

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD OF INVESTMENTS TO INVEST IN
5 NEW COAL GENERATION PROJECTS OR WASTE COAL GENERATION PROJECTS THAT MEET CERTAIN
6 CRITERIA; PROVIDING ELIGIBILITY CRITERIA FOR THE PROJECTS INCLUDING LONG-TERM CONTRACTS
7 WITH THE DEFAULT SUPPLIER FOR THE PURCHASE OF THE ELECTRICAL ENERGY GENERATED BY THE
8 PROJECTS; REQUIRING A PLEDGE OF THE CONTRACT PROCEEDS AS A REPAYMENT OPTION FOR THE
9 INVESTMENTS; MAKING THE STATE A PARTY TO THE CONTRACT IN THE EVENT OF DEFAULT IN
10 PAYMENT BY DEFAULT SUPPLIER; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

13

14 NEW SECTION. **Section 1. Purpose.** The purposes of [sections 1 through 5] are to:

15 (1) create up to 250 megawatts of electrical energy from new coal generation projects or waste
16 coal generation projects in Montana from coal that is subject to the coal severance tax provided for in Title
17 15, chapter 35, part 1; and

18 (2) permit the purchase of up to 120 megawatts of electrical energy from existing qualified
19 facilities that are located in Montana for the purpose of providing consumers with low-cost, reliable
20 electrical energy.

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22 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 5], the following definitions
23 apply:

24 (1) "Default supplier" has the meaning provided in 69-8-103.

25 (2) "Qualified facility" means an electrical generation facility owned or operated by an exempt
26 wholesale generator or an entity certified as an exempt wholesale generator pursuant to section 32 of the
27 Public Utility Holding Company Act of 1935, 15 U.S.C. 79z-5a.

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29 NEW SECTION. **Section 3. Qualification date.** In order to participate in [sections 1 through 5],
30 a new coal generation project or waste coal generation project must commence or have completed

1 construction by July 1, 2002, or be an existing qualified facility choosing to participate in the contract
2 portion of the program provided for in [section 5].

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4 NEW SECTION. **Section 4. Investment criteria.** (1) The board of investments shall review
5 applications from new coal, waste coal, and existing qualified facilities for in-state investments pursuant
6 to Title 17, chapter 6, part 3. In order to make an investment in a new coal electrical generation facility,
7 waste coal electrical generation facility, or an existing qualified facility, the board shall determine that:

8 (a) the project promotes economic development in Montana and creates or maintains employment
9 opportunities in Montana;

10 (b) the construction of the project will provide stable electrical energy rates for Montanans who
11 rely on the default supplier for electrical energy;

12 (c) the project will maintain environmental quality consistent with state and federal standards; and

13 (d) the project possesses long-term economic prospects consistent with the obligation to provide
14 electrical energy generation capacity and electrical energy for the term of the contracts as required in
15 [section 5].

16 (2) A project selected by the board must be based upon contract payments for actual production
17 of energy from the default supplier at 6.5 cents per kilowatt hour plus annual escalations equal to the
18 inflation rate. A payment may be made from the assets of the state if the default supplier or its assignee
19 fails to pay the approved project for energy delivered in order to maintain the supply of energy to Montana.
20 The state must be a party to the contract and may bring a cause of action against the default supplier for
21 nonpayment.

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23 NEW SECTION. **Section 5. Term of contract -- pledge.** (1) A project is not eligible for an
24 investment under [section 4] unless the applicant has signed an assignable electrical energy sales
25 agreement with the default supplier or its successor in interest for a term of not less than 15 years or more
26 than 25 years.

27 (2) The proceeds of the contract must be pledged as security for the repayment of the investment.

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29 NEW SECTION. **Section 6. Codification instruction.** [Sections 1 through 5] are intended to be
30 codified as an integral part of Title 17, chapter 6, and the provisions of Title 17, chapter 6, apply to

1 [sections 1 through 5].

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

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