue, must be filled by members of Montana tribes affected by coal revenue loss.

(5) The duly elected governing body of an entity participating in a program to replace lost coal royalty or other coal-related revenue may accept, use, and dispose of all tax, grants, or contributions of money, services, and property to carry out the provisions of [section 16]. The grants, contributions, or in-kind contributions may come from a local or other government.

**NEW SECTION. Section 17. Rulemaking.** The department of revenue may adopt rules establishing:

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

(2) criteria for making royalty, gross proceeds tax, or tax in lieu of severance tax reimbursements allowed by this chapter;

- (3) reporting and evaluation procedures for [section 16] programs and their beneficiaries; and
- (4) any other provisions necessary to carry out its duties under [sections 3 through 6, 14, 15, 16, 18, and 19], and this chapter.

**NEW SECTION. Section 18. Departmental duties.** The department of revenue shall:

- (1) conduct studies on the changing needs and problems of tribes, and state and local governments affected by the loss of coal royalty and other coal-related revenue and make recommendations to the governor and the legislature to address changing needs;
- (2) serve as a clearinghouse for information and materials pertinent to programs and services available to assist and advise tribes and state and local governments on the loss of coal royalty and other coal-related revenue matters;
- (3) cooperate with the department of commerce, and the department of labor and industry in:
  - (a) conducting conferences for those affected by the loss of coal-related revenue and jobs to raise awareness of the available renewable energy related jobs, development opportunities, programs, and services;
  - (b) encouraging organizations and other groups to institute local self-help activities designed to address problems caused by declining coal royalty revenue, to replace it, and to meet displaced fossil fuel workers' employment and related needs; and
  - (c) actively seeking and applying for and receiving 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 initiative," and the Montana Clean Renewable Energy Bond Act, 90-4-1201 *et seq.* to carry out the purposes of the "Montana Cohesive Renewable Energy Policy, Fossil Fuel Worker Retraining, Coal Revenue Replacement, and Rural Economic Development Act."
- (4) require the administrator of [section 16] programs to report annually to the department of revenue;
- (5) adopt rules regarding the [section 18(4)] report, requiring the report to contain an accounting of all expenditures and to evaluate the effectiveness of each program in replacing lost coal royalty or other coal-related revenue.
- (6) convey the [section 18(4)] report biennially to the governor and, as directed in 5-11-210, to the legislature.

**NEW SECTION. Section 19. Programs to aid displaced fossil fuel workers and fossil fuel pensioners.** (1) The Montana department of labor and industry:

- (a) shall develop multipurpose service or other programs in cooperation with federal, state, and local agencies and private employers to aid displaced fossil fuel workers.
  - (b) may enter contracts with and make grants to nonprofit agencies or other organizations to establish, organize, and administer [section 19] programs; and
  - (c) may contract with an administrator for each [section 19] program.
- (2) The services offered to displaced fossil fuel workers through the programs may include but are not limited to:
- (a) job counseling services that:
    - (i) are designed for displaced fossil fuel workers by considering and building upon their skills and experiences; and

- (ii) provide displaced fossil fuel workers with 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, mortgage retention, and legal issues;
- (d) support services, including but not limited to:
  - (i) child care for preschool children;
  - (ii) transportation assistance;
  - (iii) grants for education; and
  - (iv) grants to maintain mortgage payments on a primary Montana residence; and
- (e) development of outreach programs to serve rural areas where needs for such programs have been identified.

(3) Subject to revisions resulting from [section (21)(5)] evaluation, program costs incurred by a fossil fuel worker:

(a) participating in an approved program to retrain and re-employ displaced fossil fuel workers; and

(b) who has started a program within 3 months of becoming displaced or as soon as a program was offered, whichever event occurs first, must be paid for by the department of labor and industry from the [section 4] account, or other state, federal, or privately funded program augmenting the [section 4] account.

(4) Subject to the limitations of subsections (5) through (7) and (9), a displaced fossil fuel worker participating in a program established pursuant to [section 19] is eligible to receive from the [section 4] account, during the worker's training and re-employment periods:

(a) after expiration of any unemployment benefits to which the worker is entitled to pursuant to 39-51-2116 and 39-51-2201 through 39-51-2208, or benefits received pursuant to the federal Railroad Unemployment Insurance Act, 45 U.S.C.351, et seq., an additional benefit amount equal to the weekly unemployment benefit he or she was receiving prior to expiration;

(b) an additional benefit amount equal to 20% of the benefits to which the worker was entitled pursuant to 39-51-2116 and 39-51-2201 through 39-51-2208, or 45 U.S.C. 351;

(c) in addition to any benefits to which workers are entitled pursuant to subsections (3) and (4)(a) and (b), an additional benefit amount not greater than \$700, needed to maintain up to one-third of the mortgage payments on the workers' primary Montana residence; and

(d) an extension of benefits received pursuant to this section for a retraining period not to exceed 2 years from the date retraining started.

(5) The weekly amounts received in total from payments made pursuant to subsections (3) and (4)(a) through (4)(d) may not exceed 100% of the average weekly wage used to calculate unemployment benefits for the displaced fossil fuel worker.

(6) The re-employment period for finding new employment 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.

(7) Federal unemployment benefits must be reviewed annually by the department of labor and industry, and benefits provided pursuant to this section must be adjusted, if necessary to comply with this section.

(8) Subject to revisions resulting from section (21)(5) or other evaluation, if a pension plan of a fossil fuel pensioner, or other retirement obligation incurred by a coal company, utility company, or railroad company to a fossil fuel pensioner is determined by the Montana department of labor and industry to be insufficient to pay the fossil fuel pensioner the pension earned, the department of labor and industry shall pay the fossil fuel pensioner monthly, money from the displaced fossil fuel workers' account, as a deficiency payment to make up the difference.

(9) Benefits provided pursuant to this section must be provided in accordance with federal, social security, and unemployment insurance requirements and, if necessary, subject to the Federal Unemployment Tax Act and all relevant federal regulations.

(10) To the extent applicants have the necessary job qualifications, all positions in department of labor and industry displaced fossil fuel workers' programs must be filled by displaced fossil fuel workers or their family members.

(11) The administrator of a local displaced fossil fuel workers' program may accept, use, and dispose of all tax, grants, or contributions of money, services, and property to carry out the provisions of [section 19]. The grants, contributions, or in-kind contributions may come from a local or other government.

**NEW SECTION. Section 20. Departmental Duties.** The Montana department of labor and industry 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) at not more than three locations, provide a permanent office for planning, developing, coordinating, and evaluating employment programs and services for displaced fossil fuel workers;

(4) cooperate with the department of revenue, and department of commerce in:

(a) conducting conferences for those affected by the loss of coal-related revenue and jobs to raise awareness of the available renewable energy related jobs, development opportunities, programs, and services;

(b) encouraging organizations and other groups to institute local self-help activities designed to address problems caused by declining coal royalty revenue, to replace it, and to meet displaced fossil fuel workers' employment and related needs; and

(c) actively seeking and applying for and receiving 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 initiative," to carry out the purposes of [sections 6 and 19];

(5) develop opportunities in cooperation with federal, state, and local entities and private employers to aid displaced fossil fuel workers and fossil fuel retirees in accordance with programs established pursuant to [section 19];

(6) require the administrator of [section 19] programs to report annually to the department of labor and industry;

(7) adopt rules regarding the [section 20(6)] report, requiring the report to contain an accounting of all expenditures and to evaluate the effectiveness of each program's job counseling, training, placement referral, support, and outreach services to displaced fossil fuel workers; and

(8) convey the subsection (7) report biennially to the governor and, as directed in 5-11-210, the legislature.

**NEW SECTION. Section 21. Rulemaking.** The Montana department of labor and industry may adopt rules concerning:

(1) eligibility of persons who may be served by the program established under [section 19];

(2) a graduated fee schedule for program services provided under [section 19];

(3) criteria for making grants as provided for in [sections 19 and 20];

(4) benefits available under [section 19] with benefits available under the primary Sector Business Workforce Training Act;

(5) reporting and evaluation procedures for [section 19] programs and their beneficiaries; and

(6) any other provisions necessary to carry out its duties under [sections 4 through 6, 14, 19, and 20], and this chapter.

**Section 22.** 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) "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.

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

(3) "Carbon offset provider" means a qualified third-party entity that arranges for projects or actions that either reduce carbon dioxide emissions or increase the absorption of carbon dioxide.

(4) "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~~.

(5) "Cost-effective carbon offsets" means any combination of certified actions that are taken to reduce carbon dioxide emissions or that increase the absorption of carbon dioxide, which collectively do not increase the cost of electricity produced annually on a per-megawatt-hour basis by more than 2.5%, including:

(a) actions undertaken by the applicant that reduce carbon dioxide emissions or that increase the absorption of carbon dioxide from a facility or equipment used to generate electricity; or

(b) actions by a carbon offset provider on behalf of the applicant.

(6) "Customer-generator" means a user of a net metering system who complies with all safety standards specified in 69-8-604 as certified by a licensed professional engineer, master, journeyman electrician, or state or local code inspector.

(7) "Distribution facilities" means those facilities by and through which electricity is received from transmission facilities and distributed to a retail customer and that are controlled or operated by a utility.

(8) "Electricity supply costs" means the actual costs incurred in providing electricity supply service through power purchase agreements, demand-side management, and energy efficiency programs, including but not limited to:

- (a) capacity costs;
- (b) energy costs;
- (c) fuel costs;
- (d) ancillary service costs;
- (e) transmission costs, including congestion and losses;
- (f) planning and administrative costs; and
- (g) any other costs directly related to the purchase of electricity and the management and provision of power purchase agreements.

(9) "Electricity supply resource" means:

- (a) contracts for electric capacity and generation;
- (b) plants owned or leased by a utility or equipment used to generate electricity;
- (c) customer load management and energy conservation programs; or
- (d) other means of providing adequate, reliable service to customers, as determined by the commission.

(10) "Electricity supply service" means the provision of electricity supply and related services through power purchase agreements, the acquisition and operation of electrical generation facilities, demand-side management, and energy efficiency programs.

(11) "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.

(12)(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.

(13) "Generation assets cost of service" means a return on invested capital and all costs associated with the acquisition, construction, administration, operation, and maintenance of a plant or equipment owned or leased by a public utility and used for the production of electricity.

(14) "Government entity" means a city, county, consolidated city-county, school district, state agency, unit of the Montana university system, tribal government, or federal government entity.

~~(14)~~(15) "Interested person" means a retail electricity customer, the consumer counsel established in 5-15-201, the commission, or a utility.

~~(15)~~(16) "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.

~~(16)~~(17) "Local governing body" means a local board of trustees of a rural electric cooperative utility.

~~(17)~~(18) "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.

(19) "Neighborhood renewable energy facility" means a community renewable energy project that:

(a) is more than 50 kilowatts of generating capacity in size;

(b) is connected to a public utility's distribution or transmission system behind a production meter that can record the cumulative kilowatt hours produced by the neighborhood renewable energy facility;

(c) produces electricity for which two or more neighborhood renewable energy facility customers within the same public utility service territory receive an on-bill credit from the public utility for renewable energy produced by the neighborhood renewable energy facility;

(d) unless it demonstrates to the commission that a different percentage should apply, has a minimum of 3% of the neighborhood renewable energy facility system capacity assigned to the public utility's low-income customers, as defined in 69-8-103;

(e) has all of its neighborhood renewable energy facility customers living within one mile of each other and within ten miles from the neighborhood renewable energy facility;

(f) has all of its neighborhood renewable energy facility customers and the neighborhood renewable energy facility connected to the same public utility; and

(g) pays all workers involved in construction and operation of the facility no less than the prevailing wage established under 18-2-411 through 18-2-419 while giving hiring preference to bona fide Montana residents required by 69-3-2005(3)(a).

(20) "Neighborhood renewable energy facility customer" means a public utility retail customer, small customer or customer-generator receiving an on-bill credit for electricity generated by a neighborhood renewable energy facility.

(21) "Neighborhood renewable energy facility owner" means a local owner that owns a neighborhood renewable energy facility.

~~(18)~~(22) "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.

~~(19)~~(23) "Net metering system" means a facility, with or without behind the meter battery storage associated with it, 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 kilowatts;~~

~~(c)~~(b) unless it is a neighborhood renewable energy facility, is located on the customer-generator's premises;

~~(d)~~(c) operates in parallel with the utility's distribution facilities; ~~and~~  
(d) complies with all safety standards specified in 69-8-604 as certified by a licensed professional engineer, master, journeyman electrician, or state or local code inspector; and

(e) is intended primarily to offset part or all of the customer-generator's requirements for electricity and unless it is a neighborhood renewable energy facility:

(i) has a generating capacity of not more than 100 kilowatts; or

(ii) if the customer-generator is a government entity, church, or other nonprofit corporation, has a generating capacity of not more than 250 kilowatts.

~~(20)~~(24) "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.

(25) "On-bill credit" means a credit of kilowatt hours applied to a neighborhood renewable energy facility customer's account by a public utility to offset the consumption of electrical energy.

~~(21)~~(26) "Public utility" has the meaning of a public utility regulated by the commission pursuant to Title 69, chapter 3, ~~on May 2, 1997~~, including the public utility's successors or assignees.

~~(22)~~(27) "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.

~~(23)~~(28) "Retail customer" means a customer that purchases electricity for residential, commercial, or industrial end-use purposes and does not resell electricity to others.

~~(24)~~(29) "Transition bondholder" means a holder of transition bonds, including trustees, collateral agents, and other entities acting for the benefit of that bondholder.

~~(25)~~(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.

~~(26)~~(31) "Transition charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of transition costs.

~~(27)~~(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.

~~(28)~~(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 federal law requiring retail open access or customer choice or of this chapter;

(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.

~~(29)~~(34) "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, 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.

~~(30)~~(35) "Transmission facilities" means those facilities that are used to provide transmission services as determined by the federal energy regulatory commission and the commission and that are controlled or operated by a utility.

~~(31)~~(36) "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.

~~(32)~~(37) "Universal system benefits programs" means public purpose programs for:

- (a) cost-effective local energy conservation;
- (b) low-income customer weatherization;
- (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;
- (e) market transformation designed to encourage competitive markets for public purpose programs; and
- (f) low-income energy assistance.

~~(33)~~(38) "Utility" means any public utility or cooperative utility."

**Section 23.** Section 69-8-603, MCA, is amended to read:

**"69-8-603. Net energy measurement calculation.** Consistent with the other provisions of this part, and except as provided in [section 27], the net energy measurement must be calculated in the following manner:

(1) The public utility shall measure the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(2) If the electricity supplied by the public utility exceeds the electricity generated by the customer-generator and fed back to the public utility during the billing period, or exceeds the on-bill credit allocated to the neighborhood renewable energy facility customer during the

billing period, the customer-generator or neighborhood renewable energy facility customer must be billed for the net electricity supplied by the public utility, and billed at the appropriate rate pursuant to 69-3-306, in accordance with 69-8-602 and [HB 219, sections 1 through 3]] [sections 69-8-610, 69-8-611 and 69-8-612].

~~(3)(3)(a)~~ Subject to 69-8-602 and [HB 219, sections 1 through 3]]~~[sections 69-8-610, 69-8-611 and 69-8-612], if electricity generated by the a customer-generator who has only one separately metered account, or if electricity on-bill credited to a neighborhood renewable energy facility customer exceeds the electricity supplied by the public utility, the customer-generator or neighborhood renewable energy facility customer must be:~~

~~(a)(i)~~ billed at the appropriate rate pursuant to 69-3-306 for that billing period; and

~~(b)(ii)~~ credited for the excess kilowatt hours generated or on-bill credited during the billing period, with this kilowatt-hour credit appearing on the bill for the following billing period.

(b) Subject to 69-8-602 and [sections 69-8-610, 69-8-611 and 69-8-612], except as provided in subsection (3)(d) and in accordance with subsection (3)(f), at the end of each monthly billing period a public utility shall carry over any excess kilowatt-hour credits earned by the customer-generator who has more than one separately metered account and apply those credits to the bill for any of the customer-generator's separately metered accounts. Separately metered accounts may include a public utility account for a corporation of which the customer-generator is an owner.

(c) A separately metered account must:

(i) be for a location on the customer-generator's contiguous or abutting property;

(ii) be for electricity used only for the customer-generator's requirements as measured for that location, and

(iii) comply with all safety standards specified in 69-8-604 as certified by a licensed professional engineer, master, journeyman electrician, or state or local code inspector.

(d) Unless it is permitted by the tariff established by the commission, pursuant to 69-8-602, excess kilowatt-hour credits may not reduce minimum monthly fees imposed by the public utility in accordance with 69-8-602.

(e) If excess kilowatt-hour credits are applied to a separate meter in accordance with subsection (3)(b) that is in a different rate class, the kilowatt-hour credit must offset a kilowatt hour of electricity consumption.

(f) A customer-generator applying excess kilowatt-hour credits to a separately metered account shall:

(i) give at least 60 days' notice to a public utility that additional meters will be included in meter aggregation in accordance with this subsection (3)(f);

(ii) designate the rank order for the meters to which net metering credits are to be applied; and

(iii) at least 60 days in advance of the next 12-month billing period, notify the public utility if the designation of rank provided in accordance with subsection (3)(f)(ii) will be changed.

(4) On January 1, April 1, July 1, or October 1 of each year, as designated by the customer-generator or neighborhood renewable energy facility customer as the beginning date of a 12-month billing period, any remaining unused kilowatt-hour ~~credit~~ credits accumulated during the previous 12 months must be ~~granted~~ forfeited to the public utility and treated in accordance

with subsection 5 without any compensation to the customer-generator or neighborhood renewable energy facility customer, except as provided by subsection 5(d).

(5)(a) On or before March 1 of each year, the public utility shall transfer all kilowatt-hour credits forfeited during the preceding calendar year to every customer on its Montana system who is eligible, at the date of transfer, to receive low income energy assistance pursuant to 69-8-103(37)(f) and 69-8-402.

(b) Each customer entitled to receive forfeited kilowatt hour credits pursuant to subsection 5(a) shall:

(i) receive a share of the forfeited credits calculated by dividing the number of forfeited kilowatt-hour credits by the number of customers eligible to receive the credits and assigning the resulting number of credits to each eligible customer; and

(ii) have their bill credited at the retail rate of the tariff they are being charged on.

(c) Kilowatt-hour credits assigned to recipients of low-income energy assistance pursuant to this subsection may not be used by the public utility to reduce any obligation the public utility otherwise has pursuant to 69-8-402.

(d)(i) If a public utility has not already purchased the renewable energy credits from the customer-generator, the public utility shall pay the customer-generator or neighborhood renewable energy facility customer for the renewable energy credits associated with the forfeited kilowatt-hours at the added rate it charges its retail customers to purchase renewable electricity or at a rate set by the commission.

(ii) The public utility may credit renewable energy credits purchased pursuant to subsection 5(d)(i) toward meeting its 69-3-2004(2)(b) obligation."

**NEW SECTION. Section 24. Neighborhood renewable energy facility.** (1) A public utility shall allow a neighborhood renewable energy facility to be interconnected to its distribution or transmission system, regardless of whether or not the facility has behind the meter or in front of the meter battery storage associated with it, if:

(a) the facility complies with all safety standards in 69-8-604 as certified by a licensed professional engineer;

(b) the facility was constructed by licensed electricians supervised by a master electrician in compliance with 37-68-102 and 37-68-103(3)(b); and

(c) the facility owner provides the public utility with:

(i) a single point of connection with the public utility system and name of a person to deal with;

(ii) a list of all of its neighborhood renewable energy facility customers and their associated accounts that are to receive an on-bill credit for electricity generated by the neighborhood renewable energy facility; such list to be updated no more than once a month; and

(iii) the percentage of the total kilowatt-hour amount of electricity to be generated monthly by the neighborhood renewable energy facility, and the associated renewable energy credit, to be assigned to each neighborhood renewable energy facility customer account.

(2)(a)(i) A public utility shall grant an on-bill credit in accordance with this subsection and rules adopted by the commission to neighborhood renewable energy facility customers.

(ii) For purposes of administering on-bill credits, each neighborhood renewable energy facility customer is equivalent to a customer-generator who

has generated the amount of electricity allocated to that neighborhood renewable energy facility customer pursuant to subsection 2(a)(i).

(iii) After electricity has been allocated to the neighborhood renewable energy facility customer, subject to subsection (2)(b) and (2)(c), the provisions of 69-8-603(2), 69-8-603(3)(a), 69-8-603(4), and 69-8-603(5) must apply to the neighborhood renewable energy facility customer's account with the public utility as if that neighborhood renewable energy facility customer were a customer-generator.

(b) A public utility may charge a neighborhood renewable energy facility customer a fee, established by the commission, to cover reasonable expenses for:

- (i) administering neighborhood renewable energy facility on-bill credits, and
- (ii) any unbundled transmission facility or distribution facility costs involved in delivering, from the neighborhood renewable energy facility to the customer, the amount of electricity included in the on-bill credit for that customer's account.

(c) When a neighborhood renewable energy facility customer ceases to hold the account receiving the on-bill credit, at the request of that customer or the neighborhood renewable energy facility owner, the public utility shall transfer the on-bill credit to a new eligible neighborhood renewable energy facility customer or customers.

(3) The commission may generally implement, create rules for, and enforce the provisions of [section 24], including but not limited to matters involving:

- (a) fees a public utility may charge a neighborhood renewable energy facility customer or owner;
- (b) on-bill credits requirements and accounting practices; and
- (c) safety and power quality requirements for a neighborhood renewable energy facility.

**Section 25.** Section 69-8-605, MCA, is amended to read:

**69-8-605. Applicability.** (1) Except for compliance with 69-8-602(1), and 69-8-603(5) this part [Title 69, Chapter 8, part 6 including section 24] does not apply to cooperative utilities. corporations organized under Title 35, chapter 18.

(2) The governing body of a cooperative utility may adopt the provisions of title 69, chapter 8 part 6 from which it has been exempted by 69-8-605(1).

**Section 26.** Section 69-8-610 {HB 219, section 1}, MCA, is amended to read:

**"69-8-610. Cost-benefit analysis.** (1) Before April 1, 2018, a public utility shall:

- (a) conduct a study of the costs and benefits of customer-generators as defined in 69-8-103; and
- (b) submit the study to the commission for the purpose of making determinations in accordance with the commission's 69-3-324 authority, a public utility's general rate case pursuant to 69-8-611 {~~HB 219, section 2~~}.

(2) The public utility may engage independent consultants or advisory services to complete a cost-benefit study. Costs are recoverable in rates.

(3) After May 3, 2017, ~~{the effective date of this section}~~ the commission may establish minimum information required for inclusion in a study conducted by a public utility in accordance with subsection (1)(a).

**Section 27.** Section 69-8-611 {HB 219, section 2}, MCA, is amended to read:

**"69-8-611. Classification of service -- net metering customers.** (1) After a study is completed in accordance with 69-8-610 {~~HB 219, section 1~~} and subject to subsections (2) and (4) of this section, if, in accordance with the commission's 69-3-324 authority, the commission finds that customer-generators or neighborhood renewable energy facility customers, or both should be served under a separate classification of service ~~as part of a public utility's general rate case~~, it shall establish appropriate classifications and rates based on the commission's findings relative to:

(a) the public utility system benefits of the net metering or neighborhood renewable energy facility resource; ~~and~~

(b) the cost to provide service to customer-generators or neighborhood renewable energy facility customers, whose systems do not include behind the meter battery backup; and

(c) the cost to provide service to customer-generators or neighborhood renewable energy facility customers, whose systems include behind the meter battery backup.

(2) The commission may, based on differences between net metering systems, or neighborhood renewable energy facility systems, establish subclassifications and rates ~~as part of a public utility's general rate case~~.

(3) The commission may approve separate production or consumption rates for customer-generators' or neighborhood renewable energy facility customers ~~production and consumption~~ and require separate metering subject to 69-8-602 if it finds it is in the public interest ~~and as part of a public utility's general rate case~~.

(4) If a public utility files a general rate case in accordance with Title 69, chapter 3, the general rate case must include the study required in accordance with 69-8-610 {~~HB 219, section 1~~} and be used by the commission to meet the requirements of the review of classifications of service required in this section.

**Section 28.** Section 90-4-1202, MCA, is amended to read:

**"90-4-1202. Definitions.** Unless the context requires otherwise, in this part, the following definitions apply:

(1) "Ancillary services" has the meaning provided found in 69-3-2003.

(2) "Bond" means bond, note, or other obligation.

(3) "Clean renewable energy bonds" means one or more bonds issued by a governmental body pursuant to section 54 of the Internal Revenue Code, 26 U.S.C. 54, and this part.

(4) "Commission" means the public service commission provided for in 69-1-102.

(5) "Governing authority" means a council, board, or other body governing the affairs of the governmental body.

(6) "Governmental body" means a city, town, county, school district, consolidated city-county, Indian tribal government, or any other political subdivision of the state, however organized.

(7) "Intermittent generation resource" means a generator that operates on a limited and irregular basis due to the inconsistent nature of its fuel supply, which is primarily wind or solar power.

(8) "Internal Revenue Code" has the meaning provided found in 15-30-2101.

(9) "Project" means:

(a) a facility qualifying as a "qualified project" within the meaning of section 54(d)(2) of the Internal Revenue Code, 26 U.S.C. 54(d)(2);

(b) a community renewable energy project as defined in 69-3-2003{~~4~~}(5)(a); or

(c) an alternative renewable energy source as defined in 15-6-225."

**NEW SECTION. Section 29. {standard} Repealer.** The following section of the Montana Code Annotated is repealed: 69-3-2007. Cost caps.

**NEW SECTION. Section 30. {standard} Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**NEW SECTION. Section 31. {standard} Codification instruction.** (1) [Sections 2 and 3] are intended to be codified as an integral part of Title 39, and the provisions of Title 39 apply to [sections 2 and 3].

(2) [Section 12] 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 12].

(3) [Section 13] 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 13].

(4) [Sections 14 and 15] are intended to be codified as an integral part of Title 15, chapter 15 and the provisions of Title 15, chapter 15 apply to [sections 14 and 15].

(5) [Sections 16 through 18] are intended to be codified as an integral part of Title 2, chapter 15, part 13 and the provisions of Title 2, chapter 15, part 13 apply to [sections 16 through 18]

(6) [Sections 19 through 21] are intended to be codified as an integral part of Title 39, and the provisions of Title 39 apply to [sections 19 through 21].

(7) [Section 24] is intended to be codified as an integral part of Title 69, chapter 8, part 6, and the provisions of Title 69, chapter 8, part 6 apply to [section 24].

**NEW SECTION. Section 32. {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 33. {standard} Effective date.** Except for section 23, [This act] is effective January 1, 2019. Section 23 of this act becomes effective when Montana 2017 Session Laws, Chapter 248(6) becomes effective.