

HOUSE BILL NO. 169

INTRODUCED BY KLOCK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE ELECTRICITY BUYING COOPERATIVE ACT;
5 AMENDING SECTION 35-19-311, MCA; REPEALING SECTIONS 35-19-101, 35-19-102, 35-19-104, 35-19-105,
6 35-19-106, 35-19-107, 35-19-108, 35-19-201, 35-19-202, 35-19-203, 35-19-204, 35-19-205, 35-19-301,
7 35-19-302, 35-19-303, 35-19-304, 35-19-305, 35-19-306, 35-19-307, 35-19-308, 35-19-309, 35-19-310,
8 35-19-311, 35-19-312, 35-19-313, 35-19-314, AND 35-19-315, MCA; AND PROVIDING EFFECTIVE DATES."

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

11
12 **Section 1.** Section 35-19-311, MCA, is amended to read:

13 **"35-19-311. Refunds to members -- retention of unclaimed refunds.** (1) Revenue of a buying
14 cooperative for any fiscal year must, ~~unless otherwise determined by a vote of the members,~~ be distributed by
15 the buying cooperative to its members as patronage refunds, prorated in accordance with the patronage of the
16 buying cooperative by the respective members paid for during the fiscal year, whenever the revenue exceeds
17 the amount necessary to:

18 (a) defray expenses of the buying cooperative and of the operation and maintenance of its facilities
19 during the fiscal year;

20 (b) pay interest and principal obligations of the buying cooperative coming due in the fiscal year;

21 ~~(c) finance or provide a reserve for the financing of the construction or acquisition by the buying~~
22 ~~cooperative of additional facilities to the extent determined by the board of trustees;~~

23 ~~(d)~~(c) provide a reasonable reserve for working capital; and

24 ~~(e)~~(d) provide a reserve for the payment of indebtedness of the buying cooperative maturing more than
25 1 year after the date of the incurrence of the indebtedness in an amount not less than the total of the interest and
26 principal payments required to be made during the next fiscal year.

27 (2) This section may not be construed to prohibit the payment by a buying cooperative of all or any part
28 of its indebtedness prior to the date when the payment becomes due.

29 (3) ~~A buying cooperative shall, upon the action of the board of trustees, retain redeemed patronage~~
30 ~~refunds that are allocated to its members and that remain unclaimed for a period of 5 years after the end of the~~

1 ~~year in which the refunds are given. Unclaimed redeemed patronage refunds retained by the buying cooperative~~
 2 ~~must be used for educational purposes~~ If a buying cooperative possesses redeemed patronage refunds, those
 3 funds must be distributed to members by December 31, 2011."

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 5 **NEW SECTION. Section 2. Repealer.** (1) The following sections of the Montana Code Annotated are
 6 repealed:

- 7 35-19-101. Short title.
- 8 35-19-102. Definitions.
- 9 35-19-104. Permissible purpose of incorporation.
- 10 35-19-105. Name.
- 11 35-19-106. Incorporators.
- 12 35-19-107. Membership.
- 13 35-19-108. Exemption from taxes.
- 14 35-19-201. Powers of buying cooperative.
- 15 35-19-202. Restrictions on powers of buying cooperative.
- 16 35-19-203. Waiver of notice.
- 17 35-19-204. Nonliability of members, trustees, and officers.
- 18 35-19-205. Authority to take acknowledgments.
- 19 35-19-301. Articles of incorporation.
- 20 35-19-302. Amendment of articles of incorporation.
- 21 35-19-303. Change of principal office without amendment.
- 22 35-19-304. Bylaws.
- 23 35-19-305. Meetings of members.
- 24 35-19-306. Initiative by members -- approval of trustees not required.
- 25 35-19-307. Board of trustees -- number -- qualifications -- removal -- compensation -- joint memberships.
- 26 35-19-308. Trustees -- term -- quorum -- powers.
- 27 35-19-309. Voting districts.
- 28 35-19-310. Officers.

29 (2) The following sections of the Montana Code Annotated are repealed:

- 30 35-19-311. Refunds to members -- retention of unclaimed refunds.

- 1 35-19-312. Disposition or encumbrance of property.
2 35-19-313. Dissolution of buying cooperative that has not commenced business.
3 35-19-314. Dissolution and winding up of buying cooperative that has commenced business.
4 35-19-315. Incorporation, amendment, and dissolution filings.

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6 NEW SECTION. Section 3. Saving clause. [This act] does not affect rights and duties that matured,
7 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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9 NEW SECTION. Section 4. Transition. (1) Except as provided in subsection (2), an electricity buying
10 cooperative in existence on [the effective date of this section] shall dissolve and wind up its affairs in accordance
11 with 35-19-311 through 35-19-315.

12 (2) (a) An electricity buying cooperative shall honor terms and conditions of contracts executed on or
13 before [the effective date of this section].

14 (b) Upon expiration of those contracts, an electricity buying cooperative shall dissolve and wind up its
15 affairs within 1 year of the contract's expiration.

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17 NEW SECTION. Section 5. Effective dates -- contingency. (1) Except as provided in subsection (2),
18 [this act] is effective on passage and approval.

19 (2) [Section 2(2)] is effective on the date that the secretary of state notifies the code commissioner that
20 there are no longer any articles of incorporation for electric buying cooperatives on file or that the articles of
21 dissolution for the last electric buying cooperative have been filed.

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