

1 HOUSE BILL NO. 244

2 INTRODUCED BY D. SKEES

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE MONTANA RENEWABLE POWER PRODUCTION
5 AND RURAL ECONOMIC DEVELOPMENT ACT; AMENDING SECTIONS 90-3-1003, 90-4-1005, AND
6 90-4-1202, MCA; REPEALING SECTIONS 69-3-2001, 69-3-2002, 69-3-2003, 69-3-2004, 69-3-2005, 69-3-2006,
7 69-3-2007, AND 69-3-2008, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
8 APPLICABILITY DATE."

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

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12 **Section 1.** Section 90-3-1003, MCA, is amended to read:

13 **"90-3-1003. Research and commercialization account -- use.** (1) The research and commercialization
14 account provided for in 90-3-1002 is statutorily appropriated, as provided in 17-7-502, to the board of research
15 and commercialization technology, provided for in 2-15-1819, for the purposes provided in this section.

16 (2) The establishment of the account in 90-3-1002 is intended to enhance the economic growth
17 opportunities for Montana and constitute a public purpose.

18 (3) The account may be used only for:

19 (a) loans that are to be used for research and commercialization projects to be conducted at research
20 and commercialization centers located in Montana;

21 (b) grants that are to be used for production agriculture research and commercialization projects, clean
22 coal research and development projects, or renewable resource research and development projects to be
23 conducted at research and commercialization centers located in Montana;

24 (c) matching funds for grants from nonstate sources that are to be used for research and
25 commercialization projects to be conducted at research and commercialization centers located in Montana; or

26 (d) administrative costs that are incurred by the board in carrying out the provisions of this part.

27 (4) At least 20% of the account funds approved for research and commercialization projects must be
28 directed toward projects that enhance production agriculture.

29 (5) (a) At least 30% of the account funds approved for research and commercialization projects must
30 be directed toward projects that enhance clean coal research and development or renewable resource research

1 and development.

2 (b) If the board is not in receipt of a qualified application for a project to enhance clean coal research and
3 development or renewable resource research and development, subsection (5)(a) does not apply.

4 (6) An applicant for a grant shall provide matching funds from nonstate sources equal to 25% of total
5 project costs. The requirement to provide matching funds is a qualifier, but not a criterion, for approval of a grant.

6 (7) The board shall establish policies, procedures, and criteria that achieve the objectives in its research
7 and commercialization strategic plan for the awarding of grants and loans. The criteria must include:

8 (a) the project's potential to diversify or add value to a traditional basic industry of the state's economy;

9 (b) whether the project shows promise for enhancing technology-based sectors of Montana's economy
10 or promise for commercial development of discoveries;

11 (c) whether the project employs or otherwise takes advantage of existing research and commercialization
12 strengths within the state's public university and private research establishment;

13 (d) whether the project involves a realistic and achievable research project design;

14 (e) whether the project develops or employs an innovative technology;

15 (f) verification that the project activity is located within the state;

16 (g) whether the project's research team possesses sufficient expertise in the appropriate technology area
17 to complete the research objective of the project;

18 (h) verification that the project was awarded based on its scientific merits, following review by a
19 recognized federal agency, philanthropic foundation, or other private funding source; and

20 (i) whether the project includes research opportunities for students.

21 (8) The board shall direct the state treasurer to distribute funds for approved projects. Unallocated
22 interest and earnings from the account must be retained in the account. Repayments of loans and any
23 agreements authorizing the board to take a financial right to licensing or royalty fees paid in connection with the
24 transfer of technology from a research and commercialization center to another nonstate organization or
25 ownership of corporate stock in a private sector organization must be deposited in the account.

26 (9) The board shall refer grant applications to external peer review groups. The board shall compile a
27 list of persons willing to serve on peer review groups for purposes of this section. The peer review group shall
28 review the application and make a recommendation to the board as to whether the application for a grant should
29 be approved. The board shall review the recommendation of the peer review group and either approve or deny
30 a grant application.

1 (10) The board shall identify whether a grant or loan is to be used for basic research, applied research,
2 or some combination of both. For the purposes of this section, "applied research" means research that is
3 conducted to attain a specific benefit or solve a practical problem and "basic research" means research that is
4 conducted to uncover the basic function or mechanism of a scientific question.

5 (11) For the purposes of this section:

6 (a) "clean coal research and development" means research and development of projects that would
7 advance the efficiency, environmental performance, and cost-competitiveness of using coal as an energy source
8 well beyond the current level of technology used in commercial service;

9 (b) "eligible renewable resource" means a facility either located within Montana or delivering electricity
10 from another state into Montana that commences commercial operation after January 1, 2005, and that produces
11 electricity from one or more of the following sources:

12 (i) wind;

13 (ii) solar;

14 (iii) geothermal;

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

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

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

20 (v) landfill or farm-based methane gas;

21 (vi) gas produced during the treatment of wastewater;

22 (vii) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic
23 fuels from wood, forest, or field residues, except that the term does not include wood pieces that have been
24 treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic;

25 (viii) hydrogen derived from any of the sources in this subsection (11)(b) for use in fuel cells;

26 (ix) the renewable energy fraction from the sources identified in this subsection (11)(b) of electricity
27 production from a multiple-fuel process with fossil fuels; and

28 (x) compressed air derived from any of the sources in this subsection (11)(b) that is forced into an
29 underground storage reservoir and later released, heated, and passed through a turbine generator;

30 ~~(b)~~(c) "renewable resource research and development" means research and development that would

1 advance:

2 (i) the use of any of the sources of energy listed in ~~69-3-2003~~(10) to produce electricity eligible renewable
3 resource; and

4 (ii) the efficiency, environmental performance, and cost-competitiveness of using renewable resources
5 as an energy source well beyond the current level of technology used in commercial service."
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7 **Section 2.** Section 90-4-1005, MCA, is amended to read:

8 **"90-4-1005. Energy development and demonstration grant program.** (1) There is an energy
9 development and demonstration grant program within the department of environmental quality to fund technology
10 development and demonstration:

11 (a) advancing the development and utilization of energy storage systems, including but not limited to
12 mediums, such as accumulators, fuel cells, and batteries, that store energy that may be drawn upon at a later
13 date for use;

14 (b) developing storage systems specifically designed to store energy generated from eligible renewable
15 resources as defined in ~~69-3-2003~~ 90-3-1003, including but not limited to compressed air energy storage
16 systems;

17 (c) promoting the efficiency, environmental performance, and cost-competitiveness of energy storage
18 systems beyond the current level of technology; and

19 (d) advancing the development of alternative energy systems as defined in 15-32-102.

20 (2) Entities that may be eligible for grants include but are not limited to units of the Montana university
21 system, agricultural research centers, or private entities or research centers.

22 (3) Money appropriated to the department of environmental quality for the purpose of the energy
23 development and demonstration grant program may be used by the department for providing individual grants
24 in amounts up to \$500,000 and for administrative costs of 1% of the grant award.

25 (4) The grant application may include:

26 (a) a project plan sufficient to allow a reasonable determination regarding the potential feasibility of
27 advancing energy storage or alternative energy systems;

28 (b) a business plan to allow a reasonable determination regarding the financial feasibility of the project;

29 and

30 (c) a reporting process to ensure progress toward project goals."

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Section 3. 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 in 69-3-2003~~ 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) "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) "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.

(6) "Community renewable energy project" means an eligible renewable resource as defined in 90-4-1003 that 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.

~~(5)(7)~~ "Governing authority" means a council, board, or other body governing the affairs of the governmental body.

~~(6)(8)~~ "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)(9)~~ "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)(10)~~ "Internal Revenue Code" has the meaning provided in 15-30-2101.

(11) "Local owners" means:

(a) Montana residents or entities composed of Montana residents;

(b) Montana small businesses;

- 1 (c) Montana nonprofit organizations;
 2 (d) Montana-based tribal councils;
 3 (e) Montana political subdivisions or local governments;
 4 (f) Montana-based cooperatives other than cooperative utilities; or
 5 (g) any combination of the individuals or entities listed in subsections (11)(a) through (11)(f).

6 ~~(9)(12)~~ "Project" means:

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

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

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

11 (13) "Total calculated nameplate capacity" means the calculation of total nameplate capacity of the
 12 community renewable energy project and other eligible renewable resources that are:

13 (a) located within 5 miles of the project;

14 (b) constructed within the same 12-month period; and

15 (c) under common ownership."

16
 17 NEW SECTION. Section 4. Repealer. The following sections of the Montana Code Annotated are
 18 repealed:

19 69-3-2001. Short title.

20 69-3-2002. Findings.

21 69-3-2003. Definitions.

22 69-3-2004. Renewable resource standard -- administrative penalty -- waiver.

23 69-3-2005. Procurement -- cost recovery -- reporting.

24 69-3-2006. Commission authority -- rulemaking authority.

25 69-3-2007. Cost caps.

26 69-3-2008. Cooperative utility -- exemption -- standard.

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 28 NEW SECTION. Section 5. Notification to tribal governments. The secretary of state shall send a
 29 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
 30 Chippewa tribe.

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

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

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7 **NEW SECTION.** **Section 8. Retroactive applicability.** [This act] applies retroactively, within the
8 meaning of 1-2-109, to the compliance year beginning January 1, 2011.

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